

CITIZENS UNION OF THE CITY OF NEW YORK
COMMON CAUSE/NY
LEAGUE OF WOMEN VOTERS/N.Y.S.
NEW YORK PUBLIC INTEREST RESEARCH GROUP

MEMORANDUM IN OPPOSITION

S.7881A & S.7882A

IN SENATE, INTRODUCED BY SENATORS DILAN AND SAMPSON

AN ACT to amend the legislative law, in relation to apportionment of congressional, senate and assembly districts; and to repeal section 83-m of such law relating to the legislative task force on demographic research and reapportionment.

SUMMARY OF PROVISIONS:

These bills eliminate the existing reapportionment and redistricting commission and replace it with a commission still controlled by the legislature, either through their own service or directly chosen appointments. These bills also establish new standards for the drawing of the new district lines that are insufficient in ensuring that districts will be drawn fairly and objectively. While these bills include marginal improvements over the current system, they demonstrate a failure to recognize the need for significant reform to the redistricting process that the public demands. The shortcomings of these bills are detailed below:

- **S7881A and S7882A do not create an independent apportionment commission necessary for the drawing of fair and objective district lines.** Eight of the twelve members on the apportionment commission in S7881A are legislators, thereby preserving a conflict of interest found in the current apportionment structure in which legislators draw their own district boundaries to maximize partisan advantage and settle political scores. S7882A is only marginally better, with all members being non-legislators yet 8 of 9 directly chosen by the majority and minority leaders of each house. These appointees lack sufficient independence and are beholden to drawing district lines in the manner in which their appointer desires. These selection processes stand in sharp contrast to S1614B/ A5279B, the Valesky/Gianaris redistricting bill, in which a nominating pool provides an additional layer of separation between legislators and those who draw their district lines. The nominating pool also requires balance and diversity in membership, both ideologically and ethnically, which is not the case in S7881A and S7882A. Furthermore, S7881A and S7882A allow for lobbyists, legislators' staff, recent office holders, political party officials, or relatives of electeds or public officials to serve on the apportionment commission, further eroding any possibility of independence.
- **Criteria for drawing district lines in S7881A and S7882A allow for the continued drawing of unfair districts to marginalize political opposition.** By continuing the current process of allowing for up to a 10 percent deviation in the population between districts, S7881A and S7882A allow for enough room to carve districts to maximize party advantage and settle political feuds. Only 29 of 212 legislative districts (14 percent) were within one percent of the "ideal population size" when drawn in 2002. Those districts with greater population are denied the same level of representation as those with far fewer residents. The Valesky/Gianaris bill, S1614B/A5279B, only allows for a 1 percent deviation in population between districts, ensuring equal representation and the bedrock principle of American democracy: "one person, one vote." The criteria in S7881A and S7882A forbidding the placement of incumbent members in the same district may negate one tool of partisan gerrymandering, but it does so by creating another layer of protection for incumbents. The Valesky/Gianaris measure forbidding the drawing of lines to favor or oppose any political party, incumbent or candidate for office, is the better criterion for preventing the combining of incumbents in one district or the elimination of competition. There are certain district-drawing criteria in S7881A and S7882A that may represent improvements over the status quo: efforts to preserve the territorial integrity of political subdivisions and the assigning of people who are incarcerated to their place of residence prior to incarceration, a position shared by some of our groups. However, these improvements alone are not sufficient to overcome the incumbent-favoring nature of the remaining criteria.
- **S7881A and S7882A do not ensure adequate public understanding and participation in the redistricting process.** Both bills make mandatory what is already customary by holding public hearings. However, there is no specificity as to how many hearings are required or their locations, as is done in the Valesky/Gianaris bill, S1614B/A5279B. Legislators are not required to provide their reasons for rejecting a redistricting proposal in either S7881A or S7882A, thereby eliminating any transparency as to the reasons for their vote.

For these reasons, our groups strongly oppose these bills and instead support S1614B/A5279B.