

Dear Chair Kropf, Vice-chairs Wallan and Andersen, and committee members,

I fully support SB 807. Unlike many states, Oregon has chosen to provide for the election of judges. Trial court judges are elected by the voters in the judicial districts they serve. Those voters, including the attorneys in public office and in private practice, can either support or oppose the re-election of a sitting judge using the democratic process to either continue or end the service of that judge. Opposition, to be effective, would need to come in the form of offering voters reasons why the judge should not continue to serve.

SB 807 goes a long way to preventing an end run around this constitutionally established democratic process. Without the protection of SB 807, a district attorney, or groups of unelected private practitioners, can effectively remove a sitting judge from office without offering any reason to either the judge or those voters who chose the judge in an open election. This is simply inconsistent with Oregon's established constitutional practice.

The duty of a judge to be impartial is fundamental and reflected in the judicial oath of office. A judge's inability to be so is always grounds for removal for cause. When removal of a judge, however, is based solely on a **subjective** belief of bias **as allowed under ORS 14.260**, there should be checks and balances to avoid abuse of this statute of legislative grace. *See State v. Ovalle*, 325 Or App 538, 548 (2023) (**ORS 14.260 "is merely an extension of legislative grace"**).

SB 807 provides a reasonable, commonsense check on lawyers' use of ORS 14.260. In the extreme situation when a district attorney or group of public defenders wants to remove a judge from all criminal cases, the lawyer must – if requested by the subject judge - establish that a reasonable person would perceive the judge as biased. This is the standard in the judicial oath of office and in every criminal case in 36 states. If a lack of impartiality cannot be shown, the judge in question can continue to serve the voters that placed the judge in office. That is the proper outcome.

I hope that you will support SB 807 and protect the right of Oregonians to choose their judges.

Sincerely,

s/ Henry Breithaupt

Henry Breithaupt

Retired Oregon Tax Court Judge

Retired Pro Tem Circuit Court Judge (Multnomah and Clackamas Counties)