

**SENATE CONCURRENT
RESOLUTION No. 152**

**STATE OF NEW JERSEY
218th LEGISLATURE**

INTRODUCED NOVEMBER 26, 2018

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.



SCR152 SCUTARI, SWEENEY

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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:

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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 within one month of the receipt by the Governor of the official
2 decennial census of the United States for New Jersey, or on or
3 before February 1 of the year following the year in which the
4 census is taken, whichever date is later.】

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

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

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

44 c. The Commission shall only certify a plan to establish
45 legislative districts that ensures fair representation such that each of
46 the two major political parties has an equal number of districts more
47 favorable to that party. A district shall be more favorable to a

1 political party if the percentage of the combined two-major-party
2 votes received in that district in all Statewide general elections by
3 that party over the preceding decade for the offices of United States
4 President, United States Senator, and Governor exceeds the
5 Statewide percentage of the combined two-major-party votes that
6 party received in those elections. A major political party's
7 percentage of the combined two-major-party votes shall be
8 calculated by dividing the number of votes received by that political
9 party by the combined total number of votes received by the two
10 major political parties.

11 d. The Commission shall only certify a plan to establish
12 legislative districts that enhances competitiveness by ensuring that
13 at least 25 percent of all districts are more favorable to either major
14 political party by no more than five percentage points of the
15 average Statewide percentage of the combined two-major-party
16 votes received in all Statewide general elections by that party over
17 the preceding decade for the offices of United States President,
18 United States Senator, and Governor. For each such district
19 included in the foregoing in which the percentage of the combined
20 two-major-party votes for a major political party exceeds that
21 party's percentage of the combined two-major-party votes in those
22 Statewide elections, there shall be a corresponding district in which
23 that party's percentage of the combined two-major-party votes is
24 less than the other major party's percentage of the combined two-
25 major-party votes in the Statewide elections by approximately the
26 same percentage. A major political party's percentage of the
27 combined two-major-party votes shall be calculated by dividing the
28 number of votes received by that political party by the combined
29 total number of votes received by the two major political parties.

30 e. The Commission, in all circumstances, shall only certify a
31 plan in which all districts comply with federal law, including but
32 not limited to any requirements on population deviation and of the
33 Voting Rights Act or any successor act, all districts are comprised
34 of contiguous territory, and all districts comply with the limitations
35 on division of municipalities set forth in Article IV, Section II,
36 paragraph 3 of this Constitution.

37 f. The Commission shall only certify a plan that best preserves
38 communities of interest within the same district. A community of
39 interest shall mean a geographically contiguous population sharing
40 common interests relevant to the legislative process such as trade
41 areas, communication and transportation networks, media markets,
42 or social, cultural, or economic interests.

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

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45 2. When this proposed amendment to the Constitution is finally
46 agreed to pursuant to Article IX, paragraph 1 of the Constitution, it
47 shall be submitted to the people at the next general election
48 occurring more than three months after the final agreement and

SCR152 SCUTARI, SWEENEY

1 shall be published at least once in at least one newspaper of each
2 county designated by the President of the Senate, the Speaker of the
3 General Assembly and the Secretary of State, not less than three
4 months prior to the general election.

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6 3. This proposed amendment to the Constitution shall be
7 submitted to the people at that election in the following manner and
8 form:

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

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

13 If you favor the proposition printed below make a cross (X), plus
14 (+), or check (✓) in the square opposite the word "Yes." If you are
15 opposed thereto make a cross (X), plus (+) or check (✓) in the
16 square opposite the word "No."

17 b. In every municipality the following question:

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	YES	<p>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 that at least two members of the public serve on the commission?</p> <p>Do you approve requiring that at least four legislators serve on the commission?</p> <p>Do you approve barring governmental affairs agents from serving on the commission?</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 fairly represent voter party preferences in Presidential, United States Senate, and gubernatorial elections in the previous 10 years and to require at least one quarter of those districts to be within five percent of the party average of Statewide election results? This amendment would also require that the commission only certify a plan that best preserves 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 10 to 13 the number of members of the commission required to be appointed. The 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, at least one of whom will be a legislator. Presently, all the members are appointed by the chairs of the two major political parties. Under this amendment, each chair would appoint two members, at least one of whom will be a member of the public. This will result in at least two members of the public serving on the commission.</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. The amendment would prohibit a governmental affairs agent from serving as a member of the commission.</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 require the commission to establish districts that fairly represent voter party preferences in Presidential, United States Senate, and gubernatorial elections over the previous 10 years and enhance competitiveness by requiring at least one quarter of those districts to be within five percent of the Statewide average in those elections. The amendment would also require that the commission only certify a plan that best preserves communities of interest within districts.</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

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

1 Legislature. Every ten years after the federal national census, the
2 commission uses information from the census to establish new
3 legislative districts. The commission does this to ensure that each
4 district has approximately the same number of people.

5 This constitutional amendment would increase the number of
6 members of the commission from 10 to 13 members. Currently, the
7 chairs of the State Committees of the two major political parties
8 each appoint five members to the commission, and an 11th
9 independent member is appointed by the Chief Justice of the New
10 Jersey Supreme Court if the commission cannot complete its work.
11 This constitutional amendment would require the chairs of both
12 State Committees to each appoint two members to the commission.
13 At least one of each of those appointments will be a member of the
14 public. This would result in at least two members of the public
15 serving on the commission. The amendment would also require the
16 four legislative leaders from both major political parties to each
17 appoint two members. At least one of each of those appointments
18 will be a member of the Legislature, providing that at least four
19 members of the Legislature will serve on the commission. The
20 legislative leaders are the President of the Senate, the Speaker of
21 the General Assembly, the Minority Leader of the Senate, and the
22 Minority Leader of the General Assembly. The Chief Justice of the
23 Supreme Court of New Jersey would appoint the 13th member at
24 the beginning of the process. Members would be appointed with due
25 consideration to geographic, ethnic, gender, and racial diversity,
26 and governmental affairs agents would not be permitted to serve on
27 the commission.

28 Within that two-month period, the commission would be
29 required to hold at least three public hearings, in different parts of
30 the State and at times and locations convenient to the public. The
31 commission would establish a website, to be administered by the
32 Office of Legislative Services, a nonpartisan State agency, to
33 inform the public about the commission's work. This website
34 would also allow members of the public to submit plans and
35 comments. The commission would be required to provide at least
36 48 hours' notice of the public meeting at which a plan is certified to
37 establish legislative districts, including notice of the final proposed
38 plan of legislative districts produced by each political party. The
39 commission would be required to certify the new legislative
40 districts at a public meeting. The public would be given an
41 opportunity to comment.

42 The commission would be required to certify a plan establishing
43 legislative districts that ensures fair representation. This means that
44 each of the two major political parties is required to have an equal
45 number of districts more favorable to that party, utilizing standards
46 for fair representation originally established by Dr. Donald E.
47 Stokes when he served as the independent member of the
48 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 the combined
4 two-major-party votes received in that district in all Statewide
5 general elections by that party over the last 10 years for the offices
6 of United States President, United States Senator, and Governor
7 exceeds the Statewide percentage of the combined two-major-party
8 votes received by that party in those elections. A major political
9 party’s percentage of the combined two-major-party votes will be
10 calculated by dividing the number of votes received by that political
11 party by the combined total number of votes received by the two
12 major political parties.

13 The commission would be required to certify a plan to establish
14 legislative districts that enhances the competitiveness by ensuring
15 that at least 25 percent all districts are more favorable to either
16 major political party by no more than five percentage points of the
17 average Statewide percentage of the combined two-major-party
18 votes received in all Statewide general elections by that party over
19 the preceding decade for the offices of United States President,
20 United States Senator, and Governor. Of those districts included
21 therein, for each district in which the percentage of the combined
22 two-major-party votes for a party exceeds that party’s percentage of
23 the combined two-major-party votes in those Statewide elections,
24 there will be a corresponding district in which that party’s
25 percentage of the combined votes is less than the other major
26 party’s percentage of the combined votes in the Statewide elections
27 by approximately the same percentage.

28 Under the resolution, all districts must comply with federal law,
29 in all circumstances, including but not limited to the requirements
30 on population deviation and of the Voting Rights Act or any
31 successor act, and be comprised of contiguous territory. Districts
32 are required to meet the limitations on the division of municipalities
33 as already set forth in Article IV, Section II, paragraph 3 of the New
34 Jersey Constitution. The commission may only certify a plan that
35 best preserves communities of interest within the same district.