



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-2289/1
MES:amn

2019 ASSEMBLY BILL 138

March 25, 2019 - Introduced by Representatives SPIROS, AUGUST, EDMING, KUGLITSCH, MURPHY, NEYLON, RAMTHUN, SANFELIPPO, SKOWRONSKI, SORTWELL, THIESFELDT, TUSLER and WICHGERS, cosponsored by Senators NASS, CRAIG, JACQUE, KAPENGA, STROEBEL and WANGGAARD. Referred to Committee on Federalism and Interstate Relations.

1 **AN ACT** *to create* 66.0414 of the statutes; **relating to:** prohibiting local
2 ordinances, resolutions, and policies that prohibit the enforcement of federal or
3 state law relating to illegal aliens or immigration status, authorizing certain
4 elective officeholders to commence an enforcement action, providing a
5 reduction in shared revenue payments, and creating governmental liability for
6 damages caused by illegal aliens.

Analysis by the Legislative Reference Bureau

This bill prohibits a city, village, town, or county from enacting or enforcing an ordinance, resolution, or policy that prohibits the enforcement of a federal or state law relating to illegal aliens or ascertaining whether an individual has satisfactory immigration status. The bill also requires a political subdivision to comply with a lawful detainer that is issued by U.S. Immigration and Customs Enforcement, and authorizes the attorney general or the appropriate district attorney or sheriff to file a writ of mandamus with the circuit court to require compliance with the requirements created by the bill if he or she believes that the political subdivision is failing to comply with the requirements.

If a court finds that a political subdivision has failed to comply, the department of revenue must reduce the political subdivision's shared revenue payments in the next year by \$500 to \$5,000, depending on the political subdivision's population, for each day of noncompliance. Also under the bill, if a court makes such a finding, the political subdivision is liable for any damages caused by an illegal alien.

ASSEMBLY BILL 138

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 66.0414 of the statutes is created to read:

2 **66.0414 Local ordinances, immigration status, illegal aliens. (1)**

3 DEFINITIONS. In this section:

4 (a) “Illegal alien” means an individual who is not a U.S. citizen and who is not
5 lawfully present in the United States.

6 (b) “Political subdivision” means a city, village, town, or county.

7 (c) “Satisfactory immigration status” means immigration status under which
8 an individual who is not a U.S. citizen is lawfully present in this country.

9 **(2) ENFORCEMENT OF FEDERAL OR STATE LAW.** (a) A political subdivision may not
10 enact an ordinance, adopt a resolution, or establish a policy that prohibits the
11 enforcement of a federal or state law relating to any of the following:

12 1. Illegal aliens.

13 2. Ascertaining whether an individual has satisfactory immigration status.

14 (b) If a political subdivision has in effect on the effective date of this paragraph
15 [LRB inserts date], an ordinance, resolution, or policy that is inconsistent with
16 par. (a), the ordinance, resolution, or policy does not apply and may not be enforced.

17 (c) A political subdivision shall comply with any lawful detainer issued by U.S.
18 immigration and customs enforcement.

19 **(3) ENFORCEMENT.** (a) If the attorney general, a district attorney, or a sheriff
20 believes that a political subdivision is failing to comply with the requirements of sub.
21 (2) (a) or (c), the attorney general, or the district attorney or sheriff with the

ASSEMBLY BILL 138

1 appropriate jurisdiction, may file a writ of mandamus with the circuit court for the
2 county where the alleged failure to comply with sub. (2) (a) or (c) occurred to compel
3 the noncomplying political subdivision to comply with the requirements.

4 (b) If the court finds that the political subdivision has failed to comply with sub.
5 (2) (a) or (c), upon notification by the circuit court, the department of revenue shall
6 reduce the amount of the shared revenue payments to the political subdivision under
7 subch. I of ch. 79 in the following year by one of the following amounts for each day
8 after the filing of an action under par. (a) that the political subdivision was
9 noncompliant, as determined by the circuit court and subject to par. (d):

10 1. If the population of the political subdivision is less than 10,000, \$500.

11 2. If the population of the political subdivision is at least 10,000 but less than
12 100,000, \$1,000.

13 3. If the population of the political subdivision is at least 100,000 but less than
14 250,000, \$2,000.

15 4. If the population of the political subdivision is 250,000 or more, \$5,000.

16 (c) If the court finds that the political subdivision has failed to comply with sub.
17 (2) (a) or (c), the political subdivision shall be liable for damages to an individual or
18 property caused by an illegal alien.

19 (d) The reduction calculated under par. (b) may not exceed the total payments
20 that would otherwise be received by a political subdivision under ss. 79.035, 79.04,
21 and 79.05.

SECTION 2. Initial applicability.

22 (1) The treatment of s. 66.0414 (3) (c) first applies to damages that are caused
23 on the day on which the court makes a finding described in that paragraph.
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