

1-1 By: Patrick S.B. No. 358
1-2 (In the Senate - Filed December 12, 2008; February 17, 2009,
1-3 read first time and referred to Committee on Transportation and
1-4 Homeland Security; April 29, 2009, reported adversely, with
1-5 favorable Committee Substitute by the following vote: Yeas 5,
1-6 Nays 4; April 29, 2009, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 358 By: Carona

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the enforcement of state and federal laws governing
1-11 immigration by certain governmental entities.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Section 370.003, Local Government Code, is
1-14 amended to read as follows:

1-15 Sec. 370.003. LOCAL GOVERNMENT ~~[MUNICIPAL OR COUNTY]~~ POLICY
1-16 REGARDING ENFORCEMENT OF STATE AND FEDERAL ~~[DRUG]~~ LAWS. (a) The
1-17 governing body of a municipality, ~~[the commissioners court of a]~~
1-18 county, or special district or authority, or an officer, employee,
1-19 or other body that is part of a municipality, county, or special
1-20 district or authority, including a sheriff, municipal police
1-21 department, municipal attorney, county attorney, district
1-22 attorney, or criminal district attorney, may not adopt a policy
1-23 under which the entity will not fully enforce the laws of this state
1-24 or federal law relating to:

1-25 (1) drugs, including Chapters 481 and 483, Health and
1-26 Safety Code; and

1-27 (2) immigrants or immigration, including the federal
1-28 Immigration and Nationality Act (8 U.S.C. Section 1373) ~~[, and~~
1-29 ~~federal law]~~.

1-30 (b) In compliance with Subsection (a)(2), a local entity
1-31 described by Subsection (a) may not prohibit or in any manner
1-32 restrict an officer, employee, or other body that is part of the
1-33 local entity, including a sheriff, municipal police department,
1-34 municipal attorney, county attorney, district attorney, or
1-35 criminal district attorney, from, with respect to information
1-36 relating to the immigration status, lawful or unlawful, of any
1-37 individual:

1-38 (1) sending the information to or requesting or
1-39 receiving the information from the United States Bureau of
1-40 Citizenship and Immigration Services or United States Immigration
1-41 and Customs Enforcement, including information regarding an
1-42 individual's place of birth;

1-43 (2) maintaining the information; or

1-44 (3) exchanging the information with another federal,
1-45 state, or local governmental entity.

1-46 (c) In addition to requirements imposed by Subsection (b), a
1-47 local entity described by Subsection (a) may not prohibit or in any
1-48 manner restrict an officer, employee, or other body that is part of
1-49 the local entity, including a sheriff, municipal police department,
1-50 municipal attorney, county attorney, district attorney, or
1-51 criminal district attorney, from doing any of the following:

1-52 (1) assisting or cooperating with a federal
1-53 immigration officer as reasonable and necessary, including
1-54 providing enforcement assistance; or

1-55 (2) permitting a federal immigration officer to enter
1-56 and conduct enforcement activities at a municipal or county jail to
1-57 enforce federal immigration laws.

1-58 (d) A local entity described by Subsection (a) may not
1-59 receive state grant funds if the local entity adopts a rule, order,
1-60 ordinance, or policy under which the local entity violates
1-61 Subsection (c) or will not fully enforce the laws of this state or
1-62 federal laws relating to Subsection (a)(2) or, by consistent
1-63 actions, violates Subsection (c) or fails to fully enforce the laws

of this state or federal laws relating to Subsection (a)(2). State grant funds for the local entity shall be denied for the fiscal year following the year in which the rule, order, ordinance, or policy is adopted or the determination is made that the entity has intentionally violated Subsection (c) or failed to fully enforce the laws of this state or federal laws relating to Subsection (a)(2). The Governor's Office of Budget, Planning, and Policy shall adopt rules to implement this subsection uniformly among the state agencies from which state grant funds are distributed to a local entity.

(e) Any citizen residing in a local entity described by Subsection (a) that allegedly adopts a rule, order, ordinance, or policy under which the local entity violates Subsection (c) or will not fully enforce the laws of this state or federal laws relating to Subsection (a)(2) or, by consistent actions, violates Subsection (c) or fails to fully enforce the laws of this state or federal laws relating to Subsection (a)(2) may file a petition in a district court of a county in which the entity is located for a writ of mandamus to compel compliance with Subsection (c) or Subsection (a)(2).

SECTION 2. The heading to Chapter 370, Local Government Code, is amended to read as follows:

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

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2009.

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