



METROPOLITAN COUNCIL

November 1, 2021

John Cooper, Mayor
Metropolitan Government of Nashville and Davidson County
Historic Courthouse
1 Public Square
Nashville, Tennessee 37201

Re: State of Tennessee General Assembly Special Session

Dear Mayor Cooper:

We write to you about the alarming slate of legislation passed by the Tennessee General Assembly in the early hours of Saturday, October 30, 2021. While we are unfortunately accustomed to attacks on Nashville's ability to govern itself, these new laws are unprecedented and dangerous.

As the largest city in the State of Tennessee with the most diverse population in the State, Nashville has unique opportunities and challenges that we are in the best position to address without interference from the State. Forcing a new set of overreaching rules and mandates on Nashville is unfair and perhaps unlawful.

We have a request that requires immediate attention, and a strong recommendation for you.

First, the request. The General Assembly passed this new set of laws in just a few days. The media reported many repeated and lengthy behind-closed-doors meetings. We already know there are many alarming aspects to the new laws. Based on our initial review, it looks like the new rules include:

- A prohibition on Metro or MNPS requiring employees to receive a vaccine.
- A prohibition on requiring a private business or a school to require proof of vaccine in order to access facilities or services.
- A prohibition on Metro requiring masks to enter Metro facilities.
- A prohibition on MNPS requiring masks to enter its facilities (except under certain limited extreme circumstances that are very unlikely to ever happen).
- A prohibition on entertainment venues requiring proof of vaccine to gain admission. This may hurt many of our city's venues, and their musicians and

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employees, who are all still trying to recover from the COVID economic slowdown.

- The State commissioner of health will now have the sole power to quarantine a person due to COVID, to close a private business or a school due to COVID, or to restrict the operation of a private business due to COVID.
 - Be sure to read this point a few times and let it sink in. The state will have the SOLE power to close a school due to COVID. The state will have the SOLE power to limit the operations of a business due to COVID.
- The Governor now will have the exclusive power to issue executive orders related to a pandemic. The new law says that "The commissioner of health and a local health department, board, entity, county mayor, or official shall not supersede, vacate, contradict, or refuse to comply with such executive order or directive of the governor [related to a pandemic]." Presumably, this means that all of your executive orders regarding COVID become void under the new laws.
- There is a new "anti-commandeering" rule that says no funds may be spent on any federal rule or law that mandates a COVID countermeasure. This undermines Metro's robust COVID response.
- The discretion and authority of the duly elected Davidson County District Attorney is limited under the new laws. The law allows a replacement District Attorney to be appointed from outside the county in some circumstances.
- Under the new laws, Nashville has lost the ability to choose the person who will lead our Health Department.

Despite having this preliminary information, it is difficult to determine whether media reports and initial impressions are complete or accurate.

We request that your office and Metro Legal prepare a full report to the Metro Council that describes all of the ways these new laws limit any of Metro's discretion or authority. By "Metro", we mean any component of the Metro government, including your office, the Metro Council, our schools, MDHA, the Health Department, and the District Attorney's office.

Please interpret this request expansively. The residents of Davidson County deserve a thorough discussion of the clear ramifications of these new laws as well as any gray areas where the State and the city may interpret language differently. We would like to receive this report from you no later than fourteen (14) days after the date of this letter.

Second, we strongly recommend that Nashville explore all of its options in the face of these new laws. In some instances, perhaps there are reasonable work arounds that will allow us to keep protecting our residents. In other instances, litigation may be needed to clarify the city's authority.

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It is clear that there was an intent with these new laws to limit Metro's authority. We urge you to develop a comprehensive plan in response, including planning for any necessary legal action.

We look forward to hearing from you soon.

Bob Mendes, At Large
Sharon Hurt, At Large
Burkley Allen, At Large
Zulfat Suara, At Large
Jonathan Hall, District 1
Kyonzte Toombs, District 2
Jennifer Gamble, District 3
Sean Parker, District 5
Emily Benedict, District 7
Nancy VanReece, District 8
Tonya Hancock, District 9
Erin Evans, District 12
Russ Bradford, District 13
Jeff Syracuse, District 15
Ginny Welsch, District 16
Colby Sledge, District 17
Tom Cash, District 18
Brandon Taylor, District 21
Robert Nash, District 27
Delishia Porterfield, District 29
Sandra Sepulveda, District 30
John Rutherford, District 31
Joy Styles, District 32
Angie Henderson, District 34

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