



## Legislation Text

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**File #:** Res 0814-2025, **Version:** \*

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### Res. No. 814

Resolution calling on the State Legislature to pass, and the Governor to sign, S.3849/A.1100, the No Cap Act, which would remove the population-based cap on the number of justices of the Supreme Court in any judicial district.

By Council Members Bottcher and Louis

Whereas, Article 6 of the New York State Constitution caps the number of state Supreme Court justices the legislature can add in each of the 13 judicial districts; and

Whereas, The cap on the number of state Supreme Court justices was first enacted in 1846, and last amended in 1961; and

Whereas, Supreme Courts in Manhattan and the Bronx have reached their caps; and

Whereas, Supreme Courts in Queens, Brooklyn and Staten Island are very close to their caps; and

Whereas, Population may not be an adequate metric to solely determine the distribution of judicial resources; and

Whereas, Population numbers do not directly correspond to the number and types of cases brought in a judicial district; and

Whereas, The New York State Office of Court Administration has designated hundreds of lower court judges to sit on the Supreme Court on a temporary basis; and

Whereas, The lower court judges sitting on the Supreme Court are designated as Acting Supreme Court Justices; and

Whereas, When a lower court judge is made an Acting Supreme Court Justice it creates a vacancy on the lower court which takes time to fill; and

Whereas, Acting Supreme Court Justices lack access to the same staffing resources as fully elected Supreme Court Justices; and

Whereas, Acting Supreme Court Justices often remain responsible for some or all of their lower court caseload; and

Whereas, The Office of Court Administration has appointed over 300 Acting Supreme Court Justices every year for at least the past 13 years; and

Whereas, As of June 2024, there were 323 Acting Supreme Court Justices that had been transferred from other courts; and

Whereas, Acting Supreme Court Justices rarely return to their original judicial office; and

Whereas, The use of Acting Justices deprives New Yorkers of their constitutional rights to elect Supreme Court Justices; and

Whereas, S.3849, introduced in the New York State Senate by Senator Brad Hoylman-Sigal and pending in the New York State Senate, and its companion bill A.1100, introduced in the New York State Assembly by Assembly Member Alex Bores and pending in the New York State Assembly would amend the New York State Constitution to remove the population-based cap on the number of justices of the Supreme Court in any particular judicial district; and

Whereas, Any change to the New York State Constitution must be approved by two consecutive sessions of the States Legislature before it comes before the voters; and

Whereas, The No Cap Act passed both the Senate and the Assembly during the 2023-2024 legislative session; and

Whereas, New York needs a more flexible, evidence-based method for assessing the state's judicial needs; and

Whereas, Repealing the cap on the number of Supreme Court Seats in any particular judicial district does not automatically create any new Supreme Court Justices, it simply allows the legislature to create new

seats where necessary; and

Whereas, Any new Supreme Court seats created by the legislature after the cap is lifted will be elected positions, selected by the voters; now, therefore, be it

Resolved, That the Council of the City of New York calls on the State Legislature to pass S.3849/A.1100, the No Cap Act, which would remove the population-based cap on the number of justices of the Supreme Court in any judicial district.

LS #18540  
2/6/25  
EHC