Groups Split, Rumors Fly as Redistricting Reform Remains Elusive

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Photo by Gail Robinson Assemblymember John "Jack" McEneny presides over a redistricting hearing in Manhattan.

Last week City Hall News named Assemblymember John "Jack" McEneny, Democratic chair of the New York State Legislative Task Force on Reapportionment and Redistricting or LATFOR, one of the losers of the week. It gave the epithet to McEneny because of the way he conducted himself during hearings in the city as politicians and good government groups criticized the current redistricting process. Former Mayor Ed Koch, an advocate for independent redistricting insistently called McEneny an "enemy of the people."

But if McEneny, who has defended the current redistricting process, is losing, he certainly doesn't seem to mind -- or even to be aware of it. The good government groups that have chided him and the legislative task force all summer long have splintered in their efforts to reform the redistricting process, and some are unsure whether Gov. Andrew Cuomo is still committed to major reform.

With time running out politicians and advocates are jockeying for position. When the process ends though, it could turn out that not very much has changed.

A Falling Out

McEneny, meanwhile, seems to be tinkled pink. The Albany Assembly member, who is renowned for his expertise on redistricting, has had a number of defensive and contentious moments with good government groups, with Koch and other officials. Seeing them suffer some slings and arrows does not bother him a bit.

"The [LATFOR] hearings started with a lot of resentment, but that resentment has melted away," said McEneny cheerfully. "There were a lot of red herrings thrown out against us -- like we weren't going to count prisoners. We are going to count them; we have been and will continue to unless the court tells us to stop."

Last week two major good government groups split in their effort to get the legislature to return to Albany to pass a bill creating an independent redistricting commission, up until now a key demand of all the good government groups. Saying that time was running short to pass the legislation, Susan Lerner, executive director of Common Cause , announced that her group would focus on how the lines are drawn instead of focusing on who draws them. McEneny chuckled as he recalled watching the groups react to the split.

Dick Dadey, executive director of Citizens Union (Gotham Gazette is published by the sister organization of Citizens Union the Citizens Union Foundation), told the Albany Times Union's Jimmy Vielkind , who broke the story of the split among the groups, that Common Cause was "dead wrong. They don't know the state of discussions going on right now among the three parties critical to making that decision." Dadey insisted there is still time to pass legislation creating an independent commission.

Lerner, who declined to be interviewed for this article, told the Times Union that she disagreed. "Of course we support an independent commission, but what we think has to be clear is that it is equally or more important how the lines are drawn, and less who draws the lines, at this late stage," said Lerner. "The criteria, at the end of the day, control the map."

Dadey unveiled his own altered plan at a LATFOR hearing last week. "Citizens Union and others are willing to work with the legislature and the governor to adopt a less-than-ideal approach for 2012," said Dadey. He then proposed that a commission appointed by legislators -- but not made up of legislators -- take over the work of LATFOR this year. Dadey also wants legislators to agree to pass a constitutional amendment that would implement independent redistricting for the next round in 2022.

Not all good government groups have given up on the original plan. The League of Women Voters and the New York Public Interest Research Group are both sticking to their guns.

"A lot of organizations turned on a dime," said Barbara Bartoletti , legislative director for League of Women Voters of New York . "We have carried our position for 40 years. We support an independent commission. Do we believe the powers that be will allow this to be done? We aren't naĂŻve and time is short, but the public is aware that this is a bad process and they know that legislators took pledges to do this. The public is watching."

Bill Mahoney, legislative operations and research coordinator for NYPIRG , said that his group still believes there is time for the legislature to return. "Without a doubt we still think there is time for an independent redistricting commission and that legislators should keep their promise and return to pass a bill creating an independent commission," he said.

The Veto Threat

The disputes between groups aside, it remains unclear how -- or if -- the differences will affect the drawing of the lines, which must be completed in advance of next year's primary for seats in the state legislature and the U.S. Congress.

So far neither Common Cause's option or Citizens Union's has won favor with Senate Republicans, who are afraid of losing their hold of the Senate in the redistricting process changes. Cuomo told the Times Union's Vielkind this summer that he would veto lines "that are not drawn by an independent commission, that are partisan."

A number of observers think it is hard to envision any scenario for a nonpartisan redistricting that does not weaken -- or even doom -- Republican control of the Senate. Vielkind described the situation as "life-and-death" for Senate Republicans in a Q&A with Capital New York .

Some think the stage has been set for a compromise between Cuomo and Senate Republicans. Even reform advocates who have full faith in Cuomo's veto are unsure exactly what will happen if he actually uses it.

The Department of Justice threw an added complication into the already murky situation earlier this month when it filed a petition to force New York to move its primary up to at least 80 days before the 2012 elections. Such a move, which is intended to make it easier for military personnel serving overseas to vote , would place the primary on Aug. 18 next year. The state has filed a request for a waiver for next year, pledging to move the primary up starting in 2013. But if the state is forced to have an earlier primary, that would leave very little time for LATFOR to deliver its district lines, Cuomo to veto them and the courts to draw new lines.

In light of this, McEneny questioned whether Cuomo would make good on his veto pledge. "I believe that the primary will be moved up to June. I think vetoing the lines would be irresponsible with that kind of deadline," said McEneny.. "Are you really going to veto a bill you have never read?"

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Dadey believes the opposite. "The governor has been very clear that he will veto lines that are partisan and that LATFOR is not capable of drawing impartial lines."

Some think he will have no choice. "He has to veto" said Liz Benjamin of the State of Politics blog at a forum on Cuomo last night . "He has no wiggle room."

But Steve Greeenberg, a pollster for the Siena Research Institute , disagreed. "If he decides to sign it because he got x, y or z from the legislature he can sign it," Greenberg said. "There will be plenty of wiggle room, and he will not pay a serious price."

The governor's office has continued to state that the governor is committed to fair redistricting lines and have said they are considering the plans presented by Common Cause and Citizens Union.

Sen. Liz Krueger , who prompted McEneny to ask whether she had actually ever been upstate when she criticized one district said to resemble Abraham Lincoln riding a lawn mower, said she thinks the way forward is actually pretty clear. Krueger supports Common Cause's plan, which she things covers all bases. "I don’t think an independent redistricting commission is possible at this point," said Krueger, but the governor could mandate LATFOR to follow the standards in his program bill."

Lerner and Sean Coffey laid out two major standards for LATFOR to follow in an op-ed for the Times Union called " How to Save NY Redistricting Reform ." The first standard would be to "prioritize respecting communities of interest." Lerner and Coffey say this could be achieved by drawing lines "to recognize communities of interest, such as social, cultural, ethnic, economic and racial similarities. Prioritizing the way in which people actually 'feel' the boundaries of their neighborhoods minimizes drawing districts that prioritize creating safe seats for a particular political party."

The second standard is to, "minimize or eliminate political self-interest in drawing the maps." To do that, Lerner and Coffey say, the redistricting process should be based on demographics, "not the needs of the incumbent."

If the LATFOR does not comply, Krueger said Cuomo could then veto the lines but, instead of throwing the issue to the courts, have people submit alternative maps. "I'm sure Common Cause would be happy to do the maps for New York if they were asked; they have the technology and they are already drawing maps," she said.

Krueger pointed to a recent article by an undergraduate who put out his own district maps, basing his lines on the recent census. "Something that took weeks before is now a three-day

project that a college kid can handle," Krueger said. â€¨â€¨"We can say to LATFOR, 'This isn't the '70s anymore. You aren't drawing lines on a big map and coloring them in." Krueger says new technology also allows the public to understand much better what LATFOR is doing. “Thanks to the internet and media people are paying attention. Everyone is watching and we can see a farce is a farce," she said.

Behind Closed Doors

Meanwhile, reports about redistricting deals have been popping up left and right. One report said that Senate Majority Leader Dean Skelos is floating the idea of " adding a seat to the Senate to prevent a future split of the chamber. This GOP did add a seat 10 years ago, creating the current even number of seats.

A Daily News " gossip column spoke of a possible deal forged by the members of the Senate Independent Democratic Conference with Republicans to keep their districts intact.

Some signs, if they can be trusted, would indicate that the redistricting wheels are already turning while LATFOR is out taking input from the public.

McEneny notes that LATFOR has extended its hearing schedule, adding two dates. He says he has learned quite a bit from groups he says are concerned about making sure their districts are represented properly. McEneny insists that LATFOR is still diligently working on drawing lines while taking input from the public.

"It is very important that the public has been able to offer their ideas, but I very much doubt that they are going to be used, because they would end LATFOR's control," said Dadey. "The input that LATFOR has gathered from the public will be useful when the independent commission starts its work."

McEneny agreed that LATFOR's work would be useful even if a new group takes over. But McEneny thinks it is too late for a legislative option this year. He says the governor's independent redistricting bill -- a bill McEneny points out he and Assembly Speaker Sheldon Silver support -- is "too rigid" for Senate Republicans. "The governor failed to convince the Senate that we could make it work this year. I assume there have been closed door discussions, but I don't know. The governor doesn't call me," McEneny said.

Dadey said that without a doubt there have been discussions "between affected parties." He added, "Technology is such that there would be time for a commission to pull together maps" and "for the legislature to return and pass the legislation."

â€¨Krueger said that redistricting reform is "a test for our state." She said that t an election expert told her that if LATFOR is replaced. the federal government would review the new system for 60 days. "There is already a 60-day period where they review the maps. If you look at the calendar I don't think you can find two 60-day periods. I have been told by a lot of election experts that the governor's program bill is a good bill and we would get good lines if the standards in it were followed. So they should be followed by LATFOR," she said.

Krueger noted she has attended LATFOR hearings and read the reports. She said this has led her to reach some conclusions: "There hasn't been outcry at these meetings in favor of gerrymandering. Even people from upstate communities want the system to be fair. They want good representation."