

**ASSEMBLY CONCURRENT
RESOLUTION No. 84**

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman JON M. BRAMNICK

District 21 (Morris, Somerset and Union)

SYNOPSIS

Proposes constitutional amendment to require that legislative districts be established in manner that promotes competition between political parties.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 **A CONCURRENT RESOLUTION** proposing to amend Article IV,
2 Section III, paragraph 1 of the New Jersey Constitution.

3
4 **BE IT RESOLVED** *by the General Assembly of the State of New*
5 *Jersey (the Senate concurring):*

6
7 1. The following proposed amendment to the Constitution of
8 the State of New Jersey is agreed to:

9
10 PROPOSED AMENDMENT

11
12 Amend Article IV, Section III, paragraph 1 to read as follows:

13 1. a. After the next and every subsequent decennial census of
14 the United States, the Senate districts and Assembly districts shall
15 be established, and the senators and members of the General
16 Assembly shall be apportioned among them, by an Apportionment
17 Commission consisting of ten members, five to be appointed by the
18 chairman of the State committee of each of the two political parties
19 whose candidates for Governor receive the largest number of votes
20 at the most recent gubernatorial election. Each State chairman, in
21 making such appointments, shall give due consideration to the
22 representation of the various geographical areas of the State.
23 Appointments to the Commission shall be made on or before
24 November 15 of the year in which such census is taken and shall be
25 certified by the Secretary of State on or before December 1 of that
26 year. The Commission, by a majority of the whole number of its
27 members, shall certify the establishment of Senate and Assembly
28 districts and the apportionment of senators and members of the
29 General Assembly to the Secretary of State within one month of the
30 receipt by the Governor of the official decennial census of the
31 United States for New Jersey, or on or before February 1 of the year
32 following the year in which the census is taken, whichever date is
33 later.

34 b. In establishing districts, the commission, while giving due
35 consideration to all other applicable constitutional principles, shall
36 establish districts that promote competition between the two major
37 political parties. The goal of the commission shall be to establish
38 districts such that candidates of the political party receiving the
39 majority of the votes Statewide for each House of the Legislature
40 will be elected to the majority of the seats in the respective House.

41 Subject to compliance with other applicable constitutional
42 principles, the commission shall establish as many competitive
43 districts as possible. A “competitive district” is one in which no
44 political party is favored to win election by more than 10
45 percentage points. To determine whether a political party is

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 avored to win election by more than 10 percentage points, the
 2 commission shall use the vote totals of the last two gubernatorial
 3 elections in those municipalities comprising an established district
 4 as a proxy for actual vote totals in order to estimate the likely
 5 results in future legislative elections for each newly established
 6 district.

7 Any person registered to vote in this State shall have standing to
 8 challenge the districts established by the commission on the
 9 grounds that the districts do not sufficiently promote competition as
 10 required by this subparagraph. The New Jersey Supreme Court
 11 shall have original jurisdiction to hear directly any such challenge.
 12 To be successful, the person shall demonstrate, by a preponderance
 13 of the evidence, that it is possible to establish more competitive
 14 districts than the number established by the commission and those
 15 districts are more likely to result in members of the party that
 16 receives the most votes Statewide for members of each House
 17 constituting a majority in the respective House, while complying
 18 with all applicable constitutional principles. If the challenge is
 19 successful, the Court shall order that the districts proposed by the
 20 challenger shall replace the districts established by the commission.

21 As used in this subparagraph, "major political party" means a
 22 political party whose candidates received the largest number or the
 23 second largest number of votes in the most recent gubernatorial
 24 election in this State.

25 New districts shall be established in the next odd-numbered year
 26 after this subparagraph becomes a part of the Constitution.
 27 Thereafter, districts shall be established at the intervals provided for
 28 by the constitution.

29 (cf: Art. IV, Sec. III, par. 1 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.

39

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

1 opposed thereto make a cross (X), plus (+) or check (✓) in the
2 square opposite the word "No."
3 b. In every municipality the following question:
4

	YES	<p>CONSTITUTIONAL AMENDMENT TO REQUIRE THAT LEGISLATIVE DISTRICTS BE ESTABLISHED TO PROMOTE COMPETITION BETWEEN POLITICAL PARTIES</p> <p>Do you approve changing the Constitution to require that legislative districts be established in a way that promotes competition between political parties? This change would make it more likely that districts would more accurately reflect the preference of the voters for which party will control the Legislature.</p>
	NO	<p>INTERPRETIVE STATEMENT</p> <p>Every ten years, the Apportionment Commission creates new legislative districts to ensure that each district has about the same number of people and to meet other constitutional requirements.</p> <p>This amendment would change the Constitution to require the commission to create districts in a manner that also promotes competition between political parties during legislative elections.</p> <p>The amendment would also allow any registered voter who believes the districts created by the commission are not competitive enough to bring a challenge before the New Jersey Supreme Court. If the challenge is successful, the Supreme Court will order that the challenger's districts replace the districts prepared by the commission.</p> <p>New districts complying with these changes would be created in the next odd- numbered year after this amendment takes effect. After that, new districts would be created at the ten-year intervals provided for by the Constitution.</p>

SCHEDULE

This constitutional amendment shall take effect upon approval by the voters.

STATEMENT

This constitutional amendment would provide that, in establishing legislative districts, the Apportionment Commission, while giving due consideration to all other applicable constitutional principles, must establish districts that promote competition between the two major political parties.

The goal of the commission is to establish districts such that candidates of the political party receiving the majority of the votes Statewide for each House of the Legislature will be elected to the majority of the seats in the respective House. The commission is required to establish as many competitive districts as possible. A “competitive district” is one in which no political party is favored to win election by more than 10 percentage points. To determine whether a political party is favored to win election by more than 10 percentage points, the commission will use the vote totals of the last two gubernatorial elections in those municipalities comprising an established district as a proxy for actual vote totals in order to estimate the likely results in future legislative elections for each newly established district.

The Supreme Court will have original jurisdiction to directly hear a challenge brought by any registered voter on the grounds that the districts drawn by the commission do not sufficiently promote competition. To be successful, any such challenge must demonstrate by a preponderance of the evidence that it is possible to establish more competitive districts than the number established by the commission and those districts are more likely to result in members of the party that receives the most votes Statewide for members of each House constituting a majority in the respective House. If the challenge is successful, the Court will order that the districts proposed by the challenger replace the districts established by the commission.

The amendment provides that a “major political party” is a political party whose candidates received the largest number or the second largest number of votes in the most recent gubernatorial election in this State.

In addition, the amendment provides that new districts will be established in the next odd-numbered year after the amendment becomes a part of the Constitution and thereafter at the ten-year intervals provided by the Constitution.