



Legislation Text

File #: 2021-0611, Version: 1

SPECIAL SESSION - MASK MANDATE:

A RESOLUTION TO REQUEST THAT GOVERNOR HUTCHINSON INCLUDE WITHIN HIS CALL FOR A SPECIAL SESSION THE HISTORIC AND NECESSARY AUTHORITY OF LOCAL GOVERNMENTS TO PROTECT THE HEALTH AND SAFETY OF THEIR CITIZENS THROUGH AN AMENDMENT OF ACT 1002 OF 2021

WHEREAS, Governor Hutchinson issued his Executive Order To Declare A Statewide Public Health Emergency For The Purpose Of Meeting And Mitigating The Impact Of Covid-19 On The Healthcare System Of Arkansas on July 29, 2021; and

WHEREAS, the statutory primary purpose of the City of Fayetteville, as all other Arkansas cities, is “to provide for the safety (and) preserve the health... of such (cities) and the inhabitants thereof“(A.C.A. §14-55-102); and

WHEREAS, the first power granted to Arkansas cities by the Legislature in the First Act of 1875 is: “Cities and incorporated town shall have the power to: (1) Prevent injury... within the limits of the municipal corporation from anything dangerous, offensive or unhealthy...” A.C.A. §14-54-103; and

WHEREAS, those duties cannot be accomplished, nor the powers utilized by cities to protect our citizens in this declared public health emergency because of Act 1002’s ill-advised prohibition against cities to require face masks for unvaccinated persons; and

WHEREAS, until a far larger percentage of Arkansans have been fully vaccinated, face masks are again being recommended for all public indoor activities in areas of high contagion such as Arkansas by the CDC, the Arkansas Department of Health and the Fayetteville City Board of Health.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1: That the City Council of the City of Fayetteville, Arkansas hereby determines that is in the best interest of the citizens of Fayetteville and every other city in Arkansas to have the historic and necessary authority to protect the life and health of its citizens returned to the local government.

Section 2: That the City Council of the City of Fayetteville, Arkansas hereby requests that Governor Hutchinson include in any call for a Special Session of the Legislature and its reconsideration of Act 1002 of 2021, the removal of restrictions upon the local government’s ability to address the ongoing and increasingly dangerous Covid-19 Delta variant pandemic including allowance of face mask mandates for persons on city property, in city buildings and in public indoor areas within the city limits.

Legistar ID No.: 2021-0611

AGENDA REQUEST FORM


FOR: Council Meeting of August 3, 2021

FROM: Mayor Lioneld Jordan

ORDINANCE OR RESOLUTION TITLE AND SUBJECT:

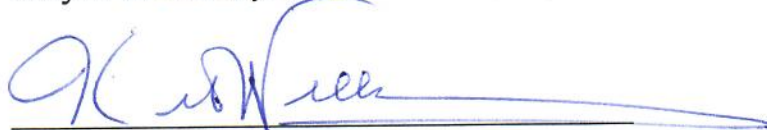
A RESOLUTION TO REQUEST THAT GOVERNOR HUTCHINSON INCLUDE WITHIN HIS CALL FOR A SPECIAL SESSION THE HISTORIC AND NECESSARY AUTHORITY OF LOCAL GOVERNMENTS TO PROTECT THE HEALTH AND SAFETY OF THEIR CITIZENS THROUGH AN AMENDMENT OF ACT 1002 OF 2021

APPROVED FOR AGENDA:



Mayor Lioneld Jordan

8/2/21
Date



City Attorney Kit Williams

August 2, 2021
Date



OFFICE OF THE
CITY ATTORNEY

DEPARTMENTAL CORRESPONDENCE



Kit Williams
City Attorney

Blake Pennington
Assistant City Attorney

Jodi Batker
Paralegal

TO: **Mayor Jordan**
City Council

CC: **Susan Norton**, Chief of Staff
Kara Paxton, City Clerk/Treasurer

FROM: **Kit Williams**, City Attorney

A handwritten signature in blue ink, appearing to read "Kit Williams", with a long horizontal flourish extending to the right.

DATE: **July 30, 2021**

RE: **Governor Hutchinson's July 29th Proclamation of a Statewide Public Health Emergency and Fayetteville's request for the return of cities' rights to mandate face masks**

Mayor Jordan asked me today to prepare a Resolution for the City Council's consideration to request that Governor Hutchinson include within his proposed call for a Special Session not only the absolutely vital and needed legal ability of Arkansas School Districts to require masks for their students, but also to return the historic power of cities to preserve and protect the health and safety of its citizens by taking necessary contagion-reducing measures such as mask mandates if needed in a local community as determined by the local governing body.

Attached please find Governor Hutchinson's Proclamation of July 29, 2021 and my draft proposed Resolution which can be revised after Mayor Jordan's review and analysis on Monday, August 2nd. I believe a Resolution of some form will be presented to the City Council as a walk-on by Mayor Jordan for the August 3rd City Council Meeting. Therefore, I wanted to give the City Council as much notice as possible.

STATE OF ARKANSAS
EXECUTIVE DEPARTMENT

PROCLAMATION

EO 21-14

TO ALL TO WHOM THESE PRESENTS COME – GREETINGS:

EXECUTIVE ORDER TO DECLARE A STATEWIDE PUBLIC HEALTH EMERGENCY FOR THE PURPOSE OF MEETING AND MITIGATING THE IMPACT OF COVID-19 ON THE HEALTHCARE SYSTEM OF ARKANSAS.

WHEREAS: The Delta Variant of COVID-19 has infected thousands of Arkansans in recent months. Infections and hospitalizations continue to rise at an alarming rate, placing the accessibility to healthcare facilities for all Arkansans at risk; and

WHEREAS: A public health emergency was declared on March 11, 2020, to meet and mitigate the effects of COVID-19 in Arkansas. The emergency was renewed several times until its final expiration on May 30, 2021; and

WHEREAS: At the expiration of the public health emergency on May 30, 2021, there were 1,938 active cases of COVID-19 in Arkansas and 194 hospitalizations in Arkansas due to COVID-19. On July 27, 2021, there were 15,491 active cases of COVID-19 in Arkansas and 1,025 hospitalizations in Arkansas due to COVID-19; and

WHEREAS: In the two months since the expiration of the public health emergency, hospitalizations have climbed near the record of hospitalizations ever recorded in the state due to COVID-19. On January 13, 2021, hospitalizations reached 1,362. It is expected that hospitalizations will match or exceed that number in the coming weeks; and

WHEREAS: The rapid rise in cases and resulting hospitalizations is placing an unsustainable strain on Arkansas hospitals already struggling to staff their facilities; and

WHEREAS: Emergency action is warranted to utilize all available resources from the federal government and the Emergency Services Act of 1973 to provide hospitals with adequate staffing to meet the healthcare needs of all Arkansans during this surge in COVID-19 cases.

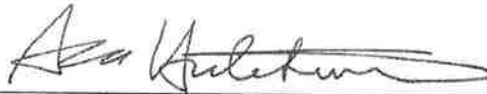
NOW, THEREFORE, I, Asa Hutchinson, Governor of the State of Arkansas, acting under the authority vested in me by Ark. Code Ann. §§ 12-75-101, *et seq.* hereby declare a statewide state of disaster emergency related to public health, resulting from the catastrophic statewide impact of the Delta Variant of COVID-19 on the healthcare system of Arkansas. This emergency shall expire sixty (60) days from the signing of this order, unless the emergency is terminated at an earlier date, or it is approved for renewal by the Arkansas Legislative Council.

FURTHERMORE, I order the following:

- (1) The Arkansas Division of Emergency Management is hereby ordered to seek necessary staffing assistance for Arkansas healthcare facilities and hospitals through available avenues to include the Emergency Management Assistance Compact.
- (2) Pursuant to Ark. Code Ann. § 12-75-114(e)(1), the Arkansas Department of Health is ordered to identify any regulatory statutes,

orders, or rules related to licensure of healthcare professionals that may be preventing, hindering, or delaying necessary action for coping with this emergency. Once identified, those statutes, orders, or rules, shall be reported to the Governor and posted on the Arkansas Department of Health website, and they shall be suspended for the duration of this emergency.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Arkansas to be affixed this 29th day of July, in the year of our Lord 2021.



Asa Hutchinson, Governor



Attest



John Thurston, Secretary of State