

Memorandum: County Commissioner District Apportionment

August 11, 2021

To: Apportionment Commission
From: Donald G. Alexander, Chair

As it did in 2013, Me. Const. Art. IX, § 25(1) directs that in 2021, the Apportionment Commission must draft a reapportionment plan, and the Legislature must again reapportion the County Commissioner Districts, with an early 2022 deadline for Legislative action. Article IX, § 25(1)(C) directs that the Commission submit a county commissioner districts reapportionment plan to the Legislature by June 1, 2021. However, § 25(1)(C) states that the Clerk of the House submit to the Legislature “one legislative document to reapportion the county commissioner districts based on the plan submitted by the apportionment commission” “no later than January 15, 2022.” If the Legislature does not adopt a plan “within 30 calendar days after the plan is submitted to it,” then the Supreme Judicial Court must make the county commissioner apportionment within 60 days after the deadline for legislative action has passed. Me. Const. Art. IX, § 25(2).

The Supreme Judicial Court’s July 19 Order declined to address the constitutional deadlines for action on an apportionment plan for the county commissioner districts. It noted: “We have no jurisdiction unless the Legislature fails to act on the proposed [county commissioner districts] legislation within thirty calendar days after that presentation by the Clerk.” *In re Apportionment of Maine House of Representatives, Maine Senate, U.S. House of Representatives, and County Commissioners*, 5 n.3 (July 19, 2021).

Pursuant to Me. Const. Art. IX, § 25(1), the Speaker of the House has properly convened the Apportionment Commission to review the county commissioner districts. The Constitution imposes no prohibition on the Commission continuing to work on a county commissioner districts plan after June 1, 2021 and before the January 15, 2022 date for submission of a plan to the Legislature. Thus, the Commission may properly develop a county commissioner districts plan concurrently with its work on plans for Senate, House, and Congressional Districts. That plan can be submitted to the Legislature concurrently with the Senate, House, and Congressional District plans or at any later time before January 15, 2022.

2013 Apportionment Plan

The portion of the 2013 Apportionment Plan addressing county commissioner districts began, at p. 68, with a general statement that reads as follows:

“Apportionment Plan for Maine’s County Commissionsions

In apportioning Maine's County Commission Districts the Commission accepted the population figure of 1,328,361 as the official Federal Census figure for the State of Maine. The ideal district number varies from county to county.

Note that the County Commission District numbers used here are for presentation purposes only and may not reflect the final numbers assigned to the districts by the Legislature.

The Commission unanimously recommends that the Maine County Commission Districts be as follows:”

The County Commission Districts are then listed, alphabetically by county, from page 68 to page 89. Twelve counties have three Commissioner Districts. Four counties have a larger number of Commissioner Districts:

Androscoggin County: 7 Districts.
Cumberland County: 5 Districts.
Somerset County: 5 Districts.
York County: 5 Districts.

Present Statutes Governing County Commissioner Districts

The current statute governing county commissioner districts, 30-A M.R.S. § 61, states that: “There shall be a board of commissioners for each county consisting of a chairman and 2 other persons. Each of the commissioners of a county must represent one of the commissioner districts established by law for the commissioner's county.”

The only exception to this requirement appearing in the general statutes governing counties is 30-A M.R.S. § 61-A, which states: “Notwithstanding section 61, there shall be a Board of Commissioners for

York County consisting of a chair and 4 other citizens. All other provisions of section 61 apply to York County.”

The statute adopting the 2013 county reapportionment, 30-A M.R.S. § 66-B, PL 2013, chs. 270 & 457, specifically authorized the varying number of commissioner districts indicated above.

Note that as a result of adoption of PL 2019 ch. 362, Franklin County will have referendum in November to expand from 3 to 5 county commissioner districts for elections after 2021. The statute, 30-A M.R.S. § 66-B (4-A(B)), purports to create five districts including specific communities if the referendum passes. However, that statute cannot avoid the constitutional mandate that the apportionment be reviewed by the Commission and approved by the Legislature after the 2020 Census data is received. The results of this referendum will be known after the new deadline for submission of plans for Senate, House, and Congressional Districts has expired, but before the January 15, 2022 date set by Art. IX, § 25(1)(C) of the Constitution for Clerk of the House to submit a county commission redistricting plan to the Legislature.