SB 54, the “Sanctuary State” bill, was drastically amended yesterday to address Cal Chiefs’ concerns. It took over nine months and countless hours of work to finally force these concessions from the author and the bill’s sponsors. Due to the controversial nature of this bill, we’ve decided to provide a detailed breakdown of what led to those changes, the policy concerns the amendments address, and how these changes altered Cal Chiefs’ position.

Senate Bill 54, authored by the leader of the Senate, Kevin de Leon, was introduced the first day of this legislative session, December 5, 2016 as a dramatic reaction to the election of President Donald Trump. It would have made massive changes to local law enforcement’s ability to work with our federal partners. Quickly deemed the “Sanctuary State” bill by the media, as introduced, SB 54 would have prohibited us from assisting in investigations with ICE or from responding to their information requests, prevented jails from allowing ICE inside, and created additional hurdles. It also contained and urgency clause, which required a 2/3rds vote of the Legislature but meant the bill would be effective immediately. Cal Chiefs immediately flagged this bill as being hostile to our public safety goals. However, this was not an ordinary bill, and it was not being carried under ordinary circumstances, and not by an ordinary author.

Kevin de Leon as the President pro tempore of the Senate ranks with the Speaker of the Assembly and the Governor as one of the top three most influential politicians in the Capitol. Legislation can live and die by his hand. Understanding the power of the author’s office, Cal Chiefs withheld from immediately issuing an oppose letter, and instead set a meeting to discuss our concerns.

From that initial meeting, it became clear that this was an emotional and personal issue for the supporters and legislators involved. Normal concerns we raised were met with much more resistance and push-back. We offered amendments that gutted the bill and instead clarified the state’s role in public safety is not immigration enforcement, but those amendments were flatly rejected. Ultimately, we had to make it clear that should these concerns not be addressed, Cal Chiefs would be forced to put our full weight behind opposing the bill.

Through the end of winter and into the spring, Cal Chiefs continually met with de Leon’s office and our President, Chief Medrano, met directly with the Senator to highlight our concerns. However, after those discussions failed to produce the results we needed, Cal Chiefs issued a lengthy and detailed opposition letter while the bill was still in the Senate. We then actively began lobbying efforts to stop the bill. As a result of our opposition, the bill stalled on the Senate Floor for almost a month and de Leon was forced to take a series of amendments that included: a task force exemption (although an imperfect one), expanded ability to notify ICE, and removal of the urgency clause. Even with the Senate amendments, we remained opposed, but with those changes SB 54 passed the Senate 27-12. Every single Democratic Senator voted for the measure, including our most staunch allies, and it became clear there was little hope in defeating this bill. Understanding this fact, and after discussing the matter with our allies and Board of Directors, Cal Chiefs took the lead on crafting a set of balanced amendments that would ensure SB 54 ultimately would not prove disastrous for public safety.

The amendments we developed focused on several main objectives: allowing ICE access to jails, expanding our ability to communicate with ICE, eliminating database sharing restrictions,
solidifying the task force amendment and reducing any administrative reporting requirement. Before offering any changes, we made sure to run them by our law enforcement partners, including Sheriffs, CHP, PORAC, CPOA, and others. Furthermore, we made sure the Governor’s Office understood what changes we were asking for, and why. It was in those talks with the Governor’s Office, where it became clear he was going to face tremendous political pressure to sign SB 54, that we finally decided to make the formal offer to de Leon. This was not an easy decision for our leadership to make, who understood exactly how most of our membership felt about the issue. In advocacy, it is surely easier to remain opposed rather than try to fix a bad bill, and it would have been easier to explain that position to our members, but we also felt an obligation to not let this bill become another piece of legislation in the wake of AB 109, Prop. 47, and Prop. 57 to make it harder for law enforcement to protect their communities.

If SB 54 was going to become law, amending the worst provisions of it became imperative. After making our offer, de Leon gave us a counter, but that created new problems, and we let his office know we could not accept a deal. At that point, we focused on conveying our concerns directly to the Governor’s Office. In early August, Governor Brown appeared on Meet the Press and openly criticized SB 54, stating that we should not be protecting undocumented immigrants engaged in criminal activity. However, it was also clear that Governor Brown was interested in working through these concerns, not vetoing the bill. Over the next month, we focused on explaining to the Governor’s Office why our amendments accomplished that common goal. In the last weeks of negotiations between the Governor and de Leon, because of our work over the year, our voice was present even during the closed-door meetings.

Finally, yesterday, the compromise was reached.

The amendments to SB 54 taken yesterday address our major concerns. ICE will have access to jails and the ability to interrogate witnesses, the task force exemption is broad and clear, there is no restriction on providing ICE access to databases and the reporting requirement was drastically narrowed. The amendments also expand the list of individuals we can communicate with ICE freely about from only serious/violent felons, to all those crimes listed in the TRUST Act (a 2013 law dealing with ICE detainers). This new list includes everything from battery, use of threats, sexual abuse, sexual exploitation, crimes endangering children, burglary, robbery, larceny, fraud, forgery, embezzlement felony DUI, obstruction of justice and bribery, escape, unlawful possession or use of a weapon, firearm, explosive device or WMDS, felony possession of narcotics, gang-related offense, crimes resulting in death or GBI, conspiracy, false imprisonment, slavery, human trafficking Hate crime, torture, mayhem, stalking, elder abuse, kidnapping, PC 290 and Arson registration, and others. With all that we got, the bill does include compromises on the other end. Most notably, the TRUST Act was given a 15-year washout period – meaning individuals would have to been convicted (or in some cases arrested) for one of the enumerated crimes within that period. Still, as opposed to what we were facing, that concession is minor – and if someone manages to stay clear of trouble for 15 years they likely are not a true threat. Overall, these amendments represent the best we could have hoped for.

Cal Chiefs was asked by numerous parties involved if we could support the amended version of SB 54, but that was too much an ask of our leadership. Instead, because of the significant changes to the bill that directly reflected our amendments and the concerns we raised in this
debate, Cal Chiefs has agreed to remove our opposition and take a neutral position. It is unclear as of now what other law enforcement association will do, although at this point, the bill will undoubtedly become law regardless of any lingering opposition. However, this law will not nearly have the consequential impact it would have without our engagement. If you have any questions regarding SB 54, or the details above, please reach out to Jonathan Feldman at jfeldman@californiapolicchiefs.org, or call 916-822-8900.