

SENATE BILL NO. 401

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

A bill to create a state voting rights act; to provide for the powers and duties of certain state and local governmental officers and entities; to provide for a court-appointed monitor under certain circumstances; to create a fund; to prohibit certain discriminatory activity and to prescribe civil sanctions; and to provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act may be cited as the "state voting rights
2 act".

1 Sec. 2. In recognition of the protections for the right to
2 vote provided by the state constitution of 1963, and in conjunction
3 with the constitutional guarantees of equal protection and the
4 freedoms of speech, assembly, consultation, instruction, and
5 petition under the law and against the denial and abridgement of
6 the voting rights of members of a racial, color, or language
7 minority group, it is the public policy of this state to do all of
8 the following:

9 (a) Encourage participation in the elective franchise by all
10 eligible electors to the maximum extent.

11 (b) Ensure that eligible electors who are members of a racial,
12 color, or language minority group have an equal opportunity to
13 participate in the political processes of this state and to
14 exercise the elective franchise.

15 Sec. 3. As used in this act:

16 (a) "Alternative method of election" means a method of
17 electing candidates to the legislative body of a local government
18 other than an at-large method of election or a district-based
19 method of election and includes, but is not limited to,
20 proportional ranked-choice voting, cumulative voting, limited
21 voting, or hybrid voting systems that incorporate aspects of at-
22 large and district-based methods of election.

23 (b) "At-large method of election" means a method of electing
24 candidates to the legislative body of a local government in which
25 candidates are voted on by all electors of the local government.
26 At-large method of election does not include any alternative method
27 of election.

28 (c) "Disparity" means any statistically significant variance
29 that is not de minimis and is supported by validated methodologies.

1 (d) "District-based method of election" means a method of
2 electing candidates to the legislative body of a local government
3 in which, for local governments divided into districts, a candidate
4 for any district is required to reside in the district and
5 candidates representing or seeking to represent the district are
6 voted on by only the electors of the district.

7 (e) "Federal voting rights act" means the federal voting
8 rights act of 1965, 52 USC 10301 to 10314, 10501 to 10508, and
9 10701 to 10702.

10 (f) "Local government" means a county, city, township, or any
11 other political subdivision of this state that conducts an
12 election.

13 (g) "Protected class" means individuals of a racial, color, or
14 language minority group, as that term is defined under the federal
15 voting rights act, and includes groups whose members have been
16 subject to protection under a consent decree ordered by a federal
17 court in a suit alleging a violation of section 2 of the federal
18 voting rights act, 52 USC 10302, and individuals who are members of
19 a racial category that has been officially recognized by the United
20 States Census Bureau.

21 (h) "Racially polarized voting" means voting in which the
22 candidate or electoral choice preferred by protected class members
23 diverges from the candidate or electoral choice preferred by other
24 electors.

25 (i) "Voting eligible population" and "eligible electors" mean
26 those individuals who are eligible to register and vote, regardless
27 of whether the individuals are registered to vote.

28 Sec. 5. The protections for the right to vote provided by this
29 act must be construed liberally in favor of all of the following:

1 (a) Protecting the right to cast a ballot and make that ballot
2 effective.

3 (b) Ensuring that qualified individuals who seek to be
4 admitted as electors are not impaired in being admitted as
5 electors.

6 (c) Ensuring that each elector is not impaired in voting,
7 including, but not limited to, having the elector's vote counted.

8 (d) Making the fundamental right to vote more accessible to
9 qualified individuals.

10 (e) Ensuring equitable access for protected class members to
11 opportunities to be admitted as electors and to vote.

12 Sec. 7. (1) A local government or state agency shall not
13 impose any qualification for eligibility to be an elector, impose
14 any other prerequisite to voting, impose any ordinance, regulation,
15 or other law regarding the administration of elections, or impose
16 any standard, practice, procedure, or policy in a manner that
17 results in, will result in, or is intended to result in, either of
18 the following:

19 (a) A disparity in voter participation, access to voting
20 opportunities, or the opportunity or ability to participate in the
21 political process between members of a protected class and other
22 members of the electorate.

23 (b) Based on the totality of the circumstances, an impairment
24 of the opportunity or ability of a protected class member to
25 participate in the political process and elect candidates of the
26 elector's choice or otherwise influence the outcome of elections.

27 (2) There is a rebuttable presumption that an impairment
28 exists under subsection (1)(b) in circumstances that include, but
29 are not limited to, any of the following:

1 (a) A local government closes, moves, or consolidates 1 or
2 more precincts, polling places, or absent voter ballot drop boxes
3 in a manner that impairs the right to vote of members of a
4 protected class or results in a disparity in geographic access
5 between members of a protected class and other members of the
6 electorate.

7 (b) A local government changes the time or date of an election
8 in a manner that impairs the right to vote of members of a
9 protected class, including, but not limited to, making the change
10 without proper notice as required by law.

11 (c) A local government fails to provide voting or election
12 materials in languages other than English as required by federal or
13 state law.

14 (3) Implementing a reorganization of a local government,
15 including, but not limited to, an annexation, incorporation,
16 dissolution, consolidation, or division of a local government,
17 violates subsection (1) if, based on the totality of the
18 circumstances, the opportunity of protected class members to
19 nominate or elect candidates of the protected class member's
20 choice, or otherwise influence the outcome of elections, is
21 impaired as a result of the reorganization.

22 Sec. 9. (1) A local government shall not employ or modify any
23 method of election that has the effect, or is motivated in part by
24 the intent, of impairing the opportunity of protected class members
25 to elect candidates of the protected class member's choice, or
26 otherwise influence the outcome of elections, as a result of
27 diluting the vote of those protected class members.

28 (2) A local government violates subsection (1) if the local
29 government does any of the following:

1 (a) Uses an at-large method of election and either of the
2 following occurs:

3 (i) The voting eligible population of the local government
4 exhibits racially polarized voting and the at-large method of
5 election results in a dilutive effect on members of a protected
6 class.

7 (ii) Based on the totality of the circumstances, the ability of
8 protected class members to nominate or elect candidates of the
9 protected class member's choice, or otherwise influence the outcome
10 of elections, is impaired.

11 (b) Uses a district-based or alternative method of election
12 and either of the following occurs:

13 (i) The voting eligible population of the local government
14 exhibits racially polarized voting and the district-based or
15 alternative method of election results in a dilutive effect on
16 members of a protected class.

17 (ii) Based on the totality of the circumstances, the
18 opportunity of protected class members to nominate or elect
19 candidates of the protected class member's choice, or otherwise
20 influence the outcome of elections, is impaired.

21 (c) Modifies the method of election, including, but not
22 limited to, modifying the number of districts or the size of the
23 legislative body, and either of the following occurs:

24 (i) The modification has the effect, or is motivated in part by
25 the intent, of impairing the opportunity of protected class members
26 to nominate or elect candidates of the protected class member's
27 choice, or otherwise influence the outcome of elections.

28 (ii) Based on the totality of the circumstances, the
29 opportunity of protected class members to nominate or elect

1 candidates of the protected class member's choice, or otherwise
2 influence the outcome of elections, is impaired as a result of the
3 modification.

4 (d) Implements a reorganization, including, but not limited
5 to, an annexation, incorporation, dissolution, consolidation, or
6 division of that local government, and either of the following
7 occurs:

8 (i) The reorganization has the effect, or is motivated in part
9 by the intent, of impairing the opportunity of protected class
10 members to nominate or elect candidates of the protected class
11 member's choice, or otherwise influence the outcome of elections.

12 (ii) Based on the totality of the circumstances, the
13 opportunity of protected class members to nominate or elect
14 candidates of the protected class member's choice, or otherwise
15 influence the outcome of elections, is impaired as a result of the
16 reorganization.

17 (3) In determining whether racially polarized voting by
18 protected class members in a local government occurs under this
19 section, a court shall adhere to all of the following guidelines:

20 (a) Elections conducted before the filing of a cause of action
21 are more probative than elections conducted after the filing of a
22 cause of action.

23 (b) Evidence concerning elections for any office in that local
24 government, including executive, legislative, judicial, and other
25 offices of that local government, is more probative than evidence
26 concerning elections for other offices, but evidence concerning
27 elections for other offices may still be afforded probative value.

28 (c) Statistical evidence is more probative than nonstatistical
29 evidence.

1 (d) In the case of claims brought on behalf of 2 or more
2 protected classes that are politically cohesive in that local
3 government, members of those protected classes must be combined to
4 determine whether voting by those combined protected class members
5 is polarized from other electors. It is not necessary to
6 demonstrate that voting by members of each protected class is
7 separately polarized from other electors.

8 (e) Evidence concerning the causes of, or the reasons for, the
9 occurrence of racially polarized voting is not relevant to the
10 determination of whether racially polarized voting by protected
11 class members occurs, or whether candidates or electoral choices
12 preferred by protected class members would usually be defeated. In
13 particular, evidence concerning alternate explanations for racially
14 polarized voting patterns or election outcomes, including, but not
15 limited to, partisan explanations, must not be considered.

16 (f) Evidence concerning whether subgroups of protected class
17 members have different voting patterns must not be considered.

18 (g) Evidence concerning whether protected class electors are
19 geographically compact or concentrated must not be considered, but
20 may be considered when determining a remedy for a violation of this
21 section.

22 (h) Evidence concerning projected changes in population or
23 demographics must not be considered, but may be considered when
24 determining a remedy for a violation of this section.

25 Sec. 11. (1) In determining whether, based on the totality of
26 the circumstances, an impairment of the right to vote for any
27 protected class member, or of the opportunity or ability of
28 protected class members to participate in the political process and
29 elect candidates of the protected class member's choice, or

1 otherwise influence the outcome of elections, has occurred under
2 section 7 or 9, a court may consider factors that include, but are
3 not limited to, any of the following:

4 (a) Whether members of the protected class vote at a lower
5 rate than other electors.

6 (b) The history of discrimination affecting members of the
7 protected class.

8 (c) The extent to which members of a protected class are
9 disadvantaged, or otherwise bear the effects of past public or
10 private discrimination, in any areas that may hinder the member's
11 ability to participate effectively in the political process,
12 including education, employment, health, criminal justice, housing,
13 transportation, land use, or environmental protection.

14 (d) The use of overt or subtle racial appeals in political
15 campaigns or by government officials.

16 (e) The extent to which members of a protected class have been
17 elected to office.

18 (f) The extent to which members of a protected class have
19 faced barriers with respect to accessing the ballot, receiving
20 financial support, or receiving any other support for an election.

21 (g) The extent to which members of a protected class
22 contribute to political campaigns at lower rates.

23 (h) The extent to which candidates face hostility or barriers
24 while campaigning due to the candidate's membership in a protected
25 class.

26 (i) Any statute, ordinance, regulation, or other law regarding
27 the administration of elections, or any standard, practice,
28 procedure, or policy, that may impair the right to vote for any
29 protected class members, or may impair the opportunity or ability

1 of protected class members to participate in the political process
2 and elect candidates of the protected class member's choice, or
3 otherwise influence the outcome of elections.

4 (j) The presence of racially polarized voting.

5 (k) The lack of responsiveness by elected officials to the
6 particularized needs of protected class members or a community of
7 protected class members.

8 (l) Whether the challenged method of election, ordinance,
9 resolution, rule, policy, standard, regulation, procedure, or law
10 was designed to advance, and does materially advance, a compelling
11 state interest that is substantiated and supported by evidence.

12 (2) In determining whether a violation of section 7 or 9 has
13 occurred, a court shall not consider any of the following factors:

14 (a) The total number or share of members of a protected class
15 on whom a challenged method of election, ordinance, resolution,
16 rule, policy, standard, regulation, procedure, or law does not
17 impose a material burden.

18 (b) The degree to which the challenged method of election,
19 ordinance, resolution, rule, policy, standard, regulation,
20 procedure, or law has a long pedigree or was in widespread use at
21 some earlier date.

22 (c) The use of an identical or similar challenged method of
23 election, ordinance, resolution, rule, policy, standard,
24 regulation, procedure, or law in another local government.

25 (d) The availability of other forms of voting unimpacted by
26 the challenged method of election, ordinance, resolution, rule,
27 policy, standard, regulation, procedure, or law to all members of
28 the electorate, including members of the protected class.

29 (e) A prophylactic impact on potential criminal activity by

1 individual electors, if those crimes have not occurred in the local
2 government in substantial numbers, or if the connection between the
3 challenged policy and any claimed prophylactic effect is not
4 supported by substantial evidence.

5 (f) Mere invocation of interests in voter confidence or
6 prevention of fraud.

7 (g) A lack of evidence concerning the intent of electors,
8 elected officials, or public officials to discriminate against
9 protected class members.

10 (3) A particular combination or number of factors under
11 subsection (1) is not required for a court to determine that an
12 impairment occurred. The court shall consider a particular factor
13 only if and to the extent evidence pertaining to that factor is
14 introduced.

15 (4) Evidence of the factors under subsection (1) is most
16 probative if the evidence relates to the local government in which
17 the alleged violation occurred, but still holds probative value if
18 the evidence relates to the geographic region in which that local
19 government is located or to this state.

20 Sec. 13. (1) Except as otherwise provided in subsection (6),
21 before commencing an action against a local government alleging a
22 violation of section 7 or 9, a prospective plaintiff must send a
23 notification letter to the local government asserting that the
24 local government may be in violation of section 7 or 9. The
25 prospective plaintiff shall not commence an action against that
26 local government within 50 days after sending that notification
27 letter. If a local government adopts a MIVRA resolution under
28 subsection (2), that local government has 90 days after passing
29 that MIVRA resolution to enact and implement a remedy, during which

1 time a prospective plaintiff who sent a notification letter under
2 this subsection shall not commence an action against that local
3 government. If, pursuant to a process commenced by a notification
4 letter, a local government enacts and implements a remedy, a
5 prospective plaintiff who sent the notification letter is entitled
6 to reimbursement for the reasonable costs to generate the
7 notification letter. A local government shall reimburse a
8 prospective plaintiff for the reasonable costs claimed, or an
9 amount to which the parties mutually agree. The prospective
10 plaintiff shall provide a demand for reimbursement to the local
11 government within 90 days after the enactment or implementation of
12 the remedy. To the extent a prospective plaintiff who sent the
13 notification letter and a local government are unable to come to a
14 mutual agreement, either party may file a declaratory judgment
15 action to obtain a clarification of rights.

16 (2) The legislative body of a local government may adopt a
17 MIVRA resolution providing for a remedy to a potential violation of
18 section 7 or 9 after a notification letter has been sent or on its
19 own volition. A MIVRA resolution must do all of the following:

20 (a) Identify the potential violation of section 7 or 9 by the
21 local government.

22 (b) Identify a specific remedy to the potential violation.

23 (c) Affirm the local government's intent to enact and
24 implement the remedy.

25 (d) Establish specific measures that the local government will
26 take to facilitate enactment and implementation of the remedy.

27 (e) Provide a schedule for the enactment and implementation of
28 the remedy.

29 (3) Before adopting a MIVRA resolution, the local government

1 shall take all of the following steps:

2 (a) If a remedy identified in a proposed MIVRA resolution
3 replaces an at-large method of election with a district-based
4 method of election or alternative method of election, or adopts a
5 new districting plan, the local government shall hold at least 2
6 public hearings at which members of the public may provide input
7 regarding the remedy proposed in the MIVRA resolution. If a remedy
8 identified does not replace an at-large method of election with a
9 district-based method of election or alternative method of
10 election, or adopt a new districting plan, the local government
11 shall hold at least 1 public hearing at which members of the public
12 may provide input regarding the remedy proposed in the MIVRA
13 resolution.

14 (b) At least 7 days before any public hearing under
15 subdivision (a), the local government shall publish and make
16 available for public dissemination, including on the website of the
17 local government if the local government has a website, the text of
18 the proposed MIVRA resolution and all relevant information
19 concerning any remedy included in the proposed MIVRA resolution.

20 (c) Before any public hearing under subdivision (a), the local
21 government shall conduct outreach to members of the public,
22 including to language minority groups, to explain the process and
23 invite participation in any public hearing.

24 (d) If a proposed MIVRA resolution is revised after the MIVRA
25 resolution is published, at least 7 days before the adoption of the
26 revised MIVRA resolution, the local government shall publish and
27 make available for public dissemination, including on the website
28 of the local government if the local government has a website, the
29 text of the revised MIVRA resolution and all relevant information

1 concerning any remedy included in the proposed MIVRA resolution.

2 (4) The following provisions apply after a local government
3 adopts a MIVRA resolution:

4 (a) The local government shall submit the adopted MIVRA
5 resolution to the secretary of state for authorization, and if
6 requested by the secretary of state, the local government shall
7 also submit transcripts or recordings of any hearings conducted by
8 the local government under subsection (2), any written submissions
9 received by the local government from members of the public
10 concerning the MIVRA resolution, and any other supporting
11 documentation.

12 (b) As soon as practicable, but not later than 10 days after
13 receiving a MIVRA resolution and other documentation under
14 subdivision (a), the secretary of state shall publish that MIVRA
15 resolution and documentation on the department of state's website.

16 (c) The secretary of state shall offer members of the public
17 an opportunity to provide written comment on any MIVRA resolution
18 and documentation submitted.

19 (d) No earlier than 30 days, and no later than 60 days, after
20 receiving a MIVRA resolution submitted by a local government, the
21 secretary of state shall provide a report and determination as to
22 whether the remedy proposed in the MIVRA resolution is authorized.

23 (e) The secretary of state shall authorize a remedy proposed
24 in a MIVRA resolution only if the secretary of state concludes all
25 of the following:

26 (i) The local government may be in violation of section 7 or 9.

27 (ii) The remedy proposed in the MIVRA resolution remedies the
28 potential violation of section 7 or 9.

29 (iii) The remedy proposed in the MIVRA resolution is unlikely to

1 violate the state constitution of 1963 or any federal law.

2 (iv) The remedy proposed in the MIVRA resolution would not
3 diminish the opportunity or ability of protected class members to
4 participate in the political process and elect candidates of the
5 protected class member's choice, or otherwise influence the outcome
6 of elections.

7 (v) Implementing the remedy proposed in the MIVRA resolution
8 is feasible.

9 (f) If the secretary of state authorizes the remedy proposed
10 in the MIVRA resolution, the local government may adopt the remedy.
11 A determination by the secretary of state to authorize a remedy
12 identified in a MIVRA resolution does not bar a subsequent action
13 challenging the remedy and is not admissible in, or must otherwise
14 be considered by, a court in any action challenging that remedy.

15 (g) If the secretary of state does not authorize the remedy
16 identified in the MIVRA resolution, the local government may not
17 adopt that remedy. The secretary of state may identify 1 or more
18 alternate remedies that satisfy subdivision (e). The local
19 government may adopt any alternate remedy identified by the
20 secretary of state.

21 (h) If the secretary of state does not respond to the local
22 government's submission of an adopted MIVRA resolution, the local
23 government must not adopt the remedy proposed in the MIVRA
24 resolution.

25 (i) This subsection does not apply to any remedy identified in
26 a MIVRA resolution that the local government has authority to adopt
27 and implement under applicable state or local law.

28 (5) The secretary of state may adopt rules under the
29 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to

1 24.328, in accordance with state law to effectuate the purposes of
2 subsection (4).

3 (6) Notwithstanding subsections (1) to (5), a party may bring
4 a cause of action for a violation of section 7 or 9 under any of
5 the following circumstances:

6 (a) The action is commenced within 1 year after the adoption
7 of the challenged method of election, ordinance, resolution, rule,
8 policy, standard, regulation, procedure, or law.

9 (b) The prospect of obtaining relief under subsections (1) to
10 (5) would be futile.

11 (c) Another party has already submitted a notification letter
12 under subsection (1) alleging a substantially similar violation and
13 that party is eligible to bring a cause of action under this
14 subsection.

15 (d) Following the party's submission of a notification letter
16 under subsection (1), the local government has adopted a MIVRA
17 resolution under subsection (2) that identifies a remedy that would
18 not remedy the violation identified in the party's notification
19 letter.

20 (e) The party is seeking preliminary relief with respect to an
21 upcoming election in accordance with section 27.

22 (7) As used in this section, "MIVRA resolution" means a
23 resolution adopted by the legislative body of a local government
24 under subsection (2).

25 Sec. 19. (1) Before enacting any covered policy, a covered
26 jurisdiction must first obtain preclearance for that covered policy
27 either from the secretary of state under subsection (3) or from the
28 court of claims under subsection (10).

29 (2) On at least an annual basis, the secretary of state shall

1 determine which local governments are covered jurisdictions,
2 publish on the department of state's website a list of those local
3 governments, and provide notice to each of those local governments.

4 (3) If a covered jurisdiction seeks preclearance of a covered
5 policy from the secretary of state, the covered jurisdiction shall
6 submit, in writing, the covered policy to the secretary of state
7 and may obtain preclearance in accordance with this section. If the
8 secretary of state receives any submission of a covered policy, the
9 secretary of state shall do all of the following:

10 (a) As soon as practicable, but no later than 10 days after
11 receiving the covered policy, publish on the department of state's
12 website the covered policy.

13 (b) Allow members of the public an opportunity to comment on
14 the published submission within the time period set forth in
15 subsection (7).

16 (c) Allow members of the public to sign up to receive
17 notifications or alerts regarding the submission of that covered
18 policy for preclearance.

19 (d) Review the covered policy and any public comment on the
20 covered policy and, within the time period set forth in subsection
21 (7), provide a report and determination as to whether preclearance
22 of the covered policy is approved or denied. The time period for
23 reviewing a covered policy runs concurrently with the time period
24 for public comment.

25 (e) Deny preclearance to a covered policy only if the
26 secretary of state concludes that the covered policy is more likely
27 than not to diminish the opportunity or ability of protected class
28 members to participate in the political process and elect
29 candidates of the protected class member's choice, or otherwise

1 influence the outcome of elections, or is more likely than not to
2 violate this act. If the secretary of state denies preclearance to
3 a covered policy, the covered policy must not be enacted or
4 implemented.

5 (4) The covered jurisdiction bears the burden of proof in any
6 determination as to preclearance of a covered policy. The secretary
7 of state may request from a covered jurisdiction, at any time
8 during the secretary of state's review, additional information for
9 the purpose of developing the secretary of state's report and
10 determination. If the covered jurisdiction fails to timely comply
11 with reasonable requests for additional information, that failure
12 may constitute grounds for the denial of preclearance. The
13 secretary of state shall publish each report and determination on
14 the department of state's website on completion of the report and
15 determination. For each determination, the secretary of state shall
16 provide in writing whether the secretary of state is approving or
17 denying the covered policy and provide a detailed written
18 explanation of the basis for the secretary of state's
19 determination. The secretary of state may designate preclearance as
20 preliminary and subsequently approve or deny final preclearance no
21 later than 90 days after receiving the covered policy.

22 (5) If the secretary of state approves preclearance to a
23 covered policy under subsection (3), the covered jurisdiction may
24 enact or implement the covered policy no earlier than 10 days
25 following the approval of preclearance for any covered policy
26 concerning the location of polling places or absent voter ballot
27 drop boxes, and no earlier than 30 days following the approval of
28 preclearance for any other covered policy. A determination by the
29 secretary of state to approve preclearance does not bar a

1 subsequent action challenging the covered policy, and is not
2 admissible in, or shall otherwise be considered by, a court in that
3 action.

4 (6) If the secretary of state fails to approve or deny
5 preclearance to a covered policy within the time period set forth
6 in subsection (7), that covered policy is considered precleared and
7 the covered jurisdiction may enact and implement the covered policy
8 no earlier than 10 days following the approval of preclearance for
9 any covered policy concerning the location of polling places or
10 absent voter ballot drop boxes, and no earlier than 30 days
11 following the approval of preclearance for any other covered
12 policy.

13 (7) The time periods of review by the secretary of state for
14 any covered policy, for public comment, and for any determination
15 by the secretary of state to approve or deny preclearance to the
16 covered policy are as follows:

17 (a) For any covered policy concerning the location of polling
18 places or absent voter ballot drop boxes, the time period for
19 public comment is 10 business days, and the time period in which
20 the secretary of state shall review the covered policy, including
21 any public comment on the covered policy, and make a determination
22 to approve or deny preclearance to the covered policy, is not more
23 than 30 days after the secretary of state receives the covered
24 policy, except that the secretary of state may invoke 1 extension
25 of not more than 20 days to make the determination.

26 (b) For any covered policy not concerning the location of
27 polling places or absent voter ballot drop boxes, the time period
28 for public comment is 10 business days, except that, for any
29 covered policy that concerns the implementation of a district-based

1 method of election or an alternative method of election,
2 districting or redistricting plans, or a change to a local
3 government's form of government, the time period is 20 business
4 days, and the time period in which the secretary of state shall
5 review the covered policy, including any public comment on the
6 public policy, and make a determination to approve or deny
7 preclearance to the covered policy, is not more than 90 days after
8 the secretary of state receives the covered policy, except that the
9 secretary of state may invoke up to 2 extensions of not more than
10 90 days each to make the determination.

11 (8) The secretary of state may adopt rules under the
12 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
13 24.328, to establish an expedited, emergency preclearance process
14 under which the secretary of state may address covered policies
15 that are submitted during or immediately preceding an election as a
16 result of any attack, disaster, emergency, or other exigent
17 circumstance. Any preclearance approved under the rules adopted
18 under this subsection must be designated preliminary, and the
19 secretary of state may subsequently approve or deny final
20 preclearance not later than 90 days after receiving the covered
21 policy.

22 (9) Any denial of preclearance by the secretary of state may
23 be appealed to the court of claims.

24 (10) If a covered jurisdiction seeks preclearance of a covered
25 policy from the court of claims, the covered jurisdiction shall
26 submit, in writing, the covered policy to the court of claims and
27 may obtain preclearance in accordance with this section, if the
28 covered jurisdiction also contemporaneously transmits to the
29 secretary of state a copy of the covered policy. As soon as

1 practicable, but not later than 10 days after receiving the covered
2 policy, the secretary of state shall publish on the department of
3 state's website the covered policy. The failure by the covered
4 jurisdiction to provide a copy to the secretary of state results in
5 an automatic denial of the preclearance. Notwithstanding the
6 transmission of the copy of the covered policy to the secretary of
7 state, the court of claims has exclusive jurisdiction over the
8 covered policy. The covered jurisdiction bears the burden of proof
9 in the court of claims's determination as to preclearance. If the
10 court of claims receives a covered policy, the court of claims
11 shall do both of the following:

12 (a) Approve or deny preclearance no later than 90 days after
13 receiving the covered policy.

14 (b) Deny preclearance to a covered policy only if the court of
15 claims determines that the covered policy is more likely than not
16 to diminish the opportunity or ability of protected class members
17 to participate in the political process and elect candidates of the
18 protected class member's choice, or otherwise influence the outcome
19 of elections, or is more likely than not to violate this act. If
20 the court of claims denies preclearance to a covered policy, or
21 fails to make a determination within 90 days after receiving the
22 covered policy, that covered policy must not be enacted or
23 implemented.

24 (11) If the court of claims approves preclearance for the
25 covered policy, the covered jurisdiction may immediately enact and
26 implement that covered policy. A determination by the court of
27 claims to approve preclearance to a covered policy is not
28 admissible in, or shall otherwise be considered by, a court in any
29 subsequent action challenging that covered policy.

1 (12) Any denial of preclearance under subsection (10) may be
2 appealed to the court of appeals.

3 (13) In any proceeding under this section, the court shall
4 consider submissions from interested nonparties.

5 (14) The secretary of state may adopt rules under the
6 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to
7 24.328, to effectuate the purposes of this section. On the request
8 of the secretary of state, any state entity identified by the
9 secretary of state as possessing data, statistics, or other
10 information that the secretary of state requires to carry out the
11 secretary of state's duties and responsibilities under this section
12 shall provide to the secretary of state that data, statistics, or
13 information. Any estimates prepared by the secretary of state for
14 identifying covered jurisdictions under this section, including
15 estimates of eligible electors, must be prepared using the most
16 advanced, peer-reviewed, and validated methodologies available.

17 (15) If any covered jurisdiction enacts or implements any
18 covered policy without obtaining preclearance for the covered
19 policy in accordance with this section, the secretary of state or
20 any party described in section 21 may file an action in the court
21 of claims seeking a declaratory judgment that the covered
22 jurisdiction has violated this section. In that action, the court
23 of claims has broad authority to order adequate remedies consistent
24 with section 23. To the extent the court of claims finds the
25 covered jurisdiction has violated this section, the court of claims
26 is encouraged to exercise the court's discretion to impose civil
27 penalties on the local government as provided under section 23.

28 (16) Any individual who is a member of a protected class, any
29 entity whose membership includes individuals who are members of a

1 protected class, any entity whose mission would be frustrated
2 either by a failure by the secretary of state to properly implement
3 this section or by any action or decision by the secretary of state
4 that is inconsistent with this section, or any entity that would
5 expend resources in order to fulfill the entity's mission as a
6 result of a failure by the secretary of state to properly implement
7 this section or by any action or decision by the secretary of state
8 that is inconsistent with the provisions of this section, may file
9 an action in the court of claims under any of the following
10 circumstances:

11 (a) The secretary of state has approved preclearance to a
12 covered policy in violation of the provisions of this section. Any
13 claim under this subdivision must be brought against both the
14 covered jurisdiction and the secretary of state, and must be filed
15 after the covered policy has been approved for preclearance, but
16 before the covered policy is enacted and implemented. In any claim
17 under this subdivision, the court of claims has discretion to stay
18 the implementation of the covered policy until the court of claims
19 can make a determination with respect to whether preclearance
20 should have been approved. A claim under this subdivision does not
21 preclude, bar, or limit any other claims that may be brought
22 regarding the covered policy in any way, including claims brought
23 under other sections of this act.

24 (b) The secretary of state has identified a list of local
25 governments that are covered jurisdictions that is inconsistent
26 with the requirements of this section.

27 (c) The secretary of state has failed to properly implement
28 any of the provisions of this section.

29 (17) In any action brought under subsection (16), the court of

1 claims shall evaluate any claims on a de novo basis and shall not
2 give deference to the secretary of state. The court of claims has
3 broad authority to order adequate remedies consistent with section
4 23. In addition, the court of claims has broad authority to impose
5 any injunctive relief on any party, including, but not limited to,
6 the secretary of state, as the court of claims considers necessary
7 to effectuate this section. If the court of claims finds that the
8 secretary of state has failed to properly implement any of the
9 provisions of this section or has made any determination that is
10 inconsistent with the provisions of this section, the court of
11 claims is encouraged to exercise the court's discretion to impose
12 civil penalties on the secretary of state as provided under section
13 23.

14 (18) This section takes effect June 1, 2025.

15 (19) As used in this section:

16 (a) "Covered jurisdiction" means any of the following:

17 (i) Any local government that in the previous 25 years has been
18 subject to any court order, including a court-approved consent
19 decree or settlement, or government enforcement action based on a
20 finding of any violation of this act, the federal voting rights
21 act, any state or federal civil rights law, the Fifteenth Amendment
22 of the United States Constitution, or the Fourteenth Amendment to
23 the United States Constitution, if the violation concerns the right
24 to vote or a pattern, practice, or policy of discrimination against
25 any protected class, or any other settlement of any action alleging
26 a violation in which the local government conceded that a violation
27 occurred.

28 (ii) Any local government that in the previous 5 years has
29 failed to comply with obligations to provide data or information to

1 the Michigan voting and elections database and institute as created
2 in section 5 of the voting and elections database and institute
3 act.

4 (iii) Any local government that in the previous 25 years was
5 found to have enacted or implemented a covered policy without
6 obtaining the required preclearance for the covered policy.

7 (iv) Any local government that in any year in the previous 10
8 years contained at least 1,000 eligible electors of a protected
9 class, or in which members of any protected class constituted at
10 least 10% of the eligible voter population of the local government,
11 and the percentage of electors of that protected class in the local
12 government that participated in any general election for any local
13 government office was at least 10% lower than the percentage of all
14 electors in the local government that participated in the election.

15 (v) Any local government that in any year in the previous 10
16 years contained at least 1,000 eligible electors of a protected
17 class, or in which members of any protected class constituted at
18 least 10% of the voting eligible population of the local
19 government, and the percentage of eligible electors of that
20 protected class who were registered to vote was at least 10% lower
21 than the percentage of all eligible electors in the local
22 government who were registered to vote.

23 (b) "Covered policy" means any new or modified qualification
24 for admission as an elector, prerequisite to vote, or law,
25 ordinance, regulation, standard, practice, procedure, or policy
26 concerning any of the following:

27 (i) Districting or redistricting in a local government.

28 (ii) Method of election for a local government.

29 (iii) Governmental reorganization, including, but not limited

1 to, annexation, incorporation, dissolution, consolidation, or
2 division of a local government.

3 (iv) Removal of individuals from voter registration lists and
4 other activities concerning the cancellation or denial of voter
5 registration.

6 (v) Voter challenges.

7 (vi) Hours, locations, or number of polling places or absent
8 voter ballot drop boxes.

9 (vii) Reorganization of precincts, including assignment of
10 precincts to polling places.

11 (viii) Assistance offered to protected class members.

12 (ix) Providing translation or interpretation services to
13 electors in any language other than English, including creating or
14 distributing voting materials in any language other than English.

15 (x) Providing assistance to electors with disabilities,
16 including the creating or distributing of voting materials for
17 electors with disabilities.

18 (xi) Any additional subject matter the secretary of state
19 identifies for inclusion, under a rule promulgated by the secretary
20 of state under the administrative procedures act of 1969, 1969 PA
21 306, MCL 24.201 to 24.328, if the secretary of state determines
22 that any qualification for admission as an elector, prerequisite to
23 vote, or law, ordinance, regulation, standard, practice, procedure,
24 or policy concerning that subject matter may have the effect of
25 diminishing the right to vote of any protected class member or have
26 the effect of violating this act.

27 Sec. 21. The attorney general, any individual aggrieved by a
28 violation of section 7 or 9, any entity whose membership includes
29 individuals aggrieved by a violation of section 7 or 9, any entity

1 whose mission would be frustrated by a violation of section 7 or 9,
2 or any entity that would expend resources in order to fulfill its
3 mission as a result of a violation of section 7 or 9, may file a
4 cause of action in the court of claims.

5 Sec. 23. (1) In any action brought under this act or under
6 article II of the state constitution of 1963, the court has broad
7 authority to order adequate remedies that are tailored to address
8 the violation. Unless otherwise prohibited by law, adequate
9 remedies include, but are not limited to, any of the following:

10 (a) Drawing new or revised districting or redistricting plans.

11 (b) Adopting a different method of election, including
12 adopting a district-based or alternative method of election, or
13 reasonably increasing the size of the legislative body.

14 (c) Adding voting days or hours.

15 (d) Adding polling places or absent voter ballot drop boxes.

16 (e) Eliminating staggered elections so that all members of the
17 legislative body are elected at the same time.

18 (f) Ordering a special election.

19 (g) Restoring or adding individuals to a voter registration
20 list or requiring expanded opportunities for admitting electors.

21 (h) Reorganizing a local government, including, but not
22 limited to, an annexation, incorporation, dissolution,
23 consolidation, or division of a local government.

24 (i) Imposing nominal or compensatory damages.

25 (j) Imposing punitive damages in the form of a civil fine that
26 must be deposited in the voter education fund created in section
27 29.

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

1 (1) Retaining jurisdiction for a period of time the court
2 considers appropriate.

3 (2) In any action brought under this act or under article II
4 of the state constitution of 1963, the court may order a remedy
5 only if the remedy will not impair the ability of protected class
6 members to participate in the political process and elect the
7 protected class member's preferred candidates, or otherwise
8 influence the outcome of elections.

9 (3) In any action brought under this act or under article II
10 of the state constitution of 1963, the court shall consider
11 remedies proposed by any parties and interested nonparties and
12 shall not provide deference or priority to a proposed remedy
13 offered by the defendant or the local government simply because the
14 remedy has been proposed by the defendant or the local government.

15 (4) In any action brought under this act or under article II
16 of the state constitution of 1963, the court has the authority to
17 order remedies that may be inconsistent with other provisions of
18 state or local law, when the inconsistent provisions of law would
19 otherwise preclude the court from ordering an adequate remedy.

20 Sec. 24. (1) If a local government meets any of the following
21 conditions, a disabled elector, or an organization whose mission
22 includes advocating on behalf of disabled electors, may bring an
23 action in the circuit court of the county in which that local
24 government is located seeking the appointment of a monitor for
25 future elections conducted by that local government:

26 (a) In the previous 15 years, the local government has been
27 subject to any court order or government enforcement action in
28 state or federal court, or any administrative tribunal, based on a
29 finding of any violation of a state or federal law involving, in

1 whole or in part, the rights of disabled electors.

2 (b) In the previous 15 years, the local government has
3 rendered moot a state or federal lawsuit regarding an alleged
4 violation of a state or federal law involving, in whole or in part,
5 the rights of disabled electors in a manner that provided effective
6 relief that remedied the alleged violations.

7 (c) In the previous 15 years, the local government settled a
8 state or federal lawsuit regarding an alleged violation of a state
9 or federal law involving, in whole or in part, the rights of
10 disabled electors, and conceded liability as part of the
11 settlement.

12 (2) If the circuit court determines that any of the conditions
13 provided in subsection (1) have been met, the circuit court shall
14 order the appointment of a monitor for that local government, at
15 the local government's expense, for a period of not less than 10
16 years. The monitor's duties include all of the following:

17 (a) Investigating all complaints that are submitted to the
18 circuit court or to the monitor regarding the local government's
19 compliance with a state or federal law that, in whole or in part,
20 involves the rights of disabled electors.

21 (b) If the monitor determines that any complaint indicates
22 that the local government has violated or will likely violate a
23 state or federal law that, in whole or in part, involves the rights
24 of disabled electors, the monitor shall inform the circuit court of
25 the violation or likely violation and the circuit court shall do
26 the following:

27 (i) Order any and all relief that is necessary to remedy the
28 violation.

29 (ii) If the circuit court finds that a violation has already

1 occurred, order a penalty of \$1,000.00 payable to an elector whose
2 state or federal rights were violated if that elector reported the
3 violation to the monitor.

4 (c) If the monitor receives a report of an alleged violation
5 within 40 days before an election and the report indicates that a
6 disabled elector is unable to vote because of that alleged
7 violation, the monitor shall bring the issue to the circuit court's
8 attention immediately and the circuit court shall order a hearing
9 on an emergency basis to ensure that the disabled elector is not
10 disenfranchised. This subdivision does not prohibit an elector from
11 filing a separate lawsuit to enforce state or federal law if the
12 state or federal law provides that elector with a cause of action.

13 (d) Undertake any investigations or inspections that the
14 monitor considers reasonably necessary during the 180 days before
15 any election administered by the local government to ensure that
16 the local government is in full compliance with any state or
17 federal law involving, in whole or in part, the rights of disabled
18 electors.

19 (e) No less than 90 days before any election administered by
20 the local government, produce a report to the circuit court
21 regarding the local government's compliance, anticipated
22 compliance, or lack of compliance, with any state or federal law
23 involving, in whole or in part, the rights of disabled electors. If
24 the monitor's report indicates any concerns that the local
25 government will not comply with any state or federal law involving,
26 in whole or in part, the rights of disabled electors, the circuit
27 court shall hold a hearing to address those concerns and shall
28 order any relief the circuit court determines necessary to ensure
29 the local government's full compliance with the laws. The hearing

1 and any orders resulting from those hearings must occur in
2 sufficient time before the election to ensure that electors are not
3 disenfranchised.

4 (f) On election day, and during the early voting period, the
5 monitor shall be available to receive reports by disabled electors,
6 or any organization representing disabled electors, of any
7 violations of a state or federal law involving, in whole or in
8 part, the rights of disabled electors. The monitor shall bring any
9 meritorious reports of violations to the circuit court's attention
10 immediately, and if the circuit court finds that a violation of
11 state or federal law has likely occurred or is likely occurring,
12 the circuit court shall issue emergency relief the same day, as
13 necessary, to ensure that the elector is not disenfranchised.

14 (g) If a circuit court orders a remedy under this subsection,
15 that remedy must include, if the circuit court determines that a
16 violation of a state or federal law involving, in whole or in part,
17 the rights of disabled electors has occurred, extending the term of
18 the monitor at least through the next election administered by the
19 local government.

20 (3) A monitor appointed under this section must be an
21 individual who meets all of the following requirements:

22 (a) Has extensive knowledge of and experience with the rights
23 of disabled individuals.

24 (b) Has an established history of advocating on behalf of
25 disabled individuals.

26 (c) Has significant knowledge regarding election law.

27 (4) A monitor shall bill the local government for the
28 monitor's time on an hourly basis at a rate that is customary in
29 this state for an individual with the required experience and

1 qualifications.

2 (5) In any state lawsuit concerning an alleged violation of
3 any state or federal law involving, in whole or in part, the rights
4 of disabled electors, the court shall order that appointment of a
5 monitor as provided in subsection (2) as part of the remedy if the
6 court finds that a violation of the state or federal law has
7 occurred.

8 (6) In any federal lawsuit concerning an alleged violation of
9 any state or federal law involving, in whole or in part, the rights
10 of disabled electors, the court may order that the appointment of a
11 monitor, as provided in subsection (2), be a part of the remedy to
12 the extent compatible with federal law. If the federal court
13 declines to appoint a monitor, any appropriate plaintiff may bring
14 a subsequent action in the appropriate circuit court as provided
15 under subsection (1) based on the finding of liability in the
16 previous federal lawsuit.

17 (7) As used in this section:

18 (a) "Disabled elector" means an elector who has a disability
19 as that term is defined under section 103 of the persons with
20 disabilities civil rights act, 1976 PA 220, MCL 37.1103.

21 (b) "State or federal law involving, in whole or in part, the
22 rights of disabled electors" includes, but is not limited to, any
23 of the following:

24 (i) Section 726a of the Michigan election law, 1954 PA 116, MCL
25 168.726a.

26 (ii) The persons with disabilities civil rights act, 1976 PA
27 220, MCL 37.1101 to 37.1607.

28 (iii) The Americans with disabilities act of 1990, Public Law
29 101-336.

1 (iv) The federal voting rights act.

2 (v) The voting accessibility for the elderly and handicapped
3 act, 52 USC 20101 to 20107.

4 (vi) The national voter registration act of 1993, 52 USC 20501
5 to 20511.

6 (vii) The help America vote act of 2002, 52 USC 20901 to 21145.

7 Sec. 25. In any action brought under this act, the court shall
8 award reasonable attorney fees and litigation costs, including
9 expert witness fees and expenses, to the party, other than this
10 state or a local government, that filed the action and prevailed in
11 the action. The party that filed the action is considered to have
12 prevailed if, as a result of the action, the party against whom the
13 action was filed has yielded some or all of the relief sought in
14 the action. If the party against whom the action was filed prevails
15 in the action, the court shall not award that party any costs
16 unless the court finds the action is frivolous, unreasonable, or
17 without merit.

18 Sec. 27. Because of the frequency of elections, the severe
19 consequences and irreparable harm of holding elections under
20 unlawful conditions, and the expenditure to defend potentially
21 unlawful conditions that benefit incumbent officials, actions
22 brought under this act are subject to expedited pretrial and trial
23 proceedings and must receive an automatic calendar preference. In
24 any action alleging a violation of this act in which a plaintiff
25 party seeks preliminary relief with respect to an upcoming
26 election, the court shall grant relief if the court determines that
27 the plaintiffs are more likely than not to succeed on the merits
28 and it is possible to implement an adequate remedy that would
29 resolve the alleged violation in the upcoming election.

1 Sec. 29. (1) The voter education fund is created in the state
2 treasury.

3 (2) The state treasurer may receive money or other assets from
4 any source for deposit into the fund. The state treasurer shall
5 direct the investment of money in the fund and credit interest and
6 earnings from the investments to the fund.

7 (3) Money in the fund at the close of the fiscal year remains
8 in the fund and does not lapse to the general fund.

9 (4) The department of civil rights shall be the administrator
10 of the fund for audits of the fund.

11 (5) The department of civil rights shall expend money from the
12 fund, on appropriation, only for 1 or more of the following
13 purposes:

14 (a) Developing and distributing educational materials on
15 voting rights and the voting process, including information on
16 voter registration, absentee voting, and polling place
17 accessibility.

18 (b) Conducting public education campaigns to inform electors
19 about changes to voting laws, procedures, or polling locations and
20 to counteract false or misleading information about voting.

21 (c) Providing training and resources to local election
22 officials, poll workers, and volunteers on how to ensure fair and
23 equitable access to the ballot for all eligible electors.

24 (d) Establishing and maintaining voter hotlines, online
25 portals, or other mechanisms for electors to report incidents of
26 voter intimidation, suppression, or discrimination and for election
27 officials to respond to those reports.

28 (e) Supporting voter outreach efforts targeted at historically
29 underrepresented communities, including, but not limited to,

1 members of protected classes, low-income individuals, youth, and
2 individuals with disabilities.

3 (f) Providing grants to community-based organizations, civic
4 groups, and civil rights organizations to conduct voter education
5 and mobilization activities, including, but not limited to, voter
6 registration drives, candidate forums, and get-out-the-vote
7 campaigns, or to engage in nonpartisan advocacy, litigation, or
8 other legal actions to protect voting rights, challenge
9 discriminatory voting practices, or seek redress for victims of
10 voter suppression or intimidation.

11 (g) Partnering with schools and universities to develop and
12 implement curricula on civic engagement, voting rights, and the
13 importance of participating in the democratic process.

14 (h) Funding research and evaluation projects to assess the
15 impact of voter education and outreach efforts on voter
16 participation and civic engagement, and to identify best practices
17 for improving access to the ballot.

18 (i) Any other activities, projects, or initiatives that
19 further the purposes of this act.

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

23 (a) Senate Bill No. 402.

24

25 (b) Senate Bill No. 403.

26