

CITY COUNCIL STATEMENT REGARDING SB 4 AND PENDING LITIGATION ABOUT THE BILL

Just before we gathered back here in the council chambers the City Council received legal advice regarding SB 4 in executive session.

We want to let each of you know that we have heard your concerns regarding SB 4. We have each – individually - listened, learned and gathered as much information as possible about the potential new law and potential impacts.

We also want you to know that the fact that we have not issued a public statement, until now, is not due to lack of care or concern for our residents or the fears that have been expressed. In fact, it's because we know the passion of our community that we want to ensure that we take the time to fully understand the issues and the possible outcomes of our actions.

We also want to express that whether or not SB 4 becomes law – The San Marcos Police Department stands ready to protect you, your family, and your property. We don't want anyone to allow fears of immigration enforcement to prevent them from calling the police when the need arises.

Community policing is a priority of our police department. Our police chief and each of our officers works to foster relationships with our diverse community, businesses, and organizations. The City values those relationships, and SB 4 will not deter the city from continuing to cultivate them. The San Marcos Police Department has long-established policies against racial profiling and discrimination and we will continue to be guided by those policies.

As I mentioned, we have heard concerns, not only from our own citizens, but also from other cities and police departments across the State. Some of those concerns include:

1. Police Departments across the State of Texas, and the Texas Police Chiefs' Association have expressed concern that SB 4 will damage cooperation between the police and the community they are sworn to protect and serve. If crimes go unreported due to fear of immigration enforcement by police personnel, the community will be less safe and efforts to prevent crime will be weakened. That's why we stress the importance of not allowing the fears surrounding this statute to deter you from trusting in and relying on the men and women of our police department when you need them most.
2. There are also concerns expressed in cities throughout Texas that the statute is vaguely written, and doesn't provide clear boundaries for elected officials and city employees. Public officials are left in doubt about actions that could make them personally liable for thousands of dollars in civil penalties or removal from office for merely expressing an opinion that is protected by the First Amendment. We hope the pending lawsuit will address these concerns and give our community members, staff and elected officials peace of mind and clear boundaries.

The City Council continues to weigh the issues surrounding SB 4, and as a part of our process we have obtained advice from our legal team, professional organizations and our city's legislative consultants. We believe the some of the facts they shared with us, should be shared with you.

1. Many of you are aware that there is a lawsuit pending before United States District Judge Orlando Garcia that will resolve the constitutional issues that have been raised regarding SB 4. His ruling will apply state-wide to all cities, even those that have not intervened in the case... including San Marcos.
2. The City has been very careful about public statements regarding SB 4. The way the bill is written, official criticism of the bill could, in itself, be construed as a violation of SB 4. Unless such statement is revoked before September 1st, any policy statement, whether formal or informal, by an employee or elected official that is believed to “materially limit the enforcement of immigration laws” can result in that person’s removal from office and subject them to thousands of dollars in civil penalties.
3. Cities across the state have also expressed concerns about the loss of state and federal grant funds by those communities that publicly denounce SB 4. The state and federal funds the City of San Marcos receives provide much-needed benefits for our community including H.U.D. DR funds to help us recover from the devastating floods in 2015, public safety grants to keep our community safe, along with many others.
4. Communities across Texas have also expressed concerns that public statements denouncing SB 4 or expressing unwillingness to cooperate with the U.S. immigration authorities could lead to increased ICE raids focused on individuals who are not suspected of committing any crime.

The City Council has absorbed this information; we have listened and heard the comments our community members have made. We hope this information clarifies our concerns surrounding SB 4, and our concerns for the City of San Marcos and those who live here.

In light of the information we have received from our legal counsel, the community and staff we believe the best way to move forward is to issue the following statement and direction.

The San Marcos City Council hereby expresses concerns about the effects of SB 4 on our entire community and will initiate additional community outreach and education with our police and other city departments in order to maintain and improve trust and to ensure the health, mental health, safety, and welfare of ALL residents, their families and children, students of our community.

The City Council believes that immigration is a federal government responsibility. SB 4 may impose an unfunded state mandate, and provisions in SB 4 may violate the United States Constitution. The City Council is directing the staff to monitor the pending litigation and let the decision of U.S. District Judge Orlando L. Garcia guide the city’s future actions with regard to SB 4, while continuing to uphold our City’s values of inclusion and partnership with our diverse community. The Council directs staff to explore programs that will deal with the range of issues, fears, and concerns arising from SB 4.