

Department of Legislative Services  
Maryland General Assembly  
2013 Session

**FISCAL AND POLICY NOTE**

Senate Bill 295 (Senator Zirkin)  
Judicial Proceedings

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**Circuit Court Judges - Election, Qualifications, and Term of Office**

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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.

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**Fiscal Summary**

**State Effect:** None. It is assumed that the potential for increased costs to include any constitutional amendments proposed by the General Assembly on the ballot at the next general election will have been anticipated in the State Board of Elections' budget.

**Local Effect:** None. It is assumed that the potential for increased costs to notify voters of any constitutional amendments proposed by the General Assembly, and to include any proposed constitutional amendments on the ballot at the next general election, will have been anticipated in local boards of elections' budgets.

**Small Business Effect:** None.

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**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.

**State Fiscal Effect:** State costs of printing absentee and provisional ballots may increase to the extent inclusion of the proposed constitutional amendment on the ballot at the next general election would result in a need for a larger ballot card size or an additional ballot card for a given ballot (the content of ballots varies across the State, depending on the offices, candidates, and questions being voted on). Any increase in costs, however, is expected to be relatively minimal, and it is assumed that the potential for such increased costs will have been anticipated in the State Board of Elections' budget. Pursuant to Chapter 564 of 2001 (HB 1457), the State Board of Elections shares the costs of printing paper ballots with the local boards of elections.

**Local Fiscal Effect:** Local boards of elections' printing and mailing costs may increase to include information on the proposed constitutional amendment with specimen ballots mailed to voters prior to the next general election and to include the proposed amendment on absentee and provisional ballots. It is assumed, however, that the potential for such increased costs will have been anticipated in local boards of elections' budgets.

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### **Additional Information**

**Prior Introductions:** HB 375 and HB 309 of 2011 were referred to the House Judiciary Committee, but subsequently withdrawn. HB 1385 of 2010 received a hearing in the House Judiciary Committee, but no further action was taken. Its cross file, SB 833, received a hearing in the Senate Judicial Proceedings Committee, but no further action was taken. Similar bills were also introduced in the 2008, 2007, 2005, 2004, and 2003 sessions.

**Cross File:** None.

**Information Source(s):** Carroll, Cecil, Harford, Montgomery, Queen Anne's, and St. Mary's counties; Judiciary (Administrative Office of the Courts); Department of Legislative Services

**Fiscal Note History:** First Reader - February 22, 2013  
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