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BILL ANALYSIS



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Senate Bill 445 (as introduced 9-9-15)

Sponsor: Senator Mike Kowall

Committee: Judiciary

Date Completed: 9-29-15

CONTENT

The bill would create the "Sanctuary Policy Prohibition Act" to do the following:

- **Prohibit a local unit of government from enacting or enforcing a law that limited or prohibited a peace officer or other local employee from communicating or cooperating with Federal officials about a person's immigration status.**
- **Require a local unit to notify peace officers and other employees of their duty to cooperate with Federal and State officials in the enforcement of immigration laws, and to confirm with the Legislature that it had complied with that requirement.**
- **Require a peace officer who had probable cause to believe that an arrested person was not in the country legally to report that person to the U.S. Immigration and Customs Enforcement (ICE) office, and require local units to report to the Legislature annually on the number of reports made to ICE.**
- **Require the State Treasurer to withhold revenue sharing payments for each year or portion of a year that a local unit failed to comply with the Act.**

Specifically, the governing body of a local unit of government (a county, city, village, township, or charter township) could not enact or enforce any law, ordinance, policy, or rule that limited or prohibited a peace officer or local official, officer, or employee from communicating or cooperating with appropriate Federal officials concerning the immigration status of a person in Michigan.

The local governing body would have to give written notice to each peace officer, official, officer, and employee of the local unit of his or her duty to cooperate with appropriate Federal and State officials concerning the enforcement of Federal and State immigration laws. The local governing body also would have to give written confirmation to the Michigan Legislature that the local unit had complied with that requirement.

A peace officer who had probable cause to believe that a person under arrest was not in the United States legally would have to report that person to ICE. By March 1 of each year, the local governing body would have to report to the Legislature the number of reports made to ICE.

Notwithstanding any other provision of law to the contrary, if a local governing body failed to comply with one or more of the proposed Act's requirements, the State Treasurer would have to withhold the total annual payment amount that the local unit received under the State Revenue Sharing Act for each year or portion of a year that the local unit failed to comply with the Act.

The bill would take effect 90 days after its enactment.

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would tend to increase the costs of cities, villages, townships, and counties by a small but indeterminate amount and could reduce State revenue sharing payments to some local governments. The bill also would increase the administrative costs of the Michigan Legislature and the Department of Treasury by a minimal amount.

Local governments would incur one-time increased costs to provide written notices to all employees and officials and submit a report to the Legislature confirming the distribution of written notices. As of July 2015, the U.S. Bureau of Labor Statistics estimated that Michigan had 171,800 local governmental employees (excluding those in educational services). In addition, each local government would incur ongoing costs of an unknown amount to track the number of reports its employees submitted to the United States Immigration and Customs Enforcement office and report the total number of reports to the Legislature annually by March 1. The cost of these requirements would vary greatly depending on the number of local employees and the frequency and increase in the number of situations that would result in the filing of reports with ICE.

Failure to comply with the requirements of the bill would result in the withholding of revenue sharing payments under the Glenn Steil State Revenue Sharing Act. In fiscal year (FY) 2015-16, the potential for a revenue sharing payment reduction would apply to the 76 counties that are eligible for State-paid county revenue sharing. (Seven counties are not eligible for State-paid revenue sharing and will continue to make withdrawals from their revenue sharing reserve funds in FY 2015-16.)

For cities, villages, and townships, the State's ability to withhold revenue sharing payments is more complex. Cities, villages, and townships no longer receive statutory revenue sharing payments under the Glenn Steil State Revenue Sharing Act. Nonconstitutional (or "statutory") revenue sharing for cities, villages, and townships is determined annually in the State budget. The proposed bill does not appear to apply to those payments. In FY 2015-16, 587 out of 1,773 cities, villages, and townships are eligible for nonconstitutional revenue sharing payments. Constitutional revenue sharing payments to all cities, villages, and townships are made pursuant to the State Revenue Sharing Act; however, it is not clear that it would be permissible under the Michigan Constitution to withhold constitutional revenue sharing payments as a penalty for noncompliance with an act of the Legislature. Current law permits the State to intercept and retain constitutional revenue sharing payments only for debts owed to the State.

The Michigan Legislature would have increased administrative costs to receive and track the one-time confirmation reports and the annual reports of local employee reports made to ICE. The Legislature also would be required to communicate with the Department of Treasury regarding instances of noncompliance with the reporting requirements. The Department of Treasury would be required to withhold revenue sharing payments in cases of noncompliance. It is likely that these administrative costs would be minimal and would be absorbed within existing appropriations.

Fiscal Analyst: Elizabeth Pratt

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.