



# URGENT ITEM AGENDA MATERIAL

Government Code Section 54954.2(b)  
Rules of Procedure Chapter III.C.5

**THIS ITEM IS NOT YET AGENDIZED AND MAY OR MAY NOT BE ACCEPTED FOR THE AGENDA AS A LATE ITEM, SUBJECT TO THE CITY COUNCIL'S DISCRETION ACCORDING TO BROWN ACT RULES**

**Meeting Date: May 5, 2022**

**Item Description: Resolution Supporting the Reintroduction of a Mask Mandate on AC Transit**

This item is submitted pursuant to the provision checked below:

- Emergency Situation (54954.2(b)(1) - majority vote required)  
*Determination by a majority vote of the legislative body that an emergency situation exists, as defined in Section 54956.5.*
- Immediate Action Required (54954.2(b)(2) - two-thirds vote required)  
*There is a need to take immediate action and the need for action came to the attention of the local agency subsequent to the agenda for this meeting being posted.*

Once the item is added to the agenda (Consent or Action) it must be passed by the standard required vote threshold (majority, two-thirds, or 7/9).

## **Facts supporting the addition of the item to the agenda under Section 54954.2(b) and Chapter III.C.5 of the Rules of Procedure:**

On Wednesday, April 27<sup>th</sup> the AC Transit Board failed to reimplement a mask mandate on AC Transit by a tied vote of 3-3. This comes after a sudden and unprecedented ruling by a federal judge on April 18<sup>th</sup> overturning the federal mandate for masks on public transit. It is critical for the health of Berkeley residents, especially those with disabilities and conditions that make them vulnerable to COVID 19, that the AC Transit Board reverse its decision and reimplement masking requirements.



CITY COUNCILMEMBER  
**RIGEL ROBINSON**  
DISTRICT 7

ACTION CALENDAR

May 5, 2022

To: Honorable Mayor and Members of the City Council  
From: Councilmember Rigel Robinson, Mayor Jesse Arreguin  
Subject: Resolution Supporting the Reintroduction of a Mask Mandate on AC Transit

RECOMMENDATION

Adopt a Resolution calling on the AC Transit Board of Directors to reconsider its decision and readopt a mask mandate for the AC Transit system, and calling on the health officers of Alameda, Contra Costa, San Mateo, Santa Clara, and San Francisco to mandate mask wearing on all public transit systems.

BACKGROUND

Early during the COVID-19 pandemic, federal regulators acted to protect the public and transit workers by wear face masks on all public transit and air travel. This mandate was an important tool in slowing and preventing the spread of COVID 19. On April 18th, 2022 a federal judge in Florida overturned this mandate suddenly and with no consideration of scientific and public health guidelines. This reckless act has put Berkeley residents and workers at risk and jeopardizes the City's efforts to address the pandemic.

While the BART Board of Directors acted swiftly to reimplement this critical protection, the AC Transit Board of Directors failed to do so by a tied vote, with one member absent.

While masking on transit is broadly beneficial to our entire community, it is especially important for transit workers and disabled riders. For those with disabilities and other conditions that place them at particular risk of harmful outcomes even from more mild variants of COVID 19, mask mandates are a critical disability access tool to allow them to use public transit without fear of illness. Failing to reimplement the mandate hinders their right to access public space for no clear benefit. Additionally, bus drivers face elevated risk of COVID 19 by the nature of their work, spending many hours in the confined space of a bus with only a plastic shield between them and hundreds of riders. Masking requirements are a critical means of keeping them safe.

FINANCIAL IMPLICATIONS

None.

ENVIRONMENTAL SUSTAINABILITY

None.

CONTACT PERSON

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Max Mankita, Intern

Attachments:

1: Resolution

RESOLUTION NO. ##,###-N.S.

SUPPORTING COMMON-SENSE PUBLIC HEALTH MEASURES ON PUBLIC  
TRANSIT SYSTEMS

WHEREAS, Kathryn Kimball Mizelle, a right-wing, Trump-appointed judge deemed “Not Qualified” by the American Bar Association,<sup>1</sup> issued an order to lift the federal mandate on masking on airlines and public transit with no regard to the real and persistent dangers of the continued spread of COVID-19;<sup>2</sup> and

WHEREAS, the continued requirement for masking on public transit is essential in protecting the health of front-line transit workers and the riding public, and critical for allowing those with special vulnerabilities and disabilities access to public space; and

WHEREAS, despite the end of the federal mandate, transit agencies across the country have acted swiftly to reinstitute masking requirements at the local level, including our own BART system here in the Bay Area.

THEREFORE BE IT RESOLVED, that the Berkeley City Council expresses our deep gratitude to BART Board President Rebecca Saltzman, Vice President Janice Lee, and Director Bevan Dufty for taking swift action to protect BART workers, disabled riders, and the general public by introducing a renewed local masking requirement for the BART system, and thanks AC Transit Board Directors Jean Walsh, Jovanka Beckles, and Murphy McCalley for supporting similar action for AC Transit; and

THEREFORE BE IT FURTHER RESOLVED, that the Berkeley City Council calls on the AC Transit Board of Directors to immediately and urgently reconsider its rejection of extending masking requirements for AC Transit, and joins BART Board President Rebecca Saltzman’s request that the health officers of the Counties of Alameda, Contra Costa, San Mateo, and Santa Clara, and the City and County of San Francisco immediately issue masking requirements for all transit systems in their jurisdictions.

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<sup>1</sup> <https://www.vanityfair.com/news/2022/04/this-trump-judge-was-found-not-qualified-then-she-axed-the-mask-mandate>

<sup>2</sup> <https://www.nytimes.com/2022/04/25/travel/mask-mandate-overturn.html>