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I N   S E N A T E

May 19, 2010

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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 demographic 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 DEMOGRAPHIC 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  
28 to 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. Legislative advisory commission on redistricting and demographic  
27 research. a. There shall be a legislative advisory commission on redis-  
28 tricting and demographic research (the "commission") to draw senate,  
29 assembly and congressional districts, so that all the people of New York  
30 may be fairly represented. The commission shall consist of nine members.  
31 No person shall be a member of the commission who is not a registered  
32 voter in the state of New York, and who has not been, at the time of  
33 appointment, a resident of the state of New York for five years. No  
34 member of the senate or assembly, no member of congress, and no person  
35 holding judicial office, shall be a member of the districting commis-  
36 sion. The temporary president of the senate, the minority leader of the  
37 senate, the speaker of the assembly, and the minority leader of the  
38 assembly shall each appoint two members for a term of ten years commenc-  
39 ing on the first day of April of the year preceding the year in which  
40 the federal decennial census is taken, except that, if this act shall  
41 become effective after such date, the terms of the members shall  
42 commence as soon as possible. If a seat on the commission shall fall  
43 vacant, the officer of the legislature who appointed the original member  
44 shall appoint a member to complete the unexpired term; except that, if  
45 more than two members appointed by the officers of either house would  
46 then have been appointed by an officer of the same party, then the other  
47 officer of the same house shall appoint a member to fill the vacancy.  
48 The ninth member, who shall be the chair of the commission, shall be  
49 appointed by a vote of at least six of the other eight members, includ-  
50 ing at least one appointed by each appointing authority, to a term that  
51 shall expire at the same time as the terms of the other members.

52 b. The senate, assembly, and congressional districts shall be devel-  
53 oped by a vote of at least five members of the commission, including the  
54 affirmative vote of the chair of the commission. The plans of senate,  
55 assembly, and congressional districts developed by the commission shall  
56 be submitted to the legislature for enactment. The senate and assembly

1 districts shall be enacted into law no later than the last day of Janu-  
2 ary of the second year following the year in which the federal decennial  
3 census is taken. The commission shall issue a report explaining how the  
4 districts comply with the requirements of section three of this act.  
5 Congressional districts shall be enacted into law no later than the last  
6 day of March of the second year following the year in which the federal  
7 decennial census is taken. The commission shall at that time issue a  
8 report explaining how the districts comply with the requirements of  
9 section three of this act. The commission shall meet and make remedial  
10 adjustments to plans for congressional, assembly and senate districts  
11 should the legislature fail to adopt the commission's plan. Any such  
12 revised plans shall be submitted to the legislature for proper consider-  
13 ation. Such districts shall become effective for the next ensuing gener-  
14 al election of senators, assembly members, and members of congress. The  
15 senate, assembly and congressional districts shall remain unaltered  
16 until after the subsequent federal decennial census, except that, if an  
17 alteration of such districts shall be ordered by a court of competent  
18 jurisdiction, or if such districts shall be prevented from taking effect  
19 pursuant to this act or to any provision of the constitution and laws of  
20 the United States, the commission shall recommend necessary alterations  
21 to the legislature to provide a remedy. All votes of the commission  
22 shall be taken at public meetings, and the commission shall cause tran-  
23 scripts of all meetings and hearings, including all testimony submitted  
24 in writing, to be made publicly available. The commission shall promote  
25 informed public understanding of, and participation in, the process of  
26 redistricting, by such means as providing information to the public,  
27 holding hearings and adequate public comment before and after each plan  
28 is developed, and encouraging submission of proposals.

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

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

52 e. Each member of the commission shall be entitled to receive actual  
53 and necessary expenses incurred in the discharge of his duties and shall  
54 be entitled to compensation as determined by the chair within the appro-  
55 priations available therefor.

1 f. The commission, with the approval of its chair and subject to  
2 guidelines submitted by the chair and approved by the temporary presi-  
3 dent of the senate and speaker of the assembly, may sell surveys, data,  
4 copies of tabulations and other special statistical compilations and  
5 materials to departments, agencies and other entities of federal, state  
6 or local government, of foreign countries, and to public benefit corpo-  
7 rations, or other public, not-for-profit and private persons and agen-  
8 cies, 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 chair, may execute contracts for  
11 such purpose. Any contract executed heretofore by the commission, with-  
12 out express statutory authorization, of a nature similar in import as  
13 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 chair 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. Moneys heretofore or hereafter received by or on behalf of the  
22 commission from the sale of surveys, data, copies of tabulations and  
23 other special statistical compilations and materials available to such  
24 commission shall be deposited to the credit of the legislative computer  
25 services fund established by section 97-uu of the state finance law.  
26 The moneys hereby credited to such fund may be made available for the  
27 commission and shall, when made available, be payable out of the state  
28 treasury on the audit and warrant of the comptroller in the manner  
29 provided by section 97-uu of the state finance law.

30 h. The chair of the commission is hereby authorized and empowered to  
31 make and sign any agreements in the name and on behalf of the commission  
32 and to do and perform any acts that may be necessary, desirable or prop-  
33 er to carry out the powers, purposes and objectives of the commission  
34 and the provisions thereof.

35 i. The commission, with the approval of its chair, may complete any  
36 contract executed and conduct any business undertaken or commenced by  
37 the commission pertaining to or connected with the redistricting and  
38 readjustment or alteration of senate and assembly and congressional  
39 districts prior to the enactment of these provisions into law, and the  
40 same shall be completed and conducted in the same manner and under the  
41 same terms and conditions and with the same effect as if completed and  
42 conducted by the legislature or such commission.

43 j. The commission may hold public and private hearings and otherwise  
44 have all of the powers of a legislative committee under this chapter.

45 k. The chair of the commission may request and receive from any  
46 court, department, division, board, bureau, commission or agency of the  
47 state or any political subdivision thereof such assistance and data as  
48 will enable the commission to properly carry out its powers and duties  
49 hereunder.

50 l. Employees of the commission shall be considered to be employees of  
51 the legislature for all purposes.

52 S 3. Criteria to be followed. a. All districts of a house of the  
53 legislature shall be as nearly equal in population as is practical,  
54 except as necessary to satisfy the requirements of subdivisions c, e,  
55 and f of this section, but the difference in population between the most  
56 and least populous senate districts shall not exceed ten percent of the

1 mean population of all senate districts, and the difference in popu-  
2 lation between the most and least populous assembly districts shall not  
3 exceed ten percent of the mean population of all assembly districts. For  
4 any contiguous group of senate or assembly districts, the percentage of  
5 the total number of such districts contained within such group, and the  
6 percentage of the total population of the state contained within such  
7 group, both expressed as two-digit numbers followed by two-digit deci-  
8 mals, shall not differ by an amount greater than 0.50. The populations  
9 of any two senate or assembly districts adjoining within a county subdivi-  
10 sion, or, in a city with a population of one million or more, within a  
11 county, shall not differ by an amount greater than two percent of the  
12 mean population of such two districts.

13 b. All congressional districts shall be as nearly equal in population  
14 as is practicable.

15 c. Each district shall consist of contiguous territory; no district  
16 shall consist of parts entirely separated by the territory of another  
17 district of the same body, whether such territory be land or water,  
18 populated or unpopulated. A populated census block shall not be divided  
19 by a district boundary, unless it can be determined that the populated  
20 part of such block is within a single district.

21 d. The whole number of persons reported in the federal decennial  
22 census shall be the basis for determining populations for the purposes  
23 of this act, except that, for the purpose of determining the populations  
24 of senate and assembly districts, no person shall be deemed to have  
25 gained or lost a residence by reason of conviction and incarceration in  
26 a federal or state correctional facility.

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

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

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

45 ii. Where possible, county subdivisions shall not be divided in the  
46 formation of districts, except to create districts wholly within a coun-  
47 ty subdivision. For the purposes of this act, a county subdivision shall  
48 be a city (except for a city with a population of one million or more),  
49 a town, or an Indian reservation whose territory is exclusive of the  
50 territory of any city or town. To the extent possible, county subdivi-  
51 sions with larger populations shall be divided in preference to division  
52 of those with smaller populations.

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

55 iv. Senate, assembly, and congressional districts shall be as compact  
56 in form as is possible. Plans of senate, assembly, or congressional

1 districts shall be compared, using average numerical measures, for each  
2 such plan, of: (1) geographic dispersion, the degree to which the terri-  
3 tory of districts is either tightly packed or widely spread out, (2) the  
4 relation of the perimeter lengths to the areas of districts, and (3) the  
5 dispersion of the populations of districts; but no measure shall be  
6 employed that is scale-sensitive, according different weight to the  
7 compactness of districts in rural, as compared with urban areas, or  
8 yielding different measures for identically shaped districts that differ  
9 only in absolute size.

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

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

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