



## **Citizens Union and the League of Women Voters of New York State**

### **10 Frequently Asked Questions (FAQ)**

### **on the Proposed Constitutional Amendment to Reform Redistricting**

#### **1. What will the proposed constitutional amendment accomplish?**

In summary, the constitutional amendment replaces the current Legislative Task Force for Demographic Research and Reapportionment (LATFOR) redistricting process with an independent commission whose appointees are evenly divided between majority and minority parties. For the first time ever, unaffiliated or third party members will be included in the redistricting process. There will be two co-executive directors selected by a majority vote of the commission with the rest of the staff being hired by the directors, marking the first time the staff is not hired by the majorities.

The amendment also codifies for the first time in the state constitution additional important criteria for drawing lines. The principles of the federal Voting Rights Act (VRA), which are increasingly facing threat of retrogression in the courts and Congress, are added to the state constitution, preserving the rights of language and racial minorities. Lines would be prohibited from being drawn to favor or disfavor incumbents, political parties or candidates. Communities of interest are recognized for the first time as a criterion for drawing lines.

The voting procedures and thresholds for passage of a redistricting plan by the independent commission and the legislature varies depending on which parties control each house of the legislature. Supermajority votes are established to prevent dominance by one political party or majority parties in both the commission and the legislature for approval of district lines.

The proposed amendment breaks new ground in transparency by requiring software, data and maps to be provided to the public, allowing for independent analysis and the creation of maps by the public.

It also establishes firm deadlines for the different stages of the redistricting process to ensure that lines are established in a timely manner and delays in drawing maps do not disadvantage challengers running against state legislative or congressional incumbents.

These important changes would be made permanent through the passage of a constitutional amendment. The proposed amendment is accompanied by a statute recently passed by the legislature which provides insurance against the amendment not achieving second passage and place an additional constraint on the legislature's ability to amend the lines proposed by the commission.

**1. How will the ten-member independent commission (“the Commission”) be appointed?**

Each of the four legislative leaders will appoint two members, and two additional members will be appointed by a vote of not less than five of the original eight members. These two additional members will not have been enrolled in either of the two major political parties in the preceding five years. For the first time, the redistricting process will include equal representation among the four legislative leaders and appointees not of the Republican and Democratic parties.

***Current Process:***

LATFOR is comprised of six members, with two each from the majority parties in each house with only one each from the minority party, effectively giving the majority parties full control of the process, ignoring the views of the minority parties.

**2. Who will be able to serve?**

Rules prohibit those with conflicts of interest from serving on the Commission including no person who has served in the last three years as a New York legislator, statewide elected official, member of congress, and spouses of the preceding groups, legislators’ staff, lobbyists, state officers, state employees, or party chairs. To the extent practicable, the appointments will reflect the diversity of the state and result from consultation with outside groups.

***Current Process:***

Four of the six members of LATFOR are legislators.

**3. How will the Commission approve a redistricting plan? Will an even-numbered Commission create gridlock?**

A supermajority vote – seven out of ten votes – by the Commission will be required to send a redistricting plan to the legislature, which can be passed by majority vote of the legislature, encouraging collaboration and cooperation. If control of the legislature is split between the two major parties, the plan will have to have at least one vote from each of the two major party appointees. If the legislature is controlled by one party, those seven votes will have to include at least one vote from the appointments of each of the four legislative leaders to ensure that there is no major party dominance. If no plan gets seven votes, the plan with the highest number of votes will go to the legislature, but approval of such a plan will require at least 60 percent approval in the legislature.

***Current Process:***

The members of LATFOR appointed by the majority – four of the six – control the process and draw the lines with little to no input from the appointees representing the minority parties. Those lines are then provided to the legislature and passed by the majority party controlling each house.

**4. What additional voting procedures will ensure inclusion of the party out of power in case one party controls both chambers?**

In order to protect against one-party dominance in the drawing of lines, if one party controls both houses of the legislature, approval of a plan will require a 2/3 affirmative vote in each house.

***Current Process:***

A simple majority is required for any district plan provided by LATFOR. Consequently the majority parties in each house completely control redistricting from drawing the lines to passing them.

**5. What criteria must be considered by the Commission?**

In addition to requiring contiguous and compact districts, and nearly as maybe equal in size districts to the extent practicable, for the first time the state constitution will include criteria that requires:

- that districts shall not be drawn to discourage competition or for the purpose of favoring or disfavoring incumbents, particular candidates or political parties;
- consideration of communities of interest in drawing district lines;
- protections for racial and language minority groups in the drawing of district lines consistent with the Voting Rights Act, ensuring those protections remain regardless of what happens at the federal level; and
- an explanation by the Commission if the legislative districts are not equal in population.

***Current Process:***

LATFOR must first follow federal law which requires adherence to the Voting Rights Act and the creation of state legislative districts whose populations are within 5 percent of the average size district. The constitution also requires that districts be contiguous and, as is practicable, compact, and provides that counties and towns cannot be divided under certain circumstances.

There are currently no prohibitions in the state constitution that prevent lines from being drawn to discourage competition or for the purpose of favoring or disfavoring incumbents, particular candidates or political parties, an important safeguard against the current practice of regional gerrymandering. Nor are there provisions that require communities of interest to be considered as a criterion for drawing lines.

**6. Will the legislature get to draw the lines if it votes down the Commission's plan?**

The legislature will only be able to amend the lines if the Commission's plan(s) fail to achieve legislative approval after two "up or down" votes without amendments, but the legislature is restricted to changes that adhere to the criteria in the constitutional amendment. A recently passed statute further restricts the legislature from making changes that affect not more than two percent of the population of any district.

***Current Process:***

There are no restrictions on their ability of the legislature to amend the plan, which is essentially guaranteed passage, as the majorities of the legislature control LATFOR.

**7. What process will there be for public input?**

The amendment will require 12 hearings across the state ensuring public input in line-drawing. It will also require the provision of maps and data to the public in a form that allows for independent analysis and the development of alternate redistricting plans.

***Current Process:***

There are no requirements for hearings, although LATFOR has held them voluntarily. There are no requirements for maps and data to be provided to the public, although LATFOR has provided maps and some data but not done so in a form that is easily accessible by the public or facilitates development of alternate plans. LATFOR has not made software for drawing maps available to the public.

**8. Why has there not more been public input on the constitutional amendment?**

Various proposals have been introduced in the legislature through the years and have been the subject of input by the public, including good government groups and civil rights groups. Redistricting has been the subject of hearings in both the Assembly and Senate for the past several years, and the issue has been covered extensively in the media. Constitutional amendments must be voted on twice by two successively elected legislatures, and then passed at the ballot box, providing for more review and giving the public an opportunity for participation in this reform.

***Current Process:***

The degree to which hearings are held on bills varies. The constitutional amendment, because it requires a vote by a second legislature in 2013, will have much more time for review than a typical bill, and the voters then get to decide.

**9. What assurance is there that the amendment will be passed again in the next legislative session?**

The first passage of the constitutional amendment occurred jointly with an accompanying statute that has put in place a statutory version mirroring the amendment. The statute states that in the event the constitutional amendment does not obtain second passage, the house failing to pass the amendment will have its appointments replaced by appointments by the governor to the independent commission created via statute. This statute also contains a restriction on legislative amendments to the lines on third passage, allowing no more than two percent of the population of districts proposed by the Commission to be changed, which will go into effect regardless of whether the legislature passes the amendment twice.

***Current Process:***

Not applicable.

**10. If this constitutional amendment is passed, how would New York rank among the 50 states in how it conducts redistricting?**

We believe that this will put New York in the forefront of redistricting reform, particularly among states that cannot achieve reform through publicly initiated referenda. Most states leave redistricting completely in the hands of the legislature. Even in Iowa, which has been a model for independent redistricting, the legislature has final approval of the lines.

***Current Process:***

In the majority of states, the legislators directly draw the lines. New York has an advisory body, LATFOR, an entity that exists in law to advise the legislature on line-drawing. Because four of six of its members are legislators it is essentially legislators drawing their own lines. Consequently, New York is not even close to being a leader in independent redistricting.