

Testimony of Robert Van Natta
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RE: SJR-4

Hearing February 17, 2015

I write to support SJR-4 that is designed to dispose of the current mandatory retirement requirement for judges. There is some disagreement as to the extent of the current law. On its face it speaks of mandatory retirement at age 75, but it doesn't directly address the question of whether one who is not a judge can file and be elected judge if they are over 75. The Secretary of State's office has taken the position that the provision bars one over age 75 from even filing for judge. Efforts to litigate the issue have failed for procedural reasons. In fairness to the Secretary of State, however, I understand that she is the moving force behind SJ-4.

A provision similar to the current one has been ruled unconstitutional in the state of Illinois for equal protection/due process reasons.

In any event, if there ever was a time for that sort of legislation, the time is in the past. Times have changed. Customary retirement ages are advancing. Social Security retirement age has already advanced to 70 and it may be increased further.

In particular, this is a serious women's issue. Many women have entered the workforce as attorneys and judges. They, in particular, live longer and are healthier in old age than many men. Additionally, they have often not made as much money as men traditionally have; and they are not as financially secure as many men.

It strikes me that it's unfair and unreasonable to require retirement in the arbitrary and one size fits all manner described in current law. SJR-4 should be adopted.

I did some of the legal work on the failed effort to litigate in Oregon and what I came to understand was that the provision in Oregon has less than an honorable past. My research suggests that it arose from the pique of a single influential legislator who strongly disagreed with the decisions of a particular Supreme Court judge of the time, and he came upon this mandatory retirement as a way to push this judge off the bench. The story goes on to the effect that the elderly target retired anyway. Ultimately the legislative advocate was elevated to the Oregon Supreme Court and became one of the first to be ensnared in the trap that he, himself, had set.

