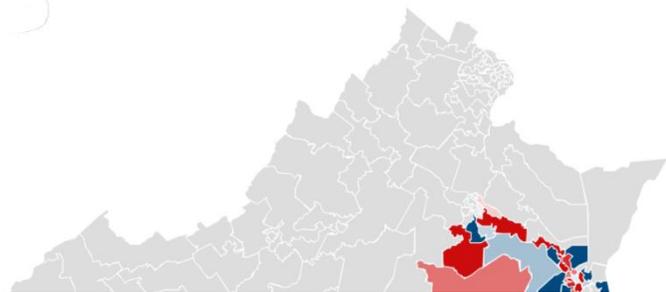


Issue: Voting Rights, Gerrymandering (Virginia)

Issue Summary - Voting Rights / Gerrymandering

Have you ever wondered why Virginia's top elected officials, U.S. Senators, Governor, Lieutenant Governor, Attorney General, and the Democratic candidate for President, *all won the state* by strong margins in their last elections, yet Republicans managed to hold on to a majority in the state House and Senate?¹ How can that be when the people have spoken? The answer lies in the good-old practice of "gerrymandering."

Gerrymandering is the ability to draw district lines that favor one party over another by excluding entire sections of the population that might vote for the opposition. Racial gerrymandering consists of drawing district lines to dilute the voting power or effectiveness of a racial group. Racial gerrymandering directed at African-Americans in Virginia has been the subject of judicial review under both the Voting Rights Act and the 14th Amendment of the U.S. Constitution. The redistricting of the Virginia House of Delegates in 2011 following the 2010 census is *still* the subject of litigation brought in 2014 by voters in 12 districts alleging racial gerrymandering² and that litigation may play a significant role in the 2019 elections. In the meantime, redistricting proposals involving "independent" commissions are advancing in both the House and Senate, for application following the 2020 census.³



2019 Federal Court Plan

www.vpap.org/general-assembly/redistricting-2018/

Redistricting Litigation and 2019 Election on Collision Course

- On March 1, 2017, the Supreme Court reversed the *Bethune-Hill v. Virginia State Board of Elections*⁴ decision and remanded the case for reexamination of Republican-driven redistricting efforts in the Virginia legislature for signs of racial gerrymandering that diluted the impact of African American voters. The case concerned a dozen voting districts allegedly drawn to pack too many black voters into each district at the expense of equal protection of black voters in adjacent districts.⁵
- Following the remand, the lower court (US District Court for the Eastern District of Virginia) ruled on June 26, 2018, that 11 of the 12 districts at issue had been racially gerrymandered and ordered a new map be drawn. After failure of the Virginia General Assembly to agree on a revised map, the District Court on October 18, 2018, appointed a University of California, Irvine, professor as a special master to redraw the district map.⁶ The redrawn map was submitted in December 2018, and on February 14, 2019, the Court accepted the new map and ordered it to be in place for the 2019 elections. The new map will impact the district lines of as many as 25 House districts.^{7, 8}

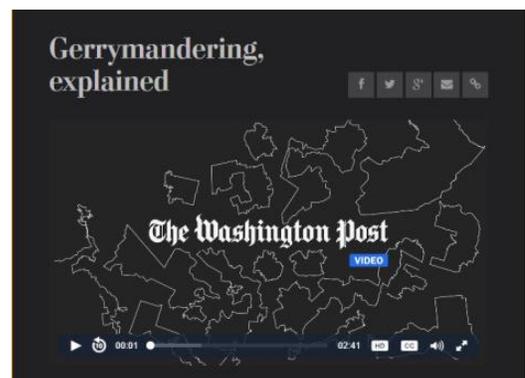
- The Virginia House of Delegates appealed the June 2018 decision by the Eastern District to the Supreme Court in September. The Supreme Court has agreed to review the case and a decision is expected in late May or early June 2019. In the meantime, the Virginia House requested the Supreme Court to stay the redistricting process until the Court has a chance to hear the appeal of the June 2018 decision. That request was denied on January 8, 2019.⁹
- And in an earlier case of judicial justice, on May 23, 2016, the Supreme Court dismissed the challenge by Republicans to a lower court ruling on redistricting in VA, leaving the lower court’s decision to redraw VA Congressional districts, creating the possibility of electing a second black U.S. House member from the commonwealth. **Justices ruled unanimously** that 3 VA Republican congressmen who challenged the lower Court’s decision—Reps. J. Randy Forbes, Rob Wittman and Dave Brat—do not have legal right to proceed. Democrats cheered the decision, with the head of the state party calling it a blow to “racial gerrymandering” and an advance for fair representation.^{10,11} In the 2018 general election, Brat lost his seat; Scott Taylor, who defeated Forbes in the primary, lost the seat; with only Wittman surviving the race.⁹

House and Senate Advance Separate Redistricting Bills

Meanwhile, proposals to establish independent redistricting commissions have been passed in both the House (HJ615) and Senate (SJ306). The Senate proposal, sponsored by a Democrat, passed unanimously, and the House proposal, sponsored by a Republican, was narrowly approved on a party-line vote. The Senate bill is generally supported by fair redistricting advocates, and the House bill is not. Either bill, if finally approved, must be the subject of an amendment to the Virginia constitution approved by the voters in a statewide election in order to be in effect for redistricting following the 2020 census.¹²

Call to Action

In addition to the above for a better understanding of gerrymandering and why Democratic leaders in Virginia must continue the fight to bring this cynically undemocratic practice to an end, see the video, “Gerrymandering explained,” by the *Washington Post*.¹³



¹ https://ballotpedia.org/Virginia_elections,_2016

² *Bethune-Hill v. Virginia State Board of Elections*, 141 F. Supp. 3d, ED Va., 505 (2015)

³ <http://www.viennaconnection.com/news/2019/feb/06/virginia-redistricting-plans-advance-advocates-sla/>

⁴ *Bethune-Hill v. Virginia State Board of Elections*, 141 F. Supp. 3d, ED Va., 505 (2015)

⁵ https://www.nytimes.com/2017/03/01/us/politics/supreme-court-virginia-house-delegates-gerrymandering.html?_r=0

⁶ <https://www.brennancenter.org/legal-work/bethune-hill-v-virginia-board-elections>

⁷ <https://www.vpap.org/updates/3177-how-court-plan-would-partisan-lean-some-house-districts>

⁸ <https://www.vpap.org/general-assembly/redistricting-2018/>

⁹ <https://www.scotusblog.com/2019/01/supreme-court-declines-to-intervene-in-virginia-redistricting-dispute>

¹⁰ https://ballotpedia.org/United_States_House_of_Representatives_elections_in_Virginia,_2016

¹¹ https://www.washingtonpost.com/politics/courts_law/supreme-court-leaves-in-place-va-redistricting-decision-rejects-gop-lawmakers-challenge/2016/05/23/1940110e-20f2-11e6-aa84-42391ba52c91_story.html?tid=a_inl&utm_term=.b346c2c68fb

¹² <http://www.viennaconnection.com/news/2019/feb/06/virginia-redistricting-plans-advance-advocates-sla/>

¹³ <https://js.washingtonpost.com/video/c/video/e447f5c2-07fe-11e6-bfed-ef65dff5970d>