

The Census data is delayed: what does that mean for the Commission?

On February 12, 2021, the U.S. Census Bureau announced that it will deliver the Public Law 94-171 redistricting data to all states by September 30, 2021, and that it will deliver the data for all states at once, instead of on a flow basis.¹ This is a significant change from previous redistricting years where Virginia would receive its redistricting data in February, and this delay will obviously have an impact on the Commonwealth's ability to have new House of Delegates districts established in time for the November 2021 election.

A question frequently asked is about what this means for the Commission and its work; the answer is both straightforward and complicated. The straightforward part of the answer is that the Constitution of Virginia clearly directs the Commission to submit plans for House of Delegates and Senate districts to the General Assembly "no later than 45 days following the receipt of census data."² This requirement is not dependent on when the census data is received. If the Census delivers Virginia's redistricting data on September 30, 2021, the Commission will be required to submit maps of these state legislative districts no later than Sunday, November 14, 2021.

The complicated part of the answer is that the Constitution of Virginia also requires the redistricting of the Commonwealth to be done in the year 2021 and every 10 years thereafter and further states that these new districts are to be implemented for the November general election that is held "immediately prior to the expiration of the term being served in the year that the reapportionment law is required to be enacted."³ This means that for the House of Delegates the new districts are to be implemented for the general election on November 2, 2021. But as noted above, the deadline for the Commission to submit the maps to the General Assembly could be as late as November 14, a full 12 days after the general election.

The fact of the matter is these constitutional requirements were written when the possibility of a global pandemic and a months-long delay in the delivery of Census data were just not contemplated, and history suggested that the Commission would be able to comply with these requirements. Now that it seems to no longer be the case, it is for an appropriate authority to determine how the Commission may fulfill its constitutional obligations.

Until then, the Commission will be using this unexpected extra time to learn about the redistricting process so that the members will be able to hit the ground running when it comes time to draw the maps for congressional and state legislative districts for Virginia.

¹ Census Bureau press release: <https://www.census.gov/newsroom/press-releases/2021/statement-redistricting-data-timeline.html>

² Article II, Section 6-A of the Constitution of Virginia, subsection (d): <http://law.lis.virginia.gov/constitution/article2/section6-A/>

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