

Other states eye SB 1070 proceedings

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Two years after Arizona passed a controversial immigration-enforcement law that, among other things, makes it a state crime to be in the country illegally, the U.S. Supreme Court will hear arguments Wednesday for and against the law. Several other states, including Texas, that have passed — or have attempted to pass — similar legislation are certain to keep a close eye on the proceedings.

Analysts say that a decision will probably be rendered in June, which would leave ample time for lawmakers in Texas to mull over if or how they would attempt to write legislation aimed at curbing illegal immigration before the next legislative session convenes in January. Several dozen bills — including measures making it a state crime to knowingly hire an illegal immigrant (except those hired for domestic services) and broadening the immigration-enforcement authority of local law enforcement — were filed during the 2011 session. But none passed.

The court will hear arguments on the provisions that were blocked by a federal district court after Arizona Gov. Jan Brewer signed SB 1070. They include a requirement that police officers attempt to determine the immigration status of a person detained if they suspect the person is in the country illegally; a provision that makes it a crime if an immigrant fails to carry proof of legal status; and a provision that makes it a crime for an unauthorized immigrant to work, apply for work or solicit work, which the Immigration Policy Center, a Washington, D.C.-based think tank, says includes “a gesture or a nod, indicating that a person is willing to be employed.” The final provision that will be debated allows officers to arrest immigrants without a warrant if probable cause that they have committed a deportable offense exists. The court will ultimately be tasked with determining whether federal laws pre-empt those state ordinances.

Supreme Court Justice Elena Kagan will not hear the oral arguments because of her former position as the U.S. solicitor general in President Obama’s administration. That means the remaining eight justices could split evenly and fail to reach a majority decision. The policy center explains that if that happens, the district court’s ruling would stand and no opinion would be issued. The lower courts could continue to debate similar laws, however, unless the Supreme Court agrees to hear another case and make a ruling on it.

If the court rules against Arizona’s law, a permanent injunction will probably be issued. The state of Arizona, however, may modify its law to comply with the court’s decision. If the court upholds the law and lifts the injunction, the policy center says, individuals could still file legal challenges to other parts of the law based on how they are implemented.

Some Texas lawmakers and stakeholders are not waiting on the court’s decision to make their views on the issue known. On the eve of oral arguments, several offices issued statements.

U.S. Rep. Lamar Smith, R-San Antonio, chairman of the U.S. House Judiciary Committee, issued a statement in support of the bill. He said the “Obama administration is wrong to sue the State of Arizona.”

“The Constitution gives Congress the authority and responsibility to establish a uniform immigration policy for the nation,” he said. “However, if Congress does not pre-empt states from enacting their own immigration laws, they can assist with federal enforcement and pass laws that are not inconsistent with federal law. That’s precisely what Arizona has done.”

Meanwhile, the Congressional Hispanic Caucus issued a statement admonishing the law, arguing that the bill opens up Latinos to racial profiling.

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“Since its passage, SB1070 has legalized profiling of Latinos, prevented local police from doing their jobs by turning them into immigration agents, and codified harassment of families and communities,” said U.S. Rep. Charlie Gonzalez, D-San Antonio, the caucus chairman.

He added that the law “does not represent the values on which our country was founded. Hopefully, the Supreme Court will seize the opportunity to restore justice for the well-being of all our communities by overturning SB1070.”

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