

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

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

10 5. Notwithstanding any provision of law to the contrary, services and
11 expenses of the legislative health service, legislative library, legis-
12 lative messenger service, legislative ethics committee, [~~joint oper-~~
13 ~~ations of the legislative task force on demographic research and reap-~~
14 ~~portionment~~] apportionment commission, and contributions to the national
15 conference of state legislatures shall be payable after audit by and on
16 the warrant of the comptroller upon vouchers certified by the temporary
17 president of the senate or his or her designee and the speaker of the
18 assembly or his or her designee.

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 Section 83-m of the legislative law is REPEALED.

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

22 ARTICLE 6-B

23 APPORTIONMENT OF CONGRESSIONAL 24 AND STATE LEGISLATIVE DISTRICTS

25 Section 95. Legislative intent.

26 96. Apportionment nominations committee.

27 97. Powers and duties of committee.

28 98. Apportionment commission.

29 99. Powers and duties of commission.

30 99-A. Apportionment.

31 99-B. Application of article.

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

34 1. there is a need for intensive and thorough study, research and
35 inquiry into the techniques and methodology to be used by the bureau of
36 the census of the United States commerce department in carrying out the
37 decennial federal census;

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

42 3. the apportionment commission is necessary to assist the legislature
43 in the performance of its responsibilities and in the conduct of legis-
44 lative research projects relating thereto.

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

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

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

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

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

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

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

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

11 (a) hold or have held within the previous two years an elected govern-
12 mental office;

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

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

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

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

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

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

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

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

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

49 3. The nominations pool shall include:

50 (a) fifteen persons who are enrolled as Democrats;

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

52 (c) ten persons who are not enrolled as either Democrats or Republi-
53 cans.

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

1 (a) hold or have held within the previous two years an elected govern-
2 mental office;

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

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

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

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

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

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

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

24 (i) Long Island;

25 (ii) New York city;

26 (iii) Hudson Valley;

27 (iv) Northern;

28 (v) Central;

29 (vi) Southern tier; and

30 (vii) Western.

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

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

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

36 (iii) Hudson Valley: the counties of Westchester, Rockland, Putnam,
37 Orange, Dutchess, Ulster, Columbia, Greene, Rensselaer, Albany and Sche-
38 nectady;

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

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

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

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

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

51 § 98. Apportionment commission. 1. There shall be created an appor-
52 tionment commission to assist the legislature in the reapportionment of
53 congressional, senate and assembly districts based on the ensuing feder-
54 al census, pursuant to section two of article one of the United States
55 Constitution and sections four and five of article three of the state
56 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.

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

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

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

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

14 4. Acquire and utilize all materials and equipment necessary to estab-
15 lish apportionment plans pursuant to section ninety-nine-A of this arti-
16 cle;

17 5. Prepare the necessary descriptions for the geographic units of the
18 state for use by the federal Census Bureau in reporting decennial feder-
19 al census data;

20 6. Engage in such research studies and other activities as necessary
21 or appropriate in the preparation and formulation of a reapportionment
22 plan for the next ensuing reapportionment of senate and assembly
23 districts and congressional districts of the state and in the utiliza-
24 tion of census and other demographic and statistical data for policy
25 analysis, program development and program evaluation purposes for the
26 legislature;

27 7. Sell surveys, data, copies of tabulations and other special statis-
28 tical compilations and materials to departments, agencies and other
29 entities of federal, state or local government, of foreign countries,
30 and to public benefit corporations, or other public, not-for-profit and
31 private persons and agencies, upon payment of fees at least sufficient
32 to pay the actual or estimated cost of such projects. In furtherance of
33 such sale, the apportionment commission may execute contracts for such
34 purpose;

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

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

43 § 99-A. Apportionment. 1. The apportionment commission shall, upon
44 receipt of the federal decennial census for the state, begin to estab-
45 lish a plan for the apportionment of congressional, senate and assembly
46 districts in the state.

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

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

51 (b) each district shall consist of contiguous territory; no district
52 shall consist of parts entirely separated by the territory of another
53 district of the same body, whether such territory be land or water,
54 populated or unpopulated. A populated census block shall not be divided
55 by a district boundary, unless it can be determined that the populated
56 part of such block is within a single district.

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

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

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

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

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

27 (iii) County subdivisions shall not be divided in the formation of
28 districts, except to create districts wholly within a county subdivi-
29 sion. For the purposes of this article, a county subdivision shall be a
30 city, except the city of New York, a town, or an Indian reservation
31 whose territory is exclusive of the territory of any city or town. Coun-
32 ty subdivisions with larger populations shall be divided in preference
33 to the division of those with smaller populations.

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

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

38 (vi) A senate, assembly, or congressional district shall unite commu-
39 nities defined by actual shared interests, taking account of geographic,
40 social, economic, and other factors that indicate commonality of inter-
41 est, and districts shall be formed so as to promote the orderly and
42 efficient administration of elections.

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

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

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

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

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

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

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

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

5 § 99-B. Application of article. 1. The process for apportionment of
6 congressional and state legislative districts established by this arti-
7 cle shall be the exclusive means by which such apportionment shall be
8 completed in this state. Every apportionment of congressional or state
9 legislative districts performed in violation of the provisions of this
10 article shall be void. In any proceeding relating to apportionment of
11 congressional or state legislative districts, the court shall implement
12 the plan that best serves the requirements of subdivision two of section
13 ninety-nine-A of this article.

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

18 § 5. This act shall take effect immediately.