D1   5lr1748
HB 1544/04 - JUD   CF 5lr2861

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By: **Delegates Zirkin and Bohanan**
Introduced and read first time: January 26, 2005
Assigned to: Judiciary

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Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 21, 2005

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CHAPTER_____

1 AN ACT concerning

2   **Election of Circuit Court Judges - ~~Nonpartisan General~~ Primary Elections**

3 ~~FOR the purpose of establishing a method for the election of judges to the circuit~~
4   ~~courts on a nonpartisan basis at a general election; providing that a candidate~~
5   ~~for election as judge of a circuit court may not be nominated at a primary~~
6   ~~election; establishing a deadline for the filing of a certificate of candidacy for a~~
7   ~~candidate for election as judge of a circuit court; deeming the office of judge of a~~
8   ~~circuit court vacant under certain circumstances and requiring that the vacancy~~
9   ~~be filled in a certain manner; providing that a candidate for judge of a circuit~~
10   ~~court may not be nominated by petition; and generally relating to the election of~~
11   ~~circuit court judges on a nonpartisan basis at general elections.~~

12 FOR the purpose of providing for an additional primary for nomination of candidates
13   for circuit court judge by registered voters who are unaffiliated with any
14   political party; providing for the number of candidates that may be nominated in
15   a certain primary; providing that certain vacancies in candidacy or nomination
16   may not be filled; and generally relating to elections for circuit court judges.

17 ~~BY repealing and reenacting, without amendments,~~
18   ~~Article - Election Law~~
19   ~~Section 5-203, 5-301(a), and 5-703(b)~~
20   ~~Annotated Code of Maryland~~
21   ~~(2003 Volume and 2004 Supplement)~~

22 BY adding to
23   Article - Election Law
24   Section 5-301(h), 5-705(b)(5), 5-906, and 5-1006

1 Annotated Code of Maryland
2 (2003 Volume and 2004 Supplement)

3 BY repealing and reenacting, with amendments,
4 Article - Election Law
5 ~~Section 5-303, 5-703(a), and 9-210(a)~~
6 Section 5-701
7 Annotated Code of Maryland
8 (2003 Volume and 2004 Supplement)

9 ~~BY adding to~~
10 ~~Article - Election Law~~
11 ~~Section 8-901 through 8-904, inclusive, to be under the new subtitle, "Subtitle~~
12 ~~9. Election of Circuit Court Judges"~~
13 ~~Annotated Code of Maryland~~
14 ~~(2003 Volume and 2004 Supplement)~~

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article - Election Law**

18 ~~5-203.~~

19 ~~(a)~~   ~~(1)~~   ~~This subsection does not apply to a candidate for:~~

20   ~~(i)~~   ~~President or Vice President of the United States; or~~

21   ~~(ii)~~   ~~any federal office who seeks nomination by petition.~~

22   ~~(2)~~   ~~Unless the individual is a registered voter affiliated with the political~~
23 ~~party, an individual may not be a candidate for:~~

24   ~~(i)~~   ~~an office of that political party; or~~

25   ~~(ii)~~   ~~except as provided in subsection (b) of this section, nomination~~
26 ~~by that political party.~~

27 ~~(b)~~   ~~The requirements for party affiliation specified under subsection (a) of this~~
28 ~~section do not apply to a candidate for:~~

29   ~~(1)~~   ~~a judicial office; or~~

30   ~~(2)~~   ~~a county board of education.~~

31 ~~5-301.~~

32 ~~(a)~~   ~~An individual may become a candidate for a public or party office only if:~~

1   (1)   the individual files a certificate of candidacy in accordance with this
2   subtitle; and

3   (2)   the individual does not file a certificate of withdrawal under Subtitle
4   5 of this title.

5   5-303.

6   (a)   Except as provided in subsections (b) [and], (c), AND (D) of this section, a
7   certificate of candidacy shall be filed as follows:

8   (1)   for candidates for offices other than delegate to the Democratic
9   National Convention, not later than 9 p.m. on the Monday that is 10 weeks or 70 days
10   before the day on which the primary election will be held; and

11   (2)   for candidates for delegate to the Democratic National Convention,
12   between 9 a.m. on the first regular business day of the year in which the President of
13   the United States is elected and 5 p.m. on the day that is 1 week later than that day.

14   (b)   A certificate of candidacy for an office to be filled by a special election
15   under this article shall be received and filed in the office of the appropriate board not
16   later than 5 p.m. on the Monday that is 3 weeks or 21 days prior to the date for the
17   special primary election specified by the Governor in the proclamation for the special
18   primary election.

19   (c)   The certificate of candidacy for the election of a write-in candidate shall be
20   filed by the earlier of:

21   (1)   7 days after a total expenditure of at least $51 is made to promote the
22   candidacy by a campaign finance entity of the candidate; or

23   (2)   5 p.m. on the Wednesday preceding the day of the election for which
24   the certificate is filed.

25   (D)   A CANDIDATE FOR ELECTION AS A JUDGE OF THE CIRCUIT COURT SHALL
26   FILE A CERTIFICATE OF CANDIDACY NOT LATER THAN 5 P.M. ON THE FIRST MONDAY
27   IN AUGUST IN THE YEAR OF THE GENERAL ELECTION FOR THE OFFICE.

28   5-703.

29   (a)   Except for a candidate for CIRCUIT COURT JUDGE OR a county board of
30   education, this section applies to any candidate for public office subject to this title.

31   (b)   A candidate for a public office may be nominated by petition under this
32   subtitle if the candidate does not seek nomination through a party primary.

1   ~~SUBTITLE 9. ELECTION OF CIRCUIT COURT JUDGES.~~

2 ~~8-901.~~

3   ~~EXCEPT AS OTHERWISE PROVIDED IN THIS SUBTITLE, THE PROVISIONS OF THIS~~
4 ~~ARTICLE RELATING TO THE NOMINATION AND ELECTION OF CANDIDATES TO PUBLIC~~
5 ~~OFFICE SHALL GOVERN THE NOMINATION AND ELECTION OF JUDGES OF THE~~
6 ~~CIRCUIT COURT.~~

7 ~~8-902.~~

8   ~~(A)   A CANDIDATE FOR ELECTION AS JUDGE OF A CIRCUIT COURT:~~

9   ~~(1)   MAY NOT BE NOMINATED AT A PRIMARY ELECTION; AND~~

10   ~~(2)   SHALL BE ELECTED AT A GENERAL ELECTION ON A NONPARTISAN~~
11 ~~BASIS.~~

12   ~~(B)   A CANDIDATE FOR ELECTION AS JUDGE OF A CIRCUIT COURT SHALL,~~
13 ~~WITHOUT PARTY DESIGNATION OR REGARD TO PARTY AFFILIATION:~~

14   ~~(1)   FILE A CERTIFICATE OF CANDIDACY AS REQUIRED UNDER § 5-303(D)~~
15 ~~OF THIS ARTICLE;~~

16   ~~(2)   BE CERTIFIED TO THE BALLOT;~~

17   ~~(3)   APPEAR ON THE BALLOT;~~

18   ~~(4)   BE VOTED ON; AND~~

19   ~~(5)   BE ELECTED AS PROVIDED IN THIS ARTICLE.~~

20 ~~8-903.~~

21   ~~(A)   IF A CANDIDATE FOR ELECTION AS JUDGE OF A CIRCUIT COURT DIES OR~~
22 ~~BECOMES DISQUALIFIED BEFORE THE BALLOTS ARE PRINTED, OR AT A TIME WHEN~~
23 ~~THE BALLOTS CAN BE REPRINTED, THE NAME OF THE CANDIDATE MAY NOT APPEAR~~
24 ~~ON THE BALLOT.~~

25   ~~(B)   IF A CANDIDATE FOR ELECTION AS JUDGE OF A CIRCUIT COURT DIES OR~~
26 ~~BECOMES DISQUALIFIED AFTER THE BALLOTS ARE PRINTED AND TOO LATE FOR THE~~
27 ~~BALLOT TO BE REPRINTED, AND IF THAT CANDIDATE RECEIVES SUFFICIENT VOTES~~
28 ~~TO HAVE BEEN ELECTED, THE OFFICE SHALL BE DEEMED VACANT AND SHALL BE~~
29 ~~FILLED AS IF THE VACANCY HAD OCCURRED DURING THE TERM OF OFFICE.~~

30 ~~8-904.~~

31   ~~(A)   IN A GENERAL ELECTION FOR JUDGE OF THE CIRCUIT COURT FOR A~~
32 ~~COUNTY, A VOTER MAY VOTE FOR A NUMBER OF CANDIDATES EQUAL TO THE~~
33 ~~NUMBER OF JUDGES TO BE ELECTED IN THAT COUNTY AT THAT GENERAL~~
34 ~~ELECTION.~~

1   (B)   (1)   THE CANDIDATES, EQUAL IN NUMBER TO THE NUMBER OF OFFICES
2 TO BE FILLED, WHO RECEIVE THE LARGEST NUMBER OF VOTES IN THE GENERAL
3 ELECTION SHALL BE DECLARED ELECTED.

4   (2)   (I)   IF TWO OR MORE CANDIDATES EACH RECEIVE THE LOWEST
5 NUMBER OF VOTES NECESSARY TO QUALIFY FOR ELECTION, CREATING A TIE FOR
6 THE LAST OFFICE TO BE FILLED, THE OFFICE SHALL BE CONSIDERED VACANT.

7   (II)   A VACANCY OCCURRING UNDER SUBPARAGRAPH (I) OF THIS
8 PARAGRAPH SHALL BE FILLED:

9   1.   AS IF THE VACANCY OCCURRED DURING THE TERM OF
10 THE OFFICE FOR WHICH THE ELECTION IS BEING HELD; AND

11   2.   BY THE GOVERNOR BY SELECTION OF ONE OF THE
12 NOMINEES WHO TIES IN THE GENERAL ELECTION.

13 9–210.

14   (a)   The offices to be voted on shall be arranged on the ballot in the following
15 order, as applicable:

16   (1)   public offices for which voters of the entire State may vote, in the
17 following order:

18   (i)   President of the United States, or President and Vice President
19 of the United States;

20   (ii)   Governor and Lieutenant Governor;

21   (iii)   Comptroller;

22   (iv)   Attorney General; and

23   (v)   United States Senator;

24   (2)   Representative in Congress;

25   (3)   members of the General Assembly of Maryland, in the following
26 order:

27   (i)   Senate of Maryland; and

28   (ii)   House of Delegates;

29   (4)   members of the governing body of a county, in the following order:

30   (i)   county executive; and

31   (ii)   county council or county commissioner;

1   (5)   offices in the government of the City of Baltimore, in the following
2 order:

3   (i)   Mayor;

4   (ii)   President of the City Council;

5   (iii)   Comptroller; and

6   (iv)   member of the City Council;

7   (6)   judicial offices, in the following order:

8   (i)   judge of the circuit court;

9   (ii)   appellate judges, continuance in office, in the following order:

10   1.   Court of Appeals; and

11   2.   Court of Special Appeals;

12   (7)   public offices for which the voters of a county may vote, in the
13 following order:

14   (i)   county treasurer;

15   (ii)   State's Attorney;

16   (iii)   clerk of the circuit court;

17   (iv)   register of wills;

18   (v)   judge of the orphans' court;

19   (vi)   sheriff; and

20   (vii)   other offices filled by partisan election;

21   (8)   party offices; and

22   (9)   OTHER offices filled by nonpartisan election.

23 5-301.

24   (H)   AN INDIVIDUAL MAY BECOME A CANDIDATE FOR CIRCUIT COURT JUDGE
25 BY FILING A CERTIFICATE OF CANDIDACY IN ACCORDANCE WITH THIS SUBTITLE
26 FOR:

27   (1)   A PARTY PRIMARY FOR CANDIDATES OF A PRINCIPAL POLITICAL
28 PARTY; OR

1   (2)   A PRIMARY UNDER § 5-701(B) OF THIS TITLE FOR REGISTERED
2 VOTERS WHO ARE NOT AFFILIATED WITH ANY POLITICAL PARTY.

3 5-701.

4   (A)   Nominations for public offices that are filled by elections governed by this
5 article shall be made:

6   (1)   by party primary, for candidates of a principal political party; or

7   (2)   by petition for:

8   (i)   candidates of a political party that does not nominate by
9 primary; or

10   (ii)   candidates not affiliated with any political party.

11   (B)   IN ADDITION TO EACH NOMINATION FOR CIRCUIT COURT JUDGE UNDER
12 SUBSECTION (A) OF THIS SECTION, A NOMINATION FOR CIRCUIT COURT JUDGE MAY
13 BE MADE IN A PRIMARY FOR REGISTERED VOTERS WHO ARE UNAFFILIATED WITH
14 ANY POLITICAL PARTY.

15 5-705.

16   (b)   (5)   VOTERS IN A PRIMARY UNDER § 5-701(B) OF THIS SUBTITLE MAY
17 NOMINATE ONE CANDIDATE FOR EACH CIRCUIT COURT JUDGE POSITION TO BE
18 FILLED IN A GENERAL ELECTION.

19 5-906.

20   A VACANCY IN CANDIDACY FOR THE NOMINATION FOR CIRCUIT COURT JUDGE
21 IN A PRIMARY UNDER § 5-701(B) OF THIS TITLE THAT OCCURS BEFORE THE PRIMARY
22 ELECTION FOR CIRCUIT COURT JUDGE MAY NOT BE FILLED.

23 5-1006.

24   A VACANCY IN NOMINATION FOR CIRCUIT COURT JUDGE UNDER § 5-701(B) OF
25 THIS TITLE THAT OCCURS AFTER THE PRIMARY ELECTION FOR CIRCUIT COURT
26 JUDGE MAY NOT BE FILLED.

27   SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
28 effect October 1, 2005.