

HOUSE BILL 375

D1
HB 1385/10 – JUD

CONSTITUTIONAL AMENDMENT

11r1204

By: **Delegates Cardin, Beidle, Bobo, Bromwell, Feldman, Frick, James, Lafferty, Luedtke, Murphy, Reznik, B. Robinson, and S. Robinson**
Introduced and read first time: February 3, 2011
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Circuit Court Judges – Election, Qualifications, and Term of Office**

3 FOR the purpose of proposing an amendment to the Maryland Constitution relating to
4 the selection and tenure of circuit court judges; altering the method of filling
5 vacancies in the office of a judge of a circuit court; providing for retention
6 elections following an appointment to fill a vacancy in the office of a judge of a
7 circuit court; altering the term of office of circuit court judges; altering certain
8 qualifications for appointment of circuit court judges; providing for a
9 transitional period during which the terms of certain amendments are effective;
10 repealing certain obsolete provisions; making stylistic changes; generally
11 relating to the selection, election, appointment, qualification, tenure, and term
12 of office for judges of the circuit courts; and submitting this amendment to the
13 qualified voters of the State for their adoption or rejection.

14 BY proposing an amendment to the Maryland Constitution
15 Article IV – Judiciary Department
16 Section 2, 3, 5A, 11, and 21(a)

17 BY proposing a repeal of the Maryland Constitution
18 Article IV – Judiciary Department
19 Section 5; 18B and the part “Part IIA – Interim Provisions”; and 21A

20 BY proposing an addition to the Maryland Constitution
21 Article XVIII – Provisions of Limited Duration
22 Section 6

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

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 **Article IV – Judiciary Department**

2 2.

3 The Judges of all of the said Courts shall be citizens of the State of Maryland,
 4 and qualified voters under this Constitution, and shall have resided therein not less
 5 than [five] **5** years, and not less than [six] **6** months next preceding their [election, or]
 6 appointment[, as the case may be,] in the city, county, district, judicial circuit,
 7 intermediate appellate judicial circuit or appellate judicial circuit for which they may
 8 be[, respectively, elected or] appointed. They shall be not less than [thirty] **30** years of
 9 age at the time of their [election or] appointment, and shall be selected from those who
 10 have been admitted to practice law in this State, and who are most distinguished for
 11 integrity, wisdom and sound legal knowledge.

12 3.

13 [Except for the Judges of the District Court, the Judges of the several Courts
 14 other than the Court of Appeals or any intermediate courts of appeal shall, subject to
 15 the provisions of Section 5 of this Article of the Constitution, be elected in Baltimore
 16 City and in each county, by the qualified voters of the city and of each county,
 17 respectively, all of the said Judges to be elected at the general election to be held on
 18 the Tuesday after the first Monday in November, as now provided for in the
 19 Constitution. Each of the said Judges shall hold his office for the term of fifteen years
 20 from the time of his election, and until his successor is elected and qualified, or until
 21 he shall have attained the age of seventy years, whichever may first happen, and be
 22 reeligible thereto until he shall have attained the age of seventy years, and not after.]
 23 In case of the inability of any [of said Judges] **CIRCUIT COURT JUDGE** to discharge
 24 [his] **THE JUDGE’S** duties with efficiency, by reason of continued sickness, or of
 25 physical or mental infirmity, it shall be in the power of the General Assembly,
 26 two-thirds of the members of each House concurring, with the approval of the
 27 Governor to retire said Judge from office.

28 [5.

29 Upon every occurrence or recurrence of a vacancy through death, resignation,
 30 removal, disqualification by reason of age or otherwise, or expiration of the term of
 31 fifteen years of any judge of a circuit court, or creation of the office of any such judge,
 32 or in any other way, the Governor shall appoint a person duly qualified to fill said
 33 office, who shall hold the same until the election and qualification of his successor. His
 34 successor shall be elected at the first biennial general election for Representatives in
 35 Congress after the expiration of the term of fifteen years (if the vacancy occurred in
 36 that way) or the first such general election after one year after the occurrence of the
 37 vacancy in any other way than through expiration of such term. Except in case of
 38 reappointment of a judge upon expiration of his term of fifteen years, no person shall
 39 be appointed who will become disqualified by reason of age and thereby unable to
 40 continue to hold office until the prescribed time when his successor would have been
 41 elected.]

1 [5A.] 5.

2 (a) A vacancy in the office of a judge of **A CIRCUIT COURT OR** an appellate
3 court, whether occasioned by the death, resignation, removal, retirement,
4 disqualification by reason of age, or rejection by the voters of an incumbent, the
5 creation of the office of a judge, or otherwise, shall be filled as provided in this section.

6 (b) Upon the occurrence of a vacancy the Governor shall appoint, by and with
7 the advice and consent of the Senate, a person duly qualified to fill [said office] **THE**
8 **VACANCY** who shall hold the [same] **OFFICE** until the election for continuance in
9 office as provided in subsections (c) [and], (d), **AND (E) OF THIS SECTION.**

10 (c) The continuance in office of a judge of the Court of Appeals, **FOLLOWING**
11 **AN APPOINTMENT TO FILL A VACANCY**, is subject to approval or rejection by the
12 registered voters of the appellate judicial circuit from which [he] **THE JUDGE** was
13 appointed at the next general election following the expiration of [one] **1** year from the
14 date of the occurrence of the vacancy which [he] **THE JUDGE** was appointed to fill, and
15 at the general election next occurring every [ten] **10** years thereafter.

16 (d) The continuance in office of a judge of the Court of Special Appeals,
17 **FOLLOWING AN APPOINTMENT TO FILL A VACANCY**, is subject to approval or
18 rejection by the registered voters of the geographical area prescribed by law at the
19 next general election following the expiration of [one] **1** year from the date of the
20 occurrence of the vacancy which [he] **THE JUDGE** was appointed to fill, and at the
21 general election next occurring every [ten] **10** years thereafter.

22 **(E) THE CONTINUANCE IN OFFICE OF A JUDGE OF A CIRCUIT COURT,**
23 **FOLLOWING AN APPOINTMENT TO FILL A VACANCY, IS SUBJECT TO APPROVAL**
24 **OR REJECTION BY THE REGISTERED VOTERS OF BALTIMORE CITY OR THE**
25 **COUNTY FROM WHICH THE JUDGE WAS APPOINTED AT THE NEXT GENERAL**
26 **ELECTION FOLLOWING THE EXPIRATION OF 1 YEAR FROM THE DATE OF THE**
27 **OCCURRENCE OF THE VACANCY THAT THE JUDGE WAS APPOINTED TO FILL, AND**
28 **AT THE GENERAL ELECTION NEXT OCCURRING EVERY 10 YEARS THEREAFTER.**

29 **[(e)] (F)** The approval or rejection by the registered voters of a judge as
30 provided for in subsections (c) [and], (d), **AND (E) OF THIS SECTION** shall be a vote
31 for the judge's retention in office for a term of [ten] **10** years or [his] **THE JUDGE'S**
32 removal. The judge's name shall be on the appropriate ballot, without opposition, and
33 the voters shall vote yes or no for [his] **THE JUDGE'S** retention in office. If the voters
34 reject the retention in office of a judge, or if the vote is tied, the office becomes vacant
35 [ten] **10** days after certification of the election returns.

36 **[(f)] (G)** An appellate **OR CIRCUIT** court judge shall retire when [he] **THE**
37 **JUDGE** attains [his seventieth birthday] **THE AGE OF 70 YEARS.**

1 **BALTIMORE CITY AND** each county and circuit. These judges shall be selected in
2 accordance with [Sections 3 and 5] **PART II** of this Article.

3 [21A.

4 If the amendments to sections 3 and 21 of Article IV proposed by House Bill
5 972, Senate Bill 390 (1976) and the amendments to those sections proposed by House
6 Bill 1048 (1976) are ratified by the voters at the election in November 1976, the
7 amendments to those sections proposed in House Bill 972, Senate Bill 390 (1976) shall
8 take effect.]

9 **Article XVIII – Provisions of Limited Duration**

10 **6.**

11 **(A) FOR THE PURPOSE OF IMPLEMENTING THE AMENDMENTS TO**
12 **ARTICLE IV OF THE MARYLAND CONSTITUTION PROPOSED BY HOUSE BILL**
13 **_____ OF 2011 (1LR 1204) CONCERNING JUDGES OF THE CIRCUIT COURTS, THE**
14 **FOLLOWING PROVISIONS SHALL GOVERN. IN ACCORDANCE WITH ARTICLE XIV,**
15 **SECTION 1A OF THE MARYLAND CONSTITUTION, THIS SECTION SHALL EXPIRE**
16 **WHEN ALL OF THE JUDGES OF THE CIRCUIT COURTS HAVE COMPLETED ALL OF**
17 **THE TERMS FOR WHICH THE JUDGES ARE RETAINED IN OFFICE UNDER**
18 **SUBSECTIONS (B) AND (C) OF THIS SECTION OR HAVE VACATED THEIR OFFICES**
19 **FOR ANY REASON.**

20 **(B) EACH JUDGE OF A CIRCUIT COURT WHO IS IN OFFICE FOR AN**
21 **ELECTED TERM ON THE EFFECTIVE DATE OF THESE AMENDMENTS, UNLESS THE**
22 **JUDGE DIES, RESIGNS, RETIRES, OR IS OTHERWISE LAWFULLY REMOVED, SHALL**
23 **CONTINUE IN OFFICE UNTIL THE NEXT GENERAL ELECTION AFTER THE END OF**
24 **THE ELECTED TERM OR UNTIL THE JUDGE ATTAINS THE AGE OF 70 YEARS,**
25 **WHICHEVER OCCURS FIRST. CONTINUANCE OF THE JUDGE IN OFFICE IS THEN**
26 **SUBJECT TO THE PROVISIONS OF ARTICLE IV, SECTION 5 OF THE MARYLAND**
27 **CONSTITUTION, BUT IN NO EVENT SHALL ANY JUDGE CONTINUE IN OFFICE**
28 **AFTER ATTAINING THE AGE OF 70 YEARS.**

29 **(C) EACH JUDGE OF A CIRCUIT COURT WHO IS IN OFFICE ON THE**
30 **EFFECTIVE DATE OF THESE AMENDMENTS, BUT WHO HAS NOT BEEN ELECTED**
31 **TO THAT OFFICE BY THE VOTERS, SHALL, WITHIN 15 DAYS AFTER THE**
32 **EFFECTIVE DATE OF THESE AMENDMENTS, BE REAPPOINTED TO THAT OFFICE.**
33 **CONTINUANCE OF THE JUDGE IN OFFICE IS THEN SUBJECT TO THE PROVISIONS**
34 **OF ARTICLE IV, SECTION 5 OF THE MARYLAND CONSTITUTION, BUT IN NO**
35 **EVENT SHALL ANY JUDGE CONTINUE IN OFFICE AFTER ATTAINING THE AGE OF**
36 **70 YEARS.**

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

6 SECTION 3. AND BE IT FURTHER ENACTED, That the foregoing section
7 proposed as an amendment to the Maryland Constitution shall be submitted to the
8 qualified voters of the State at the next general election to be held in November, 2012
9 for their adoption or rejection pursuant to Article XIV of the Maryland Constitution.
10 At that general election, the vote on this proposed amendment to the Constitution
11 shall be by ballot, and upon each ballot there shall be printed the words “For the
12 Constitutional Amendment” and “Against the Constitutional Amendment,” as now
13 provided by law. Immediately after the election, all returns shall be made to the
14 Governor of the vote for and against the proposed amendment, as directed by Article
15 XIV of the Maryland Constitution, and further proceedings had in accordance with
16 Article XIV.