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

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:

Section 1. Section 83-m of the legislative law, as added by chapter 141 of the laws of 1994, is amended to read as follows:

S 83-m. Legislative [task force on demographic research and reapportionment] ADVISORY COMMISSION ON REDISTRICTING AND LEGISLATIVE RESEARCH. [1.] The legislature hereby finds and declares that: (a) there is a need for intensive and thorough legislative study, research and inquiry into the techniques and methodology to be used by the bureau of the census of the United States commerce department in carrying out the decennial federal census; (b) a technical plan will be needed to meet the requirements of a legislative timetable for a [reapportionment] REDISTRICTING of the senate and assembly districts and the congressional districts of the state based on such census; and (c) the [task force] COMMISSION herein continued is necessary to assist the legislature in the performance of its responsibilities and in the conduct of legislative research projects relating thereto.

[2. The legislative task force on demographic research and reapportionment is hereby continued, consisting of six members of whom two shall be appointed by the temporary president of the senate, two by the speaker of the assembly and one each by the minority leader of the senate and the minority leader of the assembly. The appointments shall be of members of the respective houses of the legislature, except that one member appointed by the temporary president of the senate and one member appointed by the speaker of the assembly shall not be members of the legislature. A member of the senate appointed to the task force by

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

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

3. The task force shall engage in such research studies and other activities as its co-chairmen may deem necessary or appropriate in the preparation and formulation of a reapportionment plan for the next ensuing reapportionment of senate and assembly districts and congressional districts of the state and in the utilization of census and other demographic and statistical data for policy analysis, program development and program evaluation purposes for the legislature.

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

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

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

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

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

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

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

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

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

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

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

b. The senate, assembly, and congressional districts shall be developed by a vote of at least seven members of the commission. The plans of senate, assembly, and congressional districts developed by the commission shall be submitted to the legislature for enactment. The commission shall establish the senate and assembly districts no later than the last day of January of the second year following the year in which the federal decennial census is taken. The commission shall issue a report explaining how the districts comply with the requirements of section three of this act. Congressional districts shall be enacted into law no later than the last day of March of the second year following the year in which the federal decennial census is taken. The commission shall issue a report explaining how the districts comply with the requirements

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

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

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

e. Each member of the commission who is not a member of the legislature shall be entitled to receive actual and necessary expenses incurred in the discharge of his or her duties and shall be entitled to compensation as determined by the co-chairs within the appropriations available therefor, except that such member, who is serving in such capacity in a transient, occasional and incidental manner, shall not be entitled to receive more than the actual and necessary expenses incurred in the discharge of his or her duties.

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

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

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

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

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

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

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

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

S 3. Criteria to be followed. a. All districts of a house of the legislature shall be as nearly equal in population as is practical, except as necessary to satisfy the requirements of subdivisions c, e and f of this section, but the difference in population between the most and least populous senate districts shall not exceed ten percent of the mean population of all senate districts, and the difference in population between the most and least populous assembly districts shall not exceed ten percent of the mean population of all assembly districts. For any contiguous group of senate or assembly districts, the percentage of the total number of such districts contained within such group, and the percentage of the total population of the state contained within such group, both expressed as two-digit numbers followed by two-digit decimals, shall not differ by an amount greater than 0.50. The populations of any two senate or assembly districts adjoining within a county subdivision, or, in New York city, within a county, shall not differ by an amount greater than two percent of the mean population of such two districts.

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

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

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

e. Senate, assembly, or congressional districts shall not be established that result in a denial to members of racial and linguistic minority groups of an equal opportunity with other citizens to participate in the political process and to elect the representatives of their choice. The principles stated in subdivision f of this section shall be used to create districts that will afford fair representation to the members of those racial and linguistic minority groups who are sufficiently numerous and whose residential patterns afford the opportunity of creating districts in which they will be able to elect representatives of their choice.

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

i. To the extent possible, counties shall not be divided in the formation of districts, except to create districts wholly within a county pursuant to state law.

ii. Where possible, county subdivisions shall not be divided in the formation of districts, except to create districts wholly within a county subdivision. For the purposes of this act, a county subdivision shall be a city (except for a city with a population of one million or more), 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.