



Legislation Text

File #: Res 1193-2012, **Version:** A

Res. No. 1193-A

Resolution supporting the Corporation Counsel's decision to join an amicus brief on behalf of New York City in support of Plaintiff-Appellee in the litigation captioned *The United States of America v. The State of Arizona*, Case No. CV 10-1413-PHX (SRB), which is currently pending before the United States Supreme Court.

By Council Members Rodriguez, the Speaker (Council Member Quinn), Dromm, Brewer, Chin, Comrie, Jackson, James, Koppell, Lander, Levin, Mark-Viverito, Mendez, Palma, Recchia, Williams, Vann, Eugene, Barron, Gonzalez, Mealy, Gennaro, Van Bramer and Reyna

Whereas, In April 2010, Governor Jan Brewer of Arizona signed Senate Bill ("S.B.") 1070, legislation that requires immigrants to carry alien registration documents with them at all times and requires Arizona law enforcement agents to question the immigration status of anyone suspected to be an undocumented immigrant, into law; and

Whereas, Many observers suspect that this legislation will lead to racial profiling by law enforcement agents and fear that this draconian law will be an example that other states will follow as they seek to combat illegal immigration; and

Whereas, The Council of the City of New York ("Council") passed Resolution No. 162-A on April 29, 2010, which condemned S.B. 1070, and called on both Congress and President Obama to complete a just and humane comprehensive immigration reform bill in 2010; and

Whereas, On July 6, 2010, the United States filed a complaint in the United States District Court for the District of Arizona, in a case captioned *The United States of America v. Arizona*, Case No. CV 10-1413-PHX (SRB), challenging the constitutionality of S.B. 1070 and also requesting a preliminary injunction to enjoin Arizona from enforcing S.B. 1070; and

Whereas, On July 28, 2010, Judge Susan R. Bolton of the United States District Court for the District of

Arizona granted the motion for a preliminary injunction in part and enjoined those sections of S.B. 1070 that: (i) require an officer to make a reasonable attempt to determine the immigration status of a person stopped, detained, or arrested if there is reasonable suspicion to believe that person is in the United States illegally; (ii) criminalize the failure to apply for or carry alien registration papers; (iii) criminalize the solicitation, application for, or performance of work by an unauthorized alien; and (iv) authorize a warrantless arrest of a person where there is probable cause to believe the person committed an offense that would make the person removable from the United States; and

Whereas, The next day, the Council adopted Resolution No. 224-A, which applauded Judge Bolton's decision and, in anticipation of Arizona's appeal of Judge Bolton's decision, endorsed the Council's decision to file an amicus brief in the case; and

Whereas, The Council subsequently joined an amicus brief submitted by Santa Clara County, California, along with thirteen other municipalities including Baltimore, Berkeley, Minneapolis, New Haven, Seattle, and San Francisco, to the Ninth Circuit Court of Appeals on September 30, 2010; and

Whereas, The municipalities' brief made the following arguments: (1) the Arizona law impermissibly usurps scarce local resources that should be devoted to public safety by requiring local law enforcement to investigate individuals' immigration status; (2) the Arizona law would effectively require local officials to engage in racial profiling in violation of the U.S. Constitution; (3) the implementation of the Arizona law would irreparably damage trust between immigrant communities and local law enforcement agencies nationwide; and (4) the Arizona law conflicts with federal immigration policies that enhance public safety, such as the "U" visa law, which creates a legal pathway to citizenship for immigrant crime victims who assist local law enforcement; and

Whereas, The Ninth Circuit affirmed Judge Bolton's ruling on April 11, 2011, holding that the federal Immigration and Naturalization Act "forecloses any argument that state or local officers can enforce federal immigration law as directed by a mandatory state law"; and

Whereas, Arizona petitioned the United States Supreme Court for a writ of certiorari to review the Ninth Circuit's decision, and on December 12, 2011, the Supreme Court granted Arizona's petition; and

Whereas, The City of New York, through its Corporation Counsel, has decided to join the municipalities' amicus brief that will be filed with the Supreme Court in March 2012; and

Whereas, It is imperative that local governments remain vigilant and outspoken in their opposition to S.B. 1070, especially at this final and critical stage of the litigation; now, therefore, be it

Resolved, That the Council of the City of New York supports the Corporation Counsel's decision to join an amicus brief on behalf of New York City in support of the Plaintiff-Appellee in the litigation captioned *The United States of America v. The State of Arizona*, Case No. CV 10-1413-PHX (SRB), which is currently pending before the United States Supreme Court.

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