



SCR 5 – Managing Authority of Governor Act

Senator Melissa Melendez

Background

In March of 2020, California took precautionary measures to address further outbreak of COVID-19. State leaders took actions to shutter the economy in order to “flatten the curve” of individuals infected by the virus. The State encouraged all non-essential residents to quarantine in their homes, helping ensure the state’s health care system had infrastructure to address infected patients. The Governor declared a State of Emergency to help address the impact to Californians by accessing Federal dollars and assistance.

Throughout the Declaration, the Governor enacted more than 47 executive orders. These actions touched on a plethora of policies, changing approximately 200 laws and impacting the everyday lives of Californians.

Problem Being Addressed

Nine months later, the State of California is still in a Declared State of Emergency. During a Declaration, the Governor has a unilateral expansion of executive powers, allowing him to make significant changes without knowledge or approval from legislators. Senate Concurrent Resolution 5 would end the State of Emergency, checking and balancing powers once again between the Legislative and Executive branches, as intended by our Democratic constitution.

Which code section is affected?

Should this SCR be enacted, California would cease to have a statewide declaration of emergency. However, in the event communities require resources to combat COVID-19, local governments will have the ability to call a local emergency as prescribed in the California Emergency Services Act.

Summary

SCR 5 intends to restore balance to the State of California. When the non-partisan Legislative Analyst Office (LAO) released a report on their

initial thoughts regarding the Governor’s May Revision, they shared the following warning:

Several Administration Proposals Sideline

Legislative Authority. “In a number of areas across the budget, the Governor makes proposals that raise serious concerns about the Legislature’s role in future decisions. This includes, for example, the Governor’s creation of a new COVID-19 contingency fund and a number of examples of budget bill language that delegate increased authority to the administration. In some cases, we have received only limited information about how the proposals would be implemented. In many cases, we are very troubled by the degree of authority that the administration is requesting that the Legislature delegate.”

In closing, the LAO urged the Legislature to “jealously guard its constitutional role and authority.” While the State of California has accomplished their constitutional duty of crafting and passing a budget by June 15, the insight by the LAO cannot and should not be ignored.

For more than half of the year, the Governor has operated with increased authority for an unprecedented event. He has faced several law suits for certain executive orders during this time, including one relative to the general election. In November, the Superior Court in Sutter County tentatively ruled that the Governor utilized his powers improperly.

Yet, Californians continue to struggle with statewide “regional” commanded shutdowns and shrinking ICU capacity numbers. We need our legislators to speak out and balance the Governor’s decision making, particularly as we begin to distribute vaccinations to our residents. SCR 5 will restore the powers of the Legislature to provide oversight of the Governor’s actions.