

SENATE, No. 431

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Senator STEVEN V. OROHO

District 24 (Morris, Sussex and Warren)

Co-Sponsored by:

Senator Holzapfel

SYNOPSIS

Prohibits municipal ordinance to create sanctuary city; establishes State and local employee ethics violation upon noncompliance with federal immigration enforcement request.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **AN ACT** concerning cooperation with federal immigration and
 2 customs enforcement authorities, amending P.L.1991, c.29 and
 3 P.L.1971, c.182.

4
 5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
 6 *of New Jersey:*

7
 8 1. (New section) a. The governing body of a municipality or
 9 county shall not adopt any ordinance or resolution requiring that
 10 officials within the jurisdiction of the governing body refuse or fail
 11 to cooperate with requests for cooperation from federal immigration
 12 authorities. Any such ordinance or resolution adopted prior to the
 13 effective date of P.L. , c. (C.) (pending before the
 14 Legislature as this bill) shall be void.

15 b. A member of a municipal or county governing body who,
 16 after the effective date of P.L. , c. (C.) (pending before the
 17 Legislature as this bill), votes to adopt a formal or informal policy
 18 of non-cooperation with federal immigration authorities, in direct
 19 contravention of subsection a. of this section, shall be guilty of a
 20 misdemeanor and, upon conviction, may be fined not more than one
 21 thousand dollars (\$1,000.00) or imprisoned for not more than one
 22 year, or both, and in addition shall forfeit his office.

23
 24 2. (New section) a. Subject to the approval of the Attorney
 25 General, the State shall defend employees or officers of
 26 municipalities in any civil action seeking to impose liability arising
 27 out of any actual or alleged act, error, or omission that occurred
 28 while cooperating with federal immigration authorities pursuant to
 29 P.L. , c. (C.) (pending before the Legislature as this bill),
 30 provided that the actual or alleged act, error, or omission did not
 31 result from intentional or willful and wanton misconduct on the part
 32 of such person.

33 b. The State of New Jersey shall indemnify and hold municipal
 34 employees or officers harmless in the amount of any settlement or
 35 judgment obtained against such persons arising out of any actual or
 36 alleged act, error, or omission that occurred while cooperating with
 37 federal immigration authorities pursuant to P.L. , c. (C.)
 38 (pending before the Legislature as this bill), provided that the actual
 39 or alleged act, error, or omission did not result from intentional or
 40 willful and wanton misconduct on the part of such person.

41
 42 3. Section 5 of P.L.1991, c.29 (C.40A:9-22.5) is amended to
 43 read as follows:

44 5. Local government officers or employees under the
 45 jurisdiction of the Local Finance Board shall comply with the

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】** in the above bill is
 not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 following provisions:

2 a. No local government officer or employee or member of his
3 immediate family shall have an interest in a business organization
4 or engage in any business, transaction, or professional activity,
5 which is in substantial conflict with the proper discharge of his
6 duties in the public interest;

7 b. No independent local authority shall, for a period of one year
8 next subsequent to the termination of office of a member of that
9 authority:

10 (1) award any contract which is not publicly bid to a former
11 member of that authority;

12 (2) allow a former member of that authority to represent, appear
13 for or negotiate on behalf of any other party before that authority;
14 or

15 (3) employ for compensation, except pursuant to open
16 competitive examination in accordance with Title 11A of the New
17 Jersey Statutes and the rules and regulations promulgated pursuant
18 thereto, any former member of that authority.

19 The restrictions contained in this subsection shall also apply to
20 any business organization in which the former authority member
21 holds an interest.

22 c. No local government officer or employee shall use or
23 attempt to use his official position to secure unwarranted privileges
24 or advantages for himself or others;

25 d. No local government officer or employee shall act in his
26 official capacity in any matter where he, a member of his immediate
27 family, or a business organization in which he has an interest, has a
28 direct or indirect financial or personal involvement that might
29 reasonably be expected to impair his objectivity or independence of
30 judgment;

31 e. No local government officer or employee shall undertake
32 any employment or service, whether compensated or not, which
33 might reasonably be expected to prejudice his independence of
34 judgment in the exercise of his official duties;

35 f. No local government officer or employee, member of his
36 immediate family, or business organization in which he has an
37 interest, shall solicit or accept any gift, favor, loan, political
38 contribution, service, promise of future employment, or other thing
39 of value based upon an understanding that the gift, favor, loan,
40 contribution, service, promise, or other thing of value was given or
41 offered for the purpose of influencing him, directly or indirectly, in
42 the discharge of his official duties. This provision shall not apply
43 to the solicitation or acceptance of contributions to the campaign of
44 an announced candidate for elective public office, if the local
45 government officer has no knowledge or reason to believe that the
46 campaign contribution, if accepted, was given with the intent to
47 influence the local government officer in the discharge of his
48 official duties;

1 g. No local government officer or employee shall use, or allow
2 to be used, his public office or employment, or any information, not
3 generally available to the members of the public, which he receives
4 or acquires in the course of and by reason of his office or
5 employment, for the purpose of securing financial gain for himself,
6 any member of his immediate family, or any business organization
7 with which he is associated;

8 h. No local government officer or employee or business
9 organization in which he has an interest shall represent any person
10 or party other than the local government in connection with any
11 cause, proceeding, application or other matter pending before any
12 agency in the local government in which he serves. This provision
13 shall not be deemed to prohibit one local government employee
14 from representing another local government employee where the
15 local government agency is the employer and the representation is
16 within the context of official labor union or similar representational
17 responsibilities;

18 i. No local government officer shall be deemed in conflict with
19 these provisions if, by reason of his participation in the enactment
20 of any ordinance, resolution or other matter required to be voted
21 upon or which is subject to executive approval or veto, no material
22 or monetary gain accrues to him as a member of any business,
23 profession, occupation or group, to any greater extent than any gain
24 could reasonably be expected to accrue to any other member of
25 such business, profession, occupation or group;

26 j. No elected local government officer shall be prohibited from
27 making an inquiry for information on behalf of a constituent, if no
28 fee, reward or other thing of value is promised to, given to or
29 accepted by the officer or a member of his immediate family,
30 whether directly or indirectly, in return therefor; and

31 k. Nothing shall prohibit any local government officer or
32 employee, or members of his immediate family, from representing
33 himself, or themselves, in negotiations or proceedings concerning
34 his, or their, own interests.

35 l. No local government officer or employee shall refuse to
36 cooperate with any lawful requests from a federal agency regarding
37 immigration and customs enforcement. Any ordinance inconsistent
38 with this requirement shall be void as of the effective date of
39 P.L. , c. (C.) (pending before the Legislature as this bill).
40 (cf: P.L.1991, c.29, s.5)

41
42 4. Section 12 of P.L.1971, c.182 (C.52:13D-23) is amended to
43 read as follows:

44 12. (a) (1) The head of each State agency, or the principal
45 officer in charge of a division, board, bureau, commission or other
46 instrumentality within a department of State Government
47 designated by the head of such department for the purposes
48 hereinafter set forth, shall within six months from the date of

1 enactment, promulgate a code of ethics to govern and guide the
2 conduct of the members of the Legislature, the State officers and
3 employees or the special State officers and employees in the agency
4 to which said code is applicable. Such code shall conform to the
5 general standards hereinafter set forth in this section, but it shall be
6 formulated with respect to the particular needs and problems of the
7 agency to which said code is to apply and, when applicable, shall be
8 a supplement to the uniform ethics code promulgated pursuant to
9 paragraph (2) of this subsection. Notwithstanding any other
10 provisions of this section, the New Jersey members to any interstate
11 agency to which New Jersey is a party and the officers and
12 employees of any State agency which fails to promulgate a code of
13 ethics shall be deemed to be subject to a code of ethics the
14 provisions of which shall be paragraphs (1) through (6) of
15 subsection (e) of this section.

16 (2) Within 180 days following the effective date of this act,
17 P.L.2005, c.382, the State Ethics Commission shall promulgate a
18 uniform ethics code to govern and guide the conduct of State
19 officers and employees and special State officers and employees in
20 State agencies in the Executive Branch. Such code shall conform to
21 the general standards hereinafter set forth in this section, shall be
22 the primary code of ethics for State agencies once it is adopted and
23 a code promulgated pursuant to paragraph (1) of this subsection
24 shall be a supplement to the primary code. The head of each State
25 agency, or the principal officer in charge of a division, board,
26 bureau, commission or other instrumentality within a department of
27 State Government designated by the head of such department shall
28 revise each code of ethics promulgated prior to the uniform code to
29 recognize the uniform code as the primary code.

30 (b) A code of ethics formulated pursuant to subsection (a) of
31 this section to govern and guide the conduct of the State officers
32 and employees or the special State officers and employees in any
33 State agency in the Executive Branch, or any portion of such a
34 code, shall not be effective unless it has first been approved by the
35 State Ethics Commission. When a proposed code is submitted to
36 the said commission it shall be accompanied by an opinion of the
37 Attorney General as to its compliance with the provisions of this act
38 and any other applicable provision of law. Nothing contained herein
39 shall prevent officers of State agencies in the Executive Branch
40 from consulting with the Attorney General or with the State Ethics
41 Commission at any time in connection with the preparation or
42 revision of such codes of ethics.

43 (c) A code of ethics formulated pursuant to this section to
44 govern and guide the conduct of the members of the Legislature,
45 State officers and employees or special State officers and
46 employees in any State agency in the Legislative Branch, or any
47 portion of such code, shall not be effective unless it has first been
48 approved by the Legislature by concurrent resolution. When a

1 proposed code is submitted to the Legislature for approval it shall
2 be accompanied by an opinion of the chief counsel as to its
3 compliance with the provisions of this act and any other applicable
4 provisions of law. Nothing contained herein shall prevent officers
5 of State agencies in the Legislative Branch from consulting with the
6 Chief Legislative Counsel or the Joint Legislative Committee on
7 Ethical Standards at any time in connection with the preparation or
8 revision of such codes of ethics.

9 (d) Violations of a code of ethics promulgated pursuant to this
10 section shall be cause for removal, suspension, demotion or other
11 disciplinary action by the State officer or agency having the power
12 of removal or discipline. When a person who is in the classified
13 civil service is charged with a violation of such a code of ethics, the
14 procedure leading to such removal or discipline shall be governed
15 by any applicable provisions of the Civil Service Act, N.J.S. 11A:1-
16 1 et seq., and the Rules of the Civil Service Commission. No action
17 for removal or discipline shall be taken under this subsection except
18 upon the referral or with the approval of the State Ethics
19 Commission or the Joint Legislative Committee on Ethical
20 Standards, whichever is authorized to exercise jurisdiction with
21 respect to the complaint upon which such action for removal or
22 discipline is to be taken.

23 (e) A code of ethics for officers and employees of a State
24 agency shall conform to the following general standards:

25 (1) No State officer or employee or special State officer or
26 employee should have any interest, financial or otherwise, direct or
27 indirect, or engage in any business or transaction or professional
28 activity, which is in substantial conflict with the proper discharge of
29 his duties in the public interest.

30 (2) No State officer or employee or special State officer or
31 employee should engage in any particular business, profession,
32 trade or occupation which is subject to licensing or regulation by a
33 specific agency of State Government without promptly filing notice
34 of such activity with the State Ethics Commission, if he is an officer
35 or employee in the Executive Branch, or with the Joint Legislative
36 Committee on Ethical Standards, if he is an officer or employee in
37 the Legislative Branch.

38 (3) No State officer or employee or special State officer or
39 employee should use or attempt to use his official position to secure
40 unwarranted privileges or advantages for himself or others.

41 (4) No State officer or employee or special State officer or
42 employee should act in his official capacity in any matter wherein
43 he has a direct or indirect personal financial interest that might
44 reasonably be expected to impair his objectivity or independence of
45 judgment.

46 (5) No State officer or employee or special State officer or
47 employee should undertake any employment or service, whether
48 compensated or not, which might reasonably be expected to impair

1 his objectivity and independence of judgment in the exercise of his
2 official duties.

3 (6) No State officer or employee or special State officer or
4 employee should accept any gift, favor, service or other thing of
5 value under circumstances from which it might be reasonably
6 inferred that such gift, service or other thing of value was given or
7 offered for the purpose of influencing him in the discharge of his
8 official duties.

9 (7) (i) No State officer or employee or special State officer or
10 employee should knowingly act in any way that might reasonably
11 be expected to create an impression or suspicion among the public
12 having knowledge of his acts that he may be engaged in conduct
13 violative of his trust as a State officer or employee or special State
14 officer or employee.

15 (ii) No State officer or employee or special State officer or
16 employee shall refuse to cooperate with any lawful request from a
17 federal agency regarding immigration and customs enforcement.

18 (8) Rules of conduct adopted pursuant to these principles should
19 recognize that under our democratic form of government public
20 officials and employees should be drawn from all of our society,
21 that citizens who serve in government cannot and should not be
22 expected to be without any personal interest in the decisions and
23 policies of government; that citizens who are government officials
24 and employees have a right to private interests of a personal,
25 financial and economic nature; that standards of conduct should
26 separate those conflicts of interest which are unavoidable in a free
27 society from those conflicts of interest which are substantial and
28 material, or which bring government into disrepute.

29 (f) The code of ethics for members of the Legislature shall
30 conform to subsection (e) hereof as nearly as may be possible.

31 (cf: P.L.2008, c.29, s.104)

32

33 5. This act shall take effect immediately.

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35

36 STATEMENT

37

38 This bill is intended to make certain that State and local officials
39 in New Jersey cooperate with federal authorities with respect to
40 immigration and customs enforcement requests. The bill prohibits
41 counties and municipalities from establishing formal or informal
42 policies of non-cooperation with federal immigration authorities.

43 Several jurisdictions, such as California, have established a
44 formal prohibition on cooperation with federal authorities on
45 immigration issues. In San Francisco, a young woman named Kate
46 Steinle was brutally murdered by an individual who intentionally
47 committed the crime in San Francisco because it had designated
48 itself a sanctuary city.

1 Other jurisdictions, such as certain municipalities in New Jersey,
2 have an informal practice of not cooperating with requests from the
3 federal government regarding immigration matters. This bill is
4 intended to prevent the State, municipalities, or any subdivision
5 thereof, from establishing a formal or informal “sanctuary city”
6 policy, which has led to recent violent crimes around the country.
7 Under this bill, a State or local official who fails to cooperate
8 with federal authorities with respect to immigration enforcement
9 will be committing an ethics violation. The regular process for the
10 disposition of ethics violations at the State or local level will be
11 applicable to these situations. The bill also creates a civil fine for
12 any member of a municipal or county governing body which votes
13 in favor of a sanctuary city ordinance after the effective date of the
14 bill.