

LOCAL LAW NO. "O" FOR 2018

A LOCAL LAW OF THE COUNTY OF ALBANY, NEW YORK, AMENDING SECTION 207 OF THE ALBANY COUNTY CHARTER AND LOCAL LAW NO. 8 FOR 1993 AS SUBSEQUENTLY AMENDED RELATING TO COMMISSIONS ON REAPPORTIONMENT

Introduced: 6/11/18

By: Ms. Cunningham, Mr. Crouse, Ms. Willingham, Messrs. A. Joyce, Clenahan, Domalewicz, Fein, Higgins, Ms. Lekakis, Mr. O'Brien, Mss. McLean Lane, Plotsky, Messrs. Simpson, Mayo, Miller, Reinhardt and Bullock:

Statement of legislative findings and intent.

The Albany County Legislature hereby embraces the creation of the Albany County Commission on Reapportionment, (the Commission) which will facilitate a non-partisan, independent, inclusive and participatory redistricting process for the County's legislative redistricting following the next federal census in 2020, and thereafter. Pursuant to law, the County's legislative districts must be adjusted in accordance with the relative population growth and shifts as indicated in the census to ensure that fair representation for each resident is maintained.

The legislative redistricting process shall be conducted by this independent Commission, which shall be adequately funded to carry out its responsibilities and to hire independent, expert professional staff. Further, the Legislature wishes to tap into the expertise of the newly established Albany County Legislature Black Caucus (adopted as Resolution 125 by unanimous vote of the Albany County Legislature) to facilitate the creation of the Majority Minority District (MMD) Reapportionment Subcommittee, with the purpose of assisting the Commission in providing a laser focus to ensure the fair representation of Albany County minority communities in all aspects of the reapportionment process.

The Commission's members shall not include elected officials or party officers, family members legislative staff, or candidates for elective office. The Commission shall be transparent, accountable and function independently, without the undue and improper influence of sitting elected officials and their representatives. The Commission's work shall be accomplished through a professional process that invites experts in the areas of redistricting, law, county geography and other important elements that are key to securing a credible, responsive, and accountable redistricting process and outcome.

PURSUANT TO SECTIONS 10 AND 33 OF THE MUNICIPAL HOME RULE LAW
AND SECTION 2701 OF THE ALBANY COUNTY CHARTER:

Be it enacted by the County Legislature as follows:

Section 1. The Albany County Charter is hereby amended by deleting the existing Section 207 and adding a new Section 207 to read as follows:

Section 207. Commission on Reapportionment.

- A. Upon publication of the results of the federal decennial census for Albany County, a Commission on Reapportionment (identified in this local law as “the Commission”) shall be established to make recommendations to the County Legislature on whether and how the County Legislature should be reapportioned. This process shall occur subsequent to the federal and state reapportionment process.
- B. The Commission shall consist of nine (9) members who are County residents, registered voters in New York State, but shall not have been in the last four years 1.) a publicly elected official, 2.) a state officer or employee or legislative employee; 3) a registered lobbyist; or 4) a political party chairman. The Commission Members shall be selected to reflect the diversity of the residents of this county with regard to race, ethnicity, gender, language, and geographic residence (including representative of rural/small communities). In selecting Commission Members, the Legislature shall consult with organizations devoted to protecting the voting rights of minority and other populations. These requirements will ensure that the Commission's members are both independent, representative of the State's diverse communities, and sensitive to the critical importance to voters of fair and proper district lines.
- C. To ensure that the interests of minority districts are adequately and appropriately incorporated into a redistricting proposal, a special Majority Minority District (MMD) Reapportionment Subcommittee (identified further as the MMD Reapportionment Subcommittee) will be also established that will work collaboratively and in tandem with the Commission. The MMD Reapportionment Subcommittee will be created as a vital component of the Commission’s work and efforts and shall make recommendations to the Commission regarding the configuration of minority districts, with the goal of protecting voting rights of minority residents residing in MMDs. The unique focus of the MMD Reapportionment Subcommittee shall be to ensure the representation of Albany County minority communities in all aspects of the reapportionment process. In addition, the MMD Reapportionment Subcommittee shall have the authority and funds to contract its own outside

legal/reapportionment consultant. The intent of the work of the MMD Reapportionment Subcommittee shall be to fully examine the issues unique to the MMD communities and their residents and shall be presented for inclusion into the final report of the Commission.

The MMD Reapportionment Subcommittee shall include six representatives who are reflective of the minority communities represented by the Albany County Legislature Black Caucus (LBC). Upon sixty (60) days after the census data is available, the Chair of the LBC shall appoint two (2) representatives who shall serve on the MMD Subcommittee. Additional Members of the MMD Subcommittee shall be selected as established in Section H. All Members of the MMD Subcommittee must comport with criteria established in Section E of this local law. The MMD will be required to hold its own hearings and public forums to collect and consider the inputs from impacted communities, as well as the county communities at large. The subsequent work products of the MMD subcommittee shall be submitted to the Commission for consideration and shall be presented for inclusion into the final report of the Commission. The Commission shall, upon the receipt of the report from the MMD, reflect its consideration and prepare a written report to the Legislature that documents its consideration of the recommendations of the MMD prior to the submission of the final report to the Legislature for vote.

- D. Immediately upon the enactment of this local law, the Albany County Executive and the Albany County Legislature shall solicit interest widely throughout Albany County for interested, capable and expert professionals to serve on the Commission and the MMD Reapportionment Subcommittee. To encourage interest of the widest possible pool of qualified and knowledgeable individuals, the County Legislature and Executive shall use all communication means necessary to solicit interest in serving on the Commission and the MMD Reapportionment Subcommittee. Interested individuals shall provide to a designated County email or mailing address information that shall include but not be limited to: resume, credentials, relevant expertise in the reapportionment and legal fields, community background and experience and other important information regarding the individual's capacity to serve on the Commission. This information will be strongly considered when appointments are made to the Commission.
- E. To further ensure that the Commission's Members are independent, the following individuals shall be removed from the applicant pool:
 - 1. Within the four years immediately preceding the date of the Commission announcement, neither the applicant, nor a member of his

or her immediate family, may have done any of the following:

(i) Been appointed to, elected to, or have been a candidate for federal, state or local office;

(ii) Served as an officer, employee, or paid consultant of a political party or of the campaign committee of a candidate for elective federal, state or local office;

(iii) Served as a paid Congressional, State Legislative, or Albany County staff member, consultant or employee;

2. Contributed two thousand dollars (\$2,000) or more to any congressional, state, or local candidate for elective public office in the prior year.

3. Staff and consultants to, persons under a contract with, and any person with an immediate family relationship with any locally elected official, are not eligible to serve as commission members. As used in this subdivision, a member of a person's "immediate family" is one with whom the person has a bona fide relationship established through blood or legal relation, including spouse, parents, children, siblings, and in-laws.

- F. Initial appointments to the Commission from the pool of interested parties gathered in this manner shall represent various geographic areas of the County and shall be made no later than sixty (60) days after the census data becomes available, with three (3) members appointed by the Majority Leader of the County Legislature and three members (3) by the Minority Leader of the County Legislature. Leaders shall not appoint more than two (2) members of the same political party.
- G. These six (6) appointed Commissioners shall select the additional three (3) Commission members from the pool previously established no later than seventy (70) days after the census data becomes available.
- H. No later than seventy (70) days after the census data becomes available, the additional Members of the MMD Subcommittee shall be selected in the manner referenced in Section C and shall be selected by a majority vote of the Albany County Legislature Black Caucus.
- I. Vacancies in the membership of the commission shall be filled within thirty days (30) in the manner provided for in the original appointments.
- J. The members of the Commission shall reflect the diversity of the residents of Albany County with respect to socio-economic status, race, ethnicity, gender, sexual orientation, and geographic residence, including the representation of rural and small communities.

- K. The Commission shall expeditiously issue two (2) Requests for Proposals (RFPs) for map drawing services, one for Majority Minority districts (MMD) and the other for the entirety of Albany County. The MMD Reapportionment Subcommittee shall oversee the evaluation of the RFP process and final product impacting the drawing of the MMD districts. Both RFPs (the Commission and the MMD Subcommittee) shall be evaluated based on their ability to produce maps and supporting data, and engage in publicly informed and participatory processes that eventually produce successfully drawn maps that reflect the goals identified in Section M.
- L. The Commission, the MMD Reapportionment Subcommittee, staff and the consultant(s) hired under the RFP shall comply with the requirements of 52 U.S.C. 1001 (Section 2 of the Voting Rights Act of 1965) as interpreted in the March 24, 2015 Memorandum Decision and Order of the United States District Court for the Northern District of New York in the case *Pope v County of Albany*, 94 F, Supp. 302 (NDNY 2015) and in all subsequent relevant statutes and case law.
- M. The Commission and the MMD Reapportionment Subcommittee shall be guided by the goal of equal and fair representation of all people in Albany County, consistent with established state and federal law as interpreted by courts of appropriate jurisdiction. Factors to consider include, but shall not be limited to:
1. whether such lines would result in the denial or abridgement of racial or language minority voting rights, and districts shall not be drawn to have the purpose of, nor shall they result in, the denial or abridgement of such rights. Districts shall be drawn so that, based on the totality of the circumstances, racial or minority language groups do not have less opportunity to participate in the political process than other members of the electorate and to elect representatives of their choice;
 2. minimization of population variance among districts in accordance with federal law;
 3. each district shall consist of contiguous territory;
 4. each district shall be as compact in form as practicable;
 5. to the extent practicable, districts shall be consistent with existing municipal and rural boundaries, and neighborhoods within Albany County; and
 6. balance and reasonableness for the diversity of citizens residing in all parts of the County.
- N. Party registration and voting history data shall be excluded from the initial

phase of the mapping process but may be used to test maps for compliance with the above goals. The places of residence of incumbents or candidates shall not be identified or considered.

- O. In the fiscal year prior to the establishment of the Commission, the Legislature shall appropriate funding for all aspects of the activities of the Commission and the MMD Reapportionment Subcommittee. These funds shall provide for all expenses of the work of the Commission and MMD Reapportionment Subcommittee, funds for the compensation of consultants, members and staff, as well as funding for any duties that the County Legislature shall deem necessary to facilitate the performance of the Commission and MMD Reapportionment Subcommittee's duties identified in this Local Law. The Commission and MMD Reapportionment Subcommittee shall establish clear criteria for the securing and overseeing of staff and consultants, communications protocols and processes, and a code of conduct. The Commission shall apply the conflicts of interest listed in subdivision (E) to the hiring of staff to the extent practicable. The Commission shall require that legal counsel hired by the Commission have demonstrated and extensive experience and expertise in reapportionment processes, and in the implementation and enforcement of the federal Voting Rights Act of 1965 (42 U.S.C. Sec. 1971 et seq.).
- P. The Commission and the MMD Reapportionment Subcommittee will work in a process that allows for timely input from the County Legislature and its members and allows for the maximum amount of public participation and comment. The Commission and the MMD Reapportionment Subcommittee will be committed to full transparency and accountability including the timely posting of its meetings, agendas, minutes, data and any relevant reports or information that is included in the body of work of the Commission and the MMD Reapportionment Subcommittee. The Commission and MMD Reapportionment Subcommittee will work collaboratively and closely together, with full discussion and dialogue taking place between the two structures.
- Q. During the preparation of the redistricting plan, the Commission working closely and in collaboration with the MMD Reapportionment Subcommittee shall conduct not less than four (4) public hearings throughout the County. These public hearings shall be publicized widely, with ample notice to ensure the maximum level of citizen participation and engagement. The purpose of the public hearing process is to promote a high level of understanding of the process and its implications to the public, to provide expert presentations and access to Commission leaders, staff and consultants, allow for ample public comment, and to communicate the process of the reapportionment process to

the public. All public hearings should be publicized and information about the meetings should be widely disseminated.

- R. The Commission and the MMD Reapportionment Subcommittee shall make available to the public, on the Albany County website and through electronic media efforts, any draft redistricting plans and concepts, relevant data, and related information. Such plans, data, and information shall be in a form that allows and facilitates their use by the public to review, analyze, and comment upon such plans. The commission can adjust its redistricting outline based on input received from the public. Prior to the final redistricting plan being presented for adoption by the Legislature, the Commission shall conduct a final public hearing to ensure that the residents of Albany County have ample opportunity to understand, provide comment and feedback on the final report. The Commission shall report the findings of all public hearings in a written report to the legislature upon submission of the final redistricting plan.
- S. Commission members and staff shall exercise the highest standards of conduct, and disclose substantive communications with Commission colleagues that occur outside public hearings or meetings of the Commission.
- T. The Commission shall submit its final report to the County Legislature within thirty (30) days after the final report is completed.
- U. The County Legislature, by a majority vote, shall adopt the Commission's final reapportionment report. Should the final report be rejected by the Legislature, the Commission can make one round of recommendations, and resubmit the reapportionment report to the Legislature for adoption. The Commission and its MMD Subcommittee shall be discharged upon the successful conclusion of the Albany County Reapportionment process.
- V. The effective date of this Local Law is January 1, 2019. Pursuant to Municipal Home Rule Law Section 33, this Local Law, amending the present Albany County Charter shall not become operative unless and until this Local Law is approved by the duly qualified voters of Albany County in the manner prescribed by law at the general election of November 6, 2018.

Referred to Law Committee – 6/11/18