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BILL ANALYSIS

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Senate Bills 401 through 404 (Substitute S-1)
Sponsor: Senator Darrin Camilleri (S.B. 401)
Senator Jeremy Moss (S.B. 402)
Senator Stephanie Chang (S.B. 403)
Senator Erika Geiss (S.B. 404)
Committee: Elections and Ethics

Date Completed: 5-6-24

INTRODUCTION

Collectively, the bills would enact new, and modify existing, election law. Senate Bill 401 (S-1) would enact the State Voting Rights Act (MVRA) to prohibit a local government from imposing any law, practice, policy, or method of election that led to a disparity in voter participation between members of a protected class and other members of the electorate or that would impair the ability of a protected class to participate in the political process. The bill would prescribe a process for local governments to remedy violations by working with prospective plaintiffs and a process that prospective plaintiffs would have to follow before commencing an action. It would specify what a court could consider in an action and grant a court broad authority to order adequate remedies. Additionally, the bill would allow a disabled elector to bring an action in a county circuit court seeking the appointment of an election monitor if the local government in which the elector resided violated disabled electors' rights.

Senate Bill 402 (S-1) would require the Secretary of State (SOS), in partnership with at least one State university, to create the Michigan Voting and Elections Database and Institute to collect election data and provide research and training on voting systems and election administration. Senate Bill 403 (S-1) would require certain local governments and the SOS to provide language assistance for elections. It also would establish the Language Advisory Council and allow parties aggrieved by a violation of language assistance requirements to file a cause of action after attempting to remedy the concern directly with a local government. Senate Bill 404 (S-1) would allow voters who could not enter a voting site to request voting assistance. It also would allow individuals to provide necessities to electors who were outside of an election-related building if the individuals did not attempt to interfere with the election.

BRIEF FISCAL IMPACT

The bills would have implementation costs for the Department of State (MDOS) that could total over $1.1 million, including the hiring of two additional full-time-equivalents (FTEs) at $300,000 per year to approve MVRA resolutions as required. Costs could be higher depending on the number of resolutions received. There also could be additional costs to adopt new administrative rules but the MDOS believes those duties could be handled with the two FTEs.

The MDOS also could incur costs to hire an additional five FTEs to create the Voting and Elections Database and Institute. The annual cost to hire five FTEs is an estimated $750,000. These costs could be much lower should the Institute be housed within a university that would absorb much of those costs. Finally, there would be indeterminate costs for local governments to provide language assistance to voters depending on the government's demographics. Also, local governments could have to hire additional election inspectors to provide enough inspectors for curbside voting. The average cost for an election inspector is $180 per day.

CONTENT

Senate Bill 401 (S-1) would enact the "State Voting Rights Act" to do the following:

- **Prohibit a local government or State agency from imposing any law, practice, policy, or method of election that would lead to a disparity in voter participation between a protected class and other members of the electorate or that would impair the ability of a protected class to participate in the political process.**
- **Specify actions taken by a local government that would be considered violations of the MVRA.**
- **Require a prospective plaintiff to send a notification letter to the clerk and chief administrative officer of a local government, which would have to explain in detail and propose a remedy for each alleged violation of the MVRA, before commencing an action.**
- **Allow a prospective plaintiff to meet with representatives of the local government to develop a plan to address the violation and prescribe the requirements of a plan.**
- **Allow a prospective plaintiff to submit a complaint concerning a local government's alleged violation of the MVRA to the SOS.**
- **Prescribe the guidelines a court could or could not use to determine whether racially polarized voting by protected class members in a local government occurred.**
- **Prescribe the guidelines a court could or could not use to determine whether the political rights of any protected class member had been violated.**
- **Grant a court broad authority to order adequate remedies that were tailored to address a violation in any action brought under the MVRA or Article II of the State Constitution.**
- **Prescribe adequate remedies and requirements for punitive damages.**
- **Require a local government and the SOS to follow certain notice requirements.**
- **Allow a disabled elector, or an organization representing disabled electors, to bring an action in the circuit court of a county to seek the appointment of a monitor for future elections conducted by a local government, if that local government had violated a State or Federal law involving the rights of disabled electors.**
- **Prescribe the appointment and duties of election monitors.**
- **Repeal Public Act 161 of 1969, which governs actions brought in any circuit court of the State affecting elections, dates of elections, candidates, qualifications of candidates, ballots, or questions on ballots.**

Senate Bill 402 (S-1) would enact the "Voting and Elections Database and Institute Act" to do the following:

- **Require the SOS to enter into an agreement with one or more universities in the State to create the Michigan Voting and Elections Database and Institute by November 5, 2025.**
- **Require the Database and Institute to provide a center for research, training, and information on voting systems and election administration.**
- **Require the Database and Institute to make available all relevant election and voting data and records for at least the previous 12-year period at no cost, after which the relevant data and records would be sent to the State Archive.**
- **Require the Database and Institute to protect election and voting data and records by implementing rigorous cybersecurity standards.**
- **Permit the data, information, and estimates maintained by the Database and Institute to be used as evidence.**
- **Require, within 180 days after an election, the SOS to transmit to the Database and Institute specified information.**

Senate Bill 403 (S-1) would enact the "Language Assistance for Elections Act" to do the following:

- **Require a local government to provide language assistance for elections conducted in that local government if it met certain conditions.**
- **Require the SOS to post on its website a list of each local government required to provide language assistance and the required languages and notify each local government.**
- **Require the SOS to provide language assistance equal in quality to English for elections in each designated language and provide related materials in each designated language as translated by a certified translator.**
- **Create the Language Advisory Council in the MDOS, to be dissolved in 2026.**
- **Require a prospective plaintiff to send a notification letter to the clerk and chief administrative officer of the local government and meet with representatives of the local government to prepare and agree on a written plan before an aggrieved party could commence a civil action under the Act.**
- **Allow any individual or entity aggrieved by a violation of language assistance requirements to file a cause of action in the Court of Claims if discussion failed.**
- **Grant actions brought under the Act expedited trial proceedings, allow them to receive an automatic calendar preference, and prescribe remedies and restitution for them depending on their outcomes.**

Senate Bill 404 (S-1) would amend the Michigan Election Law to do the following:

- **Allow an elector who was unable to enter a polling place or early voting site to request voting assistance from the elector's county, city, or township clerk or precinct board of election inspectors.**
- **Prescribe the process for providing voting assistance.**
- **Allow an elector to seek language assistance for election purposes and bring an individual into the voting booth or compartment to assist that elector in voting.**
- **Allow an individual to provide necessities to electors at a polling place location, an early voting site, or a city or township clerk's office.**
- **Repeal Section 579 of the Law, which requires a board of election inspectors to reject the ballot of an individual who allows another individual to view the ballot.**

Senate Bill 401 (S-1)

General Prohibition Against Election Impairment

The bill would enact the MVRA. Generally, the bill would prohibit any local government from impairing an elector's ability to participate in an election, focusing specifically on members of protected classes.

"Local government" would mean a county, a city, a township, a village, a public school, a public community college, a district library, or any other political subdivision of the State, authority, or other public body corporate that conducts an election.

"Protected class" would mean individuals who are members of a racial, color, or language minority group, or two or more racial, color, or language minority groups, and includes any of the following:

- Individuals who are members of a racial, color, or language minority group that has been subject to protection under a consent decree ordered by a Federal court in the State in a suit alleging a violation of Section 2 of the Voting Rights Act (see **BACKGROUND**).
- Individuals who are members of a minimum reporting category that has ever been officially recognized by the United States Census Bureau (see **BACKGROUND**).

"Language minority group" would mean that term as defined in 52 USC 10503: persons who are American Indian, Asian American, Alaskan Natives, or of Spanish heritage.

Specifically, the bill would prohibit a local government, State agency, or State or local government official from imposing any qualification for eligibility to be an elector; any other prerequisite to voting;[1] any ordinance, regulation, or other law regarding the administration of elections; or any standard, practice, procedure, or policy; or take or fail to take any other action, including a reorganization of a local government, such as an annexation or division, in a manner that resulted in, would result in, or was intended to result in, either of the following:

-- A disparity in voter participation, access to voting opportunities, or the equal opportunity or ability to participate in the political process between members of a protected class and other members of the electorate.
-- Based on the totality of the circumstances, an impairment of the equal opportunity or ability of members of a protected class to participate in the political process and nominate or elect candidates of the protected class members' choice.

The bill provides the following examples of an election impairment:

-- A local government closed, moved, or consolidated one or more precincts, clerk's offices, polling places, early voting sites, or absent voter ballot drop boxes in a manner that impaired the right to vote of members of a protected class or resulted in a disparity in geographic access between members of a protected class and other members of the electorate.
-- A local government changed the time or date of an election in a manner that impaired the right to vote of members of a protected class, including making the change without proper notice as required by law.
-- A local government failed to provide voting or election materials in languages other than English as required by Federal or State law.
-- A local government implemented a reorganization of a local government that altered which electors were eligible to vote in elections for that local government if, based on the totality of the circumstances, the equal opportunity or ability of protected class members to nominate or elect candidates of their choice was impaired or diminished as a result of the reorganization.

Under the bill, "disparity" would mean any statistically significant variance that is supported by validated methodologies.

These provisions would not apply to the Citizens Independent Redistricting Commission established under Section 6 of Article IV of the State Constitution (see **BACKGROUND**).

Impairment in Methods of Election

Under the bill, a local government could not employ or impose any method of election that impaired the equal opportunity or the ability of protected class members to nominate or elect candidates of the protected class members' choice as a result of diluting the vote of those protected class members. This prohibition would not apply to the Citizens Independent Redistricting Commission.

A local government would violate this prohibition if elections in the local government made one or more changes to the method of election that would likely mitigate the impairment of

[1] "Vote" or "voting" would include any action necessary to cast a ballot and make that ballot count in an election, including registering as an elector, applying for an absent voter ballot, and any other action required by law as a prerequisite to casting that ballot and having that ballot counted, canvassed, certified, and included in the appropriate totals of votes cast with respect to an election.

the equal opportunity or ability of protected class members to nominate or elect candidates of the protected class members' choice and either of the following occurred:

-- Elections in the local government exhibited racially polarized voting and the method of election resulted in a dilutive effect on members of a protected class.
-- Based on the totality of the circumstances, the ability of protected class members to nominate or elect candidates of the protected class member's choice was impaired.

"Racially polarized voting" would mean voting in which the candidate or electoral choice preferred by protected class members diverges from the candidate or electoral choice preferred by other electors (see Racially Polarized Voting for more information).

To the extent that a change to the method of election was a proposed district-based plan that provided protected class members with one or more reasonably configured districts in which the protected class members would have an equal opportunity or ability to nominate or elect candidates of the protected class members' choice, it would not be necessary to show that members of a protected class comprised a majority of the total population, voting age population, voting eligible population, or registered voter population in any district.

MVRA Violations

Except as provided below, before commencing an action against a local government alleging a MVRA violation, a prospective plaintiff would have to send a notification letter to the clerk and chief administrative officer of the local government asserting that the local government could be in violation of the Act. The notification letter would have to explain in detail and propose a remedy for each alleged violation. Any individual aggrieved by a violation of the MVRA or any entity whose membership included individuals aggrieved by a violation, whose mission would be frustrated by a violation, or that would spend resources to fulfill its mission as a result of a violation, could be a prospective plaintiff.

Within 30 days after receiving a notification letter, the clerk of the local government and the chief administrative officer or chief executive officer of that local government, along with legal counsel or other individuals the local government wished to attend, could meet with the prospective plaintiff and prepare and agree on a plan to address the alleged violations. If the local government refused or failed to meet, the prospective plaintiff could seek remedies (see Adequate Remedies).

The plan would have to be in writing, be approved by a resolution of the local government's governing body, and do all the following:

-- Identify each alleged potential violation of the MVRA by the local government.
-- Identify a specific remedy for each alleged violation or state that the parties agreed no remedy was appropriate for one or more of the violations.
-- Affirm the local government's intent to enact and implement the remedy.
-- Establish specific measures that the local government would take to facilitate any needed approvals to implement each specific remedy.
-- Provide a schedule for the necessary approvals and the implementation of each specific remedy; if one or more State statutes or local charter provisions would have to be amended to provide for an agreed-upon remedy, the schedule would have to provide enough time for all needed steps for those amendments to occur, identify those necessary steps, and identify the local government officials who would take those steps; if a State statute were required to be amended, the steps would have to include a written request to the SOS, to the speaker of the House of Representatives, and to the majority leader of the Senate requesting assistance in making the change to the State statute.

-- If any necessary amendment to a State statute or local charter were not approved, provide an alternative plan within a time frame agreed to by the prospective plaintiff and the local government.

If a prospective plaintiff and the local government agreed on a written plan and that plan was approved by a resolution of the governing body of the local government, no action could be filed by the prospective plaintiff unless the local government failed to comply with the requirements of the written plan. If a prospective plaintiff and the local government did not agree on a written plan within 60 days after the prospective plaintiff and the local government first met, the prospective plaintiff could seek remedies (see Adequate Remedies).

If a prospective plaintiff complied with these requirements, the prospective plaintiff could file a complaint with the SOS. A complaint filed with the SOS would have to be in writing in a form required by the SOS and would have to include the notification letter sent to the local government. After receiving a written complaint, the SOS would have to send a written request to the local government for a written response to the complaint. Within 21 days after receiving the written request from the SOS, the local government would have to submit a detailed written response to each alleged violation and explain why the local government was unable to reach an agreement with the prospective plaintiff on a new plan to address each alleged violation.

After receiving the written response from the local government, the SOS would have to investigate the complaint, including conferring with the prospective plaintiff and the local government as considered necessary, to address the complaint with a written plan, to find that there was no violation, or to determine that the local government was in violation of the MVRA. If the SOS determined that the local government was violating the MVRA and the local government did not agree to a written plan to remedy each violation that was acceptable to the SOS, the SOS would have to make a written referral to the Attorney General (AG) and notify the prospective plaintiff to that determination. A prospective plaintiff who filed a complaint with the SOS could not commence an action against the local government until one of the following occurred:

-- The SOS determined there was no violation of the MVRA.
-- The SOS determined that the local government *was* violating the MVRA, and the local government would not agree on a written plan to remedy each violation that was acceptable to the SOS.
-- Ninety days or more elapsed since the date the SOS received the local government's response to the written complaint.

If one of the above occurred, a party could bring an action against a local government. A party also could bring an action if any of the following occurred:

-- Another party had already submitted a notification letter alleging a substantially similar violation and that party was eligible to bring an action.
-- Following the party's submission of a notification letter, the local government failed to implement a written plan.
-- The party sought preliminary relief with respect to an upcoming election.
-- The party sought preliminary relief with respect to an action concerning a change to the method of election, a governmental reorganization, any change to a district within a local government, or any program to remove electors from the voter registration records.
-- The party sent the notification letter, and the local government did not meet or approve a written plan.

Determining Occurrences of Racially Polarized Voting

The bill provides procedures, guidelines, and tests to determine whether a local government exhibited racially polarized voting as follows.

Generally, elections conducted prior to the filing of an action would be more probative than elections conducted *after* the filing of an action. Evidence concerning elections for any office in the local government accused would be more probative than evidence concerning elections for other offices. Statistical evidence using validated methodologies, especially that based on election results, would be more probative than non-statistical evidence.

If members of a protected class consisting of two or more racial, color, or language minority groups that were similarly situated because those groups were politically cohesive in local government brought a claim against a local government, members of those groups would have to be combined to determine whether voting from these combined members was polarized from other electors. It would not be necessary to demonstrate that each group was racially polarized from other electors.

Evidence concerning the causes of, or the reasons for, the occurrence of racially polarized voting, such as partisan explanations, would not be relevant to the determination of whether it occurred, or whether candidates or electoral choices preferred by the protected class would usually be defeated; however, this evidence could be considered when determining appropriate remedies.

Evidence concerning whether a protected class was geographically compact or concentrated and evidence concerning projected changes in population or demographics also could not be considered when determining whether racially polarized voting had occurred; however, it could be considered when determining appropriate remedies.

These provisions would not apply to the Citizens Independent Redistricting Commission.

Determining Violations of Political Rights

In determining whether the political rights for any protected class member had been violated, a court could consider factors that included any of the following:

-- Whether members of the protected class typically voted at a lower rate than other electors.
-- The history of discrimination affecting members of the protected class, particularly discrimination in that local government or in the vicinity of that local government.
-- The extent to which members of the protected class were disadvantaged, or otherwise bore the effects of past public or private discrimination, in any areas that could hinder the member's ability to participate effectively in the political process, including education, employment, and health, among other factors.
-- The use of overt or subtle racial appeals in political campaigns for offices in that local government or by local government officials.
-- The extent to which members of the protected class had been elected to office, contributed to political campaigns at lower rates, or faced barriers with respect to accessing the ballot, while campaigning, receiving financial support, or receiving any other support for an election.
-- Any law regarding the administration of elections or any practice or policy that impaired the political rights of members of a protected class.
-- The presence of racially polarized voting.
-- The lack of responsiveness by elected officials to the particular needs of protected class members.

-- Whether the challenged method of election, law, or practice or policy was designed to advance, or materially advanced, a compelling State interested that was substantiated and supported by evidence.
-- The extent to which protected class members suffered the effects of historical housing segregation or benefited from housing policies to implement fair housing goals.

The court could *not* consider in its determination of a violation any of the following:

-- The total number or share of members of a protected class on whom a challenged method of election, law, resolution, or procedure did not impose a material burden; however, evidence could be introduced showing a challenged method of election, resolution, rule, policy, or law did not affect qualified electors who were protected class members more than non-member electors.
-- The degree to which the challenged method of election, law, resolution, or procedure had a long pedigree or was in widespread use at some earlier date.
-- The use of an identical or similar challenged method of election, law, resolution, or procedure in another local government, unless it was adopted or implemented to remedy a MVRA violation, affected voter rights, or enhanced the voting rights of a protected class.
-- The availability of other forms of voting unaffected by the challenged method of election, law, resolution, or procedure to all members of the electorate, including members of the protected class.
-- A deterrent effect on potential criminal activity by individual electors, if those crimes had not occurred in the local government in substantial numbers, or if the connection between the challenged policy and any claimed deterrent effect were not supported by substantial evidence.
-- Mere invocation of interests in voter confidence or prevention of fraud; however, evidence could be introduced to show that the challenged practices were implemented to address actual instances of voter fraud, that those practices were tailored to prevent the recurrence of voter fraud, and that, before implementing the practices, the local government took reasonable measures to prevent or minimize possible adverse impacts on protected classes.
-- A lack of evidence concerning the intent of electors, elected officials, or public officials to discriminate against protected class members; however, written evidence or oral statements concerning the intent of electors or officials could be introduced to address whether punitive damages were appropriate.

Evidence that the court determined was not probative could be introduced to determine appropriate remedies, particularly concerning punitive damages.

To the extent a claim involved a local government, evidence of these factors would be best evidenced if it related to the local government in which the alleged violation occurred but would still hold probative value if the evidence related to the geographic region in which that local government was located or to the State.

Adequate Remedies

The AG or another party authorized to seek an action under the MVRA (see Impairments in Methods of Election) could file an action in the circuit court of the county in which the local government was located or in the Court of Claims to compel compliance with and seek an appropriate remedy under the MVRA. In an action involving a districting or redistricting plan, an individual with standing to challenge any single district would have standing to challenge the districting or redistricting plan as a whole.

The MVRA would grant a court broad authority when determining remedies. Remedies could be only as extensive as reasonably necessary to remedy a violation. The court would have to consider how disruptive the remedies would be to the local government's leadership and

operations when considering what remedies would be adequate and reasonable and how the remedies would be implemented.

Adequate remedies would include any of the following:

-- Drawing new or revised districting or redistricting plans; the court would specify the election at which the new or revised plan would take effect and, if needed, shorten or lengthen the terms of current office holders who would be affected by the plan.
-- Adopting a different method of election, including adopting a district-based or alternative method of election, or reasonably increasing the size of the legislative body; if it were necessary to amend a State statute or a local government charter, the court would have to allow reasonable time for those amendments to be approved and provide alternate remedies.
-- Adding voting days, hours, or polling places, early voting sites, and absent voter ballot drop boxes.
-- Eliminating staggered elections so that all members of the legislative body were elected at the same time; however, if amending a State charter or a local government charter was needed to provide for this remedy, the court's order would have to allow reasonable time for those amendments to be approved, and also would have to provide remedies that would be imposed if those statutory or charter amendments were not approved.
-- Ordering a special election.
-- Restoring or adding individuals to a voter registration list or requiring expanded opportunities for admitting electors.
-- Imposing civil fines and nominal or compensatory damages.
-- Any other form of declaratory or injunctive relief that, in the court's judgment, was tailored to address the violation.
-- Retaining jurisdiction for a period of time the court considered appropriate.

When imposing punitive damages, the court would have to consider the severity and number of violations, whether the local government had previous violations, the number of registered electors in that local government, the local government's ability to pay the punitive damages, and other appropriate factors. The court would have to provide in its order an explanation of why the payment of punitive damages was required and how the court determined the amount of damages to be paid. The court could impose punitive damages only if it found any of the following:

-- The violation was intentional.
-- The local government or its officials demonstrated a disregard for the voting rights of qualified electors within its jurisdiction.
-- When notified of an alleged violation, the local government failed to act.
-- The local government violated a court order issued under the MVRA, Article II of the State Constitution, or another applicable law.
-- After addressing any violation of the MVRA, Article II of the State Constitution, or another applicable law, the local government committed a subsequent violation.
-- Punitive damages were otherwise reasonably necessary to ensure compliance.

In any action brought under the MVRA or under Article II of the State Constitution, the court could order a remedy only if the remedy would not impair the equal opportunity or ability of protected class members to participate in the political process and nominate or elect the protected class members' preferred candidates. The court would have to consider remedies proposed by any parties and interested nonparties and could not provide deference or priority to a proposed remedy offered by the defendant or the local government simply because the remedy had been proposed by the defendant or the local government. Additionally, the court would have the authority to order remedies that could be inconsistent with other provisions of State or local law when the inconsistent provisions of law would otherwise preclude the court from ordering an adequate remedy.

In any action in which a court found a violation of the MVRA, the Federal Voting Rights Act, the State Constitution concerning the right to vote for protected class members, the Fourteenth or Fifteenth Amendment of the United States Constitution,[2] or any other State or Federal law concerning the right to vote for protected class members, the court could, in addition to the remedies outlined above, retain jurisdiction and require that, for a period of up to 10 years, the local government obtain a court order before enacting any voting-related policy. A court would be required to retain jurisdiction if it found that the violation was susceptible to repetition, the remedy to circumvention, or there was evidence of intentional discrimination by the local government, or the local government failed to adopt broad deterrent measures that prevented any future violations.

A request for judicial preapproval submitted to a court could be granted only if the court concluded that the proposed voting-related policy would not diminish, in relation to the status quo before the enactment or implementation of the voting-related policy, the equal opportunity or ability of members of a protected class whose voting rights were implicated by the voting-related policy and that the proposed voting-related policy was unlikely to violate any of the provisions of the MVRA. The local government would bear the burden of proof in a proceeding involving judicial preapproval.

"Voting-related policy" would include enacting or administrating any voting qualification or prerequisite to voting and enacting or administering any standard, practice, or procedure with respect to voting.

In any action brought under the MVRA, the court could order the parties to enter mediation under MCR 2.411 at any time during the proceedings.[3]

Notice Requirements

Within 20 days after the governing body of a local government approved ballot language related to any change to the method of how the winner of an election was determined, a change from a district-based method of election to an at-large method of election or vice versa, any governmental reorganization, or any program to remove electors from the voter registration records,[4] the local government would have to provide notice in a form prescribed by the SOS.

At a minimum, the local government would have to submit the notice to the SOS and post and make the notice available for public dissemination on its website. If a local government did not have a website, the notice would have to be posted at the seat of the local government in a publicly accessible area.

Additionally, a local government would have to provide notice within five business days if it received any of the following:

[2] Among other things, the Fourteenth Amendment prohibits any State from denying to any person within its jurisdiction equal protection under the law. The Fifteenth Amendment prohibits the right to vote from being denied to any citizen by the United States or any State based on race, color, or previous condition of servitude.

[3] MCR 2.411 specifies the process by which a mediator is selected, the scheduling and conduct of mediation, how fees may be imposed, the qualifications a mediator must possess, and more.

[4] Currently, a voter's registration may be cancelled if the voter has died (MCL 168.510); when notified by the clerk that the clerk received information that the voter had moved to another city or township, the voter failed to verify or correct address information and did not vote within the period beginning on the date of the notice and ending on the first business day immediately following the second November general election that is held after the date of the notice (168.509aa); or upon authorization by the elector (168.511). The bill would exempt these policies from its notification requirements.

-- A request from an individual to view, inspect, take possession of, or copy voting equipment, which would include a tabulator, physical or digital data, voter assist terminals, early voting poll books, electronic and paper poll books, or any other equipment approved by the SOS or the Board of State Canvassers for use at an election.
-- A request from an individual to view, inspect, or copy ballots from more than 25% of the total votes cast in the local government.
-- A challenge made by an elector of the local government to the registration of another elector.

If a local government failed to post or submit a notice as required, it would be responsible for paying a non-judicially reviewable late filing fee of $200 to the SOS for each business day that the notice was not posted or submitted, up to a maximum late filing fee of $6,000 for each violation. The SOS could waive payment of the late filing fee or reduce its amount if the local government charged had posted notice and submitted it to the SOS as required and if the SOS received a written request for a waiver by the clerk of the local government based on good cause and accompanied by adequate documentation. Either of the following would constitute good cause:

-- The incapacitating physical illness, hospitalization, accident involvement, death, or incapacitation for medical reasons of the clerk of the local government, an individual whose participation was essential to the preparation, posting, and submitting of the notice, or a member of the immediate family of the clerk or individual whose participation was essential.
-- Any unique, unintentional factors that were beyond the control of the clerk of the local government or an individual whose participation was essential to the preparation, posting, and submission of the notice not stemming from a negligent act or nonaction so that a reasonable prudent individual would excuse the posting and submission of the notice on a temporary basis.

As soon as practicable, but no later than five days after receiving a notice from a local government, the SOS would have to post the notice on the MDOS website and ensure that it was made available and accessible to individuals with disabilities and individuals with limited English proficiency.

The SOS could waive these notice requirements if a state of emergency affecting the local government were declared.

Within five days after the SOS was notified of any occurrence of the following, the SOS would have to post a notice on the MDOS website and ensure that the posting was available and accessible to individuals with disabilities and individuals with limited English proficiency:

-- Any change to the location of a polling place, absent voter ballot drop box, or other voting location within a local government.
-- Any change to the hours or days available for voting, including early voting, as compared to a previous election for the same or similar office.
-- Any change to the hours or locations for absent voting.
-- Any early voting plan, or any amendments to an early voting plan.
-- The results of an election audit.
-- The selection of a voting system.
-- Any agreement to establish an absent voter counting board.

These requirements would take effect January 1, 2026. Before that date, the SOS would have to consult with the Michigan Association of County Clerks, the Michigan Association of Municipal Clerks, and at least two voting rights advocates regarding their implementation.

At least 14 days before an election, a local government would have to provide notice of any organization or committee that had had been approved or denied the authorization to appoint election challengers.

Rights of Disabled Electors

Under the bill, a court would have to determine whether a local government violated the rights of disabled electors if the local government violated, or had failed to fully remedy a previous violation of, a State or Federal law involving, in whole or in part, the rights of disabled electors, and that violation adversely affected the ability of one or more disabled electors to vote at a polling place safely, securely, and privately or in another manner legally available to the electors. (Provided that the local government had issued other measures that enabled disabled voters to vote safely, securely, and privately, it would be an affirmative defense to an alleged violated that appropriately located polling places that complied with Federal or State laws, rules, and regulations affecting accessibility were not reasonably available to the local government despite its best efforts).

Before commencing an action in the circuit court of the county in which the local government was located seeking the appointment of a monitor, described below, for future elections or for another appropriate remedy for a violation of the rights of disabled electors, a prospective plaintiff, which could be a disabled elector or an organization who advocated for disabled electors, would have to follow a process similar to that laid out in Actions for Violations; however, a prospective plaintiff could not submit a complaint to the SOS. A local government also would have to follow that process.

The AG or any prospective plaintiff could file an action in the circuit court of the county in which the local government was located seeking the appointment of a monitor under the following circumstances:

-- The prospective plaintiff gave a written notification to the local government, but the local government failed or refused to meet or approve a written plan.
-- Another party had already submitted a notification letter alleging a substantially similar violation and the party was eligible to bring an action under the Act.
-- Following the party's submission of a notification letter, the local government failed to implement a written plan.

If the court determined that a local government had violated the rights of disabled electors, the court would have to order the appointment of a monitor for that local government, at that local government's expense, for a period of up to 10 years. A monitor's duties would include investigating all complaints that were submitted to the circuit court or to the monitor regarding the local government's compliance with a State or Federal law that, in whole or in part, involved the rights of disabled electors.

If the monitor determined that a complaint indicated that the local government had violated or would likely violate a State or Federal law that involved the rights of disabled electors, the monitor would have to inform the circuit court of the violation or likely violation. The circuit court would have to order all relief that was necessary to remedy the violation. If the circuit court found that a violation had already occurred, it would have to order a penalty of $1,000 payable to an elector whose State or Federal rights were violated if that elector reported the violation to the monitor.

If the monitor received a report of an alleged violation within 40 days before an election and the report indicated that a disabled elector was unable to vote because of the alleged violation, the monitor would have to bring the issue to the circuit court's attention immediately. The circuit court would have to order a hearing on an emergency basis to ensure that the disabled elector was not disenfranchised. This provision would not prohibit an elector from filing a

separate lawsuit to enforce State or Federal law if the State or Federal law provided that elector with a cause of action.

Additionally, the monitor would have to undertake any investigations or inspections that the monitor considered reasonably necessary during the 180 days before any election administered by the local government to ensure that the local government was in full compliance with any State or Federal law involving the rights of disabled electors.

No less than 90 days before any election administered by the local government, the monitor would have to produce a report for the circuit court regarding the local government's compliance, anticipated compliance, or lack of compliance, with any State or Federal law involving the rights of disabled electors.

If the monitor's report indicated any concerns that the local government would not comply with any State or Federal law involving the rights of disabled electors, the circuit court would have to hold a hearing to address those concerns and order any relief the circuit court determined necessary to ensure the local government's full compliance with the laws. The hearing and any orders resulting from those hearings would have to occur in sufficient time before the election to ensure that electors were not disenfranchised. If the circuit court found that a violation of State or Federal law had likely occurred or was occurring, the court would have to issue emergency relief the same day, as necessary. That remedy would have to include extending the term of the monitor at least through the next election administered by the local government.

On election day, and during the early voting period, the monitor would have to be available to receive reports by disabled electors, or any organization representing disabled electors, of any violations of a State or Federal law involving the rights of disabled electors. The monitor would have to bring any creditable reports of violations to the circuit court's attention immediately, and if the circuit court found that a violation of State or Federal law had likely occurred or was likely occurring, the circuit court would have to issue emergency relief the same day, as necessary, to ensure that the elector was not disenfranchised.

If the circuit court determined that a violation of a State or Federal law involving the rights of disabled electors had occurred, the remedy would have to include extending the term of the monitor at least through the next election administered by the local government.

A monitor would have to be an individual who met all the following requirements:

-- Had extensive knowledge of and experience with the rights of disabled individuals.
-- Had an established history of advocating on behalf of disabled individuals.
-- Had significant knowledge regarding election law.

A monitor would have to bill the local government for the monitor's time on an hourly basis at a rate that was customary in the State for an individual with the required experience and qualifications and that was approved by the court.

Additional Provisions

In any action brought under the MVRA, the court would have to award reasonable attorney fees and litigation costs, including expert witness fees and expenses, to the party, other than the State or a local government, that filed and prevailed in the action. The party that filed the action would be considered to have prevailed if, because of the action, the party against whom the action was filed had yielded some or all the relief sought in the action. If the party against whom the action was filed prevailed in the action, the court could not award that party any costs unless the court found the action was frivolous, unreasonable, or without merit.

Actions brought under the Act, Section 4 of Article II of the State Constitution,[5] or any other law concerning voting rights or elections would be subject to expedited pretrial and trial proceedings and would receive an automatic calendar preference. In any action alleging a violation of the Act, the Constitution, or any applicable law in which a plaintiff party sought preliminary relief with respect to an upcoming election, the court would have to grant relief if it determined that the plaintiffs were more likely than not to succeed on the merits and it was possible to implement an adequate remedy during the 90 days before the first day an elector was eligible to cast a ballot at an upcoming primary or general election that would resolve the alleged violation.

The bill would require the SOS to provide guidance to county, city, and township election officials, and to any other local government officials who had obligations under the bill, regarding the process for its implementation. The SOS would have to update this guidance to reflect any amendments to the bill, any updates to voting technology or equipment, or any other changes that the SOS determined necessary.

Additionally, anything required by the bill to be done on a certain day, if that day fell on a Saturday, Sunday, or legal holiday, could be done within the same time limits on the next secular day.

The bill also would repeal Public Act 161 of 1969, which regulates civil actions brought in any circuit court of the State affecting elections, dates of elections, candidates, qualifications of candidates, ballots, or questions on ballots.[6]

Senate Bill 402 (S-1)

The "Voting and Elections Database Institute Act" would require the SOS, no later than November 5, 2025, to enter into an agreement with one or more universities in the State to create the Michigan Voting and Elections Database and Institute. The Database and Institute would have two goals. Firstly, it would maintain and administer a central repository of election and voting data available to the public from all local government in the State. Secondly, it would foster, pursue, and sponsor research on existing laws and best practices in voting and elections. If the SOS failed to enter into this agreement by the 2025 deadline, it would be responsible for creating, maintaining, and administrating the Database and Institute.

The following provisions would take effect May 5, 2026.

The Database and Institute would have to provide a center for research, training, and information on voting systems and election administration. It could do any of the following:

-- Conduct classes for credit and noncredit.
-- Organize interdisciplinary groups of scholars to research voting and elections in the State.
-- Conduct seminars involving voting and elections.
-- Establish a nonpartisan centralized database to collect, archive, and make publicly available an accessible database pertaining to elections, voter registration, and ballot access in the State.
-- Assist in the dissemination of election data to the public.
-- Publish books and periodicals considered appropriate by the Database and Institute.
-- Provide nonpartisan technical assistance to local governments, scholars, and the public seeking to use the resources of the Database and Institute.

If the SOS entered into an agreement with one or more universities, the parties to that agreement would have to enter a memorandum of understanding that included the process

[5] Section 4 of Article II of the Michigan State Constitution establishes the place and manner of elections.
[6] MCL 691.1031 to 691.1032

of selecting the Director of the Database and Institute. If the SOS failed to enter into an agreement, it would appoint the Director.

The bill would require the Database and Institute to maintain an electronic format and make available all relevant election and voting data and records for at least the previous 12-year period. After this retention period, all relevant election and voting data and records maintained by the Database and Institute would have to be transferred to the State Archives.

The Database and Institute would have to implement rigorous cybersecurity standards for the election and voting data and records maintained by the Database and Institute that were comparable to the cybersecurity standards implemented by the Department of Technology, Management, and Budget.

Except for any information that identified individual electors, the data, information, and estimates maintained by the Database and Institute would have to be posted on the Department of State's website and made available to the public at no cost. The data and records would have to include all the following:

-- Estimates of the total population, voting age population, and citizens voting age population by racial, color, or language minority groups and disability status, broken down to the precinct level, on a year-by-year basis, for every local government in the State.
-- Election results at the precinct level for every Federal, State, and local election held in every local government in the State.
-- Contemporaneous voter registration lists, voter history files, election day polling places, early voting sites, and absent voter ballot drop box locations for every election in every local government in the State.
-- Contemporaneous maps or other documentation of the configuration of precincts.
-- Election day polling places and early voting sites.
-- Adopted districting or redistricting plans for every election in every local government in the State.
-- Any other data that the Director of the Database and Institute considered necessary.

The data, information, and estimates maintained by the Database and Institute could be relied on as evidence.

All State agencies and local governments would have to provide the SOS with any publicly available data as requested by the SOS in a timely manner. Before requesting this data, the SOS would have to consult with the Director of the Database and Institute, the Michigan Association of County Clerks, and the Michigan Association of Municipal Clerks. Upon receiving data from State agencies and local governments, including information that corresponds to the data and records described above, the SOS would have to transfer this data in a timely manner to the Database and Institute. Within 180 days after an election, the SOS would have to transmit to the Database and Institute information that corresponds to the data and records described above.

The AG, the Director of the Database and Institute, or a designee of either could file an action to enforce compliance with the Act.

Within 90 days of the end of each State fiscal year, the Database and Institute would have to publish a report on its priorities and finances.

Senate Bill 403 (S-1)

Election-related Language Assistance

The "Language Assistance for Elections Act" would require a local government to provide language assistance for elections conducted in that local government if it met either of the following conditions:

-- Had a voting-eligible population of at least 600 individuals in that local government who spoke a single shared language other than English and had limited English proficiency.
-- Had a voting-eligible population of at least 100 individuals in that local government who spoke a single shared language other than English, had limited English proficiency, and comprised 2.5% or more of the voting-eligible population in the local government.

Under the Act, "local government" would mean a city or township that conducts an election.

"Limited English proficiency" would mean an individual who does not speak English as that individual's primary language and who speaks, reads, or understands the English language less than very well, in accordance with United States Census Bureau data or data of a comparable quality collected by a governmental entity.

By January 31 of each odd-numbered year, the SOS would have to post on the MDOS website a list of each local government that would be required to provide language assistance for elections and a list of each language it would have to provide. The Director of Elections would have to provide the information posted on the Department of State's website to the clerk of each local government in the State.

If a local government were added to the information posted on the MDOS's website, the SOS would have to do the following:

-- Notify that local government of the language assistance requirements.
-- Require that local government to implement the language assistance requirements by the next primary election date.

If the SOS determined that language assistance would have to be provided in a local government for elections, the SOS also would have to do all the following:

-- Provide effective language assistance for elections in each designated language and provide related materials in English, and in each designated language as translated by a certified translator, including registration or voting notices, absent voter ballot applications and other materials or information relating to the electoral process.
-- Ensure the quality and accuracy of the translated voting or election materials.
-- Provide to that local government, and to the county in which that local government was located if that local government had entered into an agreement with the county to conduct early voting, a voting system technology that produced ballots on demand or a voter assist terminal that produced an elector with a translated ballot.

The SOS also would have to provide local government clerks access to a telephone system or other remote system that could be used to provide language interpretation to voters. It also would have to produce electronic copies of any election material that it made public in each designated language.

If the SOS provided language assistance for elections, the local government would have to use all the language assistance from the SOS. If a local government required language assistance for elections that the SOS *did not* provide, that local government would be required to submit language to the SOS no later than 82 days before the election. If that language were not submitted, the *local government* would be required to provide the language assistance.

The Act would not prohibit a local government from voluntarily providing language assistance for elections beyond that required if the local government determined that language assistance for elections would be beneficial for its limited English proficiency residents.

These provisions would take effect January 1, 2026.

Language Access Advisory Council

The bill would create the Language Advisory Council in the MDOS. The Council would consist of the following members, who would be appointed by the SOS no later than May 1, 2025:

-- One clerk who was selected from a list of nominees submitted by the Michigan Association of Municipal Clerks.
-- One clerk who was selected from a list of nominees submitted by the Michigan Association of County Clerks.
-- One member from each group that was eligible for language assistance for elections under the Act.

If a vacancy occurred on the Council, the SOS would have to fill the vacancy in the same manner as the original appointment. The members of the Council would have to meet one or more times before January 1, 2026, as directed by the SOS, to advise the SOS on implementing the provisions of the Act.

Members of the Council would serve until December 31, 2025. The Council would be dissolved on January 1, 2026.

Judicial Implications

Before commencing a civil action against a local government that alleged a violation of the Act, a prospective plaintiff would have to send a notification letter to the clerk and chief administrative officer of the local government that asserted that the local government could be in violation of the Act. The notification letter would have to explain in detail the alleged violation and propose a remedy for each alleged violation.

Within 30 days after receiving the notification letter, the clerk of the local government and the chief administrative officer or chief executive officer of that local government, along with legal counsel or any other individual the local government wished to attend, could meet with the prospective plaintiff and the prospective plaintiff's representatives to prepare and agree on a written plan to address the alleged violation by the local government. If the local government refused or failed to meet as required, the prospective plaintiff could file a cause of action in the Court of Claims. The written plan described would have to be in writing, be approved by a resolution of the governing body, and do all the following:

-- Identify each alleged violation by the local government.
-- Identify a specific remedy for each alleged violation by the local government or state that the parties agreed that no remedy was appropriate for one or more of the violations.
-- Establish specific measures that the local government would have to take to facilitate any needed approvals to implement each specific remedy.
-- Provide a schedule for the needed approvals and the implementation of each specific remedy.

If a prospective plaintiff and the local government agreed on a written plan and the plan was approved by a resolution of the governing body of the local government, no cause of action could be filed for the prospective plaintiff unless the local government failed to comply with the plan's requirements. If a prospective plaintiff and the local government did not agree, the prospective plaintiff could file a cause of action in the Court of Claims.

The AG or any individual or entity whose members were aggrieved by a violation of language assistance requirements could file a cause of action in the Court of Claims if any of the following requirements were met:

-- The party gave written notice as required and the local government failed to meet and approve a written plan.
-- Another party already had submitted a notification letter that alleged a substantially similar violation, and that party was eligible to bring a cause of action.
-- After a party submitted a notification letter, the local government failed to implement a written plan.
-- The party was seeking preliminary relief with respect to an upcoming election.

In any action brought, the Court would have broad authority to order adequate remedies that were tailored to address the violation; however, the remedies could only be as extensive as reasonably necessary to remedy the violation. Unless otherwise prohibited by law, adequate remedies would include any of the following:

-- Requiring the establishment of and conducting of a comprehensive program that ensured equal opportunity for citizens in the local government who were entitled to language assistance under the bill to participate in the electoral process.
-- Adding voting days or hours or adding polling places, early voting sites, or absent voter ballot drop boxes.
-- Ordering a special election on either a regular election day or on another date, as determined by the Court.
-- Imposing punitive damages in the form of a civil fine.
-- Any other form of declaratory or injunctive relief that, in the Court's judgement, was tailored to address the violation.
-- Retaining jurisdiction for a period of time the Court found appropriate.

When assessing the amount of punitive damages, the Court would have to take into consideration the severity and number of violations, whether the local government had previous violations, the number of registered electors in the local government, the local government's ability to pay the punitive damages, and any other factors considered necessary. The Court would have to provide an explanation in any order requiring the payment of punitive damages on why punitive damages were required and how the court determined the amount of damages. Punitive damages could be ordered only if the Court found any of the following:

-- The violation was intentional.
-- The local government or an official of a local government demonstrated a disregard for the voting rights of qualified electors in the local government.
-- After being notified of an alleged violation, the local government failed to take any action.
-- The local government violated a Court order issued under the Act, Article II of the State Constitution, the Federal Voting Rights Act, or any other applicable law.
-- Violations of any law applicable to or affecting voting rights were violated again after previously addressing a violation.
-- Punitive damages were reasonably necessary to ensure compliance with the Act.

In any action brought, the Court could order a remedy only if the remedy would not impair the ability of limited English proficiency electors to participate in the political process and elect the limited English proficiency elector's preferred candidates. Additionally, the Court would have to consider remedies proposed by any parties and interested nonparties and could not provide deference or priority to a proposed remedy offered by the defendant or the local government simply because the remedy had been proposed by the defendant or local government.

In any action brought, the Court would have the authority to order remedies that could be inconsistent with other provisions of State or local law, when the inconsistent provisions of law would otherwise preclude the court from ordering an adequate remedy.

In any action, the Court would have to award reasonable attorney fees and litigation costs, including expert witness fees and expenses, to any of the following:

-- A party, other than the State or a local government, that filed the action and prevailed in the action; the party that filed the action would prevail if, because of the action, the party against whom the action was filed yielded some or all the relief sought.
-- A party that defended an action and prevailed in the action if the written response by the local government detailed why no violation occurred and the Court concurred.

Actions brought under the bill would be subject to expedited pretrial and trial proceedings and would have to receive an automatic calendar preference due to the frequency of elections, the severe consequences and irreparable harm of holding elections under unlawful conditions, and the expenditure to defend potentially unlawful conditions that benefited incumber officials. In any action alleging a violation of the proposed law in which a plaintiff party sought preliminary relief with respect to an upcoming election, the Court would have to grant relief if, after a hearing at which all parties could present arguments and offer evidence, it determined that the plaintiffs were more likely than not to succeed on the merits and it was possible to implement an adequate remedy that would resolve the alleged violation in the upcoming election.

Senate Bill 404 (S-1)

Voting Assistance

Among other things, the Michigan Election Law prescribes the circumstances under which an elector may receive aid while filling out a ballot. For example, the Law allows an elector disabled on account of blindness to receive assistance in the marking of the elector's ballot by a member of the elector's immediate family or by a designated individual of voting age.

Under the bill, during the hours that voting was available to electors at a polling place or early voting site, a sign would have to be displayed outside of the site that read the following: "If you need voting assistance, please call _____."

If an elector were unable to enter a polling place or early voting site, the elector could ask the county, city, or township clerk or precinct board of election inspectors to provide voting assistance, which would have to be provided as follows.

Under the bill, when the election inspectors at a polling place or early voting site became aware that an elector outside of the polling place or early voting site needed voting assistance, the following procedure would have to be used:

1. Two election inspectors from different political parties would have to deliver the ballot inside a secrecy sleeve to the elector who was outside the polling place or early voting site.
2. After the elector marked the ballot and placed it back in the secrecy sleeve, the election inspectors would have to immediately return to the polling place or early voting site and deposit the ballot into the tabulator in a manner that protected the secrecy of the ballot to the greatest extent possible.
3. If the ballot were accepted by the tabulator, one election inspector, regardless of political party affiliation, would have to return to the elector who was outside the polling place or early voting site and indicate to the elector that the elector's ballot was successfully tabulated; if the ballot were rejected by the tabulator, two election inspectors from different political parties would have to return to the elector who was outside of the polling place or early voting site and give the elector the opportunity to have the ballot considered a spoiled ballot and vote another.

An elector who voted a ballot at a polling place or early voting site under this procedure would be subject to all the requirements, and have all the rights, that applied to electors who voted inside the polling place or early voting site.

The provisions described above would take effect January 1, 2026.

Additional Provisions

Beginning on the bill's effective date, an elector could seek language assistance from an individual the elector chose to exercise the elector's right to vote. Additionally, an elector could bring any individual into the voting booth or voting compartment at an election to assist that elector in participating in the electoral process as long as that individual did not direct the elector on which candidates or ballot questions to support or oppose. An election inspector could confirm with the elector that the assisting individual was of the elector's choice.

Additionally, the bill would allow an individual to provide food, entertainment, warmth, or other necessities to electors who were outside of the building in which a polling place, early voting site, or city or township clerk's office was located, provided the individual did not interfere with the voting process. An individual could provide necessities to electors who were in line to vote *inside* of the building at the discretion of the appropriate city or township clerk.

Currently, all the ballots given to an elector applying to vote must bear the same number, beginning, for the first elector to whom ballots are given, with the lowest numbered ballots, the next higher number for the second such elector, and so on. The bill would delete this provision.

Section 579

The bill would repeal Section 579 of the Michigan Election Law, which requires a board of election inspectors to reject a ballot if the elector, after marking it, exposes it to any person, other than a minor child accompanying that elector, in a manner likely to reveal the name of any candidate for whom the elector voted.

MCL 168.726 et al. (S.B. 404)

BACKGROUND

Voting Rights Act

Section 2 of the Voting Rights Act of 1965 prohibits voting practices or procedures that discriminate based on race, color, or membership in a language minority group. In 1982, the United States Senate Committee on the Judiciary issued a report on what factors courts may use to determine whether a violation of Section 2 had occurred. The report included the following:

-- The history of official voting-related discrimination in the state or political subdivision.
-- The extent to which voting in the elections of the state or political subdivision is racially polarized.
-- The extent to which the state or political subdivision has used voting practices or procedures that tend to enhance the opportunity for discrimination against the minority group, such as unusually large election districts.
-- The exclusion of members of the minority group from candidate slating processes.
-- The extent to which minority group members bear the effects of discrimination in areas such as education, employment, and health, which may hinder their political participation.
-- The use of overt or subtle racial appeals in political campaigns.

-- The extent to which members of the minority group have been elected to public office in the jurisdiction.

In a suit alleging a violation of Section 2, a Federal court may order protection for the group harmed by the violation under a consent decree, a settlement agreement consented to by all parties and approved by the court.

Currently, the United States Census Bureau recognizes five minimum categories: White, Black or African American, American Indian or Alaska Native, Asian, and Native Hawaiian or Other Pacific Islander. Participants also may select Some Other Race. Additionally, participants may select multiple options to indicate mixed-race status.

Independent Redistricting Commission

In 2018, Michigan voters approved Ballot Proposal 2, which amended the Michigan Constitution to establish the Citizens Independent Redistricting Commission. The 13 members of the Commission were selected in 2020. On December 28, 2021, the Commission voted to approve its final congressional and State legislative redistricting maps; however, in March 2022, a group of Detroit voters filed a lawsuit against Michigan Secretary of State Jocelyn Benson and the Commission alleging that the Commission's redistricting plans violated the Voting Rights Act by diluting the voting power of Black voters in several Detroit-area legislative districts. In December 2023, a Federal court ruled in *Agee v. Benson* that the Commission had violated the 14th Amendment of the U.S. Constitution and required several Michigan House and Senate districts to be redrawn. The Commission redrew and approved a new House district map, the Motown Sound FC E1 map, which was adopted by the court in March and will be used for the 2024 House election primaries and the general election.[7] The Commission must redraw and submit a new Senate district map by May 22, followed by a period of public review and assessment. The court will approve a remedial Senate plan no later than July 26.[8]

Legislative Analyst: Abby Schneider

FISCAL IMPACT

The bills would provide procedures and direction for the Court of Claims and circuit courts regarding the application of the MVRA. While there would likely be an increase in filings, or hearings, for the Court of Claims because of the legislation, this would not automatically mean an increase in administrative costs for courts. Additionally, some, if any, increased administrative costs related to additional hearings could be deferred to some degree by filing fees paid by litigants.

Filing fees for the Court of Claims are the same as those for circuit courts: $150 plus $25 for e-file. Filing fee revenue is collected statewide and redistributed to several different restricted funds, with nearly half (48.5%) directed into the State Court Fund. Depending on the volume of complaints, there could be some costs borne by circuit courts or the Court of Claims due to the requirement in Senate Bill 401 (S-1) that legal actions brought under the MVRA be expedited and given calendar preference on court dockets. Such potential costs are indeterminate.

[7] Solis, Ben, "Redistricting House Map Meets Court Muster, Plaintiffs Appear Satisfied", *Gongwer*, March 27, 2024.
[8] Solis, Ben, "Redistricting: Court To Hold On Special Master For Senate Redraw", *Gongwer*, April 15, 2024.

Senate Bill 401 (S-1)

The bill would have additional costs for the MDOS to implement the requirements in the bill that would include the hiring of 2 additional FTEs at a cost of $300,000 per year to approve MVRA resolutions as required. Costs could be even higher depending on the actual number of resolutions received by the MDOS. There also could be additional costs to adopt new administrative rules but the MDOS believes those duties could be handled with the 2 additional FTEs mentioned above.

There also would be a local cost component related to reimbursing plaintiffs for reasonable costs associated with generating a notification letter to the local government alleging a violation of Sections 7 or 9 of the bill. Should the local government enact and implement a remedy based on the notification letter, the local government would have to reimburse the plaintiffs for reasonable costs or a mutually agreed upon amount. The costs to a local government would vary based on each notification letter.

Senate Bill 402 (S-1)

The bill could create the need for the MDOS to hire an additional 5 FTEs to create the Michigan Voting and Elections Database and Institute. The annual cost to hire 5 FTEs is an estimated $750,000. These costs could be much lower should the Institute be housed with a university as the university would absorb much of those costs. The Institute also would maintain and administer a central repository of elections and voting data.

Local governments also could incur costs associated with reporting election, voter registration, and ballot access for their jurisdictions to the Institute. These costs are indeterminate and would vary across local governments and depend on the amount of technology upgrades that would be needed to meet the reporting requirements.

Senate Bill 403 (S-1)

The bill would have an indeterminate cost for local governments and the MDOS. Local governments could incur costs to provide language assistance to voters depending on the demographics of that local government. The costs would vary by local government and depend on whether live interpreters were required.

Senate Bill 404 (S-1)

The bill could require local governments to hire additional election inspectors to provide enough inspectors to allow for curbside voting. The average cost for an election inspector is $180 per day thus the costs would vary by local government and depend on the number of inspectors hired.

Fiscal Analyst: Joe Carrasco, Jr.
Michael Siracuse

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