

STATE OF NEW YORK

1867

2021-2022 Regular Sessions

IN ASSEMBLY

January 11, 2021

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 GGG of chapter 59 of the laws of 2018, 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 nineteen and terminating December thirty-first, two thousand twenty:

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, food and nutrition	12,500
Ranking minority member of the assembly task force	

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

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1 on farm, food and nutrition 9,000
2 Chairman of the legislative commission on skills
3 development and career education 12,500
4 Vice-Chairman of the legislative commission on the
5 development of rural resources 12,500

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

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

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 Section 83-m of the legislative law is REPEALED.

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

20 ARTICLE 6-B

21 APPORTIONMENT OF CONGRESSIONAL 22 AND STATE LEGISLATIVE DISTRICTS

23 Section 95. Legislative intent.

24 96. Apportionment nominations committee.

25 97. Powers and duties of committee.

26 98. Apportionment commission.

27 99. Powers and duties of commission.

28 99-A. Apportionment.

29 99-B. Application of article.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

48 3. The nominations pool shall include:

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

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

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

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

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

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

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

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

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

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

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

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

22 (i) Long Island;

23 (ii) New York city;

24 (iii) Hudson Valley;

25 (iv) Northern;

26 (v) Central;

27 (vi) Southern tier; and

28 (vii) Western.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

44 5. The members of the apportionment commission and all employees ther-
45 eof shall be deemed to be legislative employees.

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

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

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

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

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

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

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

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

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

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

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

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

41 § 99-A. Apportionment. 1. The apportionment commission shall, upon
42 receipt of the federal decennial census for the state, begin to estab-
43 lish a plan for the apportionment of congressional, senate and assembly
44 districts in the state.

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

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

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

55 (c) senate, assembly, or congressional districts shall not be estab-
56 lished that are intended to or result in a denial or abridgement of

1 minority voting rights including the opportunity of minority voters to
2 participate in the political process, and to elect the candidates of
3 their choice.

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

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

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

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

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

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

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

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

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

53 4. (a) On or before the fifteenth of May in each year ending with a
54 one or within sixty days of receiving the federal decennial census for
55 the state, whichever is later, the apportionment commission shall submit
56 to the legislature and disseminate to the public an apportionment plan

1 for all congressional and state legislative districts, along with the
2 legislation necessary to implement such plan. Upon receipt of such plan,
3 the implementing legislation therefor shall be introduced in both houses
4 of the legislature without any amendments within five days.

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

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

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

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

1 than seven days, after its introduction. If approved, the legislature
2 shall forward such legislation to the governor within five days.

3 § 99-B. Application of article. 1. The process for apportionment of
4 congressional and state legislative districts established by this arti-
5 cle shall be the exclusive means by which such apportionment shall be
6 completed in this state. Every apportionment of congressional or state
7 legislative districts performed in violation of the provisions of this
8 article shall be void. In any proceeding relating to apportionment of
9 congressional or state legislative districts, the court shall implement
10 the plan that best serves the requirements of subdivision two of section
11 ninety-nine-A of this article.

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

16 § 5. This act shall take effect immediately.