

Dear Committee Members:

I hope to attend the hearing in Salem on Tuesday morning at 8:00 a.m. My testimony will be short and to the point.

You who sit in the legislature and are deciding this issue have no age restriction on holding office, nor do any other elected Oregon officials of which I am aware. Is it the title of the office you are holding that makes you less prone to diminished mental acuity which seems to be the reasoning for limiting ELECTED judges? I say ELECTED judges since RETIRED judges can sit on the bench at any age if the Oregon Chief Justice feels they are competent.

Past history shows that so few elected Oregon judges want to work full time past the age of 75 that changing the law will: 1) will not have any impact on the Courts, 2) put Oregon up there with the majority of the States and further enhance our standing as one of the more enlightened- a status we have, and hold highly.

The Chief Justice of Oregon can, at any time, decide that a sitting judge is no longer physically or mentally capable of handling the position and resolve the problem by seeing that the person "voluntarily" retires or is referred to the Judicial Fitness Committee. I personally know of 2 judges, friends of mine, who had suffered strokes and were so impaired that the Chief visited them and encouraged them to retire which they did – both of them younger than 75. If an elected Judge should serve beyond 75 and become "unable" the Chief Justice has the tools to resolve the problem.

People who want to argue this issue can find examples, reasons and authority for either position. One reason for arguing against change may be that anyone who wants to work full time past the age of 75 may be, by that very fact, mentally impaired :O)

Common sense would seem to indicate that by changing this law we have come to the realization that while age often slows the body it also often harbors in the mind very valuable experience and wisdom. This wisdom and experience can be shared and should not be lost by a stupid arbitrary age limitation.

As a historical footnote: I served with 3 judges who I vividly recall that did not want to retire at age 75: Mercedes Diaz, Richard "Dick" Burke and **Anthony L. "Tony" Casciato, all Multnomah County Judges**. I took the Oregon State Bar exam with Mercedes Deiz in 1960, as did Agnes Petersen, and became an Oregon Judge one year before Mercedes who became my friend over those years. To say she was unhappy about her forced retirement because of this law is to put it mildly.

Thank you for reading and ,hopefully, listening.

Donald L. Kalberer
Senior Judge, State of Oregon