



THE ASSEMBLY
STATE OF NEW YORK
ALBANY

Brian M. Kolb
Minority Leader

February 25, 2011

The Honorable Andrew M. Cuomo
Governor of New York State
NYS State Capitol Building
Albany, NY 12224

Dear Governor Cuomo:

Our Assembly Minority Conference is 100 percent committed to bringing real reform to New York's dysfunctional redistricting process and shares your goal of creating a non-partisan, Independent Legislative Redistricting Commission to help take politics out of reapportionment.

For nearly two years, I have traveled across the state speaking out for a non-partisan, grassroots "People's Constitutional Convention," a comprehensive reform effort that you, and former Governor Mario Cuomo support. One of the many reforms I have publicly advocated for as part of a "People's Convention" is the establishment of an Independent Legislative Redistricting Commission similar to the one you recently proposed.

Accordingly, after a careful review of your initiative, I am respectfully submitting several recommendations to modify the "Redistricting Reform Act of 2011." My suggestions are offered in the spirit of making the bill better to help facilitate its passage through both houses of our state Legislature.

In order for New Yorkers to have complete confidence that the new redistricting process and ensuing district boundaries were drawn fairly, accurately and legally, we should provide for a revised nomination and selection process that yields a Commission equally weighted between the Legislative and Executive branches, as well as political affiliations.

With regard to the initiative's Independent Redistricting Nominations Committee, I suggest the following modifications to ensure a partisan balance on the Commission by eliminating any potential advantage for political parties, and ensuring that the Legislative branch and its respective Legislative Conferences have an equal level of input on the Commission. My recommendations include the following:

1. Change the composition of the Independent Redistricting Nominations Committee from eight to ten members.

REPLY TO:

Room 933, Legislative Office Building, Albany, New York 12248, (518) 455-3751, Fax (518) 455-3750
District Office: 607 W. Washington St Suite #2, Geneva, NY 14456, (518) 781-2030

2. Increase the number of appointments for the each of the four Legislative Leaders from one to two Members and reduce the number of Executive branch appointments from four to two Members. Require one of the two Executive branch appointees to be an enrolled in each major political party.

I believe these first two modifications to your proposal are necessary because, as currently written, the measure slants Commission selections in favor of the Executive branch and Legislative Conferences of the same political party. Essentially under your proposal, six of the eight members would be appointed by the Governor's political party. A truly Independent Redistricting Commission must not give any advantage to a political party or branch of state government.

3. Change from a simple majority vote to supermajority vote of seven out of the ten members required to select each person to be included in the nominations pool.

Governor, this third modification will ensure that at least one appointee of one of the two Legislative Leaders, opposite the party of the sitting Governor, would have to vote in favor of each person selected to the nominations pool, achieving a truly bi-partisan selection process.

4. Add the following language to your proposal to ensure that the redistricting process abides by the State Constitutional requirements under Article III, Section IV: "The Federal census taken in the year two thousand ten 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 readjustment or alteration of Senate and Assembly districts next occurring."

5. Also, add language to your bill repealing part XX of Chapter 57 of the Laws of 2010, which required legislative redistricting to be based on adjusted Census numbers which count incarcerated persons at their residential street address prior to incarceration rather than the address of the correctional facility.

I believe that the aforementioned technical and substantive modifications are necessary to ensure constitutional safeguards are met during the redistricting process. There has been recent debate over the Constitutionality of part XX of Chapter 57, which was hastily included in the 2010-11 Enacted Budget. Article III Section IV of the State Constitution specifically requires redistricting to be based on the Federal census - not on an adjusted census. Any redistricting plan enacted under the provisions of Chapter 57 will face legal challenge.

There is outcry in local communities who believe that since they share their utilities and emergency services with the inmates housed there, they should certainly be counted as residents. This matter should have been subject to public hearings and not done within the context of the budget. With time running out, this provision should be repealed to ensure that redistricting is not delayed by costly and protracted legal disputes.

6. Require the Independent Redistricting Commission to conduct at least one public hearing at locations on Long Island, in the North Country and the Southern Tier, in addition to the following locations required by your bill: Albany, Buffalo, Syracuse, Rochester, White Plains and the Counties of the Bronx, Kings, New York, Queens and Richmond.

This last modification is necessary because your proposal does not provide Long Island as a location for redistricting hearings, which would deny residents an opportunity to be heard on any proposed changes. I believe strongly that Long Island should not be left out of this important

hearing process. Also, locations in the North Country and Southern Tier should be included to reflect a true geographic balance of New York State.

Our Conference commends you for keeping your promise to introduce legislation that would establish a truly non-partisan, Independent Legislative Redistricting Commission. Your thoughtful legislation marks the first serious and substantive effort advanced by the Executive Branch in this regard.

On behalf of the six-and-a-half million New Yorkers we proudly represent, it is my hope the aforementioned recommendations will be viewed as an opportunity to improve upon your initial proposal and make 2011 the year New York finally fixes its broken redistricting process.

Sincerely,

A handwritten signature in black ink that reads "Brian". The signature is written in a cursive, slightly stylized font.

Brian M. Kolb
Assembly Minority Leader

CC: Speaker Silver, Leader Skelos and Leader Sampson