

BILL ANALYSIS

C.S.H.B. 12
By: Solomons
State Affairs
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Currently, a city may adopt policies, commonly referred to as "sanctuary city" policies, that prohibit local law enforcement from inquiring about a person's immigration status. These policies may also prohibit the sharing of information regarding a person's immigration status with the federal government. C.S.H.B. 12 addresses public concern that a city, or other local governmental entity, may create a sanctuary for illegal immigrants by impeding the enforcement of state and federal immigration law. The bill seeks to address public concern by prohibiting certain local governmental entities from undertaking certain actions that would restrict the enforcement of state and federal immigration law and by allowing the filing of a related citizen complaint.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 12 amends the Local Government Code to prohibit the following entities from adopting a rule, order, ordinance, or policy under which the entity prohibits the enforcement of state or federal law relating to immigrants or immigration, including the federal Immigration and Nationality Act:

- the governing body of a municipality, county, or special district or authority, excluding a school district or open-enrollment charter school or a junior college district, but including a commissioned peace officer employed or commissioned by a school district or open-enrollment charter school or a junior college district;
- an officer, employee, or other body that is part of a municipality, county, or special district or authority, including a sheriff, municipal police department, municipal attorney, or county attorney; and
- a district attorney or criminal district attorney.

C.S.H.B. 12 prohibits such an entity from prohibiting a person employed by or otherwise under the direction or control of the entity from doing any of the following:

- inquiring into the immigration status of a person lawfully detained for the investigation of a criminal offense or arrested;
- assisting or cooperating with a federal immigration officer as reasonable and necessary, including providing enforcement assistance;
- permitting a federal immigration officer to enter and conduct enforcement activities at a municipal or county jail to enforce federal immigration laws; or
- with respect to information relating to the immigration status, lawful or unlawful, of any

person lawfully detained for the investigation of a criminal offense or arrested, sending the information to or requesting or receiving the information from United States Citizenship and Immigration Services or United States Immigration and Customs Enforcement, including information regarding an individual's place of birth; maintaining the information; or exchanging the information with another federal, state, or local governmental entity.

C.S.H.B. 12 prohibits such an entity from receiving state grant funds if the entity adopts a rule, order, ordinance, or policy under which the entity prohibits the enforcement of state or federal law relating to immigrants or immigration or, by consistent actions, prohibits the enforcement of such laws. The bill requires state grant funds for such an entity to be denied for the fiscal year following the year in which a final judicial determination in an action brought under the bill's provisions is made that the entity has intentionally prohibited the enforcement of state or federal law relating to immigrants or immigration.

C.S.H.B. 12 authorizes any citizen residing in the jurisdiction of such an entity to file a complaint with the attorney general if the citizen offers evidence to support an allegation that the entity has adopted a rule, order, ordinance, or policy under which the entity prohibits the enforcement of state or federal law relating to immigrants or immigration or that, by consistent actions, prohibits the enforcement of such laws. The bill requires the citizen to include with the complaint evidence supporting the complaint. The bill authorizes the attorney general, if the attorney general determines that such a citizen complaint is valid, to file a petition for a writ of mandamus or apply for other appropriate equitable relief in a district court in Travis County or in a county in which the principal office of a specified entity to which the bill's provisions apply is located to compel the entity that adopts a rule, order, ordinance, or policy prohibited by the bill relating to the enforcement of state and federal law relating to immigrants or immigration or that, by consistent actions, prohibits the enforcement of such laws to comply with the bill's provisions prohibiting such an entity from adopting a rule, order, ordinance, or policy that prohibits the enforcement of state and federal law relating to immigrants or immigration. The bill authorizes the attorney general to recover reasonable expenses incurred in obtaining relief in such a suit, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition costs. The bill specifies that an appeal of such an attorney general suit is governed by the procedures for accelerated appeals in civil cases under the Texas Rules of Appellate Procedure and requires the appellate court to render its final order or judgment with the least possible delay. The bill makes conforming and nonsubstantive changes.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2011.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 12 contains a provision not included in the original exempting a school district or open-enrollment charter school or a junior college district from its provisions and excepting from that exemption a commissioned peace officer employed or commissioned by a school district or open-enrollment charter school or a junior college district.

C.S.H.B. 12 differs from the original by applying to a person detained for the investigation of a criminal offense the prohibitions against an entity specified by the bill's provisions prohibiting a person employed by or otherwise under the direction or control of the entity from inquiring into the immigration status of a person lawfully detained and from sending the information to or requesting or receiving the information from certain federal immigration agencies, maintaining the information, or exchanging the information with certain entities about that status regarding such a person.

C.S.H.B. 12 differs from the original, in its provision requiring the denial of state grant funds to

entities that have prohibited the enforcement of state and federal immigration law, by specifying that the denial applies to funds for the fiscal year following the year in which a final judicial determination is made in an action brought under provisions of the bill that the entity prohibited the enforcement of such law, rather than for the fiscal year following the year in which the prohibited rule, order, ordinance, or policy is adopted or the determination is made that the entity prohibited the enforcement of such law as in the original. The substitute omits a provision included in the original authorizing the governor's office to issue guidelines to implement the provision relating to the denial of state grant funds uniformly among the state agencies from which state grant funds are distributed to an entity.

C.S.H.B. 12 contains provisions not included in the original authorizing the filing of a complaint with the attorney general by a citizen residing in the jurisdiction of an entity described by the bill's provisions if the citizen offers evidence to support an allegation that the entity is in violation of the bill's provisions and requiring such a citizen to include with the complaint the evidence the citizen has that supports the complaint. The substitute contains a provision not included in the original specifying that the attorney general's authority to file a petition for a writ of mandamus or apply for other appropriate equitable relief is contingent on a determination by the attorney general that a complaint filed by a citizen is valid. The substitute contains a provision not included in the original including a district court in Travis County as a venue in which the attorney general may bring such a suit. The substitute contains a provision not included in the original specifying that an appeal of such an attorney general suit is governed by the procedures for accelerated appeals in civil cases under the Texas Rules of Appellate Procedure and requiring the appellate court to render its final order or judgment with the least possible delay. The substitute differs from the original by making conforming and nonsubstantive changes not included in the original.