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2015
Warren M. Anderson Legislative Breakfast Seminar Series

"Health Crises, Natural Disasters, and Civil Unrest: Are We Prepared"

April 7, 2015

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Health Crises, Natural Disasters, and Civil Unrest: Are We Prepared?

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SPEAKER BIOGRAPHIES

Bruce Gyory, Esq. is a senior advisor in the Government & Regulatory Policy Division in the Albany office of Manatt, Phelps & Phillips, LLP. He has over 28 years of experience working as an attorney, as well as serving three Governors of New York, two as a senior advisor. Mr. Gyory provides his clients with assistance in managing political, media and communications challenges facing institutions and businesses in today's marketplace. Prior to joining Manatt, Mr. Gyory served as a strategic consultant for Corning Place Communications, where he consulted on a variety of political and communications challenges. Mr. Gyory is an Adjunct Professor of Political Science at the University of Albany focusing on national and state voting trends. He has extensive experience in the fields of higher education, healthcare and academic health centers.

Terry Hastings is currently the Senior Policy Advisor for the New York State Division of Homeland Security and Emergency Services (DHSES), the State's lead homeland security/emergency management agency. DHSES is a Cabinet-level agency responsible for providing leadership and coordination regarding all aspects of homeland security and emergency management, to include disaster preparedness, response, recovery and mitigation. DHSES manages a variety of programs and initiatives to improve State and local emergency preparedness capabilities, and coordinates the State's disaster response efforts. Mr. Hastings is responsible for coordinating and managing cross-cutting projects and policy initiatives for DHSES. He also oversees the DHSES program development efforts. Mr. Hastings has also served as the Deputy Director of Preparedness for the DHSES Office of Emergency Management (OEM). As Deputy Director, he was responsible for overseeing OEM's planning, training and exercise activities. He previously served as the Deputy Director for the DHSES Office of Counter Terrorism, where he worked to coordinate and manage initiatives aimed at preventing, protecting against, and preparing for acts of terrorism. Prior to joining DHSES, Mr. Hastings worked as Special Advisor to the Governor's Deputy Secretary for Public Safety and as a Senior Policy Analyst for the NYS Senate's Homeland Security Committee. He has led several strategic planning initiatives, including the development of the New York State Homeland Security Strategy. Mr. Hastings has a Master's in Public Administration from Marist College and a Certificate in Executive Leadership from the US Naval Post Graduate School, Center for Homeland Defense and Security.

Scott Heller is the Director of Emergency Management at Albany Medical Center, a Level 1 tertiary care, academic medical center with attached medical college. In this position, he is responsible for directing emergency preparedness planning, training, and

response activities at Albany Medical Center, including the Hospital, the medical college, and affiliated Faculty Practice sites. Mr. Heller is also responsible for the administrative oversight of the Regional Resource Center (RRC), based at AMC. The RRC coordinates regional healthcare emergency training with hospitals, local health departments, long term care facilities, emergency management offices, and other planning partners in the 25-county region around Albany. After graduating from Hudson Valley Community College, Mr. Heller began his career in healthcare as a Respiratory Therapist and progressed into supervision and management. Prior to joining Albany Medical Center, his other positions included: Director of Cardio-Pulmonary Services at a community hospital; Program Director for a regional air medical service; Director of Operations for a large, private cardiology practice; and Operations Administrator for a community-based diagnostic imaging center. Mr. Heller received a MBA from Rensselaer Polytechnic Institute; a BS degree in Health Care Administration from the State University of New York, Empire State College; and an Associate in Applied Science degree in Respiratory Therapy from Hudson Valley Community College. He is a Certified Healthcare Emergency Professional (CHEP).

P. David Soares '99 was elected Albany County District Attorney on November 2, 2004 and re-elected to a second term on November 4, 2008. Since taking office, he has focused on bringing "One Standard of Justice" to Albany County and has remained committed to leading an office that is tough on crime and smart on prevention by: reducing street violence through creative, non-traditional means; building hope by restoring communities; dealing with the crisis of re-entry; and emphasizing prevention over prosecution. District Attorney Soares has worked in partnership with local, state, and federal law enforcement agencies to establish a number of successful initiatives such as: a *Vehicular Crimes Unit* to bring Albany County from the abysmal rating of 61st in the state to currently 17th for DWI convictions; assigning a felony-level prosecutor to oversee all animal abuse/hoarding cases; a *Safe Homes, Safe Streets* program to shut down drug houses; and Albany County's first *Crime Victims Unit* to assist those directly affected by crime. He has also expanded alternatives to incarceration; made it easier for seniors to gain access to law enforcement/service providers; introduced the *ENOUGH Program* to offer anti-violence programming to local youth; established the anti-crime program *Legal Lives* connecting local schools with the courthouse and guiding hundreds of kids through diversion programs where they have a chance to learn skills and get the support to become productive citizens; spearheaded the *Anti-Bullying Taskforce* and *Youth Advisory Board* for students to address/prevent youth crime; and expanded the *Music Mobile Program* to 17 municipalities for children to foster creative expression while learning about non-violent life choices/civic responsibility. District Attorney Soares worked his way through Cornell University and Albany Law School, including jobs while in law school at the Albany Airport Authority, Interfaith Partnership for the Homeless, AIDS Law Clinic and the Albany County District Attorney's Office. He also interned at the District Attorney's Office, where he eventually became an Assistant District Attorney and Albany County's first Community Prosecutor. District Attorney Soares remains active in the community by teaching "Legal Lives" in the Albany Public Schools and serving as a board member of the Boys & Girls Clubs of Albany.

NYS Executive Law
Article 2-B

§ 20. Natural and man-made disasters; policy; definitions

1. It shall be the policy of the state that:

a. local government and emergency service organizations continue their essential role as the first line of defense in times of disaster, and that the state provide appropriate supportive services to the extent necessary;

b. local chief executives take an active and personal role in the development and implementation of disaster preparedness programs and be vested with authority and responsibility in order to insure the success of such programs;

c. state and local natural disaster and emergency response functions be coordinated using recognized practices in incident management in order to bring the fullest protection and benefit to the people;

d. state resources be organized and prepared for immediate effective response to disasters which are beyond the capability of local governments and emergency service organizations; and

e. state and local plans, organizational arrangements, and response capability required to execute the provisions of this article shall at all times be the most effective that current circumstances and existing resources allow.

2. As used in this article the following terms shall have the following meanings:

a. "disaster" means occurrence or imminent threat of wide spread or severe damage, injury, or loss of life or property resulting from any natural or man-made causes, including, but not limited to, fire, flood, earthquake, hurricane, tornado, high water, landslide, mudslide, wind, storm, wave action, volcanic activity, epidemic, air contamination, terrorism, cyber event, blight, drought, infestation, explosion, radiological accident, nuclear, chemical, biological, or bacteriological release, water contamination, bridge failure or bridge collapse.

b. "state disaster emergency" means a period beginning with a declaration by the governor that a disaster exists and ending upon the termination thereof.

c. "municipality" means a public corporation as defined in subdivision one of section sixty-six of the general construction law and a special district as defined in subdivision sixteen of section one hundred two of the real property tax law.

d. "commission" means the disaster preparedness commission created pursuant to section twenty-one of this article.

e. "emergency services organization" means a public or private agency, voluntary organization or group organized and functioning for the purpose of providing fire, medical, ambulance, rescue, housing, food or other services directed toward relieving human suffering, injury or loss of life or damage to property as a result of an emergency, including non-profit and governmentally-supported organizations, but excluding governmental agencies.

f. "chief executive" means:
(1) a county executive or manager of a county;
(2) in a county not having a county executive or manager, the chairman or other presiding officer of the county legislative body;
(3) a mayor of a city or village, except where a city or village has a manager, it shall mean such manager; and
(4) a supervisor of a town, except where a town has a manager, it shall mean such manager.

g. "Disaster emergency response personnel" means agencies, public officers, employees, or affiliated volunteers having duties and responsibilities under or pursuant to a comprehensive emergency management plan.

h. "Emergency management director" means the government official responsible for emergency preparedness, response and recovery for a county, city, town, or village.

i. "incident management team" means a state certified team of trained personnel from different departments, organizations, agencies, and jurisdictions within the state, or a region of the state, activated to support and manage major and/or complex incidents requiring a significant number of local, regional, and state resources.

j. "executive level officer" means a state agency officer with the authority to deploy agency assets and resources and make decisions binding a state agency.

k. "third party non-state resources" means any contracted resource that is not owned or controlled by the state or a political subdivision including, but not limited to, ambulances, construction crews, or contractors.

§ 21. Disaster preparedness commission established; meetings; powers and duties

1. There is hereby created in the executive department a disaster preparedness commission consisting of the commissioners of transportation, health, division of criminal justice services, education, economic development, agriculture and markets, housing and community renewal, general services, labor, environmental conservation, mental health, parks, recreation and historic preservation, corrections and community supervision, children and family services, homeland security and emergency services, and people with developmental disabilities, the president of the New York state energy research and development authority, the superintendents of state police and financial services, the secretary of state, the state fire administrator, the chair of the public service commission, the adjutant general, the office of information technology services, and the office of victim services, the chairs of the thruway authority, the office for the aging, the metropolitan transportation authority, the port authority of New York and New Jersey, the chief professional officer of the state coordinating chapter of the American Red Cross and three additional members, to be appointed by the governor, two of whom shall be chief executives. Each member agency may designate an executive level officer of that agency, with responsibility for disaster preparedness matters, who may represent that agency on the commission. The commissioner of the division of homeland security and emergency services shall serve as chair of the commission, and the governor shall designate the vice chair of the commission. The members of the commission, except those who serve ex officio, shall be allowed their actual and necessary expenses incurred in the performance of their duties under this article but shall receive no additional compensation for services rendered pursuant to this article.

2. The commission, on call of the chairperson, shall meet at least twice each year and at such other times as may be necessary. The agenda and meeting place of all regular meetings shall be made available to the public in advance of such meetings and all such meetings shall be open to the public. The commission shall establish quorum requirements and other rules and procedures regarding conduct of its meetings and other affairs.

3. The commission shall have the following powers and responsibilities:
a. study all aspects of man-made or natural disaster prevention, response and recovery;
b. request and obtain from any state or local officer or agency any information necessary to the commission for the exercise of its responsibilities;
c. prepare and, as appropriate, revise a state comprehensive emergency management plan. The commission shall report all revisions to such plan by March thirty-first of each year to the governor, the legislature and the chief judge of the state, unless a current version of the plan is available to the public on the website of the division of homeland security and emergency services. In preparing such plans, the commission shall consult with federal and local officials, emergency service organizations including both volunteer and commercial emergency response organizations, and the public as it deems appropriate. To the extent such plans impact upon administration of the civil and criminal justice systems of the state, including their operational and fiscal needs in times of disaster emergency, the commission, its staff and any working group, task force, agency or other instrumentality to which it may delegate responsibility to assist it in its duties shall consult with the chief administrator of the courts and coordinate their preparation with him or her or with his or her representatives;
d. prepare, keep current and distribute to chief executives and others an inventory of programs directly relevant to prevention, minimization of damage, readiness, operations during disasters, and recovery following disasters;
e. direct state disaster operations and coordinate state disaster operations with local disaster operations following the declaration of a state disaster emergency;

f. (1) unless it deems it unnecessary, create, following the declaration of a state disaster emergency, a temporary organization in the disaster area to provide for integration and coordination of efforts among the various federal, state, municipal and private agencies involved. The commission, upon a request from a municipality and with the approval of the governor, shall direct the temporary organization to assume direction of the local disaster operations of such municipality, for a specified period of time not to exceed thirty days, and in such cases such temporary organization shall assume direction of such local disaster operations, subject to the supervision of the commission. Upon the expiration of the thirty day period the commission, at the request of the municipality, may extend the temporary organization's direction of such local disaster operations for additional periods not to exceed thirty days. The commission, upon a finding that a municipality is unable to manage local disaster operations, may, with the approval of the governor, direct the temporary organization to assume direction of the local disaster operations of such municipality, for a specified period of time not to exceed thirty days, and in such cases such temporary organization shall assume direction of such local disaster operations, subject to the supervision of the commission. Upon expiration of the thirty day period the commission, after consultation with the municipality, and with the approval of the governor, may extend the temporary organization's direction of such local disaster operations for additional periods not to exceed thirty days. In such event, such temporary organization may utilize such municipality's local resources, provided, however, that the state shall not be liable for any expenses incurred in using such municipality's resources. The state shall not be liable for the expenses incurred in using third party, non-state resources deployed to the affected area by the temporary organization, which are necessary to protect life and safety;

(2) The state incident management team shall have the authority to act as the operational arm of the temporary organization. When called to duty and deployed by the state, members of any state or local incident management team shall be deemed temporary employees of the state and shall have the same privileges and immunities afforded to regular state employees, subject to the rules and regulations promulgated by the president of the state civil service commission pursuant to section one hundred sixty-three of the civil service law;

g. assist in the coordination of federal recovery efforts and coordinate recovery assistance by state and private agencies;

h. provide for periodic briefings, drills, exercises or other means to assure that all state personnel with direct responsibilities in the event of a disaster are fully familiar with response and recovery plans and the manner in which they shall carry out their responsibilities, and coordinate with federal, local or other state personnel. Such activities may take place on a regional or county basis, and local and federal participation shall be invited and encouraged;

i. submit to the governor, the legislature and the chief judge of the state by March thirty-first of each year an annual report which shall include but need not be limited to:

(1) a summary of commission and state agency activities for the year and plans for the ensuing year with respect to the duties and responsibilities of the commission;

(2) recommendations on ways to improve state and local capability to prevent, prepare for, respond to and recover from disasters;

(3) the status of the state and local plans for disaster preparedness and response, including the name of any locality which has failed or refused to develop and implement its own disaster preparedness plan and program; and the extent to which all forms of local emergency response assets have been included, and accounted for in planning and preparation for disaster preparedness and response; and

j. develop public service announcements to be distributed to television and radio stations and other media throughout the state informing the public how to prepare and respond to disasters. Such public service announcements shall be distributed in English and such other languages as such commission deems appropriate.

k. [Redesignated]

4. All powers of the state civil defense commission are assigned to the commission.

5. The state office of emergency management within the division of homeland security and emergency services shall serve as the operational arm of the commission and shall be responsible for implementing provisions of this article and the rules and policies adopted by the commission. The director of the state office of emergency management within the division of homeland security and emergency services shall exercise the authority given to the disaster preparedness commission in section twenty-nine of this article, to coordinate and direct state agencies

and assets in response to a state disaster emergency, through their respective agency heads, on behalf of the governor and the chair of the disaster preparedness commission, when the governor, the lieutenant governor, and the chair of the disaster preparedness commission are incapacitated or without an available means of reliable communication with the state office of emergency management. If the director of the state office of emergency management is unable to exercise this authority, then the executive deputy commissioner of the division of homeland security and emergency services shall act in this capacity. In the event that the executive deputy commissioner is unable to exercise this authority, then such authority shall be exercised by the official willing and able to do so in the following order: the superintendent of the division of state police; the state fire administrator; or the director of the office of counterterrorism within the division of homeland security and emergency services. Nothing in this subdivision shall be construed to limit the authority of the governor, lieutenant governor, or the chair of the disaster preparedness commission to oversee the director of the state office of emergency management within the division of homeland security and emergency services or any official exercising authority given to the disaster preparedness commission in section twenty-nine of this article.

§ 22. State disaster preparedness plans

1. The commission shall prepare a state disaster preparedness plan and submit such plan to the governor for approval no later than one year following the effective date of this act. The governor shall act upon such plan by July first of that year. The commission shall review such plans annually.

2. The purpose of such plans shall be to minimize the effects of disasters by: (i) identifying appropriate measures to prevent disasters, (ii) developing mechanisms to coordinate the use of resources and manpower for service during and after disaster emergencies and the delivery of services to aid citizens and reduce human suffering resulting from a disaster, and (iii) provide for recovery and redevelopment after disaster emergencies.

3. Such plans shall be prepared with such assistance from other agencies as the commission deems necessary, and shall include, but not be limited to:

a. Disaster prevention and mitigation. Plans to prevent and minimize the effects of disasters shall include, but not be limited to:

(1) identification of hazards and assessment of risk;

(2) recommended disaster prevention and mitigation projects, policies, priorities and programs, with suggested implementation schedules, which outline federal, state and local roles;

(3) suggested revisions and additions to building and safety codes, and zoning and other land use programs;

(4) suggested ways in which state agencies can provide technical assistance to municipalities in the development of local disaster prevention and mitigation plans and programs;

(5) such other measures as reasonably can be taken to protect lives, prevent disasters, and reduce the impact of disasters.

b. Disaster response. Plans to coordinate the use of resources and manpower for service during and after disaster emergencies and to deliver services to aid citizens and reduce human suffering resulting from a disaster emergency shall include, but not be limited to:

(1) coordination of resources, manpower and services, using recognized practices in incident management and utilizing existing organizations and lines of authority and centralized direction of requests for assistance;

(2) the location, procurement, construction, processing, transportation, storing, maintenance, renovation, distribution, disposal or use of materials, including those donated, and facilities and services;

(3) a system for warning populations who are or may be endangered;

(4) arrangements for activating state, municipal and volunteer forces, through normal chains of command so far as possible and for continued communication and reporting;

(5) a specific plan for rapid and efficient communication, and for the integration of state communication facilities during a state disaster emergency, including the assignment of responsibilities and the establishment of communication priorities, and liaison with municipal, private and federal communication facilities;

(6) a plan for coordinated evacuation procedures, including the establishment of temporary housing and other necessary facilities;

(7) criteria for establishing priorities with respect to the restoration of vital services and debris removal;

(8) plans for the continued effective operation of the civil and criminal justice systems;

(9) provisions for training state and local government personnel and volunteers in disaster response operations;

(10) providing information to the public;

(11) care for the injured and needy and identification and disposition of the dead;

(12) utilization and coordination of programs to assist victims of disasters, with particular attention to the needs of the poor, the elderly, individuals with disabilities and other groups which may be especially affected;

(13) control of ingress and egress to and from a disaster area;

(14) arrangements to administer federal disaster assistance;

(15) a system for obtaining and coordinating situational awareness including the centralized assessment of disaster effects and resultant needs; and

(16) utilization and coordination of programs to assist individuals with household pets and service animals following a disaster, with particular attention to means of evacuation, shelter and transportation options.

c. Recovery. Plans to provide for recovery and redevelopment after disaster emergencies shall include, but not be limited to:

(1) measures to coordinate state agency assistance in recovery efforts;

(2) arrangements to administer federal recovery assistance; and

(3) such other measures as reasonably can be taken to assist in the development and implementation of local disaster recovery plans.

§ 23. Local comprehensive emergency management plans

1. Each county, except those contained within the city of New York, and each city, town and village is authorized to prepare comprehensive emergency management plans. The disaster preparedness commission shall provide assistance and advice for the development of such plans. City, town and village plans shall be coordinated with the county plan.

2. The purpose of such plans shall be to minimize the effect of disasters by (i) identifying appropriate local measures to prevent disasters, (ii) developing mechanisms to coordinate the use of local resources and manpower for service during and after disasters and the delivery of services to aid citizens and reduce human suffering resulting from a disaster, and (iii) providing for recovery and redevelopment after disasters.

3. Plans for coordination of resources, manpower and services shall provide for a centralized coordination and direction of requests for assistance.

4. Plans for coordination of assistance shall provide for utilization of existing organizations and lines of authority.

5. In preparing such plans, cooperation, advice and assistance shall be sought from local government officials, regional and local planning agencies, police agencies, fire departments and fire companies, local emergency management agencies, commercial and volunteer ambulance services, health and social services officials, community action agencies, the chief administrator of the courts, organizations for the elderly and the handicapped, other interested groups and the general public. Such advice and assistance may be obtained through public hearings held on public notice, or through other appropriate methods.

6. All plans for comprehensive emergency management developed by local governments or any revisions thereto shall be submitted to the commission by December thirty-first of each year to facilitate state coordination of disaster operations.

7. Such plans shall include, but not be limited to:

a. Disaster prevention and mitigation. Plans to prevent and minimize the effects of disasters shall include, but not be limited to:

(1) identification of hazards and assessment of risk;

(2) recommended disaster prevention and mitigation projects, policies, priorities and programs, with suggested implementation schedules, which outline federal, state and local roles;

(3) suggested revisions and additions to building and safety codes and zoning and other land use programs;

(4) such other measures as reasonably can be taken to protect lives, prevent disasters, and reduce their impact.

b. Disaster response. Plans to coordinate the use of resources and manpower for service during and after disasters and to deliver services to aid citizens and reduce human suffering resulting from a disaster shall include, but not be limited to:

(1) coordination of resources, manpower and services, using recognized practices in incident management, utilizing existing organizations and lines of authority and centralized direction of requests for assistance;

(2) the location, procurement, construction, processing, transportation, storing, maintenance, renovation, distribution, disposal or use of materials, including those donated, and facilities and services which may be required in time of disaster;

(3) a system for warning populations who are or may be endangered;

(4) arrangements for activating municipal and volunteer forces, through normal chains of command so far as possible, and for continued communication and reporting;

(5) a specific plan for rapid and efficient communication and for the integration of local communication facilities during a disaster including the assignment of responsibilities and the establishment of communication priorities and liaison with municipal, private, state and federal communication facilities;

(6) a plan for coordination evacuation procedures including the establishment of temporary housing and other necessary facilities;

(7) criteria for establishing priorities with respect to the restoration of vital services and debris removal;

(8) plans for the continued effective operation of the civil and criminal justice systems;

(9) provisions for training local government personnel and volunteers in disaster response operations;

(10) providing information to the public;

(11) care for the injured and needy and identification and disposition of the dead;

(12) utilization and coordination of programs to assist victims of disasters, with particular attention to the needs of the poor, the elderly, individuals with disabilities and other groups which may be especially affected;

(13) control of ingress and egress to and from a disaster area;

(14) arrangements to administer state and federal disaster assistance;

(15) procedures under which the county, city, town, village or other political subdivision and emergency organization personnel and resources will be used in the event of a disaster;

(16) a system for obtaining and coordinating disaster information including the centralized assessment of local disaster effects and resultant needs;

(17) continued operation of governments of political subdivisions; and

(18) utilization and coordination of programs to assist individuals with household pets and service animals following a disaster, with particular attention to means of evacuation, shelter and transportation options.

c. Recovery. Local plans to provide for recovery and redevelopment after disasters shall include, but not be limited to:

(1) recommendations for replacement, reconstruction, removal or relocation of damaged or destroyed public or private facilities, proposed new or amendments to zoning, subdivision, building, sanitary or fire prevention regulations and recommendations for economic development and community development in order to minimize the impact of any potential future disasters on the community.

(2) provision for cooperation with state and federal agencies in recovery efforts.

(3) provisions for training and educating local disaster officials or organizations in the preparation of applications for federal and state disaster recovery assistance.

§ 23-a. County registry of disabled persons; notice

1. In each county having a local disaster preparedness plan pursuant to section twenty-three of this article, in order to meet the special needs of persons who would need assistance during evacuations and sheltering because of physical or mental handicaps, it is recommended that each chief executive maintain a registry of disabled persons located within the county. The registration shall identify those persons in need of assistance and plan for resource allocation to meet those identified needs. To assist the chief executive in identifying such persons, the county department of health, or such other county department or agency as designated by the chief executive, shall provide voluntary registration information to all of its special needs clients and to all incoming clients as part of the intake process. The registry shall be updated annually. The registration program shall give disabled persons the option of pre-authorizing emergency response personnel to enter their homes during search and rescue operations if necessary to assure their safety and welfare during disasters.

2. Upon the establishment of a voluntary registry of disabled persons as provided in subdivision one of this section, the chief executive shall make such registry available to the appropriate county, state and federal agencies for their use in delivering services in the event of a local or state disaster. The chief executive shall, upon the request of the state emergency management office, provide such registry information to such office. The chief executive may, at his discretion, use the registry information for local disaster preparedness only in coordination with other political subdivisions of the state.

3. Upon the establishment of a voluntary registry of disabled persons as provided in subdivision one of this section, at least semi-annually, each chief executive shall cause to be published in a newspaper of general circulation within the county a notice of the availability of the voluntary registration program.

4. All records, data, information, correspondence and communications relating to the registration of disabled persons as provided in subdivision one of this section are confidential, except that such information shall be available to other county chief executives for local disaster preparedness only as the chief executive of the county maintaining such registry deems necessary. Provided, however, the individual file of a person having registered with the registry of disabled persons shall be made available to that person upon request.

5. All community-based services providers, including home health care providers, shall assist the chief executive by collecting registration information for people with special needs as part of program intake processes, establishing programs to increase the awareness of the registration process, and educating clients about the procedures that may be necessary for their safety during disasters.

6. A county shall not be liable for any claim based upon the good faith exercise or performance or the good faith failure to exercise or perform a function or duty on the part of any officer or employee in carrying out a local disaster preparedness plan.

§ 23-b. Nursing home and assisted living facility plans

1. After consultation with the commissioner of health, the director of the office for the aging, and the director of the state office of homeland security, the commission shall establish standards for nursing homes, adult homes, enriched housing programs and assisted living residences regarding disaster preparedness.

2. Each such facility shall be assisted in the establishment of a disaster preparedness plan. The plan shall include, but not be limited to, the following:

(a) Maintaining a supply of food, water and to the extent deemed necessary and feasible in the reasonable judgment of the operator of the facility, medication in reserve in the event that obtaining such items should become difficult or impossible.

(b) In the reasonable judgment of the facility, having access to a generator or generators sufficient to supply electrical power to the facility.

(c) Establishing an evacuation plan for residents including an alternative site suitable for temporary use.

(d) Establishing staffing plans during a disaster.

3. Such plans shall be made available to the county emergency management office.

4. Nothing in this section shall be deemed to modify or override any requirements in regulations duly promulgated by a state agency, or to limit any lawful authority of a state agency to promulgate regulations, with respect to disaster preparedness of such facilities, the contents of their disaster preparedness plans or the process for approval of those plans.

§ 23-c. [Eff Feb 22, 2010] Consistency among local disaster preparedness plans

1. The local disaster preparedness plans for each county, city, town, or village shall be so developed that no part of the local disaster preparedness plan of any county or any city, town, or village within such county conflicts with any part of the local disaster preparedness plan of any of the other said entities within such county or such county itself. In the event of any such conflict, such conflict shall be resolved by such county. The provisions of this subdivision shall not apply to a city wholly containing more than one county or to any county wholly contained within any such city.

2. In the event that any part of the local disaster preparedness plan of any county or any city, town, or village within such county conflicts with any part of the local disaster preparedness plan of any other county or any city, town, or village within any such other county, such conflict shall be resolved by the state emergency management office, as defined in paragraph (e) of subdivision one of section twenty-nine-e of this article. The provisions of this subdivision shall not apply to any county wholly contained within a city wholly containing more than one county. Any city wholly containing more than one county shall be subject to the provisions of this subdivision as if it were a county.

3. Said state emergency management office is hereby authorized and directed to promulgate any rules or regulations or take any other measures necessary to effectuate the provisions of this section.

§ 24. Local state of emergency; local emergency orders by chief executive

1. Notwithstanding any inconsistent provision of law, general or special, in the event of a disaster, rioting, catastrophe, or similar public emergency within the territorial limits of any county, city, town or village, or in the event of reasonable apprehension of immediate danger thereof, and upon a finding by the chief executive thereof that the public safety is imperiled thereby, such chief executive may proclaim a local state of emergency within any part or all of the territorial limits of such local government; provided, however, that in the event of a radiological accident as defined in section twenty-nine-c of this article, such chief executive may request of the governor a declaration of disaster emergency. Such proclamation shall remain in effect for a period not to exceed thirty days or until rescinded by the chief executive, whichever occurs first. The chief executive may issue additional proclamations to extend the state of emergency for additional periods not to exceed thirty days. Following such proclamation and during the continuance of such local state of emergency, the chief executive may promulgate local emergency orders to protect life and property or to bring the emergency situation under control. As illustration, such orders may, within any part or all of the territorial limits of such local government, provide for:
a. the establishment of a curfew and the prohibition and control of pedestrian and vehicular traffic, except essential emergency vehicles and personnel;
b. the designation of specific zones within which the occupancy and use of buildings and the ingress and egress of vehicles and persons may be prohibited or regulated;
c. the regulation and closing of places of amusement and assembly;
d. the suspension or limitation of the sale, dispensing, use or transportation of alcoholic beverages, firearms, explosives, and flammable materials and liquids;
e. the prohibition and control of the presence of persons on public streets and places;
f. the establishment or designation of emergency shelters, emergency medical shelters, and in consultation with the state commissioner of health, community based care centers;

g. the suspension within any part or all of its territorial limits of any of its local laws, ordinances or regulations, or parts thereof subject to federal and state constitutional, statutory and regulatory limitations, which may prevent, hinder, or delay necessary action in coping with a disaster or recovery therefrom whenever (1) a request has been made pursuant to subdivision seven of this section, or (2) whenever the governor has declared a state disaster emergency pursuant to section twenty-eight of this article. Suspension of any local law, ordinance or regulation pursuant to this paragraph shall be subject to the following standards and limits:

(i) no suspension shall be made for a period in excess of five days, provided, however, that upon reconsideration of all the relevant facts and circumstances, a suspension may be extended for additional periods not to exceed five days each during the pendency of the state of emergency;

(ii) no suspension shall be made which does not safeguard the health and welfare of the public and which is not reasonably necessary to the disaster effort;

(iii) any such suspension order shall specify the local law, ordinance or regulation, or part thereof suspended and the terms and conditions of the suspension;

(iv) the order may provide for such suspension only under particular circumstances, and may provide for the alteration or modification of the requirements of such local law, ordinance or regulation suspended, and may include other terms and conditions;

(v) any such suspension order shall provide for the minimum deviation from the requirements of the local law, ordinance or regulation suspended consistent with the disaster action deemed necessary; and

(vi) when practicable, specialists shall be assigned to assist with the related emergency actions to avoid adverse effects resulting from such suspension.

2. A local emergency order shall be effective from the time and in the manner prescribed in the order and shall be published as soon as practicable in a newspaper of general circulation in the area affected by such order and transmitted to the radio and television media for publication and broadcast. Such orders may be amended, modified and rescinded by the chief executive during the pendency or existence of the state of emergency. Such orders shall cease to be in effect five days after promulgation or upon declaration by the chief executive that the state of emergency no longer exists, whichever occurs sooner. The chief executive nevertheless, may extend such orders for additional periods not to exceed five days each during the pendency of the local state of emergency.

3. The proclamation of a local state of emergency and local emergency orders of a chief executive of a county shall be executed in quadruplicate and shall be filed within seventy-two hours or as soon thereafter as practicable in the office of the clerk of the governing board of the county, the office of the county clerk, the office of the secretary of state and the state office of emergency management within the division of homeland security and emergency services. The proclamation of a local state of emergency and local emergency orders of a chief executive of a city, town or village shall be executed in quadruplicate and shall be filed within seventy-two hours or as soon thereafter as practicable in the office of the clerk of such municipal corporation, the office of the county clerk, the office of the secretary of state and the state office of emergency management within the division of homeland security and emergency services.

4. Nothing in this section shall be deemed to limit the power of any local government to confer upon its chief executive any additional duties or responsibilities deemed appropriate.

5. Any person who knowingly violates any local emergency order of a chief executive promulgated pursuant to this section is guilty of a class B misdemeanor.

6. Whenever a local state of emergency is declared by the chief executive of a local government pursuant to this section, the chief executive of the county in which such local state of emergency is declared, or where a county is wholly contained within a city, the mayor of such city, may request the governor to remove all or any number of sentenced inmates from institutions maintained by such county in accordance with section ninety-three of the correction law.

7. Whenever a local state of emergency has been declared pursuant to this section, the chief executive of the county in which the local state of emergency has been declared, or where a county is wholly contained within a

city, the chief executive of the city, may request the governor to provide assistance under this chapter, provided that such chief executive determines that the disaster is beyond the capacity of local government to meet adequately and state assistance is necessary to supplement local efforts to save lives and to protect property, public health and safety, or to avert or lessen the threat of a disaster.

8. The legislature may terminate by concurrent resolution, such emergency orders at any time.

§ 25. Use of local government resources in a disaster

1. Upon the threat or occurrence of a disaster, the chief executive of any political subdivision is hereby authorized and empowered to and shall use any and all facilities, equipment, supplies, personnel and other resources of his political subdivision in such manner as may be necessary or appropriate to cope with the disaster or any emergency resulting therefrom.

2. Upon the threat or occurrence of a disaster, a chief executive may request and accept assistance which is coordinated and directed by the county chief executive as provided in section twenty-six of this article.

3. A chief executive may also request and accept assistance from any other political subdivision and may receive therefrom and utilize any real or personal property or the service of any personnel thereof on such terms and conditions as may be mutually agreed to by the chief executives of the requesting and assisting political subdivisions.

4. Upon the receipt of a request for assistance made pursuant to subdivision two or three of this section, the chief executive of any political subdivision may give, lend or lease, on such terms and conditions as he may deem necessary to promote the public welfare and protect the interests of such political subdivision, any services, equipment, facilities, supplies or other resources of his political subdivision. Any lease or loan of real or personal property pursuant to this subdivision, or any transfer of personnel pursuant hereto, shall be only for the purpose of assisting a political subdivision in emergency relief, reconstruction, or rehabilitation made necessary by the disaster.

5. A political subdivision shall not be liable for any claim based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty on the part of any officer or employee in carrying out the provisions of this section.

6. The chief executive, when requesting assistance pursuant to this section may request assistance from the civil defense and disaster preparedness forces of any other political subdivision, but only if the civil defense and disaster preparedness forces of the type being requested have already been activated within the political subdivisions requesting assistance. The chief executive of any political subdivision receiving such a request is hereby authorized and empowered, subject to the provisions of section twenty-six of this article, to respond thereto.

7. Any power or authority conferred upon any political subdivision by this section shall be in addition to and not in substitution for or limitation of any powers or authority otherwise vested in such subdivision or any officer thereof.

§ 26. Coordination of local disaster preparedness forces and local civil defense forces in disasters

1. Upon the threat or occurrence of a disaster, the chief executive of a county may coordinate responses for requests for assistance made by the chief executive of any political subdivision within the county.

2. Coordination of assistance shall utilize existing organizations and lines of authority and shall utilize any comprehensive emergency management plans prepared by the affected municipality.

3. A chief executive or any elected or appointed county, city, town or village official shall not be held responsible for acts or omissions of municipal employees, disaster preparedness forces or civil defense forces when performing disaster assistance pursuant to a declared disaster emergency or when exercising comprehensive emergency management plans.

§ 27. Continuity of local governments

1. Every county, except those wholly contained within a city, every city, every town and every village shall have power to provide by local law, and every other public corporation, district corporation or public benefit corporation shall have power to provide by resolution, for its continuity and that of its elective and appointive officers, including members of its legislative or governing body when, in the event of a disaster and the emergency conditions caused thereby, any of such officers is unable to discharge the powers and duties of his office or is absent from the political subdivision. In any such local law or resolution, provision may be made that the removal of a disability or the termination of an absence from the political subdivision of an officer higher on a list or order of succession provided therein to an office shall not terminate the service in such office of an individual lower on such list or order of succession who is temporarily filling such office. Notwithstanding the provisions of any general or special law or city or village charter, a local law or resolution adopted pursuant to this section may be made effective without approval at a mandatory or permissive referendum but in no case shall such local law or resolution become effective until one certified copy thereof has been filed with the clerk of the political subdivision or other appropriate official designated for such purpose by the respective legislative or governing body, one certified copy thereof has been filed in the office of the state comptroller and three certified copies thereof have been filed in the office of the secretary of state.

No provision of this subdivision shall be construed or interpreted as affecting the validity of any ordinance, local law or resolution enacted prior to April first, nineteen hundred seventy-nine or actions taken thereunder by the government of any county, city, town or village.

2. The provisions of this section shall not be applicable in any case where the continuity of the government of a political subdivision or that of any of its elective or appointive officers is otherwise provided for by or pursuant to law.

3. This section shall be construed liberally. The powers herein granted shall be in addition to and not in substitution of any power granted, procedure provided or provision made in any other law.

§ 28. State declaration of disaster emergency

1. Whenever the governor, on his own initiative or pursuant to a request from one or more chief executives, finds that a disaster has occurred or may be imminent for which local governments are unable to respond adequately, he shall declare a disaster emergency by executive order.

2. Upon declaration of a disaster arising from a radiological accident, the governor or his designee, shall direct one or more chief executives and emergency services organizations to:

(a) notify the public that an emergency exists; and

(b) take appropriate protective actions pursuant to the radiological emergency preparedness plan approved pursuant to sections twenty-two and twenty-three of this article. The governor, or his designee, shall also have authority to direct that other actions be taken by such chief executives pursuant to their authority under section twenty-four of this article.

3. The executive order shall include a description of the disaster, and the affected area. Such order or orders shall remain in effect for a period not to exceed six months or until rescinded by the governor, whichever occurs first.

The governor may issue additional orders to extend the state disaster emergency for additional periods not to exceed six months.

4. Whenever the governor shall find that a disaster is of such severity and magnitude that effective response is beyond the capabilities of the state and the affected jurisdictions, he shall make an appropriate request for federal assistance available under federal law, and may make available out of any funds provided under the governmental emergency fund or such other funds as may be available, sufficient funds to provide the required state share of grants made under any federal program for meeting disaster related expenses including those available to individuals and families.

§ 28-a. Post disaster recovery planning

1. Whenever a state disaster emergency has been declared any county, city, town or village included in such disaster area shall prepare a local recovery and redevelopment plan, unless the legislative body of the municipality shall determine such plan to be unnecessary or impractical. Prior to making such determination, the municipality shall notify the commission of its intent to forego preparation and provide an opportunity to comment to the commission. Within fifteen days after the declaration of a state disaster, any county, city, town or village included in such disaster area shall report to the commission whether the preparation of a recovery and redevelopment plan has been commenced, and if not, the reasons for not preparing such plan. Within sixty days after the declaration of a state disaster, the commission shall report to the governor and the legislature the status of local recovery and redevelopment plans, including the name of any municipality which has failed or refused to commence the development of a recovery and redevelopment plan.

2. The commission shall provide technical assistance in the development of such plans upon the request of such county, city, town or village.

3. A local recovery and redevelopment plan shall include, but need not be limited to: plans for replacement, reconstruction, removal or relocation of damaged or destroyed facilities; proposed new or amended regulations such as zoning, subdivision, building or sanitary ordinances and codes; and plans for economic recovery and community development. Such plans shall take into account and to the extent practicable incorporate relevant existing plans and policies and such plans shall take into account the need to minimize the potential impact of any future disasters on the community.

4. Proposed plans shall be presented at a public hearing upon five days notice published in a newspaper of general circulation in the area affected and transmitted to the radio and television media for publication and broadcast. Such notice shall state the time and place of the hearing and indicate where copies of the proposed plan may be inspected or obtained. Any county, city, town, or village preparing a recovery and redevelopment plan pursuant to this subdivision may, upon mutual agreement with any other such county, city, town or village, hold a joint hearing to consider such recovery and redevelopment plan.

5. Such plans shall be prepared within forty-five days after the declaration of a state disaster and shall be transmitted to the commission. The commission shall provide its comments on the plan within ten days after receiving such plan.

6. A plan shall be adopted by such county, city, town or village within ten days after receiving the comments of the commission. The adopted plan may be amended at any time in the same manner as originally prepared, revised and adopted.

7. The adopted plan shall be the official policy for recovery and redevelopment within the municipality.

8. Nothing in this section shall preclude any municipality from applying for or accepting and receiving any federal funds.

§ 29. Direction of state agency assistance in a disaster emergency

Upon the declaration of a state disaster emergency the governor may direct any and all agencies of the state government to provide assistance under the coordination of the disaster preparedness commission. Such state assistance may include: (1) utilizing, lending, or giving to political subdivisions, with or without compensation therefor, equipment, supplies, facilities, services of state personnel, and other resources, other than the extension of credit; (2) distributing medicine, medical supplies, food and other consumable supplies through any public or private agency authorized to distribute the same; (3) performing on public or private lands temporary emergency work essential for the protection of public health and safety, clearing debris and wreckage, making emergency repairs to and temporary replacements of public facilities of political subdivisions damaged or destroyed as a result of such disaster; and (4) making such other use of their facilities, equipment, supplies and personnel as may be necessary to assist in coping with the disaster or any emergency resulting therefrom.

§ 29-a. Suspension of other laws

1. Subject to the state constitution, the federal constitution and federal statutes and regulations, the governor may by executive order temporarily suspend specific provisions of any statute, local law, ordinance, or orders, rules or regulations, or parts thereof, of any agency during a state disaster emergency, if compliance with such provisions would prevent, hinder, or delay action necessary to cope with the disaster.

2. Suspensions pursuant to subdivision one of this section shall be subject to the following standards and limits:

a. no suspension shall be made for a period in excess of thirty days, provided, however, that upon reconsideration of all of the relevant facts and circumstances, the governor may extend the suspension for additional periods not to exceed thirty days each;

b. no suspension shall be made which does not safeguard the health and welfare of the public and which is not reasonably necessary to the disaster effort;

c. any such suspension order shall specify the statute, local law, ordinance, order, rule or regulation or part thereof to be suspended and the terms and conditions of the suspension;

d. the order may provide for such suspension only under particular circumstances, and may provide for the alteration or modification of the requirements of such statute, local law, ordinance, order, rule or regulation suspended, and may include other terms and conditions;

e. any such suspension order shall provide for the minimum deviation from the requirements of the statute, local law, ordinance, order, rule or regulation suspended consistent with the disaster action deemed necessary; and

f. when practicable, specialists shall be assigned to assist with the related emergency actions to avoid needless adverse effects resulting from such suspension.

3. Such suspensions shall be effective from the time and in the manner prescribed in such orders and shall be published as soon as practicable in the state bulletin.

4. The legislature may terminate by concurrent resolution executive orders issued under this section at any time.

§ 29-b. Use of disaster emergency response personnel in disasters.

1. The governor may, in his or her discretion, direct the state disaster preparedness commission to conduct an emergency exercise or drill, under its direction, in which all or any of the personnel and resources of the agencies of the commission of the state may be utilized to perform the duties assigned to them in a disaster, for the purpose of protecting and preserving human life or property in a disaster. During a disaster or such drill or

exercise, disaster emergency response personnel in the state shall operate under the direction and command of the chair of such commission, and shall possess the same powers, duties, rights, privileges and immunities as are applicable in a civil defense drill held at the direction of the state civil defense commission under the provisions of the New York state defense emergency act.

2. Local use of disaster emergency response personnel.

a. Upon the threat or occurrence of a disaster, and during and immediately following the same, and except as otherwise provided in paragraph d of this subdivision, the county chief executive may direct the emergency management director of a county to assist in the protection and preservation of human life or property by calling upon disaster emergency response personnel employed by or supporting that county, as specified in the county comprehensive emergency management plan, to perform the emergency response duties assigned to them.

b. The disaster emergency response personnel of the county shall be regarded as a reserve disaster force to be activated, in whole or in part, by the county emergency management director upon the direction of the county chief executive when the county chief executive, in his or her discretion, is convinced that the personnel and resources of local municipal and private agencies normally available for disaster assistance are insufficient adequately to cope with the disaster.

c. Except as provided in paragraph d of this subdivision, the county chief executive may exercise the power conferred upon him in paragraph a of this subdivision, or may deactivate the disaster emergency response personnel of the county in whole or in part, on his own motion or upon the request of the chief executive officer of a village, town or city located within the county of which he is an officer.

d. Where the local office of public safety or emergency management in a city is independent of the county office of public safety or emergency management and is not consolidated therewith, the county chief executive may direct the emergency management director of the county to render assistance within such city only when the chief executive officer of such city has certified to him that the disaster emergency response personnel of the city have been activated pursuant to the provisions of subdivision three of this section and that all resources available locally are insufficient adequately to cope with the disaster.

e. When performing disaster assistance pursuant to this section, county disaster emergency response personnel shall operate under the direction and command of the county emergency management director and his or her duly authorized deputies, and shall possess the same powers, duties, rights, privileges and immunities they would possess when performing their duties in a locally sponsored civil defense drill or training exercise in the civil or political subdivision in which they are enrolled, employed or assigned emergency response responsibilities.

f. The chief executive officer of a city shall be responsible for the conduct of disaster operations within the city, including the operations directed by the county emergency management director when rendering disaster assistance within a city pursuant to this section.

g. Outside of a city, the sheriff of the county, and in Nassau county the commissioner of police of the county of Nassau, shall supervise the operations of the emergency management director when rendering peace officer duties incident to disaster assistance. The sheriff and such commissioner may delegate such supervisory power to an elected or appointed town or village official in the area affected.

h. Neither the chief executive officer of a city, nor the county chief executive, nor any elected or appointed town or village official to whom the county chief executive has delegated supervisory power as aforesaid shall be held responsible for acts or omissions of disaster emergency response personnel when performing disaster assistance.

3. City use of disaster emergency response personnel.

a. Upon the threat or occurrence of a disaster, and during and immediately following the same, and except as

otherwise provided in paragraph d of this subdivision, the chief executive of a city may direct the emergency management director of the city to assist in the protection and preservation of human life or property by calling upon city disaster emergency response personnel to perform the emergency response duties assigned to them.

b. The disaster emergency response personnel of the city shall be regarded as a reserve disaster force to be activated, in whole or in part, by the city emergency management director upon the direction of the chief executive officer of the city when the latter, in his or her discretion, is convinced that the personnel and resources of local municipal and private agencies normally available for disaster assistance are insufficient adequately to cope with the disaster.

c. Except as provided in paragraph d of this subdivision, the chief executive officer of a city may exercise the power conferred upon him in paragraph a of this subdivision, or may deactivate the disaster emergency response personnel of the city in whole or in part, on his own motion or upon the request of the head of the city police force.

d. Where the local office of emergency management in a city is under the jurisdiction of a consolidated county office of civil defense as provided in the New York state defense emergency act, the chief executive officer of such city seeking the assistance of disaster emergency response personnel in the protection and preservation of human life or property within such city because of such disaster, must request the same from the county chief executive in which such city is located, in the same manner as provided for assistance to towns and villages in subdivision two of this section.

e. When performing disaster assistance pursuant to this subdivision, disaster emergency response personnel shall operate under the direction and command of the city emergency management director and his or her duly authorized deputies, and shall possess the same powers, duties, rights, privileges, and immunities they would possess when performing their duties in a locally sponsored civil defense drill or training exercise in the city in which they are enrolled, employed or assigned emergency response responsibilities.

f. Where the city disaster emergency response personnel have been directed to assist in local disaster operations pursuant to paragraph a of this subdivision, and the chief executive officer of the city is convinced that the personnel and resources of local municipal and private agencies normally available for disaster assistance, including local disaster emergency response personnel, are insufficient adequately to cope with the disaster, he or she may certify the fact to the county chief executive and request the county chief executive to direct the county emergency management director to render assistance in the city, as provided in subdivision two of this section.

g. The chief executive officer of a city shall be responsible for the conduct of disaster operations within the city, including the operations directed by the county emergency management director, when rendering disaster assistance within a city pursuant to this subdivision.

h. Neither the chief executive officer of a city, nor the county chief executive, shall be held responsible for acts or omissions of disaster emergency response personnel when performing disaster assistance.

§ 29-c. Radiological preparedness

1. The commission:

(a) may monitor directly and record the off-site presence of radioactive material in the vicinity of nuclear electric generating facilities located in the state of New York;

(b) shall obtain from the licensees, United States nuclear regulatory commission-required high range radiation, temperature and pressure levels in the containment buildings and in the containment building vents of nuclear electric generating facilities located in the state of New York; and,

(c) shall obtain, subject to the approval of the United States nuclear regulatory commission, any reactor data provided by the licensee to the United States nuclear regulatory commission, which the disaster preparedness commission determines, as a result of the report issued pursuant to section twenty-nine-d of this article, to be a reliable indicator of a possible radiological accident.

Upon the occurrence of a radiological accident, the commission shall promptly provide appropriate and available radioactivity monitoring data to any chief executive who requests it. For the purposes of this section, the term "radiological accident" shall be limited to a radiological accident occurring at a nuclear electric generating facility.

2. (a) Any licensee of the United States nuclear regulatory commission for a nuclear electric generating facility shall be liable for an annual fee to support state and local governmental responsibilities under accepted radiological emergency preparedness plans related to the facility operated by such licensee.

(b) The amount of such fee shall be one million dollars. Such fee, which shall be payable to the commission on or before December first, shall be expended or distributed only by appropriation.

3. Such fees shall be expended by the commission for purposes of supporting state and local government responsibilities under accepted radiological emergency preparedness plans, including:

(a) purchase, installation, maintenance and operation of equipment used by the commission and local governments to monitor and record the potential and actual presence of radioactive materials within the appropriate planning radius from a nuclear electric generating facility;

(b) purchase, storage and distribution by the commission of equipment, drugs or other material for the purpose of protecting public health and safety;

(c) personal service, administrative costs and contractual services;

(d) emergency services personnel training and the plans, development, implementation, testing and revisions; and,

(e) the state or local share when applying for matching funds.

3-a. (a) Notwithstanding the provisions of subdivision three of this section, the New York state emergency management office (SEMO) and the coalition of nuclear counties, which constitutes the counties of Monroe, Wayne, Oswego, Orange, Putnam, Rockland and Westchester, shall each receive an equal one-half portion of the total amount of proceeds resulting from the total assessments and contributions made pursuant to this section.

(b) The one-half portion of the proceeds resulting from the total assessments and contributions made pursuant to this section received by the coalition of nuclear counties shall be distributed pursuant to the following formula:

Monroe county 12.3%
Orange county 10%
Oswego county 12.5%
Putnam county 9.8%
Rockland county 18%
Wayne county 12.4%
Westchester county 25%

4. [Repealed]

§ 29-d. Reports

In order to assess the present preparedness in the state for any radiological accident and to determine the need for, and appropriateness of, any additional specific steps by state government, the commission shall report to the

governor and the legislature by January first, nineteen hundred eighty-two, its findings, recommendations and proposed legislation where appropriate concerning:

1. The need for and appropriateness of additional specific state activities or programs beyond those required by the accepted radiological emergency preparedness plans or provided for under existing law, including but not limited to:
   (a) radiological monitoring equipment;
   (b) warning systems and equipment;
   (c) medical technologies and equipment;
   (d) plume transport and dose assessment models; and
   (e) nuclear fuel cycle and materials licensees other than electric generating facilities.

2. Any such recommendations shall be developed in consultation with all concerned public and private parties and shall:
   (a) take into account proven safety effectiveness;
   (b) outline any proposed costs and the means for meeting such costs;
   (c) consider related activities of the United States nuclear regulatory commission or others; and
   (d) when appropriate, discuss alternatives and various implementation stages.

§ 29-e. New York state emergency assistance program

1. For purposes of this section the following terms shall have the following meanings:

(a) "Infrastructure" shall mean and include publicly owned storm and sanitary sewers, water supply systems, drainage systems, transportation systems, roads and bridges.

(b) "Municipality" shall mean any county, city, village, or town of the state.

(c) "Public facilities" shall mean and include publicly owned buildings, including traditional government buildings, such as courthouses, firehouses, police stations, parks, recreational facilities, and correctional facilities.

(d) "Fund" shall mean the state's contingency reserve fund established by law.

(e) "The office of emergency management " shall mean the office within the division of homeland security and emergency services.

2. The governor may, upon a finding that a municipality in the state has suffered substantial damage by an unanticipated natural disaster which has resulted in significant economic distress within such municipality, issue a declaration of significant economic distress in accordance with the provisions herein. In determining whether such significant economic distress exists, the governor shall consider whether the following criteria have been met:

(a) the municipality suffered a substantial loss of assessed value;

(b) substantial damage has occurred to municipal buildings, facilities and infrastructure;

(c) the cost incurred by the municipality for clean-up operations is significant;

(d) businesses within the municipality have experienced significant economic loss due to the inability to conduct normal business due to the disaster;

(e) a significant increase in unemployment claims filed by persons employed within the municipality has occurred; and

(f) the county or the county within which the municipality is located has been declared eligible by the United States small business administration for physical disaster and economic injury disaster loans. In addition, the governor shall also consider the extent that other financial resources, including federal assistance and insurance, are available to assist the municipality to repair damage caused by the disaster.

3. (a) Upon the issuance of a declaration of significant economic distress due to unanticipated natural disaster by the governor, a municipality recognized by the governor as being affected by such disaster which occurred on or after December first, nineteen hundred ninety-two, may apply to the division of homeland security and emergency services on a form prescribed by such office, for reimbursement from the state's contingency reserve fund for reimbursement of extraordinary and unanticipated costs associated with the reconstruction or repair of public buildings, facilities or infrastructure.

(b) Where the municipality applying for assistance authorized pursuant to this section is a city, and such application pertains to a county wholly contained within such city, such city may submit separate applications for such assistance for each such county.

(c) Such municipality shall be granted the assistance provided pursuant to this section, within the amounts made available by appropriation from the fund, upon approval of such application, provided that such municipality agrees to have a local disaster preparedness plan pursuant to section twenty-three of this article in effect by December thirty-first, nineteen hundred ninety-three. On or after December thirty-first, nineteen hundred ninety-three, no municipality shall be eligible for reimbursement of such expenses unless such plan is in effect.

(d) Municipalities which have received assistance pursuant to this section shall, as soon thereafter as may be possible, amend their respective local disaster preparedness plans to include corrective measures that must be taken in order to avoid, to the extent possible, similar emergencies in the future.

(e) Municipalities applying for assistance pursuant to this section shall accurately describe the emergency conditions which necessitate the expenditure of funds for which reimbursement is being sought pursuant to this section.

(f) In providing assistance pursuant to this section, the division of homeland security and emergency services may give preference to applicants which demonstrate the greatest need or which document that such assistance will be utilized to bring the applicant into compliance with federal or state law.

(g) In the event that amounts appropriated are insufficient to provide for full reimbursement of all extraordinary and unanticipated costs incurred by such municipality approved for reimbursement pursuant to this section, the division of homeland security and emergency services is authorized to provide a pro rata share of the appropriations, appropriated herein, to such municipality.

4. (a) The commissioner of the division of homeland security and emergency services as defined in article twenty-six of this chapter with the advice and consent of the disaster preparedness commission created pursuant to this article, shall have the power to make such rules and regulations as may be necessary and proper to effectuate the purposes of this section.

(b) The commissioner of the division of homeland security and emergency services shall by March fifteenth of each year report to the governor and the legislature describing the activities and operation of the program authorized by this section. Such report shall set forth the number of reimbursement applications received and approved; the identities of the counties, cities, towns and villages receiving reimbursement together with the amount and purpose of the reimbursement.

§ 29-f. [Repealed]

§ 29-g. Emergency management assistance compact

1. The emergency management assistance compact is made and entered into by and between the participating member states which enact this compact, hereinafter called party states. For the purposes of this agreement, the term "states" is taken to mean the several states, the commonwealth of Puerto Rico, the District of Columbia, and all United States territorial possessions.

The purpose of this compact is to provide for mutual assistance between the states entering into this compact in managing any emergency or disaster that is duly declared by the governor of the affected state or states, whether arising from natural disaster, technological hazard, man-made disaster, civil emergency aspects of resource shortages, community disorders, insurgency or enemy attack.

This compact shall also provide for mutual cooperation in emergency related exercises, testing or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by party states or subdivisions of party states during emergencies, such actions occurring outside actual declared emergency periods. Mutual assistance in this compact may include the use of the states' national guard forces, either in accordance with the national guard mutual assistance compact or by mutual agreement between states.

2. Each party state entering into this compact recognizes that many emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential in managing these and other emergencies under this compact. Each state further recognizes that there will be emergencies which require immediate access and present procedures to apply outside resources to make a prompt and effective response to such an emergency. This is because few, if any, individual states have all the resources they may need in all types of emergencies or the capability of delivering resources to areas where emergencies exist.

The prompt, full and effective utilization of resources of the participating states, including any resources on hand or available from the federal government or any other source, that are essential to the safety, care and welfare of the people in the event of any emergency or disaster declared by a party state, shall be the underlying principle on which all provisions of this compact shall be understood.

On behalf of the governor of each state participating in the compact, the legally designated state official who is assigned responsibility for emergency management will be responsible for formulation of the appropriate interstate mutual aid plans and procedures necessary to implement this compact.

3. (a) It shall be the responsibility of each party state to formulate procedural plans and programs for interstate cooperation in the performance of the responsibilities listed in this section. In formulating such plans, and in carrying them out, the party states, insofar as practical, shall:

(1) Review individual state hazard analysis and, to the extent reasonably possible, determine all those potential emergencies the party states might jointly suffer, whether due to natural disaster, technological hazard, man-made disaster, emergency aspects or resource shortages, civil disorders, insurgency or enemy attack.

(2) Review party states' individual emergency plans and develop a plan which will determine the mechanism for the interstate management and provision of assistance concerning any potential emergency.

(3) Develop interstate procedures to fill any identified gaps and to resolve any identified inconsistencies or overlaps in existing or developed plans.

(4) Assist in warning communities adjacent to or crossing the state boundaries.

(5) Protect and assure uninterrupted delivery of services, medicines, water, food, energy and fuel, search and rescue and critical lifeline equipment, services and resources, both human and material.

(6) Inventory and set procedures for the interstate loan and delivery of human material resources, together with procedures for reimbursement or forgiveness.

(7) Provide, to the extent authorized by law, for temporary suspension of any statutes or ordinances that restrict the implementation of the above responsibilities.

(b) The authorized representative of a party state may request assistance of another party state by contacting the authorized representative of that state. The provisions of this agreement shall only apply to requests for assistance

made by and to authorized representatives. Requests may be verbal or in writing. If verbal, the request shall be confirmed in writing within thirty days of the verbal request. Requests shall provide the following information:

(1) A description of the emergency service function for which assistance is needed, such as, but not limited to, fire services, law enforcement, emergency medical, transportation, communications, public works and engineering, building inspection, planning and information assistance, mass care, resource support, health and medical services, and search and rescue.

(2) The amount and type of personnel, equipment, materials and supplies needed, and a reasonable estimate of the length of time that they will be needed.

(3) The specific place and time for staging of the assisting party's response and a point of contact at that location.

(c) There shall be frequent consultation between state officials who have assigned emergency management responsibilities and other appropriate representatives of the party states with affected jurisdictions and the United States government, with free exchange of information, plans and resource records relating to emergency capabilities.

4. Any party state requested to render mutual aid or conduct exercises and training for mutual aid shall take such action as is necessary to provide and make available the resources covered by this compact in accordance with the terms hereof provided, that it is understood that the state rendering aid may withhold resources to the extent necessary to provide reasonable protection for such state.

Each party state shall afford to the emergency forces of any party state, while operating within its state limits under the terms and conditions of this compact, the same powers (except that of arrest unless specifically authorized by the receiving state), duties, rights and privileges as are afforded forces of the state in which they are performing emergency services. Emergency forces will continue under the command and control of their regular leaders, but the organizational units will come under the operational control of the emergency services authorities of the state receiving assistance. These conditions may be activated, as needed, only subsequent to a declaration of a state of emergency or disaster by the governor of the party state that is to receive assistance or commencement of exercises or training for mutual aid and shall continue so long as the exercises or training for mutual aid are in progress, the state, or states, of emergency or disaster remains in effect or loaned resources remain in the receiving states, whichever is longer.

5. Whenever any person holds a license, certificate or other permit issued by any state party to the compact evidencing the meeting of qualifications for professional, mechanical or other skills, and when such assistance is requested by the receiving party state, such person shall be deemed licensed, certified, or permitted by the state requesting assistance to render aid involving such skill to meet a declared emergency or disaster, subject to such limitations and conditions as the governor of the requesting state may prescribe by executive order or otherwise.

6. Officers or employees of a party state rendering aid in another state pursuant to this compact shall be considered agents of the requesting state for tort liability and immunity purposes and no party state or its officers or employees rendering aid in another state pursuant to this compact shall be liable on account or any act or omission in good faith on the part of such forces while so engaged or on account of the maintenance or use of any equipment or supplies in connection therewith. Good faith shall not include willful misconduct, gross negligence or recklessness.

7. Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among two or more states may differ from that among the states that are parties hereto, this instrument contains elements of a broad base common to all states, and nothing contained herein shall preclude any state from entering into supplementary agreements with another state or affect any other agreements already in force between states. Supplementary agreements may comprehend, but shall not be limited to, provisions for evacuation and reception of injured and other persons and the exchange of medical, fire, police, public utility, reconnaissance, welfare, transportation and communications personnel, and equipment and supplies.

8. Each party state shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that state and representatives of deceased members of such forces in case such members sustain injuries or are killed while rendering aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within their own state.

9. Any party state rendering aid in another state pursuant to this compact shall be reimbursed by the party state receiving such aid for any loss or damage to or expense incurred in the operation of any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with such requests provided, that any aiding party state may assume, in whole or in part, such loss, damage, expense or other cost, or may loan such equipment or donate such services to the receiving party state without charge or cost provided, however, that any two or more party states may enter into supplementary agreements establishing a different allocation of costs among those states. Expenses under subdivision eight of this section shall not be reimbursable under this provision.

10. Plans for the orderly evacuation and interstate reception of portions of the civilian population as the result of any emergency or disaster of sufficient proportions to so warrant, shall be worked out and maintained between the party states and the emergency management/services directors of the various jurisdictions where any type of incident requiring evacuations might occur. Such plans shall be put into effect by request of the state from which evacuees come and shall include the manner of transporting such evacuees, the number of evacuees to be received in different areas, the manner in which food, clothing, housing and medical care will be provided, the registration of the evacuees, the providing of facilities for the notification of relatives or friends, and the forwarding of such evacuees to other areas or the bringing in of additional materials, supplies and all other relevant factors. Such plans shall provide that the party state receiving evacuees and the party state from which the evacuees come shall mutually agree as to reimbursement of out-of-pocket expenses incurred in receiving and caring for such evacuees, for expenditures for transportation, food, clothing, medicines and medical care, and like items. Such expenditures shall be reimbursed as agreed by the party state from which the evacuees come. After the termination of the emergency or disaster, the party state from which the evacuees come shall assume the responsibility for the ultimate support of repatriation of such evacuees.

11. (a) This compact shall become operative immediately upon its enactment into law by any two states; thereafter, this compact shall become effective as to any other state upon its enactment by such state.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until thirty days after the governor of the withdrawing state has given notice in writing of such withdrawal to the governors of all other party states. Such action shall not relieve the withdrawing state from obligations assumed hereunder prior to the effective date of withdrawal.

(c) Duly authenticated copies of this compact and of such supplementary agreements as may be entered into shall, at the time of their approval be deposited with each of the party states and with the federal emergency management agency and other appropriate agencies of the United States government.

12. This compact shall be construed to effectuate the purposes stated in subdivision one of this section. If any provision of this compact is declared unconstitutional, or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of this compact and the applicability thereof to other persons and circumstances shall not be affected thereby.

13. Nothing in this compact shall authorize or permit the use of military forces by the National Guard of a state at any place outside the state in any emergency for which the president is authorized by law to call into federal service the militia, or for any purposes for which the use of the army or the air force would in the absence of express statutory authorization be prohibited under section 1385 of title 18, United States code.

14. The legally designated state official who is assigned responsibility for emergency management shall not offer resources to, or request resources from, another compact member state, without prior discussion with and

concurrence from the state agency, department, office, division, board, bureau, commission or authority that may be asked to provide resources or that may utilize resources from another compact member state.

15. The director of the state emergency management office shall, on or before the first day of January, two thousand two, provide to the legislature and the governor copies of all mutual aid plans and procedures promulgated, developed or entered into after the effective date of this section. The director of the state emergency management office shall annually hereafter provide the legislature and governor with copies of all new or amended mutual aid plans and procedures on or before the first day of January of each year.

§ 29-h. Intrastate mutual aid program

1. Creation. There is hereby created the intrastate mutual aid program to complement existing mutual aid agreements in the event of a disaster that results in a formal declaration of an emergency by a participating local government. All local governments within the state, excepting those which affirmatively choose not to participate in accordance with subdivision four of this section, are deemed to be participants in the program.

2. Definitions. As used in this section, the following terms shall have the following meanings:
a. "Employee" means any person holding a position by election, appointment, or employment by a local government;
b. "Local government" means any county, city, town or village of the state;
c. "Local emergency management [fig 1] director" means the local government official responsible for emergency preparedness, response and recovery;
d. "Requesting local government" means the local government that asks another local government for assistance during a declared emergency, or for the purposes of conducting training, or undertaking a drill or exercise;
e. "Assisting local government" means one or more local governments that provide assistance pursuant to a request for assistance from a requesting local government during a declared emergency, or for the purposes of conducting training, or undertaking a drill or exercise; and
f. "Disaster" shall have the same meaning as in section twenty of this article.

3. Intrastate mutual aid program committee established; meetings; powers and duties.
a. There is hereby created within the disaster preparedness commission an intrastate mutual aid program committee, for purposes of this section to be referred to as the committee, which shall be chaired by the commissioner of the division of homeland security and emergency services, and shall include the state fire administrator, the commissioner of health, and the commissioner of agriculture and markets, provided that each such official may appoint a designee to serve in his or her place on the committee. The committee shall also include five representatives from local public safety or emergency response agencies, who shall serve a maximum two-year term, to be appointed by the commissioner of the division of homeland security and emergency services, with regard to a balance of geographic representation and discipline expertise.
b. The committee, on the call of the chairperson, shall meet at least twice each year and at such other times as may be necessary. The agenda and meeting place of all regular meetings shall be made available to the public in advance of such meetings and all such meetings shall be open to the public.
c. The committee shall have the following powers and responsibilities:
(1) to promulgate rules and regulations, acting through the division of homeland security and emergency services, to implement the intrastate mutual aid program as described in this section;
(2) to develop policies, procedures and guidelines associated with the program, including a process for the reimbursement of assisting local governments by requesting local governments;
(3) to evaluate the use of the intrastate mutual aid program;
(4) to examine issues facing participating local governments regarding the implementation of the intrastate mutual aid program; and
(5) to prepare reports to the disaster preparedness commission discussing the effectiveness of mutual aid in the state and making recommendations for improving the efficacy of the system, if appropriate.

4. Local government participation in the intrastate mutual aid program.

a. A local government may elect not to participate in the intrastate mutual aid program, or to withdraw from the program, by its governing body enacting a resolution declaring that it elects not to participate in the program and providing such resolution to the division of homeland security and emergency services. Participation in the program will continue until a copy of such resolution is received and confirmed by the division of homeland security and emergency services.
b. A local government that has declined to participate in the program may, acting by resolution through its governing body and providing a copy of the resolution to the division of homeland security and emergency services, elect to participate in the program.
c. Nothing in this section shall preclude a local government from entering into mutual aid agreements with other local governments or other entities with terms that supplement or differ from the provisions of this section.
d. Nothing in this section shall affect any other agreement to which a local government may currently be a party, or later enter into, including, but not limited to, the state fire mobilization and mutual aid plan.

5. Fire related resources. Notwithstanding the authority vested pursuant to this section, all fire related resources shall be administered pursuant to section two hundred nine-e of the general municipal law.

6. Requesting assistance under the intrastate mutual aid program.
a. A participating local government may request assistance of other participating local governments in preventing, mitigating, responding to and recovering from disasters that result in locally-declared emergencies, or for the purpose of conducting multi-jurisdictional or regional training, drills or exercises. Requests for assistance may be made verbally or in writing; verbal requests shall be memorialized in writing as soon thereafter as is practicable. Notwithstanding the provisions of section twenty-five of this article, the local emergency management director shall have the authority to request and accept assistance and deploy the local resources of his or her jurisdiction under the intra-state mutual aid program.
b. Once an emergency is declared at the county level, all requests and offers for assistance, to the extent practical, shall be made through the county emergency management office, or in the case of the city of New York, through the city emergency management office. All requests for assistance should include:
(1) a description of the disaster;
(2) a description of the assistance needed;
(3) a description of the mission for which assistance is requested;
(4) an estimate of the length of time the assistance will be needed;
(5) the specific place and time for staging of the assistance and a point of contact at that location; and
(6) any other information that will enable an assisting local government to respond appropriately to the request.
c. Assisting local governments shall submit to the requesting local government an inventory of the resources being deployed.
d. The written request for assistance and all inventories of resources being deployed shall be submitted to the division of homeland security and emergency services within three calendar days of the request for or deployment of such resources.

7. Division of homeland security and emergency services responsibilities under the intrastate mutual aid program. The division of homeland security and emergency services shall provide notification by mail to each local government with a comprehensive description of the intrastate mutual aid program, including a statement that all local governments are participants of the program unless they expressly opt out pursuant to subdivision four of this section; maintain a current list of participating local governments with their authorized representatives and contact information, and provide a copy of the list to each of the participating local governments on an annual basis during the second quarter of each calendar year; monitor and report to the intrastate mutual aid program committee on the use of the intrastate mutual aid program; coordinate the provision of mutual aid resources in accordance with the comprehensive emergency management plan and supporting protocols; identify mutual aid best practices; when practical, provide the committee with statistical information related to the use of mutual aid during recent regional disaster responses; and assist with the development, implementation and management of a state-wide resource typing system.

8. Reimbursement of assisting jurisdiction by requesting jurisdiction; resolving disputes regarding reimbursement.
a. Any assisting local government requesting [fig 1] reimbursement under this program for loss, damage or expenses incurred in connection with the provision of [fig 2] assistance that seeks reimbursement by the requesting local government shall make such request in accordance with procedures developed by the intrastate mutual aid committee.
b. Notwithstanding the provisions of section twenty-five of this article or any inconsistent provision of law to the contrary, any requesting local government requesting assistance under this program shall be liable and responsible to the assisting local government for any loss or damage to equipment or supplies and shall bear and pay the expense incurred in the operation and maintenance of any equipment and the cost of materials and supplies used in rendering assistance under this section.
c. The assisting local government shall be liable for salaries or other compensation for its employees deployed to a requesting local government during the time they are not rendering assistance pursuant to such request, and shall defray the actual traveling and maintenance expense of its employees and equipment while they are rendering assistance under this section. The requesting local government shall reimburse the assisting local government for any moneys paid for such salaries or other compensation and traveling and maintenance expenses incurred from activities performed while rendering assistance under this program.
d. Notwithstanding paragraph c of this subdivision, any voluntary ambulance service rendered pursuant to a request for assistance under this program that affects a volunteer ambulance workers service award or supplemental service award from a service award program or a supplemental service award program established pursuant to article eleven-aa, article eleven-aaa, or article eleven-aaaa of the general municipal law shall be the responsibility of the political subdivision which adopted the service award program or supplemental service award program and not the responsibility of the requesting local government.
e. Where a dispute arises between an assisting local government and a requesting local government regarding reimbursement for loss, damages or expenses incurred in connection with the provision of aid, the parties will make every effort to resolve the dispute within thirty business days of written notice of the dispute by the party asserting noncompliance.

9. Performance of services.
a. (1) Employees of an assisting local government shall continue under the administrative control of their home jurisdiction. However, in all other cases where not prohibited by general, special or local law, rule or regulation, employees of an assisting local government shall be under the direction and control of the local emergency management director or other official charged with performing emergency management functions for the requesting local government;
(2) Performance by employees of an assisting local government of services for a requesting local government pursuant to this section shall have no impact upon whether negotiating unit employees represented by an employee organization, recognized or certified pursuant to section two hundred six or two hundred seven of the civil service law, exclusively perform such services, as that phrase is used by the public employment relations board, on behalf of the requesting local government;
b. Assets and equipment of an assisting local government shall continue under the ownership of the assisting local government, but shall be under the direction and control of the local emergency management director or other official charged with performing emergency management functions for the requesting local government.

10. Liability.
a. Each local government is responsible for procuring and maintaining insurance or other coverage as it deems appropriate.
b. While rendering assistance under the intrastate mutual aid program, employees of the assisting local government shall have the same immunities and privileges as if such duties were performed within their home jurisdiction. An assisting local government providing assistance pursuant to the intrastate mutual aid program shall be liable for the negligence of its employees, which occurs in the performance of their duties in the same manner and to the same extent as if such negligence occurred in the performance of their duties in their home jurisdiction.
c. Employees of an assisting local government responding to or rendering assistance pursuant to a request for assistance who sustain injury or death in the course of, and arising out of, their response are entitled to all applicable benefits as if they were responding in their home jurisdiction. The assisting local government shall be

liable for all costs or payments for such benefits as required by law.
d. Nothing in this section shall be construed to prevent the assisting and requesting local governments from agreeing to other terms related to liability and compensation. Local governments may choose to enter into an agreement, at any time, to alter these terms as they deem necessary.
e. Nothing in this section shall be construed to provide any protection against liability, or to create any liability, for an individual who responds to a state of emergency where aid has not been requested, or where aid has not been authorized by the individual's [fig 1] home jurisdiction.

11. Obligation of insurers. Nothing in this section shall impair, alter, limit or modify the rights or obligations of any insurer under any policy of insurance.

12. License, certificate and permit portability.
a. State certified emergency medical services providers who respond outside of their normal jurisdiction pursuant to a request for assistance under this program shall follow their normal operating protocols as if they were responding and rendering services in their home jurisdiction.
b. Any other individual authorized and deployed by a participating local government when responding pursuant to a request for assistance under this program shall have the same powers and duties as if they were responding in their home jurisdiction.

§ 29-i. Immunity from liability for emergency alerts

Any provider of mobile services, as defined in 47 U.S.C. 153, including its officers, directors, employees, affiliates, vendors and agents, acting on behalf of the state, and any third-party intermediary transmission service provider, including such third-party intermediary transmission service provider's affiliates, officers, directors, employees, vendors and agents, acting directly or indirectly on behalf of the state or on behalf of any such provider of mobile services, that transmits emergency alerts similar to those described in 47 CFR 10.10 and 10.400, or that transmits any other type or form of emergency alert messages, shall not be liable for any act or omission related to or any harm resulting from the transmission of, or failure to transmit, an emergency alert, provided that such provider, officer, director, employee, affiliate, vendor or agent acted reasonably and in good faith.

§ 29-j. Acceptance of gifts

1. The state office of emergency management within the division of homeland security and emergency services may accept any assistance, including but not limited to gifts or grants of real or personal property, but not including money, from any public or private source for the purpose of preparing for, responding to, or recovering from a state disaster emergency. Such assistance may be used to support state and local disaster operations or distributed to disaster response organizations supporting local disaster response operations. To the extent practicable, the office of emergency management shall distribute such assistance in consultation with local governments, not-for-profit organizations, and other disaster response organizations that have experience responding to state disaster emergencies.

2. The state office of emergency management shall maintain a database of all assistance accepted during the state disaster emergency and shall make such information available to the public on its website. The database shall include, but is not limited to, the name of the donor, type of assistance provided, value of the assistance, recipient of the assistance (if available), date of the donation and date of distribution.

3. The director of the office of emergency management, in consultation with the commissioner of the division of homeland security and emergency services, may promulgate rules and regulations necessary to implement this section.

NYS Executive Law
Article 2-B

INFORMATION FOR LOCAL CHIEF EXECUTIVES REGARDING DECLARING A STATE OF EMERGENCY AND ISSUING EMERGENCY ORDERS

The following information can be used by local Chief Executives and Emergency Managers on matters pertaining to declaring a "local state of emergency", pursuant to Article 2-B of the State Executive Law. This document addresses the most commonly asked questions regarding a local state of emergency. Additional information or clarification may be obtained by contacting your local, County or State Office of Emergency Management. If you have a specific legal question regarding the use of the provisions found in 2-B it is always best to consult with your attorney.

A. INSTRUCTIONS FOR DECLARING A LOCAL STATE OF EMERGENCY:

1. Only the local chief executive (County Executive, Town Supervisor, Village or City Mayor) can declare a local state of emergency covering all or any part of his/her jurisdiction.

2. A local state of emergency is declared pursuant to section 24 of the NYS Executive Law.

3. It can be declared in response to, or anticipation of, a threat to public safety.

4. A declaration of a local state of emergency should be written.

5. The declaration should include the time and date, the reason for the declaration, the area involved, and the expected duration.

6. The written declaration should be kept on file in the Municipal or County Clerk's Office. Copies of the written state of emergency must be sent to the Department of State and the State Office of Emergency Management.

7. A local state of emergency must be declared BEFORE emergency orders are issued.

8. A local state of emergency should be formally rescinded when the declaration is no longer needed.

9. Only the local chief executive, or person authorized to act for the local chief executive, may rescind a local state of emergency.

10. The rescission should be written.

11. The rescission should include the time and date of the original declaration, the reason for the local state of emergency, and the time and date the state of emergency is rescinded.

4/13/2012
By Kristine Hoffman, Counsel, DHSES-OEM

12. The written rescission should be kept on file in the Municipal or County Clerk's Office. Copies of the rescission should be sent to the Department of State and the State Office of Emergency Management.

B. QUESTIONS AND ANSWERS ON DECLARING A STATE OF EMERGENCY

1. ***Who is considered a local chief executive for the purpose of declaring a local state of emergency?***

   The Mayor of a City or Village, a Town Supervisor, the County Executive or County Manager are considered local Chief Executives. When a County does not have a County Executive or Manager, the Chairman or other presiding officer of the County Legislature serves as Chief Executive. In cases where the City, Village or Town has a Manager, then the Manager serves as the Chief Executive.

2. ***Why should I declare a local state of emergency?***

   It provides the local chief executive with additional powers in order to respond adequately to a disaster. These powers, exercised through the issuance of emergency orders, include, but are not limited to:

   - Establishing curfews;
   - Implementing public protective measures (e.g., controlling traffic, prohibiting ingress and egress into the affected area, prohibiting the sale of alcohol and firearms);
   - Establishing shelters, medical shelters, or alternate care sites;
   - Suspending local laws; and
   - Requesting supplemental assistance.

3. ***Can a declaration give legal protection?***

   Yes. A declaration of a local state of emergency provides legal protection and immunities for the local chief executive and local emergency officials when they make decisions and take actions to respond to disasters or emergencies.

4. ***Can a state of emergency be declared at any time?***

   No. A local state of emergency can be issued only when a situation exists that has or will place the public at risk and that will require extraordinary measures for proper protection.

5. ***When should I declare a local state of emergency?***

   You should consider declaring a local state of emergency when a dangerous situation is present or imminent and emergency officials are considering protective actions such as:

   - Evacuation of people for a large or heavily populated area street, road, housing development, multi-resident buildings),
   - Sheltering people in designated areas or buildings,
   - Large-scale closing of roads due to conditions considered to be dangerous to lives and property, or Impending emergency or disaster caused by natural forces (floods, blizzards, ice storms, tornadoes).

6. ***Can I issue Local emergency orders without a state of emergency?***

   No. A state of emergency must be declared before you may issue local emergency orders.

7. ***Will a declaration help in getting assistance from the state?***

Yes. If you declare a local state of emergency and you determine the disaster is beyond the capacity of your jurisdiction's resources, and the resources of the county, the **County Chief Executive** may request the Governor to declare a state disaster emergency which will allow the Governor to provide assistance from state resources.

8. ***Must I rescind a declaration of state of emergency?***
   No. Executive Law § 24 does not require you to rescind the declaration of a state of emergency, however, a written rescinding statement should be made when the emergency no longer exists. The local chief executive can rescind the declaration of emergency at any time.

9. ***If I don't rescind a state of emergency, does it end automatically?***
   Yes. If no time limit was specified in the declaration, the state of emergency will terminate automatically 30 days after the effective date of the state of emergency. In the alternative, if a time limit was indicated in the declaration of state of emergency it will terminate at that the time and date indicated therein.

10. ***When should I rescind a state of emergency?***
    Even though the state of emergency will automatically terminate after 30 days, you should rescind it when the conditions that warranted the declaration no longer exist.

11. ***Must the rescission be issued in writing?***
    No. However, it is recommended, in the same manner as a declaration of state of emergency is recommended, to be issued in written form.

12. ***Must the rescission be filed?***
    No. However, it is recommended that it be filed in the Office of the Municipal or County Clerk.

C. INSTRUCTIONS FOR ISSUING LOCAL EMERGENCY ORDERS

Local Emergency Orders can be issued only if there is a State of Emergency in effect pursuant to section 24 of the State Executive Law

1. Local emergency orders can only be issued by the local chief executive for his/her own jurisdiction following the declaration of a local state of emergency by that same executive.

2. Local emergency orders must be written.

3. Local emergency orders should include the time and date they take effect, the reason for the declaration, the area involved, and the duration.

4. A local emergency order expires automatically after five (5) days. It can be rescinded before that by its own terms, or by a rescission by the local chief executive. It is also automatically rescinded when the state of emergency is rescinded

5. The local chief executive may extend local emergency orders for periods not to exceed five (5) days each during the state of emergency.

6. Local emergency orders must be published as soon as practicable in a newspaper of general circulation and provided to radio and television media for broadcast.

7. Local emergency orders may be terminated at any time by the local legislative body via concurrent resolution.

8. Local emergency orders must be executed in triplicate and filed within 72 hours or as soon as practicable in the Office of the County Clerk, and the Office of the Secretary of State.

9. Local emergency orders must be re-filed if they are extended.

D. QUESTIONS AND ANSWERS ON ISSUING LOCAL EMERGENCY ORDERS

1. ***Can anyone issue a local emergency order?***
   No. Only the chief Executive of a county, city, town or village may issue a local emergency order.

2. ***What can a local emergency order include?***
   An emergency order can require whatever is necessary to protect life and property or to bring the emergency situation under control as long as what it is within the constitutional powers of the local government. An emergency order should be used to execute the additional powers given to the chief executive by virtue of declaring a local state of emergency. *See section B.4 above.*

3. ***Can a local emergency order be issued at any time after I've declared an emergency?***
   Yes. Once the local chief executive has declared a local state of emergency s/he can issue local emergency orders.

4. ***Is it in effect indefinitely?***
   No. A local emergency order automatically terminates 5 days after issuance, or by rescission by the local chief executive, or a declaration by the local chief executive that the state of emergency no longer exists, whichever occurs sooner. It can also be terminated at any time by concurrent resolution by the local legislative body.

5. ***Can an order be modified once it's issued?***
   Yes. A local emergency order may be amended, modified, or rescinded at any time by the local chief executive during the state of emergency.

6. ***Can a local emergency order be extended beyond five days?***
   Yes. The local chief executive may extend an order for additional periods up to 5 days each during the local state of emergency. Each extension must be re-filed.

7. ***Can a citizen who disobeys an emergency order be arrested?***
   Yes. Any person who knowingly violates any local emergency order of a local chief executive issued pursuant to Section 24 of the Executive Law can be found guilty of a class B misdemeanor.

E. ADDITIONAL QUESTIONS AND ANSWERS REGARDING DECLARATION OF A STATE OF EMERGENCY

1. ***Do I have to declare a local state of emergency to receive state and federal disaster assistance?***

   No. A local state of emergency is not required for the municipality to receive state and federal aid. By proclaiming a local state of emergency, the local chief executive of a community is stating that a serious situation exists, or is imminent, that will affect public health and safety and may require extraordinary measures for effective response or recovery. The Governor may, on his own initiative, declare a state disaster emergency for the affected local area, which will allow the use of state assets. In addition, the threshold for seeking assistance from higher levels of government is the inability to respond adequately with available local resources. The declaration of a local state of emergency can be an acknowledgement that the disaster is beyond the capabilities of the local government.

2. ***What are the advantages of declaring a local state of emergency?***

   The declaration of a local state of emergency increases the powers of the local chief executive. These powers are implemented through the use of emergency orders. Additionally, an emergency declaration gives greater legal protection and immunities for local chief executives and local emergency officials when making decisions and taking actions during disasters and emergencies.

3. ***Are there circumstances when it would be inappropriate to declare a local state of emergency?***

   A local state of emergency can be declared and emergency orders can be issued in the event of a disaster, rioting, catastrophe or similar public emergency---or when there is reasonable apprehension of an immediate danger from such events. Declarations under Executive Law generally have been in response to disasters, emergencies and related catastrophes or threats that pose an immediate peril or have an acute impact on the community and public safety.

   In many cases, the need to proclaim a local state of emergency is obvious. When a situation exists which has or will place the public at risk and will require extraordinary measures for proper protection, a declaration should be made. For example, a Category III hurricane travelling up the coast, a blizzard that dumps 4' of snow in a short period of time, an explosion and subsequent release at a local chemical plant.

   In most situations assessing the need for the special powers, authorities and protections are primary concerns when deciding whether to declare a local state of emergency. When the incident can be effectively managed within the capabilities of the community and extraordinary measures are not required for response or recovery, a local state of emergency is not necessary. Examples would be a minor hazardous materials incident or normal and low-lying flooding from rains or spring snowmelt.

4. ***Can a local state of emergency be declared in anticipation of a disaster or in advance of an expected emergency?***

   Yes. If the impending disaster or emergency creates an imminent danger and may imperil public safety, a local state of emergency can be proclaimed. Doing so permits the community to obtain resources or take actions needed to provide more timely public protection or services in anticipation of an emergency (for example, ordering an evacuation).

5. ***When a municipality declares a local state of emergency, must the county also declare?***

   No. It is not necessary for the County to declare a local state of emergency because a municipality does.

6. ***Can a county declare an emergency in an area if the affected town, village, or city has not done so?***

   Yes. The county chief executive can declare an emergency if it determines the situation may have impacts or requirements that affect the county and its resources. The county chief executive may declare a local state of emergency for any portion of the county, including part or all of any Town, Village or City --- even when the local jurisdiction does not declare.

7. ***Should the local state of emergency include the entire jurisdiction or can a declaration be made for a specific are within the jurisdiction?***

   A local state of emergency can include the entire jurisdiction, or it can be designated for a specific geographical section or area of the community. In either case, the declaration area should be clearly defined. Counties may consider issuing a declaration for specific communities and contiguous areas, in case the situation has impacts or requirements extending beyond a local site. For example, when the Governor declares a state disaster emergency for an event that has occurred within one county, that county will be specifically named along with the generic statement "and contiguous counties."

8. ***Does declaring a local state of emergency require the local jurisdiction to pay for assistance it receives from other local governmental units?***

   Under the provisions of the Intrastate Mutual Aid Program (IMAP) (Exec. Law § 29-h), the assisting local government is authorized to seek reimbursement from the requesting local government. The assisting local government may choose to lend or loan resources to the requesting local government without any expectation of reimbursement. However, this expectation should be made clear prior to sending or accepting resources. If the assisting local government offers to provide resources and makes it clear that it is expecting to be reimbursed, the requesting jurisdiction may choose to refuse to accept assistance or accept the resources and reimburse the assisting local government. The IMAP committee is responsible for creating guidelines to be used and procedures to be followed when requesting reimbursement for the deployment of resources from the assisting local government.

9. ***If a local state of emergency is declared, does it allow officials to confiscate or demand the use of private resources, property, and equipment?***

   No. Declaring a local state of emergency does not permit government to demand or confiscate private property and resources. The local chief executive can undertake emergency actions on any property within his or her jurisdiction, including private property, with the possible exception of Federal and Indian property.

10. ***Is there a difference between a disaster declaration, an emergency declaration or proclamation and a local state of emergency?***

    The wording in Article 2-B of the Executive Law refers to a proclamation of a local state of emergency. When a declaration is issued, it actually means a local state of emergency is in effect, as proclaimed by the local chief executive. The terms "disaster declaration," "local state of emergency," and "disaster proclamation" are often used interchangeably to refer to the same thing. However, the correct term as cited in § 24 of the Executive Law is "local state of emergency."

11. ***Is the local chief executive the only local official that can declare a local state of emergency?***

    Yes. The local chief executive is the only official that can proclaim a local state of emergency under provisions of § 24 of the Executive Law. It is important to keep in mind that the declaration of a local state of emergency **does** not affect the statutory powers, duties, and authorities which may be given to other local officials pursuant to other provisions of New York State or local laws. For example, a Sheriff

can declare a "Special Emergency" relating to public safety under provisions of the General Municipal Law (§ 209-f(2)). These declarations are applied in specific circumstances and are not considered to be as comprehensive as a proclamation under Article 2-B.

12. ***What is the relationship between a local state of emergency and emergency orders? How are each applied and handled?***

    A local state of emergency is a declaration or proclamation by the local chief executive that a disaster has occurred and certain emergency conditions exist. The declaration is a statement to the public that some type of hazard or threat exists and has been determined to pose a risk to the community and to public safety. It also establishes a legal basis for the local chief executive and local emergency officials to implement authorities and actions to address the situation.

    Once a local chief executive proclaims a local state of emergency, it then permits him or her to issue emergency orders. Emergency orders are the specific actions taken by the local chief executive when a local state of emergency is in effect. An evacuation order or an order limiting access in certain areas would be examples of emergency orders.

13. ***Can a local state of emergency be used to suspend existing local laws?***

    Yes. A local chief executive can use a local state of emergency to suspend local laws, ordinances and regulations, provided certain conditions outlined in § 24(1)(g) of the Executive Law are met. Requirements associated with suspension of local laws can be complex and should be done in consultation with your local attorney. Before local laws can be suspended, either the Governor must have declared a state disaster emergency, or after a local chief executive has declared a state of emergency, the county chief executive has requested assistance from the Governor. Suspensions must be reasonably necessary as a result of the disaster and provide for minimum deviation from the intent of the law, ordinance or regulation.

    Local chief executives cannot suspend state or federal laws, rules, or regulations.

14. ***Will declaring a local state of emergency expose me to a greater risk of liability?***

    No. Section 25(5) of the Executive Law provides immunity for local officials when making discretionary decisions during a disaster or emergency. Although a declaration of a local state of emergency cannot prevent lawsuits against public officials and municipalities, having a proclamation in effect provides greater protection from liability. While a declaration provides immunity, it is still important that local officials act within the scope of their authority and experience. It is also recommended that a local disaster preparedness plan be followed to the extent possible during the response and recovery to such a disaster.

15. ***Do the individuals who provide assistance in response to or recovery from a disaster have any kind of liability protection?***

    Yes. Individuals, such as public officers, employees or affiliated volunteers that have duties or responsibilities specified in the local comprehensive emergency management plan are given protection from liability in § 29-b of the Executive Law. These individuals, referred to as Disaster Emergency Response Personnel (DERP), when operating under the command of the county emergency management director, receive the same privileges and immunities they would receive if they were participating in a local civil defense drill in the political subdivision in which they are enrolled. When participating in a civil defense drill, civil defense forces (DERPs in Article 2-B) are provided with immunity from liability (Defense Emergency Act – NYS Unconsolidated Laws § 9193)

16. ***Is it necessary to declare a local state of emergency to order an evacuation of the general public?***

Yes. Section 24 of the Executive Law gives the local chief executive the authority to issue emergency orders, which could include the requirement for an evacuation in time of emergency to protect public health and safety. At times, on-scene responders may recognize a need for a limited and immediate evacuation. It may not always be possible or practical to declare a local state of emergency. In these situations, evacuations are commonly conducted as a recommended emergency protective measure, without a local state of emergency and order, and are completely voluntary.

17. ***When can the Governor declare a state disaster emergency?***

When the Governor, on his own initiative or upon request from one or more local chief executives, finds that a disaster has occurred or is imminent for which local governments are unable to respond adequately, he may declare a state disaster emergency. In many cases, when state agencies can provide emergency assistance pursuant to existing authorities and resources, a declaration by the Governor is not required.

18. ***Is a Governor's state disaster emergency declaration necessary to receive federal aid?***

A declaration by the Governor is not necessary to request federal assistance. A decision by the Governor to declare a state disaster emergency is based upon the scope of the disaster and the authority needed to direct state resources.

State requests for federal disaster assistance are based on an assessment of response and recovery demands and damages to the public and private sectors. The assessment is done in coordination with FEMA staff, and further determines if the implementation of various supplemental federal disaster relief programs is warranted in relation to the scope of the disaster and the capability of state and local governments to effectively address response and recovery needs.

19. ***Can the Governor request federal assistance immediately?***

Yes. In catastrophic disasters, where the need for early federal support from the President is proven, the Governor may request federal involvement immediately. When requesting disaster assistance from the President, federal law requires the Governor to submit specific information and meet certain requirements, supported by impact statements and damage estimates. By federal law, the Governor has 30 days to request federal assistance from the President.

In emergencies of less significant scope, a determination on the extent and kinds of federal assistance to be requested are generally not made until a comprehensive damage assessment is completed to ascertain the exact type of assistance needed. It may be that federal disaster relief programs can be implemented under the authority of a Federal Agency (such as the U.S. Small Business Administration, U.S. Department of Agricultural, the U.S. Corps of Engineers, etc.), and that Presidential assistance is not warranted. Such an assessment is conducted jointly by state and local governments, usually with technical assistance from FEMA.

STATE OF EMERGENCY DECLARATION

A State of Emergency is hereby declared in _____ *effective at*
(area within municipality, or entire municipality)

_____ *on* _____ .
(time) *(date)*

This State of Emergency has been declared due to _____

_____
(description of situation)

.
This situation threatens the public safety.

This State of Emergency will remain in effect until rescinded by a subsequent order.

As the Chief Executive of _____,
(name of municipality)
I, _____, *exercise the authority given me under*
(name of Chief Executive)

Section 24 of the New York State Executive Law, to preserve the public safety and hereby render all required and available assistance vital to the security, well-being, and health of the citizens of this Municipality.

I hereby direct all departments and agencies of _____ *to*
(name of municipality)

take whatever steps necessary to protect life and property, public infrastructure, and provide such emergency assistance deemed necessary.

_____ _____
(Name) *(Signature)*

_____ _____
(Title) *(Date)*

EMERGENCY ORDER

Local Emergency Order for: _____:
(name(s) of area(s)/municipality(ies) affected by this order)

I, _____, *the Chief Executive*

of _____, *in accordance with a declaration of a State of*
(name of municipality)

Emergency issued on _____, *20__, and pursuant to Section 24 of the*
(date SOE was issued)

New York State Executive Law, do hereby order _____

_____

_____

_____
(description of the action ordered and the area(s) affected and the reason for the order)

This order shall take effect _____
("IMMEDIATELY" or specify date and time)

and shall remain in effect until removed by order of the Chief Executive. This order may also be renewed in

(5) five-day increments.

Failure to obey this order is a criminal offense, punishable by law under New York State Executive Law § 24(5).

Signed this the _____ *day of* _____, *20__, at* _____ *o'clock, in ,*
(date) (month) (year) (time)

_____, *New York.*
(municipality)

_____ _____
(Name) *(Signature)*

_____ _____
(Witness Name) *(Witness Signature)*

_____ _____
(Title) *(Date)*