

AGENDA
GOVERNMENT OPERATIONS COMMITTEE
Tuesday, August 2nd 12:00 noon

Supervisors: Lasher, Donalty, Kolczynski, Chatfield, Miller

12:00 noon **Approval of meeting minutes**

12:00 noon **Transmittals referred to Committee**

12:05 p.m. **Board of Elections, Mark Alquist & John Zornow**
Compliance Officer, Ed Hunt
County Grants Manager, Jay Roscup
County Clerk, Michael Jankowski

NO BUSINESS

12:05 p.m. **County Attorney, Dan Connors**

MONTHLY REPORT [County Attorney - monthly report - July.pdf](#)

12:10 p.m. **County Administrator, Rick House**

MONTHLY REPORT

TRANSMITTAL:

- Authorization to Set Date for Public Hearing on Re-Appportionment of Board
[COTB Res01 local law reapportionment rev2.docx](#)
 - [Wayne Weighted Voting REPORT.pdf](#)

12:25 p.m. **Human Resource Director, Chris Kalinski**

PERSONNEL UPDATE

TRANSMITTAL:

- Enter into Memorandum of Agreement [HR2022 0801 AUTHORIZATION TO ENTER INTO MOA CSEA WCNH 12 hour work schedule 2022.doc](#)

COUNTY OF WAYNE
OFFICE OF THE COUNTY ATTORNEY

WAYNE COUNTY COURTHOUSE
26 CHURCH STREET, LYONS, NEW YORK 14489
FAX: (315) 946-5942

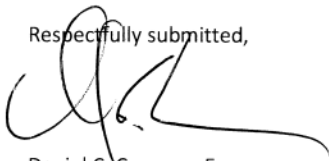
DANIEL C. CONNORS, ESQ.
COUNTY ATTORNEY
(315) 946-7442

ERIN M. HAMMOND, ESQ.
ASSISTANT COUNTY ATTORNEY
(315) 946-7444

The County Attorney's Office monthly report for July 2022 is as follows:

Contracts Drafted and/or Reviewed	32
Insurance Certificates	48
Notice of Claim	1
Accidents	1
Disciplines/Grievances	3
Human Rights Complaints	0
Subpoenas	4
Freedom of Information Requests (FOIL)	31
FOIL Money Collected	\$5.25
Juvenile Delinquent's (JD's)	0
Persons In Need of Supervision (PINS)	1
Habeas Corpus	0
Poor Person Applications	6
Pistol Permit Hearings	0
Unemployment Hearings	0
Total Amount of Bills Paid from A1420(CA)	\$652.57
Total Amount Paid from A1930 (Judgment & Claims)	\$40.00
Total Amount Paid from A1931 (Liability & Casualty)	\$12,722.56
Total Amount Paid for 207c Claims	\$95.00

Respectfully submitted,



Daniel C. Connors, Esq.
County Attorney

RESOLUTION TRANSMITTAL

Committee No. 5
Date: 8/2/22

Committee Chair: Richard Lasher
Department Head: Eygnor

AUTHORIZATION TO SET DATE FOR PUBLIC HEARING ON LOCAL LAW RELATING TO THE REAPPORTIONMENT OF THE BOARD OF SUPERVISORS OF THE COUNTY OF WAYNE

RESOLVED, pursuant to Section 20 of the Municipal Home Rule Law that the Board of Supervisors shall hold a public hearing on Tuesday, September 20th at 9:05 a.m. in the Supervisors Chambers in the County Court House, 26 Church Street, Lyons, New York, on the following proposed local law:

COUNTY OF WAYNE – STATE OF NEW YORK

A local law relating to the reapportionment of the Board of Supervisors of the County of Wayne.
BE IT ENACTED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF WAYNE, as follows:

SECTION 1. LEGISLATIVE INTENT

The Wayne County Board of Supervisors having heretofore enacted local laws implementing adjusted weighted voting plans for simple majority votes and two-thirds majority votes, and since those enactments the 2020 Federal Census having been completed, the Wayne County Board of Supervisors did pursuant to Section 10 of the Municipal Home Rule Law prepare revised plans, utilizing 2020 population statistics.

SECTION 2. LEGISLATIVE AUTHORITY

This local law is enacted pursuant to the provisions of Municipal Home Rule Law Section 10 (1) (a) (13).

SECTION 3. ADJUSTED WEIGHTED VOTING PLAN (SIMPLE MAJORITY)

The apportionment of the voting strength of each of the members of the Wayne County Board of Supervisors as determined by utilization of the 2020 Federal Census shall be as follows upon any vote requiring a simple majority vote:

Arcadia	29
Butler	4
Galen	10
Huron	4
Lyons	13
Macedon	20
Marion	10
Ontario	23
Palmyra	16
Rose	5
Savannah	4
Sodus	18
Walworth	20
Williamson	15
<u>Wolcott</u>	<u>9</u>

TOTAL: 200

A total of 101 affirmative votes shall be required for the adoption of any resolution, local law, motion or proposal requiring a simple majority vote.

SECTION 4. ADJUSTED WEIGHTED VOTING PLAN (TWO-THIRDS MAJORITY)

The apportionment of the voting strength of each of the members of the Wayne County Board of Supervisors as determined by utilization of the 2020 Federal Census shall be as follows upon any vote requiring a two-thirds majority vote:

Arcadia	29
Butler	4

Galen	10
Huron	4
Lyons	13
Macedon	20
Marion	10
Ontario	23
Palmyra	16
Rose	5
Savannah	4
Sodus	18
Walworth	20
Williamson	15
<u>Wolcott</u>	<u>9</u>

TOTAL: 200

A total of 134 affirmative votes shall be required for the adoption of any resolution, local law, motion or proposal requiring a two-thirds majority vote.

SECTION 5. EFFECT OF OTHER LAWS OR ACTS

Local Law No. 3-2011 and any other law, ordinance, resolution or other act of the Wayne County Board of Supervisors relating to reapportionment is herein and hereby superseded.

SECTION 6. SEPARABILITY

If any clause, sentence, paragraph or section of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such adjudication shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph or section thereof directly involved in the proceeding in which such adjudication shall have been rendered.

SECTION 7. EFFECTIVE DATE

This local law is subject to referendum on petition pursuant to Municipal Home Rule Law Section 24 (2) (j). This local law shall take effect 45 days after its adoption pursuant to Municipal Home Rule Law Section 24(1), subject to the provisions thereof; and be it further

RESOLVED, that the Clerk of the Board of Supervisors is hereby directed to give at least five days notice of such hearing by posting such notice upon the bulletin board at the Court House, Lyons, New York, and by publishing such notice at least once in the official newspapers of the County.

Budgeted: yes ___ no ___ Proposed Cost: _____ Reimbursed Amount _____ County cost _____

Departmental transfer \$ _____ from Account No. _____ to Account No. _____

County Administrator's Review: _____ Date: _____

Human Resources Office Review: yes ___ no ___ N/A ___ Signature: _____


County Attorney Review: yes ___ no ___ N/A ___ Signature: _____

Standing Committee: Ayes _____ Nays _____ Date: _____ Signature: _____

Signature/Date Rec'd: _____ Clerk, Board of Supervisors

Referred to:
Committee: _____ Ayes _____ Nays _____ Date: _____ Signature: _____

Committee: _____ Ayes _____ Nays _____ Date: _____ Signature: _____



2022 Wayne COUNTY WEIGHTED VOTE RECALCULATION REPORT

Prepared for Wayne County: 7/6/2022





Just over a half century ago, on June 15, 1964, the U.S. Supreme Court decided that the Equal Protection Clause of the 14th Amendment to the U.S. Constitution required that state legislative districts in all American states be substantially equal in population. (*Reynolds v Sims* 377 U.S. 533 (1964)).¹ This landmark decision undid one key basis of the long-time rural dominance of many state governments across the nation. In New York, it overturned most redistricting standards adopted at the GOP dominated 1894 constitutional convention, famously causing Alfred E. Smith – later a celebrated Democratic Governor – to describe the legislature at a later convention as “constitutionally Republican.”²

Four years later, the Court applied this transformative “one-man-one- vote” principle to “...elective legislative bodies which exercise general governmental powers at the local level, among them county Boards of Supervisors.”³ New York counties outside New York City were long governed by these Boards of Supervisors. These boards were comprised of the elected Supervisors of the counties’ constituent towns. Since the state’s sixty-two cities were chartered entities organized outside of and parallel to towns, this model left them unrepresented in county boards. State law therefore provided that in counties with cities the Board of Supervisor’s membership be augmented with a specified number of additional board members elected from within those cities to represent their residents in county government.

Single member legislative districts were the representative structures most used at the state level. Adjusting district boundaries to achieve relative population equality among them was commonly used to meet the U.S. Supreme Court’s one-man-one vote requirements. At the county level, the state’s relatively few chartered counties were already empowered to alter their structures for governance by amending their charters. This allowed them, for example, to replace their county boards of supervisors with county legislatures that had adjustable districts separate from town boundaries. However, in non-charter counties, where “legislative district lines” were town boundaries establish in state law, these lines could not be changed locally without authorization by newly adopted state law. To deal with this problem, the state passed a law permitting these counties to create Legislatures to take the place of Boards and allowing the drawing of lines for legislative districts within them that did not have to track town lines. Some did so.

But in many places in the state – sometimes for partisan reasons, sometime because of tradition, sometimes because of the value ascribed to close relationships between town and county government that they nurtured, county Boards of Supervisors were vigorously defended. In these non-charter counties, referenda required to make the change to a legislative system failed in several places, sometimes multiple times. And in charter counties litigation ensued in several places to test the metes and bounds of charter-based power to make this change.

¹. The New York case simultaneously decided by the court was *WMCA v. Lomenzo* (377 U.S. 633 (1964))

². See Gerald Benjamin. “The Political Relationship” in Gerald Benjamin and Charles Brecher. *The Two New Yorks: City and State in a Changing Federal System* (New York: Russell Sage Foundation, 1987) chapter 5.

³ *Avery v. Midland County* (390 US 474 (1968)).



In this context, alternatives were sought that would allow retaining the town-based Board of Supervisors while complying with one-man-one-vote. Weighted voting emerged as the preferred approach to achieving this end. Over time, some counties opted to create single-member districts, often grouping towns together to form districts, but retained weighted voting as the means to achieve equal representation. The creation of these districts often had more to do with diminishing the size of the legislative body than with what would typically be considered “redistricting”.

The Weighted Voting Option

In counties with constituent districts of differing populations (typically towns or groupings of towns) that employ weighted voting, each representative (supervisor/legislator) in the decision-making body (the Board of Supervisors / Legislature) has a variable share of the total vote. This share is calculated based directly or indirectly on the number people in the representative’s constituency relative to the number in the entire jurisdiction being governed (the county), to assure that each individual has an equal chance to affect decisions regardless of where in the county they resided.

Why Simple Proportionality Does Not Work

Nassau County had experience with weighted voting that long anteceded its adoption elsewhere in the state to comply with one-man-one vote. That county contains three towns and two cities: Hempstead, North Hempstead, Oyster Bay, Glen Cove and Long Beach. Its 1936 charter provided for a five-member Board of Supervisors, with two selected from Hempstead and one each from the other four jurisdictions. A Total of 125 votes were allocated to board members on the basis of population, with those for Hempstead divided equally between two members. An added condition specified that, population notwithstanding, no jurisdiction could cast more than half the votes on the board. This structure was designed to prevent either a single town or a single person from the most populous town having complete control of the board. But State Supreme Court Judge William R. Geiler determined in 1968 that because Hempstead’s population so far exceeded the total of the remaining four towns, the effect of the constraints on proportionality in this scheme was to leave residents of that town sufficiently underrepresented as to make it unconstitutional under the one man-one-vote standard.⁴

Near simultaneously, New York’s high court, the Court of Appeals, in *Iannucci v. Board of Supervisors of Washington County*, found unconstitutional a weighted voting system in Washington County that assigning weights to the votes of board of supervisor members based simply upon the proportion of each town’s population to the county’s population.⁵ The court relied on a now famous article in the *Rutgers Law Review*, published in 1965, in which John Banzhaf demonstrated that, depending upon the relative proportion of the populations of the largest and smallest town(s) to that of others in the county, the most populous town might end up with more than half the votes and become a “dictator” (the circumstance Nassau was trying to avoid when it ran afoul of one-man-one vote) while others might be left entirely powerless, characterized as “dummies.”⁶ To measure a representative’s voting power, Banzhaf developed an index based upon the proportion of the time that his or her presence in a coalition was critical to its success. This allowed the calculation of a weight – or “voting power” – for

⁴ *Franklin v. Mandeville*, 9294 N.Y.S.2d 141 (N.Y. Sup. Ct. 1968)

⁵ *Iannucci v. Board of Supervisors* 229 N.E.2d 195 (N.Y. 1967)

⁶ Banzhaf, “Weighted Voting Doesn’t Work: A Mathematical Analysis”, 19 Rutgers L. Rev. 317, 1965)



each district's representative that created the possibility of him or her participating in winning coalitions with a frequency proportional to the district's share of the county population. Writing for the court, Chief Judge Stanley Fuld accepted this standard for county boards of supervisors. He wrote: "Ideally, in any weighted voting plan, it should be mathematically possible for every member of the legislative body to cast the decisive vote on legislation in the same ratio which the population of his constituency bears to the total population.... A legislator's voting power, measured by the mathematical possibility of his casting a decisive vote, must approximate the power he would have in a legislative body which did not employ weighted voting."

How to Test a Weighted Voting System's Validity

The result of the *Iannucci* decision was that in order to comply with the equal representation standard, weighted voting systems needed to ensure that the voting power wielded each member of a legislative body needs to be proportionate to the size of the population they represent. In order to test this, we employ a normalized Banzhaf Index score. This score is derived by calculating the total number of possible voting coalitions within the legislative body, and then testing to see in how many of those combinations of legislators would each individual representative would have the opportunity to cast the deciding vote. The normalized index score is essentially the critical count for each member: the number of times they could possibly cast the deciding vote in all of the possible coalitions that could be formed given the weight of their vote, divided by the total number of possible combinations of representatives (coalitions). The Banzhaf Index is typically calculated given a quota, or threshold that must be met to make a decision. For most legislators two sets of calculations must be made based on different quotas, one score for a 50%+ majority, and another for a 2/3+ supermajority.

In the 1973 *Franklin v. Krause* case in the New York State Court of Appeals, the court established a methodology and threshold to evaluate the validity of a weighted voting system utilizing the Banzhaf Power Index. The test involves calculating both the population proportion and the normalized Banzhaf Index score for each member given the weight of their vote, and determining the difference between those numbers. The difference of the two greatest differences in the system are then added together. For a weighted voting system to be legal, this figure must be less than 7.3%.

The math in the *Franklin* decision has one glaring problem. In the decision, the court used the term percentage and percentage points interchangeably, and skipped the final portion of the calculation where you would divide the difference by the ideal. In single-member redistricting the percentage deviation is calculated by dividing the difference between the district's population and the ideal population by the ideal population. In a similar test of weighted voting, the difference between the Banzhaf score and the population proportion should be divided by the population proportion to determine the percent deviation. It was initially thought that the *Franklin* ruling would be further resolved to correct this error through subsequent court cases, but in the 49 years since, no such rulings have been made.

Ultimately this makes meeting the standard of validity for a weighted voting system much easier.

How we arrived at weights for Wayne County



One of the problems with adjusting a weighted voting system is that the number of votes within the system is infinitely variable – there can be any number of votes greater than the number of representatives within the system. In calculating the weighted vote for Wayne County, care was taken to find a relatively low number of total votes in the system, using factors of 100, and to keep the number of weighted votes for each district a whole number. This should make calculating the result of a vote much easier, and less time consuming.

One additional criteria was used in the development of this weighted voting system. Rather than have two different sets of weighted votes, one for a simple majority and another for a two-thirds majority, for the sake of simplicity a system where the same weighted votes that meets all legal standards was developed to be used in both scenarios. Since a simple majority is used far more than a two thirds majority vote, preference was given for a system that performs better for a simple majority, while being well below the legal threshold when used for a two-thirds majority vote.

The recommended weighted voting system for Wayne County is as follows:

Town	Population	Weighted Vote
Arcadia	13731	29
Butler	1835	4
Galen	4415	10
Huron	1872	4
Lyons	5679	13
Macedon	9270	20
Marion	4566	10
Ontario	10446	23
Palmyra	7403	16
Rose	2291	5
Savannah	1632	4
Sodus	8028	18
Walworth	9253	20
Williamson	6860	15
Wolcott	4002	9
Total	91283	200

A series of weighted voting systems were created and testing starting with 100 total votes up to 500 total votes in increments of 100. For each of the vote totals four systems of weights (five for systems totaling 100 votes) were created for both 50% and two-thirds majorities and tested using the Franklin Standard. The Franklin deviations for each type of majority were totaled, and the lowest deviation system selected. This system also had the advantage of having the lowest Franklin deviation score of all systems for votes requiring a 50% majority meaning that it is the optimal system created using the above criteria for the vast majority of circumstances where it will be used, as well as the best system tested overall. The recommended voting system has a total of 200 votes within the system. The Franklin



deviation score for a 50% majority is 0.55 (far below the 7.3 threshold). The Franklin deviation score for the two-thirds majority is 1.11 (also well below the 7.3 threshold).

The calculations for the recommended weighted voting system are on the following page. An Excel spreadsheet of all of the calculations made has been included with this report for the County to use as it sees fit.



BPI computed by population proportion (second test, max-1 and min+1 for simple from initial test, satisfactory)												
Town	Population	Proportion	Weighted Vote	Simple Majority				2/3 Majority				
				Banzhaf	Discrepancy	Abs. Deviation	Franklin	Banzhaf	Discrepancy	Abs. Deviation	Franklin	
Arcadia	13731	0.150422313	29	15.41%	0.36%	0.003627687	0.55%	14.15%	-0.89%	0.008922313	1.11%	
Butler	1835	0.020102319	4	1.90%	-0.11%	0.001112319		1.95%	-0.06%	0.000582319		
Galen	4415	0.04836607	10	4.89%	0.05%	0.00054393		5.05%	0.22%	0.00215393		
Huron	1872	0.020507652	4	1.90%	-0.15%	0.001517652		1.95%	-0.10%	0.000987652		
Lyons	5679	0.062213117	13	6.28%	0.06%	0.000586883		6.43%	0.20%	0.002046883		
Macedon	9270	0.101552315	20	10.06%	-0.10%	0.000952315		10.10%	-0.06%	0.000592315		
Marion	4566	0.050020267	10	4.89%	-0.11%	0.001110267		5.05%	0.05%	0.000499733		
Ontario	10446	0.114435327	23	11.63%	0.19%	0.001864673		11.41%	-0.03%	0.000325327		
Palmyra	7403	0.081099438	16	8.04%	-0.07%	0.000739438		8.25%	0.14%	0.001420562		
Rose	2291	0.025097773	5	2.42%	-0.09%	0.000907773		2.56%	0.05%	0.000542227		
Savannah	1632	0.017878466	4	1.90%	0.11%	0.001111534		1.95%	0.16%	0.001641534		
Sodus	8028	0.087946277	18	8.87%	0.08%	0.000793723		8.96%	0.16%	0.001613723		
Walworth	9253	0.101366081	20	10.06%	-0.08%	0.000766081		10.10%	-0.04%	0.000406081		
Williamson	6860	0.075150904	15	7.42%	-0.10%	0.000990904		7.61%	0.09%	0.000919096		
Wolcott	4002	0.043841679	9	4.34%	-0.04%	0.000411679		4.48%	0.10%	0.000978321		
Total	91283	1	200	1.00002	0.00%	0.017036858		1	0.00%	0.023632017		

RESOLUTION TRANSMITTAL

HR08 RES1
Committee No. 5

August 2, 2022

Committee Chair: Dic Lasher
Department Head: Chris Kalinski

AUTHORIZATION TO ENTER INTO MEMORANDUM OF AGREEMENT BETWEEN COUNTY OF WAYNE AND CIVIL SERVICE EMPLOYEES ASSOCIATION, INC. WAYNE COUNTY LOCAL 859, AFSCME, AFL-CIO, WAYNE COUNTY SUPERVISORY EMPLOYEES UNIT 9100, WAYNE COUNTY GENERAL EMPLOYEES UNIT 9100-02

WHEREAS, during Labor-Management meetings, the Parties have discussed a new work schedule for the Wayne County Nursing Home staff for individuals holding the following full time and part time positions: Registered Professional Nurse (RPN), Supervising RPN, Licensed Practical Nurse (LPN) and Certified Nursing Assistant (CNA). A 12-hour work schedule was presented to WCNH employees with more than 50% of staff that would change to an additional new work schedule.

THEREFORE, the parties agree as follows:

1. Employees of WCNH opting into the twelve (12) hour schedule will transition to the new work schedule as soon as it is practical.
2. The parties agree that at no point will twelve (12) hour shift schedules be mandatory for those employees who do not wish to participate in a twelve (12) hour shift schedule. The parties also agree that should an employee wish to change their schedule from an eight (8) hour shift schedule to a twelve (12) hour shift schedule or vice versa; that there will be at least thirty (30) day notice given prior to change of schedule for appropriate scheduling requirements.
3. The 12-hour shift time schedule will consist of 7am-7pm / 7pm-7am / 3am-3pm / 3pm-3am. Shift employees will be placed on a fourteen (14) day schedule during which they shall work six (6) 12 hours days and one (1) 8-hour day bi-weekly these include a 30-minute unpaid meal period. The standard hours for each employee shall be fixed at Seventy-six and one half (76.50) hours bi-weekly.
4. Employees assigned to shifts 3pm–3am and 7pm–7am will be paid shift differential in accordance to Article 14 Section 22.
5. Should it be necessary to change the beginning and ending times, management will give the employees at least the thirty (30) day minimum notice required by the General Unit collective bargaining agreements, Article 12, Section 1i).
6. Full-time Nursing Home employees opting into the twelve 12-hour schedule will be on a fourteen (14) day work schedule and shall receive the overtime rate of one and one-half (1.5) times the hourly rate for all hours actually worked in excess of Seventy-six and one half (76.50) hours in a fourteen (14) day work cycle. This shall be done in accordance with, and to supplement the benefit of, the Fair Labor Standards Act's Section 7(j) overtime pay system for health care facilities including but not limited to skilled nursing and residential care facilities. Sick leave shall not be counted as time worked in the computation of overtime.
7. **Annual and Sick Leave Accruals** will be credited at the rate of 3.75 hours per bi-weekly pay period. An employee shall not earn annual and sick leave for any bi-weekly pay period unless he/she is in full pay status for at least 37.50 hours during such bi-weekly pay period. Employees shall submit time off requests using "hours" rather than "days".
8. **Holidays:** The following days shall be designated paid holidays for shift employees: New Year's Day, Thanksgiving Day, and Christmas Day. Shift employees who are required to work on any of these three (3) days shall receive twice their normal rate of pay for all hours worked. Shift employees who are not scheduled to work on these days shall be paid for the day off at straight time.

Nursing Home shift employees shall earn seven and one half (7.5) hours of paid holiday leave in each of the following months: February, March, April, May, June, July, August, September and October. Floating days

shall be used by the employee at a time to be agreed upon by the Nursing Home Administrator, within the facility's operational requirements. Employees shall submit time off requests using "hours" rather than "days".

- 9. Wayne County reserves the right to revert back to the existing schedule as defined in the current collective bargaining agreement with at least the thirty (30) day minimum notice required by the Contract.
- 10. This agreement does not set any precedent or establish a practice or custom that binds either party beyond its stated terms.

RESOLVED, that the Chairman of the Board of Supervisors is authorized to sign this Memorandum of Agreement, subject to the review and approval of the County Attorney as to form and content.

Budgeted: yes ___ no ___ Proposed Cost: _____ Reimbursed Amount \$0.00 County cost \$ _____

Departmental transfer \$ _____ from Account No. _____ to Account No. _____

County Administrator's Review: _____ Date: _____

Human Resources Office Review: yes ___ no ___ N/A ___ Signature: _____

County Attorney Review: yes ___ no ___ N/A ___ Signature: _____

Standing Committee: Ayes _____ Nays _____ Date: _____ Signature: _____

Signature/Date Rec'd: _____ Clerk, Board of Supervisors

Referred to:
Committee: _____ Ayes _____ Nays _____ Date: _____ Signature: _____

Committee: _____ Ayes _____ Nays _____ Date: _____ Signature: _____