

“Social justice should be the underlying goal of all humanity.”

-Alan V. Lowenstein, Institute Founder



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NEW JERSEY INSTITUTE
FOR SOCIAL JUSTICE

Testimony of Henal Patel
New Jersey Institute for Social Justice
in Opposition of ACR188/SCR122
New Jersey State Assembly Judiciary Committee Public Hearing

Thursday, July 20, 2020

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60 Park Place, Suite 511
Newark, NJ 07102-5504

ph. (973) 624-9400

fax (973) 624-0704

email: justice@njisj.org

www.njisj.org

do social justice.

Chairman Mukherji, Vice-Chair Murphy, and members of the Assembly Judiciary Committee:

Thank you for the opportunity to submit this testimony.

My name is Henal Patel and I am the Director of the Democracy and Justice Program at the New Jersey Institute for Social Justice. Established twenty years ago by Alan V. and Amy Lowenstein, the Institute is a legal advocacy organization that seeks to ensure that people of color live in a society that respects their humanity, provides equality of economic opportunity, empowers them to use their voice in the political process, and protects equal justice.

I offer this testimony in opposition to ACR188/SCR122 on behalf of the Institute; Rev. Eric Dobson, Deputy Director, Fair Share Housing Center; Richard T. Smith, President, NAACP New Jersey State Conference; Rev. Dr. Charles F. Boyer, Executive Director, Salvation and Social Justice; and Elise Boddie, Founder, The Inclusion Project, Rutgers Law School—who are members of the United Black Agenda.

I testified in opposition to this bill last week during the Committee hearing before this very committee. For that reason, I will not repeat that same testimony, but do want to state that the concerns I raised still stand today.

This Legislature is voting on a concurrent resolution with the goal of using our existing legislative map for two more years – an entire election cycle – even though the existing map does not account for the increased racial diversity in our state.

In particular, New Jersey is poised to soon become a majority-people of color state, with people of color now accounting for 45% of the state’s population.¹

While the stated need for this amendment is the delay in the Census caused by COVID-19, the bill under consideration is a permanent change that will be in effect decades after COVID-19 is hopefully behind us. Should the Census Bureau in 2031 or in any other future cycle, deliver redistricting data to the Governor even a day later than February 15, we would be forced to conduct an election using the old map that would no longer represent the population of the state.

The purpose of redistricting is to ensure that we have a government that is representative of the people. This is why we must have districts of equal population, districts that keep communities of interest together, and why people of color must not be apportioned in a way that dilutes their ability to elect candidates of their choice. Redistricting is about representation and, in turn, power.

We redistrict after every Census to account for the shifts in our population – because over the course of ten years, people move both into and out of the state, as well as around the state. New Jersey today is not the New Jersey of 2010. Most notably, our population is significantly more racially diverse now than it was ten years ago.

As we learned last week during the testimony offered by the Princeton Gerrymandering Project, not only has the population of Latina/Latino and Asian communities grown substantially in various parts of our state, in 11 out of our 21 counties, the combined Black, Latina/Latino and Asian population will exceed 37% - which would allow for the drawing of people of color coalition districts.²

The constitutional amendment currently under consideration seeks to delay the redistricting process, and thereby force us to use the current map that no longer represents the people of New Jersey.

We are clear that the COVID-19 pandemic has forced this issue upon us. Due to this devastating public health crisis, the Census Bureau could not complete all of its work in its normal timeline. As a result, the Bureau will continue collecting Census information until the end of October 2020 and will also delay providing redistricting data to the states next year.

A byproduct of our off-year elections is that, every ten years, New Jersey must redistrict earlier than most states so that we can have elections in the same year as redistricting. For this current cycle, the Census Bureau has stated that they will provide New Jersey Census data no later than June 17, 2021.³ As this date would be after when we normally hold our primary elections, clearly we must do *something* to address this issue.

There is no obvious ideal solution available – all the available options will cause harm to different groups and require some sacrifice.

The reason I am here today, testifying in opposition to this bill, is because of all the options on the table, this Legislature picked the one option where the *only* people harmed – the only people asked to make this sacrifice to their representation – are communities of color. In this path, white people are not harmed – in fact, they benefit from maps that were drawn when they made up a larger share of our population. Elected officials and candidates are not harmed. We are even making this change permanent, ostensibly because some legislators are uncomfortable with having a one-off constitutional amendment, even though it is perfectly legal. Even that concern is accounted for in this solution.

But it is this proposed plan, under which the people harmed are people of color, for which support from a supermajority of legislators is sought. It should not be given. This proposal should be rejected.

It is anti-democratic, harmful to residents of color, and potentially a violation of Section 2 of the Voting Rights Act.

Redistricting is about power. And in 2020, during a conversation about and reckoning with structural racism that is taking place here in New Jersey and nationally, this measure nevertheless follows in the long tradition of state and federal government choosing power at the expense of communities of color.

Since ACR188 and its companion bill were introduced, we have repeatedly heard from legislators that you do in fact care about communities of color. That you do in fact care about actual redistricting reform. That you are forced to make this difficult permanent change, in a manner that is potentially a violation of Section 2 of the Voting Rights Act. That, despite this, communities of color are your priority.

We want to believe you. Communities of color want to believe you. People want to be able to trust and believe their elected officials.

If you do actually care about redistricting reform and about people of color who live in this state, reject this measure, and fashion a solution that does not force us to use the current map for an entire election cycle, and move forward with the redistricting reforms that the Fair Districts Coalition has put forward.

These reforms would ensure that racial equity, transparency, and public hearings are built into redistricting in New Jersey moving forward – which would make it a far better process than the one undertaken to pass this pending constitutional amendment, which was debated in backrooms and introduced at the last minute. The Fair Districts Coalition has requested that this Legislature vote on a second constitutional amendment with these reforms, to be on the ballot in November 2021 and that the Legislature vote on this by September 15.

The Legislature should also introduce and fast track The New Jersey Voting Rights Act – a state-version of the federal Voting Rights Act. As the federal VRA has been gutted by the Supreme Court, and continues to be endangered, this Legislature should prioritize passing the NJ-VRA to ensure that the people of New Jersey - particularly its communities of color – continue to have VRA protections. This would allow us to honor the memory of civil rights icon and champion of democracy, Congressman John Lewis, as we mourn his passing. California, Washington, and Oregon already have state VRAs.⁴ It is time for New Jersey to join them.

To be clear, passing the second constitutional amendment and passing the New Jersey Voting Rights Act, would not fix the problems with the bill before us. We continue to urge you to reject this measure.

However, it would show that this Legislature understands the harm they are causing communities of color in this process. It would demonstrate that when you say you care about the interests of people of color, you actually mean it.

Thank you.

¹ U.S. CENSUS BUREAU, QUICKFACTS: NEW JERSEY, <https://www.census.gov/quickfacts/fact/table/NJ/POP815218> (last visited July 19, 2020).

² Sam Wang & Aaron Barden, Princeton Gerrymandering Project, Princeton University, Statement on ACR188 To Change the Legislative Redistricting Timeline (July 9, 2020), <https://docs.google.com/document/d/1tsO9NJC1z3YGi1vN99laBjKG18gcLhUuYhE-4zp90TQ/edit>.

³ David Wildstein, *N.J. Census data expected to be certified by June 17*, NEW JERSEY GLOBE (July 14, 2020 1:33 pm) <https://newjerseyglobe.com/redistricting/n-j-census-data-expected-to-be-certified-by-june-17/>.

⁴ Cal. Elec. Code § 14025 et seq.; Wash. Rev. Code § 29A.92.005 et seq.; Oregon Rev. Statutes Ch. 449 § 2 et seq.