

7881--A

I N S E N A T E

May 19, 2010

Introduced by Sens. DILAN, SAMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- committee discharged and said bill committed to the Committee on Elections -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the legislative law, in relation to establishing the legislative advisory commission on redistricting and legislative research

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

1 Section 1. Section 83-m of the legislative law, as added by chapter
2 141 of the laws of 1994, is amended to read as follows:
3 S 83-m. Legislative [task force on demographic research and reapportionment] ADVISORY COMMISSION ON REDISTRICTING AND LEGISLATIVE RESEARCH.
4 [1.] The legislature hereby finds and declares that: (a) there is a need
5 for intensive and thorough legislative study, research and inquiry into
6 the techniques and methodology to be used by the bureau of the census of
7 the United States commerce department in carrying out the decennial
8 federal census; (b) a technical plan will be needed to meet the requirements
9 of a legislative timetable for a [reapportionment] REDISTRICTING
10 of the senate and assembly districts and the congressional districts of
11 the state based on such census; and (c) the [task force] COMMISSION
12 herein continued is necessary to assist the legislature in the performance
13 of its responsibilities and in the conduct of legislative research
14 projects relating thereto.
15 [2. The legislative task force on demographic research and reapportionment
16 is hereby continued, consisting of six members of whom two
17 shall be appointed by the temporary president of the senate, two by the
18 speaker of the assembly and one each by the minority leader of the
19 senate and the minority leader of the assembly. The appointments shall
20 be of members of the respective houses of the legislature, except that
21 one member appointed by the temporary president of the senate and one
22 member appointed by the speaker of the assembly shall not be members of
23 the legislature. A member of the senate appointed to the task force by
24

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

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1 the temporary president of the senate and a member of the assembly
2 appointed to the task force by the speaker of the assembly shall be
3 designated by each to serve as the co-chairmen of the task force. Each
4 member of the task force who is not a member of the legislature shall be
5 entitled to receive actual and necessary expenses incurred in the
6 discharge of his duties and shall be entitled to compensation as deter-
7 mined by the co-chairmen within the appropriations available therefor,
8 except that such member, who is serving in such capacity in a transient,
9 occasional and incidental manner, shall not be entitled to receive more
10 than the actual and necessary expenses incurred in the discharge of his
11 duties.

12 3. The task force shall engage in such research studies and other
13 activities as its co-chairmen may deem necessary or appropriate in the
14 preparation and formulation of a reapportionment plan for the next ensu-
15 ing reapportionment of senate and assembly districts and congressional
16 districts of the state and in the utilization of census and other demo-
17 graphic and statistical data for policy analysis, program development
18 and program evaluation purposes for the legislature.

19 4. The co-chairmen of the task force may employ such personnel,
20 experts and consultants as may be necessary for the performance of its
21 work and shall fix their compensation within the amounts appropriated
22 therefor.

23 5. The primary function of the task force shall be to compile and
24 analyze data, conduct research for and make reports and recommendations
25 to the legislature, legislative commissions and other legislative task
26 forces.

27 6. The task force, with the approval of its co-chairmen and subject to
28 guidelines submitted by the co-chairmen and approved by the temporary
29 president of the senate and speaker of the assembly, may sell surveys,
30 data, copies of tabulations and other special statistical compilations
31 and materials to departments, agencies and other entities of federal,
32 state or local government, of foreign countries, and to public benefit
33 corporations, or other public, not-for-profit and private persons and
34 agencies, upon payment of fees at least sufficient to pay the actual or
35 estimated cost of such projects. In furtherance of such sale, the task
36 force, with the approval of its co-chairmen, may execute contracts for
37 such purpose. Any contract executed heretofore by the task force or the
38 advisory task force on reapportionment, without express statutory
39 authorization, of a nature similar in import as the contract for sale
40 herein authorized is hereby validated, ratified and confirmed as an
41 exercise of the inherent power of such task force or such advisory task
42 force to execute such contract. The co-chairmen shall take such action
43 as shall be necessary to assure that any survey, data, tabulation,
44 special statistical compilation or material made available for sale
45 shall not identify the name of any corporation, company, association,
46 firm, partnership, proprietorship, society, joint stock company, indi-
47 vidual, or other organization or entity.

48 7. Moneys heretofore or hereafter received by or on behalf of the
49 legislative task force on demographic research and reapportionment from
50 the sale of surveys, data, copies of tabulations and other special
51 statistical compilations and materials available to such task force
52 shall be deposited to the credit of the legislative computer services
53 fund established by section ninety-seven-uu of the state finance law.
54 The moneys hereby credited to such fund may be made available for the
55 legislative task force on demographic research and reapportionment and
56 shall, when made available, be payable out of the state treasury on the

1 audit and warrant of the comptroller in the manner provided by section
2 ninety-seven-uu of the state finance law.

3 8. The co-chairmen of the task force are hereby authorized and
4 empowered to make and sign any agreements in the name and on behalf of
5 the task force and to do and perform any acts that may be necessary,
6 desirable or proper to carry out the powers, purposes and objectives of
7 the task force and the provisions thereof.

8 9. The task force, with the approval of its co-chairmen, may complete
9 any contract executed and conduct any business undertaken or commenced
10 by the legislature or the advisory task force on reapportionment
11 pertaining to or connected with the reapportionment and readjustment or
12 alteration of senate and assembly and congressional districts prior to
13 the enactment of these provisions into law, and the same shall be
14 completed and conducted in the same manner and under the same terms and
15 conditions and with the same effect as if completed and conducted by the
16 legislature or such advisory task force.

17 10. The task force may hold public and private hearings and otherwise
18 have all of the powers of a legislative committee under this chapter.

19 11. The co-chairmen of the task force may request and receive from
20 any court, department, division, board, bureau, commission or agency of
21 the state or any political subdivision thereof such assistance and data
22 as will enable the task force to properly carry out its powers and
23 duties hereunder.

24 12. Employees of the task force shall be considered to be employees
25 of the legislature for all purposes.]

26 S 2. Establishment and alteration of senate, assembly and congressional
27 al districts. a. There shall be a legislative advisory commission on
28 redistricting and demographic research (the "commission") to draw
29 senate, assembly and congressional districts, so that all the people of
30 New York may be fairly represented. The temporary president of the
31 senate, minority leader of the senate, speaker of the assembly, and
32 minority leader of the assembly shall each appoint two legislator
33 members from their party conference, with one appointee from each major-
34 ity designated as co-chair. The eight legislator members shall select
35 and appoint four public members by a vote of at least six of the eight
36 legislator members. A majority vote, if the legislators divide along
37 party lines, would then require agreement of at least three of the four
38 non-legislator members. No person shall be a non-legislator member of
39 the commission who is not a registered voter in the state of New York,
40 and who has not been, at the time of appointment, a resident of the
41 state of New York for five years. No member of the senate or assembly,
42 no member of congress, and no person holding judicial office, shall be a
43 non-legislator member of the commission. Vacancies shall be filled by
44 the original appointing legislative authority.

45 b. The senate, assembly, and congressional districts shall be devel-
46 oped by a vote of at least seven members of the commission. The plans of
47 senate, assembly, and congressional districts developed by the commis-
48 sion shall be submitted to the legislature for enactment. The commission
49 shall establish the senate and assembly districts no later than the last
50 day of January of the second year following the year in which the feder-
51 al decennial census is taken. The commission shall issue a report
52 explaining how the districts comply with the requirements of section
53 three of this act. Congressional districts shall be enacted into law no
54 later than the last day of March of the second year following the year
55 in which the federal decennial census is taken. The commission shall
56 issue a report explaining how the districts comply with the requirements

1 of section three of this act. Members of the commission shall provide
2 the legislature with reports on multiple plans if the commission fails
3 to achieve a majority vote on either the senate and assembly plan or the
4 congressional plan. The commission shall meet to make adjustments to
5 plans for congressional, assembly and senate districts should the legis-
6 lature fail to adopt the commission's plan and return such recommenda-
7 tions to the legislature. The commission's revised plans shall be
8 submitted to the legislature for consideration. Districting plans
9 enacted into law shall become effective for the next ensuing general
10 election of senators, assembly members, and members of congress. The
11 senate, assembly and congressional districts shall remain unaltered
12 until after the subsequent federal decennial census, except that, if an
13 alteration of such districts shall be ordered by a court of competent
14 jurisdiction, or if such districts shall be prevented from taking effect
15 pursuant to this act or to any provision of the constitution and laws of
16 the United States, the commission shall meet to recommend alterations
17 necessary to the legislature to provide a remedy. All votes of the
18 commission shall be taken at public meetings, and the commission shall
19 cause transcripts of all meetings and hearings, including all testimony
20 submitted in writing, to be made publicly available. The commission
21 shall promote informed public understanding of, and participation in,
22 the process of redistricting, by such means as providing information to
23 the public, holding hearings and adequate public comment periods before
24 and after plans are finalized, and encouraging submission of proposals.

25 c. The legislature shall make necessary appropriations for the
26 expenses of the commission, provide for compensation and reimbursement
27 of expenses for the members and staff of the commission, assign to the
28 commission any additional duties that the legislature may deem necessary
29 to the performance of the duties stipulated in this act, and require
30 other agencies and officials of the state of New York and its political
31 subdivisions to provide such information and assistance as the commis-
32 sion may require to perform its duties.

33 d. Subject to such reasonable regulations as the legislature shall
34 enact, the commission shall, with the approval of the temporary presi-
35 dent of the senate, minority leader of the senate, the speaker of the
36 assembly and the minority leader of the assembly as may be necessary to
37 perform its duties, hire staff, enter into contracts, conduct research,
38 hold hearings, and communicate with the public; shall assemble and main-
39 tain such geographic, demographic, election, and voter registration data
40 as may be necessary for the analysis and evaluation of proposed and
41 established plans of senate, assembly, and congressional districts,
42 including, but not limited to, the compliance of such plans with the
43 provisions of this act and with the constitution and laws of the United
44 States; and shall cause all such data, and all expert reports, results
45 of any other research conducted under a contract entered into by the
46 commission, and proposals for districts submitted by the public, to be
47 made publicly available.

48 e. Each member of the commission who is not a member of the legisla-
49 ture shall be entitled to receive actual and necessary expenses incurred
50 in the discharge of his or her duties and shall be entitled to compen-
51 sation as determined by the co-chairs within the appropriations avail-
52 able therefor, except that such member, who is serving in such capacity
53 in a transient, occasional and incidental manner, shall not be entitled
54 to receive more than the actual and necessary expenses incurred in the
55 discharge of his or her duties.

1 f. The commission, with the approval of its co-chairs and subject to
2 guidelines submitted by the co-chairs and approved by the temporary
3 president of the senate and speaker of the assembly, may sell surveys,
4 data, copies of tabulations and other special statistical compilations
5 and materials to departments, agencies and other entities of federal,
6 state or local government, of foreign countries, and to public benefit
7 corporations, or other public, not-for-profit and private persons and
8 agencies, upon payment of fees at least sufficient to pay the actual or
9 estimated cost of such projects. In furtherance of such sale, the
10 commission, with the approval of its co-chairs, may execute contracts
11 for such purpose. Any contract executed heretofore by the commission,
12 without express statutory authorization, of a nature similar in import
13 as the contract for sale herein authorized is hereby validated, ratified
14 and confirmed as an exercise of the inherent power of such commission to
15 execute such contract. The co-chairs shall take such action as shall be
16 necessary to assure that any survey, data, tabulation, special statis-
17 tical compilation or material made available for sale shall not identify
18 the name of any corporation, company, association, firm, partnership,
19 proprietorship, society, joint stock company, individual, or other
20 organization or entity.

21 g. The commission shall engage in such research studies and other
22 activities as its co-chairs may deem necessary or appropriate in the
23 preparation and formulation of a redistricting plan for the next ensuing
24 redistricting of senate and assembly districts and congressional
25 districts of the state and in the utilization of census and other demo-
26 graphic and statistical data for policy analysis, program development
27 and program evaluation purposes for the legislature.

28 h. Moneys heretofore or hereafter received by or on behalf of the
29 commission from the sale of surveys, data, copies of tabulations and
30 other special statistical compilations and materials available to such
31 commission shall be deposited to the credit of the legislative computer
32 services fund established by section 97-uu of the state finance law.
33 The moneys hereby credited to such fund may be made available for the
34 commission and shall, when made available, be payable out of the state
35 treasury on the audit and warrant of the comptroller in the manner
36 provided by section 97-uu of the state finance law.

37 i. The co-chairs of the commission are hereby authorized and
38 empowered to make and sign any agreements in the name and on behalf of
39 the commission and to do and perform any acts that may be necessary,
40 desirable or proper to carry out the powers, purposes and objectives of
41 the commission and the provisions thereof.

42 j. The commission, with the approval of its co-chairs, may complete
43 any contract executed and conduct any business undertaken or commenced
44 by the commission pertaining to or connected with the redistricting and
45 readjustment or alteration of senate and assembly and congressional
46 districts prior to the enactment of these provisions into law, and the
47 same shall be completed and conducted in the same manner and under the
48 same terms and conditions and with the same effect as if completed and
49 conducted by the legislature or such commission.

50 k. The commission may hold public and private hearings and otherwise
51 have all of the powers of a legislative committee under this chapter.

52 l. The co-chairs of the commission may request and receive from any
53 court, department, division, board, bureau, commission or agency of the
54 state or any political subdivision thereof such assistance and data as
55 will enable the commission to properly carry out its powers and duties
56 hereunder.

1 m. Employees of the commission shall be considered to be employees of
2 the legislature for all purposes.

3 S 3. Criteria to be followed. a. All districts of a house of the
4 legislature shall be as nearly equal in population as is practical,
5 except as necessary to satisfy the requirements of subdivisions c, e and
6 f of this section, but the difference in population between the most and
7 least populous senate districts shall not exceed ten percent of the mean
8 population of all senate districts, and the difference in population
9 between the most and least populous assembly districts shall not exceed
10 ten percent of the mean population of all assembly districts. For any
11 contiguous group of senate or assembly districts, the percentage of the
12 total number of such districts contained within such group, and the
13 percentage of the total population of the state contained within such
14 group, both expressed as two-digit numbers followed by two-digit deci-
15 mals, shall not differ by an amount greater than 0.50. The populations
16 of any two senate or assembly districts adjoining within a county subdi-
17 vision, or, in New York city, within a county, shall not differ by an
18 amount greater than two percent of the mean population of such two
19 districts.

20 b. All congressional districts shall be as nearly equal in population
21 as is practicable.

22 c. Each district shall consist of contiguous territory; no district
23 shall consist of parts entirely separated by the territory of another
24 district of the same body, whether such territory be land or water,
25 populated or unpopulated. A populated census block shall not be divided
26 by a district boundary, unless it can be determined that the populated
27 part of such block is within a single district.

28 d. The whole number of persons reported in the federal decennial
29 census shall be the basis for determining populations for the purposes
30 of this act, except that, for the purpose of determining the populations
31 of senate and assembly districts, no person shall be deemed to have
32 gained or lost a residence by reason of conviction and incarceration in
33 a federal or state correctional facility.

34 e. Senate, assembly, or congressional districts shall not be estab-
35 lished that result in a denial to members of racial and linguistic
36 minority groups of an equal opportunity with other citizens to partic-
37 ipate in the political process and to elect the representatives of their
38 choice. The principles stated in subdivision f of this section shall be
39 used to create districts that will afford fair representation to the
40 members of those racial and linguistic minority groups who are suffi-
41 ciently numerous and whose residential patterns afford the opportunity
42 of creating districts in which they will be able to elect represen-
43 tatives of their choice.

44 f. Subject and subsidiary to the requirements of subdivisions a, b, c,
45 d and e of this section, the following principles shall be followed in
46 the creation of senate, assembly, and congressional districts. A princi-
47 ple with a lower number shall have precedence over a principle with a
48 higher number.

49 i. To the extent possible, counties shall not be divided in the forma-
50 tion of districts, except to create districts wholly within a county
51 pursuant to state law.

52 ii. Where possible, county subdivisions shall not be divided in the
53 formation of districts, except to create districts wholly within a coun-
54 ty subdivision. For the purposes of this act, a county subdivision shall
55 be a city (except for a city with a population of one million or more),
56 a town, or an Indian reservation whose territory is exclusive of the

territory of any city or town. To the extent possible, county subdivisions with larger populations shall be divided in preference to division of those with smaller populations.

iii. If a town must be divided, where possible, incorporated villages shall not be divided.

iv. Senate, assembly, and congressional districts shall be as compact in form as is possible. Plans of senate, assembly, or congressional districts shall be compared, using average numerical measures, for each such plan, of: (A) geographic dispersion, the degree to which the territory of districts is either tightly packed or widely spread out; (B) the relation of the perimeter lengths to the areas of districts; and (C) the dispersion of the populations of districts; but no measure shall be employed that is scale-sensitive, according different weight to the compactness of districts in rural, as compared with urban areas, or yielding different measures for identically shaped districts that differ only in absolute size.

v. To the extent possible, a senate, assembly, or congressional district shall unite communities defined by actual shared interests, taking account of geographic, social, economic, and other factors that indicate commonality of interest, and districts shall be formed so as to promote the orderly and efficient administration of elections.

vi. To the extent possible, the residences of two or more incumbent members of the same body shall not be placed in the same district of such body, and the residences of incumbent legislators and members of congress shall be included in the district with the largest number of their existing constituents, but the requirements of subdivisions a, b, c, d and e of this section, and of paragraphs i, ii, iii, iv and v of this subdivision, shall always take precedence over, and shall never be subordinated to, the requirements of this paragraph or the preservation of the cores of existing districts.

S 4. This act shall take effect immediately; provided, however, that the amendments to section 83-m of the legislative law made by section one of this act shall not affect the expiration and repeal of such section and shall expire and be deemed repealed therewith.