

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE

House Bill 271
Judiciary

(Delegate Frush, *et al.*)

Circuit Court Judges - Election and Term of Office

This bill proposes an amendment to the Maryland Constitution to alter the method of selection and tenure of circuit court judges. The bill proposes that circuit court judges be selected by gubernatorial appointment, subject to confirmation by the Senate, followed by approval or rejection via retention election by the voters. The bill decreases the term of office from 15 years following election to 10 years following election.

Fiscal Summary

State Effect: Minimal. Any increase in computer software reprogramming costs for the State Board of Elections could be handled with existing resources.

Local Effect: If approved by the General Assembly, this constitutional amendment will be submitted to the voters at the 2006 general election. It should not result in additional costs for the county election boards.

Small Business Effect: None.

Analysis

Bill Summary: The bill proposes that any vacancy in a circuit court judgeship be filled in the same manner as a vacancy on the Court of Appeals or Court of Special Appeals is currently filled. Specifically, when a vacancy occurs, the Governor (with advice and consent of the Senate) appoints a successor who holds the office until the next general election following the expiration of one year from the date of the vacancy. Retention of the judge in office is subject to approval or rejection by the voters of the county or Baltimore City from which the judge was appointed at that election, and at the general

election every 10 years thereafter. The judge's name is placed on the appropriate ballot without opposition. If the voters reject the judge's retention in office, or if the vote is tied, the office becomes vacant 10 days after certification of the election returns.

For the purposes of implementing these changes:

- each circuit court judge already elected to office on the effective date of the bill's amendments will continue in office until the next general election after the end of the elected term, or until the judge turns 70, whichever occurs first. Thereafter, continuance of the judge in office becomes subject to the appointment and election method described above; and
- each circuit court judge in office who has not been elected to that office as of the effective date of the bill's amendments must be reappointed to that office within 15 days after the effective date of the amendments. Thereafter, continuance of the judge in office becomes subject to the method described above.

In no event shall any judge continue in office after attaining the age of 70.

Current Law: Judges of the circuit courts are elected at the general election by the qualified voters of the respective county or Baltimore City in which the circuit court sits. This is a "contested" election, in which any challenger who meets the constitutional requirements may run. Each judge holds the office for 15 years from the time of election, and until either the successor is elected and qualified, or the judge turns 70 years old, whichever occurs first.

If a circuit court judge becomes unable to discharge the judge's duties due to sickness or mental or physical infirmity, the General Assembly, by a two-thirds vote of each house and with approval of the Governor, may retire the judge from office.

Upon any vacancy in a circuit court judgeship, the Governor must appoint a replacement, who holds the office until the election and qualification of a successor. The successor must be elected:

- where the vacancy occurs due to the expiration of a 15-year term, at the first biennial general election for Representatives in Congress following the expiration of the term; or
- where the vacancy occurs otherwise, at the next general election that occurs after one year following the occurrence of the vacancy.

Except in the case of reappointment of a judge, no person may be appointed who would become disqualified by reason of age prior to the prescribed time when the judge's successor would have been elected.

A circuit court judge must retire when the judge reaches 70 years of age.

State Expenditures: The Board of Elections advises that it will incur a one-time cost to pay a vendor to reprogram computer software to reflect the bill's changes. This cost can be incorporated into the board's Computer Services Corporation contract.

Local Fiscal Effect: The Maryland Constitution requires that proposed amendments to the constitution be publicized either: (1) in at least two newspapers in each county, if available, and in at least three newspapers in Baltimore City once a week for four weeks immediately preceding the general election; or (2) by order of the Governor in a manner provided by law. State law requires local boards of elections to publicize proposed amendments to the constitution either in newspapers or on specimen ballots; local boards of elections are responsible for the costs associated with these requirements. The budgets of local election boards contain funding for notifying qualified voters about proposed constitutional amendments for the 2006 general election in newspapers or on specimen ballots.

Additional Information

Prior Introductions: HB 450 of 2004 received an unfavorable report from the Judiciary Committee.

Cross File: None.

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

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mp/jr

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