

Department of Legislative Services
 Maryland General Assembly
 2025 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 74 (Senator Muse)
 Judicial Proceedings

Judges – Mandatory Retirement Age

This proposed constitutional amendment, if approved by the voters at the next general election, would raise the mandatory retirement age, from 70 to 75, for justices of the Supreme Court of Maryland and judges of the Appellate Court of Maryland, circuit courts, and the District court.

Fiscal Summary

State Effect: If approved by the voters at referendum, State pension liabilities likely *decrease* by approximately \$24.0 million and the normal cost decreases by \$1.3 million. Therefore, State pension contributions (general funds) likely decrease by \$4.6 million beginning in FY 2029; out-years reflect actuarial assumptions. No effect on revenues.

(\$ in millions)	FY 2026	FY 2027	FY 2028	FY 2029	FY 2030
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	0	0	0	(4.55)	(4.69)
Net Effect	\$0.00	\$0.00	\$0.00	\$4.55	\$4.69

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

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law/Background: Specified provisions of Article IV of the Maryland Constitution institute 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 Justice of the Supreme Court of Maryland to serve as a judge on any court except an orphans' court, regardless of age. Exceptions allow former circuit court judges in Harford and Montgomery counties to perform acts that a judge of the orphans' court in their respective counties is authorized to perform.

Most judges within the State are appointed and retained through a hybrid process. At all four court levels (the Supreme Court of Maryland, the Appellate Court of Maryland, circuit courts, and the District Court), the Governor appoints a qualified member of the Maryland Bar in the case of a vacancy or the creation of a new judgeship. For both appellate courts, these appointments must be confirmed by the Maryland Senate and the judge or justice holds the office until the first general election following the expiration of one year from the date of the occurrence of the vacancy. At the general election, the incumbent judge's or justice's name is placed on the ballot without opposition and citizens vote for or against the retention of the judge for a 10-year term. For the District Court, judges are appointed by the Governor and serve 10-year terms upon confirmation by the Senate; when they reach the end of their term, they must be reappointed by the Governor with the Senate's consent.

Circuit court judges are also appointed by the Governor and must stand for election at the first general election following the expiration of one year after the occurrence of the vacancy. However, unlike the justices/judges on the appellate courts, they are elected to 15-year terms (which begin following their election) and may face a contested election in which any member of the Maryland Bar who meets the minimum constitutional requirements may challenge the incumbent judges by filing as a candidate.

There is no salary scale for judges or justices; rather, their compensation is dictated by the court on which they sit, not their tenure in that position.

Judges' Retirement System

All circuit, District, and appellate court judges and justices 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 5 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.

As of June 30, 2024, there were 322 active members of JRS with an average age of 57.7. At that time, the average age at retirement for JRS retirees was 65.6 years.

State Expenditures: The proposed constitutional amendment does not alter the total number of sitting judges, and reduced turnover among judges as a result of longer terms on the bench has no effect on judicial compensation, which is not linked to tenure. Therefore, the proposed constitutional amendment has no direct effect on the State’s judicial payroll.

Longer Terms for Sitting Judges

The proposed constitutional amendment allows current judges who remain in service and who reach age 70 *on or after* November 2026 to remain in office until age 75 instead of having to retire at age 70. Judges who complete 16 years of service before reaching age 70 already maximize their pension benefit. Thus, the proposed constitutional amendment only adds to pension liabilities for judges that do not, or will not, complete 16 years of service prior to reaching age 70.

The proposed constitutional amendment is subject to approval by the voters at the November 3, 2026 general election. If approved, the amendment would take effect shortly thereafter, when the Governor issues a proclamation that it was adopted. Based on age and tenure information for the 322 active members of JRS:

- 27 judges reach age 70 before the amendment takes effect and have to retire, so the bill does not affect them;
- 45 judges reach age 70 after the amendment takes effect but before accruing the full 16 years of service (assuming they continue serving until age 70); and
- 250 attain the full 16 years of service before reaching age 70 (assuming they continue serving that long).

Pension Costs

For this analysis, the General Assembly’s consulting actuary adjusted the retirement assumptions for JRS and amortized new accrued liabilities over 11 years, consistent with the State Retirement and Pension System’s amortization policy. Specifically, the actuary delayed the 100% retirement assumption *at* age 70 (the current age of mandatory retirement) to 100% retirement *by* age 75, phased in with 25% of judges retiring by ages 70 or 71, 50% retiring by ages 72 or 73, and 75% retiring by age 74.

Based on these assumptions, the proposed constitutional amendment has two offsetting effects on pension costs, but the net effect is a reduction in State pension costs. It likely *increases* pension costs for the estimated 45 current judges who will turn 70 before earning the maximum 16 years of service credit in JRS. These judges may earn up to 5 more years

of service credit in JRS under the proposed constitutional amendment. However, the proposed amendment likely *reduces* pension costs by allowing 295 judges to defer their retirement for up to 5 years, thereby reducing their total pension payments.

The actuary has determined that any additional service credit earned by sitting judges able to work for more years is more than offset by actuarial savings generated by deferred benefit payments to all judges who reach age 70 after the constitutional amendment is enacted. Therefore, there is likely a net savings to the State in the form of reduced pension liabilities and employer contributions due to members working longer at an advanced age.

If the constitutional amendment is approved by the voters in November 2026, the change in retirement age would first be recognized with the June 30, 2027 actuarial valuation, which determines pension contribution rates for fiscal 2029. Thus, there is no fiscal effect until fiscal 2029. The actuary estimates that pension liabilities decrease by \$24.0 million, and the normal cost decreases by \$1.3 million. Amortizing the reduction in liabilities over 11 years and adding the full normal cost savings results in first-year savings in State pension contributions of \$4.6 million, with savings continuing to accrue in future years according to actuarial assumptions. JRS contributions are paid with general funds. To the extent that actual retirement patterns differ from the assumptions used in this analysis, the fiscal effects will differ.

All judges appointed for the first time following the approval of the amendment would be eligible for the longer terms, but they are subject to a five-year vesting period and, therefore, would not be eligible for retirement during the time period covered by this fiscal and policy note. To the extent that the proposed constitutional amendment causes future judges to work past the age of 70, it likely reduces future State pension liabilities and contributions due to deferred retirements.

Additional Comments: Judges are entitled to unlimited paid sick leave for any period of an illness or temporary disability that precludes them from carrying out their judicial duties. To the extent that older judges may be more likely to use their unlimited sick leave benefits, and thereby would need to be replaced on the bench during their absence, personnel expenditures for the Judiciary (Administrative Office of the Courts) may increase. This analysis does not reflect those potential costs because they cannot be reliably quantified.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Bolton; Judiciary (Administrative Office of the Courts); State Retirement Agency; Department of Legislative Services

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