

LD 621 An Act To Increase the Number of Franklin County Commissioners

To: Members, Joint Standing Committee on State and Local Government
From: Lynne Caswell, Esq., Legislative Analyst
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<http://legislature.maine.gov/ctl/SLG/03-15-2021?panel=2&time=0&sortdir=0&sortby=2>

SUMMARY

This bill requires that, upon approval by the voters of Franklin County at referendum held in November 2022, after the redistricting of the county commissioner districts is done in 2021 pursuant to the Constitution of Maine, Franklin County must be divided into 5 county commissioner districts. The bill requires that the reapportionment for each of the new 5 districts reflects, as closely as practicable, specified geographical compositions set out in the bill.

TESTIMONY¹

Sponsor: Rep Landry

Co-sponsor: Sen Black

- 3 districts since 1838
- Willing to change ballot question to 2021
- Prior bill permitted but did not require the commissioner to put the question to a vote; this bill requires the question be asked
- Currently the 3 commissioners all reside in the southern portion of the county
- 2 of 3 top valuation areas are in northern part of county

Proponents: Town of Carrabassett Valley; Town of Rangeley; Town of Farmington; Gwendolyn Doak; written only: Anne Marie Wolf (Farmington); Cathryn Wimett (UMF); Fenwick Fowler (Farmington); Eileen Kreutz (Industry); Edward David; Weld Board of Selectpersons by Richard Doughty

Opponents: written only, Terrance Brann, Franklin County Commissioner

NFNA: SOS, Melissa Packard, Director of Elections, SOS

- 12 of Maine's counties have 3 districts;
- 4 counties have more than 3 districts; 3 increased the number via charter; 1 increased the number through statute (York)²

PRIOR SESSION

In the 1st Regular Session of the 129th Legislature, the SLG considered LD 940, An Act to Increase the Number of Franklin County Commissioners. The committee unanimous reported out this bill, as

¹ The section is not intended to reflect all comments and may include unintentionally errors.

² P.L. 1989, c. 220, effective with the 1993 apportionment

amended. The amendment required voter approval of the increase by referendum. To avoid a state mandate, the county commissioners were permitted, but not required, to put the question out to referendum. The amendment also addressed numerous technical issues related to the terms of current commissioners, the transition from 3 to 5 districts, and staggering initial terms.

MATTERS FOR CONSIDERATION

DOES THIS CREATE A STATE MANDATE?

Under Maine's Constitution, Art. IX, §21, the State is prohibited from requiring a local unit of government:

1. expand or modify its activities;
2. if it necessitates additional expenditures from local revenues

The requirement in this bill that the county commissioners put the question out to referendum may be construed to require an expansion or modification of activities. The question whether there is an additional cost is usually tied to whether there is room on the state ballot for the referendum question (no cost) or whether the county must produce a separate ballot (additional cost).

TIMELINE FOR COUNTY REAPPORTIONMENT (Attachment A)

- in 2021, and every 10 years thereafter
- June 1, 2021³ – Apportionment Commission submits a redistricting plan to the Clerk of the House
- January 15, 2022 - Clerk submit an LD to the Legislature reapportioning the commissioner districts
- Within 30 days - the Legislature must enact a plan;
- Within 60 days - the SJC shall apportion if the Legislature fails to reapportion within the 30 days

DOES THE UNCERTAIN TIMING OF REAPPORTIONMENT AFFECT THIS BILL?

Not necessarily. If, as discussed during the public hearing, the referendum date is moved to November 2021 and the question receives a majority vote in favor, the Clerk or the Legislature could amend any plan already prepared or submitted.

It's also possible the Apportionment Commission may propose 2 plans for Franklin County, a 3-district and a 5- district plan.

HOW DOES THIS BILL PROPOSE TO CHANGE THE TERMS OF CURRENT COMMISSIONERS?

If Franklin County is divided into 5 districts, the term of office of the commissioners of Districts 1 and 2 would end 2 years early. Both were elected in 2020 for a 4-year term. The commissioner of District #3 was elected in 2018 so his/her term already expires in 2022.

³ Census data is scheduled to be released in late September

ARE THE TERMS OF THE 5 COMMISSIONERS STAGGERED?

District	Current Term ENDS	1 st Term ENDS
1	2020 – 2022 (cut short by 2 years)	2026
2	2020 – 2022 (cut short by 2 years)	2026
3	2018 – 2022	2026
4	n/a	2028 (6-year term)
5	n/a	2028 (6-year term)

WILL THERE BE A PROBLEM WITH THE EFFECTIVE DATE?

According to the SOS, they are able to prepare the ballot to include the referendum question before the law’s effective date. However, the law must be effective by the end of September when the ballots are sent out for printing (adjournment by mid-late June). An emergency preamble would remove this potential issue.

WHAT DO THE PROPOSED DISTRICTS LOOK LIKE?

Proposed County Commission Districts
(based on 2019 population estimates)

District 1 5,926	District 2 6038	District 3 5,919	District 4 5,956	District 5 6038
Chesterville 1350 Jay 4576	Farmington*	Avon 434 Carthage 533 Coplin Plantation 157 Eustis 618 North Franklin UT 58 Phillips 1020 Rangeley 1162 Rangeley Plantation 179 Sandy River PL 26 South Franklin UT 64 Strong 1148 Weld 420 West Central Franklin 0	Carrabassett Valley 788 Dallas plantation 290 E. Central Franklin 766 Industry 924 Kingfield 963 New Vineyard 809 New Sharon 1416 Wyman UT 84	Farmington* 1580 Temple 517 Wilton 3941

*generally West Farmington and adjacent areas needed to meet population requirements

FISCAL IMPACT - Preliminary (OFPR)

None provided as of this date.

Section 25. Apportionment of county commissioner districts. County commissioner districts must be apportioned as follows.

1. Redistricting, generally. Beginning in 2021 and every 10 years thereafter, the apportionment commission established under Article IV, Part Third, Section 1-A shall review the existing county commissioner districts and, as necessary, reapportion those districts in each county to establish as nearly as practicable equally populated districts. The Speaker of the House of Representatives is responsible for calling the commission together to review the county commissioner districts. No action may be taken by the commission without a quorum of 7.

A. The apportionment commission shall divide the number of commissioners in each county into the number of inhabitants of the county, excluding foreigners not naturalized, according to the latest Federal Decennial Census or a state census previously ordered by the Legislature to coincide with the Federal Decennial Census, to determine a mean population figure for each county commissioner district. Each county commissioner district must be formed of contiguous and compact territory and must cross political subdivision lines the least number of times necessary to establish as nearly as practicable equally populated districts. Whenever the population of a municipality entitles it to more than one district, all whole districts must be drawn within the municipal boundaries. Any population remainder within the municipality must be included in a district drawn to cross the municipal boundary as long as the population remainder within the municipality is contiguous to another municipality or municipalities included in the district. Any county that already meets the standards and guidelines for equally populated districts, as established by this section, this Constitution and the Constitution of the United States, need not be reapportioned.

B. Interested parties from each county may submit redistricting plans for the commission to consider. Those plans must be submitted to the commission no later than 30 calendar days after the commission is called together by the Speaker of the House of Representatives under this subsection. The commission may hold public hearings on plans affecting each county.

C. The commission shall submit its plan to the Clerk of the House of Representatives no later than June 1st of the year in which apportionment is required. The Clerk of the House of Representatives shall submit to the Legislature, no later than January 15, 2022, and every 10th year thereafter, one legislative document to reapportion the county commissioner districts based on the plan submitted by the apportionment commission. The Legislature must enact the submitted plan or a plan of its own in regular or special session by a vote of 2/3 of the members of each House within 30 calendar days after the plan is submitted to it by the Clerk of the House of Representatives. This action is subject to the Governor's approval, as provided in Article IV, Part Third, Section 2.

2. Supreme Judicial Court. If the Legislature fails to make an apportionment within the 30 calendar days, the Supreme Judicial Court shall make the apportionment within 60 calendar days following the period in which the Legislature is required to act but fails to do so. In making the apportionment, the Supreme Judicial Court shall consider plans and briefs filed by the public with the court during the first 30 days of the period in which the court is required to apportion.