



OREGON JUDICIAL DEPARTMENT  
Office of the State Court Administrator

February 12, 2018  
**(SENT BY EMAIL ONLY)**

The Honorable Paul Holvey, Chair  
House Committee on Business and Labor  
H-277 Oregon State Capitol  
900 Court Street NE  
Salem, OR 97301

Re: HB 4115

Dear Chair Holvey:

The Oregon Judicial Department (OJD) is not taking a position on House Bill 4115, but wanted to provide some information for your consideration to assist in your deliberations on the bill.

The OJD shares the concern of the sponsor about perceived conflicts of interest held by some people about judges hearing cases relating to the Public Employee Retirement System (PERS). Courts rely on the public's trust and confidence, and work diligently to avoid conflicts that would diminish that trust. Judicial Department judges are members of PERS, although under a system that operates significantly differently than the regular PERS system.

I have attached an opinion from the Oregon Supreme Court that specifically addresses a motion seeking to recuse members of the Supreme Court from hearing the recent *Moro v. State of Oregon* case because of a perceived conflict of interest. The Court denied that motion and gave a detailed legal analysis for its ruling. The Court pointed out the Legislative Assembly specifically directed the Supreme Court to hear any challenge to the 2013 legislation in question and Oregon's statutes provided no other mechanism to have the case heard. I also have attached a letter to the editor written by retired Oregon Supreme Court Justice W. Michael Gillette that summarizes that ruling.

In your review of HB 4115, OJD also wants to ensure that the Assembly is aware of the provision in Article VII, Section 1 of the Oregon Constitution that prohibits reducing judicial compensation during the term for which the judge is elected. OJD cannot provide additional comment on how or whether the bill addresses that question, because we have not completed our financial analysis and because HB 4115 directs any challenges to the legislation directly to the Supreme Court.

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Finally, we ask that in reviewing HB 4115 the Legislature continue to structure any judicial retirement system in a way that promotes judicial service beyond a judge's retirement from full-time service. Having a mechanism to encourage retired judges to continue providing service has become an essential part of operating an efficient judicial system in Oregon. Most judges do continue service on a limited basis, which helps meet a shortfall in elected judicial positions, and allows the Judicial Department to assist judicial districts throughout Oregon address shortages in judicial resources due to caseload increases, disqualification by parties, vacations, and illness.

I hope this information is useful to you and the committee.

Sincerely,





Phillip Lemman  
Government and Media Relations Manager  
Oregon Judicial Department

PL:ma/18dPL001ma

ec: Committee Members  
Rep. Ron Noble  
Jan Nordlund  
Nancy Cozine, State Court Administrator

Attachments:

 HB 4115 - Moro  
order on Rule of Necc

 HB 4115, Gillette lr  
to the editor.pdf