



CITIZENS UNION OF THE CITY OF NEW YORK
Statement to the State Senate Democratic Conference
on Redistricting Reform
June 7, 2011

Good afternoon, Senator Gianaris, Senator Dilan, Assemblymember Jeffries and members of the Senate Democratic Conference. My name is Dick Dadey, and I am the Executive Director of Citizens Union of the City of New York, an independent, non-partisan, civic organization of New Yorkers who promote good government and advance political reform in our city and state. For more than a century, Citizens Union has served as a watchdog for the public interest and an advocate for the common good. We thank you for holding this important forum on redistricting reform, and giving Citizens Union and members of the public the opportunity to weigh in on this issue. We'd also like to thank particularly Senator Gianaris and Assemblymember Jeffries for their leadership on this issue by carrying reform legislation that would specifically create an independent redistricting commission.

The time has come to end the rigged practice of gerrymandering for partisan advantage and begin a new reformed process that removes the conflict of interest that currently exists under LATFOR in which legislators essentially get to choose their voters before their voters choose them. The process of drawing district lines should no longer serve the self-interest of legislators but rather the public interest of New Yorkers.

I. UNPRECEDENTED SUPPORT AMONG THE PUBLIC AND LEGISLATURE FOR REFORM

Support among the public for redistricting reform is strong and growing. A recent poll showed that 80 percent of New York voters believe that some or all of the legislature's responsibility for drawing their own district lines should be removed, and that they support an independent commission.¹ To harness this support, Citizens Union earlier this year formed ReShapeNY, a broad-based, non-partisan campaign made up of 37 statewide and local civic-minded organizations, business groups, labor unions, and issue-advocacy organizations as well as prestigious New Yorkers serving as co-chairs. Through this coalition, we have organized a variety of activities, including a lobby day last week, aimed at making redistricting reform a reality in advance of the 2012 elections. I have attached to my testimony a list of the individuals and groups who are part of this campaign.

Citizens Union has also worked with Mayor Ed Koch, who by his presence and message has brought this issue to the forefront by securing the pledges of a majority of members in both

¹ Quinnipiac University Polling Institute. "Property Tax Cap Is Top Priority For New York Voters, Quinnipiac University Poll Finds; Strong Support For Gay Marriage, Redistricting Reform." April 14, 2011. Available at: <http://www.quinnipiac.edu/x1318.xml?ReleaseID=1588>

houses for reform during the 2010 campaign season. Support among legislators is strong, with 95 members of the Assembly co-sponsoring Governor Cuomo's Redistricting Reform Act of 2011 (A.5388), and an additional 6 members supporting similar legislation sponsored by Assemblymember Hakeem Jeffries who are not co-sponsors of the Cuomo legislation (79 members in total support the Jeffries bill, A.3432). In total, 103 members of the Assembly sponsor either or both of the two bills.

In the Senate, 26 members have signed on to legislation sponsored by Senator Michael Gianaris (S.2543, the companion bill to the Jeffries legislation), or similar legislation sponsored by Senator David Valesky (S.660). We have included tables of support in each house as an attachment to our statement today.

We would like to note that opposition raised to Governor Cuomo's legislation on constitutional grounds is unfounded. Citizens Union secured pro bono legal counsel from Weil, Gotshal & Manges LLP, a prestigious, international law firm, who earlier this spring developed a legal memo that concluded that the legislation is constitutional, noting that the bill is consistent with the legislature's ability to assign to a commission the responsibility to propose recommendations. As the memo clearly states, "the creation of an independent commission tasked with the development of redistricting plans does not violate the separation-of-powers doctrine because the commission does not itself enact law. The commission is a purely investigatory and advisory body empowered only to recommend plans which the Legislature may adopt, reject, or, ultimately, amend." The legal memo is attached for your reference.

Given the unprecedented level of support for reform both within the legislature and the public, and now that an agreement on ethics has been reached, redistricting reform remains the unfinished business that must be realized before the end of the legislative session. As noted by John Avlon, a ReShapeNY Co-Chair and CNN political commentator, the rigged system of redistricting is at the root of the dysfunction and partisan infighting across the country.² States across the country have seen efforts to reform redistricting, and reform has been realized in several states in recent years, including California and Florida. As Avlon states in rightfully taking to task the practice of gerrymandering, he writes, "this kind of cronyism and collusion definitely isn't democracy as the founding fathers imagined." We know we can do better. You know we can do better. And New Yorkers know too. The integrity of our democracy depends upon fair rules and partisan gerrymandering isn't fair, regardless of who the party in power is.

I would not be forthright if I did not mention that the Senate Democrats - when they controlled the upper chamber in 2009 and 2010 - failed in its responsibility for not passing legislation that would have solved this problem. I am pleased that you are holding this forum today, but it would have been far preferable for you to have passed legislation last year accomplishing what we are here today seeking.

² Avlon, John. "The Rigged Game of Redistricting." CNN Opinion. May 13, 2011. Available at: http://articles.cnn.com/2011-05-13/opinion/avlon.redistricting_1_political-district-lines-partisan-primaries-florida-voters?_s=PM:OPINION

That being said, New York State still must end partisan gerrymandering for it is long overdue in New York, and we call upon the legislature to pass legislation to create an independent redistricting commission before session concludes.

II. PRINCIPLES OF REDISTRICTING REFORM

Citizens Union supports three broad principles for reform of New York's redistricting process:

1. Creation of a new redistricting commission that is independent, representative, and fairly chosen to draw congressional and legislative district lines that do not favor or oppose any incumbent or political party and uses even-handed and sensible redistricting guidelines and criteria that provide for fair and effective representation of all New Yorkers, including racial and language minority groups;
2. Adequate disclosure and opportunities for public input of redistricting proceedings and data; and
3. Preservation and creation of an effective mechanism for legislative approval of the independent redistricting commission's plan.

The Independent Redistricting Commission

Both Governor Cuomo's (S.3419/A.5388) and Senator Gianaris and Assemblymember Jeffries' (S.2543/A.5388) bills adhere to these principles and would create a truly independent redistricting commission to draw state legislative and congressional district lines. The commission would assist the legislature in the reapportionment of Congressional, Senate, and Assembly districts based on the ensuing Federal Census.

Regarding the structure of an independent commission, Citizens Union supports the use of a nominating committee to eliminate the ability for legislative leaders to directly appoint redistricting commission members. Both the Cuomo and Gianaris/Jeffries legislation would create a nominating committee that is appointed in a bipartisan manner. The nominating committee would select a "pool of candidates": 15 Democrats, 15 Republicans, and 15 not affiliated with either major party, representing the diversity of the state.

The redistricting commission would then be formed beginning with eight members chosen by the legislative leaders from the pool of candidates created by the nominating committee. Two members would be chosen by the Senate Majority Leader, two by the Speaker of the Assembly, two by the Senate Minority Leader, and two by the Assembly Minority Leader. Three additional Commission members would be appointed by the eight initially appointed members, for a total of eleven. No more than four members would be enrolled in the same political party, and to the extent practicable members would represent the diversity of the state with regard to race, ethnicity, gender and geographic residence. Despite claims to the contrary, the commission ultimately drawing the lines is balanced between political parties and ensures racial, ethnic, gender, and regional diversity.

Criteria for Drawing Lines

Once an independent commission is in place, Citizens Union supports the use of fair and balanced criteria for the drawing of lines. Crucial to any redistricting criteria are the following elements, all of which are present in the Cuomo and Gianaris/Jeffries legislation:

1. Districts shall not be established that are intended to or result in a denial or abridgement of minority voting rights including the opportunity of minority voters to participate in the political process, and to elect the candidates of their choice;
2. Districts shall not be drawn to favor or oppose any political party, any incumbent federal or state legislator, or any previous or presumed candidate for office.
3. For state legislative lines, a maximum of one percent deviation shall be allowed from the mean population of all districts (two percent in total between the smallest and largest district). This is essential so that one region of the state is not disadvantaged over another in a particular house.
4. Counties, county subdivisions and towns shall not be divided in the formation of districts.
5. Districts shall be as compact in form as possible.
6. Districts shall unite communities of shared interests, and districts shall be formed so as to promote the orderly and efficient administration of elections.

Citizens Union believes that it is not necessary for competitiveness to be a criterion, but rather this criterion protects against the practice of drawing lines with an intent to discourage competition.

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Public Input and Final Legislative Approval

Increased transparency and the ability for the public to participate in the redistricting process are also essential elements to any redistricting reform proposal. The Cuomo and Gianaris/Jeffries legislation require increased public availability of redistricting data and mapmaking software, and would require hearings to be held throughout the state, and the Cuomo legislation further requires that hearings be webcast, to the extent practicable. Citizens Union strongly supports opening up the redistricting process, as many communities have felt shut out of the process and welcome the opportunity to have their voices heard.

The legislature currently has the authority under the State Constitution to approve legislation creating new district lines, and the Cuomo and Gianaris/Jeffries legislation preserves this role, while requiring the legislature to vote on up to two plans submitted by the independent commission without amendment. If the legislature fails to adopt a plan, they must present their reasons to the independent commission at a public hearing. This process is in place to provide a level of transparency and public pressure should the legislature reject the commission's plans. Only if the legislature rejects the first two plans could they then amend the third plan that is provided by the commission.

III. THE TIME TO ACT IS NOW

In conclusion, let me urge you to use your voices and your immeasurable political skills to bring about this needed reform and soon. Many are dismissing that the time for such action has passed, but I argue that it has not. Only days remain in this year's legislative session, but we have some powerful points of leverage to bring about this reform. We have historic and unprecedented support within the legislature and we have Governor Cuomo pledging to veto lines drawn in a partisan manner. And we have the written pledges of 24 Senators not to support an override of the Governor's veto should it come to that. The Governor is serious about a veto and those who have not yet fully embraced the need for this reform are finally accepting the possibility of his exercising such a veto. No one wants to take a roll of the dice and have the vetoed plans end up in court next year with judges impartially drawing the new districts. The leverage we have for action is very strong if we are prepared to use it. And I ask you to reach out to the Governor and coordinate efforts in the closing weeks of session to achieve redistricting reform. For if you do, you will receive the thanks of an appreciative citizenry who will be glad that you acted and succeeded in restoring the integrity of the practice of democracy in New York State.

Thank you for the opportunity to present Citizens Union's views on redistricting. I am able to answer any questions you have at this time.