



September 22, 2020

Board of Supervisors
Kern County Administrative Center
1115 Truxtun Avenue
Bakersfield, CA 93301

**RESPONSE TO SEPTEMBER 15, 2020 REFERRAL REGARDING A PROPOSED
RESOLUTION DEMANDING GOVERNOR NEWSOM PROVIDE INCREASED CLARITY,
CONSISTENCY AND CONTINUITY IN HIS DIRECTIVES TO COUNTIES, OUR BUSINESS
COMMUNITIES AND OUR RESIDENTS REGARDING COVID-19**

Fiscal Impact: None

This item is in response to a referral made to staff by your Board on Tuesday, September 15, 2020, to bring back a resolution for Board consideration, which conveys Kern County's frustration regarding the State's response to COVID-19, and Governor Gavin Newsom's recent adjustments to the his "Blueprint for a Safer Economy," announced on August 28, 2020.

The proposed resolution demands that Governor Newsom work more closely with all counties to address COVID-19, and that the Governor not penalize counties for not meeting state wide average testing rates, which are a moving target and not based on any relevant clinical standard or information.

The proposed resolution has been reviewed and approved by the Office of County Counsel.

Therefore, IT IS RECOMMENDED that your Board adopt the attached resolution.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ryan J. Alsop", written over a faint circular stamp.

Ryan J. Alsop
Chief Administrative Officer

Attachment

cc: County Counsel

**BEFORE THE BOARD OF SUPERVISORS
COUNTY OF KERN, STATE OF CALIFORNIA**

In the matter of:

Resolution No. _____

**KERN COUNTY DEMANDS GOVERNOR
NEWSOM PROVIDE INCREASED CLARITY,
CONSISTENCY AND CONTINUITY IN HIS
DIRECTIVES TO COUNTIES, OUR
BUSINESS COMMUNITIES AND OUR
RESIDENTS ON COVID-19**

I, KATHLEEN KRAUSE, Clerk of the Board of Supervisors of the County of Kern, State of California, certify that the following resolution, on motion of Supervisor _____, seconded by Supervisor _____, was duly passed and adopted by the Board of Supervisors of the County of Kern at an official meeting on the _____ day of _____, 20__, by the following vote:

AYES:

NOES:

ABSENT:

KATHLEEN KRAUSE
Clerk of the Board of Supervisors
County of Kern, State of California

Deputy Clerk

RESOLUTION

Section 1. WHEREAS:

(a) The Kern County Board of Supervisors recognizes the seriousness of COVID-19 and the public health impact it is having in the United States, the State of

California, and here in Kern County; and

(b) The Kern County Board of Supervisors recognizes and appreciates the tremendous difficulty and work associated with managing the country, the State of California, and our own County through this extraordinary public health emergency; and

(c) The Kern County Board of Supervisors believes that adhering to public health best practices, such as washing hands, social distancing, wearing a mask when unable to adequately distance, regular cleaning of frequently touched surfaces, avoiding touching of eyes, nose and mouth, and staying far away from others when sick, are most important to slowing the spread of COVID-19 (“Flattening the curve”); and

(d) The Kern County Board of Supervisors believes that slowing the spread of COVID-19 is critical to maintaining local hospital capacity and avoiding the catastrophic failure of our hospital and medical acute care systems; and

(e) The Kern County Board of Supervisors believes that the biggest threat to our ability to slow the spread of COVID-19 comes from large private and public gatherings, for extended periods of time, where basic public health guidelines and best practices are not being implemented or are ignored ; and

(f) The Kern County Board of Supervisors believes that Government, while critical to helping slow the spread of COVID-19 and promoting best practices, cannot take the place of personal responsibility and individual decision-making when it comes to implementing best public health practices or voluntary actions to get tested; and

(g) On March 19, 2020, due to COVID-19, California Governor Gavin Newsom issued Executive Order N-33-20, ordering all individuals in California to stay in their place of residence except as needed to maintain continuity of operations of federal critical infrastructure sectors, thereby reducing and stopping non-essential businesses from continuing operations; and

(h) California counties are required to adhere to Governor Newsom’s orders, directives, criteria, requirements and guidelines for COVID-19; and

(i) Kern County, as a State mandated condition to receive CARES Act funding (i.e. federal funding allocated to local governments under the Corona Virus Aid, Relief, and Economic Security Act [H.R. 748]), certified that we will continue to adhere to the Governor’s “stay-at-home requirements and other health requirements as directed in gubernatorial Executive Order N-33-20, and subsequent Executive Orders or statutes, and all California Department of Public Health orders, directives, and guidance in response to the COVID-19 emergency;” and

(j) Since March 19, 2020 Governor Newsom has adjusted his orders,

directives, criteria, requirements and guidelines for COVID-19 impacting all Californians, all California counties, all economic activity and other public and private activities on numerous occasions; and

(k) Governor Newsom is relying on California's counties to implement these orders, directives, criteria, requirements and guidelines, and to achieve State issued goals and objectives related to COVID-19; and

(l) Governor Newsom continues to adjust his orders, directives, criteria, requirements, and guidelines, and his goals and objectives related to COVID-19, with little to no meaningful input from counties prior to his announcing them; and

(m) Governor Newsom's adjustments and changes to stated goals and objectives in dealing with COVID-19 continues to whipsaw California counties, complicating our ability to manage this crisis, forcing counties like Kern to change course, re-prioritize, reposition and readapt, at great time and expense, straining local personnel and resources, often with little to no clarity on how these new goals and objectives prevent or slow the spread of COVID-19; and

(n) On August 28, 2020 Governor Newsom issued a new framework entitled "Blueprint for a Safer Economy" ("Blueprint"), to allow for the "safe progression of opening up more businesses in each county so impacts of any given change can be fully evaluated;" and

(o) This Blueprint is a color coded four tier system representing the "risk of community disease transmission," and a guide for the "slow and stringent," measured reopening of businesses, schools and other activities; and

(p) This Blueprint originally, and specifically, required California's counties to meet stated and simple benchmarks in overall Case Rates and Testing Positivity Rates in order to move into less restrictive tiers that would allow for a measured reopening of businesses, schools and other activities; and

(q) On Monday, September 7, 2020 Governor Newsom announced an adjustment to his Blueprint, now including a benchmark on overall Testing Rate as an added criteria California counties must meet for the measured reopening of businesses, schools and other activities; and

(r) Governor Newsom is now arbitrarily inflating overall Case Rate numbers in those counties who have an overall Testing Rate below the statewide average, further slowing and complicating a county's move into a less restrictive tier; and

(s) The statewide testing rate average is a moving target and is not based on any clinically relevant data or information; and

(t) This new criteria unnecessarily burdens our residents, parents and children, further slowing business and school reopening, and it unnecessarily and arbitrarily penalizes counties who have little to no control over voluntary and individual decision making related to testing for COVID-19, and

(u) Governor Newsom's emphasis on increasing overall testing rates, and the new benchmark on overall Testing Rates he's ordering California counties to now meet in order to allow businesses and schools to reopen, seem to conflict with Center for Disease Control (CDC) directives on testing for COVID-19; and

(v) Kern County is slowing the spread of COVID-19, has continued to locally reinforce all directives of the State, has made critical investments in testing and tracing capacity, has made critical investments in testing, tracing and containment at State regulated skilled nursing facilities, has made critical investments in support of local business, non-profits, and disadvantaged communities, and has lowered local hospitalization rates and has increased and sustained local hospital capacity.

Section 2. IT IS RESOLVED by the Board of Supervisors of the County of Kern, State of California, as follows:

1. Kern County demands Governor Newsom provide increased clarity, consistency and continuity in his directives to counties, our business communities and our residents; and

2. Kern County demands that the Governor and his administration work more closely with all counties, including Kern, in developing the pathway for increased business activity and school reopening, ensuring it is done safely and responsibly; and

3. State and local actions related to COVID-19 should be primarily focused on maintaining hospital and medical system capacity, which was the primary objective in "flattening the curve" when this pandemic began, seven months ago; and

4. Hospital and medical system capacity should be the primary criteria for the increased, but measured, reopening of businesses and schools in all California counties; and

5. Kern County demands that Governor Newsom not continue to move the goalposts on counties, arbitrarily expanding the criteria and metrics the State is using to determine when businesses can begin to reopen in each county; and

6. Kern County demands that Governor Newsom track each county's actual, overall, real Case Rate and Testing Positivity Rate data, and not arbitrarily inflate these numbers; and

7. Kern County demands that Governor Newsom not penalize counties for not achieving new State goals and objectives that have very little to do with flattening the curve and maintaining hospital capacity; and

8. Kern County demands that Governor Newsom not continue to burden California's small business community, our parents and our children, by linking business and school reopening to any requirements beyond what was outlined in his original Blueprint, announced on August 28, 2020; and

9. Kern County demands that California counties be judged on simple, consistent, achievable, and measurable objectives related to slowing the spread of COVID-19.

10. The Clerk of the Board of Supervisors shall transmit copies of this to the following:

County Administrative Office
County Counsel

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