

Legislative #
190184D

RESOLUTION NO.: 90-19-15362

A Resolution of the Mayor and City Commissioners of the City of South Miami authorizing the City Attorney to retain outside counsel to challenge Senate Bill 168 that forces cities and counties to expend their limited resources without reimbursement to perform the work of the United States Department of Homeland Security's Immigration and Customs Enforcement.

Whereas, in the past few years the Trump Administration has waged a war against immigrants including efforts to undermine "sanctuary cities" by threatening to defund states like California and cities like Chicago and New York for resisting United States Department of Homeland Security's Immigration and Customs Enforcement ("ICE"); and

Whereas, recently the battle lines have shifted with the proliferation of state-level laws that similarly seek to punish sanctuary cities and mandate local participation in ICE's vast detention and deportation machine¹; and

Whereas, this state-level anti-sanctuary movement not only looks to repeal local sanctuary policies, it is also aimed at eliminating the discretion that local communities have traditionally exercised over their involvement in federal immigration enforcement efforts. In just the past four years, eight states have passed laws banning local sanctuary policies and mandating local participation in federal immigration enforcement.² Florida can now be added to this growing list with the signing of Senate Bill 168 ("SB 168") by Governor DeSantis on Friday June 14, 2019; and

Whereas, SB 168 requires state and local entities and law enforcement agencies to use their "best efforts" to support federal government officials' efforts to enforce immigration laws. "Best efforts" is not defined in the bill. The bill also prohibits sanctuary jurisdictions, prohibits the adoption of sanctuary policies (defined broadly), mandates the repeal of any existing sanctuary policies, and requires state and local entities to comply with federal immigration detainers, *i.e.*, ICE holds; and

Whereas, entangling local law enforcement with ICE leads to racial profiling, civil rights violations, isolation of immigrant communities, and family separations. When local officials are working with ICE, police stop and harass Latinx residents at increased rates, while immigrants withdraw from their communities, and decline to participate in public events where law enforcement may be present; and

Whereas, effective law enforcement depends on a high degree of cooperation between police departments and the public they serve. A relationship of trust between Florida's immigrant community and state and local agencies is central to the public safety of the people of Florida. SB 168 gravely

¹ See Pratheepan Gulasekaram, Rick Su, and Rose Cuison Villazor, Anti-Sanctuary and Immigration Localism, Colum. L. Rev. Vol. 119, No.3 (2018).

² See AL Code § 31-13-5 (2015) (Alabama); Ind. Code § 5-2-18.2 (2017) (Indiana); Iowa Code § 825.1 (2018) (Iowa); GA Code §§ 36-80-23 (2017) (Georgia); Miss. Code Ann. § 25-1-119 (2017) (Mississippi); S.B. 145, Gen. Assemb., Reg. Sess. (N.C. 2017) (North Carolina); H.B. 2315, 110th Gen. Assemb., Reg. Sess. (Tenn. 2018) (Tennessee); S.B. 4, 85th Leg., Reg. Sess. (Tex. 2017) (Texas).

threatens this trust since it requires state and local agencies to be entangled with federal immigration enforcement; and

Whereas, SB 168's requirement for the South Miami Police Department to use its "best efforts" may lead to racial profiling, thereby exposing the City to liability for due process and equal protection claims filed against the City; and

Whereas, various sections of SB 168 are unconstitutional for a number of reasons including vagueness, since it is likely to lead to arbitrary and discriminatory enforcement, thereby making it difficult for the City of South Miami's Police Department to know how to comply or how to be able to confirm that they follow federal immigration laws without risking a lawsuit against them by the Governor or Attorney General; and

Whereas, various sections of SB 168 conflict with, and are preempted by, the Immigration and Nationality Act, 8. U.S.C. § 1101, et seq. (INA) since the United States Congress, and not the state of Florida, has the power to regulate immigration.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF SOUTH MIAMI, FLORIDA THAT:

Section 1. The City Attorney is hereby instructed to challenge the legality of Senate Bill 168 and he is authorized to retain outside counsel for that purpose, provided he is able to retain a person, firm or group of firms that are willing to provide such legal services free of legal fees and costs.

Section 2: Severability. If any section, clause, sentence, or phrase of this resolution is for any reason held invalid or unconstitutional by a court of competent jurisdiction, the holding shall not affect the validity of the remaining portions of this resolution.

Section 3. Effective Date: This resolution shall be effective immediately upon its adoption.

PASSED AND ADOPTED this 9th day of July, 2019.

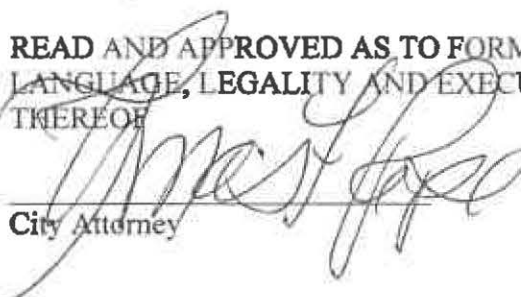
ATTEST:


City Clerk

APPROVED:


Mayor

READ AND APPROVED AS TO FORM
LANGUAGE, LEGALITY AND EXECUTION
THEREOF


City Attorney

COMMISSION VOTE:	5-0
Mayor Stoddard:	Yea
Vice Mayor Harris:	Yea
Commissioner Welsh:	Yea
Commissioner Liebman:	Yea
Commissioner Gil:	Yea