

**2025 OPPOSITION TO HB44 NONPARTISAN JUDICIAL ELECTIONS**

FROM: Ronald H. Jarashow, Former Anne Arundel County Circuit Court Judge

**BACKGROUND.** I am a former judge that lost my judicial appointment by Gov. O'Malley in the November 2010 election. I have worked many judicial elections and am personally familiar with the burdens, difficulties, and ethical considerations detailed below.

**OPPOSITION.** HB44, "Election Law – Circuit Court Judges – Nonpartisan Elections" does not resolve the major problems with contested judicial elections, makes judicial election problems worse, and to some extent maintains the current system. Whereas, HB306 / SB630 would adopt Circuit Court judge retention elections resolving all the following problems.

**PROCESS NOT REASONABLE.** HB44 would adopt "open" primary elections for ONLY judges (8-902(A)(2)) which would be untenable to administer since that would require voters to vote with separate ballots (one for their political party and one for judge). A voter who is not registered for a political party would still go to the partisan polling location to request only the judge ballot. Election boards would establish a separate system for only judge ballots and it might require independent, non-partisan election judges not affiliated with any political party.

**ELECTION MIGHT STILL BE PARTISAN.** HB44 does not change current law which lists all judge candidates as "judicial" instead of Republican or Democrat. *Suessmann v. Lamone*, 383 Md. 697, 729 (2004) held that since judge candidates run in primary elections, it is a considered a partisan election. HB44 still requires voting during the partisan primary election day and does not establish an independent "non-partisan" voting date even though judge candidates would no longer be on the political party ballots. The voting process would still be set up for partisan voting.

**SELECTION / APPOINTMENT UNCHANGED.** Presumably, judicial applicants would still go through 1) application, 2) up to 15 interviews with Bar Association groups, 3) Judicial Nominating Commission interviews to recommend applicants to the Governor, 4) the Governor's staff investigations / vetting, 5) interview with the Governor, and 6) the Governor's appointment. Then any lawyer with 5 years residency can run against the appointed judge. *See Md. Const. Art. IV, §2*. HB44 does not change the current problematic election system.

**CURRENT PROBLEMS WORSENERD, NOT SOLVED, BY HB44.**

1. **Voter confusion.** Voters are likely to be confused that on the party primary election date, the voters may also vote in a separate non-partisan judge primary.
2. **Disparity** in ability to campaign. The appointed judge works all day and at night preparing and learning to handle court matters and only can campaign nights and weekends while every other candidate can spend unlimited amounts of time campaigning.
3. **Financial and fundraising.** Based on a limited examining of campaign reports, judge candidates raise up to \$300,000 or more to run county-wide.
4. **Special interest groups and political parties** would still endorse candidates loyal to that group's interests or political philosophy just as they do now.
5. **Discouraging quality applicants.** Contested election framework discourages accomplished lawyers from abandoning law practice to enter a contested judge election.
6. **Ethical considerations.** Funding from lawyers, litigants, political parties, and special interest groups gives an appearance of possible ethical conflicts.
7. **Electing an unqualified person.** With no vetting process, the open election does nothing to reasonably assure that the elected judge is qualified.

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8. **Disregard vetting process.** Some election candidates did not go through the judicial selection and appointment process and were never interviewed and recommended by up to 15 Bar Associations, the Judicial Nominating Commission, and the Governor's staff. They have never been evaluated for aptitude, temperament, diversity, or any other criteria often deemed proper for a judge.

**CANDIDATE FORUMS.** Organizers usually give politicians presentation time (e.g., Governor, County Executive, etc.). Judge candidates seldom are permitted to speak to attendees. I used to be told I could not make an oral presentation because "you are only running for judge."

**COUNTY-WIDE ELECTION.** Judge candidates run county-wide. It is hard to inform all voters about the judge's selection process and qualifications versus challengers.

**JUDICIAL CANDIDATES UNKNOWN / POLITICAL PARTY INFLUENCE.** In my 2010 election, 202,000 votes were cast for Governor and only about 100,000 votes were cast for Judge. I lost my appointment by about 7% to a candidate whose last name started high in the alphabet and was endorsed by a political party whose Governor candidate won 55% of the County vote. Reportedly, that candidate never tried a court case. One political party refused to consider endorsing the appointed judges because the Governor was from the opposite political party. Six years later, the other political party central committee refused to endorse an appointed judge who was a registered voter with the opposing political party. Both political parties are at blame for injecting politics into judicial elections. Calling a judge election "non-partisan" does not change the political party or politician endorsements that would occur.

**LAWSUITS BY JUDICIAL CANDIDATES.** Some judicial candidates file lawsuits. *See, e.g., Rickey Nelson Jones v. Mary E. Barbera*, Jones v. Barbera, 2020 Md. App. LEXIS 65, 2020 WL 405452 (Md. Ct. Spec. App., Jan. 24, 2020, *cert. denied* 2019) (unreported) (the unsuccessful judicial candidate sued the Court of Appeals Chief Judge). Lawsuit threats were made during my 2010 election. HB44 would not change this conduct.

**CANDIDATE MISCONDUCT HAS NO PENALTY.** Judicial elections were overseen by a volunteer committee known as the Maryland Judicial Campaign Conduct Committee (MJCCC). It appears that this group is now disbanded. There is no authority to punish judicial candidate misconduct. In 2010, the Anne Arundel County judge challenger was found to have violated judicial campaign rules by distributing misleading campaign literature on election day that mischaracterized her as being an appointed judge along with my co-appointee to the bench. That literature used our black and yellow campaign colors (instead of her blue and white campaign colors) with her photograph and a picture of my running mate / appointed judge that made it appear as if they were the two appointed judges. The law imposes no penalties for misleading judicial campaign conduct. HB44 would not affect judge candidate misconduct.

**JUDGES ARE NOT POLITICIANS.** Appointed judges typically are not politicians with time and knowledge about running in an election.

**CONCLUSION.** HB44 does not change the above judge contested election problems. On the other hand, HB306 / SB630 would adopt retention elections for Circuit Court judges that would resolve every one of the above contested judge election issues.

I request an **UNFAVORABLE** Committee Report.