

Jerome Delvin
District 1
Shon Small
District 2
Will McKay
District 3

**Board of County Commissioners
BENTON COUNTY**

Jerrod MacPherson
County Administrator

Matt Rasmussen
Deputy County Administrator



**AGENDA
BOARD OF BENTON COUNTY COMMISSIONERS
Special Board Meeting
Thursday, January 14, 2021**

Notice: Meeting provided by Live-Broadcast and Telephonically to the public *with no public comment allowed as follows:*

Live-Broadcast @ link below:

<https://www.co.benton.wa.us/agendalist.aspx?categoryid=1181>

Telephonically by:

Dial: 509 222-2310

Meeting ID: 4961#

Attendee Access Code: 4961#

3:00 PM Discussion & Possible Decision on a Resolution in Response to the COVID-19 Pandemic and Requesting Statutory Language Setting Limits on State of Emergency Duration Without Legislative Approval ~ Commissioners

COMMISSIONERS' AGENDA ACTION SHEET

Meeting Date:	January 14, 2021	
Subject:	Discussion & Possible Decision of Resolution in response to COVID-19 pandemic	
Presenter:	Commissioner Will McKay	
Prepared By:	Matt Rasmussen	
Reviewed By:	Jerrold MacPherson	
PA Review, Approval to Form:	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> N/A <i>(If no, include reasoning for no approval)</i>	
Type of Agenda Item:	Type of Action Needed: <i>(Multiple boxes can be checked, if necessary)</i>	
<input type="checkbox"/> Consent Agenda	<input type="checkbox"/> Discussion Only	<input type="checkbox"/> Pass Motion
<input type="checkbox"/> Public Hearing	<input type="checkbox"/> Decision / Direction	<input checked="" type="checkbox"/> Pass Resolution
<input checked="" type="checkbox"/> Scheduled Business	<input type="checkbox"/> Sign Letter / Document	<input type="checkbox"/> Pass Ordinance
		<input type="checkbox"/> Execute Contract

Summary / Background Information

In late November, Governor Jay Inslee issued a new set of statewide mandates closing certain businesses and restricting other activities for all of Washington State. The mandates were set to expire after the Thanksgiving holiday but have been extended multiple times and are still in place as of January 11.

On January 5, 2021, Governor Inslee also issued a new set of guidelines for how Counties may begin to reopen their economies, called the Healthy Washington – Phased Re-opening Plan. This plan groups Counties together into regions and sets certain metrics by which Counties may advance through phases, allowing more economic and recreational activity with each phase. Regions failing any metrics will also be automatically placed in a lower phase again with the higher restrictions. This plan was developed at the state level with apparently little input from local leaders.

At the regular meeting on January 12, 2021, Commissioner McKay presented a draft document calling on the Governor to change his policy of statewide mandates allowing for more control of the pandemic response to be at the local level. The language also requested changes to state law limiting the duration the Governor can issue a state of emergency. The Board agreed to have staff and the Prosecuting Attorney's Office work on revising the draft language for consideration at a Special Board Meeting due to there not being a regular meeting until January 26. The Board later directed that the Special Board Meeting be held on January 14, 2021 at 3:00 PM. Due to it being a special board meeting, the agenda is limited to only this topic with no public comment on the agenda.

Fiscal Impact

N/A

Recommendation

Review and consider the finalized Resolution before the Board.

Suggested Motion

I move to approve a Resolution in response to the COVID-19 pandemic and requesting statutory language setting limits on state of emergency duration without legislative approval.

RESOLUTION

BEFORE THE BOARD OF COMMISSIONERS OF BENTON COUNTY, WASHINGTON:

IN THE MATTER OF RESPONSE TO THE COVID-19 PANDEMIC AND REQUESTING STATUTORY LANGUAGE SETTING LIMITS ON STATE OF EMERGENCY DURATION WITHOUT LEGISLATIVE APPROVAL

WHEREAS, on February 29, 2020, the Governor declared a State of Emergency in all counties in the State of Washington due to the number of confirmed cases of COVID-19 in the state; and

WHEREAS, on March 23, 2020, the Governor issued Proclamation 20-25: “Stay Home, Stay Healthy,” requiring Washingtonians to stay home unless they were engaged in an approved essential activity or business; and

WHEREAS, on May 31, 2020, Governor Inslee issued Proclamation 20-25.04: “Transition from ‘Stay Home, Stay Healthy’ to ‘Safe Start, Stay Healthy’ County-by-County Phased Reopening,” allowing phased reopening of counties based on Washington State Department of Health metrics; and

WHEREAS, on October 13, 2020, Benton County’s application to move to Phase 2 of the Phased Approach to Reopening Washington Plan was approved; and

WHEREAS, on November 15, 2020, Governor Inslee issued Proclamation 20-25.08: “Stay Safe – Stay Healthy,” which abruptly closed businesses previously operating under all necessary protocols and precautions as well as prohibited social gatherings; and

WHEREAS, on January 11, 2021, Governor Inslee issued Proclamation 20-25.12: “Healthy Washington – Roadmap to Recovery,” which uses a regional approach that does not account for local conditions, arbitrarily and capriciously impacts Benton County residents and businesses, and circumvents duly elected local officials’ responsibilities and duties to represent their constituents; and

WHEREAS, Benton County businesses and establishments, under their representative local governments, had been open and practicing necessary COVID-19 prevention protocols as prescribed by the Washington State Department of Health to safely serve the local community and employ its residents; and

WHEREAS, Governor Inslee has issued no less than 350 COVID-19-related proclamations, with multiple amendments directed at all 39 counties, which all have varying transmission rates, demographics, community values, cultural norms, and populations ranging from just over 2,000 to 2.6 million people; and

WHEREAS, the continuation of implemented limitations creates inequity and inconsistency among the business community and negatively impacts independent, locally-owned, small businesses which have invested significant time and resources to ensure their employees and their customers maintain a

safe environment and follow common-sense COVID-19 prevention protocols and guidelines to limit transmission while continuing to allow their business to be open; and

WHEREAS, small businesses are critical to our economy and provide employment, essential services for the community, a vital role in the overall health and welfare for residents, and revenue for local public agencies to continue to provide essential services for public health, welfare, and benefit; and

WHEREAS, the Benton-Franklin Health District has been providing seven-day-a-week, free drive-thru COVID-19 testing sites for anyone wishing to be tested, whether symptomatic or not; and

WHEREAS, the Benton County Board of Commissioners recognizes that one of its essential functions is to ensure the health and welfare of Benton County residents; and

WHEREAS, the State of Washington and its agencies are not bound by this Resolution, so each resident of Benton County must be aware that this Resolution does not protect them from action by the State or its agencies and are encouraged to use their own judgement concerning future choices and action; and

WHEREAS, the Board of County Commissioners is committed to protecting the rights of its residents and will continue to actively challenge regulations that it believes are illegal; **NOW, THEREFORE**

BE IT RESOLVED that the Benton County Board of Commissioners, in the interests of ensuring the health and welfare of the residents of Benton County, concludes that the Governor's Proclamation 20-25.12: "Healthy Washington – Roadmap to Recovery" arbitrarily and capriciously impacts Benton County residents and businesses without recognition of local elected officials and their duties to represent the interests of their constituents; and

BE IT FURTHER RESOLVED that the Benton County Board of Commissioners recognizes its limited authority under the Washington State Constitution, and that it cannot usurp or supersede the authorities of the State Legislature and/or the Governor to reopen local businesses; and

BE IT FURTHER RESOLVED that the Benton County Board of Commissioners believes that the Benton-Franklin Health District and its Health Officer are the appropriate authority to institute necessary policies and protocols, while focusing on the education of our residents on the best options to prevent and reduce the spread of COVID-19; and

BE IT FURTHER RESOLVED that the Benton County Board of Commissioners, in consideration of the indefinite nature of this State of Emergency, calls on the Governor and the Washington State Legislature to immediately begin examination and drafting of those measures necessary to amend statutory language under Title 43, Chapter 6 of the Revised Code of Washington for the purposes of requiring legislative approval for any State of Emergency lasting longer than 30 days.

This Resolution shall become effective upon adoption and shall continue until further formal action of the Benton County Board of Commissioners.

DATED this 14th day of January 2021.

BENTON COUNTY BOARD OF COMMISSIONERS

Chairman

Chairman Pro Tem

Member

*Constituting the Board of Commissioners
for Benton County, Washington*

Attest:

Clerk of the Board