

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 810 Session of 2011

INTRODUCED BY PERRY, METCALFE, AUMENT, CLYMER, COX, CUTLER,
EVERETT, FLECK, GEIST, GRELL, GROVE, HARRIS, HICKERNELL,
KAUFFMAN, KNOWLES, KRIEGER, METZGAR, MOUL, MUSTIO,
OBERLANDER, PYLE, RAPP, READSHAW, ROCK, SWANGER, TALLMAN AND
VULAKOVICH, FEBRUARY 24, 2011

REFERRED TO COMMITTEE ON STATE GOVERNMENT, FEBRUARY 24, 2011

AN ACT

1 Providing for financial penalties to be imposed on certain
2 municipalities and for the powers and duties of the Secretary
3 of the Commonwealth.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Sanctuary
8 Municipalities Financial Penalty Act.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall
11 have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 "Commonwealth agency." The term shall have the same meaning
14 as provided in 2 Pa.C.S. § 101 (relating to definitions).

15 "Commonwealth appropriation." Any direct appropriation of
16 Commonwealth funds or any direct or indirect expenditure of
17 Commonwealth funds by a Commonwealth agency. The term shall not

1 include any funds provided or expended for any of the following:

2 (1) Law enforcement or corrections purposes.

3 (2) The operation of courts.

4 (3) Emergency preparedness or disaster response.

5 (4) Medical services.

6 "Municipality." A municipality as defined in 1 Pa.C.S. §
7 1991 (relating to definitions).

8 "Sanctuary municipality." A municipality that has adopted an
9 ordinance, policy or procedure to encourage unauthorized aliens
10 to reside in the municipality, including, but not limited to,
11 any that:

12 (1) prohibit, restrict or discourage municipal employees
13 from sending, receiving or maintaining information regarding
14 the immigration status, lawful or unlawful, of any individual
15 or exchanging the information with any other Federal, State
16 or local government entity;

17 (2) prohibit, restrict or discourage municipal employees
18 from asking individuals their citizenship or immigration
19 status; or

20 (3) provide public benefits, unless required by Federal
21 or State statutes or court decisions, except for any of the
22 following:

23 (i) Emergency medical care.

24 (ii) Law enforcement, arrest, prosecution,
25 incarceration, detainment and related expenses.

26 (iii) Benefits provided to the public at large, such
27 as maintenance of roads, sidewalks, public parks and
28 similar government property.

29 "Secretary." The Secretary of State of the Commonwealth.

30 "Unauthorized alien." An alien who is not lawfully present

1 within the United States.

2 Section 3. Financial penalty.

3 A Commonwealth appropriation to benefit a municipality or the
4 residents of a municipality which municipality fails to
5 cooperate in an investigation under this act or has been
6 designated a sanctuary municipality under this act shall be
7 placed in an escrow account and shall not be released until at
8 least 30 days after the secretary certifies that the
9 municipality has taken corrective action as provided under
10 section 4(g) or renewed cooperation as provided under section
11 4(e).

12 Section 4. Sanctuary municipality designation.

13 (a) Determination.--The secretary shall determine whether a
14 municipality is a sanctuary municipality as provided under this
15 section.

16 (b) Complaint.--An enforcement action shall be initiated by
17 means of a written, signed complaint to the secretary's office
18 and shall be submitted by a Commonwealth resident. A valid
19 complaint shall include an allegation which describes the
20 ordinances, policies or procedures adopted by a municipality to
21 encourage unauthorized aliens to reside within the municipality.

22 (c) Investigation.--Upon receipt of a valid complaint, the
23 secretary shall request information from the municipality which
24 is the subject of the complaint. The requested information may
25 include any of the following:

26 (1) Copies of any ordinances, resolutions, policy
27 manuals or employee handbooks.

28 (2) Copies of any electronic mail, letters, memoranda or
29 other communications with or to employees of the
30 municipality.

1 (3) Any other information needed to make a determination
2 under this section.

3 (d) Procedure.--The secretary shall, by regulation,
4 establish a procedure and timeline for municipalities to do all
5 of the following:

6 (1) Respond to requests under subsection (c).

7 (2) Cooperate with ongoing investigations.

8 (e) Cooperation.--Any municipality which fails to cooperate
9 with an investigation by the secretary under this section shall
10 be subject to the same penalties as a municipality which has
11 been determined to meet the definition of a "sanctuary
12 municipality" under subsection (f). Notice of either failure to
13 cooperate or certification that cooperation has been renewed
14 shall be published as follows:

15 (1) In the Pennsylvania Bulletin.

16 (2) On the Internet website of the Department of State.

17 (f) Determination of sanctuary status.--If, after
18 investigation, the secretary determines by a preponderance of
19 the evidence that the municipality meets the definition of a
20 "sanctuary municipality," the secretary shall provide notice of
21 that determination to the municipality. The notice shall include
22 a list of specific ordinances, policies or procedures which
23 encourage unauthorized aliens to reside in the municipality. The
24 secretary shall publish a summary of the notice as follows:

25 (1) In the Pennsylvania Bulletin.

26 (2) On the Internet website of the Department of State.

27 (g) Correction.--Any municipality which the secretary
28 determines to be a sanctuary municipality shall repeal any
29 ordinance or cease any policy or procedure which encourages
30 unauthorized aliens to reside in the municipality. The secretary

1 shall, upon receipt of sufficient evidence that a municipality
2 has taken corrective action to repeal the ordinance or cease the
3 policy or procedure, publish a certification of the corrective
4 action as follows:

5 (1) In the Pennsylvania Bulletin.

6 (2) On the Internet website of the Department of State.

7 Section 5. Duty of Commonwealth agencies.

8 (a) Review.--On a daily basis, each Commonwealth agency
9 shall review notices posted pursuant to section 4(e), (f) and
10 (g) on the Internet website of the Department of State.

11 (b) Compliance.--Each Commonwealth agency shall comply with
12 the requirements of section 3 based on the daily review under
13 subsection (a).

14 (c) Immunity.--A Commonwealth agency or employee of a
15 Commonwealth agency shall be immune from liability resulting
16 from the imposition of the financial penalty under section 3 if
17 the agency complied in good faith with the requirements of this
18 act.

19 Section 6. Commonwealth agency law.

20 The provisions of this act shall be subject to 2 Pa.C.S. Chs.
21 5 Subch. A (relating to practice and procedure of Commonwealth
22 agencies) and 7 Subch. A (relating to judicial review of
23 Commonwealth agency action).

24 Section 7. Effective date.

25 This act shall take effect in 60 days.