

HOUSE COMMITTEE ON JUDICIARY
Public Hearing on SB 812
May 8, 2013

I am Milo Pope. I am an inactive member of the Oregon State Bar. I was admitted to the bar in 1967. I chose "inactive" status in January of this year. Since 1967 I have practiced law or served as a circuit judge in Eastern Oregon. My law practice was rural and general.

I served as Circuit Court Judge in Judicial District 8, Baker County, from 1989 through January 2001. District 8 continues to be a one judge district.

I am familiar with the rules concerning judge disqualification.

Although I am familiar with the term, so far as I know, I was never inconvenienced by "judge shopping." I doubt that it is a serious problem. Senate Bill 812 is intended to deter the practice by limiting judge disqualifications in judicial districts having "three or fewer circuit court judges." (SB 812, line 31.) It is a bad idea that deserves far more scrutiny that it has had.

Like most other lawyers I have known, I rarely disqualified a judge. Like most judges I have known, being disqualified was not discomfoting.

Litigants are entitled to a judge who is conscientious, impartial, without bias, prejudice or sympathy for against any party. ORS 14.250 provides that a judge may be disqualified if "any party or attorney believes that such party or attorney cannot have a fair and impartial trial or hearing before such judge." (Emphasis mine.)

Judges are people just as you legislators are people. You are expected to bring your education and experience to the task. You are permitted, also, to advocate for your own interests and values.

Judges, on the other hand, must bring complete impartiality to the task. Public confidence in our judicial system depends first upon the belief that facts may be established and the law applied impartially. Period. To assure public confidence, a "reasonable belief" must remain a basis for judge qualification.

The amendment presented in SB 812 is a solution looking for a problem.

- It discriminates against litigants and lawyers in rural judicial districts.
- It puts public confidence in the judiciary at risk in those districts.
- It is a proposition that should be examined by the appropriate committees of the Oregon State Bar and the Oregon Judicial Conference.