

UNOFFICIAL COPY OF HOUSE BILL 271  
CONSTITUTIONAL AMENDMENT

D1  
HB 450/04 - JUD

5lr1108

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By: **Delegates Frush, McIntosh, Moe, and Ross**

Introduced and read first time: January 26, 2005

Assigned to: Judiciary

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A BILL ENTITLED

1 AN ACT concerning

2 **Circuit Court Judges - Election and Term of Office**

3 FOR the purpose of proposing an amendment to the Maryland Constitution relating  
4 to the selection and tenure of circuit court judges; altering the method of filling  
5 vacancies in the office of a judge of a circuit court; providing for retention  
6 elections following an appointment to fill a vacancy in the office of a judge of a  
7 circuit court; altering the term of office of circuit court judges; providing for a  
8 transitional period under which the terms of certain amendments are to become  
9 effective; making stylistic changes; generally relating to the selection, election,  
10 appointment, tenure, and term of office for judges of the circuit courts; and  
11 submitting this amendment to the qualified voters of the State of Maryland for  
12 their adoption or rejection.

13 BY proposing an amendment to the Maryland Constitution

14 Article IV - Judiciary Department

15 Section 3, 5, 5A, and 11

16 BY proposing an addition to the Maryland Constitution

17 Article XVIII - Provisions of Limited Duration

18 Section 6

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

22 **Article IV - Judiciary Department**

23 3.

24 [Except for the Judges of the District Court, the Judges of the several Courts  
25 other than the Court of Appeals or any intermediate courts of appeal shall, subject to  
26 the provisions of Section 5 of this Article of the Constitution, be elected in Baltimore  
27 City and in each county, by the qualified voters of the city and of each county,  
28 respectively, all of the said Judges to be elected at the general election to be held on  
29 the Tuesday after the first Monday in November, as now provided for in the

1 Constitution. Each of the said Judges shall hold his office for the term of fifteen years  
2 from the time of his election, and until his successor is elected and qualified, or until  
3 he shall have attained the age of seventy years, whichever may first happen, and be  
4 reeligible thereto until he shall have attained the age of seventy years, and not after.]  
5 In case of the inability of any [of said Judges] CIRCUIT COURT JUDGE to discharge  
6 [his] THE JUDGE'S duties with efficiency, by reason of continued sickness, or of  
7 physical or mental infirmity, it shall be in the power of the General Assembly,  
8 two-thirds of the members of each House concurring, with the approval of the  
9 Governor to retire said Judge from office.

10 5.

11 [Upon every occurrence or recurrence of a vacancy through death, resignation,  
12 removal, disqualification by reason of age or otherwise, or expiration of the term of  
13 fifteen years of any judge of a circuit court, or creation of the office of any such judge,  
14 or in any other way, the Governor shall appoint a person duly qualified to fill said  
15 office, who shall hold the same until the election and qualification of his successor.  
16 His successor shall be elected at the first biennial general election for Representatives  
17 in Congress after the expiration of the term of fifteen years (if the vacancy occurred in  
18 that way) or the first such general election after one year after the occurrence of the  
19 vacancy in any other way than through expiration of such term.] Except in case of  
20 reappointment of a judge, SUBJECT TO THE PROVISIONS OF THIS ARTICLE, upon  
21 expiration of [his] THE JUDGE'S term [of fifteen years], no person shall be appointed  
22 who will become disqualified by reason of age and thereby unable to continue to hold  
23 office until the prescribed time when [his] THE JUDGE'S successor would have been  
24 elected.

25 5A.

26 (a) A vacancy in the office of a judge of A CIRCUIT COURT OR OF an appellate  
27 court, whether occasioned by the death, resignation, removal, retirement,  
28 disqualification by reason of age, or rejection by the voters of an incumbent, the  
29 creation of the office of a judge, or otherwise, shall be filled as provided in this section.

30 (b) Upon the occurrence of a vacancy the Governor shall appoint, by and with  
31 the advice and consent of the Senate, a person duly qualified to fill [said office] THE  
32 VACANCY who shall hold the [same] OFFICE until the election for continuance in  
33 office as provided in subsections (c) [and], (d), AND (E) OF THIS SECTION.

34 (c) The continuance in office of a judge of the Court of Appeals, FOLLOWING  
35 AN APPOINTMENT TO FILL A VACANCY, is subject to approval or rejection by the  
36 registered voters of the appellate judicial circuit from which [he] THE JUDGE was  
37 appointed at the next general election following the expiration of [one] 1 year from  
38 the date of the occurrence of the vacancy which [he] THE JUDGE was appointed to fill,  
39 and at the general election next occurring every [ten] 10 years thereafter.

40 (d) The continuance in office of a judge of the Court of Special Appeals,  
41 FOLLOWING AN APPOINTMENT TO FILL A VACANCY, is subject to approval or rejection  
42 by the registered voters of the geographical area prescribed by law at the next general

1 election following the expiration of [one] 1 year from the date of the occurrence of the  
2 vacancy which [he] THE JUDGE was appointed to fill, and at the general election next  
3 occurring every [ten] 10 years thereafter.

4 (E) THE CONTINUANCE IN OFFICE OF A JUDGE OF A CIRCUIT COURT,  
5 FOLLOWING AN APPOINTMENT TO FILL A VACANCY, IS SUBJECT TO APPROVAL OR  
6 REJECTION BY THE REGISTERED VOTERS OF THE CITY OR COUNTY FROM WHICH  
7 THE JUDGE WAS APPOINTED AT THE NEXT GENERAL ELECTION FOLLOWING THE  
8 EXPIRATION OF 1 YEAR FROM THE DATE OF THE OCCURRENCE OF THE VACANCY  
9 THAT THE JUDGE WAS APPOINTED TO FILL, AND AT THE GENERAL ELECTION NEXT  
10 OCCURRING EVERY 10 YEARS THEREAFTER.

11 [(e)] (F) The approval or rejection by the registered voters of a judge as  
12 provided for in subsections (c) [and], (d), AND (E) OF THIS SECTION shall be a vote for  
13 the judge's retention in office for a term of [ten] 10 years or [his] THE JUDGE'S  
14 removal. The judge's name shall be on the appropriate ballot, without opposition, and  
15 the voters shall vote yes or no for [his] THE JUDGE'S retention in office. If the voters  
16 reject the retention in office of a judge, or if the vote is tied, the office becomes vacant  
17 [ten] 10 days after certification of the election returns.

18 [(f)] (G) An appellate OR CIRCUIT court judge shall retire when [he] THE  
19 JUDGE attains [his seventieth birthday] THE AGE OF 70 YEARS.

20 [(g)] (H) A member of the General Assembly who is otherwise qualified for  
21 appointment to judicial office is not disqualified by reason of his membership in a  
22 General Assembly which proposed or enacted any constitutional amendment or  
23 statute affecting the method of selection. Continuance in office, or retirement or  
24 removal of a judge, the creation or abolition of a court, an increase or decrease in the  
25 number of judges of any court, or an increase or decrease in the salary, pension or  
26 other allowances of any judge.

27 11.

28 The election for Judges, hereinbefore provided, and all elections for Clerks,  
29 Registers of Wills, and other officers, provided in this Constitution, except State's  
30 Attorneys, shall be certified, and the returns made, by the Clerks of the Circuit  
31 Courts of the Counties, and the Clerk of the Superior Court of Baltimore City,  
32 respectively, to the Governor, who shall issue commissions to the different persons for  
33 the offices to which they shall have been, respectively, elected; and in all such  
34 elections for officers other than judges of an appellate OR CIRCUIT court, the person  
35 having the greatest number of votes, shall be declared to be elected.

36 **Article XVIII - Provisions of Limited Duration**

37 6.

38 (A) FOR THE PURPOSE OF IMPLEMENTING THE AMENDMENTS TO ARTICLE IV  
39 OF THIS CONSTITUTION PROPOSED BY HOUSE BILL \_\_\_\_\_ OF 2005 (5LR1108)  
40 CONCERNING THE SELECTION AND TENURE OF CIRCUIT COURT JUDGES, THE

1 FOLLOWING PROVISIONS SHALL GOVERN. IN ACCORDANCE WITH ARTICLE XIV,  
2 SECTION 1A OF THE CONSTITUTION, THIS SECTION SHALL EXPIRE WHEN ALL OF THE  
3 JUDGES OF THE CIRCUIT COURTS HAVE COMPLETED ALL OF THE TERMS FOR WHICH  
4 THE JUDGES ARE RETAINED IN OFFICE UNDER SUBSECTIONS (B) AND (C) OF THIS  
5 SECTION OR HAVE VACATED THEIR OFFICES FOR ANY REASON.

6 (B) EACH JUDGE OF A CIRCUIT COURT WHO IS IN OFFICE FOR AN ELECTED  
7 TERM ON THE EFFECTIVE DATE OF THESE AMENDMENTS, UNLESS THE JUDGE DIES,  
8 RESIGNS, RETIRES, OR IS OTHERWISE LAWFULLY REMOVED, SHALL CONTINUE IN  
9 OFFICE UNTIL THE NEXT GENERAL ELECTION AFTER THE END OF THE ELECTED  
10 TERM OR UNTIL THE JUDGE ATTAINS THE AGE OF 70 YEARS, WHICHEVER OCCURS  
11 FIRST. CONTINUANCE OF THE JUDGE IN OFFICE THEN IS SUBJECT TO THE  
12 PROVISIONS OF ARTICLE IV, SECTION 5A OF THIS CONSTITUTION, BUT IN NO EVENT  
13 SHALL ANY JUDGE CONTINUE IN OFFICE AFTER ATTAINING THE AGE OF 70 YEARS.

14 (C) EACH JUDGE OF A CIRCUIT COURT WHO IS IN OFFICE ON THE EFFECTIVE  
15 DATE OF THESE AMENDMENTS, BUT WHO HAS NOT BEEN ELECTED TO THAT OFFICE  
16 BY THE VOTERS, SHALL, WITHIN 15 DAYS AFTER THE EFFECTIVE DATE OF THESE  
17 AMENDMENTS, BE REAPPOINTED TO THAT OFFICE. CONTINUANCE OF THE JUDGE IN  
18 OFFICE THEN IS SUBJECT TO THE PROVISIONS OF ARTICLE IV, SECTION 5A OF THIS  
19 CONSTITUTION, BUT IN NO EVENT SHALL ANY JUDGE CONTINUE IN OFFICE AFTER  
20 ATTAINING THE AGE OF 70 YEARS.

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

26 SECTION 3. AND BE IT FURTHER ENACTED, That the foregoing section  
27 proposed as an amendment to the Maryland Constitution shall be submitted to the  
28 legal and qualified voters of this State at the next general election to be held in  
29 November, 2006 for their adoption or rejection in pursuance of directions contained in  
30 Article XIV of the Maryland Constitution. At that general election, the vote on this  
31 proposed amendment to the Constitution shall be by ballot, and upon each ballot  
32 there shall be printed the words "For the Constitutional Amendment" and "Against  
33 the Constitutional Amendment," as now provided by law. Immediately after the  
34 election, all returns shall be made to the Governor of the vote for and against the  
35 proposed amendment, as directed by Article XIV of the Maryland Constitution, and  
36 further proceedings had in accordance with Article XIV.