

Department of Legislative Services
Maryland General Assembly
2005 Session

FISCAL AND POLICY NOTE
Revised

House Bill 276

(Delegates Zirkin and Bohanan)

Judiciary

Education, Health, and Environmental Affairs and Judicial Proceedings

Election of Circuit Court Judges - Primary Elections

This bill provides for a primary election for nomination of candidates for circuit court judge by registered voters who are unaffiliated with a political party.

Fiscal Summary

State Effect: Any expenses for computer reprogramming costs to retool election management software could be absorbed within the State Board of Election's ongoing technology support contract.

Local Effect: The bill's requirements could be handled within the existing resources of local boards of election in some jurisdictions. Potential minimal increase in expenditures in other jurisdictions.

Small Business Effect: None.

Analysis

Bill Summary: An individual may become a candidate for circuit court judge by filing a certificate of candidacy for a primary for registered voters who are not affiliated with any political party. Nonaffiliated voters may vote for one candidate for each circuit court judge position to be filled in a general election.

A vacancy in candidacy for circuit court judge that occurs before the primary or a vacancy in nomination for circuit court judge that occurs after the primary may not be filled.

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.

The filing deadline for candidates for offices other than delegate to the Democratic National Convention is 9:00 p.m. on the Monday that is 10 weeks or 70 days before the primary 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 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.

Background: Circuit court judges are currently 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 the Maryland State Board of Elections from certifying the primary results of circuit court judge candidates on the grounds that unaffiliated voters, who are generally 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*, 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."

According to the State Board of Elections (SBE), there are approximately 430,432 unaffiliated registered voters in the State.

Local Expenditures: As unaffiliated voters currently receive sample ballots, there will be no impact on jurisdictions with elected school boards.

Local expenditures may increase minimally for printing sample ballots in those jurisdictions that do not have an elected school board: Anne Arundel, Baltimore, Caroline, Harford, Queen Anne's, Talbot, and Wicomico counties, and Baltimore City.

Additional Comments: It is assumed that the primary for unaffiliated voters can be held on the same day as the party primaries. SBE failed to respond to multiple requests for updated information.

Additional Information

Prior Introductions: HB 1544 of 2004 was withdrawn following a hearing.

Cross File: SB 730 (Senator Giannetti) – Education, Health, and Environmental Affairs.

Information Source(s): Carroll County, Washington County, Montgomery County, Prince George's County, Kent County, Worcester County, Judiciary (Administrative Office of the Courts), Maryland State Board of Elections, Department of Legislative Services

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