

**Department of Legislative Services**  
Maryland General Assembly  
2004 Session

**FISCAL AND POLICY NOTE**

House Bill 1544

(Delegate Zirkin)

Judiciary

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**Election of Circuit Court Judges - Nonpartisan General Elections**

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This bill establishes a nonpartisan method for electing a circuit court judge during a general election.

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**Fiscal Summary**

**State Effect:** Any expenses for computer reprogramming costs to change ballot styles and retool election management software could be absorbed within the State Board of Election's ongoing technology support contract.

**Local Effect:** The bill's requirements could be handled within the existing resources of local boards of election.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** A candidate for election as a circuit court judge may not be nominated at a primary election and must be elected at a general election on a nonpartisan basis. The deadline for filing a certificate of candidacy for judge of a circuit court is 5:00 p.m. on the first Monday in August in the year of the general election for that office. An office will be deemed vacant when a candidate dies or otherwise becomes disqualified for office before the general election and: (1) ballots are already printed; (2) it is too late for the ballot to be reprinted; and (3) the candidate receives sufficient votes to be elected. The office will be filled as if the vacancy had occurred during the term of office.

In addition, an office shall be considered vacant if, in a multiseat election, two or more candidates tie for the last office to be filled. The Governor is required to select one of the tying candidates to fill the vacancy.

**Current Law:** A candidate for public office of a political party is nominated in accordance with the requirements of the Election Law Article. Circuit court judges are nominated by principal political parties during a primary election and are elected to office in a general election.

The filing deadline for candidates for offices other than delegate to the Democratic National Convention is 9:00 p.m. on the Monday that is 10 weeks or 70 days before the primary election.

Article IV of the Maryland Constitution provides that vacancies in the office of a circuit court judge be filled by gubernatorial appointment until the election and qualification of a successor at the first general election one year after the occurrence of the vacancy. Vacancies created by the expiration of a judge's 15-year term are to be filled by a successor that is elected at the first biennial general election for Representatives in Congress.

**Background:** Circuit court judges are currently nominated by the two principal political parties during the primary election. Because Maryland holds closed primaries, in which only members of a particular political party may vote for that party's candidates for nomination, candidates for circuit court judge register their candidacies with both parties so as to appear on the ballots of both principal political parties during the primary. The practice of "cross-filing" candidacies dates back to 1941.

After the presidential primary in March of this year, a suit was filed in Anne Arundel County circuit court requesting an injunction to prevent the Maryland State Board of Elections from certifying the primary results of circuit court judge candidates on the grounds that unaffiliated voters, who are generally not permitted to vote in party nominating elections (the primary), are unconstitutionally disenfranchised from participating in the initial selection process for circuit court judges.

While case law has recognized in general that there is no constitutional right to vote in a party's primary, the plaintiffs to the suit contend that because candidates for judgeships cross file their candidacies with both parties, the elections for these offices are actually nonpartisan, and unaffiliated voters should be able to participate in nonpartisan elections.

## **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Maryland State Board of Elections, Department of Legislative Services

**Fiscal Note History:** First Reader - March 25, 2004  
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