

STATE OF NEW YORK

912

2017-2018 Regular Sessions

IN ASSEMBLY

January 9, 2017

Introduced by M. of A. CROUCH -- read once and referred to the Committee
on Governmental Operations

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 § 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 § 2. Resolved (if the Senate concur), That section 4 of article 3 of
11 the constitution be amended to read as follows:

12 § 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
27 required to be known for such purposes, the legislature, by law, shall

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

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

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

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

55 If either house shall fail to approve the legislation implementing the
56 first redistricting plan, or the governor shall veto such legislation

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

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

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

22 (1) In the event that the speaker of the assembly and the temporary
23 president of the senate are members of two different political parties,
24 approval of legislation submitted by the independent redistricting
25 commission pursuant to subdivision (f) of section five-b of this article
26 shall require the vote in support of its passage by at least a majority
27 of the members elected to each house.

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

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

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

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

52 (2) To the extent practicable, districts shall contain as nearly as
53 may be an equal number of inhabitants. For each district that deviates
54 from this requirement, the commission shall provide a specific public
55 explanation as to why such deviation exists.

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

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

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

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

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

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

41 ~~The senate districts, including the present ones, as existing imme-~~
42 ~~diately before the enactment of a law readjusting or altering the senate~~
43 ~~districts, shall continue to be the senate districts of the state until~~
44 ~~the expirations of the terms of the senators then in office, except for~~
45 ~~the purpose of an election of senators for full terms beginning at such~~
46 ~~expirations, and for the formation of assembly districts.]~~ One senator
47 shall be apportioned to each county of the State heretofore established
48 and separately organized.

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

54 A reapportionment plan and the districts contained in such plan shall
55 be in force until the effective date of a plan based upon the subsequent

1 federal decennial census taken in a year ending in zero unless modified
2 pursuant to court order.

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