

## CHAPTER 198

**AN ACT** requiring the counting of an incarcerated individual at the individual's residential address for municipal, county, and congressional redistricting purposes and for the apportionment of regional school district board of education members, amending N.J.S.18A:13-8 and P.L.2017, c.45, and supplementing P.L.2019, c.385 (C.52:4-1.1 et seq.).

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

C.52:4-1.6 Reporting of certain data to the Apportionment Commission.

1. a. Upon reporting the data determined under section 4 of P.L.2019, c.385 (C.52:4-1.4) to the members of the Apportionment Commission pursuant to section 5 of P.L.2019, c.385 (C.52:4-1.5), the Secretary of State shall also report the same to the members of the New Jersey Redistricting Commission established under Article II, Section II, paragraphs 1 through 9 of the New Jersey Constitution and P.L.1991, c.510 (C.19:46-6 et seq.) for the establishment of congressional districts; to the members of each county district commission for the establishment of the county districts under section 121 of P.L.1972, c.154 (C.40:41A-121); to the members of each ward commission for the establishment of the municipal wards under section 7 of P.L.1981, c.496 (C.40:44-15), and to each entity responsible for the apportionment of the members of each board of education of a regional school district pursuant to the provisions of N.J.S.18A:13-8, and sections 1 and 3 of P.L.2017, c.45 (C.18A:13-34a and C.18A:13-46.1, respectively).

b. Notwithstanding the provisions of any law, rule, or regulation to the contrary, the data prepared by the secretary under section 4 of P.L.2019, c.385 (C.52:4-1.4), together with data provided by the bureau pursuant to Pub.L.94-171 (13 U.S.C. s.141), shall be the basis of the congressional districts established by the New Jersey Redistricting Commission, of county districts established by each county district commission, and of municipal wards established by each municipal ward commission. To the greatest extent practicable, congressional districts, county districts, and municipal wards shall be drawn so as to meet equal population requirements calculated under both data sets. Residences at unknown geographic locations within the State described in section 4 of P.L.2019, c.385 (C.52:4-1.4) shall not be used to determine the ideal population of any set of districts or wards.

c. Notwithstanding the provisions of any law, rule, or regulation to the contrary, the data prepared by the secretary under section 4 of P.L.2019, c.385 (C.52:4-1.4) shall be the basis of the apportionment of the members of each board of education of a regional school district pursuant to chapter 13 of Title 18A of the New Jersey Statutes. Residences at unknown geographic locations within the State described in section 4 of P.L.2019, c.385 (C.52:4-1.4) shall not be used to determine the apportionment of each board of education of a regional school district.

2. N.J.S.18A:13-8 is amended to read as follows:

Boards of education of regional districts.

18A:13-8. The board of education of a regional district shall consist of nine members unless it consists of more than nine constituent districts, in which case the membership shall be the same as the number of constituent districts, plus one. Except as otherwise provided pursuant to section 1 or section 3 of P.L.2017, c.45 (C.18A:13-34a or C.18A:13-46.1), if there are nine or less constituent districts, the members of the board of education of the regional district shall be apportioned by the executive county superintendent or executive county superintendents of the county or counties in which the constituent districts are situate, among said districts as nearly as

may be according to the number of their inhabitants except that each constituent district shall have at least one member.

In making the apportionment of the membership of a regional board of education among the several school districts uniting to create a regional school district having nine or less constituent districts, as required by section 18A:13-36, there shall be subtracted from the number of inhabitants of a constituent school district, as shown by the last federal census officially promulgated in this State as reported by the Secretary of State pursuant to section 1 of P.L.2021, c.198 (C.52:4-1.6), the number of such inhabitants who according to the records of the Federal Bureau of the Census were patients in any State or federal hospital, or who are military personnel stationed at, or civilians residing within the limits of, any United States Army, Navy or Air Force installation, located in such constituent school district.

Except as otherwise provided pursuant to section 1 or section 3 of P.L.2017, c.45 (C.18A:13-34a or C.18A:13-46.1), if there are more than nine constituent districts, the members on the board shall be apportioned among the constituent districts and the weight of their votes in all proceedings of the board shall be determined by the appropriate executive county superintendent or superintendents through the following procedure:

a. The number of inhabitants of each constituent district shall be determined as shown by the last federal census officially promulgated in this State as reported by the Secretary of State pursuant to section 1 of P.L.2021, c.198 (C.52:4-1.6).

b. A representative ratio shall be calculated by adding the number of inhabitants of all constituent districts and dividing the sum by the board size.

c. All constituent districts shall be listed in ascending order of their number of inhabitants. If the first constituent district in said list has a number of inhabitants which is less than the representative ratio, it shall be combined with the constituent district contiguous to it having the smallest number of inhabitants. This process shall be repeated for each successively larger constituent district or combination of constituent districts until all remaining constituent districts or combinations of constituent districts shall have a number of inhabitants equal to, or exceeding the representative ratio. The districts formed in this manner shall be known as representative districts.

d. There shall be established a priority list according to the method of equal proportions for the apportionment of the members of the regional district board of education among the representative districts.

e. The members of the regional district board of education shall be apportioned among the representative districts according to the method of equal proportions, and where a representative district is composed of more than one constituent district, members shall be elected at large from within the representative district.

f. The number of inhabitants of each representative district shall be divided by the number of members assigned to that district to find the number of inhabitants per member.

g. The vote to be cast by each member of the regional district board of education in all proceedings of the board shall be determined by dividing the number of inhabitants per member in the representative district from which the member is elected by the representative ratio for the regional district, and rounding off the quotient to the nearest tenth of a full vote.

Wherever any statute or bylaw of the board requires decision in any matter by vote of a majority of the board members, or of the members present, this shall be interpreted as meaning a majority of the weighted votes of all members, or of the members present, as the case may be.

h. Whenever the above reapportionment procedure is used for a regional district having more than nine constituent districts, the terms of office of all incumbent board of education members shall terminate on the day on which the annual organization meeting of the board is

held pursuant to N.J.S.18A:13-12 following certification by the executive county superintendent of the representative districts and the number of members to be elected from each; provided, that if the reapportionment results in any representative district retaining its former boundaries and the same number of board members, that the members elected from such a district shall serve the full term for which they were elected. All other board members shall be elected in an election to be held on the date of the annual school election at least 60 days following certification by the executive county superintendent for initial terms of office to be designated in advance by the executive county superintendent so that, as nearly as possible, one-third of the board shall be elected in each future year, to serve for three-year terms, and where a representative district has more than one member, their terms of office shall terminate in different years.

If any constituent district is a consolidated district, or a district composed of two or more municipalities, and

a. The original district is a limited purpose regional district and such constituent district has such population that it is entitled to have apportioned to it a number of members equal to or greater than the number of districts making up such constituent district, or

b. The regional district is an all purpose district, the membership of the regional board of education from such district shall be apportioned, and from time to time reapportioned, and the members from the district shall be elected, as their respective terms expire, in the same manner as though each of the municipalities making up such constituent district were constituent districts of the regional district.

3. Section 1 of P.L.2017, c.45 (C.18A:13-34a) is amended to read as follows:

C.18A:13-34a Board of education for newly created regional district.

1. Notwithstanding any section of law to the contrary, the boards of education proposing to form a newly created regional school district may by resolution frame and adopt a proposal to calculate and apportion the membership of the board of education of the newly created regional district other than in accordance with the provisions of N.J.S.18A:13-8. If the commissioner approves the alternative apportionment, then that alternative apportionment shall be included in the consultation, study, and investigation conducted pursuant to N.J.S.18A:13-34 to determine whether it is advisable for school districts to form a newly created regional school district. If the commissioner or his representative determines that it is advisable for such districts to form a newly created regional school district, and the question of whether or not the proposal to create a regional district is submitted to the voters pursuant to N.J.S.18A:13-34, and the proposal is adopted by the voters pursuant to N.J.S.18A:13-35, then the members of the board of education of the regional district shall be elected in accordance with such alternate apportionment. Notwithstanding any provision of this section to the contrary, the last federal census officially promulgated in this State as reported by the Secretary of State pursuant to section 1 of P.L.2021, c.198 (C.52:4-1.6) shall be the basis for apportionment under this section.

4. Section 3 of P.L.2017, c.45 (C.18A:13-46.1) is amended to read as follows:

C.18A:13-46.1 Apportionment of membership of enlarged district board of education.

3. a. Notwithstanding the provisions of any section of law to the contrary, the board of education of a regional district and the board or boards of education of one or more local districts determined to enlarge the regional school district may by resolution frame and adopt a proposal to calculate and apportion the membership of the enlarged board of education other than in accordance with the provisions of N.J.S.18A:13-8 and N.J.S.18A:13-36. If the commissioner

approves the alternative apportionment, then that alternative apportionment shall be included in the consultation, study, and investigation conducted pursuant to N.J.S.18A:13-43 to determine whether it is advisable to enlarge the regional school district to include the local district or districts therein. If the commissioner or his representative determines that it is advisable to enlarge the regional school district to include the local district or districts therein, and the question of whether or not the proposal to enlarge the regional district is submitted to the voters pursuant to N.J.S.18A:13-43, and the proposal is adopted by the voters pursuant to N.J.S.18A:13-44, then the members of the enlarged board of education of the regional district shall be elected in accordance with the alternate apportionment.

For an enlarged regional district with a board of education apportioned pursuant to this section, the executive county superintendent of the county in which any new constituent district of an enlarged regional district is situate shall, not later than 30 days after the election for the enlargement thereof, appoint one member of the enlarged board of education of the regional district from among the qualified citizens of each new constituent district, and the members so appointed shall serve until the first Monday succeeding the first annual April school election of the enlarged regional district. In the case of a regional district in which the annual school election is in November, the members so appointed shall serve until the first week in January next succeeding the first annual November school election of the enlarged regional district.

b. The commissioner shall reapportion the membership of the enlarged board of education in accordance with the alternative apportionment determined pursuant to this section, and shall designate the number of members to be elected from each constituent school district. All members of the board of education of the enlarged regional district shall be elected in accordance with the alternative apportionment at the next annual school election after the election to enlarge the regional district.

c. The commissioner shall allocate the initial elective terms for the first elective members of the enlarged board in the following manner:

(1) In regional districts having nine members, three members shall be elected for three years, three for two years and three for one year, which terms shall be allocated to the constituent districts to the extent of apportioned membership on the regional board of education, starting with the allocation of the terms of three years, by allocating one of such terms to each of the constituent districts in the alphabetical order of the names of such districts, and continuing then still in such order with allocation of the terms of two years and with allocation of the terms of one year.

(2) In regional districts in which there are more than nine constituent school districts, the allocation for the tenth district shall be a term of three years, for the eleventh district a term of two years, and for the twelfth district a term of one year, with continuation of such rotation until provision has been made for allocation of the terms to all districts.

d. Notwithstanding any provision of this section to the contrary, the last federal census officially promulgated in this State as reported by the Secretary of State pursuant to section 1 of P.L.2021, c.198 (C.52:4-1.6) shall be the basis for apportionment under this section.

5. This act shall take effect immediately.

Approved August 20, 2021.