



SEATTLE CITY COUNCIL

Legislative Summary

CB 118946

Record No.: CB 118946

Type: Ordinance (Ord)

Status: Passed

Version: 1

Ord. no: Ord 125296

In Control: City Clerk

File Created: 03/28/2017

Final Action: 04/28/2017

Title: AN ORDINANCE relating to the Office of Immigrant and Refugee Affairs; amending Ordinance 125207, which adopted the 2017 Budget, changing appropriations for the Office of Immigrant and Refugee Affairs to provide \$1,000,000 from the General Subfund in 2017 with an automatic carry-forward to 2018, solely to provide legal representation, or to provide guidance and referral services for legal representation, to indigent Seattle residents and workers in immigration proceedings; and establishing standards for the provision of legal representation and guidance and referral services for legal representation; all by a 3/4 vote of the City Council.

Date

Notes:

Filed with City Clerk:

Mayor's Signature:

Sponsors: González ,Burgess

Vetoed by Mayor:

Veto Overridden:

Veto Sustained:

Attachments:

Drafter: patrick.wigren@seattle.gov

Filing Requirements/Dept Action:

History of Legislative File

Legal Notice Published:

Yes

No

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Clerk	03/28/2017	sent for review	Council President's Office			
	Action Text: The Council Bill (CB) was sent for review. to the Council President's Office						
	Notes:						
1	Council President's Office	03/31/2017	sent for review	Gender Equity, Safe Communities, and New Americans Committee			
	Action Text: The Council Bill (CB) was sent for review. to the Gender Equity, Safe Communities, and New Americans Committee						

Notes:

- 1 Full Council 04/10/2017 referred Gender Equity, Safe Communities, and New Americans Committee
- 1 Gender Equity, Safe Communities, and New Americans Committee 04/12/2017 pass Pass
Action Text: The Committee recommends that Full Council pass the Council Bill (CB).
In Favor: 3 Chair González , Vice Chair Burgess, Member Bagshaw
Opposed: 0
- 1 Full Council 04/17/2017 passed Pass
Action Text: The Council Bill (CB) was passed by the following vote, and the President signed the Bill:
In Favor: 9 Councilmember Bagshaw, Councilmember Burgess, Councilmember González , Council President Harrell, Councilmember Herbold, Councilmember Johnson, Councilmember Juarez, Councilmember O'Brien, Councilmember Sawant
Opposed: 0
- 1 City Clerk 04/21/2017 submitted for Mayor's signature Mayor
- 1 Mayor 04/28/2017 Signed
- 1 Mayor 04/28/2017 returned City Clerk
- 1 City Clerk 04/28/2017 attested by City Clerk
Action Text: The Ordinance (Ord) was attested by City Clerk.
Notes:
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CITY OF SEATTLE

ORDINANCE 125296

COUNCIL BILL 118946

AN ORDINANCE relating to the Office of Immigrant and Refugee Affairs; amending Ordinance 125207, which adopted the 2017 Budget, changing appropriations for the Office of Immigrant and Refugee Affairs to provide \$1,000,000 from the General Subfund in 2017 with an automatic carry-forward to 2018, solely to provide legal representation, or to provide guidance and referral services for legal representation, to indigent Seattle residents and workers in immigration proceedings; and establishing standards for the provision of legal representation and guidance and referral services for legal representation; all by a 3/4 vote of the City Council.

WHEREAS, on January 25, 2017, by *Executive Order: Border Security and Immigration*

Enforcement Improvements, President Trump declared the policy of the executive branch to secure the southern border of the United States through the immediate construction of a physical wall; to detain individuals apprehended on suspicion of violating federal or state law, including federal immigration law, pending further proceedings regarding those violations; to expedite determinations of apprehended individuals' claims of eligibility to remain in the United States; to promptly remove individuals whose legal claims to remain in the United States are rejected; to cooperate fully with states and local law enforcement in enacting federal-state partnerships to enforce federal immigration priorities, as well as state monitoring and detention programs that are consistent with federal law and do not undermine federal immigration priorities; and to hire an additional 5,000 Border Patrol agents; and

WHEREAS, on January 25, 2017, by *Executive Order: Enhancing Public Safety in the Interior*

of the United States, President Trump declared the policy of the executive branch to ensure faithful execution of United States immigration laws against all removable aliens consistent with Article II, Section 3 of the United States Constitution and 5 U.S.C. 3331;

1 to make use of all available systems and resources to ensure the efficient and faithful
2 execution of the immigration laws of the United States; to ensure that jurisdictions that
3 fail to comply with applicable federal law do not receive federal funds, except as
4 mandated by law; to ensure that aliens ordered removed from the United States are
5 promptly removed; to support victims of crimes committed by removable aliens; to hire
6 an additional 10,000 immigration officers; to empower state and local law enforcement
7 agencies to perform the functions of immigration officers; to provide the Secretary of
8 Homeland Security with the authority to designate, in the Secretary's discretion and to
9 the extent consistent with law, a jurisdiction as a sanctuary jurisdiction; to ensure that
10 jurisdictions that willfully refuse to comply with 8 U.S.C. 1373 are not eligible to receive
11 federal grants, except as deemed necessary for law enforcement purposes by the Attorney
12 General or the Secretary of Homeland Security; and

13 WHEREAS, these Executive Orders expand both the scope and speed of enforcement of
14 immigration laws, namely by expanding enforcement priorities and possibly expanding
15 expedited removal, thereby increasing the need for persons in immigration proceedings to
16 have legal representation; and

17 WHEREAS, immigration law is a highly specialized area of law requiring expertise and
18 knowledge of immigration law, immigration procedures, and immigration court
19 processes; and

20 WHEREAS, there is no right to civil legal representation in immigration proceedings, which
21 results in most individuals going through immigration proceedings without the advice
22 and assistance of legal counsel; and

1 WHEREAS, the high cost of legal representation by private attorneys is compounded by the high
2 U.S. Citizenship and Immigration Services form fees, and the availability of
3 representation by non-profit organizations or pro-bono attorneys is far exceeded by the
4 number of individuals needing assistance; and

5 WHEREAS, in *Access to Counsel in Immigration Court*, the first national study of access to
6 counsel in U.S. immigration courts, published September 2016, the American
7 Immigration Council found that between 2007 and 2012 only 65 percent of non-detained
8 individuals at the immigration court in downtown Seattle were represented in court, and
9 at the immigration court in Tacoma eight percent of detained individuals were
10 represented in court; and

11 WHEREAS, the *Access to Counsel in Immigration Court* study also found that “detained
12 immigrants with counsel, when compared to detained immigrants without counsel, were
13 ten-and-a-half times more likely to succeed; released immigrants with counsel were five-
14 and-a-half times more likely to succeed; and never detained immigrants with counsel
15 were three-and-a-half times more likely to succeed”; and

16 WHEREAS, the King County Prosecuting Attorney, Dan Satterberg, stated in an opinion piece
17 published by *The Seattle Times* on March 24, 2017, “We are not safer when victims of
18 crime fear being deported if they call 911, talk to police, or come to the courthouse to get
19 protection. We are not safer when a victim of abuse thinks she must choose between
20 deportation or suffering more violence at the hands of her abuser. Unpunished violent
21 crime threatens us all,” and further elaborated, “My alarm isn’t theoretical. Last year our
22 office worked with 67 undocumented immigrants (more than 300 in the last five years) to
23 prosecute crimes ranging from murder and rape to domestic violence. Without that

1 cooperation and trust of undocumented immigrants, we wouldn't have been able to get
2 some dangerous offenders off the streets," and

3 WHEREAS, the Center for American Progress published a report on January 26, 2017 titled, *The*
4 *Effects of Sanctuary Policies on Crime and the Economy*, concluding that "[t]he data
5 support arguments made by law enforcement executives that communities are safer when
6 law enforcement agencies do not become entangled in federal immigration enforcement
7 efforts. The data also make clear that, when counties protect all of their residents, they
8 see significant economic gains," based on analysis of Federal Bureau of Investigation,
9 U.S. Census Bureau, and Centers for Disease Control and Prevention data; and

10 WHEREAS, United States District Court Judge James Robart, who was nominated to the federal
11 court by President George W. Bush in 2004, was praised by United States Senator Orrin
12 Hatch for his "representation of the disadvantaged through his work with Evergreen
13 Legal Services and the independent representation of Southeast Asian refugees" during
14 confirmation of Judge Robart's nomination, and about which Judge Robart stated in his
15 Senate testimony, "I was introduced to people who in many times felt that the legal
16 system was stacked against them or was unfair. And one of the things, I think, that my
17 time there helped accomplish was to show them that the legal system was set up for their
18 benefit and that it could be, if properly used, an opportunity for them to seek redress if
19 they had been wronged"; and

20 WHEREAS, the cities of Los Angeles, San Francisco, New York, and Chicago have recognized
21 the urgent need to provide legal assistance and have provided funding ranging from \$1.3
22 million to \$6.3 million to address this need; and

1 WHEREAS, in fiscal year 2016, the Seattle Immigration Court completed 2,979 cases, and the
2 Tacoma Immigration Court completed 1,883 cases; and

3 WHEREAS, in fiscal year 2016, the Seattle Immigration Court had 7,229 pending cases and an
4 average wait of 548 days, and the Tacoma Immigration Court had 1,208 pending cases
5 and an average wait of 102 days; and

6 WHEREAS, the Northwest Detention Center in Tacoma currently has the capacity to detain
7 1,575 individuals, a portion of whom are Seattle residents and workers; and

8 WHEREAS, on January 30, 2017, the City passed Resolution 31730, reaffirming Seattle as a
9 Welcoming City that promotes policies and programs to foster inclusion for all and
10 reaffirming the City's commitment to welcoming and supporting immigrants and
11 refugees from all nationalities, religions, and backgrounds; and

12 WHEREAS, according to a February 2, 2017, Pew Research Center report, *20 Metro Areas Are*
13 *Home to Six-in-Ten Unauthorized Immigrants in the U.S.*, Seattle is among the 20 U.S.
14 metropolitan areas with the largest populations of undocumented/unauthorized
15 immigrants; and

16 WHEREAS, more than 28,000 undocumented youth in Washington are the recipients of the
17 Deferred Action for Childhood Arrivals (DACA) program; and

18 WHEREAS, nearly one in five Seattle residents is foreign born and 129 languages are spoken in
19 the City's public schools; and

20 WHEREAS, the New American Economy (NAE) is a non-partisan coalition of over 500
21 government and business leaders who support immigration reforms that will help create
22 jobs for Americans; and

1 WHEREAS, in February 2017 The City of Seattle’s Office of Immigrant and Refugee Affairs
2 (OIRA) joined with the NAE in their release of new research on the contributions of
3 immigrants in the Seattle-Tacoma-Bellevue Metropolitan Area; and

4 WHEREAS, the NAE’s data show that in 2014, immigrants in the Seattle-Tacoma-Bellevue
5 Metropolitan Area contributed to the local, state and federal economy through payment
6 of \$1.7 billion in state and local taxes and \$4.8 billion in federal taxes resulting in an
7 estimated \$16.9 billion spending power potential; NOW, THEREFORE,

8 **BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:**

9 Section 1. Findings. The Fifth Amendment to the U.S. Constitution states: “No person
10 shall ... be deprived of life, liberty, or property, without due process of law.” The Fourteenth
11 Amendment to the U.S. Constitution further provides that “No state shall make or enforce any
12 law which shall abridge the privileges or immunities of citizens of the United States; nor shall
13 any state deprive any person of life, liberty, or property, without due process of law; nor deny to
14 any person within its jurisdiction the equal protection of the laws.”

15 The City finds that persons living or working in Seattle who are accused of immigration
16 law violations and who are unable to afford legal counsel are unable to meaningfully exercise
17 their rights to due process and equal protection. The City further finds that to ensure that indigent
18 persons charged with violations of immigration laws are fully afforded their rights to due process
19 and equal protection, under the Fifth and Fourteenth Amendments, it is necessary to provide
20 them with access to legal counsel. The City further finds that providing funds to enable indigent
21 persons to obtain legal counsel for immigration related matters is a public function, providing
22 necessary support of the poor and infirm.

1 Section 2. The Office of Immigrant and Refugee Affairs (OIRA) shall enter into one or
2 more contracts, through a competitive process, with non-profit organizations to provide: a) legal
3 representation in immigration matters, and/or b) guidance and referral services for legal
4 representation, to indigent persons living or working in Seattle in need of civil legal
5 representation for matters related to their immigration status. A non-profit organization may
6 provide either the legal representation or guidance and referral services, or both.

7 a. A determination of indigent status shall be made for all persons seeking the
8 appointment of counsel in immigration cases. The Director of the OIRA or the Director's
9 designee shall determine whether the person is indigent pursuant to the standards set forth in this
10 Section. The Director or Director's designee may contract with an individual or entity to make
11 the determination of indigent status.

12 b. For purposes of this Section 2, the following definition applies:

13 "Indigent" means a person who, at any stage of an immigration proceeding, is unable to
14 pay the anticipated cost of counsel for the matter regarding immigration status because the
15 person's available funds are insufficient for the retention of counsel.

16 Section 3. In order to pay for necessary costs and expenses incurred or to be incurred, but
17 for which insufficient appropriations were made due to causes that could not reasonably have
18 been foreseen at the time of making the 2017 Budget, the appropriation for the following item in
19 the 2017 Budget is increased from the fund shown below:

Item	Fund	Department	Budget Control Level	Amount
1.1	General Subfund (00100)	Executive	Office of Immigrant and Refugee Affairs (OIRA) (00100-X1N00)	\$1,000,000
Total				\$1,000,000

20 Section 4. The appropriations provided in Section 3 of this ordinance shall be used only
21 for legal representation, or to provide guidance and referral services for legal representation, to

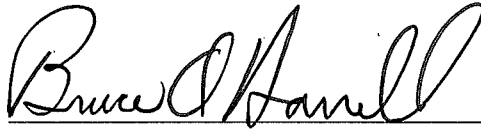
1 indigent Seattle residents and workers in immigration proceedings and for no other purpose, as
2 determined under Section 2 of this ordinance.

3 Section 5. The appropriations identified in Section 3 of this ordinance that are
4 unexpended or unencumbered in 2017 shall not lapse until December 31, 2018.

5 Section 6. The OIRA is requested to report back to the City Council's Gender Equity,
6 Safe Communities and New Americans Committee with an interim report by June 30, 2018, and
7 a final report by June 30, 2019, on the number of individuals, number of cases (specifying those
8 in Seattle and those in Tacoma), types of cases, and case outcomes this funding for legal
9 representation, and/or guidance and referral services for legal representation, to indigent Seattle
10 residents and workers in immigration proceedings was used for.

1 Section 7. This ordinance shall take effect and be in force 30 days after its approval by
2 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
3 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

4 Passed by a 3/4 vote of all the members of the City Council the 17th day of
5 April, 2017, and signed by me in open session in authentication of its
6 passage this 17th day of April, 2017.

7 

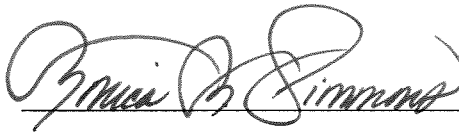
8 President _____ of the City Council

9 Approved by me this 22nd day of April, 2017.

10 

11 Edward B. Murray, Mayor

12 Filed by me this 28th day of April, 2017.

13 

14 Monica Martinez Simmons, City Clerk

15 (Seal)