

## Paige: Virginia's redistricting dilemma

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© October 23, 2014

When the U.S. Supreme Court invalidated a provision of the Voting Rights Act last year, I never expected it would affect Virginia. But the recent district court ruling invalidating the 3rd Congressional District brings Virginia under a new set of rules.

Under Section 5 of the Voting Rights Act, certain jurisdictions - those with a history of voting discrimination - were required to submit proposed changes in election practices or procedures to the Department of Justice for approval, a process known as preclearance.

The jurisdictions were identified in Section 4, using several tests known as the coverage formula.

Virginia was one of the original covered jurisdictions. The coverage formula, adopted in 1965, was supposed to be in place for five years but has been extended four times. The last extension - for another 25 years - was in 2006.

The formula itself was adjusted by Congress twice - with the 1970 and 1975 extensions - and brought even more jurisdictions under coverage. I think we'd all agree that the world has changed quite a bit since 1975. Congress was put on notice by the Supreme Court in 2009 to update the formula - the 1975 revision relied on 1972 voting data. It did not, so the Supreme Court ruled, in 2013, that the coverage formula was invalid.

No coverage formula in Section 4 means no jurisdiction is required to submit voting change plans to the Department of Justice for preclearance. That includes Virginia.

When the decision came down last year, I fully expected Congress to resolve the coverage formula issue by the time Virginia went through another redistricting.

Virginia's constitution requires redistricting every 10 years. Our last redistricting was undertaken in 2011, with those plans being submitted to and approved by the Department of Justice under then-existing rules. The state's next redistricting would be in 2021. Surely Congress would act before then; a bill introduced last January held promise. But like everything else in this do-nothing Congress, it has not advanced.

Barring congressional action, the so-called "bail-in" procedures of Section 3 of the VRA are a backstop. Currently, though, Virginia has not been designated as one of the bail-in jurisdictions.

Section 2 of the VRA is also available - it prohibits voting practices or procedures that discriminate - but only after the fact. Aggrieved parties must sue once they feel they have been discriminated against.

So the redrawing of the 3rd - and its surrounding districts - will be done with only the 15th Amendment to the U.S. Constitution as a guide. By itself, the 15th should be sufficient, even if history tells us otherwise.

Over the next few months, as the April 1 deadline looms, expect to hear a lot about race. Nearly 50 years after the passage of VRA, we are still focused on this, a situation I personally find shameful. In its opinion earlier this month, the district court referenced an earlier case, Shaw v. Reno. In that case, the court wrote:

"Racial classifications with respect to voting carry particular dangers. Racial gerrymandering, even for remedial purposes, may balkanize us into competing racial factions; it threatens to carry us further from the goal of a political system in which race no longer matters."

I couldn't agree more.

Virginia's new redistricting plan should conform to the principles of redistricting - compact and contiguous districts that protect communities of interest. Period.

Further, the plan should ignore the common practice of protecting incumbents. Elections are not about them; they are about us.

No voter should be disenfranchised by districts drawn that lack competition. Virginia, as a whole, has demonstrated it is competitive statewide; the same should be true within each electoral district.

The public has to force the legislature to pass a redistricting plan that conforms to this. It will not happen if we don't.

During the last round of redistricting, the legislature ignored the voters and chose a plan that only lessened competition in all 11 of Virginia's congressional districts - not just the 3rd - as well as in the House of Delegates and state Senate districts.

An effort already under way, in anticipation of the regularly scheduled redistricting in 2021, is One Virginia 2021: [OneVirginia2021.org](http://OneVirginia2021.org).

I urge all Virginians who want Virginia to be a place of fair elections, where we get to choose our representatives rather than them choosing us, to get involved.

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