

PUBLIC HEARING

before

ASSEMBLY STATE GOVERNMENT COMMITTEE

ASSEMBLY CONCURRENT RESOLUTION NO. 105 Aca

(Proposes an amendment to the Constitution creating the
New Jersey Redistricting Commission)

June 15, 1987
Room 418
State House Annex
Trenton, New Jersey

MEMBER OF COMMITTEE PRESENT:

Assemblyman Robert J. Martin, Chairman

ALSO PRESENT:

Donald S. Margeson
Office of Legislative Services
Aide, Assembly State Government Committee

* * * * *

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June 10, 1987

NOTICE OF PUBLIC HEARING

The Assembly State Government Committee will hold a public hearing on Monday, June 15, 1987, at 11:00 a.m., in Room 418, of the State House Annex in Trenton concerning the following legislation:

ACR-105 Aca
Franks, Pelly

Proposes an amendment to the Constitution
creating the New Jersey Redistricting
Commission.

This public hearing has been ordered by the General Assembly under Rule 143 of the Rules of the General Assembly and in compliance with the requirements of Article IX, paragraph I of the State Constitution, concerning constitutional amendments.

Anyone wishing to offer testimony concerning this legislation at the public hearing may contact Donald S. Margeson, Aide to the Committee, at (609) 292-9106.

STATE OF NEW JERSEY

INTRODUCED MAY 8, 1986

By Assemblymen FRANKS and PELLY

A CONCURRENT RESOLUTION proposing to amend Article II and Article IV, Section II and to repeal Article IV, Section III of the Constitution of the State of New Jersey, and providing a schedule therefor.

1 BE IT RESOLVED *by the General Assembly of the State of New*
2 *Jersey (the Senate concurring):*

1 1. The following proposed amendment to the Constitution of the
2 State of New Jersey is hereby agreed to:

PROPOSED AMENDMENT

3 a. Amend Article II to read as follows:

Article II

ELECTIONS AND SUFFRAGE

SECTION 1

4 1. General elections shall be held annually on the first Tuesday
5 after the first Monday in November; but the time of holding such
6 elections may be altered by law. The Governor and members of the
7 Legislature shall be chosen at general elections. Local elective
8 officers shall be chosen at general elections or at such other times
9 as shall be provided by law.

10 2. All questions submitted to the people of the entire State shall
11 be voted upon at general elections.

12-14 3. (a) Every citizen of the United States, of the age of 18 years,
15 who shall have been a resident of this State and of the county in
16 which he claims his vote 30 days, next before the election, shall be
17 entitled to vote for all officers that now are or hereafter may be
18 elective by the people, and upon all questions which may be sub-
19 mitted to a vote of the people; and

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.

Matter printed in italics *thus* is new matter.

20 (b) (Deleted by amendment, effective December 5, 1974.)

21 (c) Any person registered as a voter in any election district of
22 this State who has removed or shall remove to another state or to
23 another county within this State and is not able there to qualify to
24 vote by reason of an insufficient period of residence in such state
25 or county, shall, as a citizen of the United States, have the right to
26 vote for electors for President and Vice President of the United
27 States, only, by Presidential Elector Absentee Ballot, in the county
28 from which he has removed, in such manner as the Legislature
29 shall provide.

30 4. In time of war no elector in the military service of the State or
31 in the armed forces of the United States shall be deprived of his
32 vote by reason of absence from his election district. The Legislature
33 may provide for absentee voting by members of the armed forces
34 of the United States in time of peace. The Legislature may provide
35 the manner in which and the time and place at which such absent
36 electors may vote, and for the return and canvass of their votes in
37 the election district in which they respectively reside.

38 5. No person in the military, naval or marine service of the
39 United States shall be considered a resident of this State by being
40 stationed in any garrison, barrack, or military or naval place or
41 station within this State.

42 6. No idiot or insane person shall enjoy the right of suffrage.

43 7. The Legislature may pass laws to deprive persons of the right
44 of suffrage who shall be convicted of such crimes as it may desig-
45 nate. Any person so deprived, when pardoned or otherwise restored
46 by law to the right of suffrage, shall again enjoy that right.

SECTION II

47 1. (a) After each federal census taken in a year ending in zero,
48 the Congressional districts and 20 legislative districts shall be
49 established by the New Jersey Redistricting Commission.

50 (b) The commission shall consist of 10 members. At least eight of
51 the members shall be persons who at the time of their appointment
52 to the commission are, and during their entire tenure thereon
53 remain, affiliated with the political party whose candidate for
54 Governor receives the largest number of votes in the most recent
55 gubernatorial election or the political party whose candidate for
56 Governor receives the second largest number of votes in that
57 election, but no more than five members shall be affiliated with
58 either party. A person shall be considered to be affiliated with a
59 political party if he has voted in at least four of that party's five
60 preceding primary elections for the general election and in no pri-
61 mary election of any other party. The members of the commission

62 shall be appointed with due consideration to geographic, ethnic
63 and racial diversity and in the following manner:

64 (1) one member to be appointed by the President of the Senate;

65 (2) one member to be appointed by the Speaker of the General
66 Assembly;

67 (3) one member to be appointed by the minority leader of the
68 Senate;

69 (4) one member to be appointed by the minority leader of the
70 General Assembly;

71 (5) two members, one to be appointed by the chairman of the
72 State committee of each of the two political parties whose candi-
73 dates for Governor receive the largest numbers of votes at the
74 most recent gubernatorial election, who shall rotate, as chairmen
75 of the commission from meeting to meeting; and

76 (6) four members, to be appointed by a majority of the Supreme
77 Court, none of whom shall have run for a public or party office,
78 and at least one of whom shall be affiliated with one of the two
79 political parties whose candidates for Governor received the larg-
80 est numbers of votes in the most recent gubernatorial election and
81 at least one of whom shall be affiliated with the other of those
82 parties.

83 Appointments to the commission shall be made on or before
84 November 15 of each year ending in zero and shall be certified by
85 the appointing official or officials to the Secretary of State on or
86 before December 1 of that year. Vacancies in the membership
87 of the commission occurring prior to the certification by the com-
88 mission of Congressional and legislative districts or during any
89 period in which the districts established by the commission may
90 be or are under challenge, under the provisions of paragraph 7
91 of this section, shall be filled within five days of their occurrence
92 in the same manner as the original appointments were made.

93 (c) On or before April 1 of each year ending in one, or within
94 three months after receipt by the Governor of the official figures
95 for the federal census taken in the preceding year, whichever is
96 later, the commission shall certify the establishment of 40 legis-
97 lative districts to the Secretary of State. On or before January 1
98 of each year ending in two, or within three months after receipt by
99 the Governor of those official federal census figures, whichever is
100 later, the commission shall certify the establishment of the Con-
101 gressional districts to the Secretary of State. The commission shall
102 certify the establishment of districts pursuant to a majority vote
103 of its members with at least three of the Supreme Court's
104 appointees and at least one member affiliated with each political
105 party from the remaining appointees voting with the majority.

106 2. *The New Jersey Redistricting Commission shall establish*
107 *Congressional and legislative districts composed of contiguous*
108 *territory, as nearly equal in population as is practicable. Districts*
109 *shall be as compact as possible and shall be drawn to coincide with*
110 *the boundaries of counties and municipalities as nearly as is*
111 *practicable, and no district boundary shall divide a municipality*
112 *unless the population of the municipality, as determined by the*
113 *most recent federal decennial census, exceeds the number obtained*
114 *by dividing the population of the State according to that census*
115 *by the total number of Congressional or legislative districts, as*
116 *appropriate.*

117 *The number of county and municipal fragments shall be no*
118 *more than 20% greater than the lowest possible number of frag-*
119 *ments. The number of fragments is obtained by determining the*
120 *number of whole counties and municipalities and parts of counties*
121 *and municipalities contained in each district and then totalling*
122 *these fragments for all the districts.*

123 3. *Except in the case of executive sessions, meetings of the New*
124 *Jersey Redistricting Commission shall be held at convenient times*
125 *and locations and shall be open to members of the general public.*
126 *Executive sessions of the commission shall be conducted upon*
127 *written request of at least six members or the vote of at least*
128 *six members.*

129 4. *The New Jersey Redistricting Commission shall hold public*
130 *hearings throughout the State. The commission shall accept*
131 *written plans for the establishment of Congressional and legis-*
132 *lative districts from members of the general public.*

133 5. *The Legislature shall appropriate the funds necessary for*
134 *the efficient operation of the New Jersey Redistricting Commis-*
135 *sion.*

136 6. *The establishment of Congressional and legislative districts*
137 *shall be used thereafter for the election of members of the House*
138 *of Representatives and Legislature and, except as provided by*
139 *paragraph 7 of this section, shall remain unaltered until the next*
140 *year ending in zero in which a federal census for New Jersey*
141 *is taken.*

142 7. *Notwithstanding any provision to the contrary of the Con-*
143 *stitution of this State and except as otherwise required by the*
144 *Constitution of the United States or by any federal law, original*
145 *jurisdiction over any judicial proceeding challenging the estab-*
146 *lishment of Congressional or legislative districts shall lie with a*
147 *judicial panel composed of three judges, as hereinafter provided.*
148 *Any legally qualified voter of the State may challenge the dis-*

149 tricts established by the Redistricting Commission by filing,
150 within 45 days of the certification of their establishment, a peti-
151 tion for injunctive relief with any Judge of the Superior Court.
152 No petition shall be accepted after the expiration of the 45 day
153 period. Upon the filing of the petition, the Judge to whom the
154 petition is presented shall immediately notify the Chief Justice
155 of the Supreme Court, who shall designate two other Judges of
156 the Superior Court, at least one of whom shall be a Judge of the
157 Appellate Division of the Superior Court and shall be designated
158 to preside at the trial of the action. The judges so designated
159 and the judge to whom the petition was presented shall serve as
160 members of the panel to hear and determine the action or pro-
161 ceeding. At least five days' notice of hearing of the action shall
162 be given to the Governor and the Attorney General. The panel
163 shall give any petition filed as provided herein precedence over
164 all other matters. It shall render judgment within 60 days of the
165 close of the petition period. If the panel finds any or all of the
166 districts unacceptable, it shall order the commission to establish
167 new ones within 60 days.

168 A judgment by the panel may be appealed to the Supreme
169 Court within 10 days of the day on which it is rendered. The
170 Supreme Court shall give that appeal precedence over all other
171 matters.

172 b. Amend Article IV, Section 11 to read as follows:

173 [1. The Senate shall be composed of 40 senators apportioned
174 among Senate districts as nearly as may be according to the
175 number of their inhabitants as reported in the last preceding
176 decennial census of the United States and according to the method
177 of equal proportions. Each Senate district shall be composed,
178 wherever practicable, of one single county, and, if not so practi-
179 cable, of two or more contiguous whole counties.

180 2. Each senator shall be elected by the legally qualified voters of
181 the Senate district, except that if the Senate district is composed
182 of two or more counties and two senators are apportioned to the
183 district, one senator shall be elected by the legally qualified voters
184 of each Assembly district. Each senator shall be elected for a term
185 beginning at noon of the second Tuesday in January next follow-
186 ing his election and ending at noon of the second Tuesday in
187 January four years thereafter, except that each senator, to be
188 elected for a term beginning in January of the second year
189 following the year in which a decennial census of the United
190 States is taken, shall be elected for a term of two years.

191 3. The General Assembly shall be composed of 80 members.

192 Each Senate district to which only one senator is apportioned
193 shall constitute an Assembly district. Each of the remaining
194 Senate districts shall be divided into Assembly districts equal in
195 number to the number of senators apportioned to the Senate
196 district. The Assembly districts shall be composed of contiguous
197 territory, as nearly compact and equal in the number of their
198 inhabitants as possible, and in no event shall each such district
199 contain less than 80% nor more than 120% of one-fortieth of the
200 total number of inhabitants of the State as reported in the last
201 preceding decennial census of the United States. Unless necessary
202 to meet the foregoing requirements, no county or municipality
203 shall be divided among Assembly districts unless it shall contain
204 more than one-fortieth of the total number of inhabitants of the
205 State, and no county or municipality shall be divided among a
206 number of Assembly districts larger than one plus the whole
207 number obtained by dividing the number of inhabitants in the
208 county or municipality by one-fortieth of the total number of
209 inhabitants of the State.

210 4. Two members of the General Assembly shall be elected by the
211 legally qualified voters of each Assembly district for terms begin-
212 ning at noon of the second Tuesday in January next following
213 their election and ending at noon of the second Tuesday in
214 January 2 years thereafter.]

215 1. *The Senate shall be composed of 40 senators. One senator*
216 *shall be elected by the legally qualified voters of each legislative*
217 *district for a term beginning at noon of the second Tuesday in*
218 *January next following his election and ending at noon of the*
219 *second Tuesday in January four years thereafter, except that*
220 *each senator to be elected for a term beginning in January of*
221 *the second year following a year ending in zero in which a federal*
222 *census is taken, shall be elected for a term of two years.*

223 2. *The General Assembly shall be composed of 80 members.*
224 *Two members of the General Assembly shall be elected by the*
225 *legally qualified voters of each legislative district for a term*
226 *beginning at noon of the second Tuesday in January next follow-*
227 *ing their election and ending at noon of the second Tuesday in*
228 *January two years thereafter.*

229 c. Article IV, Section III, is repealed.

SCHEDULE

230 This Constitutional amendment shall, if approved, be appli-
231 cable to any establishment of Congressional or legislative dis-
232 tricts for use subsequent to the official federal census in 1990.

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 2 agreed to, pursuant to Article IX, paragraph 1 of the Constitu-
 3 tion, it shall be submitted to the people at the next general
 4 election occurring more than three months after the final agree-
 5 ment and shall be published at least once in at least one news-
 6 paper of each county designated by the President of the Senate
 7 and the Speaker of the General Assembly and the Secretary of
 8 State, not less than three months prior to the general election.

1 3. This proposed amendment to the Constitution shall be sub-
 2 mitted to the people at the election in the following manner and
 3 form:

4 There shall be printed on each official ballot to be used at the
 5 general election, the following:

6 a. In every municipality in which voting machines are not used,
 7 a legend which shall immediately precede the question as follows:

8 If you favor the proposition printed below make a cross (X),
 9 plus (+) or check (V) in the square opposite the word "Yes."
 10 If you are opposed thereto make a cross (X), plus (+) or check
 11 (V) in the square opposite the word "No."

12 b. In every municipality, the following question:

	Yes.	<p style="text-align: center;">CREATES THE NEW JERSEY REDISTRICTING COMMISSION</p> <p>Shall the amendment of Article II and Article IV, Section II and the repeal of Article IV, Section III, of the Constitution, agreed to by the Legislature, providing for the creation of the New Jersey Redistricting Commission and eliminating the Apportionment Commission, be adopted?</p>
	No.	<p style="text-align: center;">INTERPRETIVE STATEMENT</p> <p>Adoption of this amendment would create a bipartisan New Jersey Redistricting Commission that would redraw both Congressional and legislative districts at the beginning of each decade. Currently, legislative districts are created by an Apportionment Commission, which would be eliminated by this amendment, and Congressional districts are created by vote of the Legislature.</p>

STATEMENT

The purpose of this Constitutional amendment is to create the New Jersey Redistricting Commission, which would draw Congressional and legislative districts for members of the House of Representatives and State Legislature. The amendment abolishes the present Apportionment Commission.

The commission would consist of 10 members, no more than five of whom could be affiliated with either of the two major political parties. The members are charged with establishing district lines which meet certain criteria.

Presently, Congressional districts are drawn by the Legislature and are subject to the whims of the partisan process without regard to the best interests of the voters.

ELECTIONS

Proposes an amendment to the Constitution creating the New Jersey Redistricting Commission.

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mjz: 1-13

ASSEMBLYMAN ROBERT J. MARTIN (Chairman): I would like to call this public hearing to order. My name is Robert Martin. I am Chairman of the Assembly State Government Committee. This Committee is holding a public hearing today for the purpose of considering ACR-105 with Assembly Committee amendments. It is a bill sponsored by Assemblymen Robert Franks and Frank Pelly. This resolution proposes an amendment to the Constitution for the purpose of creating a New Jersey Redistricting Commission.

This public hearing has been ordered by the General Assembly under Rule 143 of the Rules of the Assembly, and in compliance with the State Constitution for proposals to make constitutional amendments.

May I get an understanding at this point in time what persons wish to speak? I spoke to Doris Weisberg, and she indicated she wishes to be heard. I see that the sponsor, Mr. Franks, is here. Would you like to say a few words, Bob? (affirmative response) Ed? (speaking to Ed McCool in the audience, who answers affirmatively also) Is there anyone else who wishes to testify today? (no response) All right.

To my right is Don Margeson, Staff Aide to the State Government Committee. To my left is Gregg Edwards, from the Assembly Majority Staff. I see our Democratic colleague -- our counterpart -- is also here today, Al Harris. Welcome.

At this point in time, I would like to call Bob Franks to say a few words about this proposed constitutional amendment.
A S S E M B L Y M A N R O B E R T D. F R A N K S: Good morning. Mr. Chairman, I thank you for convening this public hearing for the purpose of further review of a constitutional amendment which would alter the congressional redistricting process in New Jersey.

The Legislature has failed miserably in the redistricting process. It has not only failed in redrawing fair congressional maps, but it has also failed the people of

New Jersey. Residents over the past 20 years have been confused. They have been thrown from one district to another, normally by a legislative map which has had as its principal goal the furtherance of the interests of either a political person running for office, or a political party. The public's interest has not been predominant. This amendment being considered today -- ACR-105 -- seeks, as a public policy, to put the people's interest ahead of any politician's interest.

I hope, Mr. Chairman, that we will identify this opportunity as being perhaps the very last during which it is reasonable to expect that there can be a change in the redistricting process. I fear that if we fail to take action between now and November, in fact, between now and early August, we will lose, for the period of the next 12 years, the opportunity to change the congressional redistricting process in New Jersey.

I would today like to thank for their continuing and vocal support, the League of Women Voters of the State of New Jersey, as well as New Jersey Common Cause, who are going to be speaking after I do. Their stalwart support of this measure when it was a rather lonely crusade has truly sustained this effort, and I am very grateful for it.

I said before, Mr. Chairman, that the current congressional redistricting process is the greatest singular blot on the integrity of the electoral process here in New Jersey. If we don't put partisan wrangling aside, we are destined for failure. The court intervention which we have seen in the past will continue. It will cost enormous amounts of money to wage appeals, and it will also cost in terms of the people losing confidence in the electoral process itself. That is probably the greatest cost if we fail to take advantage of this opportunity to change the Constitution.

One of the most difficult things for any member of the Legislature to do is to conclude that a particular area of

activity should not be within our domain. It is not like us to want to surrender important responsibilities to an unelected commission, but in this case, Mr. Chairman, I believe history shows us that we must surrender this activity in order to put the people's interest first.

I hope this public hearing is the forerunner to very quick floor action by the Assembly, and I would call today on Senate President Russo and the leadership in the Senate to be mindful that this is perhaps our last opportunity to change the congressional redistricting process, not only for 1990, but ultimately the map that will be yielded in 1990 will probably remain intact, I suspect, for the entirety of the 1990s. So, our last opportunity to change this failed system is right now. I hope that Senate President Russo will recognize that, and will look toward this amendment which enjoys bipartisan support in the General Assembly, as well as the support of organizations which are primarily concerned with the integrity of the electoral process in our State, and that he will agree to put this bill on a fast track in the Senate. It has been debated and debated. It is not difficult to understand. While the bill may not be perfect in every regard, it has been able to develop a bipartisan coalition behind it.

I want to thank particularly, Assemblyman Frank Pelly, a member of the Democratic party, who has been a champion of this measure, and has spoken out for it time and time again. I don't think we would be here without his support and the bipartisan support that has been engendered around the bill. I would also like to thank the staff, both Mr. Margeson and Mr. Edwards, who have been absolutely excellent in helping us to develop this proposal and to craft some bipartisan support around it.

So, that is really all I have to say, Mr. Chairman. It is a time for action. I hope the Assembly recognizes that, and I hope that, pending the result of this hearing, the Senate

will also recognize that the window of opportunity is closing, and that the people's interests need to be put first and foremost, and not shunted aside in favor of some more narrow political interests.

Thank you, Mr. Chairman.

ASSEMBLYMAN MARTIN: Thank you, Bob. You may have the opportunity today, I think, of acting as a preacher speaking to the choir. I think in anybody's view, no matter how we look at this, that New Jersey is a State which needs to change the system. Historically, in the United States, it has been such that the states have been left to be able to draw up the districts as the Legislature chooses, and gerrymandering has been an exercise that has been practiced long and hard and well in New Jersey to the benefit of whoever happens to be holding the keys of power in the State House in the year in which the congressional districts are being redrawn.

I think it is commendable of the sponsor, and also Mr. Pelly, that they have seen this opportunity several years before 1991, that before we know who is going to be in power, we take the opportunity to create a system which is nonpartisan, which really needs to be done for the public. I think to do otherwise will not only probably allow one party to have an unfair advantage, but will simply invite litigation. The history of the 1980s, as far as congressional districting in New Jersey, and redistricting, certainly bore that out as we saw the plans continually challenged -- and successfully, I might add -- as being deficient, primarily because of the overzealousness of those who were in power during the time when they were drawn.

So, again, I thank the sponsor. I know this program on various proposals has been worked through. We have had public hearings on the subject. It has gone through several revisions. I think the sponsor and I both agree -- and he just stated this -- that there may not be a perfect formula to

devise. I think the important thing is that we create a system which is perceived by the public in reality to be generally fair, one that people have confidence in to the extent that it will provide an evenness to all concerned.

So, Bob, I thank you. Now, we will take further testimony. At this time, I would like to call Doris Weisberg, from the League of Women Voters, to speak.

Senator Zimmer, would you care to comment on this proposal?

S E N A T O R R I C H A R D A. Z I M M E R (from audience): I was here to listen, but if you twist my arm, maybe--

ASSEMBLYMAN MARTIN: Well, we will let you contemplate that.

D O R I S W E I S B E R G: Good morning. I am Doris Weisberg. I am Government Director for the League of Women Voters. I think I am really here to parrot my testimony that was read by Marie Curtis at the last two Committee hearings, and probably those words that Mr. Franks spoke.

The League has long urged the passage of this type of bill. The voters of this State have suffered through a process that results in gerrymandering, political hostility, court challenges, and lengthy confusion as to district identities. We heartily endorsed many of the bills that have come down the pike, and we certainly believe that this one is one of the bills that should certainly pass.

The League believes that an active and informed electorate is the backbone of our democratic process. A stable election process that allows citizens to know and identify with their respective representatives is essential. Here in New Jersey our wrangling over competing plans with court imposed changes in district lines undermines the faith in the process. Following the last census in 1980, certain citizens found themselves in three different districts in three different

elections -- consecutive elections -- with three different Congressmen. They had no sense of identity, no sense of representation at the Federal level.

Perhaps removing the process from the Legislature is not the entire answer, but we certainly feel it is a start. It is difficult to imagine that the situation would not improve once it is taken out of the give and take of the Legislature. The bipartisan commission approach has been more successful in the legislative redistricting than the full Legislature approach has been in the congressional redistricting.

In addition, this bill allows the two most popular plans to be submitted to the State Supreme Court for selection if the commission fails. Then you have the tie-breaker. Most of the other bills only had a single way of determining at the end.

We have been through years and years of hearings, task forces, committee proposals, and expert testimony. This bill has been worked over, worried over, and fine-tuned to a point of acceptance, if not advocacy, by all. We don't see anything in this bill that really is not acceptable to all of the people who have brought the various bills over the year. If we are ever to improve the situation -- again, I am parroting Mr. Franks -- the time is now. We don't have a lot of time. We are doomed of another 12 years of headlines and wrangling and court cases -- a very expensive process.

We sincerely hope that this bill will move, not only quickly in the Assembly, but will get across to the Senate. We intend to do everything we can to urge that the Senate move as quickly as the Assembly has on this.

Thank you.

ASSEMBLYMAN MARTIN: While we still have the sponsor here-- I know a question that came up, Bob, if you would care to address it-- We had talked, at one point in time, about trying to provide, in addition to fragmentation problems both

at the county and municipal levels, the concept of compactness. Could you just comment on where that is, or how you see that? Is it still part of the resolution?

ASSEMBLYMAN FRANKS (speaking from audience): Mr. Chairman, one of the unfortunate elements of the redistricting process which I found it impossible to achieve a consensus regarding, was the issue of compactness and its definition. We all have a common feeling that a compact district is obviously in the public's interest, more so that some district that takes slices of counties and runs it from North Jersey to South Jersey. But, I was unable to reach an agreement with the people who have been part and parcel of this process for the last five years to craft a compactness standard which found unanimity among the people who were working on the bill.

So, I hope that the issue of having limited -- through the bill -- the county fragments, will lead reasonable people who will make up this commission to see the wisdom in following the letter of the law in terms of limiting county fragments, which would hopefully leave full counties to be parts of the same congressional district. It is really only through that device that we can hope to achieve a compact district. Failure to be able to agree on a standard for compactness has been frustrating, but it is one of the realities of the legislative process. It has simply been too difficult, in precise terms, to craft a compactness standard. This is something that is going to prohibit the bigger issue of what entity ought draw these congressional districting maps.

I was unwilling to bring the entire process to a halt and declare a failure, because I felt the overriding public interest was in transferring this obligation out of the fault of the Legislature and onto a bipartisan commission, where a level playing field could be established.

ASSEMBLYMAN MARTIN: I just wanted to be clear for the public's information. It is difficult. We had talked somewhat

at length during the course of these hearings about different forms of trying to provide for compactness; also, the mere fact that many of them involving rubberbands and other models -- compasses, and so forth -- would be somewhat difficult to explain. Part of the process, I think, which is important here is that the public understand what these districts represent. I think more important than compactness -- although we would hope the commission would consider that aspect -- is the county fragmentation, because most people, over time in New Jersey, have come to have a pretty good identity, I believe, as far as what their county is, and there is a continuity and a kind of consensus of interest, I think, in most counties. To the extent that we do our best to limit fragmentation of the counties is more important, and does provide a way of dealing with compactness. Although not completely, I think it does help to eliminate any real problems in that area, although conceivably I just-- In part, I bring it up just to make clear that people can still draw some districts that may not be the perfect form, with precise geometric symmetry, even with this proposed legislation. That is clear.

ASSEMBLYMAN FRANKS (moving up to witness table): Mr. Chairman, I just want to follow the reporter's instructions.

HEARING REPORTER: Thank you.

ASSEMBLYMAN FRANKS: There is a benefit to persons on the commission who want to have compact districts, I believe, through the tie-breaking mechanism, assuming there is a failure to reach an adequate number of votes to ratify any particular plan, assuming that we can't name the tie-breaker through the arbitration process that has been developed through the bill. That plan which best meets the intent of the Legislature as expressed through the bill, will be the one chosen by the court. I would suspect, and hope, that the more reasonable plan, ~~the one that leads to more compact districts,~~ would be viewed by the court as the one that best meets the goals and

the intention the Legislature has expressed through the bill. So, hopefully, if there is disagreement, that plan which is more compact would stand a greater likelihood of being chosen than that that would prevail. So, hopefully, that tie-breaking mechanism will have that salutary effect.

ASSEMBLYMAN MARTIN: Thank you. Now I would like to hear from Ed McCool, Common Cause.

E D M C C O O L: Thank you, Mr. Chairman. For the record, we are here essentially to show that Common Cause not only endorses this legislation, but is making it a priority to the extent that we can influence its passage by both chambers in the short time remaining.

What we have here is a good bill. It is a good bill in the sense that reasonable people who are genuinely interested in reforming the problem can agree to this bill. It may not meet everyone's standards of what the perfect bill would look like, but I defy anyone to point to any piece of legislation passed by either chamber, and signed by the Governor, in the history of this State, that can meet that criteria.

This is a bill which has reasonable compromises, and yet at the same time does the job that it set out to do; that is, reform the way we are not drawing congressional districts now, and do it in a manner that the courts have been looking forward to in the sense of establishing other criteria beyond one person/one vote; establishing that criteria on a priority basis, so that the courts know what the intent of the Legislature is, and providing it then with other paths it can walk down in the way of ruling on the equitability of a congressional district beyond just mere head counts, because as we know, we can all come up with congressional districts that are equal in population, but are disasters in all other respects.

In the short time remaining for the Legislature to act, our membership will be contacting letters to the editor, as well as representatives to raise their consciousness about this problem and the need to act on it now, and essentially creating the political will to reform it. That has been the difficulty with most public issues of this nature; that is, there is so much other business that stems from particular interests that must be conducted during the legislative year, that things like this tend to be put aside. We commend both sponsors for rising up at the time they have and urging the Legislature to take advantage of this particular period to act on it.

Essentially, we reiterate that if any representative, either in the Assembly or the Senate, is genuinely interested in reforming the process, this is a bill that they can agree to. Assuming that it will clear the Assembly, and recognizing the short period of time remaining, we, too, look to Senator Russo and the leadership of the Senate to begin this process now in the Senate with a bill identical to this one, so that we can hopefully have it on the ballot for November for the people to approve.

ASSEMBLYMAN MARTIN: Thank you. For the public's information, in order to have this amendment, of course, we need a referendum for the November ballot. We would need action by the Senate by the end of July, in order to meet the constitutional guidelines of notice, which provide for 90 days prior to the election, that both houses would have had to pass the resolution. So, the time frame is very short, especially when we consider that the summer is a time during which it is not anticipated that the Senate will have many sessions. We really do have to act on this.

As the sponsor has already noted, if we let this year slip by, the closer we get to 1991 and it becomes apparent perhaps through these November elections which party may be in

the ascendancy, you run into the difficulty of those in power saying, "We would rather stick by the old system of allowing ourselves to protect our districts in the most favorable way," and having, really, what I consider, good government, critical to the State and critical for public confidence, lose out. If it loses out and we go through a redistricting by 1991, we are running another possibility of 10 more years in which those districts would remain in force.

So, the window of opportunity, as Mr. Franks has referred to it, is really being closed very rapidly. If we are going to do something with it, it probably is going to have to be done by the State Senate, and it is going to have to be done this summer.

At this point, I would like to call on the former Chairman of the Assembly State Government Committee, someone whom I think anyone who is familiar with this Committee knows has taken his job more responsibly perhaps than anyone I know of, who has really worked on this piece of legislation, as well as many other major reforms in the process of New Jersey -- Senator Dick Zimmer. Senator?

SENATOR ZIMMER: Thank you very much, Mr. Chairman. One thing I was not able to accomplish, Mr. Chairman, was to get a redistricting bill out of Committee. That was something you were able to do, so I would commend you and the Committee for that.

I want to say that ACR-105 represents a vast improvement over the current system of redistricting. I think the manner of appointing the members of the commission, the manner of choosing the tie-breaker, the manner of dealing with deadlocks, are very sensible and represent a real workable and practical compromise.

As far as the criteria for redistricting are concerned, I think, once again, that there is a marked step forward, as compared to the present system, where there are no

criteria. I am particularly gratified that fragmentation of counties and municipalities is severely limited. It is our counties which are really our communities of interest in New Jersey. By maintaining the coherence and the integrity of our counties we create districts that speak with a more united voice, that come from a more commonly held background, and also in the process, and not insignificantly, we limit the opportunity for gerrymandering.

I share the sponsor's frustration with the difficulty of coming up with a definition of compactness. I think we all might agree with what former Supreme Court Justice Stewart said about obscenity: "I know it when I see it." I think that philosophy applies to compactness as well. We know that a fish hook or a flying eagle or other weird or mysterious shapes of districts--

ASSEMBLYMAN MARTIN: I thought it was a duck.

SENATOR ZIMMER: Beg pardon?

ASSEMBLYMAN MARTIN: I thought it was a duck.

SENATOR ZIMMER: It was a duck; that's right.

ASSEMBLYMAN MARTIN: In my government classes, I used to have students look at this. It was an exercise of mine, looking at clouds, and saying, "What could you read out of the congressional districts?" They had a few more they were able to identify.

SENATOR ZIMMER: Those are not compact. They are an offense against the public interest, and they are a clear tipoff that there are other agendas at work than the agenda to create the best districts to best serve the constituents.

I share the hope of Assemblyman Franks that the commission and the courts, when evaluating competing maps, will consider compactness as an essential criterion, and will recognize that we did not include compactness in the text of the legislation as explicitly as we might, simply because we had difficulty defining the term. But I believe compactness,

however defined, must be an essential element of a map that is fair and that will win public acceptance.

Now that I am a Senator, I intend to do whatever I can to see that this measure gets on the ballot this fall. I will sponsor, or cosponsor, the legislation in the Senate, whichever will enhance its chances the most. I will be in touch with Assemblyman Franks and with the citizens' groups that are promoting this legislation, to see how it can be most effective in getting this bill out of the Legislature and onto the ballot.

Thank you very much.

ASSEMBLYMAN MARTIN: Thank you, Senator. Is there anyone else who wishes to speak at this public hearing? (no response) Would you like to speak, or do you have a position? (speaking to unidentified woman in the audience)

UNIDENTIFIED SPEAKER FROM AUDIENCE: No. (balance of statement indiscernible; no microphone)

ASSEMBLYMAN MARTIN: All right. At this time, then, I declare the public hearing closed. Thank you all for coming.

(HEARING CONCLUDED)

APPENDIX

06/05/87/bk
06/08/87/dm

SG0044
7RSG0031

ASSEMBLY COMMITTEE Amendments

ADOPTED
DATE 6/8/87

to

ASSEMBLY Concurrent Resolution No. 105

Amend:

Page	Sec.	Line	
1	Title	2	Omit "and to repeal Article IV, Section III"
2	1	47	Omit "(a)"
2	1	48	Omit "and 40 legislative districts"
2	1	50	Omit "(b)"; omit "10" insert "11"
2	1	50-61	Omit "At least eight of" in line 50; omit lines 51 through 60 in their entirety and "mary election of any other party." in line 61
3	1	63	Omit "following"; omit ":" insert "provided herein."
3	1	After line 63	Insert new subparagraph heading as follows: "(a) There shall first be appointed 10 members as follows:"
3	1	70	After ";" insert "and"
3	1	71	Omit "two" insert "six"; omit "one" insert "three"
3	1	73	Omit "receive" insert "received"
3	1	74	Omit "rotate" insert "serve in rotation"; omit "chairmen" insert "chairman"
3	1	75	Omit "; and" insert "."
3	1	76-86	Omit lines 76 through 85 in their entirety and "before December 1 of that year. Vacancies" in line 86 insert new matter as follows: "Appointments to the commission under this subparagraph shall be made on or before November 15 of each year ending in zero and shall be certified by the appointing official or officials to the Secretary of State on or before December 1 of that year.

"Appointments to the commission under this subparagraph shall be made on or before November 15 of each year ending in zero and shall be certified by the appointing official or officials to the Secretary of State on or before December 1 of that year.

(b) There shall then be appointed one member, to serve as an independent member, who shall have been for the preceding five years a resident of this State, but who shall not during that period have registered in or declared

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Amend:

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officially his affiliation with a political party or voted in the primary election of a political party, and who shall never have held appointed or elected public or party office in this State. The independent member shall be appointed by the previously appointed members of the commission as follows: the members appointed by the appointing authorities of the political party whose candidate for Governor received the largest number of votes at the preceding gubernatorial election shall as a group select three nominees meeting the foregoing qualifications, and the members appointed by the appointing authorities of the political party whose candidate for Governor received the next largest number of votes at that election shall do the same. If one person is nominated by both groups, then that person shall be the independent member, and if more than one person is nominated by both groups, the previous appointees shall by lot choose one of them to be the independent member. If no person is nominated by both groups, the members shall elect the independent member by ballot upon the vote of six of the previously appointed members.

Appointment to the commission of the independent member under this subparagraph shall be made on or before January 15 of each year ending in one and shall be certified by the other members of the commission to the Secretary of State on or before January 31 of that year. If the other members are unable to appoint or to certify an

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Amend:

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independent member within the time allowed therefor, there shall be no independent member of the commission.

The commission shall meet to organize as soon as may be practical after certification of the appointment of the independent member or, if the commission is unable to agree upon that appointment, after the last day allowed for making that appointment, but in no case later than February 15 of each year ending in one. At the organizational meeting the members of the commission shall determine the order of rotation of the chairmanship thereof among the eligible members and such other organizational matters as they deem appropriate. Thereafter, a meeting of the commission may be called by the member designated under the order of rotation to serve as the chairman of that meeting or upon the request of six members, and six members of the commission shall constitute a quorum at any meeting thereof for the purpose of taking any action.

Vacancies"

- | | | | |
|---|---|-------|--|
| 3 | 1 | 88 | Omit "and legislative" |
| 3 | 1 | 90-91 | After "challenge" in line 90 omit rest of line; omit "of this section," in line 91 insert "in the courts of this State or the courts of the United States" |
| 3 | 1 | 93-97 | Omit lines 93 through 96 in their entirety and "lative districts to the Secretary of State." in line 97 |
| 3 | 1 | 97 | Omit "January 1" insert "August 1" |

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to

ASSEMBLY Concurrent Resolution No. 105

Amend:

Page	Sec.	Line	
3	1	98	Omit "two" insert "one"
3	1	99	Omit "those" insert "the"; omit "federal census"; after "figures" insert "for the federal decennial census taken in the preceding year"
3	1	103-105	After "members" in line 103 omit rest of line; omit line 104 in its entirety and "party from the remaining appointees voting in the majority" in line 105
3	1	105	After "." insert "Any vote by the commission upon a proposal to certify the establishment of a Congressional district plan shall be taken by roll call and shall be recorded, and the vote of any member in favor of any Congressional district plan shall nullify any vote which he shall previously have cast during the life of the commission in favor of a different Congressional district plan. If the commission is unable to certify the establishment of districts by the time required due to the inability of a plan to achieve six votes, the two district plans receiving the greatest number of votes, but not fewer than four votes, shall be submitted to the Supreme Court, which shall select and certify whichever of the two plans so submitted conforms most closely to the standards established in subparagraphs (a), (b), (c), (d) and (e) of paragraph 2 of this Section."
4	1	106-116	After "2." in line 106 omit rest of line; omit lines 107 through 116 in their entirety insert "The plan certified by the New Jersey Redistricting Commission for the establishment of Congressional

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districts shall provide for equality of population among districts; for the preservation of minority voting status within each district; for the geographical coherence of individual districts; for the protection of the interest which fellow citizens of the counties and municipalities share in having common representation, so that district boundaries follow county and municipal boundaries to the greatest extent possible; and for reasonable protection for districts from decade to decade against disruptive alteration due to redistricting.

(a) (1) In the plan, the population of each Congressional district shall be as nearly equal as possible, and the difference in population between the most populous and least populous districts as small as possible, as required by the Constitution of the United States.

(2) No Congressional district shall be established which fragments an ethnic or racial minority community which, if left intact, would constitute a majority or significant plurality of voters or potential voters within a single district. For the purposes of this subsubparagraph, a minority community means any group enjoying special protection under the civil rights provisions of the Constitution of the United States.

(b) A plan which first meets the standards provided for in subparagraph (a) of this paragraph shall next include Congressional districts which are contiguous and compact."

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to

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Amend:

Page	Sec.	Line	
4	1	117	Omit "The" insert new subparagraph as follows: <p style="margin-left: 40px;">"(c) A plan which first meets the standards provided for in subparagraph (a) of this paragraph and then meets the standards provided for in subparagraph (b) of this paragraph shall next include Congressional districts in which the"; omit "and municipal"</p>
4	1	118	After "of" insert "county"
4	1	119	After "of" insert "county"
4	1	120	Omit "and municipalities"
4	1	121	Omit "and municipalities"
4	1	After 122	Insert new subparagraphs as follows: <p style="margin-left: 40px;">"(d) A plan which first meets the standards provided for in subparagraph (a) of this paragraph and then meets the standards provided for in subparagraphs (b) and (c) of this paragraph shall next include Congressional districts in which no district boundary divides a municipality unless the population of the municipality, as determined by the most recent federal decennial census, exceeds the number obtained by dividing the population of the State by the total number of Congressional districts.</p> <p style="margin-left: 40px;">(e) To the fullest extent reasonable and when not in conflict with the foregoing standards, Congressional districts shall be drawn to preserve geographic continuity."</p>
4	1	123	Omit "Except in the case of executive sessions, meetings" insert "Meetings"
4	1	126-128	Omit in their entirety
4	1	129	After "hold" insert "at least three"

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to

ASSEMBLY Concurrent Resolution No. 105

Amend:

Page	Sec.	Line	
4	1	130	Omit "throughout" insert "in different parts of"; omit "accept" insert "; subject to the constraints of time and convenience, review"
4	1	131-132	Omit "and legis-" in line 131 and "lative" in line 132
4	1	132	Omit "from" insert "submitted by"
4	1	136	Omit "and legislative"
4	1	138	Omit "and Legislature"
4	1	138-139	Omit "as provided by" in line 138 and "paragraph 7 of this section" in line 139 insert "during any period in which the districts so established shall be under challenge in the courts in this State or of the United States"
4	1	139	Omit "until" insert "through"
4	1	144	Omit "original" insert "no court of this State shall have"
4	1	145	After "the" insert "actions of the New Jersey Redistricting Commission, including its"
4	1	146	Omit "or legislative"
4	1	146-148	Omit "shall lie with a" in line 146; omit line 147 in its entirety and "Any" in line 148 insert "under this Section, except that the Supreme Court of this State shall have original and exclusive jurisdiction to consider any cause brought upon the petition of a"
4-5	1	148-162	Omit "may challenge the dis-" in line 148; omit lines 149 through 161 in their entirety and "be given to the Governor and the Attorney General." in line 162 insert "concerning the qualifications of members of the commission under paragraph 1 of this

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to

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Amend:

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			Section or concerning the compliance of the commission or any of its members with the applicable procedural requirements of paragraphs 1, 3 and 4 of this Section, and to grant relief appropriate to the cause, including the issuance of an order to the commission to establish new districts."
5	1	162	Omit "panel" insert "Court"
5	1	164	Omit "60" insert "30"
5	1	165	Omit "close of" insert "date on which"; omit "period" insert "is filed"
5	1	165-171	After "." in line 165 omit rest of line; omit lines 166 through 171 in their entirety
6	1	229	Omit in its entirety
6	1	231	Omit "or legislative"
7	3	Box lines 4-5	Omit "and the repeal" in line 4 and "of Article IV, Section III," in line 5
7	3	Box lines 8-10	Omit "and" in line 8; omit line 9 in its entirety and "sion" in line 10
7	3	Box line 15	Omit "and legislative"
7	3	Box lines 17-20	After "," in line 17 omit rest of line; omit lines 18 and 19 in their entirety and "amendment, and" in line 20
NOTE TO PRINTER			
1	1	3	After "ELECTIONS AND SUFFRAGE" print "SECTION I" in italics
3	1	100	Correct "establishment" to "establishment"