

REVENUE: No revenue impact
FISCAL: Fiscal statement issued
SUBSEQUENT REFERRAL TO:

Action:

Vote:

Yeas:

Nays:

Exc.:

Prepared By: Erin Seiler, Administrator

Meeting Dates: 3/12, 3/24, 4/7

WHAT THE MEASURE DOES: Proposes amendment to Oregon Constitution to prohibit Legislative Assembly or people from fixing age for mandatory retirement of judges. Refers amendment to voters at next regular general election.

ISSUES DISCUSSED:

- Amendment
- Ability of voters' to address mandatory retirement age through direct democracy
- Impact of mandatory retirement age on who seeks judgeship
- Lack of mandatory retirement age for other elected offices

EFFECT OF COMMITTEE AMENDMENT:

-2 amendment: Proposes amendment to repeal mandatory retirement age for judges. Refers amendment to voters at next regular general election.

BACKGROUND: There is no mandatory retirement age for judges at the federal level. At the state level, 33 states plus the District of Columbia currently have a mandatory retirement age for judges, but that number is in flux as mandatory retirement has been the topic of several initiatives as well as court cases throughout the nation.

Oregon's judicial retirement requirement is in Section 1a, Article VII of the Oregon Constitution, which mandates that a judge of any court retire at the end of the calendar year in which "he" reaches the age of 75 years. This section also states that the Legislative Assembly or the people may by law fix a lesser age for mandatory retirement not to be earlier than the end of the calendar year in which the judge attains the age of 70 years. Oregon's mandatory retirement age was challenged in 2014 by Attorney Agnes Peterson in a case filed against the Secretary of State alleging age and gender discrimination, as well as the unconstitutionality of Section 1a. The case was dismissed.

In 1959, 21-member statewide Legislative Interim Committee on Judicial Administration committee issued a report, which included the determination that a mandatory retirement age would address the issues of judicial congestion and delay. The report resulted in Senate Joint Resolution 3, 1959, mandating that a judge of any court retire at the end of the calendar year in which "he" reaches the age of 75 years. The resolution was adopted by voters' in 1960.

Senate Joint Resolution 4 repeals the mandatory retirement age and instead states that the Legislative Assembly or the people may not fix an age for mandatory retirement for judges of any court. If passed, Senate Joint Resolution 4 will be submitted to the people for their approval or rejection at the next which mandates that a judge of any court retire at the end of the calendar year in which "he" reaches the age of 75 years regular general election.

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This summary has not been adopted or officially endorsed by action of the committee.