

# STATE OF NEW YORK

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6461

2019-2020 Regular Sessions

## IN ASSEMBLY

March 7, 2019

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

### CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY

proposing amendments to section 4 and section 5-a of article 3 of the constitution, in relation to the number of senators and the apportionment of senate districts

1 Section 1. Resolved (if the Senate concur), That sections 4 and 5-a of  
2 article 3 of the constitution be amended to read as follows:

3 § 4. (a) Except as herein otherwise provided, the federal census taken  
4 in the year nineteen hundred thirty and each federal census taken decen-  
5 nially thereafter shall be controlling as to the number of inhabitants  
6 in the state or any part thereof for the purposes of the apportionment  
7 of members of assembly [~~and readjustment or alteration of senate and~~  
8 ~~assembly~~] districts next occurring, in so far as such census and the  
9 tabulation thereof purport to give the information necessary therefor.  
10 The legislature, by law, shall provide for the making and tabulation by  
11 state authorities of an enumeration of the inhabitants of the entire  
12 state to be used for such purposes, instead of a federal census, if the  
13 taking of a federal census in any tenth year from the year nineteen  
14 hundred thirty be omitted or if the federal census fails to show the  
15 number of aliens or Indians not taxed. If a federal census, though  
16 giving the requisite information as to the state at large, fails to give  
17 the information as to any civil or territorial divisions which is  
18 required to be known for such purposes, the legislature, by law, shall  
19 provide for such an enumeration of the inhabitants of such parts of the  
20 state only as may be necessary, which shall supersede in part the feder-  
21 al census and be used in connection therewith for such purposes. The  
22 legislature, by law, may provide in its discretion for an enumeration by  
23 state authorities of the inhabitants of the state, to be used for such  
24 purposes, in place of a federal census, when the return of a decennial  
25 federal census is delayed so that it is not available at the beginning  
26 of the regular session of the legislature in the second year after the

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

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1 year nineteen hundred thirty or after any tenth year therefrom, or if an  
2 apportionment of members of assembly and readjustment or alteration of  
3 senate districts is not made at or before such a session. At the regular  
4 session in the year nineteen hundred thirty-two, and at the first regu-  
5 lar session after the year nineteen hundred forty and after each tenth  
6 year therefrom the senate districts shall be readjusted or altered, but  
7 if, in any decade, counting from and including that which begins with  
8 the year nineteen hundred thirty-one, such a readjustment or alteration  
9 is not made at the time above prescribed, it shall be made at a subse-  
10 quent session occurring not later than the sixth year of such decade,  
11 meaning not later than nineteen hundred thirty-six, nineteen hundred  
12 forty-six, nineteen hundred fifty-six, and so on; provided, however,  
13 that if such districts shall have been readjusted or altered by law in  
14 either of the years nineteen hundred thirty or nineteen hundred thirty-  
15 one, they shall remain unaltered until the first regular session after  
16 the year nineteen hundred forty.

~~[No town, except a town having more than a full ratio of apportionment, and no block in a city inclosed by streets or public ways, shall be divided in the formation of senate districts. In the reapportionment of senate districts, no district shall contain a greater excess in population over an adjoining district in the same county, than the population of a town or block therein adjoining such district. Counties, towns or blocks which, from their location, may be included in either of two districts, shall be so placed as to make said districts most nearly equal in number of inhabitants, excluding aliens.]~~

~~No county shall have four or more senators unless it shall have a full ratio for each senator. No county shall have more than one third of all the senators, and no two counties or the territory thereof as now organized, which are adjoining counties, or which are separated only by public waters, shall have more than one half of all the senators.]~~ Each county of the state, regardless of population, shall be represented by one senator. Senate districts shall be apportioned as one senator per county.

34 (b) The independent redistricting commission established pursuant to  
35 section five-b of this article shall prepare a redistricting plan to  
36 establish ~~[senate]~~<sup>7</sup> assembly<sup>7</sup> and congressional districts every ten  
37 years commencing in two thousand twenty-one, and shall submit to the  
38 legislature such plan and the implementing legislation therefor on or  
39 before January first or as soon as practicable thereafter but no later  
40 than January fifteenth in the year ending in two beginning in two thou-  
41 sand twenty-two. The redistricting plans for the assembly ~~[and the~~  
42 ~~senate]~~ shall be contained in and voted upon by the legislature in a  
43 single bill, and the congressional district plan may be included in the  
44 same bill if the legislature chooses to do so. The implementing legis-  
45 lation shall be voted upon, without amendment, by the senate or the  
46 assembly and if approved by the first house voting upon it, such legis-  
47 lation shall be delivered to the other house immediately to be voted  
48 upon without amendment. If approved by both houses, such legislation  
49 shall be presented to the governor for action.

50 If either house shall fail to approve the legislation implementing the  
51 first redistricting plan, or the governor shall veto such legislation  
52 and the legislature shall fail to override such veto, each house or the  
53 governor if he or she vetoes it, shall notify the commission that such  
54 legislation has been disapproved. Within fifteen days of such notifica-  
55 tion and in no case later than February twenty-eighth, the redistricting  
56 commission shall prepare and submit to the legislature a second redis-

1 tricting plan and the necessary implementing legislation for such plan.  
2 Such legislation shall be voted upon, without amendment, by the senate  
3 or the assembly and, if approved by the first house voting upon it, such  
4 legislation shall be delivered to the other house immediately to be  
5 voted upon without amendment. If approved by both houses, such legis-  
6 lation shall be presented to the governor for action.

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

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

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

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

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

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

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

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

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

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

53 (5) Districts shall not be drawn to discourage competition or for the  
54 purpose of favoring or disfavoring incumbents or other particular candi-  
55 dates or political parties. The commission shall consider the mainte-  
56 nance of cores of existing districts, of pre-existing political subdivi-

sions, including counties, cities, and towns, and of communities of interest.

(6) ~~[In drawing senate districts, towns or blocks which, from their location may be included in either of two districts, shall be so placed as to make said districts most nearly equal in number of inhabitants. The requirements that senate districts not divide counties or towns, as well as the 'block-on-border' and 'town-on-border' rules, shall remain in effect.]~~ Each senate district shall be solely comprised of one county in its entirety. The number of senate districts shall be consistent with the number of counties within the state.

During the preparation of the redistricting plan, the independent redistricting commission shall conduct not less than one public hearing on proposals for the redistricting of congressional and state legislative districts in each of the following (i) cities: Albany, Buffalo, Syracuse, Rochester, and White Plains; and (ii) counties: Bronx, Kings, New York, Queens, Richmond, Nassau, and Suffolk. Notice of all such hearings shall be widely published using the best available means and media a reasonable time before every hearing. At least thirty days prior to the first public hearing and in any event no later than September fifteenth of the year ending in one or as soon as practicable thereafter, the independent redistricting commission shall make widely available to the public, in print form and using the best available technology, its draft redistricting plans, relevant data, and related information. Such plans, data, and information shall be in a form that allows and facilitates their use by the public to review, analyze, and comment upon such plans and to develop alternative redistricting plans for presentation to the commission at the public hearings. The independent redistricting commission shall report the findings of all such hearings to the legislature upon submission of a redistricting plan.

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

The senate districts, including the present ones, as existing immediately before the enactment of a law readjusting or altering the senate districts, shall continue to be the senate districts of the state until the expirations of the terms of the senators then in office, except for the purpose of an election of senators for full terms beginning at such expirations, and for the formation of assembly districts.

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

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

§ 5-a. For the purpose of apportioning ~~[senate and]~~ assembly districts pursuant to the foregoing provisions of this article, the term "inhabitants, excluding aliens" shall mean the whole number of persons.

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