

**SUBSTITUTE FOR
SENATE BILL NO. 403**

A bill to provide for language assistance for elections; to provide for the powers and duties of certain state and local governmental officers and entities; to create the language access advisory council; and to provide for remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act may be cited as the "language assistance for
2 elections act".

3 Sec. 3. As used in this act:

4 (a) "Limited English proficiency" means an individual who does
5 not speak English as that individual's primary language and who
6 speaks, reads, or understands the English language less than very
7 well.

8 (b) "Local government" means a county, or a city or township

1 that conducts an election.

2 (c) "Michigan voting and elections database and institute"
3 means the Michigan voting and elections database and institute
4 created in section 5 of the voting and elections database and
5 institute act.

6 (d) "Voting-eligible population" means the population of
7 individuals with United States citizenship who are 18 years of age
8 or older.

9 Sec. 5. (1) A local government must provide language
10 assistance for elections conducted in that local government if that
11 local government meets either of the following conditions:

12 (a) Before January 1, 2030, has more than 5% of the voting-
13 eligible population in that local government who speak a single
14 shared language other than English and have limited English
15 proficiency, or, beginning January 1, 2030, has a voting-eligible
16 population of at least 600 individuals in that local government who
17 speak a single shared language other than English and have limited
18 English proficiency.

19 (b) Before January 1, 2030, has a voting-eligible population
20 of more than 10,000 in that local government who speak a single
21 shared language other than English and have limited English
22 proficiency, or, beginning January 1, 2030, has a voting-eligible
23 population of at least 100 individuals in that local government who
24 speak a single shared language other than English and have limited
25 English proficiency and also comprise 2.5% or more of the voting-
26 eligible population in the local government.

27 (2) If a local government that is required to provide language
28 assistance for elections conducted in that local government under
29 this section enters into an agreement with the county in which that

1 local government is located authorizing the county to conduct early
2 voting for that local government as provided under section 720g of
3 the Michigan election law, 1954 PA 116, MCL 168.720g, the county
4 must comply with the language assistance requirements for that
5 local government during the early voting period.

6 (3) Not later than January 31 of each odd-numbered year, the
7 secretary of state shall post on the department of state's website
8 both of the following based on data made available by the United
9 States Census Bureau or the American Community Survey, or, if that
10 data is insufficient, data of comparable quality collected by a
11 governmental entity or the Michigan voting and elections database
12 and institute:

13 (a) A list of each local government that is required under
14 this section to provide language assistance for elections under
15 subsection (1).

16 (b) A list of each language in which the local governments
17 listed in subdivision (a) are required to provide language
18 assistance for elections.

19 (4) The director of elections shall provide the information
20 posted on the department of state's website under subsection (3) to
21 the clerk of each local government in this state. If a local
22 government is added to the information posted on the department of
23 state's website under subsection (3), the secretary of state must
24 do all of the following:

25 (a) Notify that local government of the language assistance
26 requirements.

27 (b) Require that local government to implement the language
28 assistance requirements not later than the next state primary
29 election date.

1 (c) Provide in the covered language all voting materials
2 produced by the secretary of state relevant to that local
3 government.

4 (d) Issue guidance on implementing the language assistance
5 requirements described in subsection (2).

6 (5) If the secretary of state determines under this section
7 that language assistance for elections must be provided in a local
8 government, the secretary of state must do all of the following:

9 (a) Except as otherwise provided under this subdivision,
10 provide effective language assistance for elections in each
11 designated language and provide related materials in English, and
12 in each designated language as translated by a certified
13 translator, including registration and voting notices, newspaper
14 notices, forms, instructions, assistance, ballots, absent voter
15 ballot applications, signage at clerks' offices, polling places,
16 and early voting sites, and other materials and information
17 relating to the electoral process. If a local government requires
18 language assistance for elections that is not provided by the
19 secretary of state under this subsection, that local government is
20 required to submit language to the secretary of state no later than
21 82 days before the election, and if that language is not submitted
22 to the secretary of state by the local government as required under
23 this subdivision, that local government is required to provide the
24 language assistance for elections as required under this
25 subdivision.

26 (b) Ensure that all materials provided in a designated
27 language are translated by a certified translator and do not rely
28 solely on any automatic translation service, are of an equal
29 quality to the English counterparts, and accurately convey the

1 intent and essential meaning of the original text or communication
2 in the most widely used dialect.

3 (c) Provide to that local government, and to the county in
4 which that local government is located if that local government has
5 entered into an agreement with the county in which that local
6 government is located authorizing the county to conduct early
7 voting for that local government as provided under section 720g of
8 the Michigan election law, 1954 PA 116, MCL 168.720g, a voting
9 system technology that produces ballots on demand and a voter
10 assist terminal that displays a translated ballot for the voter to
11 mark using the electronic interface on the voter assist terminal
12 and that prints a translated ballot reflecting the voter's votes
13 for tabulation.

14 (d) Subject to this subdivision, reimburse that local
15 government for additional costs associated with logic and accuracy
16 testing on tabulators conducted by that local government, or, if
17 approved by the governing body of the local government, directly
18 contract with a vendor to do logic and accuracy testing on
19 tabulators in that local government. The secretary of state shall
20 not prohibit the clerk of a local government or a board of election
21 commissioners from using any source to prepare the chart of
22 predetermined results and test decks with those predetermined
23 results used in that preliminary logic and accuracy testing if the
24 chart of predetermined results and test decks with those
25 predetermined results meet the required standards under law. A
26 clerk of a local government or a board of election commissioners
27 may use any source to print test ballots if the source is capable
28 of printing ballots that are designed to be scanned properly by
29 voting equipment, and may use any source to conduct logic and

1 accuracy testing if that logic and accuracy testing is limited to
2 only placing test ballots in voting equipment and comparing the
3 results to the chart of predetermined results, and does not involve
4 any additional examination of or access to voting equipment.

5 (6) If the secretary of state provides language assistance for
6 elections to a local government under subsection (5), that local
7 government must use all of the language assistance for elections
8 provided by the secretary of state.

9 (7) Except as otherwise provided in this subsection, the
10 secretary of state shall provide local government clerks access to
11 a live interpreter for providing language interpretation to
12 electors. If a live interpreter is not available, the secretary of
13 state shall provide local government clerks access to a telephone
14 system or other remote system that can be used for providing
15 language interpretation to electors.

16 (8) The secretary of state must produce electronic copies of
17 any election materials that the secretary of state makes public in
18 each language that has been designated under subsection (1).

19 (9) Nothing in this section prohibits a local government from
20 voluntarily providing language assistance for elections beyond that
21 language assistance for elections required in this section if the
22 local government determines that language assistance for elections
23 would be beneficial for the limited English proficiency residents
24 in that local government.

25 (10) This section takes effect January 1, 2026.

26 Sec. 6. (1) The language access advisory council is created in
27 the department of state.

28 (2) The language access advisory council consists of the
29 following members who shall be appointed by the secretary of state:

1 (a) One clerk who is selected from a list of nominees
2 submitted by the Michigan Association of Municipal Clerks.

3 (b) One clerk who is selected from a list of nominees
4 submitted by the Michigan Association of County Clerks.

5 (c) One member from each group that is eligible for language
6 assistance for elections under this act.

7 (3) The secretary of state shall appoint the members of the
8 language access advisory council no later than May 1, 2025.

9 (4) If a vacancy occurs on the language access advisory
10 council, the secretary of state shall fill the vacancy in the same
11 manner as the original appointment.

12 (5) The members of the language access advisory council shall
13 meet 1 or more times annually, as directed by the secretary of
14 state, to advise the secretary of state on implementing the
15 provisions of section 5.

16 Sec. 7. (1) Except as otherwise provided under subsection (5),
17 before commencing a civil action against the secretary of state or
18 a local government that alleges a violation of section 5, a
19 prospective plaintiff must send by certified mail a notification
20 letter to the secretary of state or, for a local government, the
21 clerk and chief administrative officer of the local government that
22 asserts that the secretary of state or the local government may be
23 in violation of section 5. The notification letter must explain in
24 detail each alleged violation of section 5 and propose a remedy for
25 each alleged violation of section 5.

26 (2) Within 30 days after receiving a notification letter under
27 subsection (1), the secretary of state, or the clerk of the local
28 government and the chief administrative officer or chief executive
29 officer of that local government, along with legal counsel or any

1 other individual the secretary of state or the local government
2 wishes to attend, may meet with the prospective plaintiff and the
3 prospective plaintiff's representatives to prepare and agree on a
4 written plan to address the alleged violations of section 5 by the
5 secretary of state or the local government. If the secretary of
6 state or the local government does not meet with the prospective
7 plaintiff, the prospective plaintiff may file a cause of action as
8 provided under subsection (5). If the secretary of state or the
9 local government agrees to meet with the prospective plaintiff to
10 prepare and agree on a plan to address the alleged violations, the
11 prospective plaintiff or the prospective plaintiff's
12 representatives must participate in the meeting. The written plan
13 described in this subsection must be in writing, be approved by the
14 secretary of state or, for a local government, by a resolution of
15 the governing body of the local government, and do all of the
16 following:

17 (a) Identify each alleged violation of section 5 by the
18 secretary of state or the local government.

19 (b) Identify a specific remedy for each alleged violation of
20 section 5 by the secretary of state or the local government or
21 state that the parties agree that no remedy is appropriate for 1 or
22 more of the alleged violations.

23 (c) Establish specific measures that the secretary of state or
24 the local government must take to facilitate any needed approvals
25 to implement each specific remedy.

26 (d) Provide a schedule for the needed approvals and the
27 implementation of each specific remedy.

28 (3) If a prospective plaintiff and the secretary of state or
29 the local government agree on a written plan that complies with

1 subsection (2), and that written plan is approved by the secretary
2 of state or, for a local government, by a resolution of the
3 governing body of the local government, no cause of action may be
4 filed by the prospective plaintiff unless the secretary of state or
5 the local government fails to comply with the requirements of the
6 written plan.

7 (4) If a prospective plaintiff and the secretary of state or
8 the local government do not agree on a written plan as described
9 under subsection (2), the prospective plaintiff may file a cause of
10 action as provided under subsection (5).

11 (5) Subject to subsections (1) to (4), any individual
12 aggrieved by a violation of section 5, any entity whose membership
13 includes individuals aggrieved by a violation of section 5, any
14 entity whose mission would be frustrated by a violation of section
15 5, any entity that would expend resources in order to fulfill its
16 mission as a result of a violation of section 5, or the attorney
17 general may file a cause of action against a local government as
18 provided under section 12(1) or against the secretary of state as
19 provided under section 12(2) if any of the following requirements
20 are met:

21 (a) The party gave written notice as required under subsection
22 (1) and the secretary of state or the local government did not meet
23 and approve a written plan as provided under subsection (2).

24 (b) Another party has already submitted a notification letter
25 under subsection (1) that alleges a substantially similar violation
26 of section 5 and that party is eligible to bring a cause of action
27 under this subsection.

28 (c) After a party submitted a notification letter under
29 subsection (1), the secretary of state or the local government

1 failed to implement a written plan as provided under subsection
2 (2).

3 (d) The party is seeking preliminary relief with respect to an
4 upcoming election as provided under section 13.

5 Sec. 8. (1) Subject to subsection (4), if, pursuant to a
6 process commenced by a notification letter under section 7, a local
7 government enacts or implements a remedy to a potential violation
8 of this act, the department of state shall reimburse the
9 prospective plaintiff who sent the notification letter from the
10 Michigan voting rights assistance fund, as created in section 15 of
11 the state voting rights act, or, if there is insufficient money in
12 the Michigan voting rights assistance fund, from other money
13 appropriated to the department of state for this purpose, for the
14 reasonable costs to generate the notification letter under section
15 7.

16 (2) If a local government enacts or implements a remedy to a
17 potential violation of this act, either in response to a
18 notification letter received under section 7 or on its own
19 volition, the department of state shall reimburse that local
20 government from the Michigan voting rights assistance fund, as
21 created in section 15 of the state voting rights act, or, if there
22 is insufficient money in the Michigan voting rights assistance
23 fund, from other money appropriated to the department of state for
24 this purpose, for the reasonable costs to evaluate whether the
25 remedy was necessary to prevent a potential violation of this act.

26 (3) The department of state shall reimburse a local government
27 from the Michigan voting rights assistance fund, as created in
28 section 15 of the state voting rights act, or, if there is
29 insufficient money in the Michigan voting rights assistance fund,

1 from other money appropriated to the department of state for this
2 purpose, for the reasonable costs incurred to evaluate whether a
3 remedy is necessary to prevent a possible violation of this act.
4 The department shall provide reimbursement under this subsection
5 only if both of the following requirements are met:

6 (a) The costs were incurred by the local government in
7 response to a notification letter received under section 7.

8 (b) The department of state determines, on request from the
9 local government, that a reasonable plaintiff, with reasonable
10 investigation before sending the notification letter, would have
11 known the allegations in the notification letter lacked legal or
12 factual merit.

13 (4) Subject to subsection (6), the amount of reimbursement
14 provided under subsection (1), (2), or (3) must not exceed
15 \$50,000.00. This amount must be adjusted annually by an amount
16 determined by the state treasurer to reflect the cumulative annual
17 percentage increase in the United States Consumer Price Index for
18 the immediately preceding calendar year and rounded to the nearest
19 \$100.00 increment.

20 (5) A request for reimbursement made by a prospective
21 plaintiff or a local government under subsection (1) or (2) must be
22 transmitted to the department of state not later than 90 days after
23 the enactment or implementation of the remedy. A request for
24 reimbursement made by a local government under subsection (3) must
25 be transmitted to the department of state not later than 90 days
26 after the local government receives a determination by the
27 department of state that the allegations in the notification letter
28 lacked legal or factual merit. The request for reimbursement must
29 be substantiated with financial documentation, including, as

1 applicable, detailed invoices for expert analysis and reasonable
2 attorney fees calculated using a lodestar methodology. A
3 prospective plaintiff or local government that does not receive
4 satisfactory reimbursement within 120 days after the request for
5 reimbursement may file a declaratory judgment action to obtain a
6 clarification of rights.

7 (6) A local government may seek reimbursement only under
8 subsection (2) or (3), and not subsections (2) and (3), regarding a
9 notification letter.

10 (7) As used in this section, "United States Consumer Price
11 Index" means the United States Consumer Price Index for all urban
12 consumers as defined and reported by the United States Department
13 of Labor, Bureau of Labor Statistics.

14 Sec. 9. (1) In any action brought under this act, the court
15 has broad authority to order adequate remedies that are tailored to
16 address the violation. The ordered remedies must be only as
17 extensive as reasonably necessary to remedy the violation. Subject
18 to subsection (3), adequate remedies include, but are not limited
19 to, any of the following:

20 (a) Requiring the establishment and conducting of a
21 comprehensive program that ensures an equal opportunity for
22 citizens in the local government who are entitled to language
23 assistance under this act to participate in the electoral process.

24 (b) Adding voting days or hours.

25 (c) Ordering a special election on either a regular election
26 date as provided under section 641 of the Michigan election law,
27 1954 PA 116, MCL 168.641, or on another date, as determined by the
28 court, if necessary to remedy a violation.

29 (d) Imposing nominal or compensatory damages.

1 (e) Subject to this subdivision, imposing punitive damages in
2 the form of a civil fine. The civil fine must be deposited into the
3 Michigan voting rights assistance fund created in section 15 of the
4 state voting rights act. When assessing the amount of punitive
5 damages, the court shall take into consideration the severity of
6 the violation, the number of violations, whether the local
7 government has previous violations, the number of registered
8 electors in the local government, the local government's ability to
9 pay the punitive damages, and any other factors the court considers
10 necessary. The court shall provide an explanation in any order
11 requiring the payment of punitive damages on why punitive damages
12 were required and how the court determined the amount of those
13 punitive damages. Punitive damages may be ordered only if the court
14 finds any of the following:

15 (i) The violation is intentional.

16 (ii) The local government or an official of a local government
17 demonstrated a disregard for the voting rights of qualified
18 electors in the local government.

19 (iii) After being notified of an alleged violation under section
20 7(1), the local government failed to take any action under section
21 7(2).

22 (iv) The local government violated a court order issued under
23 this act, article II of the state constitution of 1963, the federal
24 voting rights act of 1965, 52 USC 10301 to 10314, 10501 to 10508,
25 and 10701 to 10702, or any other law applicable to or affecting
26 voting rights.

27 (v) After addressing any violation of this act, article II of
28 the state constitution of 1963, or any other law applicable to or
29 affecting voting rights, the local government subsequently violated

1 this act, article II of the state constitution of 1963, or any
2 other law applicable to or affecting voting rights.

3 (vi) Punitive damages are reasonably necessary to ensure
4 compliance with this act.

5 (f) Any other form of declaratory or injunctive relief that,
6 in the court's judgment, is tailored to address the violation.

7 (g) Retaining jurisdiction for a period of time the court
8 considers appropriate.

9 (2) In any action brought under this act, the court shall
10 consider remedies proposed by any parties and interested nonparties
11 and shall not provide deference or priority to a proposed remedy
12 offered by the defendant or the local government simply because the
13 remedy has been proposed by the defendant or the local government.

14 (3) In any action brought under this act, the court has the
15 authority to order remedies that may be inconsistent with other
16 provisions of state or local law, when the inconsistent provisions
17 of law would otherwise preclude the court from ordering an adequate
18 remedy.

19 Sec. 11. In any action brought under this act, the court shall
20 award reasonable attorney fees and litigation costs, including
21 expert witness fees and expenses, to the any of the following:

22 (a) A party that filed the action and prevailed in the action.
23 The party that filed the action is considered to have prevailed if,
24 as a result of the action, the party against whom the action was
25 filed has yielded some or all of the relief sought in the action.

26 (b) A party that defended an action and prevailed in the
27 action if the written response by the local government under
28 section 7(2) details why no violation occurred and the court finds
29 no violation occurred for the same or substantially similar reasons

1 provided in the local government's written response under section
2 7(2).

3 Sec. 12. (1) Any individual or entity identified in section
4 7(5) or the attorney general may file an action against a local
5 government in the circuit court of the county in which the local
6 government is located or in the court of claims to compel
7 compliance with and seek an appropriate remedy under this act.

8 (2) Any individual or entity identified in section 7(5) or the
9 attorney general may file an action against the secretary of state
10 in the court of claims to compel compliance with and seek
11 appropriate remedy under this act.

12 Sec. 13. Because of the frequency of elections, the severe
13 consequences and irreparable harm of holding elections under
14 unlawful conditions, and the expenditure to defend potentially
15 unlawful conditions that benefit incumbent officials, actions
16 brought under this act are subject to expedited pretrial and trial
17 proceedings and must receive an automatic calendar preference. In
18 any action alleging a violation of section 5 in which a plaintiff
19 party seeks preliminary relief with respect to an upcoming
20 election, the court shall grant relief if the court determines,
21 after a hearing at which all parties may present arguments and
22 offer evidence, that the plaintiffs are more likely than not to
23 succeed on the merits and it is possible to implement an adequate
24 remedy that would resolve the alleged violation in the upcoming
25 election.

26 Sec. 15. Nothing in this act shall be interpreted to conflict
27 with federal law or suggest that voters have fewer rights than
28 granted under federal law, including, but not limited to, section
29 203 of the federal voting rights act of 1965, 52 USC 10503.

1 Enacting section 1. This act does not take effect unless all
2 of the following bills of the 102nd Legislature are enacted into
3 law:

4 (a) Senate Bill No. 401.

5 (b) Senate Bill No. 402.