



## League of Women Voters State Ballot Measure Review 2016 Measure 94 Judicial Retirement Amendment

Amends Constitution: Eliminates mandatory retirement age for state judges.

**Referral:** This measure is a constitutional amendment referred to voters by the 2015 Oregon Legislature as SJR 4 with a vote of 30 in favor to 0 against in the Senate and 41 in favor to 17 against in the House.

**Financial Impact:** According to the Oregon Financial Estimate Committee there will be no financial impact to state revenue or expenditures. There will also be no financial impact on local government revenue or expenditures.

**Probable results of a YES VOTE:** If this ballot measure passes, the current wording of Oregon Constitution Article VII, Section 1a, will be amended to eliminate the wording requiring that Oregon judges retire before the end of their 75th year. Eliminating this language from that section would do away with mandatory retirement ages for judges.

**Probable results of a NO VOTE:** If this ballot measure fails, the current wording of Oregon Constitution Article VII, Section 1a, would remain unchanged. Judges in Oregon would be required to retire from the bench before the end of their 75th year.

**Background:** In 1959 a 21-member statewide Legislative Interim Committee on Judicial Administration issued a report, which included the determination that a mandatory retirement age would address the issues of judicial bottleneck 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. In 1992 Mercedes Deiz, Oregon's first African-American female judge, retired in 1992 after 22 years on the bench in Multnomah County. At the time, she told *The Oregonian* "I very much wish I could stay. When I am ready to retire, I would retire."

In 2014 Oregon attorney Agnes Petersen formally challenged the state's mandatory retirement age, calling it unconstitutional and discriminatory against both age and gender. Petersen alleged the section discriminates against women because it uses male pronouns. A section of the law states, "a judge of any court shall retire from judicial office at the end of the calendar year in which he attains the age of 75 years." She filed the lawsuit after the secretary of state did not allow her to run for judge because she was past the age of 75, but the case was thrown out. She also launched a write in campaign for the bench, but fell short of winning.

During the 2015 legislative session Senate Joint Resolution 4 was introduced at the request of Governor Kate Brown. This proposal is now before the voters to determine whether or not the existing retirement age mandate for judges should stand.

**Proposal:** Measure 94 would eliminate the current Constitutional requirement that state judges retire from the bench at age 75.

### **Supporters Say:**

- The state already has a process to remove unqualified judges.
- Promoting judicial diversity is better addressed by recruitment of qualified candidates.
- Oregonians lose a great deal of collective and valuable judicial experience when capable and willing judges cannot choose to continue to serve past age 75.

### **Opponents Say:**

- There is no evidence that mandatory judicial retirement harms the judiciary.
- Mandatory retirement ages help the judiciary by injecting new ideas and new judges into the mix.
- The mandatory retirement age of 75, approved by more than 82 percent of Oregon voters in 1960, was based upon two years of in-depth research on the relationship between aging and efficiency. Until new data emerges, there is no reason to change the Constitution.

### [How We Researched the Ballot Measures](#)

League of Women Voters members have researched and written these ballot measure reports. Researchers try to verify all factual information. We work diligently to ensure that our reports are balanced, accurate, and fair. We strive to provide the information you need to make an informed VOTE! Our sources include:



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- Financial Impact and Explanatory Statements from the Secretary of State
- Measure supporters and opponents
- State agencies and economists
- Reports and published information, including current press coverage