

SENATE BILL 502

D1
SB 847/15 – JPR

CONSTITUTIONAL AMENDMENT

6lr1388
CF HB 481

By: ~~Senators Miller, Bates, Benson, Conway, Currie, DeGrange, Eckardt,~~
~~Edwards, Guzzone, Jennings, Kagan, King, Klausmeier, Lee, Madaleno,~~
~~Manno, Mathias, Middleton, Norman, Peters, Pinsky, Pugh, Ramirez,~~
~~Salling, Serafini, Waugh, and Zirkin~~

Introduced and read first time: February 3, 2016

Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 24, 2016

CHAPTER _____

1 AN ACT concerning

2 **Judges – Mandatory Retirement Age**

3 FOR the purpose of proposing amendments to the Maryland Constitution altering the
4 mandatory retirement age for certain judges under certain circumstances; repealing
5 certain obsolete provisions; making certain technical corrections; making certain
6 stylistic changes; proposing an addition to the Maryland Constitution to provide for
7 the application of certain amendments to the Maryland Constitution; and submitting
8 this amendment to the qualified voters of the State for their adoption or rejection.

9 BY proposing an amendment to the Maryland Constitution

10 Article IV – Judiciary Department

11 Section 3, 3A, 5A(c) through (g), and 41D

12 BY proposing a repeal of the Maryland Constitution

13 Article IV – Judiciary Department

14 Section 18B

15 BY proposing an addition to the Maryland Constitution

16 Article IV – Judiciary Department

17 Section 18B

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



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

4 **Article IV – Judiciary Department**

5 3.

6 (A) Except for the Judges of the District Court, the Judges of the several Courts
7 other than the Court of Appeals or any intermediate courts of appeal shall, subject to the
8 provisions of Section 5 of this Article of the Constitution, be elected in Baltimore City and
9 in each county, by the qualified voters of the city and of each county, respectively, all of the
10 said Judges to be elected at the general election to be held on the Tuesday after the first
11 Monday in November, as now provided for in the Constitution.

12 (B) Each of the said Judges shall hold [his] **THE** office for the term of fifteen years
13 from the time of [his] **THE JUDGE’S** election, and until [his] **THE JUDGE’S** successor is
14 elected and qualified, or until [he] **THE JUDGE** shall have attained the age of [seventy]
15 **SEVENTY–THREE** years, whichever may first happen, and be reeligible thereto until [he]
16 **THE JUDGE** shall have attained the age of [seventy] **SEVENTY–THREE** years, and not
17 after.

18 (C) In case of the inability of any of said Judges to discharge [his] **THE JUDGE’S**
19 duties with efficiency, by reason of continued sickness, or of physical or mental infirmity,
20 it shall be in the power of the General Assembly, two-thirds of the members of each House
21 concurring, with the approval of the Governor to retire said Judge from office.

22 3A.

23 (a) (1) Except as provided in paragraph (2) of this subsection, any former
24 judge, except a former judge of the Orphans’ Court, may be assigned by the Chief Judge of
25 the Court of Appeals, upon approval of a majority of the court, to sit temporarily in any
26 court of this State, except an Orphans’ Court, as provided by law.

27 (2) (i) A retired judge of the Circuit Court for Montgomery County that
28 sits as the Orphans’ Court for Montgomery County may be assigned by the Chief Judge of
29 the Court of Appeals, upon approval of a majority of the Court of Appeals, to do an act that
30 a judge of the Orphans’ Court for Montgomery County is authorized to perform.

31 (ii) A retired judge of the Circuit Court for Harford County that sits
32 as the Orphans’ Court for Harford County may be assigned by the Chief Judge of the Court
33 of Appeals, upon approval of a majority of the Court of Appeals, to do an act that a judge of
34 the Orphans’ Court for Harford County is authorized to perform.

35 (b) The provisions of this section apply, notwithstanding provisions appearing
36 elsewhere in this Article pertaining to retirement of judges upon attaining age [70] **73**.

1 5A.

2 (c) The continuance in office of a judge of the Court of Appeals is subject to
3 approval or rejection by the registered voters of the appellate judicial circuit from which
4 [he] **THE JUDGE** was appointed at the next general election following the expiration of one
5 year from the date of the occurrence of the vacancy which [he] **THE JUDGE** was appointed
6 to fill, and at the general election next occurring every ten years thereafter.

7 (d) The continuance in office of a judge of the Court of Special Appeals is subject
8 to approval or rejection by the registered voters of the geographical area prescribed by law
9 at the next general election following the expiration of one year from the date of the
10 occurrence of the vacancy which [he] **THE JUDGE** was appointed to fill, and at the general
11 election next occurring every ten years thereafter.

12 (e) The approval or rejection by the registered voters of a judge as provided for in
13 subsections (c) and (d) shall be a vote for the judge's retention in office for a term of ten
14 years or [his] **THE JUDGE'S** removal. The judge's name shall be on the appropriate ballot,
15 without opposition, and the voters shall vote yes or no for [his] **THE JUDGE'S** retention in
16 office. If the voters reject the retention in office of a judge, or if the vote is tied, the office
17 becomes vacant ten days after certification of the election returns.

18 (f) An appellate court judge shall retire when [he] **THE JUDGE** attains [his] **THE**
19 **JUDGE'S** [seventieth] **SEVENTY-THIRD** birthday.

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

26 [18B.

27 (a) For the purpose of implementing the amendments to this article, dealing with
28 the selection and tenure of appellate court judges, the following provisions shall govern.

29 (b) Each judge of an appellate court who is in office for an elected term on the
30 effective date of these amendments, unless he dies, resigns, retires, or is otherwise lawfully
31 removed, shall continue in office until the general election next after the end of his elected
32 term, or until his seventieth birthday, whichever first occurs. His continuance in office is
33 then subject to the provisions of section 5A(c) and (d) of this article, applicable to judges of
34 that court, but in no event shall any judge continue in office after his seventieth birthday.

35 (c) Each judge of a court specified in subsection (b) who is in office on the effective
36 date of these amendments, but who has not been elected to that office by the voters, shall,

1 within fifteen days after the effective date of these amendments, be reappointed to that
 2 office. His continuance in office is then subject to the provisions of section 5A(c) and (d) of
 3 this article, applicable to judges of that court, but in no event shall any judge continue in
 4 office after his seventieth birthday.]

5 **18B.**

6 **(A) THE AMENDMENTS TO §§ 3, 3A, 5A, AND 41D OF THIS ARTICLE**
 7 **ALTERING THE MANDATORY RETIREMENT AGE OF JUDGES SHALL APPLY TO EACH**
 8 **JUDGE WHO:**

9 **(1) ~~IS ELECTED, REELECTED, APPOINTED, OR REAPPOINTED~~ FIRST**
 10 **ELECTED OR APPOINTED TO OFFICE ON OR AFTER THE DATE ON WHICH THE**
 11 **GOVERNOR ISSUES A PROCLAMATION UNDER ARTICLE XIV, § 1 OF THIS**
 12 **CONSTITUTION DECLARING THE AMENDMENTS TO BE ADOPTED; OR**

13 **~~(2) (i) IS UNDER THE AGE OF SEVENTY YEARS AS OF THE DATE ON~~**
 14 **~~WHICH THE GOVERNOR ISSUES A PROCLAMATION UNDER ARTICLE XIV, § 1 OF THIS~~**
 15 **~~CONSTITUTION DECLARING THE AMENDMENTS TO BE ADOPTED;~~**

16 **~~(ii) REACHES THE AGE OF SEVENTY YEARS BEFORE THE DATE~~**
 17 **~~THAT THE JUDGE IS ELIGIBLE TO BE ELECTED, REELECTED, APPOINTED, OR~~**
 18 **~~REAPPOINTED; AND~~**

19 **~~(iii) APPLIES FOR, AND IS GRANTED, AN EXTENSION BY THE~~**
 20 **~~GOVERNOR TO SERVE UNTIL THE JUDGE COMPLETES THE JUDGE'S CURRENT TERM~~**
 21 **~~OR ATTAINS THE AGE OF SEVENTY-THREE YEARS, WHICHEVER OCCURS FIRST.~~**

22 **(2) (i) IS IN OFFICE ON THE DATE ON WHICH THE GOVERNOR**
 23 **ISSUES A PROCLAMATION UNDER ARTICLE XIV, § 1 OF THIS CONSTITUTION**
 24 **DECLARING THE AMENDMENTS TO BE ADOPTED;**

25 **(ii) WILL REACH THE AGE OF SEVENTY YEARS BEFORE THE**
 26 **JUDGE COMPLETES THE END OF THE JUDGE'S TERM; AND**

27 **(iii) APPLIES FOR, AND IS GRANTED, AN EXTENSION BY THE**
 28 **GOVERNOR TO SERVE UNTIL THE JUDGE COMPLETES THE JUDGE'S TERM OR**
 29 **ATTAINS THE AGE OF SEVENTY-THREE YEARS, WHICHEVER OCCURS FIRST.**

30 **(B) THE GOVERNOR MAY EXTEND A JUDGE'S TERM FOR THE PURPOSE OF**
 31 **IMPLEMENTING SUBSECTION (A)(2) OF THIS SECTION.**

32 41D.

1 **(A) (1)** The Governor, by and with the advice and consent of the Senate, shall
2 appoint each judge of the District Court whenever for any reason a vacancy shall exist in
3 the office.

4 **(2)** All hearings, deliberations, and debate on the confirmation of
5 appointees of the Governor shall be public, and no hearings, deliberations or debate thereon
6 shall be conducted by the Senate or any committee or subcommittee thereof in secret or
7 executive session.

8 **(3)** Confirmation by the Senate shall be made upon a majority vote of all
9 members of the Senate.

10 **(4)** A judge appointed by the Governor may take office upon qualification
11 and before confirmation by the Senate, but shall cease to hold office at the close of the
12 regular annual session of the General Assembly next following [his] **THE JUDGE'S**
13 appointment or during which [he] **THE JUDGE** shall have been appointed by the Governor,
14 if the Senate shall not have confirmed [his] **THE JUDGE'S** appointment before then.

15 **(B) (1)** Each judge appointed by the Governor and confirmed by the Senate
16 shall hold the office for a term of ten years or until [he] **THE JUDGE** shall have attained
17 the age of [seventy] **SEVENTY-THREE** years, whichever may first occur.

18 **(2)** If the ten year term of a judge shall expire before that judge shall have
19 attained the age of [seventy] **SEVENTY-THREE** years, that judge shall be reappointed by
20 the Governor, with the Senate's consent, for another ten year term or until [he] **THE JUDGE**
21 shall have attained the age of [seventy] **SEVENTY-THREE** years, whichever may first
22 occur.

23 **(C)** To the extent inconsistent herewith, the provisions of Sections 3 and 5 of this
24 Article shall not apply to judges of the District Court.

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

29 **SECTION 3. AND BE IT FURTHER ENACTED,** That the foregoing section
30 proposed as an amendment to the Maryland Constitution shall be submitted to the
31 qualified voters of the State at the next general election to be held in November 2016 for
32 their adoption or rejection pursuant to Article XIV of the Maryland Constitution. At that
33 general election, the vote on this proposed amendment to the Constitution shall be by
34 ballot, and upon each ballot there shall be printed the words "For the Constitutional
35 Amendment" and "Against the Constitutional Amendment," as now provided by law.
36 Immediately after the election, all returns shall be made to the Governor of the vote for and
37 against the proposed amendment, as directed by Article XIV of the Maryland Constitution,
38 and further proceedings had in accordance with Article XIV.