

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
Third Reader

House Bill 824

(Cecil County Delegation)

Health and Government Operations

Judicial Proceedings

Cecil County - Orphans' Court Judges - Traveling Expense Allowance and Pension

This bill increases, from \$780 to \$1,600 annually, the allowance for traveling expenses for each judge of the orphans' court for Cecil County, which is to be paid by the county. The bill also specifies that compensation for the judges must be paid quarterly by the county. The bill requires the county to pay a pension to each judge of the orphans' court who has completed at least 12 years in office.

Pursuant to constitutional requirements, the increase in travel expenses takes effect at the beginning of the next term of office. The bill's provisions regarding pensions are retroactive and apply to any individual who, on or after July 1, 2014, was serving as an elected or appointed judge of the orphans' court for Cecil County.

Otherwise, the bill takes effect July 1, 2016.

Fiscal Summary

State Effect: The bill does not materially impact State pension liabilities.

Local Effect: Cecil County expenditures increase by approximately \$3,300 in FY 2019 and by at least \$6,600 annually thereafter. **This bill imposes a mandate on a unit of local government.**

Small Business Effect: None.

Analysis

Current Law: Orphans' court judges in Cecil County must receive annual compensation of \$7,500 in fiscal 2017 and \$8,750 for fiscal 2018 and beyond. Each judge also receives an annual allowance of \$780 for traveling expenses, which is paid quarterly by the county commissioners.

Except in specified counties, including Cecil County, counties must pay a pension to each judge of the orphans' court who has terminated active service, reached age 60, and completed at least two terms of office. The salary or pension must be the greater of \$1,200 annually or an annual amount calculated at the rate of 4% of the last annual amount of compensation multiplied by the number of years or partial years of service, not exceeding 12 years. Pursuant to Chapter 182 of 2015, judges of the orphans' court in Cecil County are members of the State Employees' Pension System.

Article III, § 35 of the Maryland Constitution prohibits the salary or compensation of any public officer from being increased or diminished during the individual's term of office, except those whose full term is fixed by law in excess of four years. Because the travel expenses set forth by the bill are of a set amount (and not based on actual expenses), the Office of the Attorney General advises that it is considered compensation. Accordingly, the increase must take effect at the beginning of the next term of office.

Background: Under the Maryland Constitution, each county elects, for a term of four years, three judges to the orphans' court of their respective jurisdictions, with the exception of Montgomery and Harford counties, where a circuit court judge sits as the orphans' court. The orphans' courts are the State's probate courts. The courts supervise the handling of estates and also have certain jurisdiction over the guardianship of minors and their property. The salaries of orphans' court judges are paid by county governments and Baltimore City (except for Harford and Montgomery counties because the State pays the salaries of circuit court judges).

Local Expenditures: Cecil County expenditures increase by approximately \$3,300 in fiscal 2019 and by \$6,600 annually thereafter. This estimate accounts for the increase in the travel allowance taking place in January 2019 (the beginning of the next term) and assumes that one judge becomes eligible for the pension in fiscal 2019. Future year expenditures may increase to the extent that additional judges of the orphans' court meet pension eligibility requirements.

Additional Information

Prior Introductions: None.

Cross File: None.

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

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mel/kdm

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