

RESOLUTION NUMBER R- 254741

Adopted on AUG 3 1981

WHEREAS, the 1,600 local governments which are members of the National Institute of Municipal Law Officers (NIMLO) and which participate in the work of NIMLO through their chief legal officers are concerned that the Civil Rights Act of 1871 as construed in recent decisions by the Supreme Court of the United States will adversely affect all local governments in ways which were not brought to the attention of the Court in recent cases and which are only now becoming apparent; and

WHEREAS, NIMLO in surveying its members has determined that claims under the Civil Rights Act, 42 U.S.C. Sec. 1983, now pending, amount to \$4.8 billion for 215 local governments, in some cases the civil rights claims exceeding the operating budgets of smaller municipalities; and

WHEREAS, a conservative estimate by the City Attorney's office reveals that there are \$1.5 million in civil rights claims now pending against The City of San Diego; and

WHEREAS, the easy availability of attorneys' fees in Sec. 1983 cases encourages the filing of frivolous claims of this magnitude; and

WHEREAS, excessive judicial intrusion caused by the strict liability concepts in recent Supreme Court civil rights decisions compounded by attorney fee availability will distort municipal decision making and restrict the independence of local governments and their ability to respond to community needs; and

WHEREAS, it is important that legitimate relief from unconstitutional activities by government at all levels be available to all; and

WHEREAS, a special NIMLO committee of municipal attorneys has considered the problem and has recommended a legislative solution, as attached as Appendix A of this resolution; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, as follows:

That the City Council of The City of San Diego urges the Committees on the Judiciary of the House and the Senate to give early and careful consideration to amendments to Sections 1983 and 1988 of Title 42 of the United States Code as proposed in Appendix A of this resolution and further urges the Committees to consider data illustrative of the civil rights litigation problem now facing local governments, which data has been supplied to the Committees by way of the special NIMLO committee's report and testimony offered by representatives of the special committee at Congressional hearings on the subject.

BE IT FURTHER RESOLVED, that the City Department of Intergovernmental Relations is instructed to inform the Congress of the United States of the City's position on the matter.

APPROVED: John W. Witt, City Attorney

By


John W. Witt
City Attorney

JWW:c:580,046,(043.1)

7/21/81

Or.Dept: City Attorney

R-82-109

APPENDIX A

(a) Every person who, under color of authority of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and civil rights laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.?

(b) In any action, suit or proceeding under the provisions of this Section, a State or a political subdivision of a State, including a municipality, county, town, borough, parish, village or school district, shall be immune from liability for damages or any other relief where the act complained of was performed in good faith, by its officials or employees, or where the officials or employees are themselves immune from liability under this section.

[Strikeouts denote deletions; underlining denotes additions.]

APPENDIX A

§ 1988. Proceedings in vindication of civil rights

The jurisdiction in civil and criminal matters conferred on the district courts by the provisions of this chapter and Title 18, for the protection of all persons in the United States in their civil rights, and for their vindication, shall be exercised and enforced in conformity with the laws of the United States, so far as such laws are suitable to carry the same into effect; but in all cases where they are not adapted to the object, or are deficient in the provisions necessary to furnish suitable remedies and punish offenses against law, the common law, as modified and changed by the constitution and statutes of the State wherein the court having jurisdiction of such civil or criminal cause is held, so far as the same is not inconsistent with the Constitution and laws of the United States, shall be extended to and govern the said courts in the trial and disposition of the cause, and, if it is of a criminal nature, in the infliction of punishment on the party found guilty. In any action or proceeding ~~to enforce a provision of sections 1981, 1982, 1983, 1985, and 1986 of this title, title IX of Public Law 92 318,~~ or in any civil action or proceeding by or on behalf of the United States of America to enforce, or charging a violation of, a provision of the United States Internal Revenue Code, ~~or by or on behalf of the United States of America, to enforce, or charging a violation of~~ title VI of the Civil Rights Act of 1964, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.

[Strikeouts denote deletions; underlining denotes additions.]

AUG 3 1981

Passed and adopted by the Council of The City of San Diego on
by the following vote:

Councilmen	Yeas	Nays	Not Present	Ineligible
Bill Mitchell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bill Cleator	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Susan Golding	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Leon L. Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fred Schnaubelt	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mike Gotch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dick Murphy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lucy Killea	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Pete Wilson	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

PETE WILSON

Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

(Seal)

By June A. Blackwell, Deputy.

Office of the City Clerk, San Diego, California

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