



Published on *Citizens' Committee for an Effective Constitution* (<http://nyconstitution.org>)

News Coverage on Redistricting Senate Size

Judge set to hear suit on extra Senate seat

[Joe Anuta](#) [1] [2] [2] [2] [2]

03/29/2012

<http://www.queenscampaigner.com/2012/03/judge-set-to-hear-suit-on-extra-senate-s...> [3]

Queens politicians expect a lawsuit challenging the creation of a 63rd state Senate seat to be decided next month, and state Sen. Toby Stavisky (D-Whitestone) will then decide in which district she will run.

The suit was filed in January by a group of citizens and state Sen. Martin Dilan (D-Brooklyn), and if State Supreme Court Judge Richard Braun rules next month that creating an extra seat violates the state Constitution, then the lines might have to be redrawn.

“We hope we get a final crack at doing this right,” said state Sen. Michael Gianaris (D-Astoria), who has led the charge for independent redistricting in Albany. “A victory in this case would reset the entire process and give us one last change to give us a fair and transparent product.”

Ultimately, Senate Democrats hope a court-appointed special master will draw the lines. A master drew widely praised congressional lines after the state Legislature failed to find a solution.

The lawsuit goes into detail about how Republicans calculated the population changes to justify creating the additional seat.

Originally in 1894, New York state had 50 seats. The state Constitution laid out a specific formula to determine when a new Senate seat should be added in response to population growth.

But the Constitution was also written before both Queens and Nassau counties and Richmond and Suffolk counties were separated.

To compensate for the extra counties, the lawsuit refers to the two solutions used by the state Legislature — Method A and Method B, calculations that make the current number of counties

applicable to the old formula. Typically, the Senate had used Method A to calculate the number of seats until 2002, when Republican lawmakers switched to Method B because it was deemed more “faithful to the constitution,” the suit said.

If Method A were used to calculate the current number of seats, the Senate would have come up with 62 seats, according to the suit. The same goes for Method B.

But in 2012, Senate Republicans used a combination of the two, applying one method to Nassau and Queens counties and another to Richmond and Suffolk counties — a move the suit called “blatantly unconstitutional.”

But Senate Republicans dismissed the suit, saying not only does constitutional formula require them to add another seat, but the lines were already signed by the governor and they expect them to be approved by the U.S. Department of Justice within two months.

Sen. Toby Stavisky will be watching the case for a different reason.

She is waiting for the court decision before deciding whether to run in the majority Asian district in Queens, which most closely resembles her current district, or in the seat currently held by Sen. Tony Avella (D-Bayside).

“I am running for re-election to the state Senate. Because of the hyper-partisan, political nature of the redistricting process and the uncertainty surrounding the litigation, I have not decided in which district I will run,” she said in a statement.

During the redistricting process, Stavisky’s home was redrawn into the same district as Avella’s.

If Stavisky decides to run in that race, she will face a primary with Avella, her former aide, who won his seat by defeating Republican Sen. Frank Padavan in late 2010. The winner of that race might face Padavan, as the former senator has not ruled out a run for that seat, he said Monday.

Stavisky could also run in the majority Asian district, since she has a year to move there under election rules, but she will also face a primary there.

A lawyer named John Messer is running as a Democrat in the 16th District. Messer ran for the same seat against Stavisky in 2010.

Source URL: <http://nyconstitution.org/press-clip/news-coverage/redistricting-senate-size/queens-campaigner-judge-set-hear-suit-extra-senat>

Links:

[1] http://nyconstitution.org/press-clip-author/Joe_Anuta

[2] <http://nyconstitution.org/press-clip-author>

[3] <http://www.queenscampaigner.com/2012/03/judge-set-to-hear-suit-on-extra-senate-seat/>