

Legislation Text

File #: #17-0411, Version: 1

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DATE OF MEETING: 10/02/17

SUBJECT:

DISCUSSION AND POLICY DIRECTION ON FEDERAL IMMIGRATION POLICIES, AS FOLLOWS:

- 1) RESOLUTION APPROVING AN AMENDMENT TO THE FY 2015-17 COUNCIL PRIORITY WORKPLAN TO ADD POLICY ITEM IN SUPPORT OF THE FEDERAL DEFERRED ACTION FOR CHILDREN ARRIVALS (DACA) PROGRAM AND CALLING FOR NEW BI-PARTISAN LEGISLATION TO LEGALLY ENACT THE FEDERAL DREAM ACT; AND
- 2) RESCIND PREVIOUS CITY COUNCIL RESOLUTION 2010-049 - OPPOSING STATE OF ARIZONA SB 1070 LAW

CITY MANAGER RECOMMENDATION

- 1) The City Manager has no recommendation to the City Council on whether to add support for the Federal DACA program and legislation to legally enact the Federal DREAM Act to the Council's Workplan; and
- 2) The City Manager recommends the City Council provide direction by minute action to draft a Resolution to rescind previously adopted City Council Resolution 2010-049 as no longer applicable.

COMPLIANCE STATEMENTS

FY 2015-17 Council Priority Workplan Compliance Statement

Support for Federal DACA Program is not a current adopted policy contained in the FY 2015-17 Council Priority Workplan, effective October 1, 2016. However, the *California Dream Act of 2011 (AB 120/131) Implementation* is an adopted policy item under the adopted Council Priority Workplan.

CEQA Compliance Statement

This is not a project as defined by CEQA.

BACKGROUND

Federal Deferred Action for Childhood Arrivals (DACA) Program

On September 18, 2017, on motion made by Vice Mayor Calloway, the City Council under a 3-2 vote directed the FY 2015-17 Council Priority Workplan be considered for amendment to add the following new policy item, as follows:

“Support for the Federal Deferred Action for Children Arrivals (DACA) program and to engage with congressional representatives on bipartisan efforts to legally enact the

Federal Dream Act.”

The Federal Deferred Action for Childhood Arrivals (DACA) has benefitted nearly 800,000 undocumented immigrant children and young adults in the United States since implementation began by the former Obama Administration in 2012, with 740,000 people officially registered through DACA since January 2017. The DACA program provides a variety of benefits for them including employment authorization and protection from deportation. The former Obama Administration under the DACA program enabled immigrants who came to the United States before age 16 to apply for two-year renewable permits to live and work here if they have lived in the country continuously since 2007, and were in school or have graduated from high school. Of the 800,000 participating immigrants, more than 200,000 live in California.

The Federal DACA program enables these undocumented children to obtain drivers' licenses, access higher education, develop important skill sets, find work, and serve in the military. Proponents of the DACA program believe that enabling undocumented immigrant children and young adults to live and work in local communities without fear of deportation is fundamentally consistent with the goal of fostering their development as excellent, active members of our community.

The U.S. Justice Department announced on September 5, 2017 that it is ending DACA, while also giving Congress a six-month window to possibly save the policy. Under the plan announced by U.S. Attorney General Jeff Sessions, the Trump administration will stop considering new applications for legal status, but will allow any DACA recipients with a permit set to expire before March 5, 2018, the opportunity to apply for a two-year renewal if they apply by October 5, 2017. The Department of Homeland Security will recognize DACA authorizations until they expire at the end of their two-year lifespans, which means the program runs out at different times for different recipients. The last authorization would end March 5, 2020.

DACA proponents argue that if DACA is abandoned by the Federal government without any replacement legislation 742,000 undocumented children could be deported to countries that they do not know, which is seen as fundamentally unfair and counter to creating a safe and healthy environment that allows children and young adults to feel safe and to thrive in their local communities.

DACA proponents further argue that if DACA is repealed, then nationally there are impacts, as follows:

- 87% of DACA recipients are employed by American businesses, and 6% of DACA recipients have started their own businesses, leading to higher wages and better economic outcomes; and
- the loss of at least \$3.4 billion from the U.S. gross domestic product (GDP) over the next decade which will severely impact the US and local economies; and
- the U.S. Armed Forces rely on DACA applicants to serve through Military Accessions Vital to the National Interest (MAVNI), which enlists individuals who are fluent in critical languages or possess medical professional skills essential to the defense of our nation; and

- DACA helps further domestic public safety by ensuring that participants can obtain driver's licenses and car insurance, which makes our streets and highways safer.

Federal DREAM ACT

The initial Federal DREAM Act was bipartisan legislation first introduced in Congress in 2001. Known formally as "Development, Relief and Education for Alien Minors Act" it has been reintroduced several times, including a big push in 2010 but failed to gain sufficient Congressional support. This bill aimed to create a pathway to citizenship for undocumented children who grew up in the United States. To date, no formal Federal DREAM Act legislation has been formally introduced following the Federal Justice Department's announcement to end the Federal DACA program on September 7, 2017. Many states have passed their own immigration legislation, such as the State of California DREAM ACT passed in 2011 which was divided into two bills, AB130 and AB131. AB130 was signed by Governor Brown on July 25, 2011, and AB131 was signed by Governor Brown on October 8, 2011. Both of these bills were formally supported by the San Pablo City Council, and are adopted policy items contained in the FY 2015-17 Council Priority Workplan, effective October 1, 2016.

City Manager Recommendation - Federal DACA Program/Federal DREAM Act

The City Manager has no recommendation for the City Council on this policy matter as a City Council majority voted to place on a future agenda amending the FY 2015-17 Council Priority Workplan to add this specific policy item. Staff awaits further direction by City Council majority vote to draft an appropriate Resolution for City Council consideration at the October 16, 2017 City Council meeting.

Rescinding 2010-049 - Opposing State of Arizona SB 1070 Law

On May 17, 2010, the San Pablo City Council adopted Resolution 2010-049 which opposed the SB 1070 Arizona Legislation signed by Governor Brewer on April 23, 2010 (see attachment). At that time, the Arizona's SB 1070 law was the broadest and strictest anti-illegal immigration measure and received national and international attention and extensive controversy. Additionally, City Council Resolution 2010-49 prohibited City staff from:

"...travelling to or through Arizona while on city business until SB 1070 is repealed, and further directs City staff to refrain from establishing any future or new business relationships to conduct essential city business functions with entities that are in Arizona until SB 1070 is repealed."

Subsequently, there were numerous legal challenges to Arizona SB 1070 over its constitutionality and compliance with Civil Rights law. In June 2012, the United States Supreme Court in *Arizona v. United States*, 567 U.S. 387 (2012) struck down three key provisions of the law as preempted by the federal government's authority over immigration. The Supreme Court did not strike down the requirement in SB 1070 that state officers make a reasonable attempt to determine the immigration status of any person they stopped, detained, or arrested on some other legitimate basis (sometimes called the "show your papers" requirement). This part of the case was remanded to the Ninth Circuit and there were more legal proceedings that followed.

SB 1070 Settlement Agreement Reached

In June 2016, a settlement agreement was reached between the State of Arizona and plaintiff law firms including the ACLU and MALDEF on the remaining provision in SB 1070. The State of Arizona

paid \$1.4 million of legal fees and the Arizona Attorney General's Office set new guidelines for law-enforcement officers when they encounter people who may be undocumented or violating federal immigration laws. Accordingly, it appears that SB 1070 has in effect been repealed, and the City Council's previous Resolution 2010-049 is no longer in effect. Furthermore, on March 6, 2017, the City Council adopted Resolution 2017- 045 which clearly established its current adopted policy on Federal immigration enforcement policy including not authorizing federal enforcement responsibilities for our San Pablo Police Department (see attachment).

City Manager Recommendation - Rescind Resolution 2010-049

As a result of US Supreme Court action in *Arizona v. United States*, 567 U.S. 387 (2012), and the settlement agreement reached by State of Arizona and plaintiffs in 2016, and consistent with previous language contained in Resolution 2010-049, the City Manager recommends the City Council direct by minute action a new Resolution be prepared for formally rescinding Resolution 2010-049, and that be brought forward at the next regular meeting for City Council consideration and adoption on the consent calendar.

FISCAL IMPACT

No direct fiscal impact associated with this action.

Attachments:

- Resolution 2010-049
- Resolution 2017-045