

Overview: New York Redistricting Amendment (S 8833)

S 8833 is a proposed amendment to the New York constitution that would make changes to the redistricting reforms approved by voters in 2014 by changing deadlines and the thresholds needed to approve maps, as well as certain of the criteria for drawing maps.

Background

Type of Reform

Changes to rules for approving maps, deadlines, and certain criteria

Maps Affected

Congressional and state legislative

Current System and the Amendment Process

In 2014, New Yorkers voted to establish an advisory commission for redistricting, comprised of ten members. Each of the majority and minority party leaders in the New York legislature appoints two commissioners, and those eight commissioners, in turn, choose the remaining two members, who cannot be registered members of either of the state's two largest political parties (i.e., must be members of third parties or independents).

The advisory commission is tasked with soliciting public input on the redistricting process and proposing maps to the state legislature for the legislature's consideration. Maps submitted by the commission to the legislature are subject to an up-or-down vote and may not be amended by the legislature. If the legislature rejects a map, the commission must prepare a second map for the legislature's consideration. Like the first map, any second map is also subject to an up-or-down vote and may not be amended.

The upcoming redistricting cycle in 2021-2 will be the first in which New York's commission is operational. S 8833 would make modifications to the current process.

S 8833 passed both houses of the New York legislature in July 2020, but, under New York law, will need to be approved again by the legislature that takes office in January 2021. If the measure is approved a second time by the legislature, it would go before voters in November 2021 for a ratification vote.

Key Changes

Apportionment

Fixing the number of state senators at 63 members.

The proposed amendment would freeze the number of state senate districts at the current total of 63 to prevent future legislatures from increasing or decreasing the size of the chamber. Under current law, the state senate must have at least fifty members. However, the exact number is set by the legislature, and, in the past, the ability to vary the size of the chamber has contributed to gerrymandering.

Affirming that total population will be the basis for districts.

The proposal would remove dormant language from the state constitution that technically called for excluding non-citizens and Native Americans from the population counts used when districts are drawn. Deletion of this no longer used language will bring the New York constitution in line with the actual practices long followed by the state.

Ending prison gerrymandering.

The proposal would constitutionalize an existing statute that requires incarcerated people to be counted in their districts of last residence if possible.

Map Drawing

The proposed amendment would require the commission to submit maps to the legislature earlier than required under current law. This change is made to account for the fact that legislative primaries in New York now occur in June rather than August, meaning that maps must be in place earlier for the candidate filing and qualification process. For the 2021-2 redistricting cycle, the deadlines for the commission to report its first and second plans to the legislature would be moved up by 15 and 44 days respectively. Starting in 2031-2, deadlines would be moved up by two months.

Timeline Changes

	CURRENT	PROPOSED CHANGES FOR 2021/2022 CYCLE ONLY	PROPOSED CHANGES FOR SUBSEQUENT REDISTRICTING CYCLES
Commission's plan due to legislature	January 15 of the year ending in two.	January 1, 2022	November 15 of the year ending in one.
Commission's second plan due to legislature (if needed)	February 28 of the year ending in two.	January 15, 2022	January 1 of the year ending in two.
When map-drawing power would shift to legislature	If legislature rejects both commission plans.	If legislature rejects both commission plans OR the commission fails to vote on any plans by January 1, 2022.	If legislature rejects both commission plans OR the commission fails to vote on any plan by November 1 of the year ending in one.

Note: These deadlines apply to maps for both houses of the state legislature and to the state's congressional plan.

Eliminating voting procedures and map approval mechanisms based on party legislative control.

Currently, commission procedures for approving maps change depending on whether the legislature is under the control of one party or split between parties. S 8833 would significantly alter those and other rules related to how the legislature passes final maps.

Approval Mechanism Changes

	CURRENT	PROPOSED
Step 1: Rule for commission approval of maps	<p>If legislature is under split party control, maps may be approved with the support of seven or more commissioners, including "at least one member appointed by the speaker of the assembly and one member appointed by the temporary president of the senate."</p> <p>If legislature is under same party control, maps may be approved with the support of seven or more commissioners, including "at least one member appointed by each of the legislative leaders."</p>	<p>Maps may be approved with the support of seven or more commissioners, regardless of partisan control of the legislature. Because each party appoints four commissioners, maps must get the vote of at least one commissioner appointed by each party's legislative leaders to pass.</p>
Step 2: Rule for legislative approval of maps passed by commission	<p>If legislature is under split party control, a simple majority is sufficient for approval.</p> <p>If legislature is under same party control, a two-thirds majority is sufficient for approval.</p>	<p>A simple majority is sufficient for approval regardless of partisan control.</p>
Alternate process if no map passed by commission	<p>If legislature is under split party control, a sixty percent majority is sufficient for approval.</p> <p>If legislature is under same party control, a two-thirds majority is sufficient for approval.</p>	<p>A sixty percent majority is sufficient for approval regardless of partisan control.</p>
Alternate process if commission fails to hold vote on a map	No rule.	<p>Under these circumstances, all draft and final maps are submitted to the legislature. Each house can then introduce such implementing legislation it likes, with amendments. Because these maps would not have received a full seven votes from the commission, they would require a sixty percent majority for approval.</p>

The proposed amendment states that if the commission has not voted on any plans by the first plan submission date (for the next redistricting cycle, January 1, 2022), the legislature assumes control of the redistricting process and can pass maps by a simple majority.

However, if the commission has voted on plans by January 1, 2022, but failed to meet the seven-vote threshold, the legislature is still bound to introduce and vote on those plans without amendment.

The revised timelines mean that this cycle's public input period would occur before the criteria changes are in effect.

Changing voting procedure for the appointment of co-executive directors of the commission.

As the law stands, the voting procedure for the selection of co-executive directors varies

based on whether a single party controls the state legislature. The proposed amendment would let a simple majority of commissioners select co-executive directors, regardless of who controls the legislature.

Redistricting Criteria

Eliminating the “block on border” rule when drawing districts.

The New York constitution currently requires that towns or blocks that could be placed in multiple districts be kept together and assigned to a single district rather than divided up.