

Anderson County Board of Commissioners
OPERATIONS COMMITTEE
AGENDA

October 11, 2021
6:00 p.m. Room 312

- 1. Call to Order**
- 2. Prayer / Pledge of Allegiance**
- 3. Approval of Agenda**
- 4. Appearance of Citizens**
- 5. County Election Proposed Changes** – requested by Commissioner Wandell
- 6. Mayor's Report**
 1. Approval of Resolution No. 21-10-895 – To oppose federally proposed vaccine mandate.
 2. TN AG Opinion No. 21-15 – Information only.
- 7. Law Director's Report**
 1. Authority for Mayor to execute Opioid Settlement Documents
- 8. Discussions** – requested by Chairman Isbel
 1. Water Line Extension – requested by Chairman Isbel
 2. Amount of Severance Tax from the New River Region
- 9. Redistricting Plan**
 1. District Map
 2. District Population Growth
 3. Plan Statistics

New Business

Old Business

Adjournment

Annette Prewitt

From: Commissioner Tracy Wandell <twandell@andersoncountyttn.gov>
Sent: Wednesday, October 6, 2021 6:08 AM
To: Tim Isbel; ACC - Annette Prewitt; Joshua Anderson; Terry Frank; Jay Yeager
Subject: Operations agenda item request

Dear Chairman Isbel,

I respectfully request to add the following item to Monday's Operation Committee meeting.

- 1) County election - proposed changes to make County Commissioners now a partisan race with primaries.

Respectfully,
Tracy

Tracy L. Wandell
Anderson County Commissioner
District 1
twandell@andersoncountyttn.gov
865-388-0921



ANDERSON COUNTY GOVERNMENT

TERRY FRANK
COUNTY MAYOR

October 6, 2021

Commissioner Tim Isbel
Chairman, Operations Committee

RE: Agenda

Dear Chairman Isbel and Honorable Members of Operations Committee,

I wish to add the following item to the agenda:

1. **Approval of Resolution No. 21-10-895 to oppose federally proposed vaccine mandate.** Anderson County has worked diligently throughout the pandemic to reduce the risk of COVID-19 exposures, as have many employers throughout the county. We have taken proactive steps, including coordination with various agencies for COVID-19 testing and wide distribution of vaccines. We continue to maintain our COVID-19 response and a commitment to the health and safety of our citizens, but at the same time, this resolution asks that we safeguard the rights of citizens in our county. For background, attached is a September 16, 2021 letter from TN Attorney General Herbert H. Slatery III noting concerns. In addition, county mayors and executives are working on a letter raising identical concerns.
2. I have included for your information only TN AG Opinion No. 21-15 that was issued September 24, 2021.

Sincerely,

A handwritten signature in black ink, appearing to read "Terry Frank", is written over a horizontal line.

Terry Frank

**Anderson County, Tennessee
Board of Commissioners**

RESOLUTION NO. 21-10-895

**TO URGE TENNESSEE'S ELECTED LEADERS
TO OPPOSE THE FEDERALLY PROPOSED VACCINE MANDATE**

WHEREAS, the federal government has announced a plan under which the Occupational Safety and Health Administration would mandate all private employers with at least 100 employees to require employees to either be vaccinated for COVID-19 or produce weekly negative test results; and

WHEREAS, Tennessee Attorney General Herbert H. Slatery III has expressed grave concerns about the legality of this nationwide vaccination and testing requirement for COVID-19; and

WHEREAS, this federal proposal is overly broad and likely violates federal law, including both the Occupational Safety and Health Act and the Constitution; and

WHEREAS, this proposal fails to take into account the numerous steps already taken by Tennessee employers to reduce the risk of COVID-19 exposure and the impact these additional burdens will place on the workplace and workforce;

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Anderson County, Tennessee, meeting in regular session on this 18th day of October, 2021, that Tennessee's elected leaders are strongly urged to oppose the federally proposed vaccine mandate.

BE IT FURTHER RESOLVED, that the county clerk shall mail certified copies of this resolution to the Governor, the Speaker of the House and the Lieutenant Governor, and the members of the Tennessee General Assembly representing the people of Anderson County.

ADOPTED this 18th day of October, 2021.

APPROVED:

Josh Anderson, Commission Chairman

Terry Frank, Anderson County Mayor

ATTEST:

Jeff Cole, Anderson County Clerk

STATE OF TENNESSEE

Office of the Attorney General



HERBERT H. SLATTERY III
ATTORNEY GENERAL AND REPORTER

P.O. BOX 20207, NASHVILLE, TN 37202
TELEPHONE (615)741-3481
FACSIMILE (615)741-2009

September 16, 2021

The Honorable Joseph R. Biden, Jr.
President of the United States
The White House
1600 Pennsylvania Avenue, NW
Washington, D.C. 20500

Re: OSHA Emergency Temporary Standard Mandating Vaccination or Testing

Dear Mr. President,

I write to express serious concern over the legality of your recently announced proposal of using an Occupational Safety and Health Administration ("OSHA") emergency temporary standard ("ETS") to implement a vaccine or testing mandate on hundreds of thousands of Tennesseans. Our understanding of the proposed ETS is that every employer with 100 or more employees would have to require employees either (1) to get vaccinated, or (2) "to produce a negative test result on at least a weekly basis before coming to work."¹ I am concerned that this unprecedented assertion of OSHA's emergency regulatory power does not comply with the requirements of the OSH Act or the restraints of the U.S. Constitution.

As an initial matter, the proposed ETS likely violates the statutory text of the Occupational Safety and Health Act ("OSH Act"). As the U.S. Supreme Court has recognized, Congress "repeatedly expressed its concern about allowing the [OSHA] Secretary to have too much power over American industry" and thus "narrowly circumscribed the Secretary's power to issue temporary emergency standards."² The promulgation of an ETS is the harshest weapon in OSHA's regulatory arsenal, and federal law strictly restricts its deployment.³ That is why, until this year, OSHA had not issued an ETS since 1983, when it issued an emergency asbestos standard that the

¹ The White House, *Path Out of the Pandemic: President Biden's COVID-19 Action Plan* (Sept. 2021), <https://www.whitehouse.gov/covidplan/#vaccinate>.

² *Indus. Union Dep't v. Am. Petroleum Prods.*, 448 U.S. 607, 651-52 (1980).

³ See 29 U.S.C. § 655(c).

Fifth Circuit stayed.⁴ Because the newly proposed ETS covers *all* employees of *all* private employers with at least 100 employees, it is difficult to see how OSHA can satisfy the stringent requirements of the OSH Act.

First, while I agree with you, Mr. President, that we want to keep Americans safe from COVID-19, this virus is not currently a “grave danger” at every job site in the nation.⁵ And the OSHA Secretary must make the “threshold determination” that it is a grave danger for job sites *before* he can regulate them.⁶ The “grave danger” necessary for an ETS sets an even higher bar than the “significant risk” standard that applies elsewhere with normally promulgated OSHA standards.⁷ Many Tennessee employers have already taken steps to reduce the risks of COVID-19 exposure. Those steps include social distancing, masking, monitoring exposure, and remote work. But, at least based on The White House’s public statements, the ETS would require vaccination or testing *regardless* of the nature of the risk of COVID-19 at a given job site and *regardless* of what an employer has done to reduce the risk. “Congress specifically amended [the OSH Act] to make it perfectly clear that it does not require the Secretary to promulgate standards that would assure an absolutely risk-free workplace.”⁸ A nationwide policy that applies across the board fails to consider the steps employers have already taken to reduce risks and protect their workers.

Second, even if COVID-19 were a “grave danger” at every job site of every large employer nationwide, mandatory vaccination or testing is *not* “necessary” for every employee.⁹ Before the announcement of this proposed ETS, The White House and OSHA stated time and again that masking and other measures were sufficient to protect employees. Indeed, in June of this year, OSHA issued an ETS for healthcare providers that required masking but *not* vaccination.¹⁰ COVID-19 vaccines are available for any eligible American who wants one, and over 175 million Americans have been voluntarily vaccinated. Additionally, at this point in the pandemic, tens of millions of Americans have natural immunity through prior exposure to COVID-19.

Whether due to widespread vaccination, natural immunity, or existing protective measures at a job site, a blanket vaccinate-or-test mandate is not necessary for every employee of a large employer. The risks of COVID-19 vary from employee to employee. Younger employees without comorbidities have high survival rates for COVID-19. As the CDC acknowledges, the “risk increases for people in their 50s and increases in 60s, 70s, and 80s. People 85 and older are the most likely to get very sick.”¹¹ The ETS’s sweeping vaccinate-or-test requirement fails to

⁴ See *Asbestos Info. Ass’n v. OSHA*, 727 F.2d 415 (5th Cir. 1984); see also Congressional Research Service, *Occupational Safety and Health Administration (OSHA): Emergency Temporary Standards (ETS) and COVID-19*, at 27 (Sept. 13, 2021), <https://sgp.fas.org/crs/misc/R46288.pdf> (documenting the low rate of success for OSHA in ETS litigation).

⁵ 29 U.S.C. § 655(c)(1).

⁶ *Indus. Union Dep’t*, 448 U.S. at 639-40.

⁷ *Id.* at 639.

⁸ *Id.* at 646-47.

⁹ 29 U.S.C. § 655(c)(1).

¹⁰ See 29 C.F.R. § 1910.502.

¹¹ CDC, *COVID-19 Risks and Vaccine Information for Older Adults* (Aug. 2, 2021), <https://www.cdc.gov/aging/covid19/covid19-older-adults.html> (emphasis omitted).

acknowledge different risk levels for differently situated employees and, therefore, is not “necessary to protect employees” from COVID-19.¹² And it is far from clear that paid leave is “necessary” to protect employees from dangers *at the workplace*.

Third, it is difficult to see how COVID-19 is a “substance[] or agent[] determined to be toxic” or a “new hazard” under the statute.¹³ Congress, in enacting the OSH Act, limited its application to “personal injuries and illnesses arising out of work situations” that “impose a substantial burden on . . . interstate commerce.”¹⁴ COVID-19 is a virus tragically now commonplace in American life. It is not, however, a hazard specific to the workplace. Decades ago, when OSHA regularly issued emergency temporary standards, each ETS dealt with workplace exposure to asbestos, vinyl chloride, benzene, pesticides, vinyl cyanide, or similar hazards, where the exposure levels far exceeded those in everyday life. OSHA is better suited to addressing issues specific to the workplace. COVID-19, except in laboratories working with the virus, does not fit the bill.

We are still analyzing the text of the OSH Act and will consider the specific language of the ETS when it becomes available to determine whether this is an appropriate standard under the Act. For almost half a century, since Tennessee initially sought approval for its state-run plan in 1973, the State has cooperated with OSHA to ensure that workplace standards best protect our workers. Whenever the federal OSHA promulgates a standard, the Tennessee OSHA must either promulgate its own version of the standard or show that its standards are at least as effective.¹⁵ The normal standard-making process provides us and other stakeholders the opportunity to work with OSHA and address concerns before the promulgation of the standard. Unfortunately, the ETS process does not afford the same procedures, so it is imperative to ensure that OSHA has the authority that it claims *before* it asserts that authority. Precluding the States and the public in general from commenting or engaging in a process essentially legislative in nature sows discord and suspicion, invites legal challenges, and undermines the ultimate policy result.

In addition to the statutory concerns, there are valid concerns that the OSHA Secretary’s unilateral promulgation of the vaccinate-or-test ETS violates constitutional restraints. Even if the ETS were a proper standard under the OSH Act, such an “open-ended grant” of power to OSHA would raise serious nondelegation concerns. *Indus. Union Dep’t*, 448 U.S. at 646 (adopting a “construction of the statute that avoids” nondelegation concerns in the normal standard-making process). The U.S. Constitution gives “[a]ll legislative powers” to Congress, and Congress cannot circumvent that restriction by delegating its powers to an entity within the executive branch, such as OSHA.¹⁶ Any interpretation of terms such as “grave danger” and “necessary” that justifies the

¹² 29 U.S.C. § 655(c)(1).

¹³ *Id.*

¹⁴ *Id.* § 651(a).

¹⁵ *Cf.* 29 C.F.R. § 1953.5.

¹⁶ U.S. Const. art. I, § 1; see *A.L.A. Schechter Poultry Corp. v. United States*, 295 U.S. 495 (1935) (ruling that the National Industrial Recovery Act’s delegation of rulemaking powers was unconstitutional).

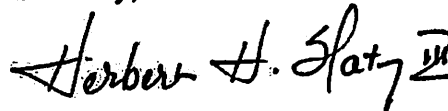
ETS leaves concern that Congress has not provided an “intelligible principle” for OSHA to use in implementing the OSH Act.¹⁷

But perhaps more importantly, the proposed ETS risks undermining the federalist structure of our joint government. States possess broad police powers that the Federal Government lacks. Historically, States and local governments have been the primary guardians and regulators of their citizens’ health, safety, and well-being. COVID-19 affects States differently at different times. What is necessary in one State might be or become unnecessary in another. For that reason, cases involving state regulation—such as *Jacobson v. Massachusetts*, 197 U.S. 11 (1905)—are inapposite when considering the proper scope of federal regulation.

Separately, consideration of the constitutionality of the ETS must also take into account individual citizens’ constitutional rights. I do not want to make assumptions about the contours of the proposed ETS, but, at a minimum, the vaccinate-or-test proposal will implicate religious liberty, free speech, and bodily autonomy concerns. We have already heard from Tennesseans expressing serious concerns about infringement of their constitutional rights. I encourage The White House and OSHA to keep those constitutional rights in mind when drafting the ETS. Robust accommodation provisions might alleviate some of those concerns.

Tennessee has worked diligently to respond to the pandemic by balancing the need for public health with the rights of its citizens. I agree that everyone eligible for COVID-19 vaccination should, in consultation with his or her doctor, get vaccinated. Over half of the Volunteer State’s citizens have already received at least one COVID-19 vaccination shot. Ultimately, however, public health decisions are best left in the hands of States, communities, businesses, and free citizens. I appreciate your consideration of the legal concerns identified in this letter.

Sincerely,

A handwritten signature in dark ink, reading "Herbert H. Slatery III". The signature is fluid and cursive, with the first name "Herbert" and last name "Slatery" being more prominent, and "III" written as a superscript.

Herbert H. Slatery III
Attorney General and Reporter of Tennessee

¹⁷ *J. W. Hampton, Jr. & Co. v. United States*, 276 U.S. 394 (1928).

**STATE OF TENNESSEE
OFFICE OF THE ATTORNEY GENERAL**

September 24, 2021

Opinion No. 21-15

Authority Issues Involving County Health Departments

Question 1

Does 2021 Tennessee Public Acts, chapter 550 give the county mayor or the county health officer authority to issue county-wide health mandates?

Opinion 1

Public Chapter 550 gives the county health officer—not the county mayor—authority to issue county-wide health mandates necessary to protect the general health and safety of the citizens of the county.

Question 2

If the county health officer has authority to issue county-wide health mandates, who prevails if there is a conflict between the county health officer and the county mayor regarding such mandates? Can the county mayor countermand a health regulation issued by the county health officer?

Opinion 2

When there is a special statute, like a Private Act, that gives the county mayor authority to issue a county-wide mandate to protect the public health under specified circumstances, the authority granted under that statute prevails. But in most instances the county health officer will be the official authorized to issue county-wide health mandates by virtue of the recent passage of Public Chapter 550.

Question 3

How far does the authority to issue county-wide health mandates extend? Is the institution of business-capacity limits or county-wide curfews permissible? May face coverings in public spaces be mandated?

Opinion 3

A county health officer's ability to issue county-wide health mandates pertaining to communicable diseases via rules and regulations is limited—and can even be foreclosed—by state law. Thus, the validity of any county-wide health mandate issued by a county health officer would

depend on its particular terms and applicable state law, including rules and regulations promulgated by the Commissioner of Health.

Question 4

If the county health officer has the authority to issue county-wide health mandates, what power does the county health officer have to enforce such mandates?

Opinion 4

Public Chapter 550 transferred the power to issue rules and regulations from county boards of health to county health officers, but the legislation did not transfer the power to enforce those rules and regulations—an enforcement power formerly held by county health directors—to county health officers.

Question 5

In light of Tenn. Code Ann. § 68-2-603, which states that the county health officer is appointed by the Tennessee Commissioner of Health, may a county mayor remove the county health officer from office without the permission of the Commissioner if the county health director, who was appointed by the county mayor, hired the county health officer?

Opinion 5

The Commissioner of Health is the sole person authorized to appoint the county health officer. Because the right of removal from office is an incident to the right of appointment when the tenure of an office is not prescribed by statute or the Tennessee Constitution, only the Commissioner of Health may remove a county health officer under Tenn. Code Ann. § 68-2-603. Accordingly, a county mayor may not remove the county health officer without the permission of the Commissioner of Health unless another law, i.e., a Private Act, gives the county mayor the power to do so.

ANALYSIS

1. & 2. Authority of County Health Officers and County Mayors to Issue County-wide Health Mandates Following the Passage of Public Chapter 550

a. Structure of County Health Departments

Each county in Tennessee is required to establish a county health department, which is headed by, and under the immediate direction of, a “county health director.” Tenn. Code Ann. § 68-2-603(a)(1). The county health director acts as the administrative officer of the county health department, implements the programs of the state department of health, and enforces rules and regulations established by the Tennessee Commissioner of Health. *Id.* §§ 68-2-603(a)(2), (b). The county health director is appointed by the Commissioner of Health, in concurrence with the county mayor. *Id.* §§ 68-2-603(a)(2), (6).

The Commissioner of Health is also authorized to appoint a “county health officer” who is “responsible for providing medical direction including medical enforcement actions.” *Id.* § 68-2-603(c). The county health officer is empowered to order certain actions, such as quarantine and the closure of public establishments in specified instances. *Id.* § 68-2-609.¹

County legislative bodies have the authority to establish county boards of health. *Id.* § 68-2-601. These boards govern the policies of county health departments and are tasked with establishing annual budgets for the county health departments. *Id.* § 68-2-601(f)(1), (4). For years, these boards have had the additional power to (1) enforce rules and regulations promulgated by the Commissioner, and (2) adopt rules and regulations as may be necessary to protect the general health and safety of the citizens of the county. *See* 1985 Tenn. Pub. Acts, ch. 172, § 1 (formerly codified at § 68-2-601(f)(2), (3)).² But since the passage of Public Chapter 550, effective May 26, 2021, county boards of health no longer have these two additional powers. 2021 Tenn. Pub. Acts, ch. 550, §1.

b. Public Chapter 550

With the passage of Chapter 550, county boards of health now have just an advisory role; they advise the county mayor on the enforcement and adoption of rules and regulations. *See id.* (codified at Tenn. Code Ann. §§ 68-2-601(f)(2), (3)).³

¹ The county health officer must be “a graduate doctor of medicine or osteopathy, schooled and experienced in public health work and licensed to practice in the state of Tennessee.” Tenn. Code Ann. § 68-2-603(c). If the county health director is a qualified physician, that person may also serve as a county health officer. *Id.* § 68-2-603(a)(5).

² Tenn. Code Ann. § 68-2-601(f) formerly provided:

The powers and duties of county boards of health are to:

- (1) Govern the policies of full-time county health departments established in accordance with this chapter;
- (2) Through the county health director or the county health officer, or both, enforce such rules and regulations as may be prescribed by the commissioner essential to the control of preventable diseases and the promotion and maintenance of the general health of the county;
- (3) Adopt rules and regulations as may be necessary or appropriate to protect the general health and safety of the citizens of the county. The regulations shall be at least as stringent as the standard established by a state law or regulation as applicable to the same or similar subject matter. Regulations of a county board of health supersede less stringent or conflicting local ordinances; and
- (4) Require that an annual budget be prepared and, when this budget has been approved by the county board of health, submit the same to the county legislative body for consideration and subsequent provision of necessary funds to meet all obligations under the adopted budgets.

³ Tennessee Code Ann. §§ 68-2-601(f)(2) and (3) now provide:

The powers and duties of county boards of health are to:

* * *

Chapter 550 also made significant changes to the powers and duties of the county health director and the county health officer. Formerly, the county health director had the duty to enforce the regulations of the county board of health and the Tennessee department of health in counties which did not establish a board of health. *See* Tenn. Code Ann. §§ 68-2-603(a)(2), (b) (2013). Now, the power to enforce the rules and regulations of the Tennessee department of health is vested solely in the county health director, and the county health director no longer has a duty to enforce the regulations of the county board of health since the board presently has no power or duty to adopt regulations. *See* 2021 Tenn. Pub. Acts, ch. 550, §§ 2, 3 (codified at Tenn. Code Ann. §§ 68-2-603(a)(2), (b)). And the power to adopt rules and regulations as may be necessary to protect the general health and safety of the citizens of the county was added to the list of actions that the county health officer may “order.” *See id.*, § 4 (codified at Tenn. Code Ann. §§ 68-2-609(4)).⁴

Accordingly, the county health officer is now the official with the authority to issue county-wide health mandates necessary to protect the general health and safety of the citizens of the county. While Chapter 550 did make county boards of health advisory to county mayors, the legislation bestowed no additional powers on county mayors. In short, Chapter 550 transferred all power to promulgate rules and regulations from county health boards to county health officers.⁵

Consequently, any authority for a county mayor to issue a county-wide health mandate would have to come from another statutory source. *See* 63C Am. Jur. 2d Public Officers and Employees § 222 (public officers’ powers and duties must be executed in the manner directed, and by the officer specified, by the applicable provisions granting such powers and duties); *see also Elliott Nat’l Bank v. Western and Atl. R.R.*, 70 Tenn. 676, 680 (1879) (the powers of public agents

(2) Advise the county mayor on the enforcement of such rules and regulations as may be prescribed by the commissioner essential to the control of preventable diseases and the promotion and maintenance of the general health of the county;

(3) Advise the county mayor on the adoption of rules and regulations as may be necessary or appropriate to protect the general health and safety of the citizens of the county[.]

⁴ Tenn. Code Ann. § 68-2-609 now provides:

The county health officer is empowered to order:

- (1) The quarantine of any place or person, if the county health officer finds that quarantine is necessary to protect the public health from an epidemic;
- (2) The closure of any public establishment, facility or building if the county health officer finds unsanitary conditions of such a nature and extent to significantly threaten the public health;
- (3) The closure of any public establishment, facility or building, if the county health officer is otherwise authorized by law to take that action; or
- (4) Rules and regulations as are necessary or appropriate to protect the general health and safety of the county.

⁵ *See id.*

being defined by statute are limited, and no pretension of authority or customary action can amplify that authority beyond the statutory limitation).

For example, the Mutual Aid and Emergency and Disaster Assistance Agreement Act of 2004 authorizes a county mayor “to declare a local state of emergency affecting such official’s jurisdiction by executive order consistent with and governed by § 58-2-110(3)(A)(v).” Tenn. Code Ann. § 58-8-104(a). Upon declaring such a local state of emergency, “the county mayor . . . may, in the interest of public health, safety, and welfare, issue orders to direct and compel the evacuation of the entire unincorporated area of the county or any portion thereof.” *Id.* § 58-8-104(e). In this instance, a county mayor’s evacuation order issued in conformance with Tenn. Code Ann. § 58-8-104 would not only be authorized but would also take precedence over any local rule or regulation to the contrary issued by the county health officer. *See Strader v. United Family Life Ins. Co.*, 218 Tenn. 411, 417, 403 S.W.2d 765, 768 (1966) (a special statute or a special provision of a particular statute controls a general provision in another statute); *Woodrooff v. City of Nashville*, 183 Tenn. 483, 488, 192 S.W.2d 1013, 1015 (1946) (“where the mind of the legislature has been turned to the details of a subject and they have acted upon it, a statute treating the subject in a general manner should not be considered as intended to affect the more particular provision”).

In short, when there is a special statute that gives the county mayor the authority to issue a county-wide mandate to protect the public health under specified circumstances, the authority granted under that statute prevails. But in most instances, the county health officer will be the official who possesses the authority to issue county-wide health mandates by virtue of the recent passage of Chapter 550.

3. Extent of County Health Officer’s Authority to Issue County-wide Health Mandates

Even so, a county health officer’s ability to issue county-wide health mandates pertaining to communicable diseases via rules and regulations is limited—and can even be foreclosed—by state law.

First, the authority of the county health officer is limited by the rules and regulations promulgated by the Commissioner of Health to prevent the spread of communicable diseases,⁶ since it is the duty of all county health authorities “to carry out such rules and regulations as the department of health may prescribe for their object the prevention and restriction of . . . [communicable] diseases.” Tenn. Code Ann. § 68-5-103 (addressing all communicable diseases except venereal diseases). Accordingly, a county health officer cannot issue rules and regulations that are inconsistent with those promulgated by the Commissioner. *See* Tenn. Code Ann. 4-5-221(c) (duly promulgated rules and regulations of state administrative agencies have the force and effect of law in Tennessee).

⁶ *See* Tenn. Code Ann. § 68-5-104(a)(2) (authorizing the Commissioner to promulgate rules and regulations as may be necessary to prevent the spread of contagious or communicable diseases to protect the public health and welfare); *see also id.* § 68-1-201(a)(2) (authorizing the Commissioner to promulgate rules and regulations to prevent the introduction of epidemic diseases in this state).

Second, the governor has the power to displace any—or all—authority that a county health officer might otherwise have to issue rules and regulations. As explained in Tenn. Att’y Gen. Op. 20-07 (Apr. 27, 2020),

[t]he General Assembly has vested the Governor with exclusive responsibility and authority to assume control over all aspects of the State’s response to an emergency such as the COVID-19 pandemic. Because the executive orders that the Governor issues pursuant to that authority have the force and effect of law, the Governor’s directives in response to an emergency supersede and preempt any action taken by political subdivisions of the State. Absent an express delegation of power by the Governor, local governmental entities may not take actions that are either more restrictive or less restrictive with respect to the subjects addressed in the Governor’s executive orders governing the State’s emergency response to COVID-19. . . .

Third, state law directly prohibits certain health mandates altogether. For instance, no governmental entity or officer is permitted to require a person to receive an immunization, vaccination, or injection for the SARS-CoV-2 virus or any variant of the SARS-CoV-2 virus.⁷ Tenn. Code Ann. §§ 68-5-115, -116.

In sum, the validity of any rule or regulation issued by a county health officer would depend on its particular terms and applicable state law, including rules and regulations promulgated by the Commissioner of Health.

4. *Enforcement Authority of County Health Officers*

Before the passage of Chapter 550, county boards of health had the authority to issue rules and regulations, and the county health director had the authority to enforce those rules and regulations.⁸ While Chapter 550 transferred the power to issue rules and regulations from county boards of health to county health officers, it did not transfer the power to enforce those rules and regulations to county health officers. The only enforcement power of county health officers remains confined to “medical enforcement actions.”⁹

⁷ The “SARS-CoV-2 virus” is the virus responsible for COVID-19 and the disease that it causes. See World Health Org., *Naming the Coronavirus Disease (COVID-19) and the Virus That Causes It*, [https://www.who.int/emergencies/diseases/novel-coronavirus-2019/technical-guidance/naming-the-coronavirus-disease-\(covid-2019\)-and-the-virus-that-causes-it](https://www.who.int/emergencies/diseases/novel-coronavirus-2019/technical-guidance/naming-the-coronavirus-disease-(covid-2019)-and-the-virus-that-causes-it) (last visited Sept. 13, 2021).

⁸ See note 2, *supra*, and accompanying text.

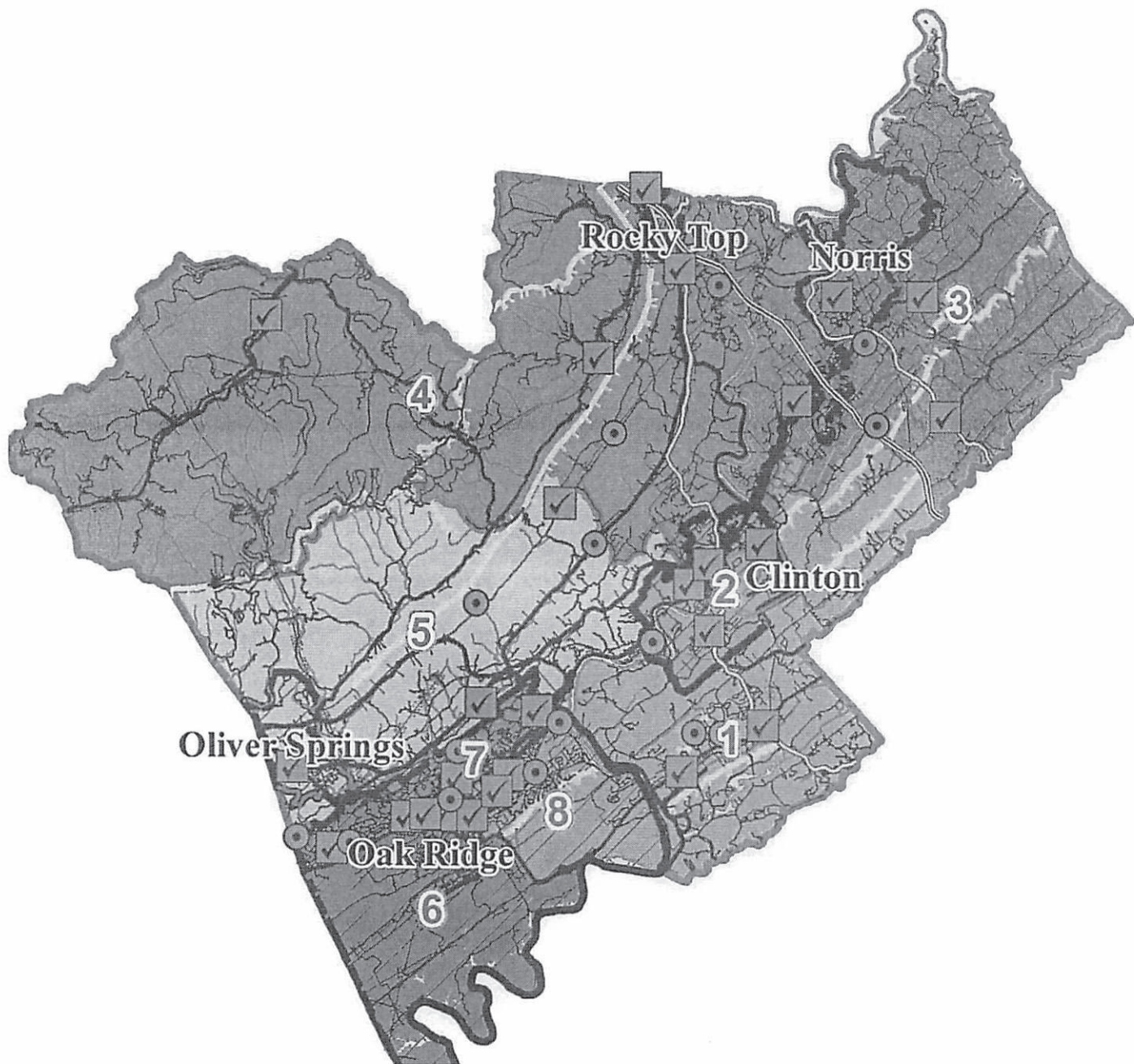
⁹ See note 1, *supra*, and accompanying text. “Medical enforcement actions,” as interpreted and administered by the Department of Health, include actions such as “public health measures” and “health directives.” A “public health measure” directs “a carrier or owner or operator of premises to cooperate with health authorities’ efforts to prevent or control transmission of a disease that poses a health threat to others.” Tenn. Comp. R. & Regs. 1200-14-04-.02(16). Similarly, a “health directive” is “a written statement (or, in compelling circumstances, an oral statement followed by a written statement), based on clinical or epidemiological evidence of the kind relied upon by competent medical experts, that is issued by the Commissioner or health officer, requiring a person to cooperate with health authorities’ efforts to prevent or control transmission of a disease that poses a health threat to others.” Tenn. Comp. R. & Regs. 1200-14-04-.02(10). A health directive is “individual and specific and shall not be issued to a class of persons.” Tenn. Comp. R. & Regs. 1200-14-04-.04(1).

Annette Prewitt

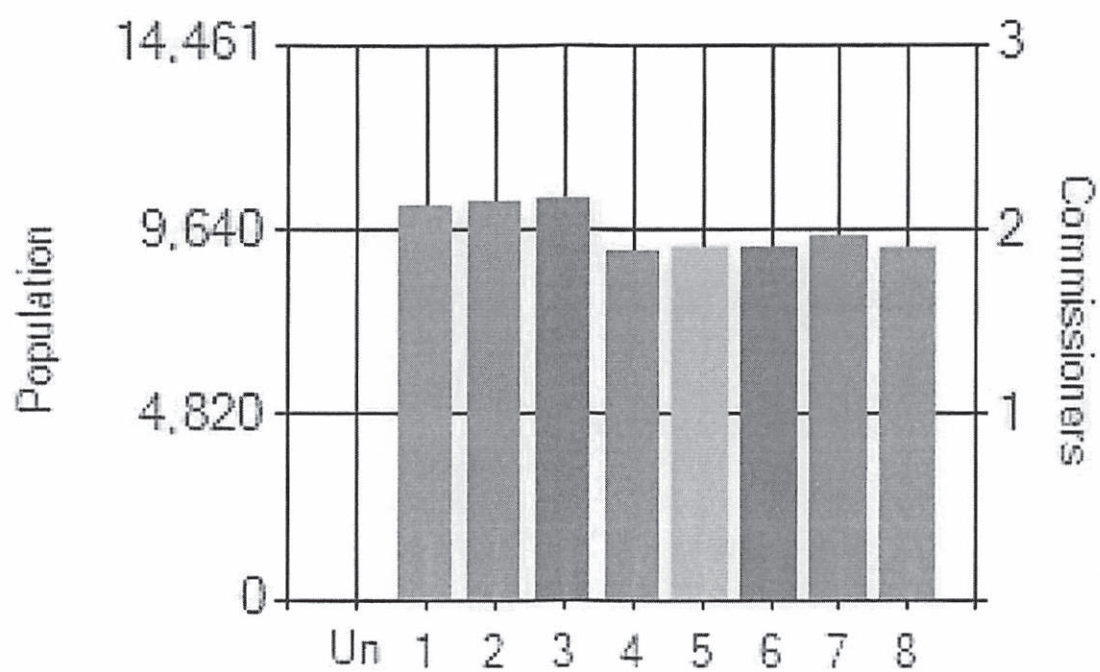
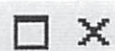
From: Timothy Isbel <isbelt@ymail.com>
Sent: Wednesday, October 6, 2021 11:49 AM
To: Annette Prewitt
Subject: water line extension

Could you please add discussion for water line extension , and the amount of severance tax that has come from the New River Region

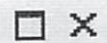
Tim Isbel
Anderson County Commissioner
District 4
Rocky Top, TN



District Population Graph



Plan Statistics



Start Editing Cancel

District	Commissioners	Total Pop.	Total Deviation	Total Deviation	
Unassigned	0	0.00	0.00	0.00	
1	2	10,290.00	649.63	6.74	
2	2	10,339.00	698.63	7.25	
3	2	10,474.00	833.63	8.65	
4	2	9,088.00	-552.38	-5.73	
5	2	9,178.00	-462.38	-4.80	
6	2	9,161.00	-479.38	-4.97	
7	2	9,469.00	-171.38	-1.78	
8	2	9,124.00	-516.38	-5.36	
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PUBLIC NOTICE

The following plan was approved by the Redistricting Committee, to go before full commission for approval. The Redistricting Committee is comprised of the entire Operations Committee. This plan affects the least amount of voters with minimal precinct changes. This will be discussed at the Operations Committee meeting on October 11, at 6:00 p.m. in room 312 in the Courthouse at 100 N. Main Street, Clinton, TN. The public is invited and encouraged to attend.

**Tim Isbel
Anderson County Commissioner
District 4, Rocky Top, TN**