An act to add Chapter 17.23 (commencing with Section 7283.50) to Division 7 of Title 1 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL’S DIGEST

AB 1332, as amended, Bonta. Sanctuary State Contracting and Investment Act.

Existing law, subject to certain exceptions, prohibits state and local law enforcement agencies, including school police and security departments, from using money or personnel to investigate, interrogate, detain, detect, or arrest persons for immigration enforcement purposes, as specified, and, subject certain to exceptions, proscribes other activities or conduct in connection with immigration enforcement by law enforcement agencies. Existing law requires, by October 1, 2018, the Attorney General, in consultation with the appropriate stakeholders, to publish model policies limiting assistance with immigration enforcement to the fullest extent possible for use by public schools, public libraries, health facilities operated by the state or a political subdivision of the state, and courthouses, among others. Existing law requires, among
others, all public schools, health facilities operated by the state or a political subdivision of the state, and courthouses to implement the model policy, or an equivalent policy. Existing law also requires law enforcement agencies to report to the Department of Justice annually regarding transfers of persons to immigration authorities and requires the Attorney General to publish guidance, audit criteria, and training recommendations regarding state and local law enforcement databases, for purposes of limiting the availability of information for immigration enforcement, as specified.

This bill would enact the bill, the Sanctuary State Contracting and Investment Act, which would, among other things, require the Department of Justice, commencing on January 1, 2020, and quarterly thereafter, to publish a list on its internet website, based on specified criteria, of each person or entity that, in the opinion of the Department of Justice, is providing data broker, extreme vetting, or detention facilities support to any federal immigration agency, as specified. The bill would prohibit a state or local agency from entering into a new, amended, or extended contract or agreement with any person or entity that provides a federal immigration agency with any data broker, extreme vetting, or detention facilities services, as defined, appears on the list published by the Department of Justice unless the state or local agency has made a finding that no reasonable alternative exists, as specified. The bill would exempt certain contracts or agreements from these provisions related to the administration of retirement benefits and investment of moneys for retirement benefits, as specified. The bill would authorize the Department of Justice to initiate, and require the department to receive and investigate, all complaints regarding violations of these provisions, and would require the department to issue findings regarding any alleged violation and notify any affected state or local agency. By increasing the duties of local officials, this bill would impose a state-mandated local program. Additionally, this bill would make a violation of these provisions subject to civil and criminal penalties, thereby imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs
so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.


The people of the State of California do enact as follows:

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) President Trump issued an executive order on January 25, 2017, titled “Border Security and Immigration Enforcement” and created heightened fear and insecurity among many immigrant communities within this state and across the nation.

(b) The state has a moral obligation to protect its residents from persecution.

(c) Immigrants are valuable and essential members of the state.

(d) California enacted Senate Bill 54 of the 2017–18 Regular Session (Chapter 495 of the Statutes of 2017), making this state a “sanctuary state.”

(e) A registry of individuals identified by religion, national origin, or ethnicity, in a list, database, or registry, including that information, could be used by the government to persecute those individuals.

(f) President Trump has repeatedly signaled that he intends to require Muslims to register in a database.

(g) Trump advisers have invoked World War II Japanese American internment as a precedent for the proposed expansion of the registry.

(h) The United States Census Bureau turned over confidential information in 1943, including names and addresses, to help the United States government identify Japanese Americans during World War II for the purpose of relocation.

(i) President Trump has ordered a sweeping expansion of deportations and assigned unprecedented powers to the United States Immigration and Customs Enforcement (ICE) officers targeting and terrorizing immigrant communities.

(j) President Trump has issued three executive orders banning entry from certain Muslim-majority countries.

(k) ICE’s Enforcement and Removal Operations issued a request for information on August 3, 2017, to obtain commercial
subscription data services capable of providing continuous
real-time information pertaining to 500,000 identities per month
from sources such as state identification numbers, real-time jail
booking data, credit history, insurance claims, phone number
account information, wireless phone accounts, wire transfer data,
driver’s license information, vehicle registration information,
property information, payday loan information, public court
records, incarceration data, employment address data, individual
taxpayer identification number (ITIN) data, and employer records.

(I) The United States Department of Homeland Security
published a new rule on September 18, 2017, authorizing the
collection of social media information on all immigrants, including
permanent residents and naturalized citizens.

(m) On September 8, 2017, ICE arrested hundreds of immigrants
in intentionally targeted sanctuary cities.

SEC. 2. Chapter 17.23 (commencing with Section 7283.50) is
added to Division 7 of Title 1 of the Government Code, to read:

Chapter 17.23. Sanctuary State Contracting and
Investment Act

7283.50. This chapter shall be known as the Sanctuary State
Contracting and Investment Act.

7283.51. For purposes of this chapter, the following terms have
the following meanings:

(a) “Data broker” means both of the following:

(1) The collection of information, including personal information
about consumers, from a wide variety of sources for the purposes
of reselling that information to their customers, which may
include both private sector businesses and government agencies.

(2) The aggregation of data that was collected for another
purpose different from that for which it is ultimately used.

(b) “Detention facilities” means any provision by a private party
that provides transportation, identification, processing, security, maintenance, or other operational support to
a private or public facility intended or actually used for immigration
detention purposes.

(c) “Extreme vetting” means data mining, threat modeling,
predictive risk analysis, or other similar service.
(d) “Federal immigration agency” means any department, subdivision, agency, or agent of the United States government that provides immigration-related services, including, but not limited to, Immigrations and Customs Enforcement, Customs and Border Protection, Health and Human Services, Office of Refugee Resettlement, and the Department of Homeland Security.

(e) “Person or entity” means any private natural person, any corporation, institution, subsidiary, affiliate, or division under operating control of that person, any parent entity that has operating control over that person, and any subsidiary, affiliate, or division under operating control of that parent entity. “Person or entity” does not include any government entity or government employee.

(f) “State or local agency” means any state agency, department, agent, or designee with contracting authority, or any city, county, city and county, special district, or other political subdivision of the state.

7283.52. (a) (1) Commencing January 1, 2020, and on the first day of each quarter thereafter, the Department of Justice shall identify and publish a list containing each person or entity that, in the opinion of the Department of Justice, is providing data broker, extreme vetting, or detention facilities support to any federal immigration agency.

(2) For the purpose of determining whether a person or entity is providing a federal immigration agency with data broker, extreme vetting, or detention facilities support, the Department of Justice shall consider all of the following:

(A) Information published by reliable sources.

(B) Information released by public agencies, including but not limited to federal contracting websites.

(C) A certification in writing executed by the person or entity in a form acceptable to the Department of Justice that the person or entity does not provide data broker, extreme vetting, or detention facilities support to a federal immigration agency.

(D) Information submitted to the Department of Justice by any member of the public, and thereafter duly verified.

(3) The Department of Justice shall publish the list prepared pursuant to this subdivision in a conspicuous manner on the Department of Justice’s internet website.

(b) (1) Before the quarterly publication of the list described in subdivision (a), the Department of Justice shall provide written
notice to each person or entity to be included on the list of both of
the following:
(A) The forthcoming placement of the person or entity on the
list.
(B) That each person or entity may apply to the Department of
Justice to appeal the Department of Justice’s decision, and seek
to be removed from the list.
(2) In the event that a person or entity appeals the Department
of Justice’s decision, the person or entity shall do one of the
following:
(A) Certify in a writing executed by the person or entity in a
form acceptable to the Department of Justice.
(B) Obtain a court order from a court of competent jurisdiction
that the person or entity has never provided or has permanently
ceased providing data broker, extreme vetting, or detention
facilities support to any federal immigration agency.
(3) If the Department of Justice receives an acceptable
certification or a court order described in paragraph (2), then the
Department of Justice shall remove that person or entity from the
list.
7283.52.
7283.53. (a) (1) A state or local agency shall not enter into a
new, amended, or extended contract or agreement with any person
or entity that provides a federal immigration agency with any data
broker, extreme vetting, or detention facilities services, appears
on the list published by the Department of Justice pursuant to
Section 7283.52, unless the state or local agency has made a finding
that no reasonable alternative exists. The findings made shall take
all of the following into consideration:
(1) The intent and purpose of this chapter.
(2) The availability of alternative services, goods, and
equipment.
(3) Quantifiable additional costs resulting from use of available
alternatives.
(b) A state or local agency shall include notice of the prohibition
in paragraph (1) in all public works, construction bids, requests
(b) For the purpose of determining which person or entity provides a federal immigration agency with data broker, extreme vetting, or detention facilities services, the state or local agency shall consider all of the following:

1. Information published by reliable sources.
2. Information released by public agencies.
3. A declaration under the penalty of perjury executed by the person or entity, affirming that they do not provide data broker, extreme vetting, or detention facilities services to a federal immigration agency.
4. Information submitted to the state or local agency by any member of the public, and thereafter duly verified.

(c) The state or local agency shall notify any person or entity identified as a supplier of data broker, extreme vetting, or detention facilities services to a federal immigration agency of the determination. Any person or entity shall be entitled to a review of the determination by appeal to the state or local agency. Request for review shall be made within 30 days of notification, or seven days of the date of the solicitation or notice of a pending contract or purchase, of interest to the person or entity seeking review.

7283.53. (a) This chapter shall not apply to a contract or agreement by a state or local agency with any person or entity, as defined, specifically related to the administration of retirement benefits, including a retirement program or service provided to or by a state or local agency or person or entity, or a contract or agreement relating to the payment of required retirement contributions, fees, and other necessary, appropriate, and applicable retirement obligations.

(b) This chapter shall not apply to a contract or agreement by a state or local agency with any person or entity, as defined, specifically related to the investment of moneys, including necessary and appropriate fees paid to or by a state or local agency or person or entity, retirement program, or service, for purposes of investing or administering investments in support of and to provide retirement benefits, programs, or services, or the funding of required retirement contributions, fees, and other necessary, appropriate, and applicable retirement obligations.

7283.54.
7283.54. (a) The Department of Justice may initiate and shall receive and investigate all complaints regarding violations of this chapter. After investigating a complaint received pursuant to this paragraph, the department shall issue findings regarding any alleged violation. If the department finds that a violation of this chapter has occurred, the department shall, within 30 days of making the finding, notify the state or local agency of the violation.

(2) The state or local agency shall cooperate with the department in any investigation of a violation of this chapter.

(b) The state or local agency shall remedy any violation of this chapter upon becoming aware of the violation, and shall utilize all legal measures available to rescind, terminate, or void a contract awarded in violation of this chapter.

(c) On or before April 1, 2020, and annually thereafter, each state or local agency shall certify its compliance with this chapter by posting a report on its internet website. At minimum, this report shall do all of the following:

1. Detail with specificity the steps taken to ensure compliance with this chapter.
2. Disclose any issues with compliance, including any violations or potential violations of this chapter.
3. Detail actions taken to cure any deficiencies with compliance.

7283.55.

(a) A violation of this chapter constitutes an injury.
Any person may institute proceedings for injunctive relief, declaratory relief, or writ of mandate in any court of competent jurisdiction to enforce this chapter. A person who alleges they have been injured as a result of a violation of this chapter by a state or local agency may bring an action for damages against that state or local entity in any court of competent jurisdiction.

(b) If a state or local agency is found liable in a cause of action brought by an individual pursuant to subdivision (a), the state or local agency shall be liable for both of the following:

1. The damages suffered by the plaintiff, if any, as determined by the court.
2. (A) A civil penalty no greater than five thousand dollars ($5,000) per violation, as determined by the court.
(B) In determining the amount of the civil penalty, the court shall consider whether the violation was intentional or negligent, and any other prior violations of this chapter by the state or local agency that committed the violation.

(e) (b) A court shall award a plaintiff who prevails on a cause of action under subdivision (a) reasonable attorney’s fees and costs.

(d) (c) Any person bringing an action pursuant to this section who suffers an injury alleged to be the result of a violation of this chapter by a state or local agency shall first file a claim with the state or local agency pursuant to Section 905 of the Government Code or any successor statute within four years of the alleged violation.

(e) (d) Any person or entity knowingly or willingly supplying false information in violation of paragraph (3) of subdivision (b) of Section 7283.52 making a false certification, whether on behalf of themselves or an entity or a state or local agency, pursuant to subparagraph (C) of paragraph (2) of subdivision (a) of Section 7283.52 or subdivision (c) of Section 7283.55 is guilty of a misdemeanor and shall be subject to a fine of up to one thousand dollars ($1,000).

7283.56. 7283.57. The provisions of this chapter are to be construed broadly to effectuate the purposes of this chapter.

7283.57. 7283.58. The provisions of this chapter are severable. If any provision of this chapter or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIIIB of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIIIB of the California Constitution.
However, if the Commission on State Mandates determines that
this act contains costs mandated by the state, reimbursement to
local agencies and school districts for those costs shall be made
pursuant to Part 7 (commencing with Section 17500) of Division
4 of Title 2 of the Government Code.