

**Department of Legislative Services**  
 Maryland General Assembly  
 2015 Session

**FISCAL AND POLICY NOTE**

Senate Bill 679 (Senator Raskin, *et al.*)  
 Judicial Proceedings

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

This bill establishes new procedures for the nonpartisan election of circuit court judges.

**Fiscal Summary**

**State Effect:** General fund expenditures increase by \$7,000 in FY 2016 for modifications to the State Board of Election’s (SBE) election management system. Otherwise, SBE can handle the bill’s requirements with existing resources.

(in dollars)	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	7,000	0	0	0	0
Net Effect	(\$7,000)	\$0	\$0	\$0	\$0

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** None.

**Small Business Effect:** None.

**Analysis**

**Bill Summary:** A candidate for election as judge of a circuit court may not be nominated at a primary election and must be elected at a general election on a nonpartisan basis.

A candidate for election to the circuit court must, without party designation or regard to party affiliation:

- file a certificate of candidacy no later than 5 p.m. on the first Monday in August in the year of the general election for the office;
- be certified to the ballot;
- appear on the ballot;
- be voted on; and
- be elected.

If a candidate for election as judge of a circuit court dies or becomes disqualified before the ballots are printed, or at a time when the ballots can be reprinted, the name of the candidate may not appear on the ballot. If a candidate dies or becomes disqualified after the ballots are printed and too late for reprinting, and if that candidate receives sufficient votes to have been elected, the office must be deemed vacant and filled as if the vacancy had occurred during the term of office.

In a general election for judge of the circuit court for a county, a voter may vote for the number of candidates for which there are judgeships to be filled. The candidates for judge must appear on the ballot in random order as determined by a random drawing conducted by SBE. If two or more candidates each receive the lowest number of votes necessary to qualify for election, creating a tie for the last office to be filled, the office is considered vacant. Such a vacancy must be filled as if the vacancy had occurred during the term of the office for which the election is being held and by the Governor by selection of one of the nominees who ties in the general election.

**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.

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 more than 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.

The names of candidates for judge of the circuit court appear on all primary election ballots (the ballots of all parties participating in the primary). They may also be nominated by petition. Their names appear on general election ballots without a party label or other distinguishing mark or location that might indicate party affiliation.

**Background:** Unlike their colleagues on the Court of Appeals and the Court of Special Appeals, circuit court judges may face a contested election in which qualified members of the Maryland Bar challenge the incumbent judges by filing as candidates. Circuit court judges are 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 2004, a suit was filed in St. Mary's County circuit court requesting an injunction to prevent SBE from certifying the primary results of circuit court judge candidates on the grounds that unaffiliated voters, who generally are not permitted to vote in party nominating elections (the primary), are unconstitutionally disenfranchised from participating in the initial selection process for circuit court judges. Following a ruling by the trial court, the case, *Suessman v. Lamone*, 383 Md. 697 (2004), was appealed to the Court of Appeals. The court held that there is a legitimate State interest in keeping partisanship out of judicial elections, while holding on to the party primary system. The court held that the "State's attempts to achieve this goal do not violate the equal protection provisions of either the Maryland or Federal Constitutions simply because some voters who decline to join a political party nevertheless wish to vote in that party's primary."

**State Fiscal Effect:** General fund expenditures increase by \$7,000 in fiscal 2016 for SBE to modify the board's election management system to allow for a random order of names of candidates for judge of the circuit court to be included on ballots. The system currently has coding for alphabetical ordering of names.

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### Additional Information

**Prior Introductions:** SB 294 of 2013, a similar bill, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - March 6, 2015  
md/hlb

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