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BILL ANALYSIS

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Senate Bill 382 and 383 (as introduced 6-8-23)
Sponsor: Senator Stephanie Chang (S.B. 382)
Senator Mary Cavanagh (S.B. 383)
Committee: Housing and Human Services

(Senate-passed version)

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INTRODUCTION

Taken together, the bills would require each State department, agency, or entity (covered entity) to take specific measures to provide equal language access to individuals with limited English proficiency. Generally, equal language access would include offering oral language services and translation of vital documents for languages with specified significance in a covered entity's service area. Each entity also would have to submit a report to the Office of Global Michigan about the implementation of these measures and staff training information. Additionally, the bills would prescribe the responsibilities of the Office of Global Michigan, including coordination of language access efforts, designation of liaisons, and developing a complaint process with the Department of Civil Rights.

The bills are tie-barred, and each bill would take effect 90 days after its enactment.

FISCAL IMPACT

Senate Bill 382 would have a minimal fiscal impact on the State and would have no fiscal impact on local units of government. Departments could need to hire additional staff of contracted services to provide face-to-face, in-house, or telephonic oral language services to individuals with limited English proficiency. Departments also could incur costs to ensure language services and documents were available to local offices and provide liaisons and implementation reports to the Office of Global Michigan. For departments that provide statewide services through an online portal or telephone number, it is unclear in the bill if there would be a language population threshold that would require the department to provide language services for a limited language population that accessed the statewide service. Most departments likely already provide language services for 3.0% of the population of the State and for local offices. Therefore, costs would likely be minimal for most departments and within current appropriations.

Senate Bill 383 would have a fiscal impact on the Office of Global Michigan and would have no fiscal impact on local units of government. The Office of Global Michigan would likely need to hire additional staff and would likely have additional administration costs to provide a liaison and training to each covered entity. The costs would depend on how much training would be needed for each covered entity and if a liaison could cover multiple entities. For Fiscal Year 2023-24, the Office of Global Michigan was appropriated 15.0 full-time equivalents and \$39.9 million.

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CONTENT

Senate Bill 382 would enact the "Equal Language Access to State Services Act" to do the following:

- Require each covered entity to provide equal language access to public services for individuals with limited English proficiency.**
- Prescribe the reasonable steps a covered entity would have to take to provide equal language access.**
- Prohibit a covered entity from charging individuals with limited English proficiency for the use of oral language services or translation.**
- Require each covered entity to develop and submit a report with specified information to the Office of Global Michigan at least every two years.**
- Prescribe the requirements for a staff training plan at each covered entity.**

Senate Bill 383 would enact the "Statewide Equal Language Access Coordination Act" to specify the duties of the Office of Global Michigan pursuant to Senate Bill 382 and create a complaint process in collaboration with the Department of Civil Rights for individuals who believed they had been denied full access to a covered entity or discriminated against because of their national origin.

Senate Bill 382

Definitions

"Equal language access plan" would mean the ability to receive information and to participate in and benefit from public services offered by a covered entity at a level equal to English-proficient individuals.

"Limited English proficiency" would mean the inability to understand or to effectively express oneself in spoken or written English as a result of one's national origin and the individual has not developed fluency in the English language.

"Oral language services" would include various methods to provide verbal information and interpretation, such as staff interpreters, bilingual staff, telephone interpreter programs, tele-video interpretation services, and private interpreter programs.

"Vital documents" would mean printed or electronic documents that provide important information necessary to access or participate in services, programs, and activities of a covered entity, including applications, outreach materials, and written notices of rights, denials, losses, or decreases in benefits or services.

Steps to Provide Equal Language Access

Under the Equal Language Access to State Services Act, each State department, agency, or entity (covered entity) would have to take reasonable steps to provide equal language access to public services for individuals with limited English proficiency. Reasonable steps would include the all the following:

- Providing oral language services for individuals with limited English proficiency through face-to-face, in-house, or telephonic oral language services.
- Having available sufficient, appropriate oral language services to provide equal language access, based on reliable data documenting the proportion of individuals with limited English proficiency eligible to be served or encountered with the agency and the frequency

of encounters within the geographic area served, and taking into consideration the nature and importance of the program, activity, or service provided.

- Designating a language access liaison who would report to the officer or employee designated by the Office of Global Michigan as responsible for statewide language access coordination.
- Any additional means necessary to achieve equal language access to public service.

(The Office of Global Michigan was created and funded by Public Act 166 of 2022, the general omnibus bill for Fiscal Year 2022-23. According to its website, the Office was created to help grow the State's economy by retaining and attracting global talent and to promote the skills of immigrant and refugee communities.)

Additionally, the covered entity would have to take reasonable steps to translate vital documents ordinarily provided to the public into every language spoken by a population with limited English proficiency that, based on reliable data, constituted 3.0% or more of the overall population within the geographic areas of the covered entity and every language spoken by a population with limited English proficiency that constituted either of the following:

- 3.0% or more of those served by a local office of a covered entity.
- Even if less than 3.0%, 500 or more of those served by a local office of a covered entity.

Local offices would be encouraged to translate vital documents into languages for populations of less than the 3.0% or 500 thresholds based on knowledge of the local community served.

The covered entity would have to then provide the translated documents listed above to local offices as necessary.

Under the Act, oral language services provided by a relative, friend, or bystander would not meet the requirements of the Act and could not be used as a substitution for the duty to provide access to oral language services; however, the individual with limited English proficiency could choose to use an interpreter of the individual's choice, at the individual's expense, in place of or as a supplement to the oral language services the covered entity would be required to provide.

A covered entity could not charge individuals with limited English proficiency for the use of oral language services or translation.

Report

At least every two years, each covered entity would have to develop and submit to the Office of Global Michigan a report with information and plans covering the implementation of equal language access to its services. The report would have to include at least the following:

- The number of bilingual staff who were available to facilitate equal language access and the languages they facilitated.
- The number of bilingual staff determined to be needed for each language to provide equal language access for the populations with limited English language proficiency it served.
- A plan to address any insufficiency in its ability to provide equal language access.
- A list of vital documents that it had translated and the language of the translation.
- Designation of an employee as its language access coordinator.
- A plan to increase public awareness of the services provided to facilitate equal language access.
- A staff training plan related to equal language access.

The staff training plan would have to include specific information regarding implementation, including the specific types of language access services available and how the covered entity would do the following:

- Obtain language services internally or from vendors.
- Respond to callers with limited English proficiency.
- Respond to written communications from individuals with limited English proficiency.
- Respond to individuals with limited English proficiency who had in-person contact with staff.
- Ensure competency of interpreters and translation services.
- Collect preferred language data for all unique public encounters.
- Indicate limited English proficiency status in data and information systems.
- Communicate information to the language access coordinator about perceived changes in language services needed by the population served and when that information would be communicated.

The bill states, "it is the intent of the [L]egislature in implementing this Act, each covered entity be guided by Federal Executive Order No. 13166, 65 Fed. Reg. 50121 (Aug. 11, 2000), and related implementing provisions of Federal law, regulation, and guidance in providing language access services whether or not the covered entity receives [F]ederal funding".

Senate Bill 383

Under the Statewide Equal Language Access Coordination Act, the Office of Global Michigan would have to do the following:

- Coordinate steps taken by covered entities throughout the State to provide equal language access to public services under the Equal Language Access to State Services Act.
- Designate at least one language access liaison to work with covered entities to train staff, develop resources, conduct outreach activities that informed the public of available language services, and facilitate compliance with the Equal Language Access to State Services Act.
- Create a complaint form and process for members of the public to use to report and pursue a remedy of instances of noncompliance with the Equal Language Access to State Services Act.
- In collaboration with the Department of Civil Rights, and consistent with the Section 602 of the Eliot-Larson Civil Rights Act (ELCRA), create a complaint process under which individuals who believed that they had been denied full and equal access to a covered entity because of their national origin could submit a complaint and seek a remedy against a covered entity.

(Section 602 of the ELCRA specifies that the Department of Civil Rights must provide representation in legal matters and handle complaints that violate the ELCRA, which generally prohibits discrimination.)

The bill would specify that the complaint form would be subject to the translation requirements described under the Equal Language Access to State Services Act. Additionally, an individual who believed that they were denied full and equal access to a covered entity because of their national origin would have the right to separately seek a remedy with the Department of Civil Rights as through the complaint process described above.

PREVIOUS LEGISLATION

(Please note: This section does not provide a comprehensive account of all previous legislative efforts on the relevant subject matter.)

Senate Bill 382 is a reintroduction of House Bill 4891 of the 2015-2016 Legislative Session, House Bill 4619 of the 2017-2018 Legislative Session, Senate Bill 45 and House Bill 4220 of the 2019-2020 Legislative Session, and Senate Bill 66 and House Bill 5446 of the 2021-2022 Legislative Session.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.