I. THE ELECTION LAW PROVIDES THE STATUTORY FRAMEWORK WITH RESPECT TO A STATEWIDE BALLOT PROPOSAL TO AMEND THE NEW YORK CONSTITUTION

A. Election Law § 4-108 provides the State Board of Elections with the Authority to Determine the Form and Abstract of a Statewide Ballot Proposal to Amend the New York Constitution.

Election Law § 4-108 provides:

Certification of proposed constitutional amendments and questions. 1. a. Whenever any proposed amendment to the constitution or other question provided by law to be submitted to a statewide vote shall be submitted to the people for their approval, the state board of elections at least three months prior to the general election at which such amendment, proposition or question is to be submitted, shall transmit to each county board of elections a certified copy of the text of each amendment, proposition or question and a statement of the form in which it is to be submitted. c. Such certified copy shall set out all new matter in italics and enclose in brackets, [—], all matter to be eliminated from existing law, and at the bottom of each page shall be appended the words: Explanation: Matter in italics is new, to be added; matter in brackets [—] is old law, to be omitted. d. In addition to the text, such transmittal shall contain an abstract of such
proposed amendment, proposition or question, prepared by the state board of elections concisely stating the purpose and effect thereof in a clear and coherent manner using words with common and everyday meanings.

2. The form in which the proposed amendment, proposition or question is to be submitted shall consist of only an abbreviated title indicating generally and briefly, and in a clear and coherent manner using words with common and every-day meanings, the subject matter of the amendment, proposition or question. If more than one such amendment, proposition or question is to be voted upon at such election, each such amendment, proposition or question respectively shall be separately and consecutively numbered.

3. The attorney general shall advise in the preparation of such abstract and such form of submission.

B. Election Law § 16-104 provides the Authority for a Registered Voter to Challenge the Form or Abstract of a Statewide Ballot Proposal to Amend the New York Constitution.

Election Law § 16-104 provides:

Proceedings as to form of ballot, party name, etc. 1. The form and content of any ballot, or portion thereof, to be used in an election, and the right to use any emblem design, color, party or independent body name, may be contested in a proceeding instituted in the supreme court by any aggrieved candidate or by the chairman of any party committee or independent body.

2. The wording of the abstract or form of submission of any proposed amendment, proposition or question may be contested in a proceeding instituted by any person eligible to vote on such amendment, proposition or question.

3. A proceeding pursuant to subdivision two of this section must be instituted within fourteen days after the last day to certify the wording of any such abstract or form of submission.

4. A final order in any proceeding involving the contents of official ballots on voting machines shall be made, if possible, at least five weeks before the day of the election at which such voting machines are to be used, or if such proceeding is commenced within five weeks of an election, no later than the day following the day on which the case is heard.

II. THE RELIEF SOUGHT IN PETITIONERS’ FIRST CAUSE OF ACTION SHOULD BE DENIED AND THE VERIFIED PETITION DISMISSED

A. The Abstract and Form of the Redistricting Amendment Meets the Statutory Standard.
The Election Law requires the State Board to certify an abstract (Election Law § 4-108[1][d]) and form (Election Law § 4-108[2]) of a proposed constitutional amendment. The abstract must “concisely stat[e] the purpose and effect thereof in a clear and coherent manner using words with common and everyday meanings” (Election Law § 4-108[1][d]). The form “shall consist of only an abbreviated title indicating generally and briefly, and in a clear and coherent manner using words with common and every-day meanings, the subject matter of the amendment, proposition or question” (Election Law § 4-108[2]). The State Board of Elections exercises its own authority and discretion in determining the text of the form and abstract (see Snyder v Walsh, 41 Misc 3d 1213[A], 980 NYS2d 278 [Sup Ct, Albany County 2013]).

The proposed constitutional amendment at issue consists of nine pages of text and is, not surprisingly, complicated and dense (Proposed NY Const, art III, §§ 4, 5 and 5-b, Exhibit 1). The Election Law implicitly recognizes the impracticality of placing such a document on the ballot and requires the State Board to “translate” this complicated text into a clear and coherent form to allow the public to understand its meaning through the use of common, easily understood words. The form prepared by the State board provides:

The proposed amendment to sections 4 and 5 and addition of new section 5-b to Article 3 of the State Constitution revises the redistricting procedure for state legislative and congressional districts. The proposed amendment establishes an independent redistricting commission every 10 years beginning in 2020, with two members appointed by each of the four legislative leaders and two members selected by the eight legislative appointees; prohibits legislators and other elected officials from serving as commissioners; establishes principles to be used in creating districts; requires the commission to hold public hearings on proposed redistricting plans; subjects the commission’s redistricting plan to legislative enactment; provides that the legislature may only amend the redistricting plan according to the established principles if the commission’s plan is rejected twice by the legislature; provides for expedited court review of a challenged redistricting plan; and provides for funding and bipartisan staff to work for the commission. Shall the proposed amendment be approved?
The form has an abbreviated title clearly and coherently identifying the subject of the amendment as one revising “the redistricting procedure for state legislative and congressional districts” (see generally Matter of Schulz, 214 AD2d 224, 230 [3rd Dept 1995]). It reduces a large multi-page document to a single paragraph using common, every day words that summarize the main provisions of the proposed amendment. The form meets the statutory standard.

The abstract was prepared by the Office of the Attorney General and was certified by the State Board of Elections without modification (Abstract, Proposed NY Const, art III, §§ 4, 5 and 5-b, Exhibit 3). It summarizes the proposed constitutional amendment in one and one-half pages and, given the length and complexity of the proposed amendment, constitutes a concise, clear and coherent summary of the proposed amendment using common words with everyday meaning. The abstract meets the statutory standard.

B. **The Form of the Redistricting Amendment is Not Confusing or Misleading.**

The State Board of Elections modified the Attorney General’s suggested text for the form of the proposed amendment. Among other minor changes, the State Board of Elections replaced the phrase “establishes the Legislature as the default redistricting body if the commission’s plan is not legislatively enacted” with the phrase “provides that the legislature may only amend the redistricting plan according to the established principles if the commission’s plan is rejected twice by the legislature” (see Verified Petition, ¶ 34).

Petitioners claim the final text is confusing and misleading on two grounds. First, Petitioners claim the removal of the term “default redistricting body” in the Attorney General’s proposed text, when referring to the legislature, is misleading and confusing. Second, they claim
that their proposed text for the form is preferable because it is “neutral, clear and concise” (Petitioners’ Memo of Law, 5-6).

On the contrary, the final text of the form is clearer than the language proposed by the Attorney General or Petitioners. For the first time, the proposed amendment would impose a number of “principles” that must be considered by the redistricting commission when drawing the district lines. These principles include: a) a prohibition on drawing lines that would deny or abridge racial or language minority rights; b) a requirement that districts contain, as near as practicable, an equal number of inhabitants, and a specific public explanation for a district that deviates from this requirement; c) a prohibition on district lines that discourage competition or favor or disfavor incumbents, other candidates or political parties; and d) a requirement that the commission consider the maintenance of existing districts, pre-existing political subdivisions (including counties, cities and towns) and communities of interest (Proposed NY Const, art III, § 4[c], Exhibit 1).

The Attorney General’s proposed language for the form of the amendment was incomplete. It states that the Legislature would be the “default redistricting body” without identifying that the new controlling “principles” imposed on the redistricting commission would also be applicable to any amendments that the Legislature may make to the plan if the commission’s plan is rejected twice by the Legislature. The principles impose limitations on the drawing of district lines that, for the first time, fundamentally change the Legislature’s role and discretion in the redistricting process.

Moreover, the language advanced by Petitioners for the form is misleading in that it fails to identify any of the significant reforms contained in the proposed amendment. Despite lengthy and detailed provisions that impose new criteria for the appointment, operation and
recommendations of the redistricting commission, the Petitioners argue that the following form should have been certified by the State Board of Elections:

The proposed amendment to Article 3 of the Constitution would allow New York State’s legislative leaders to appoint a bipartisan commission to establish new state legislative and congressional district lines every ten years pursuant to stated criteria with final approval by the legislature. Shall the amendment be approved?

(Verified Petition, ¶ 29). This text fails to give voters any information regarding the proposed amendments numerous provisions or its impact on the redistricting process. Instead, it only emphasizes that the commission members are appointed by legislative leaders and that the district lines are subject to final approval by the legislature. As a result, Petitioners’ reliance on Matter of Lenihan v Blackwell (209 AD2d 1048 [4th Dept 1994]) and Matter of Marcoccia v Suffolk County Bd. of Elections (309 AD2d 958 [2nd Dept 2003]) to challenge the form is mistaken. The Lenihan and Marcoccia rulings support a conclusion that Petitioners’ proposed text is incomplete and misleading. The reason for this misleading text is clear: Petitioners have made no secret that they are against the proposed constitutional amendment and the text they support is intended to defeat the proposed amendment.

C. The Abstract and Form of the Redistricting Amendment Properly Uses the Term “Independent.”

Specific provisions in the proposed amendment promote a transparent, fair and impartial drawing of district lines by the commission, rather than the legislature, and support a conclusion that the redistricting commission will exercise a significant degree of independence.

The proposed amendment promotes transparency by requiring that the commission release a draft redistricting plan at least thirty days before it begins mandatory public hearings throughout the state to allow the public to review, analyze and comment on the draft plan at the
public hearings. The commission is required to give the public notice of the hearings and must report its findings to the Legislature (Proposed NY Const, art III, § 4[c], Exhibit 1).

The proposed amendment promotes fairness in the adoption of a plan. Membership of the commission must reflect the diversity of the citizens of New York State with regard to race, ethnicity, gender, language and geographic residence. The proposed amendment would also require the commission to consult with groups that work to protect the voting rights of minorities and other voters (Proposed NY Const, art III, § 5-b[c], Exhibit 1).

The proposed amendment promotes impartiality in the adoption of the plan in that it prohibits certain individuals who, in the last three years, held certain positions, from membership on the commission. These include statewide elected officials, state legislators, member of congress, their spouses, and lobbyists, among others (Proposed NY Const, art III, § 5-b[b], Exhibit 1).

Independence is promoted by all of the foregoing provisions and, in addition, by a number of other provisions. The commission’s proposed redistricting plan must be submitted to the Legislature in one bill and must be voted on without amendment (Proposed NY Const, art III, § 4[b], Exhibit 1). Moreover, the votes necessary for the commission to approve a redistricting plan is determined by the leadership in the two houses of the Legislature to protect one political party in the event both houses of the Legislature are controlled by the other political party (Proposed NY Const, art III, § 5-b[f], Exhibit 1). The appointment of co-executive directors of the commission are also configured similarly to protect a political party in the minority in each house (Proposed NY Const, art III, § 5-b[h], Exhibit 1). Finally, the votes needed to approve the plan in the Legislature is determined by the leadership in the two houses of the Legislature to protect one political party in the event both houses of the Legislature is controlled by the other
political party and to ensure that both parties in both houses are supporting the recommended
plan (Proposed NY Const, art III, § 4[b], Exhibit 1).

Petitioners claim that the appointment of the commission members by the legislative
leaders results in a commission that is not independent. However, the New York Constitution
currently allows the legislature to adopt a redistricting plan directly. The proposed amendment
makes substantial changes to the current redistricting process. The proposed amendment creates
a commission, imposes detailed criteria for its configuration and operation and requires the
Legislature to abide by the same new substantive criteria under narrowly circumscribed
conditions. The proposed amendment also requires that if the Supreme Court hears a challenge
“to redistricting of congressional or state legislative districts, any law establishing congressional
or state legislative districts found to violate the provisions of this article shall be invalid in whole
or in part,” thereby ensuring that the newly established “principles” in the plan are effective, and
requires that such court review occur on an expedited basis (Proposed NY Const, art III, § 5,
Exhibit 1).

The text of the proposed amendment uses the term “independent,” as does the concurrent
resolutions sponsor’s memo (Assembly and Senate Sponsors’ Memos, Exhibit 4). Given this and
all of the foregoing, it is not confusing or misleading to use the term “independent” in the form
of the proposed amendment that will be presented to New York voters on the Election Day
ballot.

II. THE SECOND CAUSE OF ACTION SHOULD BE DISMISSED FOR THE
FAILURE TO STATE A CAUSE OF ACTION

Petitioners claim that the State Board’s dissemination of the form and the abstract
violates the New York Constitution’s prohibition on the use of state money, relying on section 8
of article VII. However, this section merely prohibits the use of state money to aid any private corporation or association. No state funds have or will be expended for this purpose.

The State Board of Elections’ dissemination of the abstract and form of the proposed redistricting amendment is an administrative duty imposed on the State Board of Elections by Election Law § 4-108 which states:

Certification of proposed constitutional amendments and questions. 1. a. Whenever any proposed amendment to the constitution or other question provided by law to be submitted to a statewide vote shall be submitted to the people for their approval, the state board of elections at least three months prior to the general election at which such amendment, proposition or question is to be submitted, shall transmit to each county board of elections a certified copy of the text of each amendment, proposition or question and a statement of the form in which it is to be submitted

(Election Law § 4-108[1]). The Court of Appeals has held that

a governmental agency does not violate article VII, § 8 (1) merely by using taxpayers’ funds for the valid governmental purpose of encouraging the public to participate in the democratic process by voting in an election. Nor would that constitutional provision prevent the use of public funds to inform and educate the public, in a reasonable neutral fashion, on the issues in an election so that voters will more knowledgeably exercise their franchise

(Matter of Schulz v State of New York, 86 NY2d 225, 234 [1995]). Rather, the constitution prohibits government agencies from “disseminating information, at the taxpayers’ expense, patently designed to exhort the electorate to cast their ballots in support of a particular position advocated by the [government agency]” (Id. [quoting Matter of Phillips v Maurer, 67 NY2d 672, 674 [1986] [emphasis added]]).

The form and abstract are not patently designed to exhort New York voters to support the proposed redistricting amendment. The Board is merely carrying out its statutory duty to convey information to local boards of elections regarding the certified General Election ballot and the constitutional provision does not prohibit the use of state money to do so.
Finally, state law makes it clear that the costs incurred to educate the public about a proposed constitutional amendment is a state expense. Specifically:

Publication of concurrent resolutions. The secretary of state shall send to each newspaper designated pursuant to law, in the order in which they are passed, and as soon as the slips are printed, copies of such concurrent resolutions as are required to be published. Concurrent resolutions proposing amendments to the constitution shall be published in such newspapers, at the times prescribed by the election law, under the direction of the secretary of state, at the expense of the state, in such manner, by the use of italics or bold face and brackets, as to indicate the new matter added and the old matter eliminated (Legislative Law § 48).

III. CONCLUSION

Based on all of the foregoing, Petitioners’ second claim for relief fails to state a cause of action and should be dismissed and Petitioners’ first claim for relief should be denied and the Verified Petition dismissed.

September 3, 2014
Albany, New York

Respectfully Submitted,

[Signature]
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TEXT OF PROPOSAL NUMBER ONE, AN AMENDMENT
CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY

proposing an amendment to article 3 of the constitution, in relation to the establishment of the independent redistricting commission

Section 1. Resolved (if the Senate concur), That sections 4 and 5 of article 3 of the constitution be amended, and a new section 5-b be added to read as follows:

§ 4. (a) Except as herein otherwise provided, the federal census taken in the year nineteen hundred thirty and each federal census taken decennially thereafter shall be controlling as to the number of inhabitants in the state or any part thereof for the purposes of the apportionment of members of assembly and readjustment or alteration of senate and assembly districts next occurring, in so far as such census and the tabulation thereof purport to give the information necessary therefor. The legislature, by law, shall provide for the making and tabulation by state authorities of an enumeration of the inhabitants of the entire state to be used for such purposes, instead of a federal census, if the taking of a federal census in any tenth year from the year nineteen hundred thirty be omitted or if the federal census fails to show the number of aliens or Indians not taxed. If a federal census, though giving the requisite information as to the state at large, fails to give the information as to any civil or territorial divisions which is required to be known for such purposes, the legislature, by law, shall provide for such an enumeration of the inhabitants of such parts of the state only as may be necessary, which shall supersede in part the federal census and be used in connection therewith for such purposes. The legislature, by law, may provide in its discretion for an enumeration by state authorities of the inhabitants of the state, to be used for such purposes, in place of a federal census, when the return of a decennial federal census is delayed so that it is not available at the beginning of the regular session of the legislature in the second year after the year nineteen hundred thirty or after any tenth year therefrom, or if an apportionment of members of assembly and readjustment or alteration of senate districts is not made at or before such a session. At the regular session in the year nineteen hundred thirty-two, and at the first regular session after the year nineteen hundred forty and after each tenth year therefrom the senate districts shall be readjusted or altered, but if, in any decade, counting from and including that which begins with the year nineteen hundred thirty-one, such a readjustment or alteration is not made at the time above prescribed, it shall be made at a subsequent session occurring not later than the sixth year of such decade, meaning not later than nineteen hundred thirty-six, nineteen hundred forty-six, nineteen hundred fifty-six, and so on; provided, however, that if such districts shall have been readjusted or altered by law in either of the years nineteen hundred thirty or nineteen hundred thirty-one, they shall remain unaltered until the first regular session after the year nineteen hundred forty. [Such districts shall be so readjusted or altered that each senate district shall contain as nearly as may be an equal number of inhabitants, excluding aliens, and be in as compact form as practicable, and shall

EXPLANATION – Matter in underscored is new; matter in brackets [ ] is old law to be omitted.
remain unaltered until the first year of the next decade as above defined, and shall at all times consist of contiguous territory, and no county shall be divided in the formation of a senate district except to make two or more senate districts wholly in such county. No town, except a town having more than a full ratio of apportionment, and no block in a city inclosed by streets or public ways, shall be divided in the formation of senate districts; nor shall any. In the reapportionment of senate districts, no district shall contain a greater excess in population over an adjoining district in the same county, than the population of a town or block therein adjoining such district. Counties, towns or blocks which, from their location, may be included in either of two districts, shall be so placed as to make said districts most nearly equal in number of inhabitants, excluding aliens.

No county shall have four or more senators unless it shall have a full ratio for each senator. No county shall have more than one-third of all the senators; and no two counties or the territory thereof as now organized, which are adjoining counties, or which are separated only by public waters, shall have more than one-half of all the senators.

(b) The independent redistricting commission established pursuant to section five-b of this article shall prepare a redistricting plan to establish senate, assembly, and congressional districts every ten years commencing in two thousand twenty-one, and shall submit to the legislature such plan and the implementing legislation therefor on or before January first or as soon as practicable thereafter but no later than January fifteenth in the year ending in two beginning in two thousand twenty-two. The redistricting plans for the assembly and the senate shall be contained in and voted upon by the legislature in a single bill, and the congressional district plan may be included in the same bill if the legislature chooses to do so. The implementing legislation shall be voted upon, without amendment, by the senate or the assembly and if approved by the first house voting upon it, such legislation shall be delivered to the other house immediately to be voted upon without amendment. If approved by both houses, such legislation shall be presented to the governor for action.

If either house shall fail to approve the legislation implementing the first redistricting plan, or the governor shall veto such legislation and the legislature shall fail to override such veto, each house or the governor if he or she vetoes it, shall notify the commission that such legislation has been disapproved. Within fifteen days of such notification and in no case later than February twenty-eighth, the redistricting commission shall prepare and submit to the legislature a second redistricting plan and the necessary implementing legislation for such plan. Such legislation shall be voted upon, without amendment, by the senate or the assembly and, if approved by the first house voting upon it, such legislation shall be delivered to the other house immediately to be voted upon without amendment. If approved by both houses, such legislation shall be presented to the governor for action.

If either house shall fail to approve the legislation implementing the second redistricting plan, or the governor shall veto such legislation and the legislature shall fail to override such veto, each house shall introduce such implementing legislation with any amendments each house of the legislature deems necessary. All such amendments

EXPLANATION - Matter in underscored is new; matter in brackets [ ] is old law to be omitted.
shall comply with the provisions of this article. If approved by both houses, such legislation shall be presented to the governor for action.

All votes by the senate or assembly on any redistricting plan legislation pursuant to this article shall be conducted in accordance with the following rules:

(1) In the event that the speaker of the assembly and the temporary president of the senate are members of two different political parties, approval of legislation submitted by the independent redistricting commission pursuant to subdivision (f) of section five-b of this article shall require the vote in support of its passage by at least a majority of the members elected to each house.

(2) In the event that the speaker of the assembly and the temporary president of the senate are members of two different political parties, approval of legislation submitted by the independent redistricting commission pursuant to subdivision (g) of section five-b of this article shall require the vote in support of its passage by at least sixty percent of the members elected to each house.

(3) In the event that the speaker of the assembly and the temporary president of the senate are members of the same political party, approval of legislation submitted by the independent redistricting commission pursuant to subdivision (f) or (g) of section five-b of this article shall require the vote in support of its passage by at least two-thirds of the members elected to each house.

(c) Subject to the requirements of the federal constitution and statutes and in compliance with state constitutional requirements, the following principles shall be used in the creation of state senate and state assembly districts and congressional districts:

(1) When drawing district lines, the commission shall consider whether such lines would result in the denial or abridgement of racial or language minority voting rights, and districts shall not be drawn to have the purpose of, nor shall they result in, the denial or abridgement of such rights. Districts shall be drawn so that, based on the totality of the circumstances, racial or minority language groups do not have less opportunity to participate in the political process than other members of the electorate and to elect representatives of their choice.

(2) To the extent practicable, districts shall contain as nearly as may be an equal number of inhabitants. For each district that deviates from this requirement, the commission shall provide a specific public explanation as to why such deviation exists.

(3) Each district shall consist of contiguous territory.

(4) Each district shall be as compact in form as practicable.

(5) Districts shall not be drawn to discourage competition or for the purpose of favoring or disfavoring incumbents or other particular candidates or political parties. The commission shall consider the maintenance of cores of existing districts, of pre-existing political subdivisions, including counties, cities, and towns, and of communities of interest.

(6) In drawing senate districts, towns or blocks which, from their location may be included in either of two districts, shall be so placed as to make said districts most nearly equal in number of inhabitants. The requirements that senate districts not divide counties or towns, as well as the 'block-on-border' and 'town-on-border' rules, shall remain in effect.

EXPLANATION - Matter in underscored is new; matter in brackets [ ] is old law to be omitted.
During the preparation of the redistricting plan, the independent redistricting commission shall conduct not less than one public hearing on proposals for the redistricting of congressional and state legislative districts in each of the following: (i) cities: Albany, Buffalo, Syracuse, Rochester, and White Plains; and (ii) counties: Bronx, Kings, New York, Queens, Richmond, Nassau, and Suffolk. Notice of all such hearings shall be widely published using the best available means and media a reasonable time before every hearing. At least thirty days prior to the first public hearing and in any event no later than September fifteenth of the year ending in one or as soon as practicable thereafter, the independent redistricting commission shall make widely available to the public, in print form and using the best available technology, its draft redistricting plans, relevant data, and related information. Such plans, data, and information shall be in a form that allows and facilitates their use by the public to review, analyze, and comment upon such plans and to develop alternative redistricting plans for presentation to the commission at the public hearings. The independent redistricting commission shall report the findings of all such hearings to the legislature upon submission of a redistricting plan.

(d) The ratio for apportioning senators shall always be obtained by dividing the number of inhabitants, excluding aliens, by fifty, and the senate shall always be composed of fifty members, except that if any county having three or more senators at the time of any apportionment shall be entitled on such ratio to an additional senator or senators, such additional senator or senators shall be given to such county in addition to the fifty senators, and the whole number of senators shall be increased to that extent.

The senate districts, including the present ones, as existing immediately before the enactment of a law readjusting or altering the senate districts, shall continue to be the senate districts of the state until the expirations of the terms of the senators then in office, except for the purpose of an election of senators for full terms beginning at such expirations, and for the formation of assembly districts.

(e) The process for redistricting congressional and state legislative districts established by this section and sections five and five-b of this article shall govern redistricting in such state except to the extent that a court is required to order the adoption of, or changes to, a redistricting plan as a remedy for a violation of law.

A reapportionment plan and the districts contained in such plan shall be in force until the effective date of a plan based upon the subsequent federal decennial census taken in a year ending in zero unless modified pursuant to court order.

§ 5. The members of the assembly shall be chosen by single districts and shall be apportioned [by the legislature] pursuant to this section and sections four and five-b of this article at each regular session at which the senate districts are readjusted or altered, and by the same law, among the several counties of the state, as nearly as may be according to the number of their respective inhabitants, excluding aliens. Every county heretofore established and separately organized, except the county of Hamilton, shall always be entitled to one member of assembly, and no county shall hereafter be erected unless its population shall entitle it to a member. The county of Hamilton shall elect with the county of Fulton, until the population of the county of
Hamilton shall, according to the ratio, entitle it to a member. But the legislature may abolish the said county of Hamilton and annex the territory thereof to some other county or counties.

The quotient obtained by dividing the whole number of inhabitants of the state, excluding aliens, by the number of members of assembly, shall be the ratio for apportionment, which shall be made as follows: One member of assembly shall be apportioned to every county, including Fulton and Hamilton as one county, containing less than the ratio and one-half over. Two members shall be apportioned to every other county. The remaining members of assembly shall be apportioned to the counties having more than two ratios according to the number of inhabitants, excluding aliens. Members apportioned on remainders shall be apportioned to the counties having the highest remainders in the order thereof respectively. No county shall have more members of assembly than a county having a greater number of inhabitants, excluding aliens.

The assembly districts, including the present ones, as existing immediately before the enactment of a law making an apportionment of members of assembly among the counties, shall continue to be the assembly districts of the state until the expiration of the terms of members then in office, except for the purpose of an election of members of assembly for full terms beginning at such expirations.

In any county entitled to more than one member, the board of supervisors, and in any city embracing an entire county and having no board of supervisors, the common council, or if there be none, the body exercising the powers of a common council, shall assemble at such times as the legislature making an apportionment shall prescribe, and divide such counties into assembly districts as nearly equal in number of inhabitants, excluding aliens, as may be, of convenient and contiguous territory in as compact form as practicable, each of which shall be wholly within a senate district formed under the same apportionment, equal to the number of members of assembly to which such county shall be entitled, and shall cause to be filed in the office of the secretary of state and of the clerk of such county, a description of such districts, specifying the number of each district and of the inhabitants thereof, excluding aliens, according to the census or enumeration used as the population basis for the formation of such districts; and such apportionment and districts shall remain unaltered until after the next reapportionment of members of assembly, except that the board of supervisors of any county containing a town having more than a ratio of apportionment and one-half over may alter the assembly districts in a senate district containing such town at any time on or before March first, nineteen hundred forty-six. In counties having more than one senate district, the same number of assembly districts shall be put in each senate district, unless the assembly districts cannot be evenly divided among the senate districts of any county, in which case one more assembly district shall be put in the senate district in such county having the largest, or one less assembly district shall be put in the senate district in such county having the smallest number of inhabitants, excluding aliens, as the case may require. [No town, except a town having more than a ratio of apportionment and one-half over, and no block in a city inclosed by streets or public ways, shall be divided in the formation of assembly districts.]
districts, nor shall any districts contain a greater excess in population over an adjoining district in the same senate district, than the population of a town or block therein adjoining such assembly district. Towns or blocks which, from their location may be included in either of two districts, shall be so placed as to make said districts most nearly equal in number of inhabitants, excluding aliens.] Nothing in this section shall prevent the division, at any time, of counties and towns and the erection of new towns by the legislature.

An apportionment by the legislature, or other body, shall be subject to review by the supreme court, at the suit of any citizen, under such reasonable regulations as the legislature may prescribe; and any court before which a cause may be pending involving an apportionment, shall give precedence thereto over all other causes and proceedings, and if said court be not in session it shall convene promptly for the disposition of the same. The court shall render its decision within sixty days after a petition is filed. In any judicial proceeding relating to redistricting of congressional or state legislative districts, any law establishing congressional or state legislative districts found to violate the provisions of this article shall be invalid in whole or in part. In the event that a court finds such a violation, the legislature shall have a full and reasonable opportunity to correct the law's legal infirmities.

§ 5-b. (a) On or before February first of each year ending with a zero and at any other time a court orders that congressional or state legislative districts be amended, an independent redistricting commission shall be established to determine the district lines for congressional and state legislative offices. The independent redistricting commission shall be composed of ten members, appointed as follows:

1. two members shall be appointed by the temporary president of the senate;
2. two members shall be appointed by the speaker of the assembly;
3. two members shall be appointed by the minority leader of the senate;
4. two members shall be appointed by the minority leader of the assembly;
5. two members shall be appointed by the eight members appointed pursuant to paragraphs (1) through (4) of this subdivision by a vote of not less than five members in favor of such appointment, and these two members shall not have been enrolled in the preceding five years in either of the two political parties that contain the largest or second largest number of enrolled voters within the state;
6. one member shall be designated chair of the commission by a majority of the members appointed pursuant to paragraphs (1) through (5) of this subdivision to convene and preside over each meeting of the commission.

(b) The members of the independent redistricting commission shall be registered voters in this state. No member shall within the last three years:

1. be or have been a member of the New York state legislature or United States Congress or a statewide elected official;
2. be or have been a state officer or employee or legislative employee as defined in section seventy-three of the public officers law;
3. be or have been a registered lobbyist in New York state;
4. be or have been a political party chairman, as defined in paragraph (k) of subdivision one of section seventy-three of the public officers law;

EXPLANATION - Matter in underscored is new; matter in brackets [ ] is old law to be omitted.
(5) be the spouse of a statewide elected official or of any member of the United States Congress, or of the state legislature.
(c) To the extent practicable, the members of the independent redistricting commission shall reflect the diversity of the residents of this state with regard to race, ethnicity, gender, language, and geographic residence and to the extent practicable the appointing authorities shall consult with organizations devoted to protecting the voting rights of minority and other voters concerning potential appointees to the commission.
(d) Vacancies in the membership of the commission shall be filled within thirty days in the manner provided for in the original appointments.
(e) The legislature shall provide by law for the compensation of the members of the independent redistricting commission, including compensation for actual and necessary expenses incurred in the performance of their duties.
(f) A minimum of five members of the independent redistricting commission shall constitute a quorum for the transaction of any business or the exercise of any power of such commission prior to the appointment of the two commission members appointed pursuant to paragraph (5) of subdivision (a) of this section, and a minimum of seven members shall constitute a quorum after such members have been appointed, and no exercise of any power of the independent redistricting commission shall occur without the affirmative vote of at least a majority of the members, provided that, in order to approve any redistricting plan and implementing legislation, the following rules shall apply:
   (1) In the event that the speaker of the assembly and the temporary president of the senate are members of the same political party, approval of a redistricting plan and implementing legislation by the commission for submission to the legislature shall require the vote in support of its approval by at least seven members including at least one member appointed by each of the legislative leaders.
   (2) In the event that the speaker of the assembly and the temporary president of the senate are members of two different political parties, approval of a redistricting plan by the commission for submission to the legislature shall require the vote in support of its approval by at least seven members including at least one member appointed by the speaker of the assembly and one member appointed by the temporary president of the senate.
   (g) In the event that the commission is unable to obtain seven votes to approve a redistricting plan on or before January first in the year ending in two or as soon as practicable thereafter, the commission shall submit to the legislature that redistricting plan and implementing legislation that garnered the highest number of votes in support of its approval by the commission with a record of the votes taken. In the event that more than one plan received the same number of votes for approval, and such number was higher than that for any other plan, then the commission shall submit all plans that obtained such number of votes. The legislature shall consider and vote upon such implementing legislation in accordance with the voting rules set forth in subdivision (b) of section four of this article.

EXPLANATION - Matter in underscored is new; matter in brackets [ ] is old law to be omitted.
(h) (1) The independent redistricting commission shall appoint two co-executive directors by a majority vote of the commission in accordance with the following procedure:

(i) In the event that the speaker of the assembly and the temporary president of the senate are members of two different political parties, the co-executive directors shall be approved by a majority of the commission that includes at least one appointee by the speaker of the assembly and at least one appointee by the temporary president of the senate.

(ii) In the event that the speaker of the assembly and the temporary president of the senate are members of the same political party, the co-executive directors shall be approved by a majority of the commission that includes at least one appointee by each of the legislative leaders.

(2) One of the co-executive directors shall be enrolled in the political party with the highest number of enrolled members in the state and one shall be enrolled in the political party with the second highest number of enrolled members in the state. The co-executive directors shall appoint such staff as are necessary to perform the commission's duties, except that the commission shall review a staffing plan prepared and provided by the co-executive directors which shall contain a list of the various positions and the duties, qualifications, and salaries associated with each position.

(3) In the event that the commission is unable to appoint one or both of the co-executive directors within forty-five days of the establishment of a quorum of seven commissioners, the following procedure shall be followed:

(i) In the event that the speaker of the assembly and the temporary president of the senate are members of two different political parties, within ten days the speaker's appointees on the commission shall appoint one co-executive director, and the temporary president's appointees on the commission shall appoint the other co-executive director. Also within ten days the minority leader of the assembly shall select a co-deputy executive director, and the minority leader of the senate shall select the other co-deputy executive director.

(ii) In the event that the speaker of the assembly and the temporary president of the senate are members of the same political party, within ten days the speaker's and temporary president's appointees on the commission shall together appoint one co-executive director, and the two minority leaders' appointees on the commission shall together appoint the other co-executive director.

(4) In the event of a vacancy in the offices of co-executive director or co-deputy executive director, the position shall be filled within ten days of its occurrence by the same appointing authority or authorities that appointed his or her predecessor.

(i) The state budget shall include necessary appropriations for the expenses of the independent redistricting commission, provide for compensation and reimbursement of expenses for the members and staff of the commission, assign to the commission any additional duties that the legislature may deem necessary to the performance of the duties stipulated in this article, and require other agencies and officials of the state of New York and its political subdivisions to provide such information and assistance as the commission may require to perform its duties.

EXPLANATION - Matter in underscored is new; matter in brackets [ ] is old law to be omitted.
§ 2. Resolved (if the Senate concur), That the foregoing amendment be submitted to the people for approval at the general election to be held in the year 2014 in accordance with the provisions of the election law.

EXPLANATION - Matter in underscored is new; matter in brackets [ ] is old law to be omitted.
FORM OF SUBMISSION OF PROPOSAL NUMBER ONE, AN AMENDMENT

Revising State’s Redistricting Procedure

The proposed amendment to sections 4 and 5 and addition of new section 5-b to Article 3 of the State Constitution revises the redistricting procedure for state legislative and congressional districts. The proposed amendment establishes an independent redistricting commission every 10 years beginning in 2020, with two members appointed by each of the four legislative leaders and two members selected by the eight legislative appointees; prohibits legislators and other elected officials from serving as commissioners; establishes principles to be used in creating districts; requires the commission to hold public hearings on proposed redistricting plans; subjects the commission’s redistricting plan to legislative enactment; provides that the legislature may only amend the redistricting plan according to the established principles if the commission’s plan is rejected twice by the legislature; provides for expedited court review of a challenged redistricting plan; and provides for funding and bipartisan staff to work for the commission. Shall the proposed amendment be approved?
ABSTRACT OF PROPOSAL NUMBER ONE, AN AMENDMENT

Revising State's Redistricting Procedure

The purpose of this proposal is to reform the process of establishing new state legislative and congressional district lines that the Constitution requires every 10 years. If the proposal is approved, an independent redistricting commission will be established to determine lines for legislative and congressional districts, subject to adoption of the commission's plan by the Legislature and approval by the Governor. Under the current provisions of the Constitution, the Legislature is the entity responsible for establishing these lines.

The proposed amendment would amend sections 4 and 5 and add a new section 5-b to Article 3 of the State Constitution. The new section 5-b would establish an independent redistricting commission to determine lines for state legislative and congressional districts. Each decade beginning in 2020, a 10-member independent redistricting commission will be established. Eight members will be appointed by the four state legislative leaders and the remaining two members will be appointed by the eight legislatively-appointed members. These remaining two members cannot, in the preceding five years, have been enrolled in either of the two major political parties in New York State.

The proposed amendment would establish qualifications for the members of the commission. They must be registered to vote in New York. They cannot be the spouse of a statewide elected official, of a member of the United States Congress, or of a member of the State Legislature. They cannot be or have been within the preceding three years a member of the New York State Legislature, United States Congress, or a statewide elected official; a state officer or employee or a legislative employee; a lobbyist registered in New York; or a political party chairman. The proposed amendment would require that, to the extent practicable, appointments to the commission reflect the diversity of the residents of New York and result from consultation with outside groups.

The proposed amendment would establish principles to be applied in creating districts, which must be drawn consistently with the requirements of the federal and state constitutions and federal statutes. These principles include:

EXPLANATION - Matter in underscored is new; matter in brackets [ ] is old law to be omitted.
• No district lines may result in the prohibited denial or abridgement of racial or
language minority voting rights. Districts cannot be drawn to have the
purpose of or result in the denial or abridgement of such rights.
• To the extent practicable, districts must contain as nearly as may be an equal
number of inhabitants. The commission must provide a specific public
explanation for any deviation that exists.
• Each district must consist of contiguous territory and be as compact in form
as practicable.
• Districts cannot be drawn to discourage competition or for the purpose of
favoring or disfavoring incumbents or other particular candidates or political
parties.
• Maintenance of cores of existing districts, of pre-existing political subdivisions,
and of communities of interest must be considered.

While preparing its redistricting plan, the commission must hold at least 12 public
hearings throughout the state. The public must be notified of the hearings and be able
to access and review the commission’s draft redistricting plans, relevant data, and
related information before the first public hearing. The commission must report the
findings of the public hearings to the Legislature when the commission submits its
redistricting plan.

The proposed amendment would establish voting requirements for the commission. To
send a redistricting plan to the Legislature, seven out of 10 commission members must
approve a plan. If the Legislature is controlled by one party, then the seven favorable
votes must include that of at least one member appointed by each of the four legislative
leaders. If control of the Legislature is split between the two major political parties, then
the seven votes must include that of at least one member appointed by the Speaker of
the Assembly and one member appointed by the Temporary President of the Senate. If
seven members of the commission cannot agree on a redistricting plan, then the
commission submits the plan or plans that received the most votes, along with a record
of the votes taken.

The commission must submit its redistricting plan for the Assembly and the Senate in
one bill and the Legislature must vote upon that single bill without amending it. If the
plan does not pass the Legislature and get the Governor’s approval or a veto override,
the commission must submit another plan. If the second plan does not pass the
Legislature and get the Governor’s approval or a veto override, the Legislature can
amend the second plan as it deems necessary. The Legislature’s amended plan must
comply with the same principles the commission’s plan was subject to. When an
amended plan is approved by the Legislature, it is presented to the Governor for action.

EXPLANATION - Matter in underscored is new; matter in brackets [ ] is old law to be omitted.
The proposed amendment would establish the following voting requirements for the Legislature to approve a redistricting plan:

- If the Speaker of the Assembly and the Temporary President of the Senate belong to different political parties and the required commission members approved the redistricting plan submitted to the Legislature, then at least a majority of the members elected to each house of the Legislature must vote in favor of the plan to approve it.
- If the Speaker of the Assembly and the Temporary President of the Senate belong to different political parties and the required commission members did not approve the redistricting plan or plans submitted to the Legislature, then at least 60% of the members elected to each house of the Legislature must vote in favor of a plan to approve it.
- If the Speaker of the Assembly and the Temporary President of the Senate belong to the same political party, then at least 2/3 of the members elected to each house of the Legislature must vote in favor of a plan to approve it.

The proposed amendment would establish a 60-day deadline by which a court must decide a petition challenging an apportionment plan and would provide the Legislature with an opportunity to correct any legal problems that a court finds with a redistricting plan.

The proposed amendment would create a bi-partisan staff to perform the commission's duties and would provide for appropriations for the commission's expenses.

EXPLANATION - Matter in underscored is new; matter in brackets [ ] is old law to be omitted.
NEW YORK STATE ASSEMBLY
MEMORANDUM IN SUPPORT OF LEGISLATION
submitted in accordance with Assembly Rule III, Sec 1(f)

BILL NUMBER: A2086 REvised 1/11/13

SPONSOR: Silver (MS)

TITLE OF BILL: CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY
proposing an amendment to article 3 of the constitution, in relation to
the establishment of the independent redistricting commission

PURPOSE OR GENERAL IDEA OF BILL: This resolution, when passed a second
time in 2013 and if approved by the voters of New York State in 2014,
would amend the constitution to reform comprehensively the process and
substantive criteria used to establish new state legislative and
congressional district lines every ten years. Among other reforms, the
amendment would create an independent redistricting commission to draw
the legislative and congressional district lines; require that new
district lines be drawn in such manner as to protect minority voting
rights and communities of interest and affirmatively explain deviations
from population equality for each district; require extensive public
hearings around the state and the commission's release of all relevant
data and draft plans to facilitate public review and public drafting of
proposed district lines; and establish voting rules in both the commission
and in each house of the legislature to ensure that minority party
conferences participate fully in the process of drawing new lines.

SUMMARY OF SPECIFIC PROVISIONS: Section 1 would amend sections 4 and 5
of article 3 of the constitution to establish a new and exclusive proc-
есс by which new state legislative and congressional districts shall be
drawn. A new independent redistricting commission, selected pursuant to
a new section 5-b of the same article, shall submit to the legislature
its proposed district plans, and the legislature, shall vote upon them
without amendment. If the legislature fails to pass such plans twice, it
may amend such plans and then vote upon them. Section 1 would further
establish voting rules to govern each house's vote upon the independent
redistricting commission's plans that would protect the minority confer-
ences in each house and ensure the integrity of the commission's plans
by requiring approval by more than a majority of members under certain
circumstances. Section 1 would establish substantive principles to
govern the drafting and approval of any district plans. Among other
principles that would be followed in drawing such district lines, this
section would require: (1) the commission to consider whether proposed
lines would deny or abridge racial or language minority voting rights;
(2) no districts be drawn to have the purpose of, or result in, such
denial or abridgement; (3) districts be drawn so that racial or language
minority groups do not have less opportunity to participate in the poli-
tical process than other members of the electorate and to elect repre-
sentatives of their choice; (4) districts not be drawn to discourage
competition or for the purpose of favoring or disfavoring incumbents or
other particular candidates or political parties; (5) the commission
consider the maintenance of cores of existing districts, of pre-existing
political subdivisions, and of communities of interest; (6) districts
contain as nearly as may be an equal number of inhabitants and any devi-
ation in a district shall be explained specifically by the commission; and (7) districts be contiguous and as compact in form as practicable.

The amendments would require the commission to hold extensive public hearings across the state in specified cities and counties, and to make its drafts and relevant data widely available via the best available technology. Section 1 would amend the judicial review provision of this article to establish a 60-day deadline for decisions in this area, to establish that a court may find a district plan invalid in whole or in part if it has been drawn in violation of this article, and to provide that the court shall provide the legislature an opportunity to address such legal infirmity in the first instance.

A new section 5-b is added to establish the nature and structure of the independent redistricting commission. Specifically, the commission would consist of ten members: two appointees by each of the four legislative leaders and then two appointees selected by the majority of those eight members such that least one appointee made by either of the Assembly or Senate minority leaders must approve those two members. Neither of those two members may have been enrolled members of either of the two major political parties in New York State in the last five years. The amendment further requires that the appointing authorities shall consult with organizations devoted to protecting the voting rights of minority and other voters concerning their appointments. The commission members must be registered voters in New York State, but not have been in the last three years (a) members of the state legislature or congress or a statewide official or the spouse of any of these elected officials, (b) a state officer or employee or legislative employee; (c) a registered lobbyist; or (d) a political party chairman.

To approve a redistricting plan, the independent redistricting commission would need to obtain the vote of at least seven of its ten members in support of the plan. In the event that the commission is unable to obtain seven votes to approve a redistricting plan, the commission would have to submit to the legislature that plan (or plans, if two or more plans garnered an equal number of votes) that garnered the highest number of votes in support of its approval. The independent redistricting commission would appoint two co-executive directors of the commission by approval of a majority of the members of the commission; and the co-executive directors would appoint commission staff.

Section 2 provides that the foregoing amendment be referred to the people for approval at the general election in 2014.

JUSTIFICATION: The proposed constitutional amendment would implement historic changes to achieve a fair and readily transparent process by which to draw the lines of state legislative and congressional districts. It will reform that process to introduce greater independence, and guarantees the application of substantive criteria that protect minority voting rights, communities of interest, and rational line-drawing.

Adoption of this constitutional amendment will ensure that the drawing of legislative district lines in New York will be done by a bipartisan, independent body. By adopting a constitutional amendment the process will be substantively and fundamentally changed for the future.

For the first time, both the majority and minority parties in the legislature will have an equal role in the process of drawing lines. Members
of the commission charged with drawing the lines will have to meet strict criteria to ensure that they are independent. The process for adoption of the lines is explicitly laid out in the amendment to provide transparency and predictability to the process.

Just as important, the enactment of the constitutional amendment will give the voters of New York a voice in the adoption of this new process and by enshrining it in the constitution, ensure that the process will not be changed without due considerations. The principle of fair and open elections will be furthered by the adoption of this amendment. This far-reaching reform will set the standard for independent redistricting throughout the United States and provide a template for other states to follow.

PRIOR LEGISLATIVE HISTORY: A.9526(Silver) - passed Assembly in 2012; first legislative passage of the provisions.

FISCAL IMPLICATIONS: This amendment is not expected to have a significant impact on the State’s budget.

EFFECTIVE DATE: RESOLVED (if the Senate concurs), That the foregoing amendment be submitted to the people for approval at the general election to be held in the year 2014 in accordance with the provisions of the election law.
NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1

BILL NUMBER: S2107             REVISED 1/11/13

SPONSOR: SKELOS, KLEIN

TITLE OF BILL: CONCURRENT RESOLUTION OF THE SENATE AND ASSEMBLY
proposing an amendment to article 3 of the constitution, in relation to
the establishment of the independent redistricting commission

PURPOSE OR GENERAL IDEA OF BILL: This resolution, when passed a second
time in 2013 and if approved by the voters of New York State in 2014,
would amend the constitution to reform comprehensively the process and
substantive criteria used to establish new state legislative and
congressional district lines every ten years. Among other reforms, the
amendment would create an independent redistricting commission to draw
the legislative and congressional district lines; require that new
district lines be drawn in such manner as to protect minority voting
rights and communities of interest and affirmatively explain deviations
from population equality for each district; require extensive public
hearings around the state and the commission's release of all relevant
data and draft plans to facilitate public review and public drafting of
proposed district lines; and establish voting rules in both the commis-
sion and in each house of the legislature to ensure that minority party
conferences participate fully in the process of drawing new lines.

SUMMARY OF SPECIFIC PROVISIONS: Section 1 would amend sections 4 and 5
of article 3 of the constitution to establish a new and exclusive proc-
cess by which new state legislative and congressional districts shall be
drawn. A new independent redistricting commission, selected pursuant to
a new section 5-b of the same article, shall submit to the legislature
its proposed district plans, and the legislature, shall vote upon them
without amendment. If the legislature fails to pass such plans twice, it
may amend such plans and then vote upon them. Section 1 would further
establish voting rules to govern each house's vote upon the independent
redistricting commission's plans that would protect the minority confer-
ces in each house and ensure the integrity of the commission's plans
by requiring approval by more than a majority of members under certain
circumstances. Section 1 would establish substantive principles to
govern the drafting and approval of any district plans. Among other
principles that would be followed in drawing such district lines, this
section would require: (1) the commission to consider whether proposed
lines would deny or abridge racial or language minority voting rights;
(2) no districts be drawn to have the purpose of, or result in, such
denial or abridgement; (3) districts be drawn so that racial or language
minority groups do not have less opportunity to Participate in the pol-
itical process than other members of the electorate and to elect repre-
sentatives of their choice; (4) districts not be drawn to discourage
competition or for the purpose of favoring or disfavoring incumbents or
other particular candidates or political parties; (5) the commission
consider the maintenance of cores of existing districts, of pre-exis-
ting Political subdivisions, and of communities of interest; (6) districts

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contain as nearly as may be an equal number of inhabitants and any devi-
ation in a district shall be explained specifically by the commission; and (7) districts be contiguous and as compact in form as practicable.

The amendments would require the commission to hold extensive public hearings across the state in specified cities and counties, and to make its drafts and relevant data widely available via the best available technology. Section 1 would amend the judicial review provision of this article to establish a 60-day deadline for decisions in this area, to establish that a court may find a district plan invalid in whole or in part if it has been drawn in violation of this article, and to provide that the court shall provide the legislature an opportunity to address such legal infirmity in the first instance.

A new section 5-b is added to establish the nature and structure of the independent redistricting commission. Specifically, the commission would consist of ten members: two appointees by each of the four legislative leaders and then two appointees selected by the majority of those eight members such that least one appointee made by either of the Assembly or Senate minority leaders must approve those two members. Neither of those two members may have been enrolled members of either of the two major political parties in New York State in the last five years. The amendment further requires that the appointing authorities shall consult with organizations devoted to protecting the voting rights of minority and other voters concerning their appointments. The commission members must be registered voters in New York State, but not have been in the last three years (a) members of the state legislature or congress or a state-wide official or the spouse of any of these elected officials, (b) a state officer or employee or legislative employee; (c) a registered lobbyist; or (d) a political party chairman.

To approve a redistricting plan, the independent redistricting commission would need to obtain the vote of at least seven of its ten members in support of the plan. In the event that the commission is unable to obtain seven votes to approve a redistricting plan, the commission would have to submit to the legislature that plan (or plans, if two or more plans garnered an equal number of votes) that garnered the highest number of votes in support of its approval. The independent redistricting commission would appoint two co-executive directors of the commission by approval of a majority of the members of the commission; and the co-executive directors would appoint commission staff.

Section 2 provides that the foregoing amendment be referred to the people for approval at the general election in 2014.

**JUSTIFICATION:** The proposed constitutional amendment would implement historic changes to achieve a fair and readily transparent process by which to draw the lines of state legislative and congressional districts. It will reform that process to introduce greater independence, and guarantees the application of substantive criteria that protect minority voting rights, communities of interest, and rational line-drawing.

Adoption of this constitutional amendment will ensure that the drawing of legislative district lines in New York will be done by a bipartisan, independent body. By adopting a constitutional amendment the process will be substantively and fundamentally changed for the future.

For the first time, both the majority and minority parties in the legis-
lature will have an equal role in the process of drawing lines. Members
of the commission charged with drawing the lines will have to meet
strict criteria to ensure that they are independent. The process for
adoption of the lines is explicitly laid out in the amendment to provide
transparency and predictability to the process.

Just as important, the enactment of the constitutional amendment will
give the voters of New York a voice in the adoption of this new process
and by enshrining it in the constitution, ensure that the Process will
not be changed without due considerations. The principle of fair and
open elections will be furthered by the adoption of this amendment. This
far-reaching reform will set the standard for independent redistricting
throughout the United States and provide a template for other states to
follow.

PRIOR LEGISLATIVE HISTORY: S.6698 (Skelos) - passed Senate in 2012;
first legislative passage of the provisions.

FISCAL IMPLICATIONS: This amendment is not expected to have a signif-
icant impact on the State’s budget.

EFFECTIVE DATE: RESOLVED (if the Assembly concurs), That the foregoing
amendment be submitted to the people for approval at the general
election to be held in the year 2014 in accordance with the provisions
of the election law.