

LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 3007
STATE OF NEW JERSEY
217th LEGISLATURE

DATED: FEBRUARY 16, 2017

SUMMARY

Synopsis: Establishes program to reimburse local governments for federal grant funds lost due to “sanctuary jurisdiction” status.

Type of Impact: Increase in State costs.
 Increase in local revenues.

Agencies Affected: Department of Community Affairs, counties, and municipalities

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate Increase – See comments below		
Local Revenue	Indeterminate Increase – See comments below		

- The Office of Legislative Services estimates that the enactment of Senate Bill No. 3007 may result in an indeterminate increase in State costs and an indeterminate increase in local revenues. The total amount of federal funding that may be withheld from New Jersey counties and municipalities will be determined by future actions of the federal government.
- According to the U.S. Census Bureau, New Jersey local governments received approximately \$1 billion in intergovernmental revenue from the federal government in 2013. This amount includes moneys distributed to school districts and special districts, which are not eligible to apply for State reimbursement under the bill, and funds that may be exempted from the withholding requirement in Executive Order No. 13768 or subsequent federal law, regulation or order.
- The Secretary of Homeland Security has not designated any New Jersey county or municipality as a sanctuary jurisdiction. Neither the Secretary nor the Attorney General of the United States have declared any New Jersey county or municipality ineligible to receive federal grant funds due to their status as a sanctuary jurisdiction.

BILL DESCRIPTION

Senate Bill No. 3007 of 2017 requires the Commissioner of Community Affairs to establish a program to provide grant funding to a county or municipality that has had its federal grant funding denied or reduced based upon its status as a sanctuary jurisdiction. The bill defines a “sanctuary jurisdiction” as one which has been so designated by the Secretary of Homeland Security. Under the program, a county or municipality may apply to the commissioner for State moneys to replace federal funds withheld from the locality due to its status as a sanctuary jurisdiction. If the commissioner finds that a county or municipality has been denied federal grant funding solely because of its status as a sanctuary jurisdiction, the commissioner is required to approve a payment to the locality to replace the reduction in federal funds. Any payments made by the State under the program would be made from the State General Fund.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

Background Information

On January 25, 2017, President Trump issued Executive Order No. 13768, “Enhancing Public Safety in the Interior of the United States.” The order directs federal executive departments and agencies “to employ all lawful means to enforce the immigration laws of the United States.” According to Federal Funds Information for States, the order includes some provisions that could affect state and local governments, such as: sanctions against jurisdictions that fail to comply with federal immigration laws, the hiring of 10,000 immigration officers, authorizing state and local law enforcement officials to perform the functions of federal immigration officers, and regular reports on incarcerated aliens.

Most notably, section 9 of the order requires the Attorney General of the United States and the Secretary of Homeland Security (“Secretary”), in their discretion, and to the extent consistent with law, to ensure that jurisdictions that willfully refuse to comply with 8 U.S.C. 1373 (“sanctuary jurisdictions”) are not eligible to receive federal grants, except as deemed necessary for law enforcement purposes by the Attorney General or the Secretary. The order authorizes the Secretary to designate, in his discretion and to the extent consistent with law, a jurisdiction as a sanctuary jurisdiction. The Attorney General is directed to take appropriate enforcement action against any entity that violates 8 U.S.C. 1373, or which has in effect a statute, policy, or practice that prevents or hinders the enforcement of federal law. 8 U.S.C. 1373 provides that state and local governments cannot prohibit employees from sending to, or receiving from, federal immigration authorities, information regarding the citizenship or immigration status, lawful or unlawful, of any individual. This section of federal law also bars restrictions on exchanging information regarding immigration status with any other federal, state, or local government entity or on maintaining such information.

Fiscal Analysis

The enactment of Senate Bill No. 3007 may result in an increase in State costs and an increase in local revenues. The State would incur additional costs associated with payments to

counties and municipalities that experience a reduction in federal funds due to their status as sanctuary jurisdictions. Counties and municipalities would receive additional revenues through the new State aid payments. As of the date of this fiscal estimate, the Secretary has not designated any New Jersey county or municipality as a sanctuary jurisdiction and no federal funds have been withheld from any New Jersey county or municipality. It is unclear which counties and municipalities will be ineligible for federal funds due to designation as sanctuary jurisdictions. The federal government has not indicated which federal grant funds will be withheld from sanctuary jurisdictions. It is also not clear whether the bill applies to grants previously approved by the federal government or would also apply to future grants for which a county or municipality may no longer be eligible to apply.

In order to provide periodic and comprehensive statistics about local government financial activities, U.S. Bureau of the Census conducts an annual Survey of Local Government Finances. The most recent survey results indicate that New Jersey local governments received approximately \$1 billion in intergovernmental revenue from the federal government in calendar year 2013. This amount approximates the maximum amount of federal funds that may be withheld from New Jersey local governments and that the actual amount that may be withheld is likely significantly less than \$1 billion. The order specifically exempts federal grant funds necessary for law enforcement purposes from the withholding requirement. The Survey of Local Government Finances collects information from all units of local government, including counties, municipalities, school districts, and special districts. Although Senate Bill No. 3007 applies only to counties and municipalities, the survey data do not allow the OLS to subtract federal funds awarded to school districts and special districts from the total amount of federal governmental revenue to local governments.

The federal intergovernmental revenue information does not distinguish between mandatory and discretionary spending. According to the Congressional Budget Office (CBO), the authority for discretionary spending stems from annual appropriations acts, which are under control of the House and Senate Appropriations Committees. Mandatory spending includes expenditures for entitlement programs and certain other payments to people, businesses, and state and local governments. Mandatory spending is generally governed by statutory criteria and is not normally set by annual appropriations acts. Information available through the CBO indicates that approximately 60 percent of federal spending in 2012 (other than for net interest costs) was mandatory. It is unclear whether restrictions on federal funding to sanctuary jurisdictions will apply to mandatory and discretionary federal appropriations, or both.

Section: Local Government
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This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).