



Cuomo/Silver/Skelos Redistricting Constitutional Amendment

"This agreement will permanently reform the redistricting process in New York to once and for all end self-interested and partisan gerrymandering," Governor Cuomo said. "With the legislature agreeing to pass this historic constitutional amendment twice by a specified date, and passing a tough statute that mirrors the amendment, we have taken a major step toward finally reforming the state's broken redistricting process. New York is now a leader among the growing number of states that have reformed their redistricting process in an effort to stop such gerrymandering." - Governor Cuomo

“Cuomo’s Redistricting Constitutional Amendment is neither reform nor historic. It’s totally flawed and must be rejected by the legislators or the voters.”
- Bill Samuels

Preface

In taking a position on an issue as complex as redistricting, I have included for your reference and highlighted in this packet specifics in the proposed amendment, backup statute, Professor Gerald Benjamin's expert analysis, and the proposed 2020 method of determining the number of State Senate Districts, which were influential in my decision to oppose the amendment.

Basically neither the proposed amendment or backup statute provide for a "real" independent redistricting commission. As detailed in the enclosed analysis provided by constitutional expert Professor Gerald Benjamin, an independent plan is unlikely to be passed due to three likely problems:

- (1) Defaults Back to Legislature to Draw Lines – if a plan makes it out of the Commission, either party in the legislature could decide to vote it down. And after two unsuccessful votes, the job to draw lines reverts back to the legislature. Simply put, the Cuomo-Skelos-Silver Amendment actually solidifies a partisan grip on the redistricting process instead of eliminating it in the state constitution.
- (2) Deadlock – the commission will have an even number of members (10), an invitation to deadlock. All appointing authorities are partisan-based. There is no domination by a single party, but there remains total domination by the legislative parties – the parties at interest; or
- (3) Quorum – new quorum requirements written into the constitution for the commission allow a unified group of partisans to prevent any action simply by not showing up; or

The backup statute, which was passed using a Message of Necessity in the early morning hours of March 15, 2012 requires passage by both houses on or before January 30, 2013, penalizing either or both houses of the legislature by taking their appointees in the event of non-passage of the Amendment and giving them to the Governor. This penalty seems like it would only penalize the Senate Democrats in the event that they took the Senate Majority and voted against this fatally flawed Constitutional amendment.

Lastly, based on the badly outdated 1894 equation, in 2020 we will once again go back to redrawing the Senate to figure it out, erasing Nassau and merging it into Queens, splitting the Bronx into Manhattan and Westchester along rivers and old maps, and finally combining Staten Island and Suffolk into one Senate District. This makes no sense.

Conclusion: The legislature must reject the proposed redistricting amendment and if passed the voters must reject it.

Table of Contents

Content	Page Number
2012 Redistricting Constitutional Amendment.....	3
2012 Redistricting Statute	12
Gerald Benjamin’s Report Card	19
2012 Redistricting Amendment: Number of State Senators.....	23



2012 Redistricting Constitutional Amendment

Below is the 2012 Redistricting Amendment to the New York State Constitution that has been approved in the first of three rounds of voting for final approval along with a back-up statute that will take effect if the Amendment is not approved. The areas outlined with "/" signify sections that are going to be deleted from the existing constitutional provision if this one receives final approval. The areas printed in CAPS indicate new additions to the existing constitutional provision. The areas outlined in **YELLOW** indicate new additions in the amendment of which you should take note.

Sections 1, 2 and 3 below will remain the same and are not being updated or amended. Note that section 3 leaves in the 1894 provision that requires Queens and Nassau County be eliminated and Staten Island and Suffolk County be combined for purposes of determining in 2020, the number of state senate districts.

S T A T E O F N E W Y O R K

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I N S E N A T E

March 11, 2012

ARTICLE III

Legislature

Section 1. The legislative power of this state shall be vested in the senate and assembly.

§2. **The senate shall consist of fifty members,*** except as hereinafter provided. The senators elected in the year one thousand eight hundred and ninety-five shall hold their offices for three years, and their successors shall be chosen for two years. The assembly shall consist of one hundred and fifty members. The assembly members elected in the year one thousand nine hundred and thirty-eight, and their successors, shall be chosen for two years.

§3. **The senate districts described in section three of article three of this constitution as adopted by the people on November sixth, eighteen hundred ninety-four are hereby continued for all of the purposes of future reapportionments of senate districts pursuant to section four of this article.**

Introduced by Sen. SKELOS -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY

proposing an amendment to article 3 of the constitution, in relation to the establishment of the independent redistricting commission

1 Section 1. Resolved (if the Assembly concur), That sections 4 and 5 of
2 article 3 of the constitution be amended, and a new section 5-b be added
3 to read as follows:

4 S 4. (A) Except as herein otherwise provided, the federal census taken
5 in the year nineteen hundred thirty and each federal census taken decen-
6 nially thereafter shall be controlling as to the number of inhabitants
7 in the state or any part thereof for the purposes of the apportionment
8 of members of assembly and readjustment or alteration of senate and
9 assembly districts next occurring, in so far as such census and the
10 tabulation thereof purport to give the information necessary therefor.
11 The legislature, by law, shall provide for the making and tabulation by
12 state authorities of an enumeration of the inhabitants of the entire
13 state to be used for such purposes, instead of a federal census, if the
14 taking of a federal census in any tenth year from the year nineteen
15 hundred thirty be omitted or if the federal census fails to show the
16 number of aliens or Indians not taxed. If a federal census, though
17 giving the requisite information as to the state at large, fails to give
18 the information as to any civil or territorial divisions which is
19 required to be known for such purposes, the legislature, by law, shall
20 provide for such an enumeration of the inhabitants of such parts of the
21 state only as may be necessary, which shall supersede in part the feder-
22 al census and be used in connection therewith for such purposes. The
23 legislature, by law, may provide in its discretion for an enumeration by
24 state authorities of the inhabitants of the state, to be used for such
25 purposes, in place of a federal census, when the return of a decennial
26 federal census is delayed so that it is not available at the beginning
27 of the regular session of the legislature in the second year after the
28 year nineteen hundred thirty or after any tenth year therefrom, or if an
29 apportionment of members of assembly and readjustment or alteration of
30 senate districts is not made at or before such a session. At the regular

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

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S. 6698

1 session in the year nineteen hundred thirty-two, and at the first regu-
2 lar session after the year nineteen hundred forty and after each tenth
3 year therefrom the senate districts shall be readjusted or altered, but
4 if, in any decade, counting from and including that which begins with
5 the year nineteen hundred thirty-one, such a readjustment or alteration
6 is not made at the time above prescribed, it shall be made at a subse-
7 quent session occurring not later than the sixth year of such decade,
8 meaning not later than nineteen hundred thirty-six, nineteen hundred
9 forty-six, nineteen hundred fifty-six, and so on; provided, however,
10 that if such districts shall have been readjusted or altered by law in
11 either of the years nineteen hundred thirty or nineteen hundred thirty-
12 one, they shall remain unaltered until the first regular session after
13 the year nineteen hundred forty.//[Such districts shall be so readjusted
14 or altered that each senate district shall contain as nearly as may be
15 an equal number of inhabitants, excluding aliens, and be in as compact
16 form as practicable, and shall remain unaltered until the first year of
17 the next decade as above defined, and shall at all times consist of
18 contiguous territory, and no county shall be divided in the formation of
19 a senate district except to make two or more senate districts wholly in
20 such county.]\\ No town, except a town having more than a full ratio of
21 apportionment, and no block in a city in closed by streets or public

22 ways, shall be divided in the formation of senate districts[; nor shall
23 any]. IN THE REAPPORTIONMENT OF SENATE DISTRICTS, NO district SHALL
24 contain a greater excess in population over an adjoining district in the
25 same county, than the population of a town or block therein adjoining
26 such district. Counties, towns or blocks which, from their location, may
27 be included in either of two districts, shall be so placed as to make
28 said districts most nearly equal in number of inhabitants, excluding
29 aliens.

30 No county shall have four or more senators unless it shall have a full
31 ratio for each senator. No county shall have more than one-third of all
32 the senators; and no two counties or the territory thereof as now organ-
33 ized, which are adjoining counties, or which are separated only by
34 public waters, shall have more than one-half of all the senators.

35 (B) THE INDEPENDENT REDISTRICTING COMMISSION ESTABLISHED PURSUANT TO
36 SECTION FIVE-B OF THIS ARTICLE SHALL PREPARE A REDISTRICTING PLAN TO
37 ESTABLISH SENATE, ASSEMBLY, AND CONGRESSIONAL DISTRICTS EVERY TEN YEARS
38 COMMENCING IN TWO THOUSAND TWENTY-ONE, AND SHALL SUBMIT TO THE LEGISLA-
39 TURE SUCH PLAN AND THE IMPLEMENTING LEGISLATION THEREFOR ON OR BEFORE
40 JANUARY FIRST OR AS SOON AS PRACTICABLE THEREAFTER BUT NO LATER THAN
41 JANUARY FIFTEENTH IN THE YEAR ENDING IN TWO BEGINNING IN TWO THOUSAND
42 TWENTY-TWO. THE REDISTRICTING PLANS FOR THE ASSEMBLY AND THE SENATE
43 SHALL BE CONTAINED IN AND VOTED UPON BY THE LEGISLATURE IN A SINGLE
44 BILL, AND THE CONGRESSIONAL DISTRICT PLAN MAY BE INCLUDED IN THE SAME
45 BILL IF THE LEGISLATURE CHOOSES TO DO SO. THE IMPLEMENTING LEGISLATION
46 SHALL BE VOTED UPON, WITHOUT AMENDMENT, BY THE SENATE OR THE ASSEMBLY
47 AND IF APPROVED BY THE FIRST HOUSE VOTING UPON IT, SUCH LEGISLATION
48 SHALL BE DELIVERED TO THE OTHER HOUSE IMMEDIATELY TO BE VOTED UPON WITH-
49 OUT AMENDMENT. IF APPROVED BY BOTH HOUSES, SUCH LEGISLATION SHALL BE
50 PRESENTED TO THE GOVERNOR FOR ACTION.

51 IF EITHER HOUSE SHALL FAIL TO APPROVE THE LEGISLATION IMPLEMENTING THE
52 FIRST REDISTRICTING PLAN, OR THE GOVERNOR SHALL VETO SUCH LEGISLATION
53 AND THE LEGISLATURE SHALL FAIL TO OVERRIDE SUCH VETO, EACH HOUSE OR THE
54 GOVERNOR IF HE OR SHE VETOES IT, SHALL NOTIFY THE COMMISSION THAT SUCH
55 LEGISLATION HAS BEEN DISAPPROVED. WITHIN FIFTEEN DAYS OF SUCH NOTIFICA-
56 TION AND IN NO CASE LATER THAN FEBRUARY TWENTY-EIGHTH, THE REDISTRICTING
S. 6698

1 COMMISSION SHALL PREPARE AND SUBMIT TO THE LEGISLATURE A SECOND REDIS-
2 TRICTING PLAN AND THE NECESSARY IMPLEMENTING LEGISLATION FOR SUCH PLAN.
3 SUCH LEGISLATION SHALL BE VOTED UPON, WITHOUT AMENDMENT, BY THE SENATE
4 OR THE ASSEMBLY AND, IF APPROVED BY THE FIRST HOUSE VOTING UPON IT, SUCH
5 LEGISLATION SHALL BE DELIVERED TO THE OTHER HOUSE IMMEDIATELY TO BE
6 VOTED UPON WITHOUT AMENDMENT. IF APPROVED BY BOTH HOUSES, SUCH LEGIS-
7 LATION SHALL BE PRESENTED TO THE GOVERNOR FOR ACTION.

8 IF EITHER HOUSE SHALL FAIL TO APPROVE THE LEGISLATION IMPLEMENTING THE
9 SECOND REDISTRICTING PLAN, OR THE GOVERNOR SHALL VETO SUCH LEGISLATION
10 AND THE LEGISLATURE SHALL FAIL TO OVERRIDE SUCH VETO, EACH HOUSE SHALL
11 INTRODUCE SUCH IMPLEMENTING LEGISLATION WITH ANY AMENDMENTS EACH HOUSE
12 OF THE LEGISLATURE DEEMS NECESSARY. ALL SUCH AMENDMENTS SHALL COMPLY
13 WITH THE PROVISIONS OF THIS ARTICLE. IF APPROVED BY BOTH HOUSES, SUCH
14 LEGISLATION SHALL BE PRESENTED TO THE GOVERNOR FOR ACTION.

15 ALL VOTES BY THE SENATE OR ASSEMBLY ON ANY REDISTRICTING PLAN LEGIS-
16 LATION PURSUANT TO THIS ARTICLE SHALL BE CONDUCTED IN ACCORDANCE WITH
17 THE FOLLOWING RULES:

18 (1) IN THE EVENT THAT THE SPEAKER OF THE ASSEMBLY AND THE TEMPORARY
19 PRESIDENT OF THE SENATE ARE MEMBERS OF TWO DIFFERENT POLITICAL PARTIES,
20 APPROVAL OF LEGISLATION SUBMITTED BY THE INDEPENDENT REDISTRICTING
21 COMMISSION PURSUANT TO SUBDIVISION (F) OF SECTION FIVE-B OF THIS ARTICLE
22 SHALL REQUIRE THE VOTE IN SUPPORT OF ITS PASSAGE BY AT LEAST A MAJORITY
23 OF THE MEMBERS ELECTED TO EACH HOUSE.

24 (2) IN THE EVENT THAT THE SPEAKER OF THE ASSEMBLY AND THE TEMPORARY
25 PRESIDENT OF THE SENATE ARE MEMBERS OF TWO DIFFERENT POLITICAL PARTIES,
26 APPROVAL OF LEGISLATION SUBMITTED BY THE INDEPENDENT REDISTRICTING

27 COMMISSION PURSUANT TO SUBDIVISION (G) OF SECTION FIVE-B OF THIS ARTICLE
28 SHALL REQUIRE THE VOTE IN SUPPORT OF ITS PASSAGE BY AT LEAST SIXTY
29 PERCENT OF THE MEMBERS ELECTED TO EACH HOUSE.

30 (3) IN THE EVENT THAT THE SPEAKER OF THE ASSEMBLY AND THE TEMPORARY
31 PRESIDENT OF THE SENATE ARE MEMBERS OF THE SAME POLITICAL PARTY,
32 APPROVAL OF LEGISLATION SUBMITTED BY THE INDEPENDENT REDISTRICTING
33 COMMISSION PURSUANT TO SUBDIVISION (F) OR (G) OF SECTION FIVE-B OF THIS
34 ARTICLE SHALL REQUIRE THE VOTE IN SUPPORT OF ITS PASSAGE BY AT LEAST
35 TWO-THIRDS OF THE MEMBERS ELECTED TO EACH HOUSE.

36 (C) SUBJECT TO THE REQUIREMENTS OF THE FEDERAL CONSTITUTION AND STAT-
37 UTES AND IN COMPLIANCE WITH STATE CONSTITUTIONAL REQUIREMENTS, THE
38 FOLLOWING PRINCIPLES SHALL BE USED IN THE CREATION OF STATE SENATE AND
39 STATE ASSEMBLY DISTRICTS AND CONGRESSIONAL DISTRICTS:

40 (1) WHEN DRAWING DISTRICT LINES, THE COMMISSION SHALL CONSIDER WHETHER
41 SUCH LINES WOULD RESULT IN THE DENIAL OR ABRIDGEMENT OF RACIAL OR
42 LANGUAGE MINORITY VOTING RIGHTS, AND DISTRICTS SHALL NOT BE DRAWN TO
43 HAVE THE PURPOSE OF, NOR SHALL THEY RESULT IN, THE DENIAL OR ABRIDGEMENT
44 OF SUCH RIGHTS. DISTRICTS SHALL BE DRAWN SO THAT, BASED ON THE TOTALITY
45 OF THE CIRCUMSTANCES, RACIAL OR MINORITY LANGUAGE GROUPS DO NOT HAVE
46 LESS OPPORTUNITY TO PARTICIPATE IN THE POLITICAL PROCESS THAN OTHER
47 MEMBERS OF THE ELECTORATE AND TO ELECT REPRESENTATIVES OF THEIR CHOICE.

48 (2) TO THE EXTENT PRACTICABLE, DISTRICTS SHALL CONTAIN AS NEARLY AS
49 MAY BE AN EQUAL NUMBER OF INHABITANTS. FOR EACH DISTRICT THAT DEVIATES
50 FROM THIS REQUIREMENT, THE COMMISSION SHALL PROVIDE A SPECIFIC PUBLIC
51 EXPLANATION AS TO WHY SUCH DEVIATION EXISTS.

52 (3) EACH DISTRICT SHALL CONSIST OF CONTIGUOUS TERRITORY.

53 (4) EACH DISTRICT SHALL BE AS COMPACT IN FORM AS PRACTICABLE.

54 (5) DISTRICTS SHALL NOT BE DRAWN TO DISCOURAGE COMPETITION OR FOR THE
55 PURPOSE OF FAVORING OR DISFAVORING INCUMBENTS OR OTHER PARTICULAR CANDI-
56 DATES OR POLITICAL PARTIES. THE COMMISSION SHALL CONSIDER THE MAINTENANCE
S. 6698

1 NANCE OF CORES OF EXISTING DISTRICTS, OF PRE-EXISTING POLITICAL SUBDIVI-
2 SIONS, INCLUDING COUNTIES, CITIES, AND TOWNS, AND OF COMMUNITIES OF
3 INTEREST.

4 (6) IN DRAWING SENATE DISTRICTS, TOWNS OR BLOCKS WHICH, FROM THEIR
5 LOCATION MAY BE INCLUDED IN EITHER OF TWO DISTRICTS, SHALL BE SO PLACED
6 AS TO MAKE SAID DISTRICTS MOST NEARLY EQUAL IN NUMBER OF INHABITANTS.
7 THE REQUIREMENTS THAT SENATE DISTRICTS NOT DIVIDE COUNTIES OR TOWNS, AS
8 WELL AS THE 'BLOCK-ON-BORDER' AND 'TOWN-ON-BORDER' RULES, SHALL REMAIN
9 IN EFFECT.

10 DURING THE PREPARATION OF THE REDISTRICTING PLAN, THE INDEPENDENT
11 REDISTRICTING COMMISSION SHALL CONDUCT NOT LESS THAN ONE PUBLIC HEARING
12 ON PROPOSALS FOR THE REDISTRICTING OF CONGRESSIONAL AND STATE LEGISLA-
13 TIVE DISTRICTS IN EACH OF THE FOLLOWING (I) CITIES: ALBANY, BUFFALO,
14 SYRACUSE, ROCHESTER, AND WHITE PLAINS; AND (II) COUNTIES: BRONX, KINGS,
15 NEW YORK, QUEENS, RICHMOND, NASSAU, AND SUFFOLK. NOTICE OF ALL SUCH
16 HEARINGS SHALL BE WIDELY PUBLISHED USING THE BEST AVAILABLE MEANS AND
17 MEDIA A REASONABLE TIME BEFORE EVERY HEARING. AT LEAST THIRTY DAYS PRIOR
18 TO THE FIRST PUBLIC HEARING AND IN ANY EVENT NO LATER THAN SEPTEMBER
19 FIFTEENTH OF THE YEAR ENDING IN ONE OR AS SOON AS PRACTICABLE THEREAFT-
20 ER, THE INDEPENDENT REDISTRICTING COMMISSION SHALL MAKE WIDELY AVAILABLE
21 TO THE PUBLIC, IN PRINT FORM AND USING THE BEST AVAILABLE TECHNOLOGY,
22 ITS DRAFT REDISTRICTING PLANS, RELEVANT DATA, AND RELATED INFORMATION.
23 SUCH PLANS, DATA, AND INFORMATION SHALL BE IN A FORM THAT ALLOWS AND
24 FACILITATES THEIR USE BY THE PUBLIC TO REVIEW, ANALYZE, AND COMMENT UPON
25 SUCH PLANS AND TO DEVELOP ALTERNATIVE REDISTRICTING PLANS FOR PRESENTA-
26 TION TO THE COMMISSION AT THE PUBLIC HEARINGS. THE INDEPENDENT REDIS-
27 TRICTING COMMISSION SHALL REPORT THE FINDINGS OF ALL SUCH HEARINGS TO
28 THE LEGISLATURE UPON SUBMISSION OF A REDISTRICTING PLAN.

29 (D) The ratio for apportioning senators shall always be obtained by
30 dividing the number of inhabitants, excluding aliens, by fifty, and the
31 senate shall always be composed of fifty members, except that if any

32 county having three or more senators at the time of any apportionment
33 shall be entitled on such ratio to an additional senator or senators,
34 such additional senator or senators shall be given to such county in
35 addition to the fifty senators, and the whole number of senators shall
36 be increased to that extent.

37 The senate districts, including the present ones, as existing imme-
38 diately before the enactment of a law readjusting or altering the senate
39 districts, shall continue to be the senate districts of the state until
40 the expirations of the terms of the senators then in office, except for
41 the purpose of an election of senators for full terms beginning at such
42 expirations, and for the formation of assembly districts.

43 (E) THE PROCESS FOR REDISTRICTING CONGRESSIONAL AND STATE LEGISLATIVE
44 DISTRICTS ESTABLISHED BY THIS SECTION AND SECTIONS FIVE AND FIVE-B OF
45 THIS ARTICLE SHALL GOVERN REDISTRICTING IN THIS STATE EXCEPT TO THE
46 EXTENT THAT A COURT IS REQUIRED TO ORDER THE ADOPTION OF, OR CHANGES TO,
47 A REDISTRICTING PLAN AS A REMEDY FOR A VIOLATION OF LAW.

48 A REAPPORTIONMENT PLAN AND THE DISTRICTS CONTAINED IN SUCH PLAN SHALL
49 BE IN FORCE UNTIL THE EFFECTIVE DATE OF A PLAN BASED UPON THE SUBSEQUENT
50 FEDERAL DECENNIAL CENSUS TAKEN IN A YEAR ENDING IN ZERO UNLESS MODIFIED
51 PURSUANT TO COURT ORDER.

52 S 5. The members of the assembly shall be chosen by single districts
53 and shall be apportioned [by the legislature] PURSUANT TO THIS SECTION
54 AND SECTIONS FOUR AND FIVE-B OF THIS ARTICLE at each regular session at
55 which the senate districts are readjusted or altered, and by the same
56 law, among the several counties of the state, as nearly as may be
S. 6698

1 according to the number of their respective inhabitants, excluding
2 aliens. Every county heretofore established and separately organized,
3 except the county of Hamilton, shall always be entitled to one member of
4 assembly, and no county shall hereafter be erected unless its population
5 shall entitle it to a member. The county of Hamilton shall elect with
6 the county of Fulton, until the population of the county of Hamilton
7 shall, according to the ratio, entitle it to a member. But the legisla-
8 ture may abolish the said county of Hamilton and annex the territory
9 thereof to some other county or counties.

10 The quotient obtained by dividing the whole number of inhabitants of
11 the state, excluding aliens, by the number of members of assembly, shall
12 be the ratio for apportionment, which shall be made as follows: One
13 member of assembly shall be apportioned to every county, including
14 Fulton and Hamilton as one county, containing less than the ratio and
15 one-half over. Two members shall be apportioned to every other county.
16 The remaining members of assembly shall be apportioned to the counties
17 having more than two ratios according to the number of inhabitants,
18 excluding aliens. Members apportioned on remainders shall be apportioned
19 to the counties having the highest remainders in the order thereof
20 respectively. No county shall have more members of assembly than a coun-
21 ty having a greater number of inhabitants, excluding aliens.

22 The assembly districts, including the present ones, as existing imme-
23 diately before the enactment of a law making an apportionment of members
24 of assembly among the counties, shall continue to be the assembly
25 districts of the state until the expiration of the terms of members then
26 in office, except for the purpose of an election of members of assembly
27 for full terms beginning at such expirations.

28 In any county entitled to more than one member, the board of supervi-
29 sors, and in any city embracing an entire county and having no board of
30 supervisors, the common council, or if there be none, the body exercis-
31 ing the powers of a common council, shall assemble at such times as the
32 legislature making an apportionment shall prescribe, and divide such
33 counties into assembly districts as nearly equal in number of inhabit-
34 ants, excluding aliens, as may be, of convenient and contiguous territo-
35 ry in as compact form as practicable, each of which shall be wholly
36 within a senate district formed under the same apportionment, equal to

37 the number of members of assembly to which such county shall be enti-
38 tled, and shall cause to be filed in the office of the secretary of
39 state and of the clerk of such county, a description of such districts,
40 specifying the number of each district and of the inhabitants thereof,
41 excluding aliens, according to the census or enumeration used as the
42 population basis for the formation of such districts; and such appor-
43 tionment and districts shall remain unaltered until after the next reap-
44 portionment of members of assembly, except that the board of supervisors
45 of any county containing a town having more than a ratio of apportion-
46 ment and one-half over may alter the assembly districts in a senate
47 district containing such town at any time on or before March first,
48 nineteen hundred forty-six. In counties having more than one senate
49 district, the same number of assembly districts shall be put in each
50 senate district, unless the assembly districts cannot be evenly divided
51 among the senate districts of any county, in which case one more assem-
52 bly district shall be put in the senate district in such county having
53 the largest, or one less assembly district shall be put in the senate
54 district in such county having the smallest number of inhabitants,
55 excluding aliens, as the case may require. /// [No town, except a town
56 having more than a ratio of apportionment and one-half over, and no
S. 6698

1 block in a city inclosed by streets or public ways, shall be divided in
2 the formation of assembly districts, nor shall any districts contain a
3 greater excess in population over an adjoining district in the same
4 senate district, than the population of a town or block therein adjoining
5 such assembly district. Towns or blocks which, from their location
6 may be included in either of two districts, shall be so placed as to
7 make said districts most nearly equal in number of inhabitants, exclud-
8 ing aliens.]\\ \ Nothing in this section shall prevent the division, at any
9 time, of counties and towns and the erection of new towns by the legis-
10 lature.

11 An apportionment by the legislature, or other body, shall be subject
12 to review by the supreme court, at the suit of any citizen, under such
13 reasonable regulations as the legislature may prescribe; and any court
14 before which a cause may be pending involving an apportionment, shall
15 give precedence thereto over all other causes and proceedings, and if
16 said court be not in session it shall convene promptly for the disposi-
17 tion of the same. THE COURT SHALL RENDER ITS DECISION WITHIN SIXTY DAYS
18 AFTER A PETITION IS FILED. IN ANY JUDICIAL PROCEEDING RELATING TO REDIS-
19 TRICTING OF CONGRESSIONAL OR STATE LEGISLATIVE DISTRICTS, ANY LAW ESTAB-
20 LISHING CONGRESSIONAL OR STATE LEGISLATIVE DISTRICTS FOUND TO VIOLATE
21 THE PROVISIONS OF THIS ARTICLE SHALL BE INVALID IN WHOLE OR IN PART. IN
22 THE EVENT THAT A COURT FINDS SUCH A VIOLATION, THE LEGISLATURE SHALL
23 HAVE A FULL AND REASONABLE OPPORTUNITY TO CORRECT THE LAW'S LEGAL
24 INFIRMITIES.

25 S 5-B. (A) ON OR BEFORE FEBRUARY FIRST OF EACH YEAR ENDING WITH A ZERO
26 AND AT ANY OTHER TIME A COURT ORDERS THAT CONGRESSIONAL OR STATE LEGIS-
27 LATIVE DISTRICTS BE AMENDED, AN INDEPENDENT REDISTRICTING COMMISSION
28 SHALL BE ESTABLISHED TO DETERMINE THE DISTRICT LINES FOR CONGRESSIONAL
29 AND STATE LEGISLATIVE OFFICES. THE INDEPENDENT REDISTRICTING COMMISSION
30 SHALL BE COMPOSED OF TEN MEMBERS, APPOINTED AS FOLLOWS:

31 (1) TWO MEMBERS SHALL BE APPOINTED BY THE TEMPORARY PRESIDENT OF THE
32 SENATE;

33 (2) TWO MEMBERS SHALL BE APPOINTED BY THE SPEAKER OF THE ASSEMBLY;

34 (3) TWO MEMBERS SHALL BE APPOINTED BY THE MINORITY LEADER OF THE
35 SENATE;

36 (4) TWO MEMBERS SHALL BE APPOINTED BY THE MINORITY LEADER OF THE
37 ASSEMBLY;

38 (5) TWO MEMBERS SHALL BE APPOINTED BY THE EIGHT MEMBERS APPOINTED
39 PURSUANT TO PARAGRAPHS (1) THROUGH (4) OF THIS SUBDIVISION BY A VOTE OF
40 NOT LESS THAN FIVE MEMBERS IN FAVOR OF SUCH APPOINTMENT, AND THESE TWO
41 MEMBERS SHALL NOT HAVE BEEN ENROLLED IN THE PRECEDING FIVE YEARS IN

42 EITHER OF THE TWO POLITICAL PARTIES THAT CONTAIN THE LARGEST OR SECOND
43 LARGEST NUMBER OF ENROLLED VOTERS WITHIN THE STATE;

44 (6) ONE MEMBER SHALL BE DESIGNATED CHAIR OF THE COMMISSION BY A MAJOR-
45 ITY OF THE MEMBERS APPOINTED PURSUANT TO PARAGRAPHS (1) THROUGH (5) OF
46 THIS SUBDIVISION TO CONVENE AND PRESIDE OVER EACH MEETING OF THE COMMISS-
47 SION.

48 (B) THE MEMBERS OF THE INDEPENDENT REDISTRICTING COMMISSION SHALL BE
49 REGISTERED VOTERS IN THIS STATE. NO MEMBER SHALL WITHIN THE LAST THREE
50 YEARS:

51 (1) BE OR HAVE BEEN A MEMBER OF THE NEW YORK STATE LEGISLATURE OR
52 UNITED STATES CONGRESS OR A STATEWIDE ELECTED OFFICIAL;

53 (2) BE OR HAVE BEEN A STATE OFFICER OR EMPLOYEE OR LEGISLATIVE EMPLOY-
54 EE AS DEFINED IN SECTION SEVENTY-THREE OF THE PUBLIC OFFICERS LAW;

55 (3) BE OR HAVE BEEN A REGISTERED LOBBYIST IN NEW YORK STATE;

S. 6698

1 (4) BE OR HAVE BEEN A POLITICAL PARTY CHAIRMAN, AS DEFINED IN PARA-
2 GRAPH (K) OF SUBDIVISION ONE OF SECTION SEVENTY-THREE OF THE PUBLIC
3 OFFICERS LAW;

4 (5) BE THE SPOUSE OF A STATEWIDE ELECTED OFFICIAL OR OF ANY MEMBER OF
5 THE UNITED STATES CONGRESS, OR OF THE STATE LEGISLATURE.

6 (C) TO THE EXTENT PRACTICABLE, THE MEMBERS OF THE INDEPENDENT REDIS-
7 TRICTING COMMISSION SHALL REFLECT THE DIVERSITY OF THE RESIDENTS OF THIS
8 STATE WITH REGARD TO RACE, ETHNICITY, GENDER, LANGUAGE, AND GEOGRAPHIC
9 RESIDENCE AND TO THE EXTENT PRACTICABLE THE APPOINTING AUTHORITIES SHALL
10 CONSULT WITH ORGANIZATIONS DEVOTED TO PROTECTING THE VOTING RIGHTS OF
11 MINORITY AND OTHER VOTERS CONCERNING POTENTIAL APPOINTEES TO THE COMMISS-
12 SION.

13 (D) VACANCIES IN THE MEMBERSHIP OF THE COMMISSION SHALL BE FILLED
14 WITHIN THIRTY DAYS IN THE MANNER PROVIDED FOR IN THE ORIGINAL APPOINT-
15 MENTS.

16 (E) THE LEGISLATURE SHALL PROVIDE BY LAW FOR THE COMPENSATION OF THE
17 MEMBERS OF THE INDEPENDENT REDISTRICTING COMMISSION, INCLUDING COMPEN-
18 SATION FOR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF
19 THEIR DUTIES.

20 (F) A MINIMUM OF FIVE MEMBERS OF THE INDEPENDENT REDISTRICTING COMMISS-
21 SION SHALL CONSTITUTE A QUORUM FOR THE TRANSACTION OF ANY BUSINESS OR
22 THE EXERCISE OF ANY POWER OF SUCH COMMISSION PRIOR TO THE APPOINTMENT OF
23 THE TWO COMMISSION MEMBERS APPOINTED PURSUANT TO PARAGRAPH (5) OF SUBDI-
24 VISION (A) OF THIS SECTION, AND A MINIMUM OF SEVEN MEMBERS SHALL CONSTI-
25 TUTE A QUORUM AFTER SUCH MEMBERS HAVE BEEN APPOINTED, AND NO EXERCISE OF
26 ANY POWER OF THE INDEPENDENT REDISTRICTING COMMISSION SHALL OCCUR WITH-
27 OUT THE AFFIRMATIVE VOTE OF AT LEAST A MAJORITY OF THE MEMBERS, PROVIDED
28 THAT, IN ORDER TO APPROVE ANY REDISTRICTING PLAN AND IMPLEMENTING LEGIS-
29 LATION, THE FOLLOWING RULES SHALL APPLY:

30 (1) IN THE EVENT THAT THE SPEAKER OF THE ASSEMBLY AND THE TEMPORARY
31 PRESIDENT OF THE SENATE ARE MEMBERS OF THE SAME POLITICAL PARTY,
32 APPROVAL OF A REDISTRICTING PLAN AND IMPLEMENTING LEGISLATION BY THE
33 COMMISSION FOR SUBMISSION TO THE LEGISLATURE SHALL REQUIRE THE VOTE IN
34 SUPPORT OF ITS APPROVAL BY AT LEAST SEVEN MEMBERS INCLUDING AT LEAST ONE
35 MEMBER APPOINTED BY EACH OF THE LEGISLATIVE LEADERS.

36 (2) IN THE EVENT THAT THE SPEAKER OF THE ASSEMBLY AND THE TEMPORARY
37 PRESIDENT OF THE SENATE ARE MEMBERS OF TWO DIFFERENT POLITICAL PARTIES,
38 APPROVAL OF A REDISTRICTING PLAN BY THE COMMISSION FOR SUBMISSION TO THE
39 LEGISLATURE SHALL REQUIRE THE VOTE IN SUPPORT OF ITS APPROVAL BY AT
40 LEAST SEVEN MEMBERS INCLUDING AT LEAST ONE MEMBER APPOINTED BY THE
41 SPEAKER OF THE ASSEMBLY AND ONE MEMBER APPOINTED BY THE TEMPORARY PRESI-
42 DENT OF THE SENATE.

43 (G) IN THE EVENT THAT THE COMMISSION IS UNABLE TO OBTAIN SEVEN VOTES
44 TO APPROVE A REDISTRICTING PLAN ON OR BEFORE JANUARY FIRST IN THE YEAR
45 ENDING IN TWO OR AS SOON AS PRACTICABLE THEREAFTER, THE COMMISSION SHALL
46 SUBMIT TO THE LEGISLATURE THAT REDISTRICTING PLAN AND IMPLEMENTING
47 LEGISLATION THAT GARNERED THE HIGHEST NUMBER OF VOTES IN SUPPORT OF ITS

48 APPROVAL BY THE COMMISSION WITH A RECORD OF THE VOTES TAKEN. IN THE
49 EVENT THAT MORE THAN ONE PLAN RECEIVED THE SAME NUMBER OF VOTES FOR
50 APPROVAL, AND SUCH NUMBER WAS HIGHER THAN THAT FOR ANY OTHER PLAN, THEN
51 THE COMMISSION SHALL SUBMIT ALL PLANS THAT OBTAINED SUCH NUMBER OF
52 VOTES. THE LEGISLATURE SHALL CONSIDER AND VOTE UPON SUCH IMPLEMENTING
53 LEGISLATION IN ACCORDANCE WITH THE VOTING RULES SET FORTH IN SUBDIVISION
54 (B) OF SECTION FOUR OF THIS ARTICLE.
S. 6698

1 (H) (1) THE INDEPENDENT REDISTRICTING COMMISSION SHALL APPOINT TWO
2 CO-EXECUTIVE DIRECTORS BY A MAJORITY VOTE OF THE COMMISSION IN ACCORD-
3 ANCE WITH THE FOLLOWING PROCEDURE:

4 (I) IN THE EVENT THAT THE SPEAKER OF THE ASSEMBLY AND THE TEMPORARY
5 PRESIDENT OF THE SENATE ARE MEMBERS OF TWO DIFFERENT POLITICAL PARTIES,
6 THE CO-EXECUTIVE DIRECTORS SHALL BE APPROVED BY A MAJORITY OF THE
7 COMMISSION THAT INCLUDES AT LEAST ONE APPOINTEE BY THE SPEAKER OF THE
8 ASSEMBLY AND AT LEAST ONE APPOINTEE BY THE TEMPORARY PRESIDENT OF THE
9 SENATE.

10 (II) IN THE EVENT THAT THE SPEAKER OF THE ASSEMBLY AND THE TEMPORARY
11 PRESIDENT OF THE SENATE ARE MEMBERS OF THE SAME POLITICAL PARTY, THE
12 CO-EXECUTIVE DIRECTORS SHALL BE APPROVED BY A MAJORITY OF THE COMMISSION
13 THAT INCLUDES AT LEAST ONE APPOINTEE BY EACH OF THE LEGISLATIVE LEADERS.

14 (2) ONE OF THE CO-EXECUTIVE DIRECTORS SHALL BE ENROLLED IN THE POLI-
15 TICAL PARTY WITH THE HIGHEST NUMBER OF ENROLLED MEMBERS IN THE STATE AND
16 ONE SHALL BE ENROLLED IN THE POLITICAL PARTY WITH THE SECOND HIGHEST
17 NUMBER OF ENROLLED MEMBERS IN THE STATE. THE CO-EXECUTIVE DIRECTORS
18 SHALL APPOINT SUCH STAFF AS ARE NECESSARY TO PERFORM THE COMMISSION'S
19 DUTIES, EXCEPT THAT THE COMMISSION SHALL REVIEW A STAFFING PLAN PREPARED
20 AND PROVIDED BY THE CO-EXECUTIVE DIRECTORS WHICH SHALL CONTAIN A LIST OF
21 THE VARIOUS POSITIONS AND THE DUTIES, QUALIFICATIONS, AND SALARIES ASSO-
22 CIATED WITH EACH POSITION.

23 (3) IN THE EVENT THAT THE COMMISSION IS UNABLE TO APPOINT ONE OR BOTH
24 OF THE CO-EXECUTIVE DIRECTORS WITHIN FORTY-FIVE DAYS OF THE ESTABLISH-
25 MENT OF A QUORUM OF SEVEN COMMISSIONERS, THE FOLLOWING PROCEDURE SHALL
26 BE FOLLOWED:

27 (I) IN THE EVENT THAT THE SPEAKER OF THE ASSEMBLY AND THE TEMPORARY
28 PRESIDENT OF THE SENATE ARE MEMBERS OF TWO DIFFERENT POLITICAL PARTIES,
29 WITHIN TEN DAYS THE SPEAKER'S APPOINTEES ON THE COMMISSION SHALL APPOINT
30 ONE CO-EXECUTIVE DIRECTOR, AND THE TEMPORARY PRESIDENT'S APPOINTEES ON
31 THE COMMISSION SHALL APPOINT THE OTHER CO-EXECUTIVE DIRECTOR. ALSO WITH-
32 IN TEN DAYS THE MINORITY LEADER OF THE ASSEMBLY SHALL SELECT A CO-DEPUTY
33 EXECUTIVE DIRECTOR, AND THE MINORITY LEADER OF THE SENATE SHALL SELECT
34 THE OTHER CO-DEPUTY EXECUTIVE DIRECTOR.

35 (II) IN THE EVENT THAT THE SPEAKER OF THE ASSEMBLY AND THE TEMPORARY
36 PRESIDENT OF THE SENATE ARE MEMBERS OF THE SAME POLITICAL PARTY, WITHIN
37 TEN DAYS THE SPEAKER'S AND TEMPORARY PRESIDENT'S APPOINTEES ON THE
38 COMMISSION SHALL TOGETHER APPOINT ONE CO-EXECUTIVE DIRECTOR, AND THE TWO
39 MINORITY LEADERS' APPOINTEES ON THE COMMISSION SHALL TOGETHER APPOINT
40 THE OTHER CO-EXECUTIVE DIRECTOR.

41 (4) IN THE EVENT OF A VACANCY IN THE OFFICES OF CO-EXECUTIVE DIRECTOR
42 OR CO-DEPUTY EXECUTIVE DIRECTOR, THE POSITION SHALL BE FILLED WITHIN TEN
43 DAYS OF ITS OCCURRENCE BY THE SAME APPOINTING AUTHORITY OR AUTHORITIES
44 THAT APPOINTED HIS OR HER PREDECESSOR.

45 (I) THE STATE BUDGET SHALL INCLUDE NECESSARY APPROPRIATIONS FOR THE
46 EXPENSES OF THE INDEPENDENT REDISTRICTING COMMISSION, PROVIDE FOR
47 COMPENSATION AND REIMBURSEMENT OF EXPENSES FOR THE MEMBERS AND STAFF OF
48 THE COMMISSION, ASSIGN TO THE COMMISSION ANY ADDITIONAL DUTIES THAT THE
49 LEGISLATURE MAY DEEM NECESSARY TO THE PERFORMANCE OF THE DUTIES STIPU-
50 LATED IN THIS ARTICLE, AND REQUIRE OTHER AGENCIES AND OFFICIALS OF THE
51 STATE OF NEW YORK AND ITS POLITICAL SUBDIVISIONS TO PROVIDE SUCH INFOR-
52 MATION AND ASSISTANCE AS THE COMMISSION MAY REQUIRE TO PERFORM ITS
53 DUTIES.

54 S 2. Resolved (if the Assembly concur), That the foregoing amendments

55 be referred to the first regular legislative session convening after the
56 next succeeding general election of members of the assembly, and, in
S. 6698

1 conformity with section 1 of article 19 of the constitution, be
2 published for 3 months previous to the time of such election.



The Redistricting statute that takes effect if the 2012 Redistricting Constitutional Amendment **is not passed** a second time in the 2013 session or not approved by the voters.

S. 6736

A. 9557

S E N A T E - A S S E M B L Y

March 15, 2012

Introduced as a Message of Necessity

IN SENATE -- Introduced by Sens. **SKELOS**, NOZZOLIO -- (at request of the Governor) -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

IN ASSEMBLY -- Introduced by M. of A. **SILVER**, ENGLEBRIGHT, WEINSTEIN, McENENY, GALEF -- (**at request of the Governor**) -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the legislative law, in relation to redistricting of congressional, senate and assembly districts

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. This act shall be known and may be cited as the "Redistricting Reform Act of 2012."

2
3 S 2. The legislative law is amended by adding a new article 6-A to
4 read as follows:

ARTICLE 6-A

REDISTRICTING OF CONGRESSIONAL
AND STATE LEGISLATIVE DISTRICTS

8 SECTION 93. REDISTRICTING.

9 94. INDEPENDENT REDISTRICTING COMMISSION.

10 S 93. REDISTRICTING. 1. THE INDEPENDENT REDISTRICTING COMMISSION
11 ESTABLISHED PURSUANT TO SECTION NINETY-FOUR OF THIS ARTICLE SHALL
12 PREPARE A REDISTRICTING PLAN TO ESTABLISH SENATE, ASSEMBLY, AND CONGRES-
13 SIONAL DISTRICTS EVERY TEN YEARS COMMENCING IN TWO THOUSAND TWENTY-ONE,
14 AND SHALL SUBMIT TO THE LEGISLATURE SUCH PLAN AND THE IMPLEMENTING
15 LEGISLATION THEREFOR ON OR BEFORE JANUARY FIRST OR AS SOON AS PRACTICA-
16 BLE THEREAFTER BUT NO LATER THAN JANUARY FIFTEENTH IN THE YEAR ENDING IN
17 TWO BEGINNING IN TWO THOUSAND TWENTY-TWO. THE REDISTRICTING PLANS FOR
18 THE ASSEMBLY AND THE SENATE SHALL BE CONTAINED IN AND VOTED UPON BY THE
19 LEGISLATURE IN A SINGLE BILL, AND THE CONGRESSIONAL DISTRICT PLAN MAY BE
20 INCLUDED IN THE SAME BILL IF THE LEGISLATURE CHOOSES TO DO SO. THE
21 IMPLEMENTING LEGISLATION SHALL BE VOTED UPON, WITHOUT AMENDMENT, BY THE
22 SENATE OR THE ASSEMBLY WITHIN TEN DAYS OF THE PLAN'S SUBMISSION OR WITH-
23 IN TEN DAYS AFTER JANUARY FIRST IN A YEAR ENDING IN TWO, WHICHEVER IS

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

S. 6736

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A. 9557

1 LATER. IF APPROVED BY THE FIRST HOUSE VOTING UPON IT, SUCH LEGISLATION
2 SHALL BE DELIVERED TO THE OTHER HOUSE IMMEDIATELY TO BE VOTED UPON,
3 WITHOUT AMENDMENT, WITHIN FIVE DAYS FROM DELIVERY. IF APPROVED BY BOTH
4 HOUSES, SUCH LEGISLATION SHALL BE PRESENTED TO THE GOVERNOR FOR ACTION
5 WITHIN THREE DAYS.

6 IF EITHER HOUSE SHALL FAIL TO APPROVE THE LEGISLATION IMPLEMENTING THE
7 FIRST REDISTRICTING PLAN, OR THE GOVERNOR SHALL VETO SUCH LEGISLATION
8 AND THE LEGISLATURE SHALL FAIL TO OVERRIDE SUCH VETO WITHIN TEN DAYS OF
9 SUCH VETO, EACH HOUSE OR THE GOVERNOR IF HE OR SHE VEToes IT, SHALL
10 NOTIFY THE COMMISSION THAT SUCH LEGISLATION HAS BEEN DISAPPROVED WITHIN
11 THREE DAYS OF SUCH DISAPPROVAL. WITHIN FIFTEEN DAYS OF SUCH NOTIFICA-
12 TION AND IN NO CASE LATER THAN FEBRUARY TWENTY-EIGHTH OF A YEAR ENDING
13 IN TWO, THE REDISTRICTING COMMISSION SHALL PREPARE AND SUBMIT TO THE
14 LEGISLATURE A SECOND REDISTRICTING PLAN AND THE NECESSARY IMPLEMENTING
15 LEGISLATION FOR SUCH PLAN. WITHIN TEN DAYS OF ITS SUBMISSION SUCH
16 LEGISLATION SHALL BE VOTED UPON, WITHOUT AMENDMENT, BY THE SENATE OR THE
17 ASSEMBLY AND, IF APPROVED BY THE FIRST HOUSE VOTING UPON IT, SUCH LEGIS-
18 LATION SHALL BE DELIVERED TO THE OTHER HOUSE IMMEDIATELY TO BE VOTED
19 UPON, WITHOUT AMENDMENT, WITHIN FIVE DAYS FROM DELIVERY. IF APPROVED BY
20 BOTH HOUSES, SUCH LEGISLATION SHALL BE PRESENTED TO THE GOVERNOR FOR
21 ACTION WITHIN THREE DAYS.

22 IF EITHER HOUSE SHALL FAIL TO APPROVE THE LEGISLATION IMPLEMENTING THE
23 SECOND REDISTRICTING PLAN, OR THE GOVERNOR SHALL VETO SUCH LEGISLATION
24 AND THE LEGISLATURE SHALL FAIL TO OVERRIDE SUCH VETO WITHIN TEN DAYS OF
25 SUCH VETO, EACH HOUSE SHALL INTRODUCE SUCH IMPLEMENTING LEGISLATION WITH
26 ANY AMENDMENTS EACH HOUSE OF THE LEGISLATURE DEEMS NECESSARY. ALL SUCH
27 AMENDMENTS SHALL COMPLY WITH THE PROVISIONS OF THIS ARTICLE. IF APPROVED
28 BY BOTH HOUSES, SUCH LEGISLATION SHALL BE PRESENTED TO THE GOVERNOR FOR
29 ACTION WITHIN THREE DAYS.

30 ALL VOTES BY THE SENATE OR ASSEMBLY ON ANY REDISTRICTING PLAN LEGIS-
31 LATION PURSUANT TO THIS ARTICLE SHALL BE CONDUCTED IN ACCORDANCE WITH
32 THE FOLLOWING RULES:

33 (A) IN THE EVENT THAT THE SPEAKER OF THE ASSEMBLY AND THE TEMPORARY
34 PRESIDENT OF THE SENATE ARE MEMBERS OF TWO DIFFERENT POLITICAL PARTIES,
35 APPROVAL OF LEGISLATION DULY APPROVED AND SUBMITTED BY THE INDEPENDENT
36 REDISTRICTING COMMISSION PURSUANT TO SUBDIVISION SIX OF SECTION NINETY-
37 FOUR OF THIS ARTICLE SHALL REQUIRE THE VOTE IN SUPPORT OF ITS PASSAGE BY
38 AT LEAST A MAJORITY OF THE MEMBERS ELECTED TO EACH HOUSE.

39 (B) IN THE EVENT THAT THE SPEAKER OF THE ASSEMBLY AND THE TEMPORARY
40 PRESIDENT OF THE SENATE ARE MEMBERS OF TWO DIFFERENT POLITICAL PARTIES,
41 APPROVAL OF LEGISLATION THAT WAS SUBMITTED BY THE INDEPENDENT REDIS-
42 TRICTING COMMISSION PURSUANT TO SUBDIVISION SEVEN OF SECTION NINETY-FOUR
43 OF THIS ARTICLE SHALL REQUIRE THE VOTE IN SUPPORT OF ITS PASSAGE BY AT
44 LEAST SIXTY PERCENT OF THE MEMBERS ELECTED TO EACH HOUSE.

45 (C) IN THE EVENT THAT THE SPEAKER OF THE ASSEMBLY AND THE TEMPORARY
46 PRESIDENT OF THE SENATE ARE MEMBERS OF THE SAME POLITICAL PARTY,
47 APPROVAL OF LEGISLATION SUBMITTED BY THE INDEPENDENT REDISTRICTING
48 COMMISSION PURSUANT TO SUBDIVISION SIX OR SEVEN OF SECTION NINETY-FOUR
49 OF THIS ARTICLE SHALL REQUIRE THE VOTE IN SUPPORT OF ITS PASSAGE BY AT
50 LEAST TWO-THIRDS OF THE MEMBERS ELECTED TO EACH HOUSE.

51 2. SUBJECT TO THE REQUIREMENTS OF THE FEDERAL CONSTITUTION AND STAT-
52 UTES AND IN COMPLIANCE WITH STATE CONSTITUTIONAL REQUIREMENTS, THE
53 FOLLOWING PRINCIPLES SHALL BE USED IN THE CREATION OF STATE SENATE AND
54 STATE ASSEMBLY DISTRICTS AND CONGRESSIONAL DISTRICTS:

55 (A) WHEN DRAWING DISTRICT LINES, THE COMMISSION SHALL CONSIDER WHETHER
56 SUCH LINES WOULD RESULT IN THE DENIAL OR ABRIDGEMENT OF RACIAL OR
S. 6736 3 A. 9557

1 LANGUAGE MINORITY VOTING RIGHTS, AND DISTRICTS SHALL NOT BE DRAWN TO
2 HAVE THE PURPOSE OF, NOR SHALL THEY RESULT IN, THE DENIAL OR ABRIDGEMENT
3 OF SUCH RIGHTS. DISTRICTS SHALL BE DRAWN SO THAT, BASED ON THE TOTALITY
4 OF THE CIRCUMSTANCES, RACIAL OR MINORITY LANGUAGE GROUPS DO NOT HAVE
5 LESS OPPORTUNITY TO PARTICIPATE IN THE POLITICAL PROCESS THAN OTHER

6 MEMBERS OF THE ELECTORATE AND TO ELECT REPRESENTATIVES OF THEIR CHOICE.
7 (B) TO THE EXTENT PRACTICABLE, DISTRICTS SHALL CONTAIN AS NEARLY AS
8 MAY BE AN EQUAL NUMBER OF INHABITANTS. FOR EACH DISTRICT THAT DEVIATES
9 FROM THIS REQUIREMENT, THE COMMISSION SHALL PROVIDE A SPECIFIC PUBLIC
10 EXPLANATION AS TO WHY SUCH DEVIATION EXISTS.

11 (C) EACH DISTRICT SHALL CONSIST OF CONTIGUOUS TERRITORY.

12 (D) EACH DISTRICT SHALL BE AS COMPACT IN FORM AS PRACTICABLE.

13 (E) DISTRICTS SHALL NOT BE DRAWN TO DISCOURAGE COMPETITION OR FOR THE
14 PURPOSE OF FAVORING OR DISFAVORING INCUMBENTS OR OTHER PARTICULAR CANDI-
15 DATES OR POLITICAL PARTIES. THE COMMISSION SHALL CONSIDER THE MAINTENANCE
16 OF CORES OF EXISTING DISTRICTS, OF PRE-EXISTING POLITICAL SUBDIVI-
17 SIONS, INCLUDING COUNTIES, CITIES, AND TOWNS, AND OF COMMUNITIES OF
18 INTEREST.

19 (F) IN DRAWING SENATE DISTRICTS, TOWNS OR BLOCKS WHICH, FROM THEIR
20 LOCATION MAY BE INCLUDED IN EITHER OF TWO DISTRICTS, SHALL BE SO PLACED
21 AS TO MAKE SAID DISTRICTS MOST NEARLY EQUAL IN NUMBER OF INHABITANTS.
22 THE REQUIREMENTS THAT SENATE DISTRICTS NOT DIVIDE COUNTIES OR TOWNS, AS
23 WELL AS THE 'BLOCK-ON-BORDER' AND 'TOWN-ON-BORDER' RULES, SHALL REMAIN
24 IN EFFECT.

25 DURING THE PREPARATION OF THE REDISTRICTING PLAN, THE INDEPENDENT
26 REDISTRICTING COMMISSION SHALL CONDUCT NOT LESS THAN ONE PUBLIC HEARING
27 ON PROPOSALS FOR THE REDISTRICTING OF CONGRESSIONAL AND STATE LEGISLA-
28 TIVE DISTRICTS IN EACH OF THE FOLLOWING (I) CITIES: ALBANY, BUFFALO,
29 SYRACUSE, ROCHESTER, AND WHITE PLAINS; AND (II) COUNTIES: BRONX, KINGS,
30 NEW YORK, QUEENS, RICHMOND, NASSAU, AND SUFFOLK. NOTICE OF ALL SUCH
31 HEARINGS SHALL BE WIDELY PUBLISHED USING THE BEST AVAILABLE MEANS AND
32 MEDIA A REASONABLE TIME BEFORE EVERY HEARING. AT LEAST THIRTY DAYS PRIOR
33 TO THE FIRST PUBLIC HEARING AND IN ANY EVENT NO LATER THAN SEPTEMBER
34 FIFTEENTH OF THE YEAR ENDING IN ONE OR AS SOON AS PRACTICABLE THEREAFT-
35 ER, THE INDEPENDENT REDISTRICTING COMMISSION SHALL MAKE WIDELY AVAILABLE
36 TO THE PUBLIC, IN PRINT FORM AND USING THE BEST AVAILABLE TECHNOLOGY,
37 ITS DRAFT REDISTRICTING PLANS, RELEVANT DATA, AND RELATED INFORMATION.
38 SUCH PLANS, DATA, AND INFORMATION SHALL BE IN A FORM THAT ALLOWS AND
39 FACILITATES THEIR USE BY THE PUBLIC TO REVIEW, ANALYZE, AND COMMENT UPON
40 SUCH PLANS AND TO DEVELOP ALTERNATIVE REDISTRICTING PLANS FOR PRESENTA-
41 TION TO THE COMMISSION AT THE PUBLIC HEARINGS. THE INDEPENDENT REDIS-
42 TRICTING COMMISSION SHALL REPORT THE FINDINGS OF ALL SUCH HEARINGS TO
43 THE LEGISLATURE UPON SUBMISSION OF A REDISTRICTING PLAN.

44 3. THE PROCESS FOR REDISTRICTING CONGRESSIONAL AND STATE LEGISLATIVE
45 DISTRICTS ESTABLISHED BY THIS ARTICLE SHALL GOVERN REDISTRICTING IN THIS
46 STATE EXCEPT TO THE EXTENT THAT A COURT IS REQUIRED TO ORDER THE
47 ADOPTION OF, OR CHANGES TO, A REDISTRICTING PLAN AS A REMEDY FOR A
48 VIOLATION OF LAW.

49 A REAPPORTIONMENT PLAN AND THE DISTRICTS CONTAINED IN SUCH PLAN SHALL
50 BE IN FORCE UNTIL THE EFFECTIVE DATE OF A PLAN BASED UPON THE SUBSEQUENT
51 FEDERAL DECENNIAL CENSUS TAKEN IN A YEAR ENDING IN ZERO UNLESS MODIFIED
52 PURSUANT TO COURT ORDER.

53 4. IN ANY JUDICIAL PROCEEDING RELATING TO REDISTRICTING OF CONGRES-
54 SIONAL OR STATE LEGISLATIVE DISTRICTS, ANY LAW ESTABLISHING CONGRESSIO-
55 NAL OR STATE LEGISLATIVE DISTRICTS FOUND TO VIOLATE THE PROVISIONS OF
56 THIS ARTICLE SHALL BE INVALID IN WHOLE OR IN PART. IN THE EVENT THAT A
S. 6736 A. 9557

1 COURT FINDS SUCH A VIOLATION, THE LEGISLATURE SHALL HAVE A FULL AND
2 REASONABLE OPPORTUNITY TO CORRECT THE LAW'S LEGAL INFIRMITIES.

3 S 94. INDEPENDENT REDISTRICTING COMMISSION. 1. ON OR BEFORE FEBRUARY
4 FIRST OF EACH YEAR ENDING WITH A ZERO AND AT ANY OTHER TIME A COURT
5 ORDERS THAT CONGRESSIONAL OR STATE LEGISLATIVE DISTRICTS BE AMENDED, AN
6 INDEPENDENT REDISTRICTING COMMISSION SHALL BE ESTABLISHED TO DETERMINE
7 THE DISTRICT LINES FOR CONGRESSIONAL AND STATE LEGISLATIVE OFFICES. THE
8 INDEPENDENT REDISTRICTING COMMISSION SHALL BE COMPOSED OF TEN MEMBERS,
9 APPOINTED AS FOLLOWS:

10 (A) TWO MEMBERS SHALL BE APPOINTED BY THE TEMPORARY PRESIDENT OF THE

11 SENATE;
12 (B) TWO MEMBERS SHALL BE APPOINTED BY THE SPEAKER OF THE ASSEMBLY;
13 (C) TWO MEMBERS SHALL BE APPOINTED BY THE MINORITY LEADER OF THE
14 SENATE;
15 (D) TWO MEMBERS SHALL BE APPOINTED BY THE MINORITY LEADER OF THE
16 ASSEMBLY;
17 (E) TWO MEMBERS SHALL BE APPOINTED BY THE EIGHT MEMBERS APPOINTED
18 PURSUANT TO PARAGRAPHS (A) THROUGH (D) OF THIS SUBDIVISION BY A VOTE OF
19 NOT LESS THAN FIVE MEMBERS IN FAVOR OF SUCH APPOINTMENT, AND THESE TWO
20 MEMBERS SHALL NOT HAVE BEEN ENROLLED IN THE PRECEDING FIVE YEARS IN
21 EITHER OF THE TWO POLITICAL PARTIES THAT CONTAIN THE LARGEST OR SECOND
22 LARGEST NUMBER OF ENROLLED VOTERS WITHIN THE STATE;
23 (F) ONE MEMBER SHALL BE DESIGNATED CHAIR OF THE COMMISSION BY A MAJOR-
24 ITY OF THE MEMBERS APPOINTED PURSUANT TO PARAGRAPHS (A) THROUGH (E) OF
25 THIS SUBDIVISION TO CONVENE AND PRESIDE OVER EACH MEETING OF THE COMMISS-
26 SION.
27 2. THE MEMBERS OF THE INDEPENDENT REDISTRICTING COMMISSION SHALL BE
28 REGISTERED VOTERS IN THIS STATE. NO MEMBER SHALL WITHIN THE LAST THREE
29 YEARS:
30 (A) BE OR HAVE BEEN A MEMBER OF THE NEW YORK STATE LEGISLATURE OR
31 UNITED STATES CONGRESS OR A STATEWIDE ELECTED OFFICIAL;
32 (B) BE OR HAVE BEEN A STATE OFFICER OR EMPLOYEE OR LEGISLATIVE EMPLOY-
33 EE AS DEFINED IN SECTION SEVENTY-THREE OF THE PUBLIC OFFICERS LAW.
34 (C) BE OR HAVE BEEN A REGISTERED LOBBYIST IN NEW YORK STATE;
35 (D) BE OR HAVE BEEN A POLITICAL PARTY CHAIRMAN, AS DEFINED IN PARA-
36 GRAPH (K) OF SUBDIVISION ONE OF SECTION SEVENTY-THREE OF THE PUBLIC
37 OFFICERS LAW;
38 (E) BE THE SPOUSE OF A STATEWIDE ELECTED OFFICIAL OR OF ANY MEMBER OF
39 THE UNITED STATES CONGRESS, OR OF THE STATE LEGISLATURE.
40 3. TO THE EXTENT PRACTICABLE, THE MEMBERS OF THE INDEPENDENT REDIS-
41 TRICTING COMMISSION SHALL REFLECT THE DIVERSITY OF THE RESIDENTS OF THIS
42 STATE WITH REGARD TO RACE, ETHNICITY, GENDER, LANGUAGE, AND GEOGRAPHIC
43 RESIDENCE AND TO THE EXTENT PRACTICABLE THE APPOINTING AUTHORITIES SHALL
44 CONSULT WITH ORGANIZATIONS DEVOTED TO PROTECTING THE VOTING RIGHTS OF
45 MINORITY AND OTHER VOTERS CONCERNING POTENTIAL APPOINTEES TO THE COMMISS-
46 SION.
47 4. VACANCIES IN THE MEMBERSHIP OF THE COMMISSION SHALL BE FILLED WITH-
48 IN THIRTY DAYS IN THE MANNER PROVIDED FOR IN THE ORIGINAL APPOINTMENTS.
49 5. THE MEMBERS OF THE INDEPENDENT REDISTRICTING COMMISSION SHALL
50 RECEIVE REIMBURSEMENT FOR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE
51 PERFORMANCE OF THEIR DUTIES.
52 6. A MINIMUM OF FIVE MEMBERS OF THE INDEPENDENT REDISTRICTING COMMISS-
53 SION SHALL CONSTITUTE A QUORUM FOR THE TRANSACTION OF ANY BUSINESS OR
54 THE EXERCISE OF ANY POWER OF SUCH COMMISSION PRIOR TO THE APPOINTMENT OF
55 THE TWO COMMISSION MEMBERS APPOINTED PURSUANT TO PARAGRAPH (E) OF SUBDI-
56 VISION ONE OF THIS SECTION, AND A MINIMUM OF SEVEN MEMBERS SHALL CONSTI-
S. 6736 A. 9557

1 TUTE A QUORUM AFTER SUCH MEMBERS HAVE BEEN APPOINTED, AND NO EXERCISE OF
2 ANY POWER OF THE INDEPENDENT REDISTRICTING COMMISSION SHALL OCCUR WITH-
3 OUT THE AFFIRMATIVE VOTE OF AT LEAST A MAJORITY OF THE MEMBERS, PROVIDED
4 THAT, IN ORDER TO APPROVE ANY REDISTRICTING PLAN AND IMPLEMENTING LEGIS-
5 LATION, THE FOLLOWING RULES SHALL APPLY:
6 (A) IN THE EVENT THAT THE SPEAKER OF THE ASSEMBLY AND THE TEMPORARY
7 PRESIDENT OF THE SENATE ARE MEMBERS OF THE SAME POLITICAL PARTY,
8 APPROVAL OF A REDISTRICTING PLAN AND IMPLEMENTING LEGISLATION BY THE
9 COMMISSION FOR SUBMISSION TO THE LEGISLATURE SHALL REQUIRE THE VOTE IN
10 SUPPORT OF ITS APPROVAL BY AT LEAST SEVEN MEMBERS INCLUDING AT LEAST ONE
11 MEMBER APPOINTED BY EACH OF THE LEGISLATIVE LEADERS.
12 (B) IN THE EVENT THAT THE SPEAKER OF THE ASSEMBLY AND THE TEMPORARY
13 PRESIDENT OF THE SENATE ARE MEMBERS OF TWO DIFFERENT POLITICAL PARTIES,
14 APPROVAL OF A REDISTRICTING PLAN BY THE COMMISSION FOR SUBMISSION TO THE
15 LEGISLATURE SHALL REQUIRE THE VOTE IN SUPPORT OF ITS APPROVAL BY AT

16 LEAST SEVEN MEMBERS INCLUDING AT LEAST ONE MEMBER APPOINTED BY THE
17 SPEAKER OF THE ASSEMBLY AND ONE MEMBER APPOINTED BY THE TEMPORARY PRESI-
18 DENT OF THE SENATE.

19 7. IN THE EVENT THAT THE COMMISSION IS UNABLE TO OBTAIN SEVEN VOTES TO
20 APPROVE A REDISTRICTING PLAN ON OR BEFORE JANUARY FIRST IN THE YEAR
21 ENDING IN TWO OR AS SOON AS PRACTICABLE THEREAFTER, THE COMMISSION SHALL
22 SUBMIT TO THE LEGISLATURE THAT REDISTRICTING PLAN AND IMPLEMENTING
23 LEGISLATION THAT GARNERED THE HIGHEST NUMBER OF VOTES IN SUPPORT OF ITS
24 APPROVAL BY THE COMMISSION WITH A RECORD OF THE VOTES TAKEN. IN THE
25 EVENT THAT MORE THAN ONE PLAN RECEIVED THE SAME NUMBER OF VOTES FOR
26 APPROVAL, AND SUCH NUMBER WAS HIGHER THAN THAT FOR ANY OTHER PLAN, THEN
27 THE COMMISSION SHALL SUBMIT ALL PLANS THAT OBTAINED SUCH NUMBER OF
28 VOTES. THE LEGISLATURE SHALL CONSIDER AND VOTE UPON SUCH IMPLEMENTING
29 LEGISLATION IN ACCORDANCE WITH THE VOTING RULES SET FORTH IN SECTION
30 NINETY-THREE OF THIS ARTICLE. ANY AMENDMENTS TO SUCH PLANS BY THE LEGIS-
31 LATURE SHALL COMPLY WITH THE PROVISIONS OF THIS ARTICLE.

32 8. (A) THE INDEPENDENT REDISTRICTING COMMISSION SHALL APPOINT TWO
33 CO-EXECUTIVE DIRECTORS BY A MAJORITY VOTE OF THE COMMISSION IN ACCORD-
34 ANCE WITH THE FOLLOWING PROCEDURE:

35 (1) IN THE EVENT THAT THE THE SPEAKER OF THE ASSEMBLY AND THE TEMPO-
36 RARY PRESIDENT OF THE SENATE ARE MEMBERS OF TWO DIFFERENT POLITICAL
37 PARTIES, THE CO-EXECUTIVE DIRECTORS SHALL BE APPROVED BY A MAJORITY OF
38 THE COMMISSION THAT INCLUDES AT LEAST ONE APPOINTEE BY THE SPEAKER OF
39 THE ASSEMBLY AND AT LEAST ONE APPOINTEE BY THE TEMPORARY PRESIDENT OF
40 THE SENATE.

41 (2) IN THE EVENT THAT THE SPEAKER OF THE ASSEMBLY AND THE TEMPORARY
42 PRESIDENT OF THE SENATE ARE MEMBERS OF THE SAME POLITICAL PARTY, THE
43 CO-EXECUTIVE DIRECTORS SHALL BE APPROVED BY A MAJORITY OF THE COMMISSION
44 THAT INCLUDES AT LEAST ONE APPOINTEE BY EACH OF THE LEGISLATIVE LEADERS.

45 (B) ONE OF THE CO-EXECUTIVE DIRECTORS SHALL BE ENROLLED IN THE POLI-
46 TICAL PARTY WITH THE HIGHEST NUMBER OF ENROLLED MEMBERS IN THE STATE AND
47 ONE SHALL BE ENROLLED IN THE POLITICAL PARTY WITH THE SECOND HIGHEST
48 NUMBER OF ENROLLED MEMBERS IN THE STATE. THE CO-EXECUTIVE DIRECTORS
49 SHALL APPOINT SUCH STAFF AS ARE NECESSARY TO PERFORM THE COMMISSION'S
50 DUTIES, EXCEPT THAT THE COMMISSION SHALL REVIEW A STAFFING PLAN PREPARED
51 AND PROVIDED BY THE CO-EXECUTIVE DIRECTORS WHICH SHALL CONTAIN A LIST OF
52 THE VARIOUS POSITIONS AND THE DUTIES, QUALIFICATIONS, AND SALARIES ASSO-
53 CIATED WITH EACH POSITION.

54 (C) IN THE EVENT THAT THE COMMISSION IS UNABLE TO APPOINT ONE OR BOTH
55 OF THE CO-EXECUTIVE DIRECTORS WITHIN FORTY-FIVE DAYS OF THE ESTABLISH-
S. 6736 A. 9557

1 MENT OF A QUORUM OF SEVEN COMMISSIONERS, THE FOLLOWING PROCEDURE SHALL
2 BE FOLLOWED:

3 (1) IN THE EVENT THAT THE SPEAKER OF THE ASSEMBLY AND THE TEMPORARY
4 PRESIDENT OF THE SENATE ARE MEMBERS OF TWO DIFFERENT POLITICAL PARTIES,
5 WITHIN TEN DAYS THE SPEAKER'S APPOINTEES ON THE COMMISSION SHALL APPOINT
6 ONE CO-EXECUTIVE DIRECTOR, AND THE TEMPORARY PRESIDENT'S APPOINTEES ON
7 THE COMMISSION SHALL APPOINT THE OTHER CO-EXECUTIVE DIRECTOR. ALSO WITH-
8 IN TEN DAYS THE MINORITY LEADER OF THE ASSEMBLY SHALL SELECT A CO-DEPUTY
9 EXECUTIVE DIRECTOR, AND THE MINORITY LEADER OF THE SENATE SHALL SELECT
10 THE OTHER CO-DEPUTY EXECUTIVE DIRECTOR.

11 (2) IN THE EVENT THAT THE SPEAKER OF THE ASSEMBLY AND THE TEMPORARY
12 PRESIDENT OF THE SENATE ARE MEMBERS OF THE SAME POLITICAL PARTY, WITHIN
13 TEN DAYS THE SPEAKER'S AND TEMPORARY PRESIDENT'S APPOINTEES ON THE
14 COMMISSION SHALL TOGETHER APPOINT ONE CO-EXECUTIVE DIRECTOR, AND THE TWO
15 MINORITY LEADERS' APPOINTEES ON THE COMMISSION SHALL TOGETHER APPOINT
16 THE OTHER CO-EXECUTIVE DIRECTOR.

17 (D) IN THE EVENT OF A VACANCY IN THE OFFICES OF CO-EXECUTIVE DIRECTOR
18 OR CO-DEPUTY EXECUTIVE DIRECTOR, THE POSITION SHALL BE FILLED WITHIN TEN
19 DAYS OF ITS OCCURRENCE BY THE SAME APPOINTING AUTHORITY OR AUTHORITIES
20 THAT APPOINTED HIS OR HER PREDECESSOR.

21 9. THE STATE BUDGET SHALL INCLUDE NECESSARY APPROPRIATIONS FOR THE

22 EXPENSES OF THE INDEPENDENT REDISTRICTING COMMISSION, PROVIDE FOR
23 COMPENSATION AND REIMBURSEMENT OF EXPENSES FOR THE MEMBERS AND STAFF OF
24 THE COMMISSION, ASSIGN TO THE COMMISSION ANY ADDITIONAL DUTIES THAT THE
25 LEGISLATURE MAY DEEM NECESSARY TO THE PERFORMANCE OF THE DUTIES STIPU-
26 LATED IN THIS ARTICLE, AND REQUIRE OTHER AGENCIES AND OFFICIALS OF THE
27 STATE OF NEW YORK AND ITS POLITICAL SUBDIVISIONS TO PROVIDE SUCH INFOR-
28 MATION AND ASSISTANCE AS THE COMMISSION MAY REQUIRE TO PERFORM ITS
29 DUTIES.

30 S 3. Any amendments by the senate or assembly to a redistricting plan
31 submitted by the independent redistricting commission, shall not affect
32 more than two percent of the population of any district contained in
33 such plan. If two or more plans for districts in the same legislative
34 house or for congressional districts are submitted by the commission and
35 voted upon by the legislature, such plans shall be considered individ-
36 ually and not combined.

37 S 4. (a) The independent redistricting commission established pursuant
38 to section 5-b of article 3 of the constitution shall submit to the
39 legislature such plan and the implementing legislation therefore on or
40 before January first or as soon as practicable thereafter but no later
41 than January fifteenth in the year ending in two beginning in two thou-
42 sand twenty-two. Within ten days of the plan's submission or within ten
43 days after January first in a year ending in two, whichever is later,
44 the implementing legislation shall be voted upon without amendment by
45 the senate or the assembly. If approved by the first house voting upon
46 it, such legislation shall be delivered to the other house immediately
47 to be voted upon, without amendment, within five days from delivery. If
48 approved by both houses such legislation shall be presented to the
49 governor for action within three days.

50 (b) If either house shall fail to approve the legislation implementing
51 the first redistricting plan, or the governor shall veto such legis-
52 lation and the legislature shall fail to override such veto within ten
53 days of such veto, each house or the governor, if he or she vetoes it,
54 shall notify the commission that such legislation has been disapproved
55 within three days of such disapproval. Within fifteen days of such
56 notification and in no case later than February twenty-eighth of a year
A. 9557
S. 6736

1 ending in two, the redistricting commission shall prepare and submit to
2 the legislature a second redistricting plan and the necessary implement-
3 ing legislation for such plan. Within ten days of its submission such
4 legislation shall be voted upon, without amendment, by the senate or
5 assembly and, if approved by the first house voting upon it, such legis-
6 lation shall be delivered to the other house immediately to be voted
7 upon without amendment, within five days from delivery. If approved by
8 both houses, such legislation shall be presented to the governor for
9 action within three days.

10 (c) If either house shall fail to approve the legislation implementing
11 the second redistricting plan, or the governor shall veto such legis-
12 lation and the legislature shall fail to override such veto within ten
13 days of such veto, each house shall introduce such implementing legis-
14 lation with any amendments each house deems necessary. If approved by
15 both houses, such legislation shall be presented to the governor for
16 action within three days.

17 S 5. The house that first approved in 2012 the amendment entitled
18 "Concurrent Resolution of the Senate and Assembly proposing an amendment
19 to article 3 of the constitution, in relation to the establishment of
20 the independent redistricting commission" (hereinafter "the amendment")
21 shall when considering the resolution in 2013 vote upon the amendment
22 first in the next session of the legislature and in any event shall do
23 so no later than January 15, 2013. The house that approved the amendment
24 second in 2012 shall also vote upon the amendment second in the next
25 session and in any event no later than January 30, 2013.

26 S 6. (a) If the house that first votes upon the amendment in the next

27 session approves such amendment, and the other house approves it there-
28 after, then the amendment shall be considered for approval by the voters
29 and this act shall not take effect except that sections three and four
30 of this act shall then take effect upon the people approving and ratify-
31 ing such amendment by a majority of the electors voting thereon. If the
32 house that first votes upon the amendment in the next session approves
33 such amendment, and the other house disapproves it thereafter or fails
34 to vote upon the amendment within fifteen days of the first house's vote
35 or by January 30, 2013, whichever is sooner, then this act shall take
36 effect immediately in its entirety except that wherever in this act the
37 legislative leaders of the house that failed to approve the amendment
38 shall appoint a member of the independent redistricting commission or a
39 staff member of the commission, then the governor shall replace that
40 house's legislative leaders as the appointing authority and shall make
41 such appointments as provided for in this act.

42 (b) If the house that first votes upon the amendment in the next
43 session disapproves such amendment or fails to vote upon the amendment
44 prior to January 15, 2013, and the other house approves it thereafter,
45 then this act shall take effect immediately except that wherever in this
46 act the legislative leaders of the house that failed to approve the
47 amendment shall appoint a member of the independent redistricting
48 commission or a staff member of the commission, then the governor shall
49 replace such house's legislative leaders as the appointing authority and
50 shall make such appointments as provided for in this act.

51 (c) If the house that first votes upon the amendment in the next
52 session disapproves such amendment or fails to vote upon the amendment
53 prior to January 15, 2013, and the other house disapproves it thereafter
54 or fails to vote upon the amendment within fifteen days of the first
55 house's vote or by January 30, 2013, whichever is sooner, then this act
56 shall take effect immediately in its entirety except that whenever in
S. 6736 A. 9557

1 this act the legislative leaders shall appoint a member of the independ-
2 ent redistricting commission or a staff member of the commission, then
3 the governor shall replace each legislative leader as the appointing
4 authority and shall make such appointments as provided for in this act.



The Proposed Constitutional Amendment on Legislative Redistricting: A Report Card

Gerald Benjamin

March 15, 2012

In late February I outlined in the *Albany Times Union* some criteria that should be followed in the design of an independent, state constitutionally-based redistricting commission for New York. I wrote:

“A constitutional amendment must provide for an independent commission with an odd number of members (5 to 13) appointed by a diversity of authorities exclusively from a pool of interested citizens. Lobbyists, elected officials and those directly or indirectly dependent upon them for employment could not serve. Members would reflect the political and demographic diversity of the state.

They would have a clear timetable and employ clear criteria, including in order of priority: compliance with federal requirements, observance of the integrity of the state’s regions — defined by its natural and built environment — and recognition within regions of social and demographic communities of interest.

Use of data reflecting partisanship or incumbent residency in designing districts would be prohibited. Finally, the Commission's decisions would not be subject to revision by the Legislature.”

Now, in the spirit of the academic season – I just finished reading midterms – I grade the constitutional amendment on redistricting that the legislature just passed against these criteria.

1: Observance of the integrity of the state’s regions (defined by its natural and built environment),

- **Grade = F**

Here a real opportunity is missed. The proposed amendment continues references to counties, towns and cities, blocks and borders, the boundaries of which are all rooted in the 19th century. Modern realities are regional; this is recognized, for example, in state economic development policy. Regional categories used for districting would build legislators collaborative attentiveness to regional agendas. Community interests should be explicitly attended to, and honored. Honoring municipal boundaries and borders should be formally recognized as secondary considerations, as this often must be done to serve other higher priority values.

2: Decision on districting should default to the state high court, if the commission is not constituted or fails to act in a timely manner

- **Grade = F**

The commission process defaults to the legislature.

The proposed amendment requires the legislature to act up or down on commission recommendations. If it fails to act positively, or if the governor vetoes a redistricting plan that the legislature approves, after two iterations the matter goes back to the legislature for action.

The flawed design of the commission and the rules entrenched for it in the constitution, makes **deadlock is likely. And if there is deadlock, the legislature makes its own districts.** As Yogi would say: Déjà vu all over again.

And if districting default to the state Supreme Court, the amendment gives the court a deadline, to be sure that the legislature will have time to have the final word.

3: Criteria should be established in the state constitution for redistricting in order of priority.

- **Grade = F**

Here we need to be attentive what the amendment does not do. It does not replace the current state constitutional provision on districting with an entirely new provision, as it should. **It does not take out dated language** –

Why do we need to keep constitutional references based upon 1930 federal census as a starting point?

It leaves in place provisions that have no force:

Why are we still referencing counties as Senate district building blocks in the constitution, even though at the same time we are on the verge of approving Senate districts that systematically dismember counties to meet federal districting standards.

It does not remove 19th century provisions used to entrench partisan advantage:

Why, if we are reforming, will we still using 1894 county boundaries to determine the size of the State Senate.

All of this is an invitation to confusion, mischief, and litigation.

4: Commission decisions on districts must be final when filed with the Secretary of State by it.

- **Grade = F**

Under the amendment, the legislature retains final say for redistricting.

5: The leader of this commission should be chosen by its previously selected members, from the available pool.

- **Grade = D**

The leader of the proposed commission will not be an added person, making the total membership an odd number. Rather, he or she will be chosen by the members from among their number, with quorum and decision rules that assure that at least one or more members appointed from each party base agree.

6: Use of data reflecting or based upon partisan data must be excluded

- **Grade = D**

There is no constitutional bar in the amendment to the use of partisan data in redistricting, nor **is there an affirmative commitment to redistrict to maximize the competitiveness of elections.** Rather the amendment speaks of designing districts so as to “not...discourage competition” nor “favor or disfavor incumbents or other particular candidates or political parties.”

Yet at the same time it places in the constitution a directive to the new to commission consider “the maintenance of the cores of existing districts” along with existing subdivision, constitutionalizing an incumbent protection criterion for districting.

7: A sufficiency of trained professional staff and necessary technological resources must be assured

- **Grade = C**

The constitutional change provides for a munificence of staff and resources for redistricting, in fact far more than needed. This is because the bi-still-partisan approach the commission’s formation extends to staffing.

Essentially, the proposed constitutional amendment will give a constitutional basis to the parallel Republican and Democrat manner in which the current Legislative Task for on Demographic Research and Redistricting (LATFOR) is now staffed.

That is, the drive for fiscal austerity notwithstanding, when it comes to redistricting New York will employ two persons for every job. We have experience with this. Our constitution now requires bi-partisan election administration, ostensibly to assure fairness and neutrality. It does neither.

8: It must be provided for in the state constitution, placing redistricting beyond the reach of change by the ordinary state legislative process.

- **Grade = C-**

An amendment to the constitution is proposed. But an amendment is a good idea only if it results in a redistricting process that is truly independent. Entrenching a partisan process in the constitution, in the guise of it being “independent,” makes a bad situation worse, by placing it beyond the reach of ordinary politics for the foreseeable future. Why? It takes real reform off the table, by giving the legislature a plausible answer to calls for real reform: Been there, done that.”

9: It must be done by a commission of moderate size (5 to 13 members) put in place by multiple appointing authorities, but dominated by no appointing authority or political party.

- **Grade = C**

The proposed commission is within the desirable size range and there are multiple appointing authorities, with two members each selected by the majority and minority conferences of the two major parties in the legislature. The remaining two, neither of whom may be enrolled in one of these parties (but who may be closely allied third party members), must be appointed by the other eight. **But the commission will have an even number of members (10), an invitation to deadlock. All appointing authorities are partisan-based. There is no domination by a single party, but there remains total domination by the legislative parties – the parties at interest.**

Additionally, new quorum requirements written into the constitution for the commission allow a unified group of partisans to prevent any action simply by not showing up.

Far fetched? Ask people in Wisconsin.

10: Members of this group must be selected from a pool broadly accessible to interested citizens and reflect the demographic diversity of the state.

- **Grade = B-**

There is a solid commitment to assuring diversity on the commission. There is no effort to recruit and establish a visible, broad-based pool from which members will be selected.

11: Membership should be denied to elected officials and those directly or indirectly dependent upon them for employment.

- **Grade = B+**

The proposed amendment bars from commission membership people who have recently been lobbyists, state employees, party officials, state elected officials and congress members and their spouses, and party chairs, but not local elected officials.

12: Recognition within regions of social and demographic communities of interest

- **Grade = B+**

Communities of interest are recognized in the new amendment, but not within regions.

13: Compliance with federal requirements

- **Grade = A-**

Voting rights act criteria are written into the state constitution. This is important because politics surrounding reauthorization suggested that the federal law might not last forever.

Population equality for districts is assured, but within, not beyond, federal court established standards.

14 Public Hearings and Access to Information

- **Grade = A**

A constitutional requirement to make commission reports and data “widely available” to the public in useable form for review, comment enhances accountability.

The provision for public hearings across the state, mentioned but not include in my initial summary of criteria, builds a further constitutional basis for visibility and accountability into the redistricting process.

15: Deadlines for commission decision making should be linked to the decennial availability of census data and electoral calendars.

- **Grade = A**

This is done in the proposed amendment.



2012 Redistricting Constitutional Amendment

Cuomo's historic 2012 Redistricting Constitutional Amendment will still require in 2020 that the number of state senators be determined by using the same 1894 state senate districts as a foundation. Thus, Queens and Nassau will be eliminated and Staten Island and Suffolk combined.

Below are the relevant sections from the 2012 Redistricting Constitutional Amendment to take effect in 2020.

Sections 1, 2 and 3 below will remain the same and are not being updated or amended. Note that section 3 leaves in the 1894 provision that requires Queens and Nassau County be eliminated and Staten Island and Suffolk County be combined for purposes of determining in 2020, the number of state senate districts.

S T A T E O F N E W Y O R K

6698

I N S E N A T E

March 11, 2012

ARTICLE III

Legislature

Section 1. The legislative power of this state shall be vested in the senate and assembly.

§2. The senate shall consist of fifty members,* except as hereinafter provided. The senators elected in the year one thousand eight hundred and ninety-five shall hold their offices for three years, and their successors shall be chosen for two years. The assembly shall consist of one hundred and fifty members. The assembly members elected in the year one thousand nine hundred and thirty-eight, and their successors, shall be chosen for two years.

§3. The senate districts described in section three of article three of this constitution as adopted by the people on November sixth, eighteen hundred ninety-four are hereby continued for all of the purposes of future reapportionments of senate districts pursuant to section four of this article.

Introduced by Sen. SKELOS -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY

proposing an amendment to article 3 of the constitution, in relation to the establishment of the independent redistricting commission

1 Section 1. Resolved (if the Assembly concur), That sections 4 and 5 of
2 article 3 of the constitution be amended, and a new section 5-b be added
3 to read as follows:

4 S 4. (A) Except as herein otherwise provided, the federal census taken
5 in the year nineteen hundred thirty and each federal census taken decen-
6 nially thereafter shall be controlling as to the number of inhabitants
7 in the state or any part thereof for the purposes of the apportionment
8 of members of assembly and readjustment or alteration of senate and
9 assembly districts next occurring, in so far as such census and the
10 tabulation thereof purport to give the information necessary therefor.

29 (D) The ratio for apportioning senators shall always be obtained by
30 dividing the number of inhabitants, excluding aliens, by fifty, and the
31 senate shall always be composed of fifty members, except that if any
32 county having three or more senators at the time of any apportionment
33 shall be entitled on such ratio to an additional senator or senators,
34 such additional senator or senators shall be given to such county in
35 addition to the fifty senators, and the whole number of senators shall
36 be increased to that extent.