STATE OF NEW YORK

1172

2021-2022 Regular Sessions

IN ASSEMBLY

January 7, 2021

Introduced by M. of A. BUTTENSCHON, SANTABARBARA, STECK, WOERNER, THIELE -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to the length of time of a state disaster emergency declaration, requiring the governor to transmit a weekly report to the legislature during a state disaster emergency, and the communication between the governor and parties affected by a suspension of laws during a state disaster emergency

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 3 of section 28 of the executive law, as added by chapter 640 of the laws of 1978 and as renumbered by chapter 708 of the laws of 1981, is amended to read as follows:

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 Such order or orders shall remain in effect for a period not to exceed [~~six months~~] **thirty days** or until rescinded by the governor, whichever occurs first**, except in accordance with subdivision three of section twenty-eight-b of this article**. The governor [~~may issue~~] **shall request** additional orders to extend the state disaster emergency for additional periods not to exceed [~~six months~~] **thirty days**.

§ 2. The executive law is amended by adding a new section 28-b to read as follows:

§ 28-b. Term of state disaster emergency declaration. 1. The period for which a declaration of a state disaster emergency, as defined in paragraph b of subdivision two of section twenty of this article, shall be for no more than thirty calendar days, except in accordance with subdivision three of this section. After the thirty day period, if the governor shall deem it necessary to continue the declaration, he or she shall seek the approval of the senate and the assembly to continue such declaration for an additional thirty days. The governor may seek the approval of the senate and the assembly as many times as is necessary to address a state disaster emergency and to continue such a declaration.

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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2. The governor shall not issue a state disaster emergency declaration for more than thirty days, except in accordance with subdivision three of this section.

3. In the event that the governor requests the approval of the senate and the assembly to continue a declaration of a state disaster emergency pursuant to subdivision one of this section, and the legislature is not in session, then the governor shall call upon the temporary president of the senate and the speaker of the assembly to convene a special session for the purpose of considering legislative authorization for the governor to extend the disaster declaration for an additional thirty days. In the event that the temporary president of the senate and the speaker of the assembly inform the governor that a quorum of both the senate and the assembly cannot be met, or in the event that the temporary president of the senate and/or the speaker of the assembly, due to death or disability, are unable to respond to such request from the governor, then the governor shall have the authority to continue the declaration until such time as the senate and assembly can convene.

§ 3. Subdivision 2 of section 29-a of the executive law, as amended by chapter 23 of the laws of 2020, is amended to read as follows:

2. Suspensions pursuant to subdivision one of this section shall be subject to the following standards and limits, which shall apply to any directive where specifically indicated:

a. no suspension or directive shall be made for a period in excess of thirty days, provided, however, that upon reconsideration of all of the relevant facts and circumstances, **by and with the approval of the senate and the assembly in accordance with the provisions of subdivisions one and three of section twenty-eight-b of this article,** the governor may extend the suspension for additional periods not to exceed thirty days each;

b. no suspension or directive shall be made which is not in the interest of the health or welfare of the public and which is not reasonably necessary to aid 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 or directive shall provide for the minimum deviation from the requirements of the statute, local law, ordinance, order, rule or regulation suspended consistent with the goals of 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[~~.~~]**; and**

g. the order may only be issued after the governor has solicited input from and communicated such action to the parties to be affected by such suspension, including but not limited to local governments, individuals, businesses, associations and others who are governed by the suspended law.

§ 4. Subdivision 2 of section 29-a of the executive law, as added by chapter 640 of the laws of 1978, is amended to read as follows:

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 **in accordance with the provisions of subdivisions one and three of section twenty-eight-b of this article**;

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[~~.~~]**; and**

g. the order may only be issued after the governor has solicited input from and communicated such action to the parties to be affected by such suspension, including but not limited to local governments, individuals, businesses, associations and others who are governed by the suspended law.

§ 5. The executive law is amended by adding a new section 29-l to read as follows:

§ 29-l. Weekly report of governor to the legislature. The governor shall transmit a weekly report on all suspension of laws, all executive actions, all executive decisions, and all communications of the governor, his agencies and affected parties in relation to the state disaster emergency declaration, on a weekly basis. Such report, including all information included in such report, shall be transmitted both electronically and by mail or courier to each individual member of the senate and assembly weekly.

§ 6. This act shall take effect immediately; provided, however, that the amendments to subdivision 2 of section 29-a of the executive law made by section three of this act shall be subject to the expiration and reversion of such section pursuant to section 4 of chapter 23 of the laws of 2020, as amended, when upon such date the provisions of section four of this act shall take effect.