

Department of Legislative Services
Maryland General Assembly
2010 Session

FISCAL AND POLICY NOTE

House Bill 1385

(Delegate Cardin)

Judiciary

Circuit Court Judges - Election, Qualifications, 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 to 10 years following election.

Fiscal Summary

State Effect: None.

Local Effect: If approved by the General Assembly, this constitutional amendment will be submitted to the voters at the 2010 general election. It should not result in additional costs for the local 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 this constitutional amendment continues in office until the next general election after the end of the elected term. Thereafter, continuance of the judge in office becomes subject to the retention election method described above; and
- each circuit court judge in office, but who has not been elected to that office as of the effective date of this constitutional amendment, 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 retention election method described above.

This bill does not alter the prohibition on a circuit court judge continuing in office after attaining the age of 70. Also, altering the terms of office for circuit court judges does not directly affect when and how judges qualify to receive benefits under the judicial pension system.

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.

On 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:

- if the vacancy occurs due to the expiration of a 15-year term, at the first general election following the expiration of the term; or
- if 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.

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. It is anticipated that the budgets of local election boards will contain funding for notifying qualified voters about proposed constitutional amendments for the 2010 general election in newspapers or on specimen ballots.

Additional Information

Prior Introductions: HB 1275 of 2008 received an unfavorable report from the House Judiciary Committee. HB 1363 of 2007 was withdrawn. HB 271 of 2005 received an unfavorable report in the House Judiciary Committee. Similar bills were also introduced in 2003 and 2004.

Cross File: SB 833 (The President, *et al.*) (By Request - Departmental - Office of the Attorney General) - Judicial Proceedings.

Information Source(s): Charles, Frederick, Montgomery, and Somerset counties; Judiciary (Administrative Office of the Courts); Department of Legislative Services

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