

Texas Senate Bill 4

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Discussion:

- ▶ Compliance with SB4 (?)
- ▶ Enforceability as reviewed by U.S. CoA 5th Circuit and Federal Court for Western District of Texas
- ▶ City's position on SB4 litigation currently in U.S. CoA 5th Circuit

Compliance w/ SB4



General Rule:

Local entity cannot adopt, enforce, or endorse a policy that prohibits or discourages the enforcement of immigration laws.

- *Patterns & Practice

- *Limiting Peace Officers

Violations of SB4:

Police Chief: Class A Misdemeanor

Elected/Appointed Official: Removal of Office

PD: Current Process

Litigation TimeLine

- ▶ SB 4 enacted 5/7 to become effective 9/1
- ▶ Texas AG, on 5/7, filed a pre-emptive lawsuit Tx. v. Travis County to uphold constitutionality of SB4
- ▶ El Cenizo, on 5/8, filed its own lawsuit City of El Cenizo, et. al. v. State of Texas for declaratory relief.
 - ▶ Intervernors joined: City of Austin, Travis County, City of Dallas, City of Houston.

Litigation TimeLine

- ▶ 8/30 Fed Ct. (Western District) enters prelim. injunction prohibiting the enforcement of 5 of the SB4 provisions.
- ▶ 9/25 5th Circuit Court of Appeals granted part of the State's appeal of Western District's injunction.

El Cenizo Lawsuit

- ▶ 2 Sets of provisions are primarily at issue:
 - ▶ Compliance with immigration detainer request
 - ▶ Anti-Sanctuary city provisions
- ▶ Challenges SB4:
 - ▶ Unconstitutional
 - ▶ Preemption
- ▶ Requests preliminary & injunctive relief

Federal District Court

8/30 Western District of Texas (Federal Court) Ordered that the State be enjoined from:

- ▶ Enforcement Provision
- ▶ Endorsement Provision
- ▶ Adoption / Enforcement of Policies that “materially limit”
- ▶ Pattern/Practice that “materially limit”
- ▶ “Comply with, honor, and fulfill” immigration detainer requests.

5th Circuit _ CoA

9/25 The Federal Court of Appeals lifted part of the preliminary injunction as to the ICE detainer requests.



“The ‘comply with, honor, and fulfill’ requirement DOES NOT require detention pursuant to every ICE detainer request; rather, the ‘comply with, honor, and fulfill’ provision mandates that local agencies cooperate according to existing ICE detainer practice and law.” – 5 COA Opinion, September 25, 2017.

Staff's Research:

- ▶ Trial Docket and Briefing
- ▶ Meetings with LULAC and MALDEF representatives
- ▶ Surveyed participation by other Texas cities

Staff's Analysis

- ▶ Intervention period has expired.
- ▶ El Cenizo's briefing schedule shortened to 10/20.
- ▶ In contributing to their Amicus Brief, MALDEF's outside counsel requires a host of data to support adverse impacts to Denton that will result of SB4.
- ▶ MALDEF does not anticipate having enough time for cities review amicus brief before submission deadline.
- ▶ MALDEF still accepting Resolutions in support of their legal efforts.

Direction:

- ▶ Sign onto MALDEF's Amicus brief (without the Legal Dept.'s ability to review the terms of the brief prior to submission, this is not the most viable option);
- ▶ Individual Council Members may sign onto the Amicus brief in their individual capacity (still not most viable option for same reasons stated above); or
- ▶ Approve a Resolution in support of MALDEF's legal efforts (most viable option).