

Department of Legislative Services  
 Maryland General Assembly  
 2014 Session

FISCAL AND POLICY NOTE

House Bill 726 (Delegate Frush, *et al.*)  
 Judiciary

Judges - Mandatory Retirement Age

This proposed constitutional amendment, if approved by the voters at the next general election, would raise the mandatory retirement age for judges from age 70 to 75.

Fiscal Summary

**State Effect:** If approved by the voters, State pension contributions would decrease by \$1.5 million in FY 2017 because savings generated by deferred judicial retirements more than offset any increase in benefits generated by additional service credit earned during more years on the bench. Savings continue to accrue based on actuarial assumptions; all judicial benefits are paid with general funds by the Judiciary. Any deviation in actual behavior from actuarial assumptions may increase or decrease these results. 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.

(in dollars)	FY 2015	FY 2016	FY 2017	FY 2018	FY 2019
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	0	0	(1,465,000)	(1,516,000)	(1,568,000)
Net Effect	\$0	\$0	\$1,465,000	\$1,516,000	\$1,568,000

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** 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.

## Analysis

**Current Law:** Article IV, § 3 of the Maryland Constitution institutes mandatory retirement for all circuit, District, and appellate court judges at age 70. However, retired judges, except retired Orphans' Court judges, may be appointed on a temporary basis by the Chief Judge of the Court of Appeals to serve as a judge on any court except an Orphans' Court, regardless of age. There are exceptions that allow former circuit court judges in Montgomery and Harford counties to perform acts that a judge of the Orphans' Court in their respective counties is authorized to perform.

### *Judges' Retirement System*

All circuit, District, and appellate court judges are members of the Judges' Retirement System (JRS) as a condition of their employment. The employee contribution for JRS members is 8% of compensation, but after 16 years of service, members cease making employee contributions and earning service credit.

Eligibility requirements for normal service retirements under JRS differ for members who joined before July 1, 2012, and those who joined on or after that date. Members who joined prior to that date vest immediately and are eligible to retire at age 60. Members who joined on or after that date vest after five years and are also eligible to retire at age 60. A full service retirement is equal to two-thirds of the salary of a judge sitting in a similar position as the retiree at the time of termination of employment or retirement; retirees with fewer than 16 years of service in JRS receive a prorated benefit based on their years of service.

**Background:** As of June 30, 2013, there were 288 active members of JRS. Their average age is 58.3 and their average service is 9.6 years.

**State Fiscal Effect:** The bill would enable judges to accrue up to five additional years of service credit in JRS, assuming they have not reached the 16-year maximum by the time they reach age 70. However, to the extent that judges remain employed for up to an additional five years, they defer payment of their retirement benefits, which generates a savings to the State Retirement and Pension System. As a result, the General Assembly's consulting actuary adjusted retirement rate estimates to assume that most judges will continue to serve on the bench beyond the age of 70. The actuary advises that the delayed retirements reflected in these changes more than offset any increase in benefits for judges resulting from longer tenures on the bench. As a result, State pension liabilities and contribution rates decrease. However, any deviation in actual behavior from the assumption that judges will continue to serve on the bench beyond age 70 would alter these results.

Assuming the proposed amendment is approved at the November 2014 general election, any increase in service credit as well as changes to actuarial retirement rates for judges would first be recognized in the June 30, 2015 actuarial valuation, which establishes contribution rates for fiscal 2017. State pension contributions in fiscal 2017 decrease by \$1,465,000 with savings continuing to accrue in the out-years according to actuarial assumptions.

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### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts), Cheiron, Maryland State Retirement Agency, Department of Legislative Services

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