

HOUSE BILL 1363

D1
HB 271/05 – JUD

CONSTITUTIONAL AMENDMENT

71r3307

By: **Delegate Frush**

Introduced and read first time: March 2, 2007

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Circuit Court Judges – Election and Term of Office**

3 FOR the purpose of proposing an amendment to the Maryland Constitution relating to
4 the selection and tenure of circuit court judges; altering the method of filling
5 vacancies in the office of a judge of a circuit court; providing for retention
6 elections following an appointment to fill a vacancy in the office of a judge of a
7 circuit court; altering the term of office of circuit court judges; providing for a
8 transitional period under which the terms of certain amendments are to become
9 effective; making stylistic changes; generally relating to the selection, election,
10 appointment, tenure, and term of office for judges of the circuit courts; and
11 submitting this amendment to the qualified voters of the State of Maryland for
12 their adoption or rejection.

13 BY proposing an amendment to the Maryland Constitution
14 Article IV – Judiciary Department
15 Section 3, 5, 5A, and 11

16 BY proposing an addition to the Maryland Constitution
17 Article XVIII – Provisions of Limited Duration
18 Section 6

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

22 **Article IV – Judiciary Department**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 3.

2 [Except for the Judges of the District Court, the Judges of the several Courts
3 other than the Court of Appeals or any intermediate courts of appeal shall, subject to
4 the provisions of Section 5 of this Article of the Constitution, be elected in Baltimore
5 City and in each county, by the qualified voters of the city and of each county,
6 respectively, all of the said Judges to be elected at the general election to be held on
7 the Tuesday after the first Monday in November, as now provided for in the
8 Constitution. Each of the said Judges shall hold his office for the term of fifteen years
9 from the time of his election, and until his successor is elected and qualified, or until
10 he shall have attained the age of seventy years, whichever may first happen, and be
11 reeligible thereto until he shall have attained the age of seventy years, and not after.]
12 In case of the inability of any [of said Judges] **CIRCUIT COURT JUDGE** to discharge
13 [his] **THE JUDGE'S** duties with efficiency, by reason of continued sickness, or of
14 physical or mental infirmity, it shall be in the power of the General Assembly,
15 two-thirds of the members of each House concurring, with the approval of the
16 Governor to retire said Judge from office.

17 5.

18 [Upon every occurrence or recurrence of a vacancy through death, resignation,
19 removal, disqualification by reason of age or otherwise, or expiration of the term of
20 fifteen years of any judge of a circuit court, or creation of the office of any such judge,
21 or in any other way, the Governor shall appoint a person duly qualified to fill said
22 office, who shall hold the same until the election and qualification of his successor. His
23 successor shall be elected at the first biennial general election for Representatives in
24 Congress after the expiration of the term of fifteen years (if the vacancy occurred in
25 that way) or the first such general election after one year after the occurrence of the
26 vacancy in any other way than through expiration of such term.] Except in case of
27 reappointment of a judge, **SUBJECT TO THE PROVISIONS OF THIS ARTICLE**, upon
28 expiration of [his] **THE JUDGE'S** term [of fifteen years], no person shall be appointed
29 who will become disqualified by reason of age and thereby unable to continue to hold
30 office until the prescribed time when [his] **THE JUDGE'S** successor would have been
31 elected.

32 5A.

33 (a) A vacancy in the office of a judge of **A CIRCUIT COURT OR OF** an
34 appellate court, whether occasioned by the death, resignation, removal, retirement,
35 disqualification by reason of age, or rejection by the voters of an incumbent, the
36 creation of the office of a judge, or otherwise, shall be filled as provided in this section.

1 (b) Upon the occurrence of a vacancy the Governor shall appoint, by and with
2 the advice and consent of the Senate, a person duly qualified to fill [said office] **THE**
3 **VACANCY** who shall hold the [same] **OFFICE** until the election for continuance in
4 office as provided in subsections (c) [and], (d), **AND (E) OF THIS SECTION.**

5 (c) The continuance in office of a judge of the Court of Appeals, **FOLLOWING**
6 **AN APPOINTMENT TO FILL A VACANCY**, is subject to approval or rejection by the
7 registered voters of the appellate judicial circuit from which [he] **THE JUDGE** was
8 appointed at the next general election following the expiration of [one] **1** year from the
9 date of the occurrence of the vacancy which [he] **THE JUDGE** was appointed to fill, and
10 at the general election next occurring every [ten] **10** years thereafter.

11 (d) The continuance in office of a judge of the Court of Special Appeals,
12 **FOLLOWING AN APPOINTMENT TO FILL A VACANCY**, is subject to approval or
13 rejection by the registered voters of the geographical area prescribed by law at the
14 next general election following the expiration of [one] **1** year from the date of the
15 occurrence of the vacancy which [he] **THE JUDGE** was appointed to fill, and at the
16 general election next occurring every [ten] **10** years thereafter.

17 **(E) THE CONTINUANCE IN OFFICE OF A JUDGE OF A CIRCUIT COURT,**
18 **FOLLOWING AN APPOINTMENT TO FILL A VACANCY, IS SUBJECT TO APPROVAL**
19 **OR REJECTION BY THE REGISTERED VOTERS OF THE CITY OR COUNTY FROM**
20 **WHICH THE JUDGE WAS APPOINTED AT THE NEXT GENERAL ELECTION**
21 **FOLLOWING THE EXPIRATION OF 1 YEAR FROM THE DATE OF THE OCCURRENCE**
22 **OF THE VACANCY THAT THE JUDGE WAS APPOINTED TO FILL, AND AT THE**
23 **GENERAL ELECTION NEXT OCCURRING EVERY 10 YEARS THEREAFTER.**

24 [(e)] **(F)** The approval or rejection by the registered voters of a judge as
25 provided for in subsections (c) [and], (d), **AND (E) OF THIS SECTION** shall be a vote
26 for the judge's retention in office for a term of [ten] **10** years or [his] **THE JUDGE'S**
27 removal. The judge's name shall be on the appropriate ballot, without opposition, and
28 the voters shall vote yes or no for [his] **THE JUDGE'S** retention in office. If the voters
29 reject the retention in office of a judge, or if the vote is tied, the office becomes vacant
30 [ten] **10** days after certification of the election returns.

31 [(f)] **(G)** An appellate **OR CIRCUIT** court judge shall retire when [he] **THE**
32 **JUDGE** attains [his seventieth birthday] **THE AGE OF 70 YEARS.**

1 [(g)] (H) A member of the General Assembly who is otherwise qualified for
2 appointment to judicial office is not disqualified by reason of his membership in a
3 General Assembly which proposed or enacted any constitutional amendment or
4 statute affecting the method of selection. Continuance in office, or retirement or
5 removal of a judge, the creation or abolition of a court, an increase or decrease in the
6 number of judges of any court, or an increase or decrease in the salary, pension or
7 other allowances of any judge.

8 11.

9 The election for Judges, hereinbefore provided, and all elections for Clerks,
10 Registers of Wills, and other officers, provided in this Constitution, except State's
11 Attorneys, shall be certified, and the returns made, by the Clerks of the Circuit Courts
12 of the Counties, and the Clerk of the Superior Court of Baltimore City, respectively, to
13 the Governor, who shall issue commissions to the different persons for the offices to
14 which they shall have been, respectively, elected; and in all such elections for officers
15 other than judges of an appellate **OR CIRCUIT** court, the person having the greatest
16 number of votes, shall be declared to be elected.

17 **Article XVIII – Provisions of Limited Duration**

18 **6.**

19 **(A) FOR THE PURPOSE OF IMPLEMENTING THE AMENDMENTS TO**
20 **ARTICLE IV OF THE MARYLAND CONSTITUTION PROPOSED BY HOUSE BILL**
21 **_____ OF 2007 (7LR3307) CONCERNING THE SELECTION AND TENURE OF**
22 **CIRCUIT COURT JUDGES, THE FOLLOWING PROVISIONS SHALL GOVERN. IN**
23 **ACCORDANCE WITH ARTICLE XIV, SECTION 1A OF THE CONSTITUTION, THIS**
24 **SECTION SHALL EXPIRE WHEN ALL OF THE JUDGES OF THE CIRCUIT COURTS**
25 **HAVE COMPLETED ALL OF THE TERMS FOR WHICH THE JUDGES ARE RETAINED**
26 **IN OFFICE UNDER SUBSECTIONS (B) AND (C) OF THIS SECTION OR HAVE**
27 **VACATED THEIR OFFICES FOR ANY REASON.**

28 **(B) EACH JUDGE OF A CIRCUIT COURT WHO IS IN OFFICE FOR AN**
29 **ELECTED TERM ON THE EFFECTIVE DATE OF THESE AMENDMENTS, UNLESS THE**
30 **JUDGE DIES, RESIGNS, RETIRES, OR IS OTHERWISE LAWFULLY REMOVED, SHALL**
31 **CONTINUE IN OFFICE UNTIL THE NEXT GENERAL ELECTION AFTER THE END OF**
32 **THE ELECTED TERM OR UNTIL THE JUDGE ATTAINS THE AGE OF 70 YEARS,**
33 **WHICHEVER OCCURS FIRST. CONTINUANCE OF THE JUDGE IN OFFICE THEN IS**
34 **SUBJECT TO THE PROVISIONS OF ARTICLE IV, SECTION 5A OF THE**

1 **CONSTITUTION, BUT IN NO EVENT SHALL ANY JUDGE CONTINUE IN OFFICE**
2 **AFTER ATTAINING THE AGE OF 70 YEARS.**

3 **(C) EACH JUDGE OF A CIRCUIT COURT WHO IS IN OFFICE ON THE**
4 **EFFECTIVE DATE OF THESE AMENDMENTS, BUT WHO HAS NOT BEEN ELECTED**
5 **TO THAT OFFICE BY THE VOTERS, SHALL, WITHIN 15 DAYS AFTER THE**
6 **EFFECTIVE DATE OF THESE AMENDMENTS, BE REAPPOINTED TO THAT OFFICE.**
7 **CONTINUANCE OF THE JUDGE IN OFFICE THEN IS SUBJECT TO THE PROVISIONS**
8 **OF ARTICLE IV, SECTION 5A OF THE CONSTITUTION, BUT IN NO EVENT SHALL**
9 **ANY JUDGE CONTINUE IN OFFICE AFTER ATTAINING THE AGE OF 70 YEARS.**

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

15 SECTION 3. AND BE IT FURTHER ENACTED, That the foregoing section
16 proposed as an amendment to the Maryland Constitution shall be submitted to the
17 legal and qualified voters of this State at the next general election to be held in
18 November, 2008 for their adoption or rejection pursuant to Article XIV of the
19 Maryland Constitution. At that general election, the vote on this proposed amendment
20 to the Constitution shall be by ballot, and upon each ballot there shall be printed the
21 words "For the Constitutional Amendment" and "Against the Constitutional
22 Amendment," as now provided by law. Immediately after the election, all returns shall
23 be made to the Governor of the vote for and against the proposed amendment, as
24 directed by Article XIV of the Maryland Constitution, and further proceedings had in
25 accordance with Article XIV.