



June 23, 2020

The Honorable Kevin Mullin  
California State Assembly  
State Capitol, Room 3160  
Sacramento, CA 95814

**SUBJECT: ACA 25 (MULLIN) STATE OF EMERGENCY: REMOTE LEGISLATIVE PROCEEDINGS  
OPPOSE UNLESS AMENDED – AS AMENDED JUNE 4, 2020**

Dear Assembly Member Mullin:

I am writing to advise you that the California Chamber of Commerce and the listed organizations must **OPPOSE** your **ACA 25 UNLESS AMENDED**. Your proposal would place before voters this November a measure to enshrine in the State Constitution protocols for Senators and Assembly Members to vote on legislation while dispersed away from the Capitol.

**ACA 25** would, under certain circumstances, permit legislators to vote remotely on legislation, allow proxy voting, and allow legislators to select successor legislators without an election.

The pandemic has demonstrated that even the most cherished of our liberties, like assembling for expression or religious services, can be temporarily subordinated to the urgent imperative to protect public health. Californians have made and accepted sacrifices to their liberties and economic well-being to overcome this deadly disease. And we agree it is worth considering whether it makes sense to adjust certain legislative practices under dire circumstances. Just the same, we are mindful of the consequences should we fail to study these changes in the context of history. **ACA 25** demonstrates some of these consequences.

The threshold to trigger remote voting under **ACA 25** is too low.

As amended, **ACA 25** is drafted so broadly that any fire, flood, freeze, earthquake, crop infestation, windstorm, civil disturbance, or drought can trigger remote voting. **ACA 25** provides that any “state of emergency declared by the President or Governor ... that prevents the Member from safely attending the proceeding in person” activates the remote voting trigger. Infamously, Presidents and Governors frequently declare states of emergency for California. Most of the declarations affect one or a handful of counties; many are the consequence of a single, terrible, time-limited event. Few comprise the entire state. And fewer still – Covid-19 is so far unique – prevent lawful congregation, broadly inhibit travel, or threaten the health and safety of individuals convening at the State Capitol. Even California’s historic wildfires affecting numerous counties did not prevent the healthful assembly of the Legislature.

The only condition to trigger remote voting should be a state of emergency declared for the entire state where travel or close gathering threatens the health or safety of members of the Legislature and the public.

**ACA 25** creates a vote by proxy scheme that denies accountability and eliminates legislative debate.

The measure allows a member of the Legislature to “vote by proxy,” meaning he or she need not even cast the vote for it to be valid. The California Legislature is not a corporate annual meeting corralling thousands of shareholders to vote on a select number of issues once a year. In our democracy, legislative votes are accountable to individual legislators selected by voters. Accountability is the feedback that informs the democracy, and that accountability would be denied by proxy voting. Assigning a vote to another individual also makes a mockery of legislative debate, presuming – probably quite rightly – that this legislator’s mind would be unswayable by his or her colleagues, and indeed that the member was fully versed on the votes to be taken enough in advance to instruct the proxy. Proxy voting should be eliminated from this measure.

**ACA 25** allows elected officials to appoint unelected successors to power, denying voters the benefit of an election.

Finally, **ACA 25** also proposes an entirely new power for the Legislature: that the Assembly and Senate may temporarily fill vacated offices with pro tempore members, “in the event that one-fifth or more of the Members of a house are deceased, disabled, or missing during a state of emergency.” While this condition is horrific, this new power is nevertheless a dangerous and unnecessary infringement on the expressed will of the constituencies of the departed members. The work of the Legislature might be inhibited by operating at eighty percent strength, but temporary inefficiency would be far preferable to the controversy and temptation to pad majorities should an Assembly or Senate caucus be awarded the bounty of appointing 16 or eight members, respectively.

**ACA 25** proposes radical disruptions to the exercise of democracy that clash with California’s meaningful and measurable track record of transparent and accessible government, reflected not only in our open meetings and open records laws, but in the individual honor and integrity of our elected officials. The culture of the legislative branch, “the People’s Body,” should enshrine an intentional bias in favor of inclusion, access and accountability. Therefore, exceptions to congregated voting within the chambers of the Legislature should be extremely narrowly drawn to address the specific problem at hand. Unless amended to remove the provisions most open to abuse, **ACA 25** easily misses this benchmark.

For these reasons, CalChamber and the listed organizations are **OPPOSED UNLESS AMENDED** to your **ACA 25**.

Sincerely,



Shoeb Mohammed  
Policy Advocate,  
California Chamber of Commerce

California Apartment Association  
California Building Industry Association  
California Business Properties Association  
California Grocers Association  
California League of Food Producers  
California Lodging Industry Association

California Manufacturers & Technology  
Association  
California Professional Association of Specialty  
Contractors  
California Retailers Association  
National Federation of Independent Business

Cc: Legislative Affairs, Office of the Governor  
Office of Assemblymember Mullin

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