

Testimony of Chief Justice Thomas A. Balmer

To the Public Safety Subcommittee, Ways & Means Committee

February 24, 2016

Mr. Co-chairs and members, I am Tom Balmer, Chief Justice of the Oregon Supreme Court. With me today is Judge Jodie Mooney, a Lane County Circuit Court judge and president of the Oregon Circuit Court Judges Association.

I would like to thank the co-chairs for holding this hearing. How the state compensates judges is an important topic for both our branches of government, and for anyone who cares about the quality of justice in Oregon.

That's why it's my priority this session, and will continue to be.

I would also like to thank the subcommittee members who signed a letter of support for HB 4145 this session. You are among the 46 legislators supporting that bill. Signers came from both parties, in both chambers. We hope that having this level of support from all four caucuses contributes in some way to finding areas of agreement between the chambers and caucuses this legislative session.

Oregon's problems with judicial compensation have been decades in the making. I don't expect them to be solved overnight, but it is critical that we take steps now to maintain the high quality of the Oregon bench as an increasing number of judges approach retirement.

By any measure, Oregon's state judges are underpaid.

- **When compared to judges in other states.** The most recent salary survey from the National Center for State Courts, which we have submitted for your record, shows that as of July 1, 2015 Oregon's circuit judges are 45th in the country in absolute salary, and 50th of 51 jurisdictions when adjusted for cost of living. Oregon has not been ranked higher than 42nd in this century.
- **When compared to the recommendations from the 2008 Oregon Public Officials Compensation Commission,** which studied elected official salaries in all three branches. The POCC recommended that circuit judges be paid \$132,000 per year starting in 2009, which still is nearly \$5,000 more than they currently receive.
- **When compared to other Oregon lawyers.** The 2012 economic survey conducted by the Oregon State Bar shows that the average salary in 2011 for Oregon lawyers responding to the survey was what circuit judges were making last year – about \$125,000. And the longer you have been practicing in Oregon (and the older you get), the average grows to \$145,000 in your 40's, and \$167,000 in your 60's.
- **And finally, when compared to other public lawyers** – especially those that appear before them on a regular basis. According to the state's transparency website, which contains data from June 2015, the Deputy Attorney General makes more than the Chief Justice. And so does the Legislative Counsel and his chief deputy. Almost 500 state employees make more than a circuit judge, including about 100 Senior Assistant Attorneys General. And that's just lawyers working

for the state – no district attorneys or their senior deputies, or general counsel in other public agencies.

I don't point out those salaries to imply that they are inappropriate – only to point out that this is what the market is paying for these skilled, experienced attorneys. Because our judicial salaries lag so far behind the market for that group, we are not likely to find our next generation of judges from that pool of experienced public and private lawyers – the economic sacrifice is too great.

Last session, the legislature approved a mechanism to provide an ongoing cost-of-living adjustment for judicial salaries. I deeply appreciate that, because you addressed a major problem. The increases granted to judges every five years or so basically just addressed inflation and did not address paying judges for the work that they do.

But Oregon's bench – which has so many excellent judges – is aging. We need to adopt a schedule of increases now in order to keep those judges on the bench, so they don't seek other professional opportunities because they see no path to remain on the bench. And even if you choose not to adopt a schedule now, let's at least agree on the policy that Oregon should pay its judges the median salary of similar judges in comparable states, as recommended by the POCC almost 10 years ago.

We need to increase compensation to be able to continue recruiting the best Oregon lawyers – including those in high-demand litigation and specialty practices – to the bench.

We need these new judges to take the bench not as the final chapter in their career, but to give them time so they can learn the skills it takes to preside over the incredible array of cases and issues that are presented to them every day in Oregon's circuit courts.

In summary, Mr. co-chairs, it is not a comfortable position to come here and ask for a raise. It can sound self-serving, and I know that it competes against many other needs.

But in order to maintain the high quality of Oregon's bench, we need to be able to attract and retain Oregon's best lawyers, and we need to stay within shouting distance of the salaries for those lawyers.

We need judges who can help people that can't afford a lawyer try to solve highly-emotional child custody issues with wisdom and compassion, to face victims of crime and create a sense and a reality of justice, and also be able to interpret and apply complex contract provisions and decide cases worth millions – or hundreds of millions – of dollars.

So I would close by asking you not just to think of the cost of having these highly-qualified judges on the bench, but what it would cost to not have them.

Thank you and I would be glad to answer questions.