

5905--A

2015-2016 Regular Sessions

I N   A S S E M B L Y

March 6, 2015

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Introduced by M. of A. CROUCH -- read once and referred to the Committee on Governmental Operations -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY

proposing an amendment to sections 2 and 4 of article 3 of the constitution, in relation to Senate apportionment

1     Section 1. Resolved (if the Senate concur), That section 2 of article  
2     3 of the constitution be amended to read as follows:  
3     S 2. The senate shall consist of [fifty] SIXTY-TWO members[, except as  
4     hereinafter provided]. The senators elected in the year one thousand  
5     eight hundred and ninety-five shall hold their offices for three years,  
6     and their successors shall be chosen for two years. The assembly shall  
7     consist of one hundred and fifty members. The assembly members elected  
8     in the year one thousand nine hundred and thirty-eight, and their  
9     successors, shall be chosen for two years.  
10    S 2. Resolved (if the Senate concur), That section 4 of article 3 of  
11    the constitution be amended to read as follows:  
12    S 4. (a) Except as herein otherwise provided, the federal census taken  
13    in the year nineteen hundred thirty and each federal census taken decen-  
14    nially thereafter shall be controlling as to the number of inhabitants  
15    in the state or any part thereof for the purposes of the apportionment  
16    of members of assembly and readjustment or alteration of [senate and]  
17    assembly districts next occurring, in so far as such census and the  
18    tabulation thereof purport to give the information necessary therefor.  
19    The legislature, by law, shall provide for the making and tabulation by  
20    state authorities of an enumeration of the inhabitants of the entire  
21    state to be used for such purposes, instead of a federal census, if the  
22    taking of a federal census in any tenth year from the year nineteen  
23    hundred thirty be omitted or if the federal census fails to show the  
24    number of aliens or Indians not taxed. If a federal census, though  
25    giving the requisite information as to the state at large, fails to give  
26    the information as to any civil or territorial divisions which is

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

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1 required to be known for such purposes, the legislature, by law, shall  
2 provide for such an enumeration of the inhabitants of such parts of the  
3 state only as may be necessary, which shall supersede in part the feder-  
4 al census and be used in connection therewith for such purposes. The  
5 legislature, by law, may provide in its discretion for an enumeration by  
6 state authorities of the inhabitants of the state, to be used for such  
7 purposes, in place of a federal census, when the return of a decennial  
8 federal census is delayed so that it is not available at the beginning  
9 of the regular session of the legislature in the second year after the  
10 year nineteen hundred thirty or after any tenth year therefrom, or if an  
11 apportionment of members of assembly [and readjustment or alteration of  
12 senate] districts is not made at or before such a session. [At the regu-  
13 lar session in the year nineteen hundred thirty-two, and at the first  
14 regular session after the year nineteen hundred forty and after each  
15 tenth year therefrom the senate districts shall be readjusted or  
16 altered, but if, in any decade, counting from and including that which  
17 begins with the year nineteen hundred thirty-one, such a readjustment or  
18 alteration is not made at the time above prescribed, it shall be made at  
19 a subsequent session occurring not later than the sixth year of such  
20 decade, meaning not later than nineteen hundred thirty-six, nineteen  
21 hundred forty-six, nineteen hundred fifty-six, and so on; provided,  
22 however, that if such districts shall have been readjusted or altered by  
23 law in either of the years nineteen hundred thirty or nineteen hundred  
24 thirty-one, they shall remain unaltered until the first regular session  
25 after the year nineteen hundred forty. No town, except a town having  
26 more than a full ratio of apportionment, and no block in a city inclosed  
27 by streets or public ways, shall be divided in the formation of senate  
28 districts. In the reapportionment of senate districts, no district shall  
29 contain a greater excess in population over an adjoining district in the  
30 same county, than the population of a town or block therein adjoining  
31 such district. Counties, towns or blocks which, from their location, may  
32 be included in either of two districts, shall be so placed as to make  
33 said districts most nearly equal in number of inhabitants, excluding  
34 aliens.

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

40 (b) The independent redistricting commission established pursuant to  
41 section five-b of this article shall prepare a redistricting plan to  
42 establish [senate,] assembly, and congressional districts every ten  
43 years commencing in two thousand twenty-one, and shall submit to the  
44 legislature such plan and the implementing legislation therefor on or  
45 before January first or as soon as practicable thereafter but no later  
46 than January fifteenth in the year ending in two beginning in two thou-  
47 sand twenty-two. The redistricting plans for the assembly [and the  
48 senate] shall be [contained in and] voted upon by the legislature in a  
49 single bill, and the congressional district plan may be included in the  
50 same bill if the legislature chooses to do so. The implementing legis-  
51 lation shall be voted upon, without amendment, by the senate or the  
52 assembly and if approved by the first house voting upon it, such legis-  
53 lation shall be delivered to the other house immediately to be voted  
54 upon without amendment. If approved by both houses, such legislation  
55 shall be presented to the governor for action.

1 If either house shall fail to approve the legislation implementing the  
2 first redistricting plan, or the governor shall veto such legislation  
3 and the legislature shall fail to override such veto, each house or the  
4 governor if he or she vetoes it, shall notify the commission that such  
5 legislation has been disapproved. Within fifteen days of such notifica-  
6 tion and in no case later than February twenty-eighth, the redistricting  
7 commission shall prepare and submit to the legislature a second redis-  
8 tricting plan and the necessary implementing legislation for such plan.  
9 Such legislation shall be voted upon, without amendment, by the senate  
10 or the assembly and, if approved by the first house voting upon it, such  
11 legislation shall be delivered to the other house immediately to be  
12 voted upon without amendment. If approved by both houses, such legis-  
13 lation shall be presented to the governor for action.

14 If either house shall fail to approve the legislation implementing the  
15 second redistricting plan, or the governor shall veto such legislation  
16 and the legislature shall fail to override such veto, each house shall  
17 introduce such implementing legislation with any amendments each house  
18 of the legislature deems necessary. All such amendments shall comply  
19 with the provisions of this article. If approved by both houses, such  
20 legislation shall be presented to the governor for action.

21 All votes by the senate or assembly on any redistricting plan legis-  
22 lation pursuant to this article shall be conducted in accordance with  
23 the following rules:

24 (1) 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 (f) of section five-b of this article  
28 shall require the vote in support of its passage by at least a majority  
29 of the members elected to each house.

30 (2) In the event that the speaker of the assembly and the temporary  
31 president of the senate are members of two different political parties,  
32 approval of legislation submitted by the independent redistricting  
33 commission pursuant to subdivision (g) of section five-b of this article  
34 shall require the vote in support of its passage by at least sixty  
35 percent of the members elected to each house.

36 (3) In the event that the speaker of the assembly and the temporary  
37 president of the senate are members of the same political party,  
38 approval of legislation submitted by the independent redistricting  
39 commission pursuant to subdivision (f) or (g) of section five-b of this  
40 article shall require the vote in support of its passage by at least  
41 two-thirds of the members elected to each house.

42 (c) Subject to the requirements of the federal constitution and stat-  
43 utes and in compliance with state constitutional requirements, the  
44 following principles shall be used in the creation of [state senate and]  
45 state assembly districts and congressional districts:

46 (1) When drawing district lines, the commission shall consider whether  
47 such lines would result in the denial or abridgement of racial or  
48 language minority voting rights, and districts shall not be drawn to  
49 have the purpose of, nor shall they result in, the denial or abridgement  
50 of such rights. Districts shall be drawn so that, based on the totality  
51 of the circumstances, racial or minority language groups do not have  
52 less opportunity to participate in the political process than other  
53 members of the electorate and to elect representatives of their choice.

54 (2) To the extent practicable, districts shall contain as nearly as  
55 may be an equal number of inhabitants. For each district that deviates

1 from this requirement, the commission shall provide a specific public  
2 explanation as to why such deviation exists.

3 (3) Each district shall consist of contiguous territory.

4 (4) Each district shall be as compact in form as practicable.

5 (5) Districts shall not be drawn to discourage competition or for the  
6 purpose of favoring or disfavoring incumbents or other particular candi-  
7 dates or political parties. The commission shall consider the mainte-  
8 nance of cores of existing districts, of pre-existing political subdivi-  
9 sions, including counties, cities, and towns, and of communities of  
10 interest.

11 [(6) In drawing senate districts, towns or blocks which, from their  
12 location may be included in either of two districts, shall be so placed  
13 as to make said districts most nearly equal in number of inhabitants.  
14 The requirements that senate districts not divide counties or towns, as  
15 well as the 'block-on-border' and 'town-on-border' rules, shall remain  
16 in effect.]

17 During the preparation of the redistricting plan, the independent  
18 redistricting commission shall conduct not less than one public hearing  
19 on proposals for the redistricting of congressional and state legisla-  
20 tive districts in each of the following (i) cities: Albany, Buffalo,  
21 Syracuse, Rochester, and White Plains; and (ii) counties: Bronx, Kings,  
22 New York, Queens, Richmond, Nassau, and Suffolk. Notice of all such  
23 hearings shall be widely published using the best available means and  
24 media a reasonable time before every hearing. At least thirty days prior  
25 to the first public hearing and in any event no later than September  
26 fifteenth of the year ending in one or as soon as practicable thereaft-  
27 er, the independent redistricting commission shall make widely available  
28 to the public, in print form and using the best available technology,  
29 its draft redistricting plans, relevant data, and related information.  
30 Such plans, data, and information shall be in a form that allows and  
31 facilitates their use by the public to review, analyze, and comment upon  
32 such plans and to develop alternative redistricting plans for presenta-  
33 tion to the commission at the public hearings. The independent redis-  
34 tricting commission shall report the findings of all such hearings to  
35 the legislature upon submission of a redistricting plan.

36 (d) [The ratio for apportioning senators shall always be obtained by  
37 dividing the number of inhabitants, excluding aliens, by fifty, and the  
38 senate shall always be composed of fifty members, except that if any  
39 county having three or more senators at the time of any apportionment  
40 shall be entitled on such ratio to an additional senator or senators,  
41 such additional senator or senators shall be given to such county in  
42 addition to the fifty senators, and the whole number of senators shall  
43 be increased to that extent.]

44 The senate districts, including the present ones, as existing imme-  
45 diately before the enactment of a law readjusting or altering the senate  
46 districts, shall continue to be the senate districts of the state until  
47 the expirations of the terms of the senators then in office, except for  
48 the purpose of an election of senators for full terms beginning at such  
49 expirations, and for the formation of assembly districts.] ONE SENATOR  
50 SHALL BE APPORTIONED TO EACH COUNTY OF THE STATE HERETOFORE ESTABLISHED  
51 AND SEPARATELY ORGANIZED.

52 (e) The process for redistricting congressional and state [legisla-  
53 tive] ASSEMBLY districts established by this section and sections five  
54 and five-b of this article shall govern redistricting in this state  
55 except to the extent that a court is required to order the adoption of,  
56 or changes to, a redistricting plan as a remedy for a violation of law.

1 A reapportionment plan and the districts contained in such plan shall  
2 be in force until the effective date of a plan based upon the subsequent  
3 federal decennial census taken in a year ending in zero unless modified  
4 pursuant to court order.

5 S 3. Resolved (if the Senate concur), That the foregoing amendment be  
6 referred to the first regular legislative session convening after the  
7 next succeeding general election of members of the assembly, and, in  
8 conformity with section 1 of article 19 of the constitution, be  
9 published for 3 months previous to the time of such election.