

2016 Regular Session

HOUSE BILL NO. 1148 (Substitute for House Bill No. 151 by Representative Hodges)

BY REPRESENTATIVES HODGES, AMEDEE, BACALA, BAGLEY, TERRY BROWN, EDMONDS, FALCONER, GAROFALO, HAZEL, HENRY, HORTON, IVEY, MIKE JOHNSON, MACK, MIGUEZ, JAY MORRIS, PEARSON, PYLANT, AND SEABAUGH

ALIENS/ILLEGAL: Prohibits sanctuary policies

1 AN ACT

2 To enact R.S. 39:1405.5 and Chapter 21 of Title 49 of the Louisiana Revised Statutes of
3 1950, comprised of R.S. 49:1401 through 1405, relative to illegal aliens; to prohibit
4 the adoption of sanctuary policies; to provide duties and requirements of political
5 subdivisions and state agencies, departments, and offices; to provide definitions; to
6 provide sanctions; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Chapter 21 of Title 49 of the Louisiana Revised Statutes of 1950,
9 comprised of R.S. 49:1401 through 1405, is hereby enacted to read as follows:

10 CHAPTER 21. ILLEGAL ALIEN SANCTUARY POLICY

11 PROHIBITION ACT

12 PART I. GENERAL PROVISIONS

13 §1401. Short title

14 This Chapter may be cited as the "Illegal Alien Sanctuary Policy Prohibition
15 Act".

16 §1402. Definitions

17 (1) "Alien" means a person who is not a United States citizen.

18 (2) "Illegal alien" means an alien who is not legally present in the United
19 States.

1 (3) "Sanctuary policy" means any order, ordinance, rule, law, law
2 enforcement policy, or guideline, whether formally or informally adopted, that
3 provides for any of the following:

4 (a) Limits or prohibits any state agency, department, or office, or a state or
5 local political subdivision official or employee from communicating or cooperating
6 with federal agencies or officials to verify or report the immigration status of an
7 illegal alien.

8 (b) Grants to illegal aliens the right of lawful presence or status in violation
9 of federal law.

10 (c) Violates any provision of 8 U.S.C. 1373.

11 (d) Restricts or imposes any conditions upon the cooperation or compliance
12 of a state agency, department, or office or state or local political subdivision
13 including detainers or other requests from United States Immigration and Customs
14 Enforcement to maintain custody of any illegal alien or to transfer any illegal alien
15 to the custody of United States Immigration and Customs Enforcement.

16 (e) Requires United States Immigration and Customs Enforcement to obtain
17 a warrant or demonstrate probable cause before complying with detainers or other
18 requests to maintain custody of any illegal alien or to transfer any illegal alien to the
19 custody of United States Immigration and Customs Enforcement.

20 (f) Prevents law enforcement officers of a state or local political subdivision
21 from asking any suspect, arrestee, or other person in custody his citizenship or
22 immigration status.

23 §1403. Sanctuary policy prohibition; state or local political subdivisions; sanctions

24 A. No state or local political subdivision shall enact or adopt any sanctuary
25 policy.

26 B. Notwithstanding any other provision of law to the contrary, any state or
27 local political subdivision that enacts or adopts a sanctuary policy shall be subject
28 to the provisions of R.S. 39:1405.5 and R.S. 49:1404, as applicable.

1 C. The governing authority, sheriff, or chief of police of each political
2 subdivision shall provide each law enforcement officer with a printed copy of the
3 provisions of this Chapter and with written notice of the duty to cooperate with state
4 and federal agencies and officials on matters pertaining to enforcement of state and
5 federal laws governing immigration pursuant to the provisions of this Chapter.

6 §1404. Sanctuary policy prohibition; state agencies, departments, and offices;
7 sanctions

8 A. No state agency, department, or office shall enact or adopt any sanctuary
9 policy.

10 B. No funds from the treasury shall be expended to fund the implementation
11 or enforcement of a sanctuary policy.

12 C. If a state department, agency, or office violates the provisions of this
13 Section, the attorney general shall send written notice of the violation to the Joint
14 Legislative Committee on the Budget. The Joint Legislative Committee on the
15 Budget shall conduct a hearing to determine whether appropriations to the state
16 department, agency, or officer should be otherwise restricted or conditioned on
17 compliance with the provisions of this Chapter.

18 D. Every state agency, department, or office with law enforcement powers
19 shall provide each law enforcement officer with a printed copy of the provisions of
20 this Chapter and with written notice of the duty to cooperate with state and federal
21 agencies and officials on matters pertaining to enforcement of state and federal laws
22 governing immigration pursuant to the provisions of this Chapter.

23 §1405. Attorney general; duties; notices

24 A.(1) The attorney general, on his own accord, or upon receiving a complaint
25 from any resident of the state of Louisiana regarding a violation of the provisions
26 of this Chapter, shall issue an opinion and notice pursuant to R.S. 49:1403 and 1404.

27 (2) If the attorney general issues an opinion and notice that a state or local
28 political subdivision is in violation of the provisions of this Chapter, he shall send
29 the opinion and notice of violation to that particular state or local political

1 subdivision and to the treasurer and the State Bond Commission as provided in R.S.
2 39:1405.5.

3 (3) If the attorney general issues an opinion and notice pursuant to the
4 provisions of this Section regarding any state department, agency, or office, he shall
5 send the opinion and notice to the head of the state department, agency, or office, the
6 governor, the president of the Senate, the speaker of the House of Representatives
7 and to each member of the House Committee on Appropriations and the Senate
8 Committee on Finance pursuant to R.S. 49:1404.

9 B. When the attorney general issues an opinion pursuant to the provisions
10 of this Chapter, the opinion shall set forth the violations of this Chapter outlining
11 written findings of fact that describe with specificity the existence and nature of the
12 sanctuary policy.

13 Section 2. R.S. 39:1405.5 is hereby enacted to read as follows:

14 §1405.5. Sanctuary policy; prohibitions on approval of bonds

15 A. When a state or local political subdivision has enacted a sanctuary policy
16 as prohibited by the provisions of the Illegal Alien Sanctuary Policy Prohibition Act,
17 provided for in Chapter 21 of Title 49 of the Louisiana Revised Statutes of 1950, the
18 political subdivision shall be subject to the provisions of Subsection B of this
19 Section.

20 B. Notwithstanding any other provision of law to the contrary, bonds, notes,
21 or other evidence of indebtedness of any political subdivision that is required by the
22 constitution or laws of Louisiana to be approved by the State Bond Commission,
23 shall not be approved by the State Bond Commission if the state or local political
24 subdivision has received notice of violation pursuant to this Chapter and such notice
25 was provided by the attorney general to the treasurer and the State Bond
26 Commission, unless the political subdivision has obtained written confirmation that
27 the notice is withdrawn as provided in Subsection D of this Section.

28 C. Once the treasurer receives a notice of a violation pursuant to Chapter 21
29 of Title 49 of the Louisiana Revised Statutes of 1950 and the notice was provided to

1 the attorney general and the State Bond Commission, the treasurer shall be
2 prohibited from including a request by a state or local political subdivision for any
3 bonds, notes, or other evidence of indebtedness on any agenda of the State Bond
4 Commission, until the sanctuary policy has been withdrawn pursuant to Paragraph
5 (D)(2) of this Section.

6 D.(1) The notice of violation provided to the State Bond Commission shall
7 be stamped "received" by the State Bond Commission indicating the date on which
8 the State Bond Commission received notice pursuant to the provisions of this
9 Section.

10 (2) The notice of violation shall remain on file with the State Bond
11 Commission until withdrawn, and shall be withdrawn under either of the following
12 circumstances:

13 (a) The attorney general issues a second opinion and a written confirmation
14 declaring that the state or local political subdivision has reformed its policies and
15 no longer has a sanctuary policy.

16 (b) The state or local political subdivision provides sufficient evidence to the
17 State Bond Commission that the sanctuary policy has been repealed and is no longer
18 in effect.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 1148 Reengrossed

2016 Regular Session

Hodges

Abstract: Prohibits state departments, agencies, and offices and state or local political subdivisions from developing certain policies with respect to immigration enforcement.

Proposed law prohibits a state department, agency, or office or any state or local political subdivision from adopting a sanctuary policy. Proposed law further provides that any state department, agency, or office or state or local political subdivision that enacts or adopts a sanctuary policy will be subject to the provisions of proposed law.

Proposed law defines "sanctuary policy" as any order, ordinance, rule, law, law enforcement policy, or guideline whether formally or informally adopted, that provides for any of the following:

- (1) Limits or prohibits any state department, agency, or office or any state or local political subdivision from communicating or cooperating with federal agencies or officials to verify or report the immigration status of any alien within that state agency or political subdivision.
- (2) Grants to illegal aliens the right of lawful presence or status in violation of federal law.
- (3) Violates federal immigration law.
- (4) Restricts or imposes any conditions upon the state department, agency, or office or any state or local political subdivision's cooperation or compliance with detainers or other requests from U.S. Immigration and Customs Enforcement.
- (5) Requires U.S. Immigration and Customs Enforcement to obtain a warrant or demonstrate probable cause before complying with detainers or other requests to maintain custody of any illegal alien or to transfer any illegal alien.
- (6) Prevents the state or local political subdivision's law enforcement officers from asking any suspect, arrestee, or other person in custody about his citizenship or immigration status.

Proposed law allows the attorney general, on his own accord or upon the receipt of a complaint from any Louisiana resident regarding a violation of proposed law, to issue an opinion outlining written findings of fact that describe with specificity the existence and nature of the sanctuary policy and notice of violation.

Proposed law provides that no state funds from the treasury shall be expended to fund the implementation or enforcement of a sanctuary policy of a state department, agency, or office.

Proposed law provides that if there is a violation by the a state department, agency, or office, the attorney general shall send notice to the Joint Legislative Committee on the Budget, which shall conduct an oversight hearing to determine if appropriations of the state department, agency, or office shall be restricted. Proposed law further provides that if the violation is by a state department, agency, or office, the opinion and notice will be sent to the department, agency, or office head, the governor, president of the Senate, speaker of the House of Representatives, and to each member of the House Committee on Appropriations and the Senate Committee on Finance.

Proposed law provides that if the violation is by a state or local political subdivision, the opinion and notice will be sent to the treasurer and the State Bond Commission. Once the treasurer receives a notice of violation, the treasurer shall deny any request for bonds, notes, or other evidence of indebtedness until the sanctuary policy has been withdrawn.

Proposed law allows notice of violation to be withdrawn when the attorney general issues a second opinion and written confirmation or the State Bond Commission is provided with sufficient evidence that the sanctuary policy is no longer in effect.

Proposed law requires the governing authority, sheriff, or chief of police of each state or local political subdivision or state department, agency, or office to provide each law enforcement officer with a printed copy of the provisions of proposed law and with written notice of his duties to cooperate.

(Adds R.S. 39:1405.5 and R.S. 49:1401-1405)