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Graham Knaus

March 15, 2020

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

**RE: Local Government Requests Related to Coronavirus Pandemic**

Dear Governor Newsom,

Thank you for your actions and partnership in the early days of this crisis. As a follow up to our letter dated March 13, we make the following requests on behalf of California's counties. Like you and your staff, counties are doing their utmost to lead their communities and workforce during this time of uncertainty. The following actions would greatly assist in those efforts.

- The public health and welfare is dependent upon adequate staffing at the local level to meet the needs of the public during this emergency. Therefore, consistent with applicable federal law, work hour limitations and waiting periods for retired annuitants, and permanent and intermittent personnel found in Government Code section 7522.56, subdivisions (b), (d), (f), and (g) are suspended. Further, consistent with applicable federal law, California Code of Regulations, Title 2, section 586.2, and Government Code section 31485.21, a separation of service of at least XX days/hours shall constitute a bona fide separation of service.
- The provisions of Government Code section 20305, subdivision (a)(2) and (3) are suspended for employees covered by this section work during the period of the State of Emergency declared by the Governor of the State of California.
- An employee shall remain a temporary employee for CalPERS purposes for the remainder of the fiscal year after the termination of a State Emergency. The statutory provisions shall resume effective the first full fiscal year after the termination of the local emergency, or if the local emergency is terminated between July 1st and September 30th of a fiscal year, the fiscal year in which the State Emergency is terminated.
  - Retired annuitants and temporary workers can serve important roles under multiple possible scenarios. For example, retirees who worked in senior positions prior to their departure can bring valuable expertise, especially in highly impacted fields like public health, healthcare, and emergency services. Temporary workers of any position will be useful if county employees are required to stay home in large numbers for any reason, such as quarantine, to care for a family member, or because their children's schools or child care centers have been temporarily closed. Retired annuitants and temporary workers who were already planning to work part of the year are the most valuable, but also the first to be denied further work under the current regulations.

- The meet and confer requirements of Government Code section 3505 are suspended as applied to any ordinance, rule, resolution, regulation or policy adopted or implemented to address employee health and safety related to COVID-19, provided that such newly adopted or implemented ordinances, rules, resolutions, regulations or policies terminate upon termination of the local emergency.
- Notwithstanding Government Code section 54952.2, subdivision (b)(1), a legislative body may receive state and local emergency updates from state and local officials in order for members of the legislative body to stay apprised of emergency operations and the impact of the emergency on their constituents. Nothing in this Order permits the legislative body to take action on any item of business that is within the subject matter jurisdiction of the legislative body without complying with all other Brown Act requirements.
  - Providing a limited and temporary exception to this rule will facilitate the dissemination of critical information during this crisis. California’s deliberative rules around local agency meetings are not suited to the fluid and quickly changing situation in which we find ourselves. It is of utmost importance for all members of legislative bodies to be apprised directly from official sources of information as soon as possible, instead of relying on secondhand accounts after the fact. Excepting only the part of the law related to receiving information, and not those about deliberation or decisions, ensure that the public’s interest in transparent decision-making is preserved.
- If a public agency’s workforce is reduced or redirected for purposes of emergency response, the time in which to provide the notification required in Government Code section 6253, subdivision (c) shall be extended to 30 days. This extension expires 10 days after the expiration of the State of Emergency in the State of California as a result of the threat of COVID-19.
  - In a time of crisis, counties must focus on core operations. If staff must be reduced or redirected to confront that crisis, requests for public documents and records are among the functions that can be delayed, without denying requestors the transparency guaranteed by the California Constitution. Unlike most non-core functions, however, access to public records is governed by strict statutory timelines, necessitating the waiver we are requesting.
- In light of the need to focus public employees on emergency response and in recognition of the possibility to temporary public staffing shortages resulting from social distancing, self-quarantine or self-isolation, the following provisions, which would otherwise create automatic entitlements for failure of a public agency to act, shall be suspended for the duration of the State of Emergency in the State of California as a result of the threat of COVID-19:
  - (i) Government Code section 65956, subdivision (b) [Permit Streamlining Act]
  - (ii) Labor Code sections 5401, 4650, 4060, 4061, 4062, 4610 and 5814 [Workers’ Compensation]
  - (iii) Revenue and Taxation Code section 1604, subdivision (c) [Property Tax Assessment Appeals]

- These laws have “shot clocks” that automatically approve petitions that are not decided after a certain number of days. In normal times, these time limits guarantee timely action by government agencies; however, in times of crisis, when the public workforce might be reduced by necessity, these requirements have the potential to decide issues in a manner contrary to the public good. For example, property tax values can be permanently reduced with no basis in fact, or permits that do not adhere to local regulations can be approved despite their effect on the environment or public rights of way.
- If needed based on staff unavailability, the elections official may have up to an additional 60 days to complete the canvassing required in Elections Code sections 10261, 10262, 10263(a), 15372 and 15375.
- Section 11 of Executive Order N-25-20 is hereby amended to read:

Notwithstanding any other provision of state or local law, including the Bagley-Keene Act or the Brown Act, a local legislative body or state body is authorized to hold public meetings via teleconferencing and to make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to attend and to address the local legislative body or state body, during the period in which state or local public officials impose or recommend measures to promote social distancing, including but not limited to limitations on public events. All requirements in both the Bagley-Keene Act and the Brown Act expressly or impliedly requiring the physical presence of members, the clerk or other personnel of the body, or of the public as a condition of participation in or quorum for a public meeting are hereby waived.

In particular, any otherwise-applicable requirements that

- (i) state and local bodies notice each teleconference location from which a member will be participating in a public meeting;
- (ii) each teleconference location be accessible to the public;
- (iii) members of the public may address the body at each teleconference location;
- (iv) state and local bodies post agendas at all teleconference locations;
- (v) at least one member of the state body be physically present at the location specified in the notice of the meeting; and
- (vi) during teleconference meetings, at least a quorum of the members of the local body participate from locations within the boundaries of the territory over which the local body exercises jurisdiction

are hereby suspended, on the condition that each state or local body must give advance notice of each meeting, according to the timeframe otherwise prescribed by the Bagley-Keene Act or Brown Act, and using the means otherwise prescribed by the Bagley-Keene Act or the Brown Act, as applicable.

In addition, all state and local bodies are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to provisions of the Bagley-Keene Act and the

Brown Act, including providing at least one publicly accessible location from which members of the public have the right to observe and offer public comment at the public meeting unless so doing would place the public health at risk, and other applicable local laws regulating the conduct of public meetings, in order to maximize transparency and provide the public access to their meetings.

Thank you for your consideration of these urgent requests.

Respectfully,

A handwritten signature in blue ink, appearing to read 'GKnaus', is positioned above the typed name.

Graham Knaus  
CSAC Executive Director