

By: Berman

H.B. No. 261

A BILL TO BE ENTITLED

AN ACT

relating to the enforcement of state and federal laws by certain governmental entities.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 4, Government Code, is amended by adding Subtitle Z to read as follows:

SUBTITLE Z. MISCELLANEOUS PROVISIONS

CHAPTER 541. GENERAL STATE POLICIES

Sec. 541.001. STATE POLICY REGARDING ENFORCEMENT OF STATE AND FEDERAL LAWS. (a) In this section, "state agency" means:

(1) a board, commission, department, institution, office, or other agency in the executive branch of state government;

(2) the legislature or a legislative agency; or

(3) the supreme court, the court of criminal appeals, a court of appeals, or a state judicial agency.

(b) The governing body of a state agency or an officer, employee, or other body that is part of a state agency may not adopt a rule or policy under which the agency will not fully enforce the laws of this state or federal law, including laws relating to immigrants or immigration such as the federal Immigration and Nationality Act (8 U.S.C. Section 1101 et seq.).

Sec. 541.002. STATE FUNDING PROHIBITED FOR FAILURE TO ENFORCE LAWS. (a) A state agency may not adopt a rule or policy

1 under which the state agency will not fully enforce the laws of this
2 state or federal laws relating to immigrants or immigration,
3 including the federal Immigration and Nationality Act (8 U.S.C.
4 Section 1101 et seq.), or, by consistent actions, fails to fully
5 enforce the laws of this state or federal laws relating to
6 immigrants or immigration, including the federal Immigration and
7 Nationality Act (8 U.S.C. Section 1101 et seq.).

8 (b) If the staff of the office of the attorney general
9 determines that the state agency has intentionally violated
10 Subsection (a), the state agency shall promptly forfeit or repay
11 the appropriate entity all funds granted to the state agency for the
12 purposes related to immigrants or immigration, including the
13 federal Immigration and Nationality Act (8 U.S.C. Section 1101 et
14 seq.). The attorney general may stay the duty to repay pending the
15 outcome of any appeal under Subsection (c).

16 (c) Not later than the 21st day after the date of receiving a
17 notice of the determination, a state agency may appeal a
18 determination under Subsection (b) to the attorney general. An
19 appeal under this subsection is a contested case under Chapter
20 2001. An administrative law judge employed by the State Office of
21 Administrative Hearings shall conduct the contested case hearing.

22 SECTION 2. Section 370.003, Local Government Code, is
23 amended to read as follows:

24 Sec. 370.003. LOCAL GOVERNMENT [~~MUNICIPAL OR COUNTY~~] POLICY
25 REGARDING ENFORCEMENT OF STATE AND FEDERAL [~~DRUG~~] LAWS. (a) The
26 governing body of a municipality, [~~the commissioners court of a~~]
27 county, or special district or authority, or an officer, employee,

1 or other body that is part of a municipality, county, or special
2 district or authority, including a sheriff, municipal police
3 department, municipal attorney, county attorney, district
4 attorney, or criminal district attorney, may not adopt a policy
5 under which the entity will not fully enforce the laws of this state
6 or federal law, including laws relating to:

7 (1) drugs, including Chapters 481 and 483, Health and
8 Safety Code; and

9 (2) immigrants or immigration, including the federal
10 Immigration and Nationality Act (8 U.S.C. Section 1101 et seq.)~~[,~~
11 ~~and federal law]~~.

12 (b) A local entity described by Subsection (a) may not
13 receive state funds if the local entity adopts a rule, order,
14 ordinance, or policy under which the local entity will not fully
15 enforce the laws of this state or federal laws relating to
16 Subsection (a)(2) or, by consistent actions, fails to fully enforce
17 the laws of this state or federal laws relating to Subsection
18 (a)(2). State funds for the local entity shall be denied for the
19 fiscal year following the year in which the rule, order, ordinance,
20 or policy is adopted or the determination is made that the entity
21 has intentionally failed to fully enforce the laws of this state or
22 federal laws relating to Subsection (a)(2). The Governor's Office
23 of Budget, Planning, and Policy shall adopt rules to implement this
24 subsection uniformly among the state agencies from which state
25 funds are distributed to a local entity.

26 SECTION 3. The heading to Chapter 370, Local Government
27 Code, is amended to read as follows:

1 CHAPTER 370. MISCELLANEOUS PROVISIONS RELATING TO [~~MUNICIPAL AND~~
2 ~~COUNTY~~] HEALTH AND PUBLIC SAFETY APPLYING TO MORE THAN ONE TYPE OF
3 LOCAL GOVERNMENT

4 SECTION 4. This Act takes effect immediately if it receives
5 a vote of two-thirds of all the members elected to each house, as
6 provided by Section 39, Article III, Texas Constitution. If this
7 Act does not receive the vote necessary for immediate effect, this
8 Act takes effect September 1, 2009.