



June 7, 2021

The Honorable Gavin Newsom
Governor, State of California
State Capitol
Sacramento, CA 95814

RE: Explanation for Ongoing State of Emergency

Dear Governor Newsom:

Section 8629 of the California Emergency Services Act provides that the “Governor shall proclaim the termination of a state of emergency at the earliest possible date that conditions warrant.”

Last Friday, you indicated that this date has not arrived with respect to the COVID-19 State of Emergency. You stated that “we’re still in a state of emergency” that “remains in effect after June 15.”

Since you are declining to end the state of emergency, the Legislature is considering exercising its power to do so with Assembly Concurrent Resolution 46 and Senate Concurrent Resolution 5. To aid in the Legislature’s decision-making, we request an explanation as to why, in your view, current conditions meet the legal requirements for a state of emergency as set forth in Government Code Section 8558:

“...the duly proclaimed existence of conditions of disaster or of extreme peril to the safety of persons and property within the state . . . which, by reason of their magnitude, are or are likely to be beyond the control of the services, personnel, equipment, and facilities of any single county, city and county, or city and require the combined forces of a mutual aid region or regions to combat.”

We request a specific response as to the following elements of that definition:

- The daily COVID-19 infection rate is 1 out of every 25,000 people nationally, and 1 out of every 50,000 in California. The daily death rate is 1 out of every 770,000 people nationally and 1 out of every 1,429,000 in California. These numbers continue to decline. In addition, 44 percent of Californians are fully vaccinated and considerably more have natural immunity. On May 21, your senior advisor, Dee Dee Myers, stated: “We’re at a point where we can actually move beyond saying we expect to open on June 15, to confirming that we’re opening up June 15.”
 - In light of these facts, please identify the “conditions of disaster or extreme peril” that are the predicate for the ongoing state of emergency.

- Last Friday, you stated the state of emergency will remain in effect because “this disease has not been extinguished. It’s not vanished.” Does this mean your intention is to keep the state of emergency in effect until the case rate reaches zero? If not, please identify what rates would no longer amount to “conditions of disaster or extreme peril.”
- If conditions warrant an opening of the state on June 15, what metrics are being applied to support that opening and why are those metrics not being subsequently applied to ending the state of emergency?
- Conditions of disaster or extreme peril do not warrant a state of emergency in themselves, but only if “by reason of their magnitude,” they “are or are likely to be beyond the control of the services, personnel, equipment, and facilities of any single county, city and county, or city.” On May 21, Health and Human Services Secretary Mark Ghaly stated that after June 15, “We’ll see likely some increase in transmission, but because of the level of protection broadly across the state, we don’t think that transmission will have significant impact on our hospital delivery.”
 - Please identify the metrics you are using to determine whether the “conditions of disaster or extreme peril” presented by COVID-19 are of such a “magnitude” as to be “beyond the control” of California municipalities.
 - If you believe COVID-19 conditions are currently of a magnitude “beyond the control” of California municipalities, please explain why. If you believe COVID-19 conditions are likely to be “beyond the control” of California municipalities, please explain why.

Thank you for your urgent attention to this request.

Sincerely,



KEVIN KILEY
Assemblymember, 6th District



MELISSA MELENDEZ
Senator, 28th District



JAMES GALLAGHER
Assemblymember, 3rd District