

**Department of Legislative Services**  
Maryland General Assembly  
2006 Session

**FISCAL AND POLICY NOTE**

House Bill 385

(Chairman, Judiciary Committee)

(By Request – Maryland Judicial Conference)

Judiciary

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**Circuit Court Judges - Election and Tenure**

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This constitutional amendment alters provisions relating to the election and tenure of circuit court judges by providing for uncontested confirmation elections for judges who have completed an initial 15-year elected term of office.

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**Fiscal Summary**

**State Effect:** Any computer reprogramming costs for the State Board of Elections to accommodate the changes to circuit court judicial elections implemented by this bill could be handled with existing resources.

**Local Effect:** The changes could be handled with existing resources of the local boards of election.

**Small Business Effect:** None.

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**Analysis**

**Bill Summary:** This constitutional amendment provides that upon a vacancy in a circuit court, the Governor must appoint a qualified individual to fill the vacancy. The Governor may not appoint an individual who will become 70 years old before the time for election of the individual's successor.

The appointee will hold office until the election of the appointee's successor, which must take place in a contested election following the expiration of one year after the date of the

occurrence of the vacancy. The individual elected at that time will hold office for 15 years, and will be subject to reelection in uncontested confirmation elections every 10 years after the completion of the individual's 15-year term. In these confirmation elections, the candidate appears unopposed on the ballot and voters vote for or against the candidate's continuance in office. If the candidate is not confirmed by the voters, or if the vote is tied, the office becomes vacant 10 days after certification of the election results.

The bill also provides that an elected circuit court judge in office on the effective date of this constitutional amendment shall continue in office until the next general election following the end of the judge's elected term or until the judge reaches the age of 70, whichever is earlier. The judge will then be subject to the election provisions of this bill.

Judges in office by way of gubernatorial appointment on the effective date of this constitutional amendment shall continue in office until the next general election following the expiration of one year after the occurrence of the vacancy. If the judge is elected to office, the judge will then be subject to the election provisions of this bill.

The bill keeps the mandatory retirement age for judges at 70 years. The bill also clarifies that a member of the General Assembly is not disqualified from judicial appointment solely because of membership in a General Assembly that proposed or enacted any constitutional amendment or statute affecting the method of selection, continuance in office, removal, or retirement of a judge, the abolition or creation of a court, a decrease or increase in the number of judges of any court, or a decrease or increase in the salary, pension, or other allowances of any judge.

**Current Law:** Circuit court judges are the only judges in Maryland subject to contested elections. 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 a 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.

A person cannot be deemed ineligible for judicial appointment or judicial election solely because the person was a member of a General Assembly at a time when the number or salary of judges was increased or decreased.

**Local 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. It is anticipated that the fiscal 2007 budgets of local election boards will contain funding for notifying qualified voters about proposed constitutional amendments for the 2006 general election in newspapers or on specimen ballots.

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### **Additional Information**

**Prior Introductions:** A similar bill, SB 261, was introduced in 1992 and received an unfavorable report from the Judicial Proceedings Committee.

**Cross File:** SB 206 (Chairman, Judicial Proceedings Committee) (By Request – Maryland Judicial Conference) – Judicial Proceedings.

**Information Source(s):** Somerset County, Montgomery County, Prince George's County, Charles County, Judiciary (Administrative Office of the Courts), State Board of Elections, Baltimore County, Frederick County, Department of Legislative Services

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