



Staff Report

TO: City Council
FROM: John Pinkney, City Attorney
DATE December 7, 2021
SUBJECT: Resolution of the City Council of the City of Beaumont Opposing the Federal COVID-19 Vaccine Mandate

Background and Analysis:

At the November 16, 2021, City Council Meeting, Mayor Lara requested a future agenda item wherein the City Council would consider rejection of the federal Covid-19 vaccine mandate. This item is submitted to the City Council in furtherance of Mayor Lara's request.

By way of background related to the federal vaccine mandate, on September 9, 2021, President Joe Biden issued an executive order directing the Department of Labor to require all businesses with 100 or more employees ensure their workers are either vaccinated or tested once a week.

On November 4, 2021, the Department of Labor's Occupational Health and Safety Administration (OSHA) adopted emergency temporary standards (ETS) requiring all employers with 100 or more employees to enforce mandatory vaccination requirements by January 4, 2022 or face fines of up to \$13,653 per violation and up to \$136,532 for each willful violation if employers fail to enforce these requirements.¹

On November 6, 2021, the Fifth Circuit Court of Appeals issued a preliminary injunction restraining OSHA from enforcing its ETS. As of the drafting of this staff report, 32 states

¹ In states such as California, with OSHA-approved occupational safety and health programs ("State Plans"), state and local government employers with 100 or more employees will be covered by State occupational safety and health requirements, and Cal/OSHA must adopt requirements for state and local employers that are at least as effective as federal OSHA's requirements in this ETS. State Plans may also choose to adopt more protective occupational safety and health requirements (29 USC 667(c)).

have now filed lawsuits to oppose the ETS and on November 17, 2021, these cases were assigned to the Sixth Circuit Court of Appeals.

Due to the current stay on enforcement of the order, qualifying employers are not currently mandated to adopt these requirements pending the outcome of the Sixth Circuit's review.

The City of Beaumont has 180 employees. If the OSHA emergency temporary standards survive these legal challenges and Cal/OSHA adopts a State Plan applicable to the City's employees, it would require the City to enforce mandatory vaccination of its employees.

Fiscal Impact:

The estimated cost to prepare this staff report is \$1,000.

Recommended Action:

Reject the draft resolution,
Or adopt the draft resolution by waiving the full reading and adopting by title only,
"A Resolution of the City Council of the City of Beaumont, California, Supporting the Position Taken by Numerous States that Have Challenged the Emergency Temporary Standards Adopted by the Occupational Health and Safety Administration (OSHA) Imposing Civil Penalties on Certain Employers Who Do Not Enforce Mandatory Vaccination Requirements by January 4, 2022."

Attachments:

A. Resolution