

# SENATE BILL NO. 403

June 22, 2023, Introduced by Senators CHANG, CAMILLERI, MOSS and GEISS and referred to the Committee on Elections and Ethics.

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; 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

1 speaks, reads, or understands the English language less than very  
2 well, in accordance with United States Census Bureau data or data  
3 of comparable quality collected by a governmental entity.

4 (b) "Local government" means a county, city, township, or any  
5 other political subdivision of this state that conducts an  
6 election.

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

10 (a) Has a voting-eligible population of at least 600  
11 individuals in that local government who speak 1 language other  
12 than English and have limited English proficiency.

13 (b) Has a voting-eligible population of at least 100  
14 individuals in that local government who speak 1 language other  
15 than English and have limited English proficiency and also comprise  
16 2.5% or more of the voting-eligible population in the local  
17 government.

18 (c) For a local government that contains all or any part of a  
19 Native American reservation, more than 2.5% of the Native American  
20 citizens of voting age within the Native American reservation has  
21 limited English proficiency. For the purpose of this subdivision,  
22 "Native American" includes any individuals recognized by the United  
23 States Census Bureau or this state as American Indian or Alaska  
24 Native.

25 (2) On at least a biannual basis, the secretary of state shall  
26 post on the department of state's website both of the following  
27 based on data made available by the United States Census Bureau,  
28 American Community Survey, or data of comparable quality collected  
29 by a public office:

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

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

7 (3) The director of elections shall provide the information  
8 posted on the department of state's website under subsection (2) to  
9 the clerk of each local government in this state.

10 (4) If the secretary of state determines under this section  
11 that language assistance for elections must be provided in a local  
12 government, that local government must do all of the following:

13 (a) Provide effective language assistance for elections in  
14 each designated language and provide related materials in English,  
15 and in each designated language as translated by a certified  
16 translator, including registration or voting notices, forms,  
17 instructions, assistance, ballots, absent voter ballot  
18 applications, signage at polling places, and other materials or  
19 information relating to the electoral process.

20 (b) For a language that is oral or unwritten, including  
21 historically unwritten as may be the case for some Native  
22 Americans, provide only oral instructions, assistance, or other  
23 information relating to the electoral process in that language.

24 (c) Ensure that all materials provided in a designated  
25 language are of an equal quality to the corresponding English  
26 materials, ensure that all provided translations convey the intent  
27 and essential meaning of the original text or communication and do  
28 not rely solely on any automatic translation service, and ensure  
29 the accuracy of the translated voting or election materials,

1 including any varying dialects.

2 (5) If available, language assistance for elections must also  
3 include live interpretation. In addition to the other requirements  
4 of this section, each local government that meets any of the  
5 conditions in subsection (1)(a), (b), or (c) must make a good-faith  
6 effort to provide bilingual election inspectors.

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

10 (7) Nothing in this section prohibits a local government from  
11 voluntarily providing language assistance for elections beyond that  
12 language assistance for elections required in this section if the  
13 local government determines that language assistance for elections  
14 would be beneficial for the limited English proficiency residents  
15 in that local government.

16 (8) This section takes effect June 1, 2025.

17 Sec. 7. The attorney general, any individual aggrieved by a  
18 violation of section 5, any entity whose membership includes  
19 individuals aggrieved by a violation of section 5, any entity whose  
20 mission would be frustrated by a violation of section 5, or any  
21 entity that would expend resources in order to fulfill its mission  
22 as a result of a violation of section 5 may file a cause of action  
23 in the court of claims.

24 Sec. 9. (1) In any action brought under section 7, the court  
25 has broad authority to order adequate remedies that are tailored to  
26 address the violation. Unless otherwise prohibited by law, adequate  
27 remedies include, but are not limited to, any of the following:

28 (a) Adding voting days or hours.

29 (b) Adding polling places or absent voter ballot drop boxes.

1 (c) Ordering a special election.

2 (d) Imposing nominal or compensatory damages.

3 (e) Imposing punitive damages in the form of a civil fine that  
4 must be deposited in the voter education fund created in the state  
5 voting rights act.

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

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

10 (2) In any action brought under section 7, the court may order  
11 a remedy only if the remedy will not impair the ability of limited  
12 English proficiency electors to participate in the political  
13 process and elect the limited English proficiency elector's  
14 preferred candidates, or otherwise influence the outcome of  
15 elections.

16 (3) In any action brought under section 7, the court shall  
17 consider remedies proposed by any parties and interested nonparties  
18 and shall not provide deference or priority to a proposed remedy  
19 offered by the defendant or the local government simply because the  
20 remedy has been proposed by the defendant or the local government.

21 (4) In any action brought under section 7, the court has the  
22 authority to order remedies that may be inconsistent with other  
23 provisions of state or local law, when the inconsistent provisions  
24 of law would otherwise preclude the court from ordering an adequate  
25 remedy.

26 Sec. 11. In any action brought under section 7, the court  
27 shall award reasonable attorney fees and litigation costs,  
28 including expert witness fees and expenses, to the party, other  
29 than this state or a local government, that filed the action and

1 prevailed in the action. The party that filed the action is  
2 considered to have prevailed if, as a result of the action, the  
3 party against whom the action was filed has yielded some or all of  
4 the relief sought in the action. If the party against whom the  
5 action was filed prevails in the action, the court shall not award  
6 that party any costs unless the court finds the action is  
7 frivolous, unreasonable, or without merit.

8       Sec. 13. Because of the frequency of elections, the severe  
9 consequences and irreparable harm of holding elections under  
10 unlawful conditions, and the expenditure to defend potentially  
11 unlawful conditions that benefit incumbent officials, actions  
12 brought under section 7 are subject to expedited pretrial and trial  
13 proceedings and must receive an automatic calendar preference. In  
14 any action alleging a violation of section 5 in which a plaintiff  
15 party seeks preliminary relief with respect to an upcoming  
16 election, the court shall grant relief if the court determines that  
17 the plaintiffs are more likely than not to succeed on the merits  
18 and it is possible to implement an adequate remedy that would  
19 resolve the alleged violation in the upcoming election.

20       Enacting section 1. This act does not take effect unless  
21 Senate Bill No. 401 of the 102nd Legislature is enacted into law.  
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