

**SENATE CONCURRENT
RESOLUTION No. 43**

**STATE OF NEW JERSEY
218th LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 2018 SESSION

Sponsored by:

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

SYNOPSIS

Proposes constitutional amendment to change legislative Apportionment Commission membership; establishes new requirements on commission for process and legislative district composition.

CURRENT VERSION OF TEXT

As introduced.



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1 A CONCURRENT RESOLUTION proposing to amend Article IV,
2 Section III, paragraphs 1 and 2 of the Constitution of the State of
3 New Jersey.

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5 BE IT RESOLVED by the Senate of the State of New Jersey (the
6 General Assembly concurring):

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8 1. The following proposed amendment to the Constitution of
9 the State of New Jersey is hereby agreed to:

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PROPOSED AMENDMENT

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13 Amend Article IV, Section III, paragraphs 1 and 2 to read as
14 follows:

15 1. After the next and every subsequent decennial census of the
16 United States, the Senate districts and Assembly districts shall be
17 established, and the senators and members of the General Assembly
18 shall be apportioned among them, by an Apportionment
19 Commission consisting of **ten** 13 members **[, five to be]** . Twelve
20 of the members shall be appointed as follows: two members
21 appointed by **the** each chairman of the State committee of each of
22 the two major political parties whose candidates for Governor
23 receive the largest number of votes at the most recent gubernatorial
24 election; two members appointed by the President of the Senate;
25 two members appointed by the Speaker of the General Assembly;
26 two members appointed by the Minority Leader of the Senate; and
27 two members appointed by the Minority Leader of the General
28 Assembly. The Chief Justice of the Supreme Court of New Jersey
29 shall appoint the 13th member of the Commission. Each **State**
30 chairman **person**, in making such appointments, shall give due
31 consideration to the representation of the various geographical areas
32 of the State and to ethnic, gender, and racial diversity.
33 **Appointments** All appointments to the Commission shall be made
34 on or before November 15 of the year in which such census is taken
35 and shall be certified by the Secretary of State on or before
36 December 1 of that year. **The Commission, by a majority of the**
37 **whole number of its members, shall certify the establishment of**
38 **Senate and Assembly districts and the apportionment of senators**
39 **and members of the General Assembly to the Secretary of State**
40 **within one month of the receipt by the Governor of the official**
41 **decennial census of the United States for New Jersey, or on or**
42 **before February 1 of the year following the year in which the**
43 **census is taken, whichever date is later.**

44 (cf: Art. IV, Sec. III, par. 1; amended effective December 8, 1966)

EXPLANATION – Matter enclosed in bold-faced brackets **thus** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 2. **【If the Apportionment Commission fails so to certify such**
2 establishment and apportionment to the Secretary of State on or
3 before the date fixed or if prior thereto it determines that it will be
4 unable so to do, it shall so certify to the Chief Justice of the
5 Supreme Court of New Jersey and he shall appoint an eleventh
6 member of the Commission.】 a. The Commission so constituted, by
7 a majority of the whole number of its members, shall at a public
8 meeting, within 【one month】 ~~two months~~ after the 【appointment of
9 such eleventh member】 receipt by the Governor of the official
10 decennial census of the United States for New Jersey, certify to the
11 Secretary of State the establishment of Senate and Assembly
12 districts and the apportionment of members of the Senate and
13 members of the General Assembly.

14 b. Within the two-month period following the receipt by the
15 Governor of the official decennial census of the United States for
16 New Jersey, the Commission shall hold at least three public
17 hearings in different parts of the State at times and locations
18 convenient to the public. The Commission shall establish a
19 website, to be administered by the Office of Legislative Services, or
20 its successor, starting on January 1 of the year following the year in
21 which the census is taken. By January 1, the website shall describe,
22 in plain language, the process of the Commission; provide the total
23 votes received in each municipality by candidates in all Statewide
24 general elections in the preceding decade for the offices of United
25 States President, United States Senator, and Governor; and provide
26 a process for members of the public to submit written plans for the
27 establishment of legislative districts and more general comments to
28 the Commission. The website shall also provide access to the
29 transcripts and recordings of the public hearings and the materials
30 submitted to the Commission, and provide such other information
31 as the Commission deems appropriate. The Commission shall
32 provide the public with at least 48 hours' notice on the website of
33 the public meeting of the Commission at which a plan is certified to
34 establish legislative districts, including with the notice the final
35 proposed plan of legislative districts produced by each political
36 party, and shall provide the public an opportunity to comment at the
37 public meeting.

38 c. The Commission shall only certify a plan to establish
39 legislative districts that ensures fair representation such that each of
40 the two major political parties has an equal number of districts more
41 favorable to that party. A district shall be more favorable to a
42 political party if the percentage of total votes received in that
43 district in all Statewide general elections by that party over the
44 preceding decade for the offices of United States President, United
45 States Senator, and Governor exceeds the percentage of total votes
46 that party received in the average district in the plan, weighting
47 each district equally.

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1 d. The Commission shall only certify a plan to establish
2 legislative districts that ensures that at least 25 percent of all
3 districts are competitive districts, which shall mean a district that is
4 more favorable to either major political party by no more than five
5 percentage points of the average district in the plan. For each
6 competitive district in which the percentage of total votes for a
7 major political party exceeds that party's percentage of total votes
8 in the average district, there shall be a corresponding district in
9 which that party's percentage of total votes is less than the other
10 major party's percentage of total votes in the average district by
11 approximately the same percentage.

12 e. In certifying a plan, the provisions of subparagraphs c. and
13 d. of this paragraph shall supersede all other considerations, except
14 that the Commission, in all circumstances, shall only certify a plan
15 in which all districts comply with federal law, including but not
16 limited to any requirements on population deviation and of the
17 Voting Rights Act or any successor act, all districts are comprised
18 of contiguous territory, and all districts comply with the limitations
19 on division of municipalities set forth in Article IV, Section II,
20 paragraph 3 of this Constitution.

21 f. In deciding among multiple plans that meet the provisions of
22 subparagraphs c., d., and e. of this paragraph, the Commission shall
23 consider which plan best preserves communities of interest within
24 the same district. A community of interest shall mean a
25 geographically contiguous population sharing common interests
26 relevant to the legislative process such as trade areas,
27 communication and transportation networks, media markets, or
28 social, cultural, or economic interests.

29 (cf: Art. IV, Sec. III, par. 2; amended effective December 8, 1966)

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31 2. When this proposed amendment to the Constitution is finally
32 agreed to pursuant to Article IX, paragraph 1 of the Constitution, it
33 shall be submitted to the people at the next general election
34 occurring more than three months after the final agreement and
35 shall be published at least once in at least one newspaper of each
36 county designated by the President of the Senate, the Speaker of the
37 General Assembly and the Secretary of State, not less than three
38 months prior to the general election.

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40 3. This proposed amendment to the Constitution shall be
41 submitted to the people at that election in the following manner and
42 form:

43 There shall be printed on each official ballot to be used at the
44 general election, the following:

45 a. In every municipality in which voting machines are not used,
46 a legend which shall immediately precede the question as follows:

47 If you favor the proposition printed below make a cross (X), plus
48 (+), or check (√) in the square opposite the word "Yes." If you are

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1 opposed thereto make a cross (X), plus (+) or check (✓) in the
2 square opposite the word "No."

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4 b. In every municipality the following question:

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YES	<p style="text-align: center;">CONSTITUTIONAL AMENDMENT REQUIRING STANDARDS AND A PUBLIC PROCESS IN ESTABLISHING LEGISLATIVE DISTRICTS</p> <p>Do you approve changing the Constitution to change the membership of the Apportionment Commission, require public hearings, and set standards for the way it creates legislative districts?</p> <p>Do you approve adding to the commission an independent member at the beginning of the process, and changing who appoints some of the members?</p> <p>Do you approve requiring the commission to provide information to and take comments from the public? The amendment would also require the commission to hold at least three public hearings.</p> <p>Do you approve requiring the commission to establish districts that are competitive and fairly represent voter preferences? This amendment would also require preserving communities of interest within the same district.</p>
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NO	<p style="text-align: center;">INTERPRETIVE STATEMENT</p> <p>Districts for the New Jersey Legislature are established by the Apportionment Commission every 10 years after the federal national census is taken. This ensures that each district has approximately the same number of people.</p> <p>This amendment to the Constitution would increase from 11 to 13 the number of members of the commission. This amendment would require an independent member of the commission to be appointed from the start of the process by the Chief Justice of the Supreme Court. This amendment would require each of the leaders of both major parties in the Senate and General Assembly to appoint two members. Presently, all the members are appointed by the chairs of the two major political parties. Under this amendment, each chair would appoint two members.</p> <p>The members of the commission would be appointed with regard to ethnic, gender, and racial diversity, as well as geographical diversity which is already required.</p> <p>This amendment would require the commission to hold at least three public hearings in different parts of the State. The commission would also be required to provide information to the public, and accept district plans and comments from the public.</p> <p>This amendment would require the commission to vote to establish the legislative districts at a public meeting. The commission would be required to take comments from the public at that meeting.</p> <p>This amendment would prohibit creating a plan in which more than half of the districts favor either major political party compared to the average district. It also would require at least 25 percent of the districts to be competitive. The amendment would also require communities of interest within districts to be preserved.</p> <p>This amendment would require districts to comply with federal law and be comprised of contiguous territory. This amendment requires the districts to follow the limit on dividing municipalities already set forth in the Constitution.</p>
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STATEMENT

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This proposed constitutional amendment would increase the membership of the Legislative Apportionment Commission and impose certain requirements on the process and composition of the districts established by the commission for the New Jersey Legislature. Every ten years after the federal national census, the commission uses information from the census to establish new legislative districts. The commission does this to ensure that each district has approximately the same number of people.

This constitutional amendment would increase the number of members of the commission from 11 to 13 members. Currently, the chairs of the State Committees of the two major political parties each appoint five members to the commission, and an 11th independent member is appointed by the Chief Justice of the New Jersey Supreme Court if the commission cannot complete its work. This constitutional amendment would require the chairs of both State Committees to each appoint two members to the commission. This amendment would also require the four legislative leaders from both major political parties to each appoint two members. The legislative leaders are the President of the Senate, the Speaker of the General Assembly, the Minority Leader of the Senate, and the Minority Leader of the General Assembly. The Chief Justice of the Supreme Court of New Jersey would appoint the 13th member at the beginning of the process. Members would be appointed with due consideration to geographic, ethnic, gender, and racial diversity.

Within that two-month period, the commission would be required to hold at least three public hearings, in different parts of the State and at times and locations convenient to the public. The commission would establish a website, to be administered by the Office of Legislative Services, a nonpartisan State agency, to inform the public about the commission's work. This website would also allow members of the public to submit plans and comments. The commission would be required to provide at least 48 hours' notice of the public meeting at which a plan is certified to establish legislative districts, including notice of the final proposed plan of legislative districts produced by each political party. The commission would be required to certify the new legislative districts at a public meeting. The public would be given an opportunity to comment.

The commission would be required to certify a plan establishing legislative districts that ensures fair representation. This means that each of the two major political parties is required to have an equal number of districts more favorable to that party, utilizing standards for fair representation originally established by Dr. Donald E. Stokes when he served as the independent member of the commission in both 1981 and 1991. Dr. Stokes described these

1 standards in “Legislative Redistricting by the New Jersey Plan,”
2 published in 1993 by the Fund for New Jersey. A district would be
3 more favorable to a political party if the percentage of total votes
4 received in all Statewide general elections by that party for the
5 offices of United States President, United States Senator, and
6 Governor exceeds the percentage of total votes received by that
7 party in the average district in the plan.

8 The commission would be required to certify a plan with at least
9 25 percent competitive districts. A competitive district would be
10 described as a district within five percentage points of the average
11 district in the plan. For each competitive district in which a major
12 political party’s percentage of total votes exceeds that party’s
13 percentage of votes in the average district, there would be required
14 to be a corresponding district in which that party’s percentage of
15 total votes is less than the average district by approximately the
16 same amount.

17 Under the bill, all districts must comply with federal law, in all
18 circumstances, including but not limited to the requirements on
19 population deviation and of the Voting Rights Act or any successor
20 act, and be comprised of contiguous territory. Districts are required
21 to meet the limitations on the division of municipalities as already
22 set forth in Article IV, Section II, paragraph 3 of the New Jersey
23 Constitution.

24 In deciding among multiple plans that meet the preceding
25 requirements, the commission would be required to consider which
26 plan best preserves communities of interest within each district.