



NEW YORK STATE SENATOR

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Senator O'Mara's weekly column 'From the Capitol' -- for the week of September 19, 2022 -- 'Red flags even after Hochul declares no emergency'

THOMAS F. O'MARA September 19, 2022

| ISSUE: **EMERGENCY EXECUTIVE POWERS**



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Senator O'Mara offers his weekly perspective on many of the key challenges and issues facing the Legislature, as well as on legislative actions, local initiatives, state programs and policies, and more. Stop back every Monday for Senator O'Mara's latest column...

This week, "Red flags even after Hochul declares no emergency"

It took far too long -- far too long -- before Governor Kathy Hochul finally decided to not extend a COVID-19 emergency declaration that has been in place for more than two years in New York State.

Remember that this emergency declaration has authorized broad and unprecedented executive authority, first for former Governor Andrew Cuomo and, following Cuomo's resignation, for Governor Hochul.

New York government has been under the thumb of these executive powers ever since and there have been abuses.

For more than two years, there have been no legislative checks and balances.

Local decision-making has largely come to a halt.

It has been unilateral action after unilateral action by the governor, executive dictate after executive dictate, state mandate after state mandate -- and it's been a disaster, and very costly, probably even more than we fully know at the moment.

Under increasing pressure from the Senate and Assembly Republican conferences, good government groups, fiscal watchdogs, and others, Governor Hochul has finally decided that it's no longer an emergency

For now.

Which raises red flags going forward.

First, there's nothing preventing Governor Hochul from reinstating her emergency powers. The Democrat-controlled Legislature has shown no willingness to do anything other than rubber stamp her agenda, which appears nothing more than a continuation of what ex-Governor Cuomo had already lined up, including:

--an ongoing cover-up of the fateful nursing home order with no independent review;

--prison closures that Cuomo had predetermined;

--failed criminal justice “reform” that coddles criminals, both in our communities and in the state's prison system and local jails, from No Bail to Raise the Age to No Discipline (HALT) for inmates, even those committing violent crimes behind bars, as well as an unbelievably soft parole system that is consistently releasing cop killers and convicts who committed other heinous crimes;

--a continued press to eliminate the Second Amendment right of law-abiding citizens to bear arms; and

--a Farm Wage Board that wants to lower the threshold for overtime to migrant farm workers.

None of which is helping the Upstate economy or the family struggling to put food on the table, gas in their car, or pay their ever-rising property tax bill.

And not to mention Hochul's following suit with Cuomo's vociferous campaign fundraising. Everyone who had ponied up to curry Cuomo's favor (money down the drain) had to do it all over again to load up Hochul's campaign coffers and curry her favor. Twenty million dollars were raised in just the first four months of her being sworn in as governor.

Furthermore, keep in mind that New York's governor calling all the shots has been unending for two-plus years. During this time, more than 100 Executive Orders have unilaterally changed hundreds of state laws, implemented rules and regulations, and authorized spending decisions, without legislative approval.

These executive orders remain in place. Should they all stay in effect? Is it time to repeal the state's unnecessary, COVID-19-related rules, mandates, and dictates?

These are among the questions that still need answering.

More to the point, what needs answering now is this: Why isn't the New York State Legislature engaged in a full-blown, independent, transparent, no-holds-barred, top-to-bottom examination of *all* of the decisions that were made and *all* of the actions that were taken during the COVID-19 response and recovery?

The answer: One-party rule with the governor's Democrat party supermajorities in both houses towing the line.

Sure, back in July, Governor Hochul announced that she would hire an outside consultant (overseen, surprise, surprise, by her own state director of homeland security and emergency services) to conduct an “After Action Review” of the state's pandemic response.

The firm to conduct this so-called “outside” review, however, isn’t being hired until sometime this month, according to the governor, with work to begin in November, *preliminary results in six months*, and no definitive timetable for a final report.

If that sounds vaguely familiar, you may recall Cuomo having his Health Commissioner, Howard Zucker, (who Hochul kept on for four months while he found a place to land) review his own deadly Covid nursing home order.

In other words, another slow-walk, another nothing.

What is certain is that there will be no report until long after November's election.

In early September, news reports revealed that the Hochul administration awarded a massive, \$637 million state contract late last year to a firm known as Digital Gadgets. The contract was for COVID-19 tests. The state paid Digital Gadgets an average of \$12.25 per COVID-19 test, despite other companies charging \$7.80 or even less. That's more than you might pay retail for one test. Who negotiated that deal? The same person who drove such a hard bargain with the Buffalo Bills on their new stadium.

Meanwhile, the Albany *Times Union* reported that the Digital Gadgets CEO and members of his family have donated nearly \$300,000 to Governor Hochul’s re-election campaign.

It has raised suspicions. Senate and Assembly Republicans have called for an investigation to determine if the Hochul administration engaged in pay-to-play violations of state ethics laws -- including (and this gets back to my overall point about the abuse of emergency executive powers) whether the governor utilized her emergency powers to skirt the competitive bidding process and state comptroller oversight that usually accompanies the awarding of state contracts.

It all calls to mind the terrible chapter of the Cuomo administration’s handling of the COVID-19 response in New York’s nursing homes, which was replete with lies, misinformation, stonewalling, whitewashing and bald-faced personal gain for the former governor with a \$5.1 million book deal.

This tragedy in nursing homes also continues to demand a full and immediate investigation.

What we do know at the moment is that there is a glaring lack of urgency within the Hochul administration to reexamine the Covid-19 response, all of it, from the beginning until now -- its costs, its shortcomings, its outright failures, what worked and what did not, what actions should remain in place going forward and what needs to be scrapped immediately.

I have been a steadfast critic of many facets of New York's pandemic response. I said again recently in this column that important, unanswered questions remain about the most devastating public health crisis this state has ever faced.

The longer the Hochul administration delays this reassessment, the more transparency gets clouded, the more credibility is eroded, and the more the effectiveness of New York's future responses is diminished.

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