STATE OF NEW YORK

36

2017-2018 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 4, 2017

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

AN ACT to amend the legislative law, in relation to apportionment of congressional, senate and assembly districts; and to repeal section 83-m of such law relating to the legislative task force on demographic research and reapportionment

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 3 of section 5-a of the legislative law, as added by chapter 630 of the laws of 1998, the opening paragraph as amended by section 1 of part S of chapter 57 of the laws of 2016, is amended to read as follows:

3. Any member of the assembly serving in a special capacity in a position set forth in the following schedule shall be paid the allowance set forth in such schedule only for the legislative term commencing January first, two thousand seventeen and terminating December thirty-first, two thousand eighteen:

ASSEMBLYMEN SERVING IN SPECIAL CAPACITY

Chairman of legislative commission on public management systems 12,500
Chairman of legislative commission on science and technology 12,500
Co-chairman of the legislative commission on water resource needs of New York state and Long Island ..... no allowance
[~~Co-chairman of the legislative task force on demographic research and reapportionment ..... 15,000~~]
Chairman of the assembly task force on farm,

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

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food and nutrition 12,500
Ranking minority member of the assembly task force
on farm, food and nutrition 9,000
Chairman of the legislative commission on skills
development and career education 12,500
Vice-Chairman of the legislative commission on the
development of rural resources 12,500

§ 2. Subdivision 5 of section 12 of the legislative law, as added by chapter 141 of the laws of 1994, is amended to read as follows:

5. Notwithstanding any provision of law to the contrary, services and expenses of the legislative health service, legislative library, legislative messenger service, legislative ethics committee, [~~joint operations of the legislative task force on demographic research and reapportionment~~] apportionment commission, and contributions to the national conference of state legislatures shall be payable after audit by and on the warrant of the comptroller upon vouchers certified by the temporary president of the senate or his or her designee and the speaker of the assembly or his or her designee.

§ 3. Section 83-m of the legislative law is REPEALED.

§ 4. The legislative law is amended by adding a new article 6-B to read as follows:

ARTICLE 6-B
APPORTIONMENT OF CONGRESSIONAL AND STATE LEGISLATIVE DISTRICTS

Section 95. Legislative intent.
96. Apportionment nominations committee.
97. Powers and duties of committee.
98. Apportionment commission.
99. Powers and duties of commission.
99-A. Apportionment.
99-B. Application of article.

§ 95. Legislative intent. The legislature hereby finds and declares that:

1. there is a need for intensive and thorough 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;

2. a technical plan will be needed to meet the requirements of a legislative timetable for a reapportionment of the senate and assembly districts and the congressional districts of the state based on such census; and

3. the apportionment commission is necessary to assist the legislature in the performance of its responsibilities and in the conduct of legislative research projects relating thereto.

§ 96. Apportionment nominations committee. 1. On or before the first of December of each year ending with a nine or as soon as possible after the effective date of this article, there shall be established an apportionment nominations committee to select those persons who shall be eligible to be appointed as members of the apportionment commission created in section ninety-eight of this article. Each such committee shall remain in existence until its duties pursuant to section ninety-seven of this article have been completed.

2. The apportionment nominations committee shall be composed of eight members, appointed as follows:

(a) two members shall be appointed by the temporary president of the senate;

(b) two members shall be appointed by the speaker of the assembly;

(c) two members shall be appointed by the minority leader of the senate; and

(d) two members shall be appointed by the minority leader of the assembly.

3. The apportionment nominations committee shall designate two co-chairs from among its members by a simple majority vote of all members.

4. The members of the apportionment nominations committee shall be registered voters in this state. No member of such committee shall:

(a) hold or have held within the previous two years an elected governmental office;

(b) hold or have held within the previous two years any other appointed governmental or political party position;

(c) be employed or have been employed within the previous two years in any other position by the United States Congress, the state legislature, the executive chamber, the unified court system or the federal court system;

(d) be or have been within the previous two years a registered lobbyist in this state pursuant to article one-A of this chapter;

(e) be the spouse of any member of the United States Congress, the state legislature, the executive chamber, the unified court system or the federal court system; or

(f) be related within the third degree of consanguinity to any member of the United States Congress, the state legislature, the executive chamber, the unified court system or the federal court system, or to the spouse of any such person.

5. The members of the apportionment nominations committee shall receive no compensation for their services, but shall be allowed their actual and necessary expenses incurred in the performance of their duties.

6. The members of the apportionment nominations committee shall be appointed and serve for the duration of such committee. All vacancies in the membership of such committee shall be filled in the manner provided for original appointments.

§ 97. Powers and duties of committee. 1. The apportionment nominations committee shall have the power and duty to, on or before the first of March in each year ending with a zero or as soon as possible after the effective date of this article, establish a list of forty persons who shall be eligible to be appointed as members of the apportionment commission. Such list shall hereinafter be referred to in this article as the "nominations pool".

2. The members of the apportionment nominations committee shall by majority vote select each person to be included in the nominations pool. Upon completion of such pool, such committee shall submit a copy of the nominations pool to the temporary president of the senate, the speaker of the assembly, the minority leader of the senate and the minority leader of the assembly.

3. The nominations pool shall include:

(a) fifteen persons who are enrolled as Democrats;

(b) fifteen persons who are enrolled as Republicans; and

(c) ten persons who are not enrolled as either Democrats or Republicans.

4. Persons selected to the nominations pool shall be registered voters in this state. No such person shall:

(a) hold or have held within the previous two years an elected governmental office;

(b) hold or have held within the previous two years any other appointed governmental or political party position;

(c) be a member of the apportionment nominations committee created in section ninety-six of this article;

(d) be employed or have been employed within the previous two years in any other position by the United States Congress, the state legislature, the executive chamber, the unified court system or the federal court system;

(e) be or have been within the previous two years a registered lobbyist in this state pursuant to article one-A of this chapter;

(f) be the spouse of any member of the United States Congress, the state legislature, the executive chamber, the unified court system or the federal court system; or

(g) be related within the third degree of consanguinity to any member of the United States Congress, the state legislature, the executive chamber, the unified court system or the federal court system, or to the spouse of any such person.

5. (a) The nominations pool shall include at least three persons from each of the following regions of the state, with the remainder to be nominated from such regions in proportion to the distribution of the state's population in each region:

(i) Long Island;

(ii) New York city;

(iii) Hudson Valley;

(iv) Northern;

(v) Central;

(vi) Southern tier; and

(vii) Western.

(b) For the purposes of this subdivision, the following regions shall be composed of the following counties;

(i) Long Island: the counties of Nassau and Suffolk;

(ii) New York city: the counties of Bronx, Kings, New York, Queens and Richmond;

(iii) Hudson Valley: the counties of Westchester, Rockland, Putnam, Orange, Dutchess, Ulster, Columbia, Greene, Rensselaer, Albany and Schenectady;

(iv) Northern: the counties of Saratoga, Washington, Warren, Essex, Clinton, Franklin, St. Lawrence, Hamilton, Fulton, Herkimer, Lewis and Jefferson;

(v) Central: the counties of Schoharie, Montgomery, Otsego, Chenango, Madison, Oneida, Oswego, Cortland, Onondaga and Cayuga;

(vi) Southern tier: the counties of Sullivan, Delaware, Broome, Tioga, Tompkins, Schuyler, Steuben, Allegany, Cattaraugus and Chautauqua; and

(vii) Western: the counties of Seneca, Yates, Ontario, Wayne, Monroe, Livingston, Wyoming, Genesee, Orleans, Niagara and Erie.

6. To the extent practicable, the apportionment nominations committee shall ensure that the nominations pool reflects the diversity of the residents of the state with regard to race, ethnicity and gender.

§ 98. Apportionment commission. 1. There shall be created an apportionment commission to assist the legislature in the reapportionment of congressional, senate and assembly districts based on the ensuing federal census, pursuant to section two of article one of the United States Constitution and sections four and five of article three of the state constitution.

2. The apportionment commission shall be composed of eleven members, appointed from the nominations pool as follows:

(a) two members shall be appointed by the temporary president of the senate;

(b) two members shall be appointed by the speaker of the assembly;

(c) two members shall be appointed by the minority leader of the senate;

(d) two members shall be appointed by the minority leader of the assembly; and

(e) three members shall be appointed, on or before the thirtieth day after a vacancy in any such position occurs, by the eight members appointed pursuant to paragraphs (a) through (d) of this subdivision by a vote of not less than six members in favor of each such appointment, and each vacancy in any position filled pursuant to this paragraph shall be deemed to create vacancies in all three positions held by the members so appointed; provided that any such member may be reappointed pursuant to this paragraph. In the event that three members are not appointed on or before the thirtieth day after a vacancy in any such position occurs if:

(i) two persons are appointed with the required six votes and no other person receives six votes, the third such member shall be appointed by the chief judge of the court of appeals within thirty days thereafter;

(ii) one person is appointed with the required six votes and no two other persons receive six votes, the two persons receiving the most votes shall be appointed as members; and

(iii) no three persons receive six votes, the two persons receiving the most votes shall be appointed as members and the third member shall be appointed by the chief judge of the court of appeals.

(f) The chair shall be designated, from among the three members appointed pursuant to paragraph (e) of this subdivision, by a simple majority vote of all members of the commission; provided that if the commission fails to designate a chair, the chair shall be designated by the chief judge of the court of appeals.

3. (a) No more than four members of the apportionment commission shall be enrolled in the same political party.

(b) To the extent practicable, the members of the apportionment commission shall reflect the diversity of the residents of this state with regard to race, ethnicity, gender and geographic residence.

4. The terms of the members of the apportionment commission shall expire upon the filing of all apportionment plans, pursuant to subdivision four, five and/or six of section ninety-nine-A of this article, the exhaustion of any judicial review of an apportionment plan and apportionment statute, and the implementation of an apportionment statute. Vacancies in the membership of the commission shall be filled in the manner provided for original appointments.

5. The members of the apportionment commission and all employees thereof shall be deemed to be legislative employees.

6. The members of the apportionment commission shall receive no compensation for their services, but shall be allowed their actual and necessary expenses incurred in the performance of their duties pursuant to this article.

7. A minimum of eight members of the apportionment commission shall constitute a quorum for the transaction of any business or the exercise of any power of such commission, provided that no exercise of any power of the apportionment commission shall occur without the affirmative vote of seven members thereof.

§ 99. Powers and duties of commission. The apportionment commission shall have the power and duty to:

1. Employ and at pleasure remove such personnel as it may deem necessary for the performance of its functions and fix their compensation within the amounts made available therefor;

2. Meet within and without the state, hold public hearings and have all the powers of a legislative committee pursuant to this chapter;

3. Request, receive and utilize such facilities, resources and data (including, but not limited to, historical voting information and patterns) of any department, division, board, bureau, commission or agency of the state or any political subdivision thereof as it may reasonably request to properly carry out its powers and duties pursuant to this article;

4. Acquire and utilize all materials and equipment necessary to establish apportionment plans pursuant to section ninety-nine-A of this article;

5. Prepare the necessary descriptions for the geographic units of the state for use by the federal Census Bureau in reporting decennial federal census data;

6. Engage in such research studies and other activities as 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;

7. 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 apportionment commission may execute contracts for such purpose;

8. Prepare maps of cities, towns and counties of the state for describing congressional, senate and assembly districts, and prepare apportionment plans and legislation; and

9. Make available to the public in print form and in electronic form on the internet, using the best available technology, all apportionment plans, relevant data and mapmaking software used to prepare such plans, information on the members of the apportionment commission and all other relevant information derived from the operation of this article.

§ 99-A. Apportionment. 1. The apportionment commission shall, upon receipt of the federal decennial census for the state, begin to establish a plan for the apportionment of congressional, senate and assembly districts in the state.

2. The following requirements and principles shall be applied in establishing a plan for such districts:

(a) all congressional districts shall be as nearly equal in population as is practicable.

(b) 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.

(c) senate, assembly, or congressional districts shall not be established that are intended to or result in a denial or abridgement of minority voting rights including the opportunity of minority voters to participate in the political process, and to elect the candidates of their choice.

(d) senate, assembly, or congressional districts shall not be drawn with an intent to favor or oppose any political party, any incumbent federal or state legislator, or any previous or presumed candidate for office.

(e) subject to the requirements of paragraphs (a), (b), (c) and (d) of this subdivision, the following principles shall be followed in the creation of senate, assembly, and congressional districts to the extent practicable. A principle with a lower number shall have precedence over a principle with a higher number.

(i) The most and least populous senate districts shall not exceed or be lower than the mean population of all senate districts by more than one percent, and the most and least populous assembly districts shall not exceed or be lower than the mean population of all assembly districts by more than one percent. In no event shall the commission advantage any region of the state over any other by creating multiple districts therein exceeding, or lower than, the mean population by more than one percent.

(ii) Counties shall not be divided in the formation of districts, except to create districts wholly within a county. Where such division of counties is unavoidable, more populous counties shall be divided in preference to the division of less populous counties.

(iii) 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 article, a county subdivision shall be a city, except the city of New York, a town, or an Indian reservation whose territory is exclusive of the territory of any city or town. County subdivisions with larger populations shall be divided in preference to the division of those with smaller populations.

(iv) Incorporated villages shall not be divided in the formation of districts.

(v) The senate, assembly, and congressional districts shall be as compact in form as possible.

(vi) 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.

3. During the preparation of the apportionment plan, the apportionment commission shall conduct not less than one public hearing on proposals for the apportionment of congressional and state legislative districts in each of the following (a) cities: Albany, Buffalo, Syracuse, Rochester, Glen Cove, and White Plains; and (b) counties: Bronx, Kings, New York, Queens and Richmond. Public notice of all such hearings shall be widely published by the apportionment commission in advance through all available means. To the extent practicable, all such hearings and the proceedings of the apportionment commission shall be televised. The apportionment commission shall report the findings of all such hearings to the legislature upon submission of the apportionment plan pursuant to paragraph (a) of subdivision four of this section.

4. (a) On or before the fifteenth of May in each year ending with a one or within sixty days of receiving the federal decennial census for

the state, whichever is later, the apportionment commission shall submit to the legislature and disseminate to the public an apportionment plan for all congressional and state legislative districts, along with the legislation necessary to implement such plan. Upon receipt of such plan, the implementing legislation therefor shall be introduced in both houses of the legislature without any amendments within five days.

(b) On or before the first of June following the dissemination of the apportionment plan to the public, the apportionment commission shall conduct not less than one public hearing on such apportionment plan in each of the cities and counties delineated in paragraphs (a) and (b) of subdivision three of this section, and shall report the findings of all such hearings to the legislature.

(c) The legislation introduced pursuant to paragraph (a) of this subdivision shall be voted upon, without amendment, by both such houses of the legislature within seven days after the apportionment commission reports the findings of its public hearing to the legislature. If approved, the legislature shall forward such legislation to the governor within five days.

5. If (a) either house shall fail to approve the legislation submitted pursuant to subdivision four of this section within twenty-one days of its submission, or (b) the governor shall veto such legislation and the legislature shall fail to override such veto within fifteen days of such veto, the apportionment commission shall hold an open hearing within fifteen days of said failure to pass the legislation as in paragraph (a) of this subdivision or failure to override the governor's veto as in paragraph (b) of this subdivision at which the speaker and minority leader of the assembly and the temporary president and minority leader of the senate, or each of their designees shall testify as to the reasons that the legislation did not become law, and members of the public will also be invited to testify. Within fifteen days of such hearing, the apportionment commission shall establish and submit to the legislature a second apportionment plan and the necessary implementing legislation for such plan. Upon receipt of such second plan, the implementing legislation therefor shall be introduced in both houses of the legislature without any amendments within five days. Such legislation shall be voted upon, without amendment, by both such houses within twenty-one days, but not sooner than seven days, after its introduction. If approved, the legislature shall forward such legislation to the governor within five days.

6. If (a) either house shall fail to approve the legislation submitted pursuant to subdivision five of this section within twenty-one days of its submission, or (b) the governor shall veto such legislation and the legislature fails to override such veto the apportionment commission shall hold an open hearing within fifteen days of said failure to pass the legislation as in paragraph (a) of this subdivision or failure to override the governor's veto as in paragraph (b) of this subdivision at which the speaker and minority leader of the assembly and the temporary president and minority leader of the senate, or each of their designees shall testify as to the reasons that the legislation did not become law, and members of the public will also be invited to testify. Within fifteen days of such hearing, the apportionment commission shall establish and submit to the legislature a third apportionment plan and the necessary implementing legislation for such plan. Upon receipt of such third plan, the implementing legislation with any amendments the legislature shall deem necessary shall be introduced in both houses of the legislature within five days. All such amendments shall comply with the

provisions of subdivision two of this section. Such legislation shall be voted upon by both such houses within twenty-one days, but not sooner than seven days, after its introduction. If approved, the legislature shall forward such legislation to the governor within five days.

§ 99-B. Application of article. 1. The process for apportionment of congressional and state legislative districts established by this article shall be the exclusive means by which such apportionment shall be completed in this state. Every apportionment of congressional or state legislative districts performed in violation of the provisions of this article shall be void. In any proceeding relating to apportionment of congressional or state legislative districts, the court shall implement the plan that best serves the requirements of subdivision two of section ninety-nine-A of this article.

2. An apportionment statute shall remain in full force and effect until a subsequent apportionment statute, based upon the succeeding decennial federal census, takes effect, unless modified pursuant to court order.

§ 5. This act shall take effect immediately.