

**AGENDA ITEM EXECUTIVE SUMMARY**

Agenda Item number: IB

Title:

Recommendation to Ratify the Decision Made by Executive Order 2020-1 to Exclude Additional Emergency Responders from the Emergency Family and Medical Leave Expansion Act.

Presenter:

Jennifer McMahan

Meeting: City Council

Date: April 6, 2020

Proposed Cost:

Budgeted Amount:

Not Budgeted: **Executive Summary** *(if not budgeted please explain):*

On March 30, 2020, City Council approved Resolution 2020-14, excluding sworn members of the St. Charles Fire Department and Police Department from the Emergency Family and Medical Leave Expansion Act of the Families First Coronavirus Response Act (FFCRA). This Act allowed municipalities to exclude emergency responders.

On March 31, 2020, the Department of Labor defined “emergency responders.” This definition was broad to include not only fire and police personnel, but also emergency management personnel, public works personnel, and “persons with skills or training...needed to provide aid in a declared emergency.”

The City’s emergency responders shall continue to be eligible for the benefits provided under Division E, entitled “Emergency Paid Sick Leave Act” of the Families First Coronavirus Response Act.

Executive Order 2020-1, signed by Mayor Rogina on March 31, 2020, states that these additional personnel are excluded from application of Section 3102, of Division C, entitled “Emergency Family and Medical Leave Expansion Act” of the Families First Coronavirus Response Act.

The City has the right to exclude emergency responders from this provision of the Emergency Family and Medical Leave Expansion Act and this action is being recommended to the Council by the Director of Human Resources after discussions with the City Attorney, the Chief of Police, the Fire Chief, the Director of Community & Economic Development, and the Director of Public Works. These critical City departments will need all emergency responders available to work in order to provide an effective and efficient response to COVID-19.

**Attachments** *(please list):*

Resolution

Executive Order 2020-1

**Recommendation/Suggested Action** *(briefly explain):*

Recommendation to Ratify the Decision Made in Executive Order 2020-1 to Exclude Additional Emergency Responders from the Emergency Family and Medical Leave Expansion Act.

**City of St. Charles**  
**Resolution No. \_\_\_\_\_**

**Ratifying Executive Order 2020- 1 and Approving the Exclusion of  
Emergency Responders of the City of St. Charles from the  
Emergency Family and Medical Leave Expansion Act**

**Presented & Passed by the  
City Council on \_\_\_\_\_**

WHEREAS, on March 18, 2020, the President of the United States signed into law the Families First Coronavirus Response Act (“FFCRA”) which includes requirements for paid sick and emergency leave due to the COVID-19 pandemic; and

WHEREAS, the FFCRA includes the “Emergency Family and Medical Leave Expansion Act” which temporarily expands the Family Medical Leave Act of 1993, and requires employers to provide employees with partially paid leave for certain child care issues during the COVID-19 pandemic (i.e. “Public Health Emergency Leave”); and

WHEREAS, the Emergency Family and Medical Leave Expansion Act is effective April 1, 2020 through December 31, 2020; and

WHEREAS, Section 3105 of the FFCRA authorizes the employers of emergency responders to exclude such employees from the Emergency Family and Medical Leave Expansion Act provision of the FFCRA; and

WHEREAS, the President of the United States has declared a national emergency in response to the COVID-19 pandemic; and

WHEREAS, the City of St. Charles (the “City”) must take actions to provide for the continuation of essential services and provide for the health and safety of all City residents; and

WHEREAS, the corporate authorities are expressly empowered to legislate to protect the health, safety and welfare of the residents of the City; and

WHEREAS, on March 18, 2020, in a “Declaration of Local State of Emergency,” the Mayor declared the existence of a state of emergency in the City due to the COVID-19 pandemic; and

WHEREAS, on March 30, 2020, the City excluded its sworn members of the City Fire Department and City Police Department from application of the Emergency Family and Medical Leave Expansion Act provision of the Families First Coronavirus Response Act; and

WHEREAS, on March 31, 2020, the Mayor of the City, and pursuant to the City Ordinance Establishing Temporary Executive Powers Pursuant to 65 ILCS 5/11-1-6, 20 ILCS 3305/11 and Sections 2.34 and 2.36 of the City of St. Charles Code, issued Executive Order 2020-1, which excluded the City's other emergency responders from application of Section 3102, of Division C, entitled "Emergency Family and Medical Leave Expansion Act" of the FFCRA; and

WHEREAS, the corporate authorities approve of the actions taken by the Mayor pursuant to Executive Order 2020-1 and have determined that it is necessary to ratify the Mayor's actions and exclude the City's emergency responders from application of Section 3102, of Division C, entitled "Emergency Family and Medical Leave Expansion Act," of the FFCRA in order to enable the City to continually respond to emergencies during the COVID-19 pandemic.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of St. Charles, Kane and DuPage Counties, Illinois, as follows:

SECTION 1: The facts and statements contained in the preambles to this resolution are found to be true and correct and are hereby adopted as part of this resolution.

SECTION 2: The corporate authorities hereby ratify the actions taken by the Mayor pursuant to Executive Order 2020-1.

SECTION 3: In addition to the sworn members of the City Fire Department and City Police Department previously excluded from application of Section 3102, of Division C, entitled "Emergency Family and Medical Leave Expansion Act" of the Families First Coronavirus Response Act, the corporate authorities hereby exclude the City's other emergency responders, including but not limited to, the emergency management personnel, public works personnel, employees with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency, and employees whose work is necessary to maintain the operation of the City's emergency responders, are hereby excluded from application of Section 3102, of Division C, entitled "Emergency Family and Medical Leave Expansion Act" of the Families First Coronavirus Response Act.

**[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]**

SECTION 4: This Resolution shall be in full force and effect upon its passage and approval in accordance with law.

PRESENTED to the City Council of the City of St. Charles, Illinois, this \_\_\_\_\_ day of \_\_\_\_\_ 2020.

PASSED by the City Council of the City of St. Charles, Illinois, this \_\_\_\_\_ day of \_\_\_\_\_ 2020.

APPROVED by the Mayor of the City of St. Charles, Illinois, this \_\_\_\_\_ day of \_\_\_\_\_ 2020.

\_\_\_\_\_  
Raymond P. Rogina, Mayor

ATTEST:

\_\_\_\_\_  
Charles Amenta, City Clerk

COUNCIL VOTE:

Ayes:

Nays:

Absent:

Abstain:

City of St. Charles  
Office of the Mayor  
St. Charles, Illinois

March 31, 2020

Executive Order 2020-01

**EXECUTIVE ORDER IN RESPONSE TO COVID-19  
(COVID-19 EXECUTIVE ORDER NO. 1)**

**WHEREAS**, on March 18, 2020, the President of the United States signed into law the Families First Coronavirus Response Act (“FFCRA”) which includes requirements for paid sick and emergency leave due to the COVID-19 pandemic; and

**WHEREAS**, the FFCRA includes the “Emergency Family and Medical Leave Expansion Act” which temporarily expands the Family Medical Leave Act of 1993, and requires employers to provide employees with partially paid leave for certain child care issues caused by the COVID-19 pandemic (i.e. “Public Health Emergency Leave”); and

**WHEREAS**, the Emergency Family and Medical Leave Expansion Act is effective on April 1, 2020 through December 31, 2020; and

**WHEREAS**, Sections 3105 of the FFCRA authorize the employers of emergency responders to exclude such employees from the Public Health Emergency Leave provision of the FFCRA; and

**WHEREAS**, the President of the United States has declared a national emergency in response to the COVID-19 pandemic; and

**WHEREAS**, the City of St. Charles (the “City”) must take actions to provide for the continuation of essential services and provide for the health and safety of all City residents; and

**WHEREAS**, pursuant to City of St. Charles Ordinance, as the Mayor of the City, I have been vested with the extraordinary power and authority to issue executive orders to protect life and property to ensure that the effects of COVID-19 are mitigated and minimized and that residents and visitors in the City remain safe and secure; and

**WHEREAS**, on March 18, 2020, in a “Declaration of Local State of Emergency,” I declared the existence of a state of emergency in the City of St. Charles (the “City”) due to the COVID-19 pandemic; and

**WHEREAS**, on March 30, 2020, the City excluded its sworn members of the City Fire Department and City Police Department from application of the Emergency Family and Medical Leave Expansion Act provision of the Families First Coronavirus Response Act; and

**WHEREAS**, the U.S. Department of Labor has issued guidance regarding the FFCRA and defined “emergency responders” to include law enforcement officers, fire fighters, emergency management personnel, public works personnel, and persons with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency as

well as individuals who work for such facilities employing these individuals and whose work is necessary to maintain the operation of the facility; and

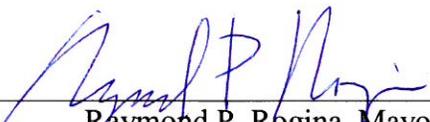
**WHEREAS**, it is necessary that the City exclude its emergency responders in order to enable the City to continually respond to emergencies created by the COVID-19 pandemic.

**THEREFORE**, by the powers vested in me as the Mayor of the City of St. Charles, Illinois, and pursuant to the City Ordinance Establishing Temporary Executive Powers Pursuant to 65 ILCS 5/11-1-6, 20 ILCS 3305/11 and Sections 2.34 and 2.36 of the City of St. Charles Code, I hereby order the following, effective March 31, 2020:

**Section 1:** In addition to the sworn members of the City Fire Department and City Police Department previously excluded from application of Section 3102, of Division C, entitled “Emergency Family and Medical Leave Expansion Act” of the Families First Coronavirus Response Act, the City’s other emergency responders, including but not limited to the emergency management personnel, public works personnel, employees with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency, and employees whose work is necessary to maintain the operation of the City’s emergency responders are hereby excluded from application of Section 3102, of Division C, entitled “Emergency Family and Medical Leave Expansion Act” of the Families First Coronavirus Response Act.

**Section 2:** The City’s emergency responders shall continue to be eligible for the benefits provided under Division E, entitled “Emergency Paid Sick Leave Act” of the Families First Coronavirus Response Act.

**Section 3:** If any provision of the Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

  
Raymond P. Rogina, Mayor

Issued by the Mayor of St. Charles on March 31, 2020.  
Filed with the City Clerk on March 31, 2020.