

## NYS Executive Law Article 2-B

(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:

- the establishment of a curfew and the prohibition and control of pedestrian and vehicular traffic, except essential emergency vehicles and personnel;
- 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;
- the regulation and closing of places of amusement and assembly;
- the suspension or limitation of the sale, dispensing, use or transportation of alcoholic beverages, firearms, explosives, and flammable materials and liquids;
- the prohibition and control of the presence of persons on public streets and places;
- the establishment or designation of emergency shelters, emergency medical shelters, and in consultation with the state commissioner of health, community based care centers;

## NYS Executive Law Article 2-B

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

## NYS Executive Law Article 2-B

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.