



**CITY OF SANTA CLARITA
AGENDA REPORT**

NEW BUSINESS

CITY MANAGER APPROVAL:

Ken Stripling

DATE: May 8, 2018

SUBJECT: CONSIDERATION OF A RESOLUTION OPPOSING SENATE BILL 54 AND AUTHORIZING THE FILING OF AN AMICUS CURIAE BRIEF IN THE UNITED STATES V. STATE OF CALIFORNIA LAWSUIT

DEPARTMENT: City Manager's Office

PRESENTER: Michael Murphy

RECOMMENDED ACTION

City Council discuss and provide direction regarding the attached resolution, which states the City Council's opposition to Senate Bill 54 and directs the City Attorney to file an amicus curiae brief, if and when appropriate.

BACKGROUND

At the regular meeting of April 10, 2018, the City Council directed that an item be placed on a future City Council agenda to discuss consideration of a resolution opposing Senate Bill 54, Chapter 495, Statutes of 2017, known as the California Values Act. The Council further outlined that the resolution include direction to the City Attorney to file an amicus curiae brief in support of the federal government's position in the United States v. State of California lawsuit, if and when appropriate.

On October 5, 2017, Governor Brown signed into law Senate Bill 54, which may be cited as the California Values Act. The new law became effective on January 1, 2018. Senate Bill (SB) 54 made changes to state law related to the involvement of state and local law enforcement agencies relative to federal immigration enforcement.

Among other provisions, Senate Bill 54 repealed state law requiring law enforcement agencies to notify federal immigration authorities of a drug related arrest involving a non-United States citizen. The new law also prohibits law enforcement agencies from using department funds or personnel to share with federal immigration authorities the personal information and release date of an individual arrested, detained, or convicted of a misdemeanor that was previously punishable as a felony, prior to the passage of Proposition 47 in 2014. Furthermore, the new law

authorizes law enforcement officials to share the release date of an individual or transfer an individual to federal immigration authorities if the individual has been convicted of a serious or violent felony, has been convicted within the past five years of a misdemeanor for a crime that is punishable as either a misdemeanor or a felony, or has been convicted within the past 15 years of a specific non-violent felony. Previously, there were no limitations on when a crime was committed that would restrict release date information.

On March 6, 2018, the United States Department of Justice filed a legal action in federal court against the State of California, citing provisions within three new state laws as being in violation of the United States Constitution and acts of Congress granting authority to the federal government to regulate matters related to immigration. The lawsuit highlights the United States Constitution's supremacy clause, which acknowledges the federal government's preeminent authority over all matters exclusively reserved to the United States, in this case immigration.

In addition to Senate Bill 54, the federal action challenges provisions contained within two other new state laws: Assembly Bill 450, Chapter 492, Statutes of 2017, and Assembly Bill 103, Chapter 17, Statutes of 2017.

In recent weeks, several counties and cities in California have considered challenging or supporting Senate Bill 54. These efforts have predominantly taken the form of initiating direct litigation or supporting specific positions within currently pending litigation; most notably is the litigation filed by the United States against the State of California outlined above.

For example, the City of Los Alamitos, a charter city that operates its own police department, adopted an ordinance to exempt the City from provisions contained within the California Values Act and directed its police department to comply with federal law. The City of Los Alamitos has been sued by the American Civil Liberties Union (ACLU).

The City of Huntington Beach, a charter city and a direct provider of law enforcement services, has filed a lawsuit in state court challenging Senate Bill 54, as interfering with the formal and informal contractual relationship between the City and the federal government regarding immigration issues. The California Constitution provides for certain home rule and control of local law enforcement by charter cities.

In contrast, the City of Santa Clarita (City) is a general law city, bound by the laws adopted by the California Legislature. Santa Clarita is one of 42 cities that contracts for law enforcement services with the County of Los Angeles through the Sheriff's Department. The City's contract does not include the ability to dictate policy direction on provision of services by the Los Angeles County Sheriff's Department. Those policy directives are reserved by the Los Angeles County Board of Supervisors and Sheriff. As such, the City of Santa Clarita would not be able to put forward the same legal arguments concerning charter city preemption that Huntington Beach, for example, is asserting.

The opportunity for the City of Santa Clarita to participate in the legal process is limited. As the City contracts for law enforcement services, as opposed to directly operating its own police department, the City does not have the same legal standing as charter law cities, general law cities with their own police departments, or the federal government. However, the City would

still have the option of seeking to file an amicus curiae brief in an existing litigation specific to challenging SB 54, related to impacts upon the City of Santa Clarita.

In the United States v. State of California litigation, the City of Santa Clarita could seek to file an amicus curiae brief in support of either the plaintiff's (United States) or defendant's (State of California) position. The United States is seeking a preliminary injunction that would prohibit enforcement of the new laws while the case is pending. The hearing on the preliminary injunction is currently set for June 20. Anyone who wished to file an amicus brief in support of the United States' position for the preliminary injunction needed to have done so by April 6, 2018. Anyone who wishes to file an amicus brief in support of the State of California regarding the issue of a preliminary injunction must do so by May 18, 2018.

Assuming that the case will continue after the preliminary injunction hearing (whether the injunction gets issued or not) there will be another round of briefs submitted for the trial, and it is likely that the judge will set a schedule for submitting amicus briefs in support of either party for the trial on the permanent injunction. Depending upon the outcome at trial, there may be additional, future opportunities to file amicus briefs in the context of any future appeal in this case.

Under federal court rules, the judge makes the determination as to whether or not to accept an amicus brief from a particular entity. Based upon rulings in the case thus far, the judge will be seeking briefings that assist the court in understanding issues related to the case beyond the arguments provided by the lawyers of the parties in the case or previously filed amicus briefs.

As of the writing of this report, a number of briefs have been filed or authorized for filing in support of the United States; including from 16 states, 1 California county and 9 cities.

ALTERNATIVE ACTION

Other direction as determined by the City Council

FISCAL IMPACT

No additional resources required beyond those already contained within the City's adopted FY 2017/18 budget.

ATTACHMENTS

Resolution Regarding the California Values Act