



# TOWN OF APPLE VALLEY

## TOWN COUNCIL STAFF REPORT

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**To:** Honorable Mayor and Town Council      **Date:** May 22, 2018

**From:** Douglas B. Robertson, Town Manager      **Item No:** 6

**Subject:** ADOPT RESOLUTION NO. 2018-19, A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, REGARDING THE POTENTIAL CONFLICT BETWEEN THE “CALIFORNIA VALUES ACT”, ENACTED THROUGH THE PASSAGE OF SENATE BILL 54, AND THE SOVEREIGNTY PROVISION OF THE UNITED STATES CONSTITUTION

**T.M. Approval:** \_\_\_\_\_      **Budgeted Item:**  Yes  No  N/A

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### RECOMMENDED ACTION:

Based on all factors, including the limited direct impact to the Town due to the actions limited being provided by SBSB potential and by the potential for incurring unnecessary costs at this time; and based on a summary of discussions in closed session, staff recommends adoption of a resolution urging the State and Federal Government to find cooperative solutions to the problem of illegal immigration that do not impact the ability of local law enforcement to interact with federal authorities. A draft resolution is attached that may be modified as necessary or desired.

- A. Adopt Resolution No. 2018-19; and
- B. Direct staff to mail a copy of the resolution to the appropriate Federal, State, and County authorities.

### SUMMARY:

The Town Council has several options available to it:

1. Take no action, deeming the public input and discussion satisfactory;
2. Send letters to State and Federal officials expressing a position regarding SB 54;
3. Take an official position by motion or resolution;
4. Authorize the filing of an amicus brief in support of either the State or DOJ, however it should be noted the deadlines to file amicus briefs have passed and we would have to seek court permission to do so, or;
5. Authorize filing or joining a lawsuit challenging SB 54, although there may be legal limitations based on being a general law city that contracts for police services.

## **BACKGROUND:**

On January 1, 2018, SB 54 became effective, codifying section 7284 *et seq* of the Government Code, as adopted by the State Legislature and signed by the Governor. SB 54 made several amendments to the Government Code, including the addition of the "California Values Act." Together, the Legislature's statutory changes are intended to limit the involvement of state and local law enforcement agencies in federal immigration enforcement efforts. Among other things, the statute specifically prohibits the following activities:

- Inquiring into an individual's immigration status
- Detaining an individual on the basis of a " hold" request
- Providing information about an individual's release date, unless the information is publicly available or is in response to a notification request made in accordance with Section 7282. 52
- Providing personal information about an individual, such as a home or work address, unless the information is publicly available
- Transferring an individual to immigration authorities, unless authorized by a judge or in accordance with Section 7282.5
- Making or participating in an arrest based on a civil immigration warrant; Participating in certain border patrol activities, including warrantless searches
- Performing the functions of an immigration officer
- Placing peace officers under the supervision of federal agencies
- Employing peace officers who have been deputized as special federal officers or special federal deputies for purposes of immigration enforcement
- Using immigration authorities as interpreters for law enforcement matters relating to individuals in custody
- Contracting with the federal government to house federal detainees
- Providing office space for exclusive use by immigration agents

However, a California law enforcement agency is not precluded from:

- Responding to a request for information about a specific person' s criminal history, as accessed through the California Law Enforcement Telecommunications System (CLETS)
- Participation in joint law enforcement task forces with the federal government if the following criteria are satisfied:
  - I. The task force's primary purpose is not immigration enforcement;
  - II. The enforcement or investigative duties are primarily related to a violation that is unrelated to immigration enforcement;
  - III. Participation in the task force does not violate a local law or policy.

All law enforcement services including those prohibited upon the passage of SB 54 are provided to the Town of Apple Valley by the San Bernardino County Sheriff's Department ("SBSD"). All law enforcement services and policies are implemented on a countywide basis at the direction of the County Sheriff and, as a result, the Town of Apple Valley cannot adopt different policies and procedures for law enforcement activities. According to the Sheriff, SBSB has provided jail inmate information, including release dates, to the public via the jail's website since before SB 54 took effect, and continues to do so. Making that information available publicly does not violate SB 54 or other laws.

On March 6, 2018, the United States of America filed a complaint asking the court to invalidate and prevent enforcement of certain provisions of California law, including the provisions of the "California Values Act." The complaint generally alleges that these California laws violate the Supremacy Clause of the United States Constitution.

Since March, several communities have taken steps to express support for or opposition to the legislation. These actions include two separate lawsuits challenging SB 54 in state and federal court by Huntington Beach and the U. S. Department of Justice ("DOJ"), respectively, and another lawsuit filed by the ACLU and others to challenge the City of Los Alamitos' decision to "exempt" itself from SB 54. The Town of Apple Valley is a General Law city and is effectively limited to taking actions that express support for, or opposition to, the new law. While immigration enforcement affects all Californians, the direct impact of the new law on the Town of Apple Valley is negligible. It should be noted that the California Attorney General, in a recent speech, implied that his office may bring lawsuits against those cities or counties that "opt out" of compliance with SB 54.

**FISCAL IMPACT:**

N/A

**ATTACHMENT:**

Resolution No. 2018-19

## RESOLUTION NO. 2018-19

### A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF APPLE VALLEY, CALIFORNIA, REGARDING THE POTENTIAL CONFLICT BETWEEN THE “CALIFORNIA VALUES ACT”, ENACTED THROUGH THE PASSAGE OF SENATE BILL 54, AND THE SOVEREIGNTY PROVISION OF THE UNITED STATES CONSTITUTION

**WHEREAS**, on January 1, 2018, as adopted by the legislature and signed by the Governor, SB 54 became effective, codified in Government Code section 7284 *et seq*; and

**WHEREAS**, upon implementation, SB 54 also known as the “California Values Act”, has lessened the ability of local law enforcement to cooperate with federal authorities regarding immigration status; and

**WHEREAS**, implementation of SB 54 has caused unintended negative consequences for immigrants, including potentially unsafe recapture by the federal government upon release from local authorities; and

**WHEREAS**, on March 6, 2018 the United States of America filed a complaint against the State of California seeking to invalidate and prevent enforcement of the “California Values Act” due to conflict with the Supremacy Clause of the United States Constitution; and

**WHEREAS**, however well intentioned, the passage of the “California Values Act” and the federal lawsuit are causing division among the people of California and the people of Apple Valley; and

**WHEREAS**, the Town Council had carefully researched its options in regard to this growing controversy; and

**WHEREAS**, there is no provision for a General Law municipality to “opt out” of state law and only limited ability for a Charter City, which the Town of Apple Valley is not; and

**WHEREAS**, the federal government does not need legal or financial assistance in its attempt to enforce its sovereignty in the area of immigration.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Council of the Town of Apple Valley as follows:

**Section 1:** The Apple Valley Town Council urges the state and federal government to find cooperative solutions to the problem of illegal immigration that do not impact the ability of local law enforcement to interact with federal authorities.

**Section 2:** The Apple Valley Town Council urges the County Sheriff do everything in his ability to cooperate with federal and state authorities in order to ensure the safety and security of the residents of Apple Valley.

**APPROVED** and **ADOPTED** by the Town Council of the Town of Apple Valley this 22nd day of May, 2018.

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Art Bishop, Mayor

**ATTEST:**

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La Vonda M-Pearson, Town Clerk