

**Testimony in Opposition to HB 4115
Before the House Committee On Business and Labor**

February 12, 2018

Chair Holvey and members of the committee:

The Oregon State Bar's number one priority is access to justice. This means maintaining a fair and impartial judiciary that is open and accessible to all Oregonians. Oregon is fortunate to have a highly-ethical bench and a Code of Judicial Conduct that establishes ethics standards for judges and helps ensure the integrity of any judicial proceedings.

The Code requires judges to give people in cases the right to be heard, to not be swayed by public clamor or fear of criticism, to not be swayed by personal or political interests or relationships, and most importantly – to uphold the law and apply it fairly, impartially, and without bias or prejudice.

Judges are members of their communities, and as with all public officials judges are frequently called on to rule on matters that have more general impacts on their lives. The Rule of Necessity says that when an issue impacts all members of society, judges are still called on to hear the case even if their impartiality might otherwise be questioned. This exception has been cited in past cases and is an established part of Oregon law. In fact, this question was raised with the Oregon Supreme Court in its deliberations on the most recent PERS-related case, *Moro v. State of Oregon*. We have attached a copy of the Court's ruling in this matter, which notes that judges have a duty to follow the law and to decide cases put before it, and that the Legislative Assembly specifically sent any legal challenges to its PERS legislation directly to the Supreme Court.

HB 4115 would remove legislators and judges from the Public Employees Retirement System on the theory that they cannot make fair and impartial decisions regarding the system if they themselves are among the thousands of Oregonians that are a part of it. However, the overwhelming majority of all cases, especially at the appellate level, are decided based solely on the facts of the case, the Constitution, and laws of the State of Oregon.

Judges are personally impacted by thousands of labor, tax, health, safety, criminal, environmental and land use regulations in Oregon every day. It is not possible to wall judges off from society or remove them from every system that could impact them personally, and if we required judges to recuse themselves from any case which might impact them in any way, our judicial bench would be empty.

The Oregon State Bar believe that our judges are able to continue to fairly and impartially carry out their duties and responsibilities, and stands ready to work with the legislature on any issue that helps provide a fair and impartial justice system.