

**GOVERNOR'S PROGRAM BILL
2013**

MEMORANDUM

AN ACT to amend the civil service law, the county law, the executive law and the general municipal law, in relation to making technical corrections thereto and the state fire mobilization and mutual aid plan (Part A); to amend the executive law, in relation to the acceptance of gifts by the state (Part B); and to amend the executive law, in relation to immunity from liability for emergency alerts (Part C)

Purpose:

In recent years, New York has experienced a number of disaster emergencies that have impacted many parts of the State and required a coordinated response to maximize the use of available local, state, federal and private resources in preparing for and responding to these disaster emergencies. This bill would improve the State's ability to make such a coordinated response.

Summary of Provisions:

I. The Office of Fire Prevention and Control (Part A)

This bill would make technical changes to the Civil Service Law, the County Law, the Executive Law and the General Municipal Law to reflect the removal of the Office of Fire Prevention and Control ("OFPC") from the Department of State and its consolidation into the Division of Homeland Security and Emergency Services ("DHSES"). It also would: (a) make technical changes necessitated by the repeal of certain boards and commissions that formerly provided policy and other guidance on fire-related issues; (b) amend references to the Governor's authority to promulgate certain regulations pursuant to Executive L. § 159-d, which was repealed by L. 2010, c. 56; and (c) incorporate gender-neutral language into various provisions of law, by changing references to "firemen" to "firefighters."

Further, the bill would authorize the State Fire Administrator to promulgate rules and regulations necessary to implement the state fire mobilization and mutual aid plan.

Finally, it would update the requirement that when a sheriff declares a state of special emergency pursuant to General Municipal L. §209-f, he or she must notify the Governor of that declaration by "telegram," by allowing such notification also to be made by facsimile or other electronic means.

II. Authorizing the Office of Emergency Management ("OEM") to Accept Gifts (Part B)

The bill would add a new Executive L. § 29-j to authorize OEM to accept any assistance, including gifts of real and personal property, but not money, from a public or private source for purposes of preparing for, responding to or recovering from a state disaster emergency. Such assistance could be

used to support state or local disaster operations, and could be distributed to disaster response organizations that are supporting local disaster response operations. To ensure transparency, OEM would maintain a public database concerning gifts that are accepted, including the donors and recipients of the gifts, the type of assistance provided and the value of that assistance.

III. Immunity from Liability for Emergency Alerts (Part C)

The NY-Text system will allow mass text messages to be sent to all wireless telephones in a chosen area before during and after an emergency. These messages may be used, for example, to send evacuation warnings, or to provide information on the location of food, water, shelters or other resources that may be needed in the wake of a disaster emergency. Executive L. § 29-i, enacted in L. 2013, c. 55, gives immunity from liability to mobile service providers for acts or omissions relating to, or harm resulting from, the transmission or failure to transmit an emergency alert, when the provider acted reasonably and in good faith. This bill would amend that section to also provide such immunity to “third-party intermediary transmission service providers” who are acting on behalf of the State or a mobile service provider in facilitating the transmission of emergency alert messages.

Existing Law:

L. 2010, c. 56 created the DHSES to consolidate, in one agency, the Office of Emergency Management (formerly the State Emergency Management Office) and OFPC, as well as the Office of Counterterrorism and the Office of Cyber Security. As part of that consolidation of agencies, the Fire Safety Advisory Board, the Arson Board and the Fire Fighting and Code Enforcement Personnel Standards and Education Commission (“the Commission”) were repealed, and some of their duties given to a newly created Advisory Council for Fire Prevention and Control. Also repealed was Executive L. § 159-d, which authorized the Governor to promulgate regulations recommended by the Commission.

General Municipal L. § 209-e sets forth the authority of the State Fire Administrator to prepare a fire mobilization and mutual aid plan and § 209-f provides that when a sheriff declares a state of special emergency, he or she must first notify the Governor by telegram.

OEM has no statutory authority to accept gifts on behalf of the State.

Executive L. § 29-i, enacted as part of L. 2013, c. 55, provides that providers of mobile services who transmit emergency alerts on behalf of the State shall be immune from liability for acts or omissions relating to the transmission of such alerts.

Justification:

This bill would improve the State’s ability to prepare for and respond to fire emergencies and other disasters. First, by making technical corrections to a number of sections of law, it will clarify the respective roles of the State Fire Administrator and the Secretary of State with respect to a number of fire-related issues, including who has authority to promulgate rules and regulations, including those necessary for the successful implementation of the State’s fire mobilization and mutual aid plan. Second, it would simplify a sheriff’s ability to fulfill the requirement that he or she notify the Governor of a declared state of special emergency, but giving the sheriff options other than a “telegram” to make such a notification.

Third, the bill would permit the State OEM to accept gifts – excluding money – to be used in preparation for, responding to and recovering from a State disaster emergency. This will allow better coordination and use of such gifts and donations.

Finally, granting immunity from liability to third-party intermediary transmission service providers will expedite the State's implementation of the NY-Text emergency alert system by removing a barrier to the State's ability to contract with a provider that already has the necessarily technological solution to operate such an alert system. Having such an alert system in place before the next hurricane season is and should be a priority for the State.

Legislative History:

This is a new bill.

Budget Implications:

None.

Effective Date:

This bill would take effect immediately.