

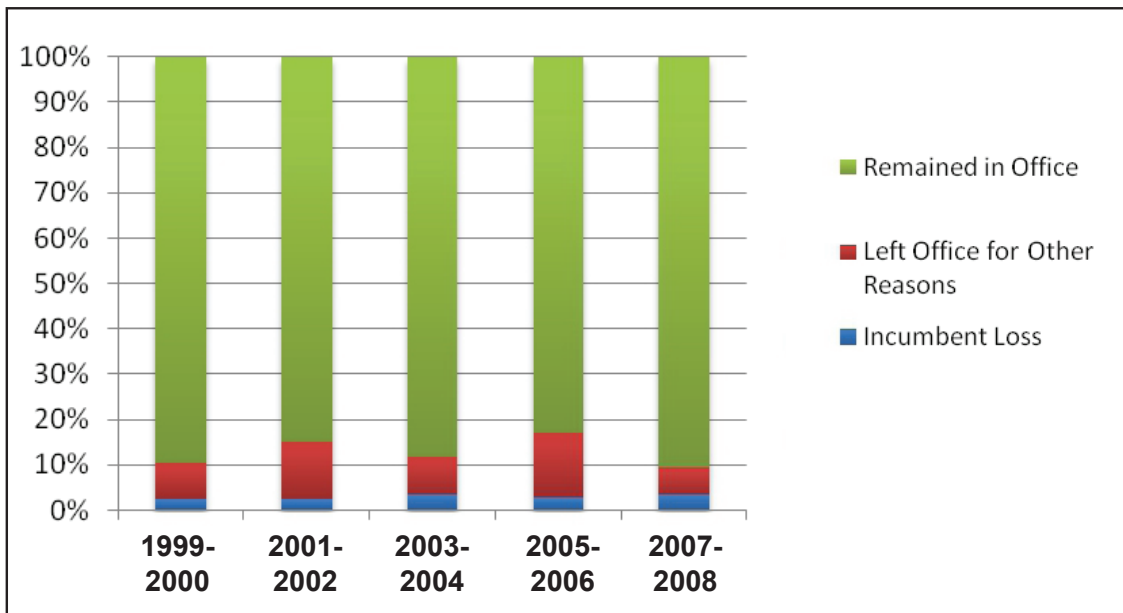
Redistricting

“New York has the worst redistricting in the nation. Redistricting rules written in 1894 were found unconstitutional in 1964, but we still haven’t fixed the problem. Our system takes power from the voters, gives it to lobbyists and special interests and has created a crisis in government. It’s absurd, and we’ve had enough. Unless we do something, after this election it’s a guarantee that the politicians are going to screw it up again.”

- Bill Samuels

Redistricting is supposed to ensure fair representation and keep our democracy thriving, but here in New York, its become one more weapon in an anti-democracy arsenal that Albany politicians use to keep themselves in power. So long as legislators are drawing their own district lines with an eye toward their own re-election, we will never have the fair elections that New Yorkers deserve.

In fact, as the chart below shows, New York’s districts are so uncompetitive that incumbents have only lost 30 times over the past 1,060 elections. Either they’re doing a fantastic job (which no New Yorker believes), or they’ve stacked the deck to avoid competition.



To fix this problem, New York needs to do the following:

1. Create a truly independent Redistricting Commission, first by passing legislation then making it permanent with a Constitutional amendment.
2. Require the Commission to follow strict standards that truly keep districts compact, contiguous and respectful of municipal boundaries.
3. Preserve the principle of “One Person, One Vote.”
4. Ensure that there is no dilution of voting strength by minorities or other communities of interest across New York State.

Independent Redistricting Commission

Across the country, more and more states have come to recognize that allowing legislators to draw their own lines is akin to allowing the fox to guard the henhouse. Invariably, legislators' self-interest takes over the process, and as a result voters end up with fewer choices and less accountable representation.

As an alternative, a number of states have created independent or bipartisan redistricting commissions, whose members are not legislators and who have no interest but to draw fair district lines.

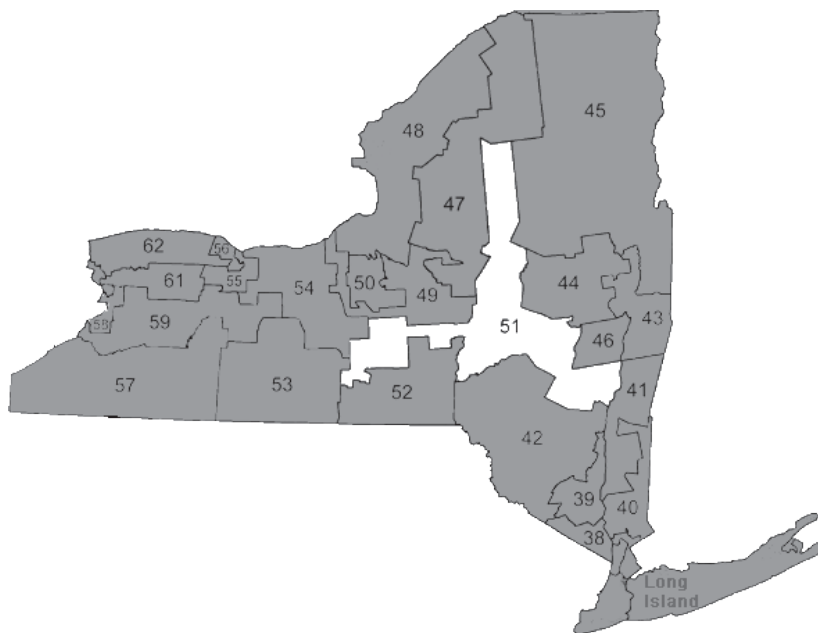
In most cases the commission must have a partisan balance that splits the two major parties' representation equally with a tie breaker who is jointly elected or selected by an impartial third party. For example, Oregon is considering a proposal which would use retired judges, one from each congressional district, as the commission to draw legislative district lines.

Here in New York, the New York City Bar Association has released a detailed proposal which would amend the State Constitution to create a redistricting Commission which is bipartisan, comprised of members (who could not be sitting legislators or judges) appointed to fixed 10-year terms and staffed by professionals - not political appointees. Most importantly, the Commission's work would not be subject to approval by the Legislature or Governor, taking away the threat that its work could be overturned by self-serving politicians.

Whatever model is chosen, it is critical that it be independent of the legislature, comprised of members with no direct interest in the outcome of the process, and balanced in terms of partisan affiliation.

Case Studies in Absurdity: NY's Ludicrous State Senate Districts

Case Study #1: "As compact form as practicable"?



Nickname: "Abraham Lincoln Riding A Vacuum Cleaner"

Half as tall and one-third the length of the entire state

Covers all or part of 7 different counties

Crosses 6 different Assembly districts

Includes 3 different broadcast media markets

Case Study #2: “Consists of contiguous territory”?

60th Senatorial District



Nickname: “A District Divided”

Two areas in two counties that are more than a mile apart

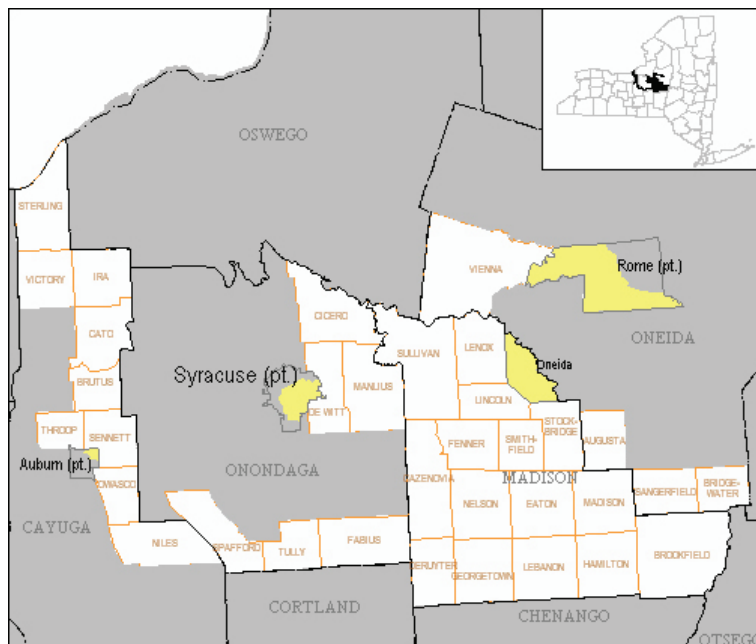
Cuts City of Tonawanda in half

Cuts City of Buffalo in half

Protects Republicans in adjoining districts by packing Democrats into a divided district that has a 5:1 Democrat to Republican ratio

Case Study #3: “No County shall be divided”?

49th Senatorial District



Nickname: “The long arm of legislative redistricting”

Divides three of four counties

Divides three cities, each in a different county

Outer arm is 30 miles long, 40 miles high and includes 12 towns

Completely wraps around 3 sides of an adjoining Senate district

New York's legislative redistricting commission doesn't even pretend to follow the guidelines in the State Constitution for drawing district lines, which calls for districts to be "as compact form as practicable"; "at all times consisting of contiguous territory." This has lead to ridiculous districts which make no attempt to keep communities whole, are far from compact or contiguous, and provide unfair levels of representation to certain communities. Above are several of the more embarrassing case studies.

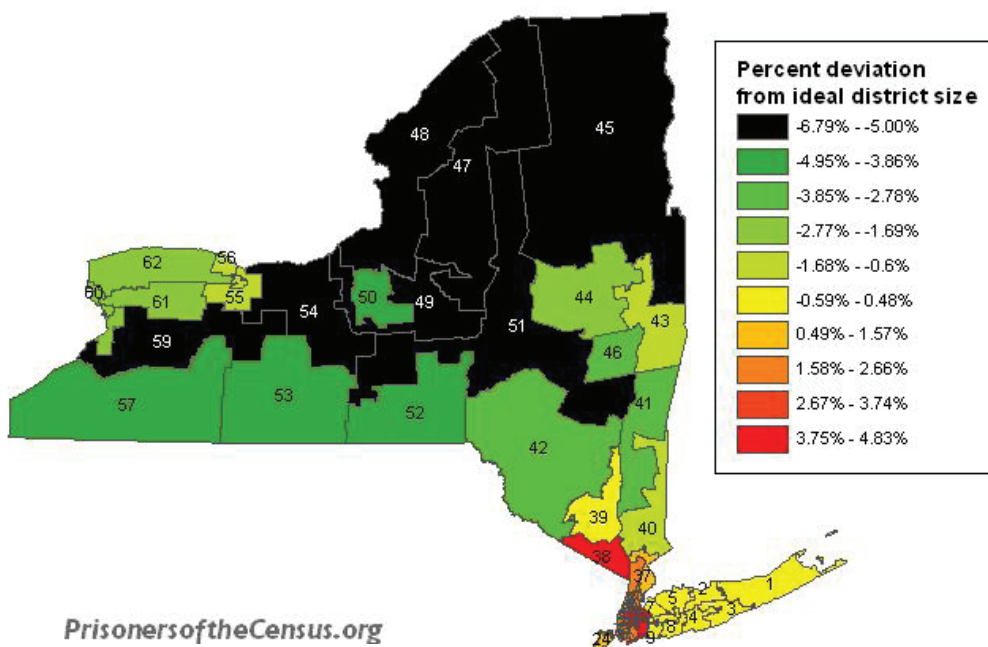
By providing the Independent Commission with strict standards that must be followed, we can get districts in which communities of common interest are kept intact and can thus have their concerns heard in Albany.

One Person, One Vote

In its 1964 *WMCA, Inc. v. Lomenzo* decision, the US Supreme Court struck a blow for fairness and democracy by recognizing that the Constitution requires that representative government be based on a concept of equal representation for all people, a.k.a. the "one person, one vote" standard.

At the time, and in subsequent cases, it has generally been upheld that this standard means that each district will be no more that 5% larger or smaller than the average size of all districts in the state. This was a reasonable standard in a time when districts were drawn by hand, populations were tallied on adding machines and paper spreadsheets, and the officials drawing the districts understood their responsibility to ensure that municipalities are kept whole within individual legislative districts.

However, when districts are gerrymandered and this variation is systematically misapplied (as has been the case in New York), the 10% deviation can be used to shift representation to favor the party in power at the expense of the voters in the districts of the party in the minority. This becomes especially problematic when combined with the counting of prisoners in the districts in which they are incarcerated, as the chart below demonstrates.



By routinely making State Senate districts as large as possible downstate and as small as possible upstate, past redistricting has shifted an entire Senate district upstate regardless of actual population.

To correct this, districts should be drawn with virtually no variation in size, which is easily done with widely used computer software and is the current practice with Congressional Districts.

Protecting Communities of Interest

In the past, redistricting has shamefully been used to dilute the voting strength of certain communities, most frequently racial minorities. The Voting Rights Act (VRA) helped correct this to some degree, but we still see repeated examples of communities cut into multiple districts with the clear impact of diluting voting strength and denying representation.

The new Independent Commission should be tasked with applying the VRA standards to all communities across the state, ensuring that no constituency is denied the representation it deserves.

Current Redistricting Proposals

In addition to the City Bar proposal, there is currently legislation under consideration in the State Legislature which, while limited by State Constitutional issues, would improve the redistricting process.

S.1614A, sponsored by Senators Valesky and Johnson and 12 of their colleagues (same as A.5297A) would create a far more balanced and independent redistricting commission, who would be empowered to draw district lines based on clear, objective criteria which would then be submitted to the legislature for an up or down vote without amendment.

The bill does allow districts to have as much as 1% deviation on either side of the average population, which is far better than the current standard of 10%, but unnecessarily higher than standard for Congressional districts, which is 0%.

However, the major concern is that, if the legislature or the Governor rejects the proposed lines twice, the legislature would then be permitted to amend the proposal as they saw fit. This is currently Constitutionally necessary, so in addition to this bill, the Senate should concurrently consider and pass a Constitutional amendment to make these reforms real and permanent. If the legislature can pass a proposed amendment this year, it would be possible for it to pass again next year and thus be available for the voters' consideration in the 21011 elections.

In the short term, however, this bill is the most viable option for improving New York's redistricting process. The bill has already passed out of the Senate Committee on Investigations and Government Operations, it is now in the Elections Committee. It should be passed by the Senate and Assembly this year, but should also be viewed as a precursor to a Constitutional amendment that will solve the problem permanently.

“The gerrymandering practice is very, very harmful to the community at large and I think it tends to accentuate the differences, the very strong differences between the political parties.”

US Supreme Court Justice John Paul Stevens