

As Introduced

132nd General Assembly

Regular Session

2017-2018

S. B. No. 162

Senator Jordan

A BILL

To amend sections 9.63 and 5747.502 of the Revised 1
Code to withhold local government fund payments 2
to municipal corporations that have enacted an 3
ordinance, policy, directive, rule, or 4
resolution that hinders or prevents municipal 5
employees from cooperating with state or federal 6
immigration services or from complying with 7
executive orders pertaining to immigration. 8

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 9.63 and 5747.502 of the Revised 9
Code be amended to read as follows: 10

Sec. 9.63. (A) Notwithstanding any law, ordinance, or 11
collective bargaining contract to the contrary, no state or 12
local employee shall unreasonably fail to comply with any lawful 13
request for assistance made by any federal authorities carrying 14
out the provisions of the USA Patriot Act, any federal 15
immigration or terrorism investigation, or any executive order 16
of the president of the United States pertaining to homeland 17
security or immigration, to the extent that the request is 18
consistent with the doctrine of federalism. 19

(B) No municipal corporation shall enact an ordinance, 20
policy, directive, rule, or resolution that would materially 21
hinder or prevent local employees from complying with the USA 22
Patriot Act or any executive order of the president of the 23
United States pertaining to homeland security or immigration or 24
from cooperating with state or federal immigration services and 25
terrorism investigations. 26

(C) (1) Any municipal corporation that enacts any 27
ordinance, policy, directive, rule, or resolution that division 28
(B) of this section prohibits is ineligible to receive any 29
homeland security funding available from the state. If the 30
ordinance, policy, directive, rule, or resolution materially 31
hinders or prevents local employees from complying with any 32
executive order of the president of the United States pertaining 33
to immigration or from cooperating with state or federal 34
immigration services, the municipal corporation is also 35
ineligible to receive any local government fund payments under 36
section 5747.50, 5747.51, or 5747.53 of the Revised Code. 37

(2) Whenever the director of public safety determines that 38
a municipal corporation ~~has enacted any ordinance, policy,~~ 39
~~directive, rule, or resolution that division (B) of this section~~ 40
~~prohibits, the director shall certify that the municipal~~ 41
~~corporation~~ is ineligible to receive ~~any~~ homeland security 42
funding from the state ~~and~~, the director shall notify the 43
general assembly of that ineligibility. That municipal 44
corporation shall remain ineligible to receive any homeland 45
security funding from the state until the director certifies 46
that the prohibited ordinance, policy, directive, rule, or 47
resolution has been repealed. 48

(3) Whenever the director determines that a municipal 49

corporation is ineligible to receive local government fund 50
payments, the director shall notify the tax commissioner of that 51
ineligibility. That municipal corporation shall remain 52
ineligible to receive any local government fund payments under 53
section 5747.50, 5747.51, or 5747.53 of the Revised Code until 54
the director certifies that the prohibited ordinance, policy, 55
directive, rule, or resolution has been repealed. 56

(D) (1) If a state or local employee states disagreement 57
with, or a critical opinion of, the USA Patriot Act, any federal 58
immigration or terrorism policy, or any executive order of the 59
president of the United States pertaining to homeland security 60
or immigration, the statement of disagreement with or critical 61
opinion of the act or order is not sufficient to qualify for 62
purposes of this section as unreasonable noncompliance with a 63
request for assistance of the type division (A) of this section 64
describes. 65

(2) Any municipal corporation's ordinance, policy, 66
directive, rule, or resolution that states disagreement with, or 67
a critical opinion of, any state or federal immigration or 68
terrorism policy, the USA Patriot Act, or any executive order of 69
the president of the United States pertaining to homeland 70
security or immigration is not sufficient to qualify as a 71
"material hindrance or prevention" of local employees from 72
cooperating with federal immigration services and terrorism 73
investigations or from complying with the USA Patriot Act or any 74
executive order of the president of the United States pertaining 75
to homeland security or immigration for purposes of divisions 76
(B), (C), and (D) of this section. 77

(E) As used in this section, "USA Patriot Act" means the 78
"Uniting and Strengthening America by Providing Appropriate 79

Tools Required to Intercept and Obstruct Terrorism (USA Patriot Act) Act of 2001," Pub. L. No. 107-056, 115 Stat. 272, as amended.

Sec. 5747.502. (A) As used in this section:

(1) "Delinquent subdivision" means a municipal corporation, township, or county that has not filed a report or signed statement under section 4511.0915 of the Revised Code, as required under that section.

(2) "Noncompliant subdivision" means a municipal corporation, township, or county that files a report under division (A) (1) of section 4511.0915 of the Revised Code for the most recent calendar quarter.

(3) "Sanctuary city" means a municipal corporation that the director of public safety determines, pursuant to division (C) of section 9.63 of the Revised Code, is ineligible to receive local government fund payments due to an ordinance, policy, directive, rule, or resolution enacted by the municipal corporation that materially hinders or prevents local employees from complying with any executive order of the president of the United States pertaining to immigration or from cooperating with state or federal immigration services.

(B) (1) (a) Upon receiving notification of a delinquent subdivision under division (C) (2) of section 4511.0915 of the Revised Code, the tax commissioner shall do both of the following:

(i) If the delinquent subdivision is a municipal corporation, cease providing for payments to the municipal corporation under division (C) of section 5747.50 of the Revised Code, beginning with the next required payment;

(ii) Immediately notify the county auditor and county treasurer required to provide for payments to the delinquent subdivision from a county undivided local government fund that such payments are to cease until the ~~tax~~-commissioner notifies the auditor and treasurer under division (B) ~~(3)~~ (2) (a) (ii) of this section.

(b) A county treasurer receiving the notice under division (B) (1) (a) (ii) of this section shall cease providing for payments to the delinquent subdivision from a county undivided local government fund, beginning with the next required payment.

(2) (a) Upon receiving notification that a county, township, or municipal corporation is no longer a delinquent subdivision under division (C) (3) of section 4511.0915 of the Revised Code, the ~~tax~~-commissioner shall do both of the following:

(i) ~~If~~ Except as provided in division (B) (2) (c) of this section, if the formerly delinquent subdivision is a municipal corporation, begin providing for payments to the municipal corporation as required under division (C) of section 5747.50 of the Revised Code, beginning with the next required payment.

(ii) Immediately notify the county auditor and county treasurer who ceased payments ~~to the formerly delinquent subdivision~~ under division (B) (1) (b) of this section that the ~~treasurer shall begin providing for payment from a municipal corporation, township, or county undivided local government fund to the formerly~~ is no longer a delinquent subdivision under section 5747.51 or 5747.53 of the Revised Code.

(b) ~~A~~ Except as provided in division (B) (2) (c) of this section, a county treasurer receiving notice under division (B)

(2) (a) (ii) of this section shall provide for payments to the 138
formerly delinquent subdivision from a county undivided local 139
government fund under section 5747.51 or 5747.53 of the Revised 140
Code, beginning with the next required payment. 141

(c) If the formerly delinquent subdivision is a 142
noncompliant subdivision or sanctuary city, the commissioner and 143
county treasurer shall reduce or withhold payments as required 144
under division (C) or (E) of this section. 145

(C) (1) Upon receiving notification of a noncompliant 146
subdivision under division (C) (1) of section 4511.0915 of the 147
Revised Code, the ~~tax~~-commissioner shall do both of the 148
following: 149

(a) If the ~~delinquent~~ noncompliant subdivision is a 150
municipal corporation, reduce the amount of each of the next 151
three local government fund payments the noncompliant 152
subdivision would otherwise receive under division (C) of 153
section 5747.50 of the Revised Code in an amount equal to one- 154
third of the gross amount of fines reported by the noncompliant 155
subdivision on the report filed for the calendar quarter. 156

(b) If the reduction described in division (C) (1) (a) of 157
this section exceeds the amount of money the noncompliant 158
subdivision would otherwise receive under division (C) of 159
section 5747.50 of the Revised Code, immediately notify the 160
county auditor and county treasurer required to provide for 161
payments to the noncompliant subdivision from a county undivided 162
local government fund that each of the next three such payments 163
are to be reduced to that subdivision in an amount equal to one- 164
third of that excess. 165

(2) A county treasurer receiving notice under division (C) 166

(1) (b) of this section shall reduce the payments to the 167
noncompliant subdivision from a county undivided local 168
government fund as required by the notice. 169

(3) Notwithstanding divisions (C) (1) and (2) of this 170
section, if a noncompliant subdivision is a sanctuary city, the 171
reduced payment that would have otherwise been distributed to 172
the noncompliant subdivision shall instead be deposited by the 173
commissioner or county treasurer to the municipal compliance 174
fund created for the sanctuary city under division (E) (1) (a) 175
(iii) of this section. Amounts deposited to a municipal 176
compliance fund under this division shall not be considered 177
amounts withheld from the noncompliant subdivision for the 178
purposes of division (D) of this section. 179

(D) (1) The ~~tax~~-commissioner shall provide for payment of 180
an amount equal to amounts withheld from municipal corporations 181
under divisions (B) (1) (a) (i) and (C) (1) (a) of this section to 182
the undivided local government fund of the county from which the 183
municipal corporation receives payments under section 5747.51 or 184
5747.53 of the Revised Code. The county treasurer shall 185
distribute that money among subdivisions that are not delinquent 186
or noncompliant subdivisions or sanctuary cities and that are 187
entitled to receive distributions under those sections by 188
increasing each such subdivision's distribution on a pro rata 189
basis. 190

(2) A county treasurer shall distribute any amount 191
withheld from a delinquent or noncompliant subdivision under 192
division (B) (1) (b) or (C) (2) of this section among other 193
subdivisions that are not delinquent or noncompliant 194
subdivisions or sanctuary cities by increasing each such 195
subdivision's distribution from the county's undivided local 196

government fund on a pro rata basis. 197

(E) (1) (a) Upon receiving notification of a sanctuary city 198
under division (C) (3) of section 9.63 of the Revised Code, the 199
commissioner shall do all of the following: 200

(i) Cease providing for any payments to the sanctuary city 201
under division (C) of section 5747.50 of the Revised Code, 202
beginning with the next required payment; 203

(ii) Immediately notify the county auditor and county 204
treasurer required to provide for payments to the sanctuary city 205
from a county undivided local government fund that such payments 206
are to cease until the commissioner notifies the auditor and 207
treasurer under division (E) (2) (a) (ii) of this section; 208

(iii) Establish a municipal compliance fund for the 209
sanctuary city in the state treasury to consist of payments 210
withheld under divisions (C) (3) and (E) (1) of this section. 211

(b) A county treasurer receiving the notice under division 212
(E) (1) (a) (ii) of this section shall cease providing for payments 213
to the sanctuary city from a county undivided local government 214
fund beginning with the next required payment. 215

(2) (a) Upon receiving notification that a municipal 216
corporation is no longer a sanctuary city under division (C) (3) 217
of section 9.63 of the Revised Code, the commissioner shall do 218
both of the following: 219

(i) Except as provided in division (E) (2) (c) of this 220
section, begin providing for payments to the former sanctuary 221
city as required under division (C) of section 5747.50 of the 222
Revised Code beginning with the next required payment; 223

(ii) Immediately notify the county auditor and county 224

treasurer who ceased payments under division (E) (1) (b) of this 225
section that the municipal corporation is no longer a sanctuary 226
city. 227

(b) Except as provided in division (E) (2) (c) of this 228
section, a county treasurer receiving notice under division (E) 229
(2) (a) (ii) of this section shall provide for payments to the 230
former sanctuary city from a county undivided local government 231
fund under section 5747.51 or 5747.53 of the Revised Code 232
beginning with the next required payment. 233

(c) If the former sanctuary city is a delinquent or 234
noncompliant subdivision, the commissioner and county treasurer 235
shall continue to withhold or reduce payments as required under 236
division (B) or (C) of this section. 237

(F) (1) The commissioner shall provide for payment of an 238
amount equal to the amounts withheld under division (E) (1) (a) (i) 239
of this section from a sanctuary city that is not a delinquent 240
or noncompliant subdivision to the municipal compliance fund 241
created for the sanctuary city under division (E) (1) (a) (iii) of 242
this section. 243

(2) A county treasurer shall provide for payment of an 244
amount equal to the amounts withheld under division (E) (1) (b) of 245
this section from a sanctuary city that is not a delinquent or 246
noncompliant subdivision to the municipal compliance fund 247
created for the sanctuary city under division (E) (1) (a) (iii) of 248
this section. 249

(3) Upon receiving notification that a municipal 250
corporation is no longer a sanctuary city under section 9.63 of 251
the Revised Code, the commissioner shall dispense all money 252
remaining in the former sanctuary city's municipal compliance 253

fund to the city's general fund. The former sanctuary city may 254
use such money for any lawful purpose. 255

(4) If an amount deposited to the municipal compliance 256
fund of a sanctuary city under division (C) (3), (F) (1), or (F) 257
(2) of this section is not dispensed under division (F) (3) of 258
this section within two years from the date that amount was 259
deposited in the fund, the commissioner shall transfer an amount 260
equal to the deposit from the municipal compliance fund to the 261
general revenue fund. 262

(G) A county, township, or municipal corporation receiving 263
an increased distribution under division ~~(B) or (C)~~ (D) of this 264
section shall use such money for the current operating expenses 265
of the subdivision. 266

Section 2. That existing sections 9.63 and 5747.502 of the 267
Revised Code are hereby repealed. 268