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 Code to withhold local government fund payments to municipal corporations that have enacted an ordinance, policy, directive, rule, or resolution that hinders or prevents municipal employees from cooperating with state or federal immigration services or from complying with executive orders pertaining to immigration.

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

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

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

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

(C)(1) Any municipal corporation that enacts any ordinance, policy, directive, rule, or resolution that division (B) of this section prohibits is ineligible to receive any homeland security funding available from the state. If the ordinance, policy, directive, rule, or resolution 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, the municipal corporation is also ineligible to receive any local government fund payments under section 5747.50, 5747.51, or 5747.53 of the Revised Code.

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

(3) Whenever the director determines that a municipal

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

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

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

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

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 formerly delinquent subdivision from a county undivided local government fund under section 5747.51 or 5747.53 of the Revised Code, beginning with the next required payment.

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

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

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

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

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

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

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

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

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

government fund on a pro rata basis.

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

(i) Cease providing for any payments to the sanctuary city 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 sanctuary city from a county undivided local government fund that such payments are to cease until the commissioner notifies the auditor and treasurer under division (E)(2)(a)(ii) of this section;

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

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

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

(i) Except as provided in division (E)(2)(c) of this section, begin providing for payments to the former sanctuary city 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 under division (E)(1)(b) of this section that the municipal corporation is no longer a sanctuary city.

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

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

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

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

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

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

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

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

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