

State redistricting panel will follow prisoner counting law

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ALBANY -- After a month of uncertainty, the legislative panel that will redraw state and congressional district lines said Wednesday it will count prisoners at their home address rather than the place where they are incarcerated.

The state Legislative Task Force on Demographic Research and Reapportionment, known as LATFOR, took up a resolution Wednesday confirming its intention, which is required under a state law passed last year.

A group of Senate Republicans are challenging the law in court, leading to uncertainty over how the panel -- which consists of two Democratic and two Republican lawmakers and two other appointees -- would proceed.

Sen. Michael Nozzolio, R-Fayette, Seneca County, insisted that not following the law was never an option.

"There are some who did not like the law and some of us who voted against the law," said Nozzolio, who co-chairs the redistricting panel. "But there was never an understanding or intention that we, as members of LATFOR, would not strictly adhere to every state and federal statute or constitutional provision in developing legislative districts."

The impression that the panel wasn't going to comply with the new law "simply isn't accurate," Nozzolio said.

The senator's statement came as a surprise to good-government groups and several lawmakers, including panel member Sen. Martin Malave Dilan, D-Brooklyn, who sent a letter to Nozzolio last week decrying the GOP conference's "defiance of state law."

The Brennan Center for Justice and a handful of other civil-rights groups wrote an open letter to the panel last week as well, saying that ignoring the law would be "a serious violation of legal obligations" and would "gravely infringe upon the voting rights of New York's citizens."

The law was passed last year when Democrats controlled both houses of the Legislature. Republicans regained a slim majority in the Senate this year, and six of them filed a lawsuit in April challenging whether the law complies with the state constitution. Prisoners have previously been counted where they are incarcerated, but the practice has been criticized because they can't vote and instead can boost population counts in some districts.

Both Democrats and Republicans accuse each other of prison-based gerrymandering, and both have significant political clout to gain depending on how the court decides.

Republicans represent mainly upstate districts, where most of the state's large prisons are located. Democrats generally represent downstate districts, where many current prisoners last resided. A decrease in the upstate population count could mean fewer upstate legislative seats.

Assemblyman John McEneny, D-Albany, who co-chairs the redistricting panel, indicated earlier this week that the Assembly had received data from the state about prisoners' last known addresses.

"No one up here has ever said that they won't follow the law or the constitution," McEneny said Thursday at a public hearing.

The panel's resolution came as a relief to the Brennan Center, which is trying to intervene in court so it can help defend against the Senate GOP's lawsuit.

"We were glad to hear LATFOR will comply with the law and end prison-based gerrymandering," said Wendy Weiser, director of the group's Democracy Program. "We hope this will close the door on using prisons to distort district sizes and dilute New Yorkers' voting strength. We look forward to seeing fairer, more equally-sized districts."

Gov. Andrew Cuomo said Thursday that he didn't "think it was right or fair" to count prisoners where they are incarcerated and said he stands behind the law, which was signed before he took office.

But when it comes to the Legislature's redistricting panel, Cuomo repeated his threat to veto its final product. He and other good-government groups want the lines drawn in time for next year's

elections by an independent panel, not one controlled by the Legislature.

The current process has long been criticized for leading to lines drawn to favor the parties in power.

"I have said from Day 1 that I believe the redistricting lines should be the product of an independent process and should not be partisan," Cuomo said. "I don't think I could have been clearer on that from Day 1. I said it in the campaign, I wrote it in a book, I said it in speeches and I have repeated it since."

Campbell is a staff writer for the Gannett Albany Bureau.