

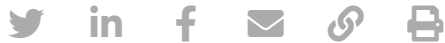


ELECTIONS AND VOTING

GOVERNMENT + POLITICS

# Va. Redistricting Commission starts on bipartisan note, but census delays add uncertainty

BY: **GRAHAM MOOMAW** - JANUARY 21, 2021 7:32 PM



 The Capitol at dusk. (Ned Oliver/Virginia Mercury)

Out of an abundance of bipartisanship, members of the newly created Virginia Redistricting Commission didn't want to pick just one chairperson at its first meeting Thursday.

They picked two citizen chairwomen, Democrat Greta Harris and Republican Mackenzie Babichenko, with an agreement to have them alternate running the meetings.

“I think that way we’ll have a balanced approach moving forward,” said Sen. George Barker, D-Fairfax, one of the architects of the 16-member commission that will be redrawing Virginia’s congressional and legislative maps for the first time.

The bipartisan commission is made up of [eight sitting legislators](#) and [eight citizen members](#), who were nominated by General Assembly leaders and picked by a panel of retired judges.

Harris is the president and CEO of the Better Housing Coalition, a community development nonprofit in Richmond. Babichenko is an assistant prosecutor in Hanover County.

When the map-drawing process will happen is a major question looming over Virginia politics this year, one that will shape how the 2021 House of Delegates races play out in the summer and fall. Virginia can’t redraw its maps until it receives new U.S. Census data, but difficulties related to the COVID-19 pandemic mean the state may not get that information in time to draw new districts for this year’s elections.

Meg Lamb, a legislative staff attorney handling the technical side of redistricting, told the commissioners that the U.S. Senate, now under Democratic control, is considering legislation pushing the deadline for delivering data to the states from April 30 to July 31. Once the data arrives, the commission has 45 days to draw new legislative maps.

With that in mind, Lamb said, it’s “not likely” new maps could be drawn and implemented in time for House primaries in late August or early September.

“So we’ll get to spend a lot of time together this year and probably some of next,” Lamb said.

If new maps can’t be drawn in time, this year’s House elections will likely be held using the current districts. Special elections on the new maps could potentially be held next year, with another round of regular elections in 2023.

Offering a glimmer of hope, Barker said he’s been in touch with someone in President Joe Biden’s incoming administration about Virginia’s urgent need for clarity on the census timeline.

“He does not have concrete information yet in terms of sort of the clear range of possible times in which the information might be supplied,” Barker said. “I did argue for them making every effort to have it done some time in April.”

Lamb said many in the redistricting field are expecting “very much a later summer, early fall data delivery.”

Only Virginia and New Jersey have elections this year that require new maps to be in place.

In redistricting years, the General Assembly usually passes a bill pushing legislative primaries from June to August. That hasn’t been done in the legislative session that began last week because lawmakers don’t even know that timeline is possible, but Barker said the legislature could insert language into the budget to accomplish the same thing.

Apart from the scheduling challenge, commissioners mainly used their first meeting to introduce themselves and discuss organization, talking over the possibility of hiring outside consultants and lawyers, training for the eight citizen members who are new to the process and even whether chat messages should or shouldn't be allowed to pop up on screen during their virtual meetings.

The commissioners were reminded that the law prevents them from discussing redistricting matters with any outside party, but it wasn't entirely clear if that meant they also couldn't speak to reporters covering the process.

"Don't talk to the press yet," Lamb said. "We will come up with something for you all."

Del. Marcus Simon, D-Fairfax, one of the most vocal opponents of the commission concept when it was approved by the General Assembly and voters last year but was nevertheless selected for one of the eight seats for legislators, tried to take an optimistic tone as the meeting began, saying "I hope that I was wrong about everything I predicted and that things go really well."

But he pushed back when three of the commission's four senators, who were all addressing the meeting from the same camera, began talking about a list of specific lawyers the commission might hire.

"I thought this was a citizen-led commission," Simon said. "I'm hearing a lot of leading coming from the small box with the senators in it."

Sen. Steve Newman, R-Lynchburg, said the list was a suggestion for later, not something the commission was being asked to approve immediately.

The status of Republican commissioner Jose Feliciano Jr. was not raised at the meeting. Some Democrats are [calling for him to be removed from the commission](#) over old social media posts in which he tweeted slurs at female celebrities who had criticized President Donald Trump. Feliciano has said he regrets some of his language, but doesn't think it should disqualify him from serving.

House Democrats were preparing to introduce legislation creating a mechanism for the removal of commission members, but Feliciano's colleagues have given no indication they intend to do so.



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## GRAHAM MOOMAW



A veteran Virginia politics reporter, Graham grew up in Hillsville and Lynchburg, graduating from James Madison University and earning a master's degree in journalism from the University of Maryland. Before joining the Mercury in 2019, he spent six years at the Richmond Times-Dispatch, most of that time covering the governor's office, the General Assembly and state politics. He also covered city hall and politics at The Daily Progress in Charlottesville. Contact him at [gmoomaw@viriniamercury.com](mailto:gmoomaw@viriniamercury.com)

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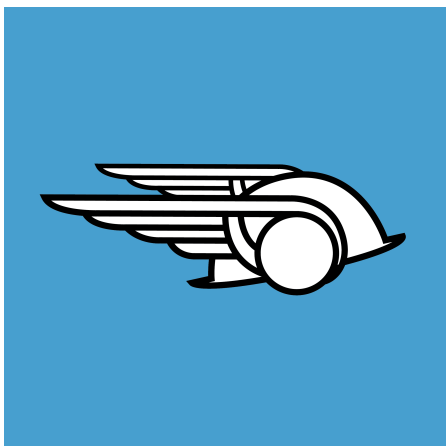
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BY GRAHAM MOOMAW

August 16, 2021

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GOVERNMENT + POLITICS

# How Virginia's new redistricting commission could still draw maps that protect incumbents

BY: **GRAHAM MOOMAW** - APRIL 27, 2021 12:03 AM



📷 A storm passes over the Capitol. (Ned Oliver/Virginia Mercury – Sept. 11, 2018)

Near the end of a [training video](#) prepared for the 16 members of the new Virginia Redistricting Commission, a legislative staffer raised a point that got to the heart of why many reformers wanted an independent commission to begin with.

In the past, it was accepted that the General Assembly would look at where incumbent lawmakers lived and avoid drawing maps that put multiple incumbents in the same district,

effectively pitting legislators against each other.

Because lawmakers [already decided](#) to include incumbents' home addresses in the data the commission will use to redraw House of Delegates, state Senate and congressional districts later this year, the ostensibly citizen-led commission could also draw maps with an eye toward preventing incumbent vs. incumbent trouble, said Division of Legislative Services attorney Meg Lamb.

"Using incumbent addresses to avoid incumbent pairing is an accepted factor to consider when redistricting and has also been part of the criteria adopted by the committees on privileges and elections in previous cycles," Lamb said in the video, referring to legislative committees that previously handled redistricting matters. "But we can certainly revisit the issue if you all would like."

Giving citizens more power in the redistricting process and reducing legislators' inclinations toward self-preservation were the major selling points for the independent commission [voters approved in a ballot referendum last fall](#), which took constitutional map-drawing power away from the General Assembly and gave it to the commission. But it remains to be seen how strongly the citizen members are willing to challenge the eight legislators on the panel. While the citizen members are trying to learn the redistricting process for the first time, some legislators, particularly Sen. George Barker, D-Fairfax, had a hand in the 2011 redistricting process that some critics said produced overly incumbent-friendly maps.

The commission won't be drawing maps until new U.S. Census data [arrives in mid-August](#).

The General Assembly's Joint Reapportionment Committee voted in October to include incumbents' addresses in redistricting data, ensuring the possibility it could be taken into account even if voters decided to hand redistricting power to the new commission.

If anyone had strong feelings on the question of how to handle incumbents' addresses, it wasn't clear from the brief discussion at Monday's commission meeting.

Sean Kumar, a Democratic-appointed lawyer from Alexandria, said he felt it would be useful to know the limits of what the commission can do. The decision on how to handle incumbents, he said, could mean the difference between creating "districts from scratch" or choosing to "minimally tweak what's already there."

"At some point we're going to have to choose the criteria we want to use regardless of what the census data is going to show," Kumar said.

Barker suggested starting first with the rules laid out in state law and the Virginia Constitution, noting that the General Assembly passed a redistricting criteria bill in 2020 that was "much more specific than what we had previously."

"The challenge we have is to make sure what we are doing what we are supposed to do," Barker said. "Because otherwise it's going to end up in court somewhere." Republicans appointed to the commission were largely silent on the matter during the meeting.

The criteria set by the legislation includes protecting “communities of interest,” a rule meant to ensure communities of people who share common interests aren’t needlessly split among several political districts. Though the bill didn’t include an explicit ban on consideration of incumbents’ addresses, it notes that communities of interest should not be interpreted to include “a community based upon political affiliation or relationship with a political party, elected official or candidate for office.” In other words, an area represented by a particular politician doesn’t become a community of interest just because its residents have that politician in common.

Incumbent protection wouldn’t necessarily be an either-or factor in the process. The commission could take it into account as one of several priorities with more or less weight than other goals like compact districts and protecting the political power of racial and language minorities.

OneVirginia2021, the main advocacy group that pushed for the commission, has not taken a public position on whether it should consider where incumbents live.

Commission members seemed to agree it would be helpful to clearly lay out their criteria before getting deep into the map-drawing process.

“It almost depoliticizes the process if we have our values agreed to before the data comes in,” said Greta Harris, a Richmond affordable housing advocate who serves as co-chair of the commission.

It’s not clear when that decision might be made. The commission is still mostly focused on organization and training. At Monday’s meeting, the body agreed to create two subcommittees, one focused on its finances and one focused on citizen engagement.



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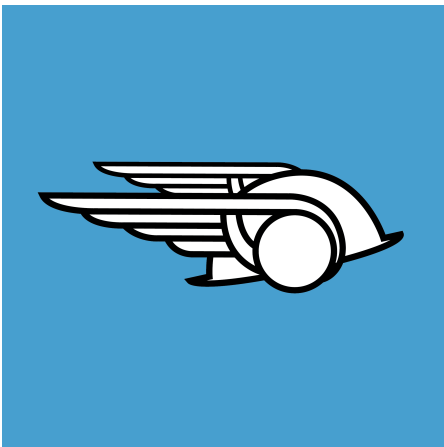
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GOVERNMENT + POLITICS

## Tensions rise as Va. Redistricting Commission begins map-drawing sprint

Partisan debates rise to the fore

BY: **GRAHAM MOOMAW** - AUGUST 16, 2021 7:04 PM



📷 Co-chairs Greta Harris (left) and Mackenzie Babichenko (right) preside over an Aug. 3 meeting of the Virginia Redistricting Commission. (Photo by Ned Oliver)

As the new Virginia Redistricting Commission prepares to start drawing new legislative and congressional maps, an increasingly political tone to its deliberations has some members openly speculating about whether the bipartisan body will be able to complete its job.

The 16-member commission met for three hours Monday afternoon to discuss several issues it's planning to vote on Tuesday morning, including the logistics of who should draw what maps and how much consideration to give to existing political districts and incumbent legislators.

After sharp differences emerged over key aspects of the process, Sen. Mamie Locke, D-Hampton, suggested some of her General Assembly colleagues are losing hope the commission will work as advertised.

"I fought very hard for us to have this commission," Locke said. "But toward the end of our special session, the water-cooler discussion that I heard was that there's no confidence in this commission to even come up with maps."

After the arrival of new U.S. Census data last week, the redistricting commission will soon start a 45-day clock to submit new legislative maps to the General Assembly for an up-or-down vote. The commission, [which won final approval from voters last year](#), is handling that work for the first time. If the commission itself fails to reach consensus on a map proposal or submits maps that don't pass the legislature, it will fall to the Supreme Court of Virginia to redraw the boundaries.

Virginia's population [grew by 7.9 percent](#) in the last decade, according to census data, slightly ahead of the national average. Mirroring national trends, Virginia saw significant disparities between rural areas and the state's cities and suburbs. Northern Virginia and the greater Richmond area saw the strongest population increases, while many localities in Southwest and Southside Virginia lost people.

In an early indicator of the political and legal sensitivities surrounding redistricting, a group of state and local officials from Southwest Virginia filed a lawsuit late last week challenging a [new redistricting rule](#) that requires prisoners to be counted where they last lived instead of where they're incarcerated.

The suit, which asks the Supreme Court of Virginia to intervene, claims the prison criteria approved by the General Assembly contradicts the constitutional amendment that gave redistricting power to the commission. That amendment included some rules for how maps should be drawn, and the suit argues the legislature has "deftly clawed back" some control over redistricting by imposing extra rules not found in the state Constitution.

Though the commission got off to a slow start due to delays with the census data, Tuesday's votes could be the first major indicators of the role politics could play in the new commission and how its work will be seen by voters who wanted change.

As Sen. Steve Newman, R-Lynchburg, emphasized his desire to give legislative commission members from each General Assembly chamber more input into their own maps, he said there are "a lot of ways" the commission could fail. Those who insist it's not a priority to build political support among legislators who will vote the maps up or down, he said, seem to be

arguing “it didn’t matter whether we landed the plane as long as we flew it in a certain direction.”

At the end of Monday’s meeting, Philip Thompson, the executive director of the National Black Redistricting Organization, accused the commission of not living up to the principles voters seemed to endorse last year when they overwhelmingly approved the constitutional amendment creating the body.

“This political thing is not going to work,” said Thompson, who advocated for the commission concept last year. “The citizens asked this commission to do something not political.”

Here are some of the questions dividing the commission ahead of its meeting Tuesday morning:

### **Should each chamber get control of its own maps?**

The commission is discussing creating two eight-person subcommittees to oversee House and Senate maps.

As proposed, each subcommittee would be made up of citizens and legislators from both parties and both chambers. However, Newman and others contend the commission’s four senators should go on the Senate subcommittee and the four delegates should be assigned to the House subcommittee. Because the commission was designed to allow any of the General Assembly’s four caucuses to doom the commission by withholding support, Newman argued, it makes sense to give senators more oversight of Senate maps.

“If we’re not careful here, pulling people away from the only way that this very delicate balance works, we’re making, I think, a pretty big mistake,” Newman said.

Other commission members took issue with that approach, saying the ostensibly apolitical commission shouldn’t assume political considerations will dictate the end result under the new process as they have in the past.

“I know it could fail if you all don’t vote for it here on this commission,” said Greta Harris, a Democratic citizen member who serves as a commission co-chair. “But then it could also fail from a citizen perspective if we aren’t trying our best to present maps that are fair. I don’t think we did a referendum to do the same thing we’ve done in the past.”

### **Should outside map-drawers be nonpartisan?**

The commission [already decided to hire two sets of partisan lawyers](#). But the group is getting conflicting advice on who it should hire for technical map-drawing assistance.

The outside map-drawers would presumably take direction from the subcommittees or the full commission then use redistricting software to tweak district lines accordingly.

One possible partner in that effort is a team of geographic information systems specialists from the University of Richmond, but the lawyers had different views on whether partnering



with the university was a good idea.

The commission's Republican lawyers argued the UR team lacks redistricting experience and could be seen as overly political given the university's past geographic data projects, some of which have focused on discriminatory redlining practices and their contribution to racial inequity in Richmond.

A Democratic attorney for the commission said he saw no issues with the UR team's neutrality.

Del. Marcus Simon, D-Fairfax, said he's planning to call a vote Tuesday to work with UR despite the Republican attorneys' misgivings, which he said sounded more like "political advice" than legal advice.

"I don't know when civil rights became a partisan issue," Simon said.

Newman said he didn't find it helpful for Simon to "lay down a gauntlet," noting the commission had asked the lawyers to try to reach consensus on hiring map-drawing help and they couldn't agree.

Both sets of partisan redistricting lawyers said they could select their own partisan map-drawers if the commission chooses to go that route. That idea also drew pushback.

"I voted against having two different legal counsels for the commission and I am not in favor of having two partisan sets of map-drawers," said Harris.

### **Should the commission start from scratch?**

The starting point for the 2021 redistricting is also up for discussion, with the group scheduled to vote on whether to begin from current district lines, start from scratch or a middle approach involving computer-generated changes to existing districts using new population data.

The commission's lawyers didn't strongly endorse one particular approach, but Democratic attorney J. Gerald Hebert said starting from existing maps could help preserve districts that favor Black candidates.

"In some situations, constituents are satisfied with their current senator and assembly representative and want to maintain that relationship," Hebert said.

Republican lawyer H. Christopher Bartolomucci said starting from existing maps could give the commission a basic grounding in the state's political geography, but he said he saw no problems with a blank-slate approach preferred by some commission members.

"I think overwhelmingly the public has expressed a desire to start with clean maps," said Sean Kumar, a Democratic citizen member.

### **Should incumbents' home addresses be considered?**

Incumbents' home addresses [are available for use in the state's redistricting data](#), but the commission is undecided on whether they'll get formal consideration in the map-drawing process.

Sen. George Barker, D-Fairfax, said redistricting has “been used as a tool against people” in the past, with majorities in the General Assembly drawing multiple political opponents into one district.

“I think we need to make sure we're not doing that unintentionally here,” Barker said.

Ignoring those addresses as official commission policy, Barker said, could create an information disparity between citizen members and legislators.

“We know basically where everybody lives,” he said.

Redistricting reform advocates have argued drawing maps around legislators' homes is a classic incumbent protection technique that prioritizes individual political careers over fair maps.

The commission only took one significant vote at Monday's meeting, choosing to start its 45-day map-drawing window on Aug. 26 as opposed to Aug. 12, the date of the census release.

With sign-off from lawyers, commission members generally agreed that because the census date came in in an old format that required additional work before map-drawing can begin, delaying the formal start date would buy a few more weeks of time.

Under the timeline agreed to Monday, House and Senate maps are due Oct. 10.

Congressional maps are due. Oct. 25.



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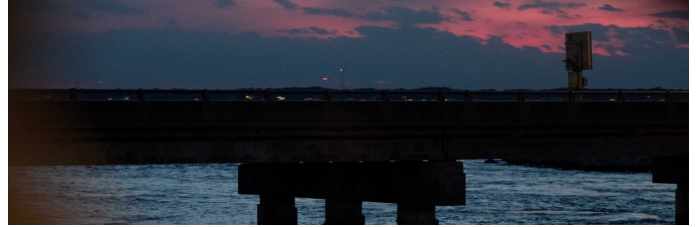
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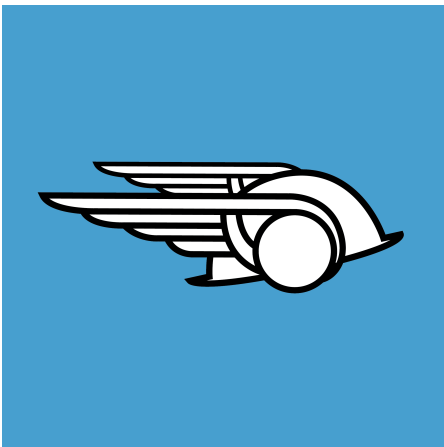
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BY SARAH VOGELSONG

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GOVERNMENT + POLITICS

## Va. Redistricting Commission votes to allow use of political data, reject university map-drawers

‘They are going to bomb us for this’

BY: **GRAHAM MOOMAW** - AUGUST 17, 2021 1:02 PM



 The Virginia Capitol at sunrise. (Ned Oliver/ Virginia Mercury)

The most revealing moment of the Virginia Redistricting Commission’s meeting Tuesday may have come during a bathroom break.

With microphones still on and broadcasting to a live stream, Sen. George Barker, D-Fairfax, huddled with Democratic citizen commissioner Brandon Hutchins, who seemed concerned



the commission was setting itself up for public blowback by not living up to its promise of a fairer redistricting process.

“They are going to bomb us for this,” Hutchins said.

“Actually, they won’t,” said Barker. “It’s actually a fairly small segment of the public that is working on this issue. ... There’ll be some complaints here and there. There always are.”

Time will tell whose prediction is correct. But a series of decisions the commission made Tuesday offer the clearest picture yet of the role politics will continue to play in a process formerly handled entirely by legislators in the General Assembly who were effectively empowered to draw their own districts.

In a divided vote, the 16-member commission, made up of eight legislators and eight citizens, chose to allow political data and incumbents’ home addresses to be considered throughout the map-drawing process. Supporters said that would allow the commission to spot and correct potential problems with minority representation or undue partisan leanings. Critics said it would feed the perception districts are being “rigged” to achieve a particular outcome.

On a party-line vote, the commission deadlocked on a proposal to hire a team of geographic data specialists from the University of Richmond who would have assisted the commission with the technical side of drawing maps. Commissioners, who had already decided to hire both Republican and Democratic attorneys as legal counsel, got conflicting advice from the lawyers on whether turning to academia was a good idea. A Democratic lawyer said he saw no problem with it, but Republican attorneys said the UR group lacked redistricting experience and could be perceived as biased.

It was unclear how the commission would proceed with hiring outside map-drawing help, but one possibility is the partisan lawyers will select their own partisan map-drawers. The question of whether those two partisan teams would be creating their own maps or working together on a single proposal was left unresolved.

“We just made our lives a lot more complicated,” said Democrat Greta Harris, a commission co-chair who said the UR group’s geographic information systems skills would translate to redistricting even though the team hadn’t done it before.

Republican commissioners said the lawyers had been asked to try to reach a bipartisan consensus on experienced map-drawers. Because they weren’t successful, they said, they couldn’t support the hire.

Republican commissioner Richard Harrell used an analogy from his trucking business to explain his reasoning, saying he wouldn’t ask an inexperienced driver to haul hazardous chemicals.

“Because he’s got to be trained. And it’s dangerous,” Harrell said.

A similar partisan split emerged when the commission decided whether it should form eight-person subcommittees to work on House of Delegates and Senate maps before taking them to the full commission.

The group's bipartisan co-chairs had proposed equalized subcommittees with both parties, both citizens and legislators, and legislators from both chambers serving on each subcommittee. Some commissioners, particularly Sen. Steve Newman, R-Lynchburg, argued all senators should serve on the Senate subcommittee and all House members should serve on the House subcommittee. That approach, he said, would help the commission produce maps capable of passing the two chambers when they go to the General Assembly for an up-or-down vote.

Republican commissioner Virginia Trost-Thornton concurred.

"When I'm seeking medical expertise I go to a medical expert," Trost-Thornton said. "If I'm on the House committee, I would be seeking House members' expertise in trying to draw their lines."

Citizens looking to legislators for guidance on what to do, said Democratic commissioner James Abrenio, defeats the purpose of a citizen-led commission.

"I don't think the public wanted us to just defer to the legislators," he said.

Mackenzie Babichenko, the commission's Republican co-chair who helped craft the subcommittee proposal, voted with the body's Democrats in an unsuccessful effort to have subcommittees with mixed representation from the two chambers. The only purpose, she said, was to "divide up the work."

"In no way were these groups meant to supplant the will and the wishes of the full commission," Babichenko said.

The failed vote means there will be no subcommittees.

"I hope everybody likes being in Richmond," Harris said.

The commission has not yet begun drawing maps, but the body is planning to meet on a weekly basis going forward.

Under its timeline, new legislative maps are due Oct. 10. New congressional maps are due Oct. 25.

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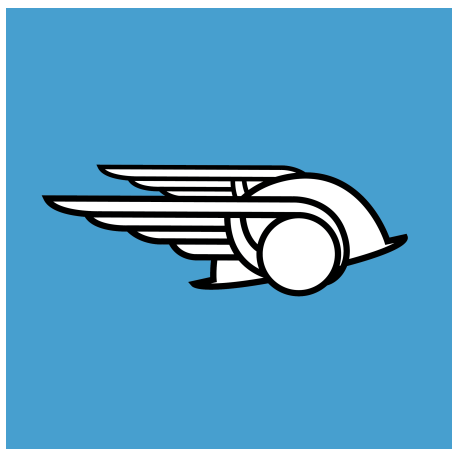
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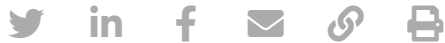


ELECTIONS AND VOTING

GOVERNMENT + POLITICS

# Incumbent protection remains flashpoint as Virginia senator tries to draw his own district lines

BY: **GRAHAM MOOMAW** - SEPTEMBER 9, 2021 6:06 PM



📷 Sen. George Barker, D-Fairfax, sits in his “plastic box” during the Senate floor session in the temporary Virginia Senate chamber inside the Science Museum of Virginia in Richmond, VA Thursday, Sept. 10, 2020. He has been recovering from health issues and was given an extra layer of safety by the Senate Clerk for the special session. (AP Pool Photo/Richmond Times-Dispatch, Bob Brown).

Stopping legislators from drawing their own districts was the main rallying cry behind the new Virginia Redistricting Commission voters approved last year. But one legislator is trying to do just that in full public view from his perch on the commission.

A week after noting a consultant-drawn [draft map](#) would push him out of his district, Sen. George Barker, D-Fairfax, drew an [amended plan](#) that shuffled just a few precincts, putting himself back in a Senate district with no other incumbents.

The attempt came as a shock to other commissioners, one of whom said it looked like the very thing Virginia voters voted overwhelmingly to end.

Explaining his proposal at a meeting Thursday, Barker said the draft map drawn by the commission's Republican consultant could push him into a lopsided primary contest with Sen. Chap Petersen, D-Fairfax. It wouldn't be a fair fight, he said, because most of the district falls under Petersen's current turf.

"In a primary situation, the people who have been voting for him... they know him, they don't know me," Barker said. "And basically in a situation where he has 39 precincts and I have two, there's no contest."

He also argued his proposal kept a community of interest together within the Occoquan Watershed, a more rural part of the region that he says is united by certain zoning rules, water and sewer systems and "lots of cellphone problems."

After Barker's presentation, Democratic citizen commissioner Sean Kumar asked why the group would even entertain the idea of letting a legislator draw his own district.

"I'm not sure why we're hearing this," Kumar said. "This seems to me like it's a statement of self-interest, not about good government or good districts."

Mackenzie Babichenko, the commission's Republican co-chair, said Barker's map was "considered as a comment" and will have no impact unless the commission decides to do something with it.

In an interview with The Virginia Mercury after the meeting, Barker disputed that his proposal was purely about self-interest.

"I would do the exact same thing for any other senator who had a situation like this, Republican or Democrat," Barker said. "I only do this because I happen to be the one who was impacted."



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Barker noted his proposal would have no partisan ramifications and require minimal changes to the draft lines drawn by the consultant. Barker has argued that keeping incumbents happy is a real concern that the commission might ignore at its own peril, a point he reiterated after Thursday's meeting.

“This map has to be approved by both the House and the Senate,” Barker said. “And basically if you’ve pissed off and upset the lives of, let’s say 20 members of the House of Delegates, that doesn’t help it get passed. We need to get this map passed so that we can prove that we can do this in a bipartisan fashion that doesn’t favor either political party.”

Though the commission has access to data showing where all 140 General Assembly incumbents live, the panel has not formally incorporated that information into its process. Its draft maps for Northern Virginia were drawn from scratch, without regard to existing districts and incumbent residency.

It’s become increasingly clear that approach, which drew multiple incumbents into the same district while creating some districts with no incumbents, isn’t sitting well with some Northern Virginia Democrats.

Ken Strasma, a Democratic map-drawer working with the bipartisan commission, acknowledged Thursday that he had made some tweaks to his draft maps for Northern Virginia in response to concerns about incumbent pairing. He didn’t specify where those concerns originated.

One result of the edits was that Del. Marcus Simon, D-Fairfax, who also serves on the redistricting commission, was no longer paired with any other incumbents under the Democratic plan.

In an interview Thursday, Simon said he didn’t ask the consultant to make any changes on his behalf.

“I’m not unhappy that my district’s fixed,” Simon said. “But it wasn’t anything that I engineered or initiated.”

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📷 Del. Marcus Simon, D-Fairfax, argued unsuccessfully in 2020 for an alternative redistricting amendment that was supported by a majority of Democrats in the House of Delegates. (Ned Oliver/Virginia Mercury)

The commission’s Republican and Democratic map-drawers had not yet been given the data on incumbent addresses or any direction on how to use it. The Democratic consulting team explained Thursday that it used incumbency information from the [Redistricting Data Hub website](#) while working on its maps.

That didn’t sit well with Sen. Ryan McDougle, R-Hanover, who said consultants shouldn’t be seeking out and using third-party data without clear instructions from the commission.

“I have no idea who they are. But I know we didn’t do it. And we didn’t direct it,” McDougle said. “I use a P.O. box for most of my stuff. Is that where they have me living? I have no clue.”

Democratic attorney J. Gerald Hebert told the commission incumbency can be an important factor later in the process when the commission has to assess whether the statewide map unfairly favors or hurts one party or the other. A map that forces several senior Democrats into early retirement while leaving Republicans unbothered, for example, could arguably be construed as impermissibly friendly to the GOP.

By starting in Northern Virginia, the drafts before the commission deal mostly with Democratic districts, which has meant it’s mostly been Democrats raising concerns about incumbent pairing.

Though both Republican and Democratic plans paired numerous Democratic incumbents together in Northern Virginia, Simon caused a stir Thursday when he suggested partisanship may be a factor in decisions about who gets paired with whom, especially in areas where Republicans can't "control the political outcome."

"I'll just be very frank about it," Simon said. "If I were a Republican drawing Northern Virginia, my goal would be to duplicate as many incumbents as possible."

Citizen commissioner Richard Harrell, a former trucking executive and Republican donor, objected to Simon's comments.

"I do think you're out of order," Harrell said.

"Who are you!?", Simon shot back before the meeting's chairwoman cut off the exchange.

Simon later apologized, saying he was taken aback by Harrell speaking directly to him instead addressing his comments to the commission chairs per usual General Assembly decorum.

"I know exactly who you are," Simon said. "You deserve to be here."

Other commissioners argued that drawing clean maps was necessarily going to cause friction for incumbents, particularly those in densely populated areas who may currently benefit from gerrymandered lines.

"We're not here to protect our own seats. Or our friends' seats," said Sen. Bill Stanley, R-Franklin. "This incumbency stuff, I think, is fraught with peril."

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📷 Sen. Bill Stanley, R-Franklin. (Photo by Ned Oliver/Virginia Mercury)

Stanley was attending his first commission meeting after replacing Sen. Steve Newman, R-Lynchburg, who announced he was stepping down from the commission last week.

The commission is made up of 16 members, eight citizens and eight legislators, with equal representation from both parties and both General Assembly chambers.

The group has not yet voted on any maps but is planning to slowly build a cohesive, region-by-region proposal over the next few weeks. If a final map can be approved by the commission, it then goes to the General Assembly for an up-or-down vote. If the proposal can't pass the legislature, the Supreme Court of Virginia will redraw the lines using its own consultants.

It remains unclear how the commission is planning to merge draft maps prepared by its Republican and Democratic consultants.

House Minority Leader Todd Gilbert, R-Shenandoah, sent the commission a letter Thursday urging the commission not to take votes on maps for certain regions without giving anyone a chance to see a statewide map and how regional plans interlock with each other.

After reviewing proposals for Northern Virginia without voting on them, the commission is planning to turn its attention to Hampton Roads and the Eastern Shore next week.

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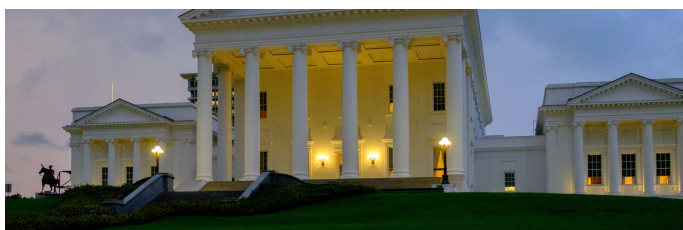
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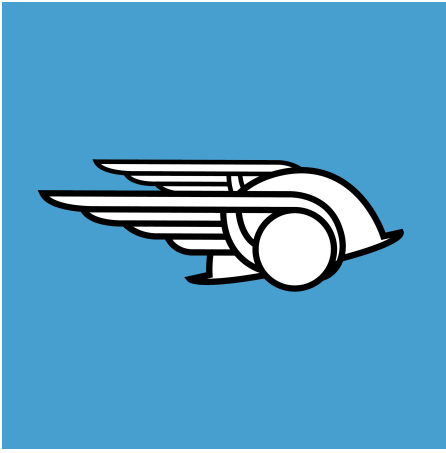
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GOVERNMENT + POLITICS

## Two senior Democratic senators might be retiring. Their districts are being redrawn accordingly.

‘Those are the two that are not running for re-election’

BY: **GRAHAM MOOMAW** - SEPTEMBER 29, 2021 5:19 PM



📷 State Sens. Janet Howell and Dick Saslaw, both Democrats from Fairfax, sit together during a committee meeting. (Ned Oliver/Virginia Mercury)

Senate Majority Leader Dick Saslaw and Sen. Janet Howell, who chairs the Senate Finance and Appropriations Committee, haven't said for sure they won't run again in 2023. But the Virginia Redistricting Commission is drawing lines like they aren't.



The two influential Northern Virginia Democrats didn't respond to requests from the Mercury this week asking for confirmation they won't seek another four-year term. Meanwhile, one of their colleagues is treating it as known fact.

"Those are the two that are not running for re-election," Sen. George Barker, D-Fairfax, a member of the Redistricting Commission, said earlier this month while explaining his own proposal for how Fairfax County should be divided up in the new map.

Barker's remarks appear to be having an impact.

At a meeting this week, one of the commission's consultants said proposed Northern Virginia Senate districts had been tweaked to avoid pairing incumbents who intend to run again in 2023.

According to an [analysis by the Virginia Public Access Project](#), the draft Senate map now only pairs Howell with Sen. Jennifer Boysko, D-Loudoun, and Saslaw with Sen. Dave Marsden, D-Fairfax.

The significance of those comments didn't go unnoticed by some statehouse watchers.

"Certainly not a secret in RVA but it seems like the Redistricting Commission just broke some news about some very senior D Senators retiring," [tweeted](#) former Republican delegate Greg Habeeb, now a lobbyist with Gentry Locke.

A spokeswoman for the Senate Democratic Caucus also did not provide a comment when asked for clarity on the situation.

Saslaw has served in the Senate for more than 40 years after being first elected to the House of Delegates in 1976. At 81, he's known for cracking jokes on the Senate floor about his longevity. With a reputation as a business-friendly centrist, some progressives are eager to see him go. In 2019, he survived a primary challenge from human-rights attorney Yasmine Taeb, who fell just [436 votes short](#) in a three-way race.

Howell, 77, the first woman to ever serve on the Senate Finance Committee, has been in the Senate since 1992.

Both their seats are heavily Democratic, but two openings in one cycle would provide an opportunity for other Democrats from the state's most populous county to move up the political ranks.

Sen. Steve Newman, R-Lynchburg, has also indicated he may not run again. He too is paired with a fellow incumbent, Sen. Mark Peake, R-Lynchburg, in the draft Senate map. Newman previously served on the Redistricting Commission but stepped down this month, citing work commitments and time conflicts.

The bipartisan Redistricting Commission, made of eight Democrats and eight Republicans with the 16 seats split between citizens and legislators, is still working on its draft General



Assembly maps before arriving at a nearly finished product for public review and feedback. The commission, which is holding multiple meetings per week, continues to wrestle with complicated questions like how much deference to give to incumbents, how to ensure partisan fairness in a state where Democrats have won every statewide election for the last decade but just recently won control of the legislature and how best to ensure political opportunities for racial minorities.

The commission will meet again Friday ahead of a full slate of public hearings next week.

Its deadline to complete General Assembly maps is Oct. 10. If the commission can agree on compromise maps, they will go to the General Assembly for an up-or-down vote. If the process fails, the Supreme Court of Virginia will draw the new districts.



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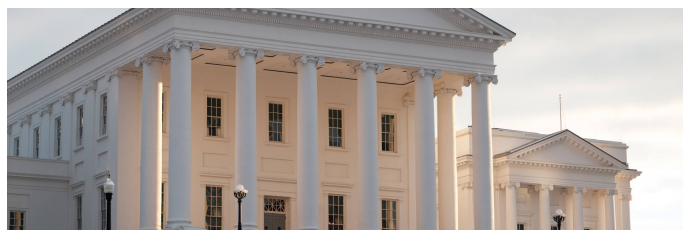
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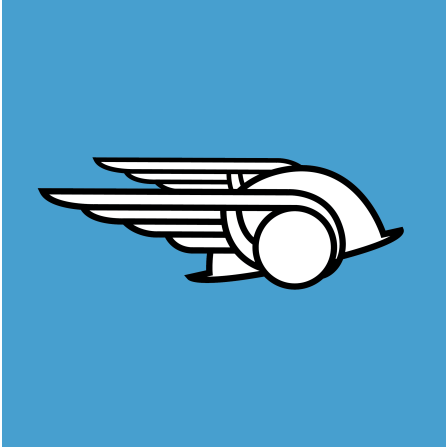
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BY **IVY MAIN**

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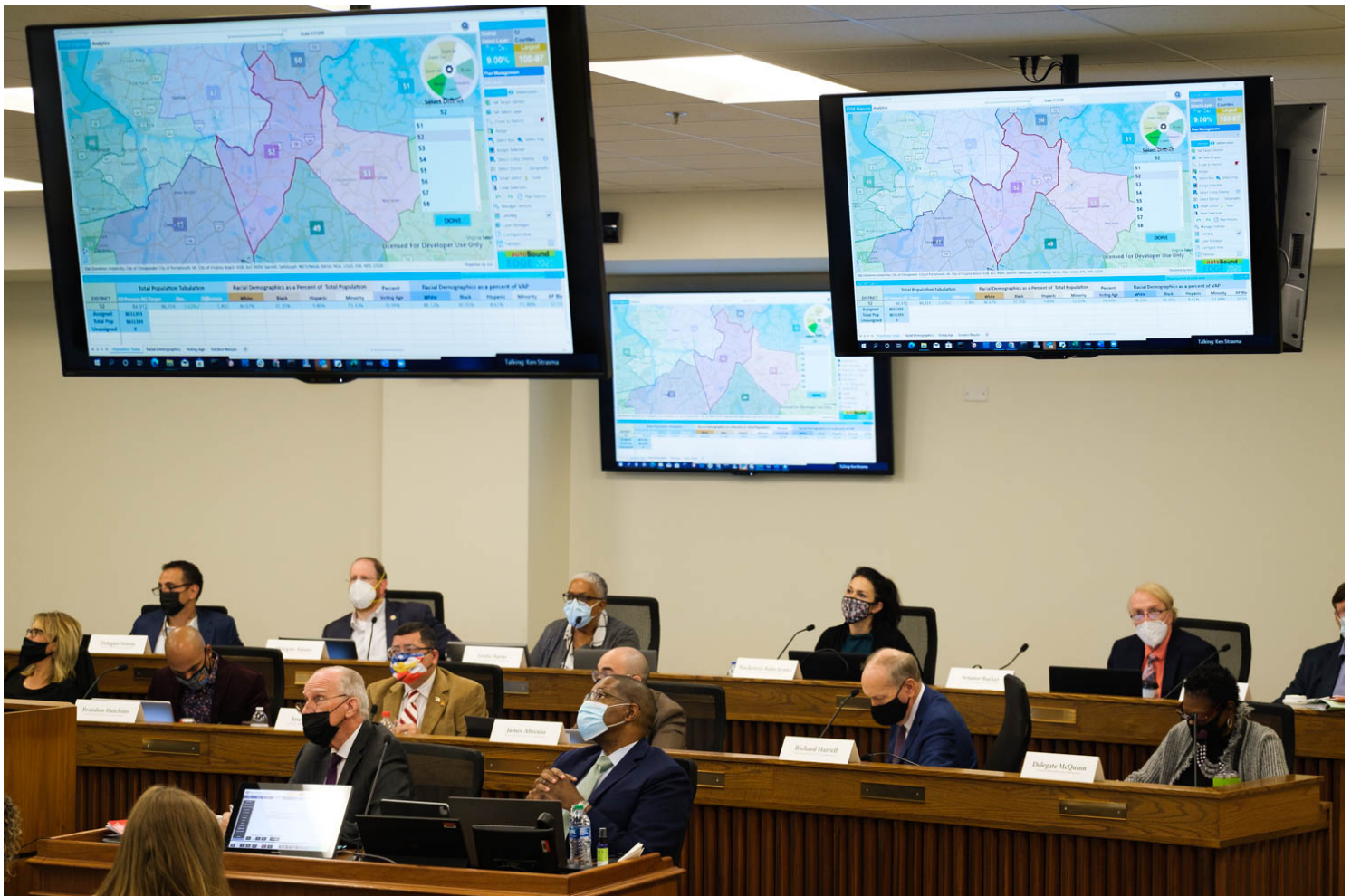



ELECTIONS AND VOTING

GOVERNMENT + POLITICS

# 'We're sort of stuck:' Va. Redistricting Commission divided over race as deadline looms

BY: **GRAHAM MOOMAW** - OCTOBER 5, 2021 12:02 AM



 Draft maps are presented at a meeting of the Virginia Redistricting Commission earlier this month. (Ned Oliver/Virginia Mercury)

Last month, Greta Harris took a break from trying to corral the eight Republicans and eight Democrats on the Virginia Redistricting Commission to make an impassioned plea.

It wasn't too long ago, she said, that Black Virginians like her were systematically denied the right to vote. Some of the new political maps up for consideration by the commission, she

said, didn't seem to reflect the moral imperative to protect the progress made by minority voters.

"Citizens who look like me who got up every day, went to work, tried to do things to ensure that their kids had a bright future, were denied that simply because of the color of their skin," said Harris, a Richmond affordable housing advocate serving as the commission's Democratic co-chair. "Let's step up and do the right thing."

Her comments drew a rejoinder from Republican commissioner Richard Harrell, a trucking executive from Southwest Virginia. He said all Virginians' voting rights matter.

"We just can't go off on an emotional tangent and try to resolve issues from the past," said Harrell. "That's regrettable. That's the past. We're dealing with today."

With an Oct. 10 deadline approaching to finish new General Assembly maps, race remains one of the toughest dividing lines left for the commission to overcome, one that could potentially derail its efforts to reach consensus and send a proposal to the legislature for an up-or-down vote.

Disagreements over how much to allow racial demographics to guide the commission's work were a major factor in its inability to produce a comprehensive pair of maps for public hearings scheduled this week. Instead, the commission is asking the public to weigh in on multiple proposals in the hope outside feedback could guide its final push for compromise when it reconvenes Friday.

Some commissioners seem more optimistic than others about whether consensus is even possible. If the commission fails in its first-ever effort to redraw Virginia's political maps, which would leave the Supreme Court of Virginia to draw new maps, the differing legal and philosophical views on obligations to racial minorities could be the breaking point.

Drawing political boundaries guided too much by race can violate constitutional rules requiring equal treatment under the law. At the same time, the process cannot be race-blind due to the Voting Rights Act, the landmark federal law meant to protect the political rights of Black Americans once deliberately excluded from democratic participation. Broadly, Section 2 prohibits discrimination in elections on the basis of race, color or language. But the U.S. Supreme Court hasn't established a precise legal framework for how it applies to redistricting, the once-a-decade process of redrawing political districts to account for population shifts.

The Redistricting Commission has [hired two partisan consulting teams](#), and the two sides' lawyers are giving commissioners conflicting advice.

The Democratic team sees race as a more central consideration, advising the commission it has a legal duty to seize every chance to draw districts favorable for minorities without straying too far from other rules requiring compact, cohesive districts. Instead of simply ensuring Black majorities in some districts, they say, the commission must work to create "opportunity districts" that racial minorities could effectively control by comprising 40 to 50 percent of the voting-age population therein. Democrats have reminded their GOP counterparts the

redistricting reform amendment Virginia voters [approved overwhelmingly](#) last year states the commission “shall provide, where practicable, opportunities for racial and ethnic communities to elect candidates of their choice.”

“If you have politically cohesive groups that are near each other, geographically compact, such districts are required under Section 2 of the Voting Rights Act,” said J. Gerald Hebert, a Democratic adviser.

The Republican team disagrees. They acknowledge drawing majority-Black districts is essential for Voting Rights Act compliance, but insist the commission isn’t obligated to go beyond that and draw as many opportunity districts as possible. Doing so, they argue, is a legally risky approach that overemphasizes race for political ends.

“Opportunity for what? To elect more Democrats?” Sen. Bill Stanley, R-Franklin said at a meeting Saturday.

Though the commission has at times struggled with its own racial analysis of its ever-shifting draft plans, Republican maps generally have more majority-Black districts and Democratic maps tend to spread racial minorities out among significantly more opportunity districts. According to [analysis from the Virginia Public Access Project](#), the current Democratic plans draw four additional opportunity districts in the House and three additional opportunity districts in the Senate.

Independent redistricting experts at the [Princeton Gerrymandering Project](#) have given the latest Democratic draft maps better fairness ratings than the Republican drafts. Grades for the House proposals have been fairly similar, but the Republican-drawn Senate map received an F rating while the Democratic map received an A. Republican commissioners have been largely dismissive of outside analysis, suggesting hidden partisan motivations may lie within ostensibly nonpartisan groups.

Heavily White areas have been easiest for the commission to handle. But progress has been slower for Richmond and Hampton Roads, regions with the highest concentrations of Black voters.

“We’re sort of stuck,” Harris said late last week as a lengthy discussion of House of Delegates districts in Hampton Roads ended with no clear decision on how to proceed.

Whenever the commission has reached gridlock, it has usually found a way to move on without taking votes that might result in an 8-8, party-line split.

Both sets of lawyers agree the commission has to make careful, analytical decisions when considering race, and can’t simply pick a number of minority districts that feels right and draw maps to hit that target.

That’s led to complex discussions of how many Black or minority voters are necessary to make a district “perform” on their behalf without veering into racial packing, the unconstitutional



practice that caused federal courts to overturn and redraw some districts created in Virginia's 2011 redistricting process.

Memories of 2011 have at times created tension due to the commission's hiring of John Morgan, a Republican map-drawer involved in creating the 2011 maps deemed racially gerrymandered. During a discussion of racial dynamics in rural Southside Virginia, where White and Black Voters diverge most sharply in their political preferences, Democratic consultant Kareem Crayton pointedly reminded commissioners of Morgan's past.

"I gotta mention, I think Mr. Morgan was the person who drew the unconstitutional maps in the first place in the Southside area," Crayton said. "So I'm not necessarily convinced that his assertion of what his personal experience is of what works and doesn't work in the Southside is one I'm going to rely upon."

Morgan said the House district in question for that area was removed from the legal challenge over the 2011 lines because courts ruled map-drawers had considered race appropriately for that district while erring in 11 others.



📷 Draft maps are presented at a meeting of the Virginia Redistricting Commission. (Ned Oliver/Virginia Mercury)

"While I was involved in the map-drawing process, I wasn't the person who was making the final decisions on that," Morgan said.

The area in question is currently represented by Del. Roslyn Tyler, D-Sussex. Sen. George Barker, D-Fairfax, highlighted her precarious position to argue for strong minority protection.

When facing Republican opponents under the 2011 lines, Tyler, who is Black, easily won re-election with more than 60 percent of the vote. But her district got more competitive in 2019 when a federal court redrew parts of the House map to unpack Black voters. Barker noted Tyler came close to losing in 2019 to Republican challenger Otto Wachsmann, who is running against her again this year in a tight race.

“It is important, I think, to make sure that we make this district one where the African-American population can control things,” Barker said.

Both draft plans draw a majority-Black district for the area.

While drawing new House maps in 2011, the Republican majority at the time used a 55 percent black voting-age population target to ensure a floor of districts Black communities could control.

That target was appropriate for Tyler’s district at the time, federal courts eventually ruled, but too crude an approach to be justified in the other 11 challenged districts. The court case hinged on the question of whether map-drawers inappropriately elevated race as a predominant factor to draw maps with too-strong Black majorities, effectively diluting the Black vote elsewhere.

Fighting all the way to the U.S. Supreme Court, House Republicans insisted they had to consider race as they did to comply with the Voting Rights Act. The high court [dismissed the House GOP appeal](#) in 2019 on largely technical grounds, finding one legislative chamber couldn’t continue to fight a lower court’s ruling with Attorney General Mark Herring declining to do so on behalf of the state’s official legal apparatus.

By not settling the merits of the case, that ruling allowed uncertainty to persist over when prioritizing race is appropriate for Voting Rights Act compliance and when it becomes impermissible racial gerrymandering.

When the Redistricting Commission’s deliberations returned to race at a meeting Saturday, Republican commissioner Jose Feliciano, a Fredericksburg-area military veteran and the only Hispanic member of the 16-person commission, recalled how his grandfather was repeatedly blocked from voting after coming to the mainland from Puerto Rico in 1947. He said he sees voting not as a right or a privilege, but a duty.

“Even when I was in the desert, I did the absentee ballots,” he said. “I would never vote to disenfranchise anyone.”

Black commissioners have said their concerns aren’t rooted in emotion, but hard truths about the past.

“You have to take history into consideration when you’re discussing things like this,” said Brandon Hutchins, a Democratic Navy veteran from Virginia Beach. “We’d be making a huge mistake if we didn’t.”

With Democrats and Republicans alternating being in charge of running meetings, Harris said she’s dreading that it will be her turn to preside over Friday’s effort to bridge the divide over racial fairness. She encouraged everyone to “lift their hearts and minds to other citizens,” but said she doesn’t see how an “integration” will happen.

“I’m at a loss as to how we go forward,” she said.



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August 16, 2021



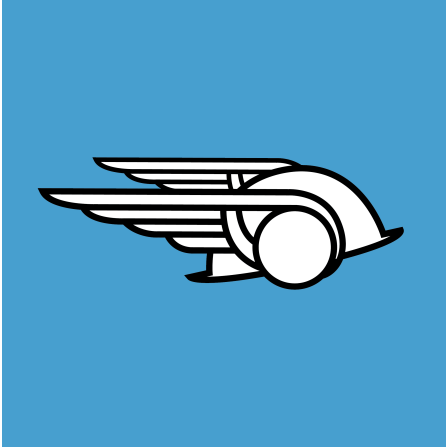
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BY GRAHAM MOOMAW

October 8, 2021

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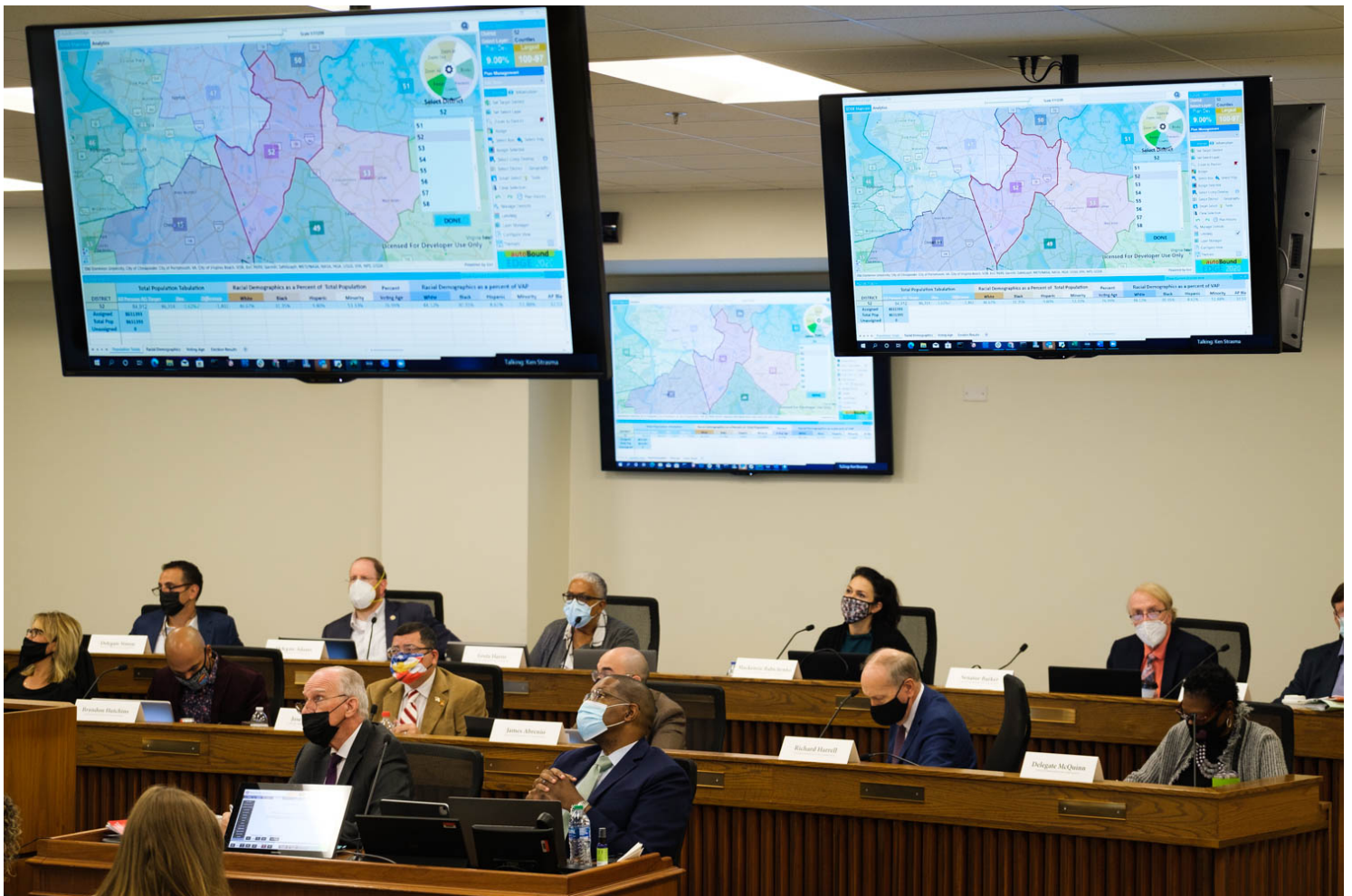




## ELECTIONS AND VOTING

# Va. Redistricting Commission implodes as Republicans reject compromise and Democrats walk out

BY: **GRAHAM MOOMAW** - OCTOBER 8, 2021 3:29 PM



📷 Draft maps are presented at a meeting of the Virginia Redistricting Commission earlier this month. (Ned Oliver/Virginia Mercury)

The Virginia Redistricting Commission's first-ever attempt to draw fair political maps collapsed in spectacular fashion Friday, when frustrated Democrats walked out of a meeting after Republicans rebuffed their suggestions for reaching a compromise.



The commission, which has been holding regular meetings for more than a month, never came close to reaching an agreement on final General Assembly maps. Partisanship dominated the process from the start, with the commission hiring two teams of overtly partisan consultants and repeatedly failing to agree on how to merge two sets of maps.

The process now appears headed to the Supreme Court of Virginia, unless the three Democratic walkouts change their minds and agree to meet again. But that appears unlikely based on how Friday's meeting ended.

The gridlock reached a breaking point as the commission failed to agree on which maps to use as a starting point for its final push for a deal. The commission's eight Democrats voted to begin with a Republican-drawn House of Delegates map and Democratic-drawn Senate map. Republicans voted against that offer and suggested keeping both a GOP and Democratic Senate map alive – a proposal all eight Democrats voted down.

That prompted Democratic co-chair Greta Harris to call it quits. If the commission is going to work in 2031, she said, it shouldn't have any legislators on it and all members should be required to take a history class to understand why Black commissioners felt so strongly about protecting minority voting power.

"I think our work is done," Harris said. "And what a shame it is."

After a brief recess, Democrats motioned to adjourn the meeting. That effort failed when two Democrats voted with Republicans to continue working toward compromise. But Harris and two other Democratic citizens, James Abrenio and Brandon Hutchins, simply left the room, making clear they felt further negotiations with Republicans would be useless.

Harris and Abrenio appealed directly to the Supreme Court, saying they hope the justices, who lean conservative, will do a better job of living up to the principles of fairness the commission was supposed to embody.

"I never want to be involved in this again. Because this is not right," Abrenio said. "I'm sorry to you all that I couldn't get the job done."

Republicans said they objected to working with the Democratic-drawn Senate proposal because it was only unveiled Friday morning, after a week's worth of public hearings where citizens were unable to see it.

"Last I checked there were no public comments on that map," said Republican commissioner Jose Feliciano.

Though it was clear the commission was only voting on which maps to use as a starting point, Sen. Ryan McDougale, R-Hanover, said he wanted to compare and contrast two Senate proposals instead of being tied to one.

"I don't understand how the spirit of compromise and working together is not looking at what those differences are, talking about those differences, and trying to come to a resolution on

them,” McDougle said.

Sen. Bill Stanley, R-Franklin, urged the commission to keep going.

“I’m reminded that when they pick a pope there’s a lot of tie votes before they get to the white smoke,” Stanley said. “They don’t give up.”

Democrats said the Republican speeches rang hollow, calling for a spirit of compromise that was nowhere to be found when it was time to vote.

“Let’s not kid ourselves about what’s happening here,” said Democrat Sean Kumar, who voted to continue working and stayed in the room as other Democratic citizen members left. “I’m sorry but that speech was inconsistent with what we’ve seen. There has not been a willingness to really try to even start with a mutual starting point.”

The commission convened at 9 a.m. Friday. The meeting’s abrupt end came at around 2:45 p.m., leaving the remaining commissioners at a loss for what to do.

The remaining commissioners were told they probably should not continue to conduct business without a quorum. Republican co-chair Mackenzie Babichenko opined aloud that she alone could perhaps call another meeting without Harris, her partner in coordinating the commission’s work.

“Whether we will have a quorum at that time, that remains to be seen,” she said.

Though the commission had only discussed re-drawing General Assembly maps, it was supposed to follow that up by redrawing Virginia’s congressional maps later this year. It’s unclear if commissioners have the appetite to even attempt that task or will simply ask the Supreme Court to take over redistricting altogether.

The commission, made up of eight sitting legislators and eight citizens nominated by General Assembly leaders and selected by retired judges, was the result of years of advocacy from redistricting reformers who wanted to strip the legislature of its powers to gerrymander. Though many called for a completely nonpartisan commission with no legislators involved at all, that concept didn’t have enough support to pass the General Assembly.

The hybrid commission passed the General Assembly two years in a row and voters overwhelmingly approved it last year.

Members of the Virginia Legislative Black Caucus were [vocally opposed](#) to the commission, arguing it wouldn’t do enough to protect minority voting rights. [Race proved to be a key sticking point](#), with partisan lawyers offering conflicting advice on when the commission could and couldn’t use racial demographics to guide its map-drawing decisions.

After winning a majority in 2019, many House Democrats turned sharply against the commission idea, saying it would inevitably result in a deadlock that would hand redistricting to the conservative-leaning Supreme Court.

But some Democrats felt that outcome wouldn't be as disastrous as predicted, and may actually move the state closer to the goal of removing legislators from the process altogether.

The court has to follow criteria requiring geographic compactness and racial and political fairness. Instead of justices drawing maps themselves, the process calls for the court to select two outside experts, from lists of nominees submitted by each political party, who will present plans to the court for approval.

The state's high court has already [sided with Democrats](#) in the first redistricting lawsuit of the 2021 cycle, rejecting a Republican attempt to overrule a new Democratic law requiring prisoners to be counted as residents of their hometowns, not where they're incarcerated.



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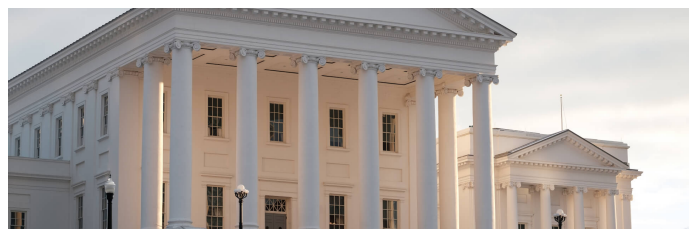
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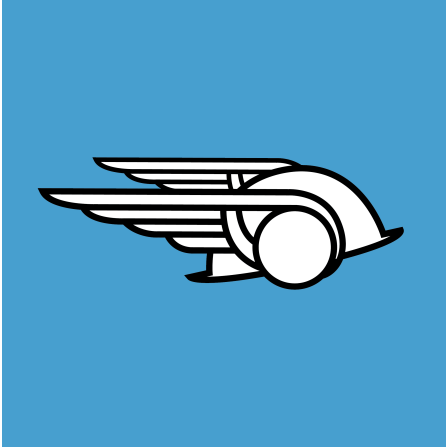
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From the push to remove Confederate statues to big shifts in healthcare and energy policy, the Old Dominion is changing; fair and tough reporting on the policy and politics that affect all of us as Virginians is more important than ever. The Mercury aims to bring a fresh perspective to coverage of the state's biggest issues.

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