



BOARD OF COMMISSIONERS OF THE COUNTY OF ALLEN  
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We would now like to address the draft ordinance we were provided for review and passage by several Allen County residents. The purpose of the proposed ordinance is to prohibit Allen County employers from requiring that employees become vaccinated (against COVID-19 we assume) as a condition of employment or any of the benefits of employment.

We are sensitive to and very aware of the divide in our community where COVID vaccination and prevention measures are concerned. We hear from public health experts and members of the public who believe that preventive measures, including and especially the vaccines, are necessary for us to get out of pandemic, and we hear from members of the public who believe the opposite. We do not believe that we have authority to legislate in this area and we have, to this point, not legislated on matters of public health during this pandemic. Others, at the state and national level, *have* legislated and we understand that the federal government may soon be issuing rules through the Department of Labor and the Occupational Safety and Health Administration requiring many employers to mandate vaccines or routine COVID testing for their employees. Like you, we are waiting to see whether this mandate actually makes its way out of Washington DC and whether it actually becomes effective, as there will undoubtedly be legal challenges that may delay or even scuttle the federal government's action.

Please be clear that we believe the President's directive to the Department of Labor to draft a vaccine mandate rule *is overreach and goes too far*. We do not believe that our federal, state, or local government should force COVID vaccines on individuals or businesses. We believe that people should be able to make decisions on these vaccines based on their own personal circumstances, conscience, religious beliefs, and health provider advice. Likewise, we believe that businesses should be free to make decisions that will allow them to reach their goals and mission, and to stay open and grow, without undue government intrusion.

On the matter of the proposed ordinance, we have been informed by our attorneys that the Home Rule Act does not provide the authority necessary to act in the fashion set out in the proposed ordinance.

The Home Rule Act specifically denies local government “the power to prescribe the law governing civil actions between private persons.” This is exactly what Sections 2 and 3 of the proposed ordinance do, and it is beyond our authority as set forth by state law. Our attorneys tell us section 1 is a closer question. Section 1 of the proposed ordinance would make it impermissible for an employer to require that employees obtain vaccinations in order to receive the benefits of employment, among other things.

In Indiana, authority to act with respect to epidemics, vaccinations, and disease controls and restrictions is given to the Governor, State Department of Health, and, in some instances, to their subordinate local county health officers. We recognize that home rule units of government like the Board of Commissioners have the power to act beyond the legislative pronouncements in certain instances. In the health emergency and epidemic control area, the General Assembly, by passing Senate Bill 5 this year, has expressly limited boards of commissioners to approving or disproving the orders of a local health officer during a declared emergency if such an order deviates from a governor-issued executive order in various ways. We believe the Legislature would not have passed Senate Bill 5 if it thought the Board of Commissioners already had that power under its Home Rule authority. Thus, effectively saying the Board of Commissioners has no authority in the epidemic health area.

For these reasons we believe the Board of Commissioners lacks authority to enact the proposed ordinance and we will take no further action on it.