

Testimony for Senate Gov Ops – 4-6-2023

Good afternoon, Madame Chair and Committee members. Thank you so much for allowing me to testify on the Prop 1 Constitutional Amendment. Judge McKeeman has done a great job reporting the general sentiments of our colleagues and I'd like to thank her for herding us cats!

I'd like to add my own perspective, having now served as a legislator for 24 years and an Assistant Judge since the end of November. When I was approached to run last summer, I have to admit that I really didn't know what Assistant Judges did, so I did my due diligence to find out before I threw my hat in the ring. I have to tell you that the most frequently asked question I encountered on the campaign trail was, "what does an Assistant Judge do?" I don't think I met anyone who already knew.

As a former law maker considering new legislation, my first question was always, "What is the problem we are trying to fix and does this bill do it?" I was also encouraged to memorialize my fears as part of the permanent record.

Do I support the proposed amendment as written? I see an opportunity to make some improvements such as a residency requirement and an easier way to remove Assistant Judges short of impeachment, who may have made bad choices. What does cause me pause is the broad authority this would give a future legislature to require qualifications that would be counterproductive, especially given the fact that most people, in my experience, don't know what Assistant Judges do.

For instance, there may be an inclination to require that all Assistant Judges be attorneys. While on the surface that might make sense to some, I think it would be a terrible mistake. I posed this to one of my office mates in Brattleboro with years of experience in the Judiciary and she said that that would be unfortunate. Assistant Judges, who are

among other things, finders of fact, are, in her words, “the human eyes on a case. The presiding judges are the legal eyes”, so a law degree is not necessary and, in fact, would be duplicative and potentially counterproductive. A handful of Assistant Judges are attorneys, but even they agree that it isn’t necessary.

Other practical aspects include the fact that if that qualification was instituted, the majority of existing Assistant Judges would be disqualified and all the training we have had and our institutional knowledge would be lost. Additionally, it would be hard to find attorneys who would run for the office, given the significant cut in pay they would take.

Now, this is just one example of what could happen, and I know, even if this passes all the hurdles a Constitutional amendment requires, it would not happen for several years, but I thought it important to mention.

What I have found is that my legislative experience has been invaluable to my work as an Assistant Judge. Legislators are finders of fact, just as we are. Legislators bring their own personal experience to the job of legislating, which is why it is so important to have a wide range of experience in the body. But I would never want to require that all legislators be attorneys just because they are making laws.

Again, Madame Chair, I appreciate the opportunity to provide my somewhat unique perspective and am more than happy to answer any questions the committee members might have. Thanks very much.