

UNOFFICIAL COPY OF HOUSE BILL 385
CONSTITUTIONAL AMENDMENT

D1

6lr1280
CF 6lr1279

By: **Chairman, Judiciary Committee (By Request - Maryland Judicial
Conference)**

Introduced and read first time: January 26, 2006

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Circuit Court Judges - Election and Tenure**

3 FOR the purpose of proposing amendments to the Maryland Constitution relating to
4 the election and tenure of judges of the circuit courts; providing for confirmation
5 elections of certain circuit court judges at certain intervals; making interim
6 provisions for certain incumbent judges; and submitting this amendment to the
7 qualified voters of the State of Maryland for their adoption or rejection.

8 BY proposing a repeal of the Maryland Constitution
9 Article IV - Judiciary Department
10 Section 3 and 5

11 BY proposing an amendment to the Maryland Constitution
12 Article IV - Judiciary Department
13 Section 11 and 21

14 BY proposing an addition to the Maryland Constitution
15 Article XVIII - Provisions of Limited Duration
16 Section 6

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

20 **Article IV - Judiciary Department**

21 [3.

22 Except for the Judges of the District Court, the Judges of the several Courts
23 other than the Court of Appeals or any intermediate courts of appeal shall, subject to
24 the provisions of Section 5 of this Article of the Constitution, be elected in Baltimore
25 City and in each county, by the qualified voters of the city and of each county,
26 respectively, all of the said Judges to be elected at the general election to be held on
27 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 to discharge his duties with efficiency, by
6 reason of continued sickness, or of physical or mental infirmity, it shall be in the
7 power of the General Assembly, two-thirds of the members of each House concurring,
8 with the approval of the Governor to retire said Judge from office.]

9 [5.

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

23 11.

24 The CLERK OF EACH CIRCUIT COURT SHALL CERTIFY THE election for Judges,
25 [hereinbefore provided,] and all elections for Clerks, Registers of Wills, and other
26 officers[,] provided in this Constitution, except State's Attorneys, [shall be certified,]
27 and MAKE the returns [made, by the Clerks of the Circuit Courts of the Counties, and
28 the Clerk of the Superior Court of Baltimore City, respectively,] to the Governor, who
29 shall issue commissions to the [different persons] INDIVIDUALS for the offices to
30 which they shall have been, respectively, elected; and in all such elections for officers
31 other than judges of an appellate OR CIRCUIT court CONTINUED IN OFFICE UNDER
32 THIS ARTICLE, the [person] INDIVIDUAL having the greatest number of votes[,]
33 shall be declared to be elected.

34 21.

35 (a) (1) Subject to [the provisions of] PARAGRAPH (2) OF THIS subsection
36 [(b)], the General Assembly shall determine by law the number of judges of the
37 circuit court in each county and circuit. [These judges shall be selected in accordance
38 with Sections 3 and 5 of this Article.]

39 [(b)] (2) There shall be at least four circuit court judges resident in each
40 circuit, and at least one circuit court judge shall be resident in each county. There
41 shall be at least two such judges resident in Anne Arundel County, at least three

1 resident in Baltimore County, at least four resident in Prince George's County, and at
2 least five resident in Montgomery County.

3 (B) (1) WHETHER OCCASIONED BY REASON OF AGE, DEATH, REMOVAL,
4 RESIGNATION, RETIREMENT, DISQUALIFICATION, OR REJECTION BY THE VOTERS OF
5 AN INCUMBENT, CREATION OF A CIRCUIT COURT JUDGE'S OFFICE, OR OTHERWISE, A
6 VACANCY IN THE OFFICE OF A JUDGE OF A CIRCUIT COURT SHALL BE FILLED AS
7 PROVIDED IN THIS SUBSECTION.

8 (2) (I) ON OCCURRENCE OF A VACANCY ON THE CIRCUIT COURT FOR
9 THE CITY OR A COUNTY, THE GOVERNOR SHALL APPOINT AN INDIVIDUAL WHO IS
10 QUALIFIED TO FILL THE OFFICE. THE APPOINTEE SHALL HOLD THE OFFICE UNTIL
11 THE ELECTION AND QUALIFICATION OF THE APPOINTEE'S SUCCESSOR. THE
12 REGISTERED VOTERS OF THE CITY OR COUNTY SHALL ELECT THE SUCCESSOR AT
13 THE NEXT GENERAL ELECTION FOLLOWING THE EXPIRATION OF 1 YEAR AFTER THE
14 DATE OF THE OCCURRENCE OF THE VACANCY. THE SUCCESSOR ELECTED UNDER
15 THIS PARAGRAPH SHALL HOLD OFFICE UNTIL THE ELECTION FOR CONTINUANCE IN
16 OFFICE UNDER PARAGRAPH (3) OF THIS SUBSECTION.

17 (II) THE GOVERNOR MAY NOT APPOINT AN INDIVIDUAL WHO WILL
18 BECOME 70 YEARS OLD BEFORE THE TIME FOR ELECTION OF THE INDIVIDUAL'S
19 SUCCESSOR.

20 (III) A MEMBER OF THE GENERAL ASSEMBLY WHO IS OTHERWISE
21 QUALIFIED FOR APPOINTMENT TO JUDICIAL OFFICE IS NOT DISQUALIFIED BY
22 REASON OF MEMBERSHIP IN A GENERAL ASSEMBLY THAT PROPOSED OR ENACTED
23 ANY CONSTITUTIONAL AMENDMENT OR STATUTE AFFECTING THE METHOD OF
24 SELECTION, CONTINUANCE IN OFFICE, REMOVAL, OR RETIREMENT OF A JUDGE, THE
25 ABOLITION OR CREATION OF A COURT, A DECREASE OR INCREASE IN THE NUMBER
26 OF JUDGES OF ANY COURT, OR A DECREASE OR INCREASE IN THE SALARY, PENSION,
27 OR OTHER ALLOWANCES OF ANY JUDGE.

28 (3) (I) CONTINUANCE IN OFFICE OF A JUDGE ELECTED UNDER THIS
29 SUBSECTION TO THE CIRCUIT COURT FOR THE CITY OR A COUNTY IS SUBJECT TO
30 CONFIRMATION BY THE REGISTERED VOTERS OF THE CITY OR COUNTY AT THE
31 GENERAL ELECTION NEXT OCCURRING 15 YEARS AFTER THE JUDGE WAS FIRST
32 ELECTED UNDER THIS SECTION AND EVERY 10 YEARS THEREAFTER.

33 (II) CONFIRMATION OF A JUDGE BY THE REGISTERED VOTERS UNDER
34 THIS PARAGRAPH SHALL BE A VOTE FOR THE JUDGE'S CONTINUANCE IN OFFICE FOR
35 A TERM OF 10 YEARS OR THE JUDGE'S REMOVAL. THE JUDGE'S NAME SHALL BE ON
36 THE APPROPRIATE BALLOT, WITHOUT OPPOSITION, AND THE VOTERS SHALL VOTE
37 FOR OR AGAINST CONTINUANCE IN OFFICE. IF THE VOTERS REJECT THE
38 CONFIRMATION OF A JUDGE IN OFFICE, OR IF THE VOTE IS TIED, THE OFFICE
39 BECOMES VACANT 10 DAYS AFTER CERTIFICATION OF THE ELECTION RETURNS.

40 (4) A CIRCUIT COURT JUDGE SHALL RETIRE WHEN THE JUDGE ATTAINS THE
41 AGE OF 70 YEARS.

1 (5) IF A JUDGE OF A CIRCUIT COURT IS UNABLE, BY REASON OF CONTINUED
2 SICKNESS OR OF MENTAL OR PHYSICAL DISABILITY, TO DISCHARGE THE DUTIES OF
3 OFFICE WITH EFFICIENCY, THE GENERAL ASSEMBLY, TWO-THIRDS OF ALL OF THE
4 MEMBERS ELECTED TO EACH HOUSE CONCURRING, WITH THE APPROVAL OF THE
5 GOVERNOR, MAY RETIRE THE JUDGE FROM OFFICE.

6 (c) The senior judge in length of service in each circuit shall be the chief judge
7 of the circuit. The other judges shall be associate judges.

8 (d) Except as otherwise provided by law, one judge shall constitute a quorum
9 for the transaction of any business.

10 (e) The terms of the circuit courts shall be determined by law.

11 [(f) A person is not ineligible for appointment or election as a judge because he
12 was a member of the General Assembly at a time when the number or salary of judges
13 were increased or decreased.]

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

15 6.

16 (A) FOR THE PURPOSE OF IMPLEMENTING THE AMENDMENTS TO ARTICLE IV
17 OF THIS CONSTITUTION PROPOSED BY CHAPTER ____ (S.B. __ / H.B. __)
18 (6LR1279/6LR1280) OF THE ACTS OF THE GENERAL ASSEMBLY OF 2006 DEALING WITH
19 THE ELECTION AND TENURE OF CIRCUIT COURT JUDGES, THE FOLLOWING
20 PROVISIONS SHALL GOVERN. IN ACCORDANCE WITH ARTICLE XIV, § 1A OF THIS
21 CONSTITUTION, THIS SECTION SHALL EXPIRE WHEN ALL OF THE JUDGES OF THE
22 CIRCUIT COURTS HAVE COMPLETED ALL OF THE TERMS FOR WHICH THE JUDGES
23 ARE RETAINED IN OFFICE UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION OR
24 HAVE VACATED THEIR OFFICES FOR ANY REASON.

25 (B) EACH JUDGE OF A CIRCUIT COURT WHO IS IN OFFICE FOR AN ELECTED
26 TERM ON THE EFFECTIVE DATE OF THESE AMENDMENTS, UNLESS THE JUDGE DIES,
27 RESIGNS, RETIRES, OR IS OTHERWISE LAWFULLY REMOVED, SHALL CONTINUE IN
28 OFFICE UNTIL THE NEXT GENERAL ELECTION FOLLOWING THE END OF THE
29 ELECTED TERM OR UNTIL THE JUDGE ATTAINS THE AGE OF 70 YEARS, WHICHEVER
30 FIRST OCCURS. CONTINUANCE OF THE JUDGE IN OFFICE THEN IS SUBJECT TO THE
31 PROVISIONS OF ARTICLE IV, § 21(B) OF THIS CONSTITUTION, BUT IN NO EVENT SHALL
32 ANY JUDGE CONTINUE IN OFFICE AFTER ATTAINING THE AGE OF 70 YEARS.

33 (C) EACH JUDGE OF A CIRCUIT COURT WHO IS IN OFFICE ON THE EFFECTIVE
34 DATE OF THESE AMENDMENTS, BUT WHO HAS NOT BEEN ELECTED TO THAT OFFICE
35 BY THE VOTERS, SHALL CONTINUE IN OFFICE UNTIL THE NEXT GENERAL ELECTION
36 FOLLOWING THE EXPIRATION OF 1 YEAR AFTER THE DATE OF THE OCCURRENCE OF
37 THE VACANCY TO WHICH THE JUDGE WAS APPOINTED. CONTINUANCE OF THE
38 JUDGE IN OFFICE THEN IS SUBJECT TO THE PROVISIONS OF ARTICLE IV, § 21(B) OF
39 THIS CONSTITUTION, BUT IN NO EVENT SHALL ANY JUDGE CONTINUE IN OFFICE
40 AFTER ATTAINING THE AGE OF 70 YEARS.

1 (D) THIS SECTION SUPERSEDES § 2 OF THIS ARTICLE TO THE EXTENT OF ANY
2 INCONSISTENCY.

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

8 SECTION 3. AND BE IT FURTHER ENACTED, That the foregoing section
9 proposed as an amendment to the Maryland Constitution shall be submitted to the
10 legal and qualified voters of this State at the next general election to be held in
11 November, 2006 for their adoption or rejection in pursuance of directions contained in
12 Article XIV of the Maryland Constitution. At that general election, the vote on this
13 proposed amendment to the Constitution shall be by ballot, and upon each ballot
14 there shall be printed the words "For the Constitutional Amendment" and "Against
15 the Constitutional Amendment," as now provided by law. Immediately after the
16 election, all returns shall be made to the Governor of the vote for and against the
17 proposed amendment, as directed by Article XIV of the Maryland Constitution, and
18 further proceedings had in accordance with Article XIV.