

[First Reprint]

**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

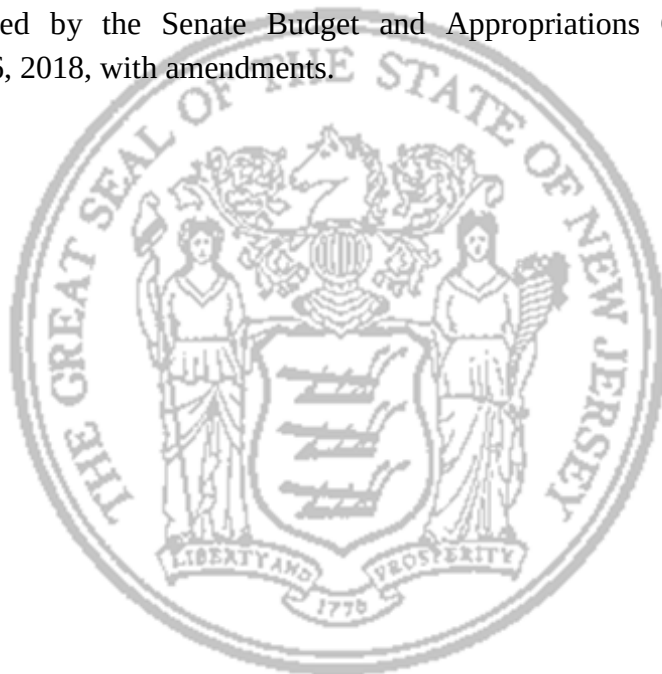
District 3 (Cumberland, Gloucester and Salem)

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 reported by the Senate Budget and Appropriations Committee on November 26, 2018, with amendments.



¹Senate SBA committee amendments adopted November 26, 2018.

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

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

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

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

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

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

13 d. The Commission shall only certify a plan to establish
14 legislative districts that '【ensures】 enhances competitiveness by
15 ensuring'¹ that at least 25 percent of all districts are '【competitive
16 districts, which shall mean a district that is】' more favorable to
17 either major political party by no more than five percentage points
18 of the average '【district in the plan】 Statewide percentage of the
19 combined two-major-party votes received in all Statewide general
20 elections by that party over the preceding decade for the offices of
21 United States President, United States Senator, and Governor'¹ . For
22 each '【competitive】 such' district 'included in the foregoing' in
23 which the percentage of '【total】 the combined two-major-party'¹
24 votes for a major political party exceeds that party's percentage of
25 '【total】 the combined two-major-party' votes in '【the average
26 district】 those Statewide elections'¹ , there shall be a corresponding
27 district in which that party's percentage of '【total】 the combined
28 two-major-party'¹ votes is less than the other major party's
29 percentage of '【total】 the combined two-major-party' votes in the
30 '【average district】 Statewide elections' by approximately the same
31 percentage. 'A major political party's percentage of the combined
32 two-major-party votes shall be calculated by dividing the number of
33 votes received by that political party by the combined total number
34 of votes received by the two major political parties.'¹

35 e. '【In certifying a plan, the provisions of subparagraphs c. and
36 d. of this paragraph shall supersede all other considerations, except
37 that the】 The'¹ Commission, in all circumstances, shall only certify
38 a plan in which all districts comply with federal law, including but
39 not limited to any requirements on population deviation and of the
40 Voting Rights Act or any successor act, all districts are comprised
41 of contiguous territory, and all districts comply with the limitations
42 on division of municipalities set forth in Article IV, Section II,
43 paragraph 3 of this Constitution.

44 f. '【In deciding among multiple plans that meet the provisions
45 of subparagraphs c., d., and e. of this paragraph, the】 The'¹

1 Commission shall ¹~~consider which~~ ¹only certify a ¹plan ¹that ¹best
2 preserves communities of interest within the same district. A
3 community of interest shall mean a geographically contiguous
4 population sharing common interests relevant to the legislative
5 process such as trade areas, communication and transportation
6 networks, media markets, or social, cultural, or economic interests.
7 (cf: Art. IV, Sec. III, par. 2; amended effective December 8, 1966)

8
9 2. When this proposed amendment to the Constitution is finally
10 agreed to pursuant to Article IX, paragraph 1 of the Constitution, it
11 shall be submitted to the people at the next general election
12 occurring more than three months after the final agreement and
13 shall be published at least once in at least one newspaper of each
14 county designated by the President of the Senate, the Speaker of the
15 General Assembly and the Secretary of State, not less than three
16 months prior to the general election.

17
18 3. This proposed amendment to the Constitution shall be
19 submitted to the people at that election in the following manner and
20 form:

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

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

25 If you favor the proposition printed below make a cross (X), plus
26 (+), or check (✓) in the square opposite the word "Yes." If you are
27 opposed thereto make a cross (X), plus (+) or check (✓) in the
28 square opposite the word "No."

29 b. In every municipality the following question:

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YES	CONSTITUTIONAL AMENDMENT REQUIRING STANDARDS AND A PUBLIC PROCESS IN ESTABLISHING LEGISLATIVE DISTRICTS 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? Do you approve adding to the commission an independent member at the beginning of the process, and changing who appoints some of the members? <u>¹Do you approve requiring that at least two members of the public serve on the commission?</u> <u>Do you approve requiring that at least four legislators serve on the commission?</u> <u>Do you approve barring governmental affairs agents from serving on the commission?</u>¹ 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. Do you approve requiring the commission to establish districts that ¹<u>are competitive and</u>¹ fairly represent voter ¹<u>party</u> preferences ¹<u>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</u>¹? This amendment would also require ¹<u>preserving</u> ¹<u>that the commission only certify a plan that best preserves</u>¹ communities of interest within the same district.
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	INTERPRETIVE STATEMENT 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. This amendment to the Constitution would increase from '[11] 10' to 13 the number of members of the commission <u>'required to be appointed'</u>. 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 <u>'at least one of whom will be a legislator'</u>. Presently, all the members are appointed by the chairs of the two major political parties. Under this amendment, each chair would appoint two members <u>'at least one of whom will be a member of the public. This will result in at least two members of public serving on the commission'</u> . 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. <u>'The amendment would prohibit a governmental affairs agent from serving as a member of the commission.'</u>¹ 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. 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. 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] <u>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'</u>¹. The amendment would also require <u>'that the commission only certify a plan that best preserves'</u> communities of interest within districts '[to be preserved]'¹. 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.
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