

Department of Legislative Services
Maryland General Assembly
2018 Session

FISCAL AND POLICY NOTE
Third Reader

Senate Bill 173

(Senator Hershey)

Judicial Proceedings

Health and Government Operations

Kent County - Orphans' Court Judges - Compensation

This bill repeals provisions of law establishing the annual compensation and travel expense allowance of orphans' court judges for Kent County and instead establishes that the judges are to receive a salary as set by the county commissioners and an allowance for travel expenses in accordance with the county budget. The county commissioners must continue to pay the travel allowance quarterly. **Pursuant to constitutional requirements, the changes take effect at the beginning of the next term of office.**

Fiscal Summary

State Effect: None.

Local Effect: Potential increase or decrease in Kent County salary expenditures beginning in FY 2019. Local revenues are not affected.

Small Business Effect: None.

Analysis

Current Law: Orphans' court judges in Kent County must receive annual compensation of \$4,000. Each judge also receives an annual allowance for traveling expenses of \$520, which must be paid quarterly by the county commissioners.

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. The Attorney General

has advised that when the travel expenses as set forth in statute are of a set amount (and not based on actual expenses), it is considered compensation.

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: County expenditures for orphans' court judges may increase or decrease, depending on action taken by the county council and county executive. Because constitutional provisions prohibit the increase or decrease of salaries during a term of office, any potential impact is not realized until after the 2018 election.

Additional Information

Prior Introductions: None.

Cross File: HB 225 (Delegate Jacobs, *et al.*) - Health and Government Operations.

Information Source(s): Kent County; Judiciary (Administrative Office of the Courts); Department of Legislative Services

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