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NEW YORK CONSTITUTIONAL AMENDMENT ON REDISTRICTING

ON THE BALLOT FOR NOVEMBER 2, 2021: S.515

INTRODUCTION

- On November 2, New York voters will be asked to approve a constitutional amendment reforming the state's redistricting process.
- If the amendment is approved, the changes will take effect on January 1, 2022.
- The amendment addresses census data delays created by the pandemic and accommodates New York's change from a September primary to a June primary for federal and state elections.

CHANGES: NUMBER OF STATE SENATORS

- The bill amends Section 2 Article 3 of the New York State Constitution to set the number of State Senators at 63. This language now creates a fixed number, preventing changes to the number of state senators.
- This is a change from language currently providing that the state senate shall consist of fifty members, with provision for adding seats after each census.

ENUMERATION FAILURES BY THE FEDERAL CENSUS

- The bill also changes the language to state that in the case that the federal census fails to show the total number of inhabitants of the entire state, including the number of non-citizens and Native Americans, the state must count all residents and base the state assembly, state senate, and congressional district lines on the total population.

RE-ENUMERATION OF INCARCERATED PERSON POPULATIONS

- The amendment would require re-enumeration of prison populations for all redistricting plans.
- To the extent practicable, all incarcerated persons shall be re-numerated to their place of last residence for the purpose of drawing district lines.
- If a federal census fails to provide enumeration and identification of incarcerated persons, the appropriate state agencies shall provide information sufficient to re-enumerate incarcerated persons to their place of the last residence for the purposes of drawing district lines, no later than September first of the year ending in one.

CHANGES TO THE TIMELINE FOR REDISTRICTING BY THE IRC

- Taking into account pandemic-related disruptions to the 2020 census and that the amendment cannot take effect until January 1, 2022, Section 1 amends the New York State Constitution to update the timeline for redistricting by the Independent Redistricting Commission (IRC) in 2022 and future redistricting beginning in 2031-2032.

CHANGES TO THE TIMELINE FOR REDISTRICTING BY THE IRC: 2031 AND BEYOND

- The NYS Constitution currently requires the IRC to submit redistricting plans to the legislature on or before January 1st (or as soon as practicable) but no later than January 15th, 2022.
- The amendment changes this to require the IRC to submit plans on or before November first or as soon as practicable but no later than November 15th beginning in 2031.

CHANGES TO THE TIMELINE FOR REDISTRICTING BY THE IRC: 2022

- However, in 2022, the IRC shall submit its first redistricting plans no later than January 1, 2022.
- If the plan is rejected, the IRC shall submit a second set of redistricting plans by January 15, 2022.
- If the plan is approved by both houses, it shall be presented to the governor for approval.

CHANGES TO THE TIMELINE FOR REDISTRICTING BY THE IRC: 2022

- The major proposed change to the current redistricting schedule is the substitution of January 15, 2022, for February 28, 2022 as the deadline for the IRC to submit its final plans.
- This provides the Legislature, the Governor, and the boards of elections time to perform their duties while maintaining an orderly election process for a June primary.

CHANGES TO REDISTRICTING BY THE IRC

If the IRC agrees on a plan (7 out of 10 commissioners vote to approve), a simple majority suffices for the approval by the legislature (removing the current requirement that at least one appointee from each legislative leader support the plan).

- In the event that the IRC fails to recommend plans to the legislature (map did not receive a full 7 votes from the commission), a 60% vote in each chamber would be required for approval.
- If approved by both houses, the plan shall be presented to the governor for approval.

CHANGES TO REDISTRICTING BY THE IRC

- If the IRC fails to vote on a map, all draft maps are submitted to the legislature. Each house will then introduce such implementing legislation with any amendments it deems necessary.
- Since these maps would not receive a full 7 votes from the commission, they would require a 60% majority in both houses for approval.

OTHER PROVISIONS IN THE PROPOSED AMENDMENT

- eliminating partisan IRC co-directors;
- removing the ‘block-on-border’ rule that protects towns, but not cities, from being divided by senate district boundaries;
- cleaning up and removing some of the out-of-date provisions from the 1894 Constitution that have already been found to violate the Equal Protection Clause of the 14th Amendment;
- authorizing the Legislature to enact redistricting legislation if the IRC fails to complete action and develop plans; and

FOR MORE INFORMATION

- Amendment Text:
 - <https://www.nysenate.gov/legislation/bills/2021/s515>
- Jeff Wice/Todd Breitbart Article on the Amendment:
 - <https://www.citylandnyc.org/guest-commentary-on-the-ballot-for-nov-2-2021-the-constitutional-amendment-on-redistricting/>