

From: Matthew Block
Sent: Tuesday, April 28, 2020 4:50 PM
To: Page Cortez, Clay Schexnayder
Cc: Tina Vanichchagorn; Mark Cooper
Subject: Governor's Emergency Declaration

Dear Speaker Schexnayder and President Cortez:

We have received information about several recent social media posts in which some members expressed concerns about the Governor's Emergency Proclamation and Stay at Home order. Based on these posts and some questions that have been directed to our office about this effort, there seems to be some confusion about the necessity of the Governor's order, so I hope I can clarify these concerns.

First, Governor Edwards declared a public health emergency pursuant to La. R.S. 29:766 on March 11th. He has since renewed that proclamation and intends to renew the emergency declaration on April 30th to extend it to May 15th. In furtherance of the emergency declaration and, in part, pursuant to the authority granted by La. R.S. 29:766, the Governor has taken several steps to slow the spread of COVID-19 and to keep the people of Louisiana safe from this deadly pandemic. There is no question that these mitigation efforts have worked and have saved lives. However, though we have flattened the curve of the virus, there is still considerable risk that there could be another spike in infections. It is important to note that there are over 10,000 people in Louisiana who are currently positive for COVID-19 with many more who are likely positive but asymptomatic or undiagnosed. Those individuals who are currently infected acquired COVID-19 *during* the Stay at Home order. All it takes is for one of those individuals to seed the virus into another community and Louisiana will have another outbreak. Further, as of this moment, Louisiana still has the fifth highest number of per capita cases in the country.

The social media posts by some members have indicated that they intend to try to terminate the Governor's emergency declaration. The law certainly gives either chamber of the Legislature that authority. La. R.S. 29:768(B) provides that,

The legislature, *in consultation with the public health authority*, by a petition signed by a majority of the surviving members of either house, may terminate a state of public health emergency at any time.

While I am sure that those members have fully considered this issue, there are a few things I feel obliged to point out before they go any further in this effort.

- 1) The United States is under a national state of emergency and all fifty states are currently under declarations of emergency. Thus, should they be successful in their intended effort, *Louisiana would be the only state in the country not under a state of emergency.*

- 2) Although these members apparently object to the Governor's Stay at Home order, there are several other measures the Governor has taken pursuant to his emergency authority. While the Legislature is authorized to terminate the emergency declaration (again, after consultation with the public health authority), the Legislature is not authorized to terminate specific measures the Governor has instituted pursuant to an emergency declaration. Thus, by attempting to terminate the declaration of emergency, they would also be terminating all of the following measures:
 - a) The provisions of 47 JBE 2020 that, among other things, closed schools for the remainder of the school year and suspended requirements of teachers and students.
 - b) The provisions of 43 JBE 2020 that provide for federally required waivers regarding unemployment payments and ensure that unemployment will be readily available to people who have lost their jobs because of this pandemic.
 - c) The provisions of 41 JBE 2020, including prohibitions on price gouging, allowances for emergency procurement to acquire such things as PPE and test kits, authority for remote meetings for public and private entities, suspension of legal deadlines (including prescription) and other deadlines (such as OMV deadlines for renewal of licenses), suspensions of requirements relating to higher ed (especially relating to TOPS eligibility), delegations of authority to the insurance commissioner to stop such things as cancellations of policies during the emergency, and numerous suspensions of requirements for medical professionals to ensure that there remains significant capacity of health care providers to respond to this pandemic.
 - d) Various orders from the state Public Health Officer for health care facilities throughout the state (including measures like limitations on visits to hospitals and nursing homes).
- 3) The Legislature's authority contained in La. 29:768(B) provides that the legislative action be taken in consultation with the public health authority. I can assure you that the Governor has spoken at length with the experts at the Office of Public Health every single day since the beginning of this disaster. I do not believe that there has been any consultation with any public health authority by the members who are seeking to declare that there is no emergency.
- 4) Lastly, and certainly not least, there would potentially be a crushing loss of federal funding should the Governor's emergency order be terminated. The Stafford Act requires that the Governor declare an emergency and certify that the emergency has overwhelmed the state and local resources. By declaring that there is no longer an emergency, the state would be risking the funding that is available through the FEMA public assistance program. We are further reviewing if the termination of an emergency declaration would jeopardize any funding through the CARES Act or SBA

loans. That answer is not readily available as it is simply inconceivable that a state would not have an emergency declaration in place during such an event.

This is a critical time in our response to this unprecedented disaster. The reopening plan laid out by the Governor yesterday was measured and done in consultation with medical experts from LDH and from outside of state government. The protective measures taken by the Governor thus far have been developed in the same manner and have been done in consultation with federal officials, including the Vice President and Dr. Fauci. Further, there is not a single measure that the Governor has taken that he did not think was necessary to protect the health and safety of the people of Louisiana.

The people of Louisiana will be counting on the Governor and the Louisiana Legislature to work together to recover from this emergency. You have the Governor's commitment that he will continue to work every single day to do just that. If you have any questions about this or want to talk about this in detail, please do not hesitate to contact me.

Matthew

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