

ACTS
OF THE
Second Annual Session
OF THE
Two Hundred and Sixth Legislature
OF THE
STATE OF NEW JERSEY
AND
Thirty-Sixth Under the New Constitution



1995

New Jersey State Library

**AMENDMENTS
ADOPTED IN 1995
TO THE 1947 CONSTITUTION**

(2507)

Amendments Adopted in 1995 to the 1947 Constitution

ARTICLE II

Amend Article II to read as follows:

Article II

ELECTIONS AND SUFFRAGE

SECTION I

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

2. All questions submitted to the people of the entire State shall be voted upon at the general election next occurring at least 70 days following the final action of the Governor or the Legislature, as appropriate, necessary to submit the questions. The text of any such question shall be published at least once in one or more newspapers of each county, if any newspapers be published therein, at least 60 days before the election at which it is to be submitted to the people, and the results of the vote upon a question shall be void unless the text thereof shall have been so published.

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

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

(c) Any person registered as a voter in any election district of this State who has removed or shall remove to another state or to

another county within this State and is not able there to qualify to vote by reason of an insufficient period of residence in such state or county, shall, as a citizen of the United States, have the right to vote for electors for President and Vice President of the United States, only, by Presidential Elector Absentee Ballot, in the county from which he has removed, in such manner as the Legislature shall provide.

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

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

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

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

SECTION II

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

The commission shall consist of 13 members, none of whom shall be a member or employee of the Congress of the United States. The members of the commission shall be appointed with due consideration to geographic, ethnic and racial diversity and in the manner provided herein.

(b) There shall first be appointed 12 members as follows:

(1) two members to be appointed by the President of the Senate;

(2) two members to be appointed by the Speaker of the General Assembly;

(3) two members to be appointed by the minority leader of the Senate;

(4) two members to be appointed by the minority leader of the General Assembly; and

(5) four members, two to be appointed by the chairman of the State committee of the political party whose candidate for the office of Governor received the largest number of votes at the most recent gubernatorial election and two to be appointed by the chairman of the State committee of the political party whose candidate for the office of Governor received the next largest number of votes in that election.

Appointments to the commission under this subparagraph shall be made on or before June 15 of each year ending in one and shall be certified by the respective appointing officials to the Secretary of State on or before July 1 of that year.

Each partisan delegation so appointed shall appoint one of its members as its chairman who shall have authority to make such certifications and to perform such other tasks as the members of that delegation shall reasonably require.

(c) 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 held public or party office in this State.

The independent member shall be appointed upon the vote of at least seven of the previously appointed members of the commission on or before July 15 of each year ending in one, and those members shall certify that appointment to the Secretary of State on or before July 20 of that year. If the previously appointed members are unable to appoint an independent member within the time allowed therefor, they shall so certify to the Supreme Court not later than that July 20 and shall include in that certification the names of the two persons who, in the members' final vote upon the appointment of the independent member, received the greatest number of votes. Not later than August 10 following receipt of that certification, the Supreme Court shall by majority vote of its full authorized membership select, of the two persons so named, the one more qualified by education and occupational experience, by prior public service in government or otherwise, and by demonstrated ability to represent the best interest of the people of this State, to be the independent member. The Court shall certify that selection to the Secretary of State not later than the following August 15.

(d) Vacancies in the membership of the commission occurring prior to the certification by the commission of Congressional districts or during any period in which the districts established by the commission may be or are under challenge in court shall be filled in the same manner as the original appointments were made within five days of their occurrence. In the case of a vacancy in the membership of the independent member, if the other members of the commission are unable to fill that vacancy within that five-day period, they shall transmit certification of such inability within three days of the expiration of the period to the Supreme Court, which shall select the person to fill the vacancy within five days of receipt of that certification.

2. The independent member shall serve as the chairman of the commission. The commission shall meet to organize as soon as may be practicable after certification of the appointment of the independent member, but not later than the Wednesday after the first Monday in September of each year ending in one. At the organizational meeting the members of the commission shall determine such organizational matters as they deem appropriate. Thereafter, a meeting of the commission may be called by the chairman or upon the request of seven members, and seven members of the commission shall constitute a quorum at any meeting thereof for the purpose of taking any action.

3. On or before the third Tuesday of each year ending in two, or within three months after receipt in each decade by the appropriate State officer of the official statement by the Clerk of the United States House of Representatives, issued pursuant to federal law, regarding the number of members of the House of Representatives apportioned to this State for that decade, whichever is later, the commission shall certify the establishment of the Congressional districts to the Secretary of State. The commission shall certify the establishment of districts pursuant to a majority vote of the full authorized membership of the commission convened in open public meeting, of which meeting there shall be at least 24 hours' public notice. 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 that member 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 seven votes, the two district plans receiving the greatest number of votes, but not fewer than five 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 requirements of the Constitution and laws of the United States.

4. The New Jersey Redistricting Commission shall hold at least three public hearings in different parts of the State. The commission shall, subject to the constraints of time and convenience, review written plans for the establishment of Congressional districts submitted by members of the public.

5. Meetings of the New Jersey Redistricting Commission shall be held at convenient times and locations and, with the exception of the public hearings required by paragraph 4 of this section and the meeting at which the establishment of districts is certified as prescribed by paragraph 3 of this section, may be closed to the public.

6. The Legislature shall appropriate the funds necessary for the efficient operation of the New Jersey Redistricting Commission.

7. Notwithstanding any provision to the contrary of this Constitution and except as otherwise required by the Constitution or laws of the United States, no court of this State other than the Supreme Court shall have jurisdiction over any judicial proceeding challenging the appointment of members to the New Jersey Redistricting Commission, or any action, including the establishment of Congressional districts, by the commission or other public officer or body under the provisions of this section.

8. The establishment of Congressional districts shall be used thereafter for the election of members of the House of Representatives and shall remain unaltered through the next year ending in zero in which a federal census for this State is taken.

9. If a plan certified by the commission is declared unlawful, the commission shall reorganize and adopt another Congressional district plan in the same manner as herein required and within the period of time prescribed by the court or within such shorter period as may be necessary to ensure that the new plan is effec-

tive for the next succeeding primary and general election for all members of the United States House of Representatives.

Adopted November 7, 1995.

Effective December 7, 1995.

ARTICLE VIII, SECTION II, PARAGRAPH 4

Amend Article VIII, Section II, paragraph 4, as follows:

4. There shall be credited to a special account in the General Fund for the State fiscal year in which the amendment to this paragraph is approved by the voters an amount equivalent to the revenue derived from \$0.025 per gallon from the tax imposed on the sale of motor fuels pursuant to chapter 39 of Title 54 of the Revised Statutes, and an amount equivalent to the revenue derived from \$0.07 per gallon from the tax shall be credited to the account in each of the first two State fiscal years commencing after the approval of the amendment to this paragraph by the voters, and an amount equivalent to the revenue derived from \$0.08 per gallon from the tax shall be credited to the account in the third State fiscal year commencing after the approval of the amendment to this paragraph by the voters, and an amount equivalent to the revenue derived from \$0.09 per gallon from the tax shall be credited to the account in the fourth State fiscal year commencing after the approval of the amendment to this paragraph by the voters and annually thereafter; provided, however, the dedication and use of such revenues as provided in this paragraph shall be subject and subordinate to (a) all appropriations of revenues from such taxes made by laws enacted on or before December 6, 1984 in accordance with Article VIII, Section II, paragraph 3 of the State Constitution in order to provide the ways and means to pay the principal and interest on bonds of the State presently outstanding or authorized to be issued under such laws or (b) any other use of those revenues enacted into law on or before December 6, 1984. These amounts shall be appropriated from time to time by the Legislature, only for the purposes of paying or financing the cost of planning, acquisition, engineering, construction, reconstruction, repair and rehabilitation of the transportation system in this State and it shall not be competent for the

Legislature to borrow, appropriate or use these amounts or any part thereof for any other purpose, under any pretense whatever.

Adopted November 7, 1995.

Effective December 7, 1995.

ARTICLE VIII, SECTION II

Amend Article VIII, Section II of the Constitution by the addition of the following paragraph:

5. (a) With respect to any provision of a law enacted on and after January 17, 1996, and with respect to any rule or regulation issued pursuant to a law originally adopted after July 1, 1996, and except as otherwise provided herein, any provision of such law, or of such rule or regulation issued pursuant to a law, which is determined in accordance with this paragraph to be an unfunded mandate upon boards of education, counties, or municipalities because it does not authorize resources, other than the property tax, to offset the additional direct expenditures required for the implementation of the law or rule or regulation, shall, upon such determination cease to be mandatory in its effect and expire. A law or rule or regulation issued pursuant to a law that is determined to be an unfunded mandate shall not be considered to establish a standard of care for the purpose of civil liability.

(b) The Legislature shall create by law a Council on Local Mandates. The Council shall resolve any dispute regarding whether a law or rule or regulation issued pursuant to a law constitutes an unfunded mandate. The Council shall consist of nine public members appointed as follows: four members to be appointed by the Governor; one member to be appointed by the President of the Senate; one member to be appointed by the Speaker of the General Assembly; one member to be appointed by the minority leader of the Senate; one member to be appointed by the minority leader of the General Assembly; and one member to be appointed by the Chief Justice of the New Jersey Supreme Court. Of the members appointed by the Governor, at least two shall be appointed from a list of six willing nominees submitted by the chairman of the political party whose candidate for Governor received the second largest number of votes at the most recent

gubernatorial general election. The decisions of the Council shall be political and not judicial determinations.

(c) Notwithstanding anything in this paragraph to the contrary, the following categories of laws or rules or regulations issued pursuant to a law, shall not be considered unfunded mandates:

(1) those which are required to comply with federal laws or rules or to meet eligibility standards for federal entitlements;

(2) those which are imposed on both government and non-government entities in the same or substantially similar circumstances;

(3) those which repeal, revise or ease an existing requirement or mandate or which reapportion the costs of activities between boards of education, counties, and municipalities;

(4) those which stem from failure to comply with previously enacted laws or rules or regulations issued pursuant to a law;

(5) those which implement the provisions of this Constitution; and

(6) laws which are enacted after a public hearing, held after public notice that unfunded mandates will be considered, for which a fiscal analysis is available at the time of the public hearing and which, in addition to complying with all other constitutional requirements with regard to the enactment of laws, are passed by 3/4 affirmative vote of the members of each House of the Legislature.

Adopted November 7, 1995.

Effective December 7, 1995.