

19TH JUDICIAL DISTRICT COURT FOR THE PARISH OF EAST BATON ROUGE

STATE OF LOUISIANA

NO. _____

DIVISION _____

GOVERNOR JOHN BEL EDWARDS

VERSUS

LOUISIANA STATE LEGISLATURE, LOUISIANA HOUSE OF REPRESENTATIVES,
AND CLAY SCHEXNAYDER, in His Official Capacity as SPEAKER OF THE
LOUISIANA HOUSE OF REPRESENTATIVES

PETITION FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF

John Bel Edwards, the Governor of the State of Louisiana, respectfully petitions the Court for declaratory and injunctive relief and avers as follows:

INTRODUCTION

1.

The State of Louisiana is in the midst of a global pandemic caused by the novel coronavirus. Since the first case of COVID-19 was detected in Louisiana seven months ago, 180,069 cases of the disease have been confirmed in this state, and 5,648 Louisianans have died from this disease. *See* La. Dept. of Health, COVID-19, available at ldh.la.gov/coronavirus (last visited Oct. 26, 2020).

2.

Louisiana is not alone. COVID-19 has left its deadly mark on every state in the country and in many other countries as well. More than 8.5 million cases have been confirmed in the United States, and more than 224,000 Americans have died. *See* CDC COVID Data Tracker, https://covid.cdc.gov/covid-data-tracker/#cases_casesper100klast7days (last visited Oct. 25, 2020); Johns Hopkins Coronavirus Resource Center, <https://coronavirus.jhu.edu/region/united-states> (last visited Oct. 25, 2020). “World-wide, more than 42.2 million cases have been reported, and more than 1.14 million people have died.” Jennifer Calfas & Sarah Krouse, *New U.S. Covid-19 Cases Top 80,000 to Reach a Single-Day Record*, WALL ST. J., Oct. 24, 2020, available at <https://www.wsj.com/articles/coronavirus-latest-updates-10-23-2020-11603442326> (last visited Oct. 25, 2020).

3.

Unlike some states, Louisiana has not sat idly by in the face of this pandemic. The Governor has declared a state of public health emergency, in accordance with the Louisiana Homeland Security and Emergency Assistance Act (the “Disaster Emergency Act”), LA. REV. STAT. §§ 29:721-39, and the Louisiana Health Emergency Powers Act (the “Health Emergency Act”), LA. REV. STAT. §§ 29:760-66. In accordance with recommendations from local, national, and international public health experts, the Governor has also implemented a number of safety measures in this State designed to curb the spread of the virus, ranging from a stay-at-home order to restrictions on business operations and social gatherings to social distancing and mask wearing.

4.

Despite the efforts of states like Louisiana to stem the spread of the virus, in recent months, the United States, in addition to many other countries, has seen an increasing number of cases and hospitalizations, not only in populous areas that have been dealing with COVID-19 for many months but in less populous places as well. On Friday, October 23, 2020, the Director-General of the World Health Organization (“WHO”) declared: “We are at a critical juncture in this pandemic, particularly in the northern hemisphere. . . . The next few months are going to be very tough and some countries are on a dangerous track.” *Id.*

5.

Nevertheless, on the very same day when the United States also reported 83,757 new cases of COVID-19—the highest single-day total in this country—and 21 more Louisianans died from COVID-19, sixty-five members of the Louisiana House of Representatives chose to sign a petition, apparently claiming the public health emergency to be over.

6.

The legislators did not base their petition on any scientific, medical, or public health data showing that the threat posed by the coronavirus in Louisiana had ended or that the emergency conditions no longer existed; they ignored altogether the state of the disease in Louisiana and the scientific data that has driven the Governor’s response to the pandemic from the outset. Instead, the petitioners acted solely for political reasons, apparently feeling greater pressure to allow more fans to attend high school football games than to prevent additional COVID-related deaths in Louisiana. *See* Sam Karlin, *This petition seeks to end Louisiana’s coronavirus rules for 7 days; see how it works, next steps*, THE ADVOCATE, Oct. 23, 2020, available at

https://www.theadvocate.com/baton_rouge/news/politics/legislature/article_2a526226-1544-11eb-afa1-9fd1d730d1aa.html (last visited Oct. 25, 2020).

7.

The Governor has filed this lawsuit to put an end to these legislators' reckless, irresponsible, and unconscionable act. The petition imperils the health of Louisianans by purporting to end the state of public health emergency and the important safety measures adopted to protect Louisianans from COVID-19 in the midst of the pandemic. The petition is an unconstitutional attempt by the members of one house of the Legislature—without bicameral action or presentment to the Governor—to unilaterally prohibit him from exercising his constitutional and statutory authority. Indeed, the petitioners did not even comply with the Health Emergency Act's requirement that they act in consultation with the public health authority and, instead, have acted in direct contravention of the recommendations and positions of Louisiana's public health officials. For the reasons explained further in this Petition, the Court should declare the Defendants' petition unconstitutional, null, and void and reject their efforts to politicize COVID-19 in this State rather than prevent it.

PARTIES

8.

Plaintiff, John Bel Edwards, is the duly elected Governor of the State of Louisiana (the "Governor") and a resident of East Baton Rouge Parish.

9.

Made Defendants in this action are the following:

a. The Louisiana State Legislature (the "Legislature") is a political entity created by Article III, § 1 of the Louisiana Constitution, is one of the three branches of government, and may be served through the Attorney General pursuant Louisiana Revised Statutes § 13:5107(A)(1).

b. The Louisiana House of Representatives is a political entity created by Article III, § 1 of the Louisiana Constitution, is one of the two chambers that comprise the Legislature, and may be sued and served through the Speaker of the House, Representative Clay Schexnayder.

c. Clay Schexnayder is a member of the Louisiana House of Representatives, representing Ascension, Livingston, St. James, and St. John the Baptist Parishes, and is sued in his official capacity as the Speaker of the House of Representatives. Speaker Schexnayder maintains

an official office at 6473 Highway 44, Suite 205, Gonzales, LA 70737, where he may be served pursuant to Louisiana Code of Civil Procedure article 1265.

d. The Petition will refer to these Defendants collectively as “Defendants.”

JURISDICTION AND VENUE

10.

Jurisdiction is properly vested in this Court pursuant to Louisiana Code of Civil Procedure Article 2.

11.

The Court has jurisdiction to declare rights, status, and other legal relations pursuant to Louisiana Code of Civil Procedure articles 1871 and 1875 and may issue injunctive relief under articles 3601-13.

12.

The Governor and Defendants are proper parties to this declaratory judgment action as they have or claim interests that would be affected by the declaration sought in this Petition. In addition, the injunctive relief the Governor seeks would be properly issued against Defendants.

13.

Venue in this Court is proper pursuant to Louisiana Revised Statutes § 13:5104, which provides that suits against the State of Louisiana, any state agency, and any officer or employee of the State “for conduct arising out of the discharge of his official duties or within the course and scope of his employment shall be instituted before the district court of the judicial district in which the state capitol is located” LA. REV. STAT. § 13:5104(A).

BACKGROUND

The Global COVID-19 Pandemic

14.

In January 2020, China identified a novel coronavirus causing a pneumonia-like illness. Sui-Lee Wee and Donald G. McNeil, Jr., *China Identifies New Virus Causing Pneumonia-like Illness*, N.Y. TIMES (Jan. 8, 2020), <https://www.nytimes.com/2020/01/08/health/china-pneumonia-outbreak-virus.html> (last visited May 11, 2020).

15.

On March 11, 2020, the WHO declared the virus a pandemic and “called . . . for countries to take urgent and aggressive action,” warning that the disease was not only a public health crisis

but a crisis that would affect every sector of society and, therefore, require every sector and every person to fight it. *See* WHO Director-General’s opening remarks at the media briefing on COVID-19–11, Mar. 2020 (Mar. 11, 2020), <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020> (last visited May 11, 2020).

16.

Over 42.2 million people worldwide have been diagnosed with COVID-19, and more than 1.14 million people have died from the disease. *See supra* ¶ 2.

17.

As of October 25, 2020, more than 8.5 million cases have been confirmed in the United States, including in every state, and more than 223,900 Americans have died from COVID-19. *See Id.*

18.

The novel coronavirus is highly contagious and spreads quickly. The Centers for Disease Control (“CDC”) have advised that “COVID-19 is thought to spread mainly through close contact from person to person, including between people who are physically near each other (within about 6 feet). People who are infected but do not show symptoms can also spread the virus to others.” CDC, Coronavirus Disease 2019 (COVID-19), *How COVID-19 Spreads*, <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/how-covid-spreads.html> (last visited Oct. 25, 2020). COVID-19 may also be spread through airborne transmission. *Id.* Gatherings present a heightened risk for spreading the virus because a positive person can infect large numbers of people in indoor settings. In the United States, there is currently no authorized or approved vaccine. CDC, Coronavirus Disease 2019 (COVID-19), *8 Things to Know about Vaccine Planning*, <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/8-things.html> (last visited Oct. 25, 2020).

19.

On March 31, 2020, the President of the United States and the CDC recommended that all people avoid social gatherings of more than ten people; work and attend school from home; avoid bars and restaurants; avoid discretionary travel, shopping, and social visits; and practice good hygiene. *See* President’s Coronavirus Guidelines for America, *30 Days to Slow the Spread* (Mar. 31, 2020), https://www.whitehouse.gov/wp-content/uploads/2020/03/03.16.20_coronavirus-

[guidance 8.5x11 315PM.pdf](#) (last visited May 11, 2020). This guidance advised the governors of states confronting the disease to close schools, bars, restaurants, and “other indoor and outdoor venues where groups of people congregate.” *Id.*

20.

In recent months, countries around the world, including the United States, have seen surges in COVID-19 cases and hospitalizations. These increases have occurred even in countries that, unlike the United States, had previously experienced substantial declines in new cases. *See* Jennifer Calfas & Sarah Krouse, *New U.S. Covid-19 Cases Top 80,000 to Reach a Single-Day Record*, WALL ST. J., Oct. 24, 2020, available at <https://www.wsj.com/articles/coronavirus-latest-updates-10-23-2020-11603442326> (last visited Oct. 25, 2020).

The Impact of COVID-19 on Louisiana and the Governor’s Response

21.

Louisiana saw its first reported case of COVID-19 on March 9, 2020. On March 11, the Governor declared a statewide public health emergency. *See* Emergency Proclamation Number 25 JBE 2020. Since the Louisiana Department of Health (“LDH”) reported the first COVID-19 case in March, the Governor has issued a series of Emergency Proclamations to slow the spread of the disease pursuant to his authority under the Disaster Emergency Act and the Health Emergency Act.

22.

On March 13, the Governor limited public gatherings to no more than 250 people and closed all public schools until April 13. *See* Emergency Proclamation Number 27 JBE 2020. On March 16, Governor Edwards reduced gatherings to no more than fifty people and closed or greatly limited the operations of many businesses in response to rising COVID-19 cases, including prohibiting on-premises consumption of food at restaurants, cafes, and coffee shops. *See id.*

23.

Despite these measures, the number of COVID-19 cases in Louisiana continued to rise dramatically. Thus, on March 22, the Governor issued a statewide “general stay-at-home” order, requiring all individuals in Louisiana to “stay at home, unless performing an essential activity,” and prohibiting groups of people greater than ten to gather in a single space at a single time. Emergency Proclamation Number 33 JBE 2020.

24.

By March 24, Louisiana had become the fastest spreading area of COVID-19 in the country with 28,001 known cases by April 30. Faced with escalating numbers, the Governor extended the stay-at-home order to May 15, 2020. Emergency Proclamation Number 41 JBE 2020; Emergency Proclamation Number 52 JBE 2020.

25.

On May 14, following guidance from the White House Coronavirus Task Force, the Governor issued a new proclamation moving Louisiana into Phase 1 of “reopening” due to the downward trajectory of cases and the ability of Louisiana hospitals to treat patients without crisis care. *See* Emergency Proclamation Number 58 JBE 2020 (the “Phase 1 Order”). Among other things, the Phase 1 Order mandated that “[a]ll businesses and organizations shall require that any owner or employee having interaction or contact with the public shall wear a mask or face covering.” *Id.*

26.

In light of further improvement, the Governor moved the state into Phase 2 on June 4. *See* Emergency Proclamation Number 74 JBE 2020 (the “Phase 2 Order”). The Phase 2 Order allowed for a greater reopening of businesses but continued to require businesses to ensure that employees wear a mask or face covering if they interact with the public. *See id.* Notably, the Phase 2 Order warned that, “should there be an increase in the number of confirmed COVID cases or should the number of COVID-related hospitalizations threaten the ability of the health care system to properly respond, it may be necessary to go back” to the restrictions in either the Stay at Home Order or the Phase 1 Order. *Id.*

27.

Unfortunately, by July, the COVID-19 situation in Louisiana had worsened significantly. Louisiana “posted more than 2,000 new cases [on July 10th and 11th], and the share of tests coming back positive ha[d] risen along with hospitalizations.” <https://www.usnews.com/news/best-states/louisiana/articles/2020-07-11/edwards-masks-now-required-bars-to-be-closed-statewide>. This alarming trend was not unique to Louisiana as states throughout the south reported increased cases and hospitalizations at that time. <https://www.statnews.com/2020/06/17/rising-covid-19-cases-hospitalization-long-road/>.

28.

In response to this trend, the White House Coronavirus Task Force recommended, *inter alia*, that states in “hot spots,” which included Louisiana, mandate the use of masks in public. The Governor’s advisors at the LDH also recommended that the use of masks in public be mandated. In accordance with these recommendations, the Governor issued a new Emergency Proclamation Number 89 JBE 2020, on July 11, 2020, requiring that every individual in Louisiana wear a “face covering . . . when inside a commercial establishment or any other building or space open to the public, whether indoor or outdoor,” limiting the number of people who could dine at restaurants, and providing that “no bar . . . shall allow on premises consumption of food or drink.”

29.

On September 11, the Governor issued a further proclamation, moving the State into Phase 3 of reopening. *See* Emergency Proclamation Number 117 JBE 2020 (the “Phase 3 Order”). The Phase 3 Order, among other things, increased the number of patrons who could dine at restaurants and permitted bars to reopen for onsite consumption at 25% capacity if the bar was located in a parish that had a 5% or lower positivity rate for two consecutive weeks and the parish affirmatively opted into the onsite consumption provisions of the Phase 3 Order. The Phase 3 Order has been supplemented and renewed by subsequent Emergency Proclamations, Number 123 JBE 2020 and Number 134 JBE 2020.

The Louisiana Legislature’s Response to the Governor’s Emergency Proclamations

30.

Although a number of individuals and business have filed lawsuits challenging the Governor’s Emergency Proclamations—to date, all unsuccessful—neither the Louisiana Legislature nor either of its houses has sought to challenge the Governor’s response to COVID-19 in court. Likewise, no individual members of the Legislature have sued to stop or limit the Governor’s proclamations.

31.

On or about September 21, 2020, however, a majority of the elected members of the Louisiana Senate and House of Representatives signed a petition calling for an extraordinary session to address, in part, the authority of the Governor and the Legislature under the Disaster Emergency and Health Emergency Acts. The Legislature’s Second Extraordinary Session was convened on September 28, 2020 and ran an early adjournment *sine die* on October 23, 2020.

32.

On October 20, the Legislature passed its only bill concerning the Governor's COVID-19 restrictions and authority under Disaster Emergency and Health Emergency Acts, narrowly approving HB 4. The House of Representatives approved the bill, on a party-line vote, 54-30. The Senate passed the bill 23-13, also along party lines.

33.

Among other things, HB 4 would amend those acts to allow the Speaker and the Speaker Pro Tempore of the House of Representatives and the President and the President Pro Tempore of the Senate to review any order or proclamation issued by the Governor renewing a state of disaster or public health emergency and if at least one legislative officer from each house concurs that the order, proclamation, or its terms exceeds the Governor's authority or are not narrowly tailored to address the disaster or public health emergency, they shall immediately inform the Governor and conduct a vote of their members concerning each issue of concern. A majority vote of the members of both chambers could terminate the Governor's authority regarding an issue on the ballot as of the date and time the tabulation of votes is transmitted to the Governor.

34.

The Legislature sent HB 4 to the Governor for approval or veto on October 23, 2020 in accordance with Article 3, §§ 17-18 of the Louisiana Constitution.

**The Legislature's Petition Purporting to
Terminate the Public Health State of Emergency**

35.

On October 23, 2020, sixty-five of the sixty-eight Republican members of the House of Representatives (the "House Members") signed a Petition to Terminate State of Public Health Emergency (the "Petition") under § 768 of the Health Emergency Act. A true and correct copy of the Petition is attached as Exhibit 1.

36.

The Petition recognizes, at the outset, that the Governor declared a state of public health emergency only after consulting with medical experts and understanding that the "spread of COVID-19 posed a significant risk of substantial future harm and even death to a large number of Louisiana residents" and that the Governor's "proactive actions and measures at the onset of COVID-19 were necessary to protect the health and safety of the citizens of Louisiana." *Id.* at 1.

37.

The Petition concludes that, “after eight months of state-directed efforts, the emergency systems and procedures that have been put in place, along with a sustainable medical supply chain and an informed public, have overcome what was initially an imminent threat to our residents and healthcare system caused by the spread of COVID-19 and a strained medical supply chain.” *Id.* at 2.

38.

The House Members state that they consulted with the public health authority regarding their Petition but do not state that, after that claimed consultation, they found that the “threat to our residents and healthcare system caused by the spread of COVID-19 and a strained medical supply chain” had ended. Nor does the Petition state that any public health authority has determined or advised that the “threat to our residents and healthcare system caused by the spread of COVID-19 and a strained medical supply chain” had ended. Indeed, the Petition does not cite any scientific, medical, or public health data to support the termination of the Governor’s state of public health emergency.

39.

Nonetheless, the Petition, signed by the House Members, purports to (a) “terminate Proclamation Number 134 JBE 2020, effective upon receipt of this petition by the governor”; (b) “prohibit, for a period commencing upon presentation of this petition to the governor and ending seven days after issuance of the proclamation terminating Proclamation Number 134 JBE 2020, any additional gubernatorial orders declaring, renewing, extending, or supplementing any state of public health emergency”; and (c) “instruct the governor to issue an executive order or proclamation terminating Proclamation Number 134 JBE 2020.” *Id.* at 3.

40.

At approximately 4:25 p.m. on October 23, the House Members delivered a copy of the Petition to the Governor.

CAUSES OF ACTION

**COUNT I (CLAIM FOR DECLARATORY JUDGMENT):
THE PETITION SHOULD BE DECLARED NULL, VOID, AND UNENFORCEABLE**

41.

The Governor repeats and realleges the allegations in Paragraphs 1-41 above as though fully set forth herein.

42.

The Code of Civil Procedure declares Articles 1871 through 1883 to be remedial. “Their purpose is to settle and afford relief from uncertainty and insecurity with respect to rights, status, and other legal relations, and they are to be liberally construed and administered.” LA. CODE CIV. PROC. art. 1881.

43.

An actual controversy has arisen and now exists between the Governor and Defendants. The Petition purports to terminate the Governor’s declared state of public health emergency and orders him to issue a proclamation terminating Emergency Proclamation Number 134 JBE 2020. The Governor contends that the Petition is null, void, and unenforceable because it is unconstitutional and because the House Members failed to comply with the consultation provision of the Health Emergency Act. A declaratory judgment is necessary to resolve this dispute.

The Governor’s Constitutional and Statutory Authority

44.

Under the Louisiana Constitution, “[t]he governor shall be the chief executive officer of the state. He shall faithfully support the constitution and laws of the state and of the United States and shall see that the laws are faithfully executed.” LA. CONST. art. IV, § 5(A).

45.

The Governor is also the “commander-in-chief of the armed forces of the state, except where they are called into service of the federal government. He may call out these forces to preserve law and order, to suppress insurrection, to repel invasion, or in other times of emergency.” *Id.* art. IV, § 5(J); *see also* LA. REV. STAT. § 29:2.

46.

In addition to these powers, the “governor shall have other powers and perform other duties authorized by this constitution or provided by law.” LA. CONST. art. IV, § 5(K).

47.

Under the Disaster Emergency Act, the Governor “is responsible for meeting the dangers to the state and people presented by emergencies or disasters, and in order to effectuate the provisions of this Chapter, the governor may issue executive orders, proclamations, and regulations and amend or rescind them. Executive orders, proclamations, and regulations so issued shall have the force and effect of law.” LA. REV. STAT. § 724(A).

48.

The Governor may declare a disaster or emergency by executive order or proclamation, “if he finds that a disaster or emergency has occurred or the threat thereof is imminent. The state of disaster or emergency shall continue until the governor finds that the threat of danger has passed or the disaster or emergency has been dealt with to the extent that the emergency conditions no longer exist and terminates the state of emergency by executive order or proclamation” *Id.* § 724(B)(1).

49.

The Disaster Emergency Act recognizes the Governor’s broad authority to respond to the emergency conditions. *See id.* § 724(C), (D).

50.

The Health Emergency Act similarly recognizes the government’s need “to protect the health and safety of its citizens” from “new and emerging dangers, including emergent and resurgent infectious diseases,” which “pose serious and immediate threats” and to which the State must be able to respond rapidly and effectively. *Id.* § 761(A).

51.

Accordingly, the Health Emergency Act authorizes the Governor to declare “a state of public health emergency . . . by executive order or proclamation . . . , following consultation with the public health authority, if he finds a public health emergency . . . has occurred or the threat thereof is imminent.” *Id.* § 29:766(A).

52.

The Governor's declaration of a state of public health emergency "activate[s] the state's emergency response and recovery program under the command of the director of the Governor's Office of Homeland Security and Emergency Preparedness," *id.* § 29:766(C), and gives the Governor broad emergency powers "in addition to any powers conferred upon the governor by law" *Id.* § 766(D).

53.

The Governor may terminate a state of public health emergency only when the Governor finds "that the threat of danger has passed or the disaster or emergency has been dealt with to the extent that the emergency conditions no longer exist . . ." *Id.* § 29:768(A).

The Legislature's Constitutional and Statutory Authority

54.

The Louisiana Constitution authorizes the Legislature to pass legislation having the force and effect of law only by an affirmative record vote of at least a majority of the elected members of the Senate and House of Representatives. Thus, the Legislature may propose to amend, enact, or repeal law, other than constitutional provisions, only by enacting bills, which must, among other requirements, be adopted by at least a majority of the members of both houses of the Legislature by a record vote. LA. CONST. art. III, § 15.

55.

Once the Legislature passes a bill, the presiding officers must sign it and deliver it to the Governor. *Id.* art. III, § 17.

56.

The Governor may approve or veto the bill. *Id.* § 18(A). "If the governor vetoes a bill, he shall return it to the legislature, with his veto message within twelve days after delivery to him if the legislature is in session. If the governor returns a vetoed bill after the legislature adjourns, he shall return it, with his veto message, as provided by law." *Id.* § 18(B). The Legislature may override the Governor's veto by a two-thirds vote of the elected members of both houses. *Id.* § 18(C)(1).

57.

The Disaster Emergency Act states that the "legislature, by petition signed by a majority of the surviving members of either house, may terminate a state of disaster or emergency at any

time. This petition terminating the state of emergency or disaster may establish a period during which no other declaration of emergency or disaster may be issued. Thereupon, the governor shall issue an executive order or proclamation ending the state of disaster or emergency.” LA. REV. STAT. § 29:724(B)(2).

58.

Similarly, the Health Emergency Act states that the “legislature, in consultation with the public health authority, by a petition signed by a majority of the surviving members of either house, may terminate a state of public health emergency at any time. This petition terminating the public health emergency may establish a period during which no other declaration of public health emergency may be issued. Thereupon, the governor shall issue an executive order or proclamation ending the state of public health or emergency.” *Id.* § 29:768(B).

The Petition Should be Declared Null, Void, and Unenforceable Because the Health Emergency Act’s Petition Provision in § 768(B) Is Unconstitutional

59.

The Governor issued Emergency Proclamation Number 134 JBE 2020 pursuant to the authority recognized under the Disaster Emergency and Health Emergency Acts, and, therefore, as provided in the Disaster Emergency Act, his proclamation has the force and effect of law. *See id.* § 29:724(A).

60.

The Petition purports to terminate the Governor’s Emergency Proclamation, prohibit him from issuing a new or renewed proclamation for a period of seven days, and otherwise prevent him from faithfully executing the laws of the State of Louisiana in accordance with his authority under the Constitution, the Disaster Emergency Act, and the Health Emergency Act.

61.

In doing so, the Petition has the effect of legislating, that is, the Petition implicates the Legislature’s lawmaking function and authority and constitutes prohibitory legislation.

62.

The Louisiana Constitution vests legislative power with the Legislature, which is composed of both the Senate and House of Representatives. *See* LA. CONST. art III, § 1. Further, the Constitution does not authorize a single house of the Legislature to enact legislation, by

“petition,” without a majority vote of the members of the Senate, and without presentment to the Governor for his approval or veto. *See id.* art III, §§ 15, 17-18.

63.

The Constitution authorizes the Legislature to act by petition only to convene an extraordinary session and, even then, only if a majority of the elected members of both houses of the Legislature approve a written petition. *See id.* art. III, § 2(B).

64.

The Petition is an unconstitutional exercise of the House Members’ authority as legislators and the House of Representatives’ authority as a house of the Legislature because neither is constitutionally authorized to act on behalf of the Legislature, as a whole, and the Petition should therefore be declared null and void.

65.

The Petition is further unconstitutional because, by preventing the Governor from exercising his constitutional authority to faithfully execute the laws of Louisiana, it contravenes the separation of powers principles codified in the Louisiana Constitution. *See id.* art. II, § 2.

66.

Moreover, the Court should declare § 768(B) of the Health Emergency Act, the only statutory authority upon which the House Members sought to base their Petition, unconstitutional and sever it from the remainder of the Health Emergency Act. Section 768(B) may be severed from the Health Emergency Act because doing so will not affect the other provisions of the act or defeat the act’s purpose, which is to ensure that the Governor can respond rapidly and effectively to a public health emergency to protect the health and safety of the citizens of Louisiana. *See* La. Rev. Stat. § 24:174; *Polk v. Edwards*, 626 So.2d 1128, 1148 (La. 1993).

The Petition Should be Declared Null, Void, and Unenforceable Because the House Members Failed to Consult Meaningfully with the Public Health Authority

67.

Under the Health Emergency Act, the Legislature, acting through a majority of the surviving members of either house, may petition the Governor to terminate a state of public health emergency only “in consultation with the public health authority.” LA. REV. STAT. § 29:768(B).

68.

The Emergency Health Act defines the “public health authority” as “the secretary of the Louisiana Department of Health, or his designee, and the state health officer.” *Id.* § 29:762(11).

69.

The House Members failed to properly consult with the public health authority in issuing their Petition, and, therefore, the Court should declare the Petition null, void, and unenforceable.

70.

The Petition asserts that the House Members “generally consulted with the public health authority continuously throughout the public health emergency . . . [and] specifically regarding the object of this petition by a consultation meeting with the legislature.” Ex. 1 at 2.

71.

“An ordinary meaning of the word consult is to ‘seek information or advice (from someone with expertise in a particular area)’ or to ‘have discussions or confer with (someone), typically *before* undertaking a course of action.” *California Wilderness Coalition v. United States Dep’t of Energy*, 631 F.3d 1072, 1087 (9th Cir. 2011) (quoting THE NEW OXFORD DICTIONARY 369 (2001)).

72.

The House Members did not, however, meaningfully consult with the Secretary of the LDH or the state health officer.

73.

The House Members did not meet with or allegedly “consult” the public health authority until *after* they had already drafted and circulated, for support, among members of the House of Representatives. *See id.* at 1087, 1093 (holding consultation “requires an exchange of information and opinions **before** the agency makes a decision”).

74.

The first and only request for a “consultation” occurred on September 23, 2020, when Representative Tony Bacala sent an email to LDH, stating: “As you are aware, the House is contemplating a petition as specified in RS 29:768(B), which requires ‘consultation with the public health authority. I would like to formerly request such as [sic] consultation be provided to member [sic] of the legislature prior to 2:00 p.m. on September 28th.” A copy of the Rep. Bacala’s September 23, 2020 email is attached as Exhibit 2.

75.

A petition to terminate the state of public health emergency had already been drafted and circulated *before* this lone request was sent. Nonetheless, the proposed petition represented that the “undersigned members of the House of Representatives of the Legislature of Louisiana constituting a majority of the elected members of the House of Representatives thereof, in accordance with the provisions set forth in R.S. 29:724 and R.S. 29:768 and *in consultation with the public health authority*, do hereby terminate all public health emergency proclamations.” A copy of the proposed petition is attached as Exhibit 3 (emphasis added).

76.

Further, the Petition delivered to the Governor, on October 23, 2020, differed in several respects from this prior petition and was drafted and signed by the sixty-five House Members with no consultation with the public health authority.

77.

In addition to the fact that the House Members only sought to satisfy the legal requirement of “consultation” after a petition had already been drafted and supported by members, the House Members could not have signed the Petition “in consultation with the public health authority” because, in seeking to end the state of public health emergency, they, and thus the Legislature, have acted against the advice and judgment of the LDH Secretary, the State Health Officer, and the Interim Assistant Secretary of Public Health, both of whom, as public health officials, believe that the state of public health emergency should be maintained as COVID-19 still poses a serious threat to the health and safety of the people of Louisiana.

78.

Indeed, the Petition notes that the Governor, “after consulting with medical experts, understood that the spread of COVID-19 posed a significant risk of substantial future harm and even death to a large number of Louisiana residents.” Ex. 1 at 1. In contrast, Petition concludes summarily that the state of public health emergency should be terminated because, after eight months, the steps taken to respond to the pandemic “have overcome what was initially an imminent threat to our residents and healthcare system caused by the spread of COVID-19 and a strained medical supply chain” without citing any data to support this claim. The House Members, acting on behalf of and for the Legislature, do not represent in the Petition that, like the Governor, they reached a conclusion about the state of public health in Louisiana after consulting with medical

experts, nor do they acknowledge, let alone address, the continued hospitalizations and deaths from COVID-19. The Petition suggests, instead, that the Legislature can live with those illnesses and deaths so long as it can declare the State back to “business as usual.”

79.

The Petition itself demonstrates that the Legislature has acted for political reasons and not because the emergency caused by COVID-19 has actually ended. The mere seven-day duration of the Petition proves that the motivation for the Petition had nothing to do with the interests of public health.

80.

In enacting the Health Emergency Act, the Legislature plainly intended for the decision making and state response to a public health emergency to be guided by scientific, medical, and public health rationale, not politics.

81.

The Court should declare the Petition null, void, and unenforceable because Defendants have issued it not in consultation with, but in contravention of, the State public health authority. The Governor may not order a state of public health emergency without consulting with LDH and finding that an emergency exists or is imminent and cannot terminate it without finding that the threat has passed or has been addressed. The Legislature should likewise not be able to terminate a state of public health emergency—as Defendants have purported to do here—without any scientific, medical, or public health basis for doing so.

The Court Should Declare the Petition Null, Void, and Unenforceable Because It Purports to Terminate the State of Public Health Emergency Unilaterally

82.

The Petition states that the House Members “do hereby terminate Proclamation Number 134 JBE 2020, effective upon receipt of this petition by the governor” *and* “do hereby instruct the governor to issue an executive order or proclamation terminating Proclamation Number 134 JBE 2020.” Ex. 1 at 3.

83.

These provisions of the Petition are obviously contradictory—the Petition cannot simultaneously terminate Proclamation Number 134 JBE 2020 upon receipt by the Governor and instruct the Governor to issue an order or proclamation terminating his earlier proclamation.

84.

To the extent the Petition purports to terminate Proclamation Number 134 JBE 2020 unilaterally, it exceeds even the terms of the Emergency Health Act, which requires that even if after a petition is delivered, the Governor “shall issue an executive order or proclamation ending the state of public health or emergency.” LA. REV. STAT. § 29:768(B).

85.

Section 768(B) assumes, therefore, that the Governor must take the additional and final action to end any state of public health emergency that he declares. In providing that the Governor “shall issue an executive order or proclamation ending the state of public health or emergency,” the Health Emergency Act recognizes that, as between the Governor and the Legislature, the power to terminate a public health emergency, declared by the Governor, belongs to the Governor. *Cf. Murrill v. Edwards*, 613 So.2d 185, 190 (La. 1992) (holding that constitutional article providing that governor shall appoint executive department heads did not mandate appointment but, instead, recognized governor’s authority to appoint).

86.

The Governor retains the discretion whether or not to terminate a state of public health emergency in response to the Legislature’s petition because, under § 768(A), the Governor may terminate a state of public health emergency only when he finds “that the threat of danger has passed or the disaster or emergency has been dealt with to the extent that the emergency conditions no longer exist . . .” LA. REV. STAT. § 29:768(A).

87.

In addition, to the extent the Petition purports to terminate Proclamation Number 134 JBE 2020 unilaterally under the Emergency Health Act, it ignores and exceeds the very nature and purpose of a “petition.”

88.

A petition is a “written address, embodying an application or prayer from the person or persons preferring it, to the power, body, or person to whom it is presented, for the exercise of his or their authority in the redress of some wrong or the grant of some favor, privilege, or license.” BLACK’S LAW DICTIONARY 1031 (5th ed. 1979).

89.

In other words, if a majority of the members of a single house of the Legislature could unilaterally override the Governor's declaration of a state of public health emergency, they would not need to "petition" the Governor to issue an order or proclamation terminating it.

90.

Moreover, even if Defendants could terminate Proclamation Number 134 JBE 2020 under the Health Emergency Act, they have not acted to terminate it under the Disaster Emergency Act, pursuant to which the Governor also declared the state of emergency.

91.

Accordingly, the Court should declare Defendants' attempt to unilaterally terminate the Governor's declaration of the state of public health emergency null, void, and unenforceable.

**The Court Should Declare the Petition Null, Void, and Unenforceable
Because the Governor Has the Inherent Authority to Respond to,
and Protect the People of Louisiana from, a Public Health Emergency**

92.

The Disaster Emergency Act "enables the governor . . . to declare a state of emergency for the stated purpose of preserving the lives and property of the state." *State v. Pearson*, 07-332 (La. App. 5 Cir. 12/27/07); 975 So. 2d 646, 652. The statute's "purpose provision establishes a reasonable and definite governmental policy warranting the exercise of the State's police power to respond and protect the lives and property of this State during a natural emergency." *Id.* In other words, the Disaster Emergency Act delegates to the Governor the right and responsibility to "exercise the State's police power" to protect lives in an emergency.

93.

The Health Emergency Act similarly authorizes the Governor to act, on behalf of the State, "to protect the health and safety of its citizens" from "new and emerging dangers, including emergent and resurgent infectious diseases," which "pose serious and immediate threats" and to which the State must be able to respond rapidly and effectively. LA. REV. STAT. § 761(A). Pursuant to this authority, the Governor may declare "a state of public health emergency . . . if he finds a public health emergency . . . has occurred or the threat thereof is imminent." *Id.* § 29:766(A).

94.

The police power "is a power inherent in every sovereignty to govern men and things." *Yoes v. St. Charles Par. Council*, 400 So. 2d 260, 261 (La. App. 4th Cir. 1981).

95.

Therefore, in emergencies such as the COVID-19 pandemic, the Governor has the authority to exercise the State's police power to protect the public. *See, e.g., Foret v. Board of Levee Commissioners of the Orleans Levee Dist.*, 169 La. 427, 430 (1929) (recognizing governor authority to exercise policy power of state to cut levees in St. Bernard Parish to relieve stress on the levees in New Orleans).

96.

COVID-19 is precisely the type of unexpected health emergency that "call[s] for quick, decisive measures to save lives," *League of Indep. Fitness Facilities & Trainers, Inc. v. Whitmer*, 814 F. App'x 125, 129 (6th Cir. 2020), and the Governor has the express authority and responsibility to respond rapidly and effectively to protect the health and safety of the people of this State.

97.

The Court should declare the Petition null, void, and unenforceable because it represents an unconstitutional attempt to interfere with the Governor's exercise of his right and authority to protect the health and safety of the people of Louisiana from the current public health emergency.

COUNT II (INJUNCTIVE RELIEF)

98.

The Governor repeats and realleges the allegations in Paragraphs 1-98 above as though fully set forth herein.

99.

"An injunction shall be issued in cases where irreparable injury, loss, or damage may otherwise result to the applicant. . . ." LA. CODE CIV. PROC. art. 3601.

100.

Defendants' actions in issuing the Petition have caused irreparable injury and will continue to cause irreparable injury in the future if not enjoined. The Petition purports to terminate Proclamation Number 134 JBE 2020 and, at the very least, has caused and will continue to cause confusion in the State of Louisiana regarding the enforceability of the Governor's proclamation. If the safety measures imposed by Proclamation Number 134 JBE 2020 and associated guidelines, including social distancing, mask wearing, and limitations on gatherings and certain business

activities, are terminated, more Louisianans will become infected with COVID-19, require hospitalization, and die.

101.

Therefore, the Court should issue a preliminary and permanent injunction enjoining and restraining Defendants, their officers, agents, employees, and counsel as well as those persons in active concert or participation with them, from the time they receive actual knowledge of the Court's order, from interfering with, obstructing, or purporting to terminate (a) Proclamation Number 134 JBE 2020; (b) any other order or proclamation of the Governor declaring, renewing, extending, or supplementing a state of public health emergency relating to, or based on, COVID-19 as provided by the Disaster Emergency and Health Emergency Acts; and (c) any guidance of the State Fire Marshal or similar guidance or directive issued under the authority of the Governor implementing or concerning Proclamation Number 134 JBE 2020 or any other proclamation or order of the Governor declaring or renewing a state of public health emergency relating to, or based on, COVID-19 as provided by the Disaster Emergency and Health Emergency Acts.

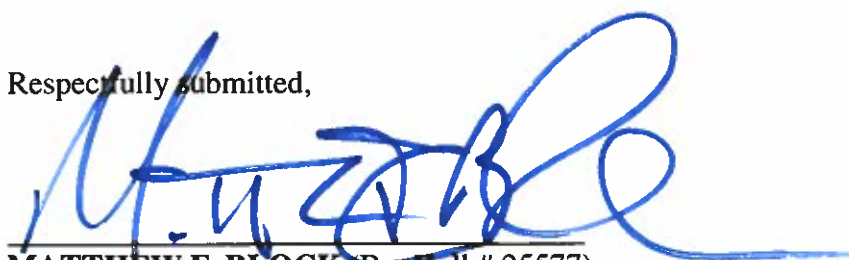
WHEREFORE, Governor John Bel Edwards prays for judgment as follows:

1. a declaration that the Petition is null, void, and unenforceable because Louisiana Revised Statutes § 29:768(B) is unconstitutional and should be severed from the Louisiana Health Emergency Powers Act, La. Rev. Stat. §§ 760-72;
2. a declaration that the Petition is null, void, and unenforceable because the House Members failed to issue the Petition "in consultation with the public health authority" as required by the Louisiana Health Emergency Powers Act;
3. a declaration that the Petition is null, void, and unenforceable because it purports to terminate Proclamation Number 134 JBE 2020 unilaterally in contravention of the Louisiana Health Emergency Powers Act;
4. a declaration that the Petition is null, void, and unenforceable because it violates the Governor's inherent authority to act on behalf of, and protect the people of this State from, a public health emergency;
5. a declaration that (a) Proclamation Number 134 JBE 2020 and any other duly issued order or proclamation of the Governor declaring, renewing, extending, or supplementing a state of public health emergency relating to, or based on, the COVID-19 pandemic and (b) any guidance of the State Fire Marshal or similar

guidance or directive issued under the authority of the Governor and thereby implementing or concerning Proclamation Number 134 JBE 2020 or any other order or proclamation of the Governor declaring, renewing, extending, or supplementing a state of public health emergency relating to, or based on, the COVID-19 pandemic remain in full force and effect without interruption;

6. a preliminary and permanent injunction enjoining and restraining Defendants, their officers, agents, employees, and counsel as well as those persons in active concert or participation with them, from the time they receive actual knowledge of the Court's order, from interfering with, obstructing, or purporting to terminate:
 - a. Proclamation Number 134 JBE 2020;
 - b. any other order or proclamation of the Governor declaring or renewing a state of public health emergency relating to, or based on, COVID-19 as provided by the Disaster Emergency and Health Emergency Acts; and
 - c. any guidance of the State Fire Marshal or similar guidance or directive issued under the authority of the Governor implementing or concerning Proclamation Number 134 JBE 2020 or any other proclamation or order of the Governor declaring or renewing a state of public health emergency relating to, or based on, COVID-19 as provided by the Disaster Emergency and Health Emergency Acts; and
7. such other general and equitable relief as this Court may deem appropriate in the circumstances.

Respectfully submitted,



MATTHEW F. BLOCK (Bar Roll # 25577)

TINA VANICHCHAGORN (# 30103)

JOHN C. WALSH (Bar Roll #38930)

Office of the Governor

Post Office Box 94004

Baton Rouge, LA 70804-9004

Telephone: (225) 342-7015

Facsimile: (225) 208-1524

Email: matthew.block@la.gov

tina.vanichchagorn@la.gov

john.walsh@la.gov

JACK M. WEISS (Bar Roll #13340)
Attorney at Law
5938 Laurel Street
New Orleans, Louisiana 70115
Telephone: (504) 267-0637
Email: jack1656@gmail.com

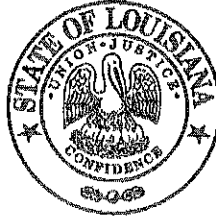
Attorneys for Plaintiff
GOVERNOR JOHN BEL EDWARDS

PLEASE SERVE:

1. Louisiana State Legislature, through
Jeff Landry, Louisiana Attorney General
Louisiana Department of Justice
1885 North Third Street
Baton Rouge, LA 70802
2. Louisiana House of Representatives, by and through:
Representative Clay Schexnayder, Speaker of the House
6473 Highway 44, Suite 205
Gonzales, LA 70737
3. Representative Clay Schexnayder, Speaker of the House
6473 Highway 44, Suite 205
Gonzales, LA 70737
4. Jeff Landry, Louisiana Attorney General
Louisiana Department of Justice
1885 North Third Street
Baton Rouge, LA 70802

State of Louisiana
House of Representatives

RECEIVED
OCT 23 2020
4:12 pm
House of Representatives
Clerk's Office



PETITION TO TERMINATE
STATE OF PUBLIC HEALTH EMERGENCY

WHEREAS, on March 11, 2020, the World Health Organization declared the novel coronavirus (COVID-19) outbreak a global pandemic; and

WHEREAS, on March 11, 2020, Governor Edwards issued Proclamation Number 25 JBE 2020 to declare a statewide public health emergency due to the imminent threat posed to Louisiana citizens by COVID-19; and

WHEREAS, on March 13, 2020, President Trump issued Proclamation 9994 declaring a national emergency concerning COVID-19; and

WHEREAS, the governor, after consulting with medical experts, understood that the spread of COVID-19 posed a significant risk of substantial future harm and even death to a large number of Louisiana residents; and

WHEREAS, the extraordinary threat posed by COVID-19 initially caused critical shortages of healthcare equipment and personal protective equipment for healthcare workers and serious concerns about reduced beds and capacity in hospitals to care for our citizens; and

WHEREAS, without the protective measures imposed by the governor to slow the spread of COVID-19, Louisiana healthcare facilities and other resources were at risk of being overwhelmed; and

WHEREAS, Governor Edwards' proactive actions and measures at the onset of COVID-19 were necessary to protect the health and safety of the citizens of Louisiana; and

WHEREAS, the impact of COVID-19 on our national and state economies prompted congress to provide an unprecedented amount of federal aid to citizens, businesses, and state and local governments; and

EXHIBIT

tabbles

1

WHEREAS, despite this aid, many Louisiana small businesses have gone out of business, and many more are in danger of going out of business as a consequence of the restrictive measures put in place to combat COVID-19; and

WHEREAS, the measures imposed to slow the spread of COVID-19 have also resulted in a lack of social interaction and feelings of isolation which can be detrimental to the mental health and well-being of Louisiana residents; and

WHEREAS, students in Louisiana have been hindered in their academic and extracurricular pursuits which are critical to their overall personal growth and development, and such hindrance can greatly limit future academic and employment opportunities; and

WHEREAS, in the eight months following the initial declaration of a public health emergency by Governor Edwards, the medical supply chain has recovered and is capable of meeting the current demands for COVID-19-related medical equipment and supplies; and

WHEREAS, after eight months of state-directed efforts, the emergency systems and procedures that have been put in place, along with a sustainable medical supply chain and an informed public, have overcome what was initially an imminent threat to our residents and healthcare system caused by the spread of COVID-19 and a strained medical supply chain; and

WHEREAS, the legislature has generally consulted with the public health authority continuously throughout the public health emergency by way of conference calls, daily reports, weekly updates, and has consulted with the public health authority specifically regarding the object of this petition by a consultation meeting with the legislature; and

WHEREAS, it is the will of the Louisiana House of Representatives that, during the duration of the suspension of the executive authority to issue public health emergencies in accordance with R.S. 29:768, Governor Edwards consult with the Legislature of Louisiana for the purpose of receiving the approval of the Legislature of Louisiana prior to the declaration of a post-suspension public health emergency; and

WHEREAS, should the governor determine that a declaration of a post-suspension public health emergency is necessary and due to the different impacts of COVID-19 across the state, it is the will of the Louisiana House of Representatives that the declaration include provisions allowing each parish president and each chief executive officer of a municipality to withdraw from the declared state of public health emergency.

WHEREAS, if the governor believes a post-suspension emergency proclamation or order related to COVID-19 is necessary, it is the will of the House of Representatives of the Legislature of Louisiana that the governor consult with the speaker of the House of Representatives, the president of the Senate, the speaker pro tempore of the House of Representatives, and the president pro tempore of the Senate in order to determine the appropriate measures to respond to the issue.

BE IT RESOLVED that the termination of Proclamation Number 134 JBE 2020 shall have no effect on the continuation of hurricane-related declarations of emergency, including Proclamation Number 141 JBE 2020, and such other hurricane-related proclamations.

NOW THEREFORE, we, the undersigned members of the House of Representatives of the Legislature of Louisiana, constituting a majority of the elected members of the House of Representatives thereof, and in consultation with the public health authority, do hereby terminate Proclamation Number 134 JBE 2020, effective upon receipt of this petition by the governor; do hereby prohibit, for a period commencing upon presentation of this petition to the governor and ending seven days after issuance of the proclamation terminating Proclamation Number 134 JBE 2020, any additional gubernatorial orders declaring, renewing, extending, or supplementing any state of public health emergency; and do hereby instruct the governor to issue an executive order or proclamation terminating Proclamation Number 134 JBE 2020.

Respectfully Submitted,

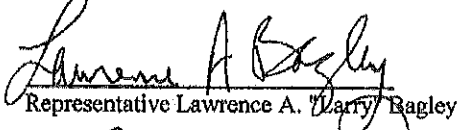
Members of the Louisiana House of Representatives


Speaker Clay Schexnayder

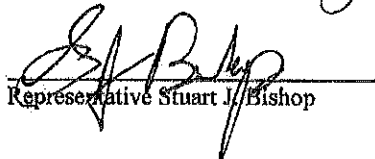

Representative Roy Daryl Adams


Representative Beryl A. Amedée


Representative Tony Bacala


Representative Lawrence A. Warry Bagley


Representative Gerald Alphonse Beaulieu


Representative Stuart J. Bishop


Representative Ryan Joseph Esparriague

Representative Kendrick "Ken" Brass

Representative Chad Brown

Representative Marcus Anthony Bryant


Representative Rhonda Gaye Butler

Representative Barbara W. Carpenter


Representative R. Dewith Carrier

Representative Gary M. Carter, Jr.

Representative Robby Carter

Representative Wilford Dan Carter, Sr.

Representative Mack Marcel Cormier

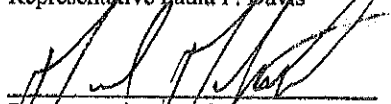

Representative Jean-Paul P. Coussan

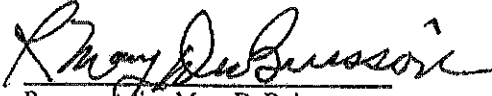
Representative Kenny R. Cox


Representative Raymond J. Crews

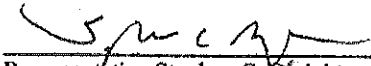

Representative Paula P. Davis



Representative Phillip R. DeVillier


Representative Daryl Andrew Deshotel


Representative Mary DuBuisson

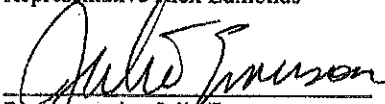
Representative Royce Duplessis


Representative Stephen C. Dwight


Representative Michael Charles Echols

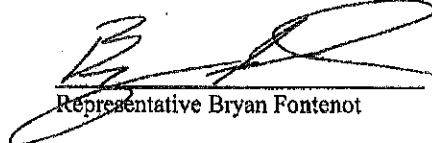

Representative Rick Edmonds


Representative Kathy Edmonston


Representative Julie Emerson


Representative Les Farnum


Representative Michael "Gabe" Firment


Representative Bryan Fontenot

Representative Aimee Adatto Freeman

Representative Barbara Reich Freiberg

Representative Lawrence "Larry" Frieman

Representative Foy Bryan Gadberry

Representative Randal L. Gaines

Representative Raymond E. Garofalo, Jr.

Representative Cedric B. Glover

Representative Jonathan Goudeau, I

Representative Kyle M. Green, Jr.

Representative Lance Harris

Representative Charles Alexander Henry

Representative Stephanie Hilferty

Representative Valarie Hodges

Representative Paul Hollis

Representative Dodie Horton

Representative Jason Hughes

Representative Mike Huval

Representative John R. Hlg, Jr.

Representative Barry Ivey

Representative Edward C. "Ted" James, II

Representative Patrick O. Jefferson

Representative Sam L. Jenkins, Jr.

Representative C. Travis Johnson

Representative Michael T. Johnson

Representative Frederick Douglass Jones

Representative Edmond Jordan

Representative Timothy P. Kerner

Representative Jeremy S. LaCombe

Representative Mandie Landry


Representative Ed Larvadain III

Representative Rodney Lyons

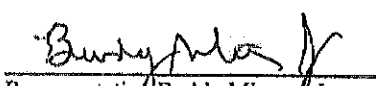

Representative Tanner D. Magee

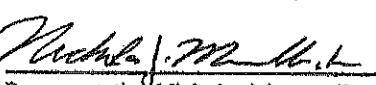
Representative Joseph A. Marino, III


Representative Jack G. McFarland

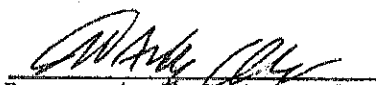

Representative Wayne McMahon

Representative Dustin Miller

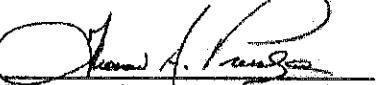

Representative Buddy Mincey, Jr.


Representative Nicholas Muscarello, Jr.


Representative Candace N. Newell

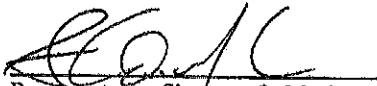

Representative Charles Anthony Owen

Representative Tammy T. Phelps

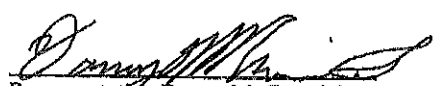

Representative Thomas A. Pressly


Representative Troy D. Romero


Representative Alan Seabaugh


Representative Sherman Q. Mack

Representative C. Denise Marcelle



Representative Danny McCormick



Representative Markham Scott McKnight



Representative Blake Miguez


Representative Gregory A. Miller

Representative Patricia "Pat" Moore



Representative Richard James Nelson


Representative Joseph A. Orgeron

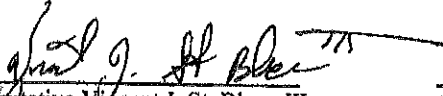

Representative Robert "Bob" Owen

Representative Vincent J. Pierre

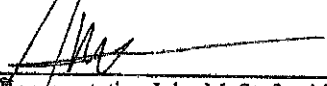

Representative Neil Riser

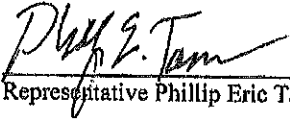

Representative Rodney Wayne Schamerhorn

Representative Larry Selders


Representative Vincent J. St. Blanc III

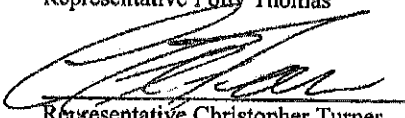
Representative Joseph A. Stagni



Representative John M. Stefanski



Representative Phillip Eric Tarver


Representative Polly Thomas

Representative Francis C. Thompson


Representative Christopher Turner


Representative Debbie Villio


Representative William "Bill" Wheat, Jr.

Representative Malinda B. White

Representative Matthew Willard


Representative Mark Wright


Representative Jerome "Zee" Zeringue

RECEIVED

OCT 23 2020

4:12 pm

House of Representatives
Clerk's Office

Subject: FW: Request for Consultation

From: Bacala, Rep. Tony (Chamber Laptop) [mailto:tbacala@legis.la.gov]
Sent: Wednesday, September 23, 2020 11:19 AM
To: Tonya Joiner <Tonya.Joiner@la.gov>
Cc: Schexnayder, Rep. Clay (Chamber Laptop) <cschexnayder@legis.la.gov>; Cortez, Sen. Page (Chamber Laptop) <pcortez@legis.la.gov>
Subject: Request for Consultation

EXTERNAL EMAIL: Please do not click on links or attachments unless you know the content is safe.

Tonya,

As you are aware, the House is contemplating a petition as specified in RS 29:768(B), which requires "consultation with the public health authority". I would like to formally request such as consultation be provided to member of the legislature prior to 2:00 p.m. on September 28th.

I have previously requested such a consultation in conversations and text messages with Matthew Block this past Monday (September 21st), but I have not heard back from him. For that reason, I am reaching out to you.

Please feel free to forward this message to the appropriate individuals at LDH and the "public health authority", and feel free to call me back if you have any questions or need more information. My cell phone number is 225-921-3852.

Thank you,

Tony Bacala

This email has been scanned for spam and viruses by Proofpoint Essentials. Click [here](#) to report this message as spam.



PETITION TO TERMINATE THE COVID-19 PUBLIC HEALTH EMERGENCY

Louisiana State Capitol
Baton Rouge, Louisiana

WHEREAS, on March 11, 2020, the World Health Organization designated the Novel Coronavirus Disease (COVID-19) outbreak as a worldwide pandemic;

WHEREAS, on March 11, 2020, Governor John Bel Edwards issued Proclamation Number 25 JBE 2020 to declare a statewide Public Health Emergency due to the imminent threat posed to Louisiana by COVID-19;

WHEREAS, on March 13, 2020, President Donald Trump issued Proclamation 9994 declaring a National Emergency concerning COVID-19;

WHEREAS, a declaration of public health emergency was necessary for state agencies to thoroughly prepare for any eventuality related to public health and deploy additional resources to assist local authorities and healthcare systems;

WHEREAS, the State of Louisiana had reason to believe that COVID-19 may be spread among the population by various means of exposure, therefore posing a possibility of widespread exposure and harm;

WHEREAS, the extraordinary threat posed by COVID-19 initially caused critical shortages of health care equipment, personal protective equipment, and shortages in hospital beds throughout the state;

WHEREAS, initial testing for the COVID-19 virus was limited, and limited research was available to help understand the impacts of the COVID-19 virus and its possible effects on the citizens of Louisiana;

WHEREAS, the Governor's proactive measures at the onset of the COVID-19 virus were reasonable to protect the health and safety of the people of Louisiana;

WHEREAS, in over six months following the Governor declaring a public health emergency, the medical supply chain has recovered and is capable of meeting demands for COVID-19-related equipment and supplies;

WHEREAS, the purpose of the phased reopening plan was to control the rate of spread of the COVID-19 virus, as to prevent our healthcare system from being overwhelmed;

WHEREAS, after six months of state-directed effort, the emergency systems and procedures that have been put in place, along with a sustainable medical supply chain and an informed public, have overcome what was initially an imminent threat to our citizens and healthcare system;

WHEREAS, medical research has identified the characteristics and comorbidities most likely to result in severe complications from the COVID-19 virus;

WHEREAS, lack of social interaction and isolation can be severely detrimental to the mental health and wellbeing of Louisiana citizens;

WHEREAS, Louisiana citizens have been sufficiently informed of the populations most at risk, the health risks associated with the COVID-19 virus, and the recommended precautionary measures that should be taken;

WHEREAS, Louisiana citizens, businesses, and organizations, having been informed of the risks of COVID-19 and recommended precautionary measures, are in the best position to take responsibility for their individual level of risk from COVID-19 infection.



WHEREAS, with the timeframe for the development of an effective vaccine uncertain, the response to the COVID-19 virus must be sustainable for the foreseeable future;

WHEREAS, as a result of the negative impact of COVID-19 to the national and state economies, Congress provided an unprecedented, but limited, amount of federal aid to its citizens, businesses, and state and local governments;

WHEREAS, hundreds of thousands Louisiana citizens have lost their jobs, thousands of businesses have permanently closed, and many more are at risk in the coming months;

WHEREAS, students in Louisiana are being greatly hindered in academic and extracurricular pursuits critical to their personal growth and development, significantly impacting the future opportunity of our children and our state;

WHEREAS, the Governor has not, throughout the six months of this unprecedented crisis, consulted with or sought the approval of the Legislature, the representatives of the People of Louisiana, regarding the state's response to COVID-19.

WHEREAS, it is the will of the Louisiana House of Representatives that Governor Edwards, during the duration of the suspension of executive authority to issue public health emergencies in accordance with RS 29:768, Governor Edwards consult with the Legislature of Louisiana for the purpose of receiving the approval of the Legislature of Louisiana prior to the declaration of a post-suspension Public Health Emergency;

NOW THEREFORE, we, the undersigned members of the House of Representatives of the Legislature of Louisiana constituting a majority of the elected members of the House of Representatives thereof, in accordance with the provisions set forth in R.S. 29:724 and R.S. 29:768 and in consultation with the public health authority, do hereby terminate all public health emergency proclamations and extensions including but not limited to the following Proclamation Numbers: 25 JBE 2020, 27 JBE 2020, 30 JBE 2020, 33 JBE 2020, 38 JBE 2020, 41 JBE 2020, 43 JBE 2020, 52 JBE 2020, 58 JBE 2020, 59 JBE 2020, 74 JBE 2020, 75 JBE 2020, 83 JBE 2020, 84 JBE 2020, 89 JBE 2020, 96 JBE 2020, 97 JBE 2020, 101 JBE 2020, 102 JBE 2020, 110 JBE 2020, 111 JBE 2020, 117 JBE 2020, 118 JBE 2020 and any other related proclamation or extension; do hereby establish that no further public health emergencies be declared by the governor for a period of fourteen days following the end of the current state of emergency; and do hereby establish that nothing herein shall affect the governor's ability to declare a disaster or emergency pursuant to R.S. 29:724; and do hereby instruct the governor, in accordance with R.S. 29:724 and R.S. 29:768, to issue an executive order or proclamation terminating the emergency proclamations herein to be effective immediately following the delivery of this petition to the Office of the Governor.

Respectfully Submitted,

Members of the
Louisiana House of Representatives

SIGNATURE OF LEGISLATOR

DISTRICT NUMBER



STATE OF LOUISIANA

MICHELLE D. FONTENOT
CLERK, HOUSE OF REPRESENTATIVES

POST OFFICE BOX 44281
BATON ROUGE, LOUISIANA 70804-4281
(225) 342-7239

October 23, 2020

The Honorable John Bel Edwards
Governor, State of Louisiana
Post Office Box 94004
Baton Rouge, LA 70804

ATTENTION: Governor John Bel Edwards

Enclosed is a hard copy of a petition entitled "Petition to Terminate State of Public Health Emergency" delivered to me by Cinthia Mancuso, Executive Counsel to the Speaker in my office on the ground floor of the State Capitol, on the 23rd day of October, 2020. An electronic copy of the petition will be delivered via email on the same day.

Sincerely,

A handwritten signature in cursive script, appearing to read "Michelle D. Fontenot".

Michelle D. Fontenot

Enclosures (1)

RECEIVED BY: _____

DATE: _____

