SENATE BILL 847

D1   CONSTITUTIONAL AMENDMENT   5lr2965

By: **Senators Miller and Jennings**
Introduced and read first time: February 23, 2015
Assigned to: Rules

A BILL ENTITLED

1   AN ACT concerning

2   **Judges – Mandatory Retirement Age**

3   FOR the purpose of proposing amendments to the Maryland Constitution altering the
4   mandatory retirement age for judges under certain circumstances; making certain
5   technical corrections; and submitting this amendment to the qualified voters of the
6   State for their adoption or rejection.

7   BY proposing an amendment to the Maryland Constitution
8   Article IV – Judiciary Department
9   Section 3, 3A, 5A(f), 18B, and 41D

10   SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
11   (Three–fifths of all the members elected to each of the two Houses concurring), That it be
12   proposed that the Maryland Constitution read as follows:

13   **Article IV – Judiciary Department**

14   3.

15   **(A)**   Except for the Judges of the District Court, the Judges of the several Courts
16   other than the Court of Appeals or any intermediate courts of appeal shall, subject to the
17   provisions of Section 5 of this Article of the Constitution, be elected in Baltimore City and
18   in each county, by the qualified voters of the city and of each county, respectively, all of the
19   said Judges to be elected at the general election to be held on the Tuesday after the first
20   Monday in November, as now provided for in the Constitution.

21   **(B)**   Each of the said Judges shall hold his office for the term of fifteen years from
22   the time of his election, and until his successor is elected and qualified, or until he shall
23   have attained the age of [seventy] **SEVENTY–FIVE** years, whichever may first happen, and

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EXPLANATION: **Capitals indicate matter added to existing law.**
     [Brackets] indicate matter deleted from existing law.

1 be reeligible thereto until he shall have attained the age of **[**seventy**]** **SEVENTY–FIVE** years,
2 and not after.

3   **(C)**   In case of the inability of any of said Judges to discharge his duties with
4 efficiency, by reason of continued sickness, or of physical or mental infirmity, it shall be in
5 the power of the General Assembly, two–thirds of the members of each House concurring,
6 with the approval of the Governor to retire said Judge from office.

7 3A.

8   (a)   (1)   Except as provided in paragraph (2) of this subsection, any former
9 judge, except a former judge of the Orphans' Court, may be assigned by the Chief Judge of
10 the Court of Appeals, upon approval of a majority of the court, to sit temporarily in any
11 court of this State, except an Orphans' Court, as provided by law.

12   (2)   (i)   A retired judge of the Circuit Court for Montgomery County that
13 sits as the Orphans' Court for Montgomery County may be assigned by the Chief Judge of
14 the Court of Appeals, upon approval of a majority of the Court of Appeals, to do an act that
15 a judge of the Orphans' Court for Montgomery County is authorized to perform.

16   (ii)   A retired judge of the Circuit Court for Harford County that sits
17 as the Orphans' Court for Harford County may be assigned by the Chief Judge of the Court
18 of Appeals, upon approval of a majority of the Court of Appeals, to do an act that a judge of
19 the Orphans' Court for Harford County is authorized to perform.

20   (b)   The provisions of this section apply, notwithstanding provisions appearing
21 elsewhere in this Article pertaining to retirement of judges upon attaining age **[**70**] 75**.

22 5A.

23   (f)   An appellate court judge shall retire when he attains his **[**seventieth**]**
24 **SEVENTY–FIFTH** birthday.

25 18B.

26   (a)   For the purpose of implementing the amendments to this article, dealing with
27 the selection and tenure of appellate court judges, the following provisions shall govern.

28   (b)   Each judge of an appellate court who is in office for an elected term on the
29 effective date of these amendments, unless he dies, resigns, retires, or is otherwise lawfully
30 removed, shall continue in office until the general election next after the end of his elected
31 term, or until his **[**seventieth**] SEVENTY–FIFTH** birthday, whichever first occurs. His
32 continuance in office is then subject to the provisions of section 5A(c) and (d) of this article,
33 applicable to judges of that court, but in no event shall any judge continue in office after
34 his **[**seventieth**] SEVENTY–FIFTH** birthday.

1   (c)   Each judge of a court specified in subsection (b) who is in office on the effective
2 date of these amendments, but who has not been elected to that office by the voters, shall,
3 within fifteen days after the effective date of these amendments, be reappointed to that
4 office. His continuance in office is then subject to the provisions of section 5A(c) and (d) of
5 this article, applicable to judges of that court, but in no event shall any judge continue in
6 office after his **[**seventieth**]** **SEVENTY–FIFTH** birthday.

7   41D.

8   **(A)**   **(1)**   The Governor, by and with the advice and consent of the Senate, shall
9 appoint each judge of the District Court whenever for any reason a vacancy shall exist in
10 the office.

11   **(2)**   All hearings, deliberations, and debate on the confirmation of
12 appointees of the Governor shall be public, and no hearings, deliberations or debate thereon
13 shall be conducted by the Senate or any committee or subcommittee thereof in secret or
14 executive session.

15   **(3)**   Confirmation by the Senate shall be made upon a majority vote of all
16 members of the Senate.

17   **(4)**   A judge appointed by the Governor may take office upon qualification
18 and before confirmation by the Senate, but shall cease to hold office at the close of the
19 regular annual session of the General Assembly next following his appointment or during
20 which he shall have been appointed by the Governor, if the Senate shall not have confirmed
21 his appointment before then.

22   **(B)**   **(1)**   Each judge appointed by the Governor and confirmed by the Senate
23 shall hold the office for a term of ten years or until he shall have attained the age of
24 **[**seventy**]** **SEVENTY–FIVE** years whichever may first occur.

25   **(2)**   If the ten year term of a judge shall expire before that judge shall have
26 attained the age of **[**seventy**]** **SEVENTY–FIVE** years, that judge shall be reappointed by the
27 Governor, with the Senate's consent, for another ten year term or until he shall have
28 attained the age of **[**seventy**]** **SEVENTY–FIVE** years, whichever may first occur.

29   **(C)**   To the extent inconsistent herewith, the provisions of Sections 3 and 5 of this
30 Article shall not apply to judges of the District Court.

31   SECTION 2. AND BE IT FURTHER ENACTED, That the General Assembly
32 determines that the amendment to the Maryland Constitution proposed by this Act affects
33 multiple jurisdictions and that the provisions of Article XIV, § 1 of the Maryland
34 Constitution concerning local approval of constitutional amendments do not apply.

35   SECTION 3. AND BE IT FURTHER ENACTED, That the aforegoing section
36 proposed as an amendment to the Maryland Constitution shall be submitted to the

1 qualified voters of the State at the next general election to be held in November 2016 for
2 their adoption or rejection pursuant to Article XIV of the Maryland Constitution. At that
3 general election, the vote on this proposed amendment to the Constitution shall be by
4 ballot, and upon each ballot there shall be printed the words "For the Constitutional
5 Amendment" and "Against the Constitutional Amendment," as now provided by law.
6 Immediately after the election, all returns shall be made to the Governor of the vote for and
7 against the proposed amendment, as directed by Article XIV of the Maryland Constitution,
8 and further proceedings had in accordance with Article XIV.