

Challenge to Prop. 66 by former EDC supervisor

By Kathryn Reed

Former El Dorado County Supervisor Ron Briggs wants the state Supreme Court to overturn Proposition 66, which voters narrowly approved in November.

“Prop. 66 is a sloppily written document, failing several constitutional tests,” Briggs told *Lake Tahoe News*. “... from firsthand experiences we know it takes approximately 17 years post penalty phase to work toward exoneration.”

The end goal for him is to have the court deem Proposition 66 unconstitutional.

The intent of the prosecutors who wrote Proposition 66 was for the state Supreme Court to rule on death penalty appeals within five years of sentencing. Today it usually takes 10 years or longer for that to occur.

Briggs said changing the “appeals process creates a system ripe for executing the wrong person. If the state is going to execute condemned persons, it must be perfect. Rushing anything is fraught with errors.”

Briggs filed the challenge with former Attorney General John Van de Kamp.

It was Briggs’ father, John Briggs, who as a state senator in 1978 sponsored the state’s current death penalty law.

In a July 2016 column in the *Sacramento Bee*, Ron Briggs wrote, “Though I was once California’s biggest proponent of the death penalty, I now feel compelled to admit the policy is destructive to our great state. What we didn’t know then is that the death penalty would become an industry that benefits

only attorneys and criminals, and no one else. It's an extreme expense to taxpayers, does not make our communities safer and fails to deliver the justice it promised."

Briggs used a local case as an example of how the system is flawed. Joseph Nissensohn, 64, was sentenced to death June 5, 2014, for the murder of a South Lake Tahoe teenager and two others.

"That case cost El Dorado County \$3.1 million to send a (then) 62-year-old man to Death Row. The \$3.1 million came out of our General Fund that pays for libraries, roads, sheriff, mental health, senior services and on," Brigg said. "At the time in 2013 the \$3.1 million represented two-thirds of the county's total contingency. And for what purpose? The average appellate time is 24 years post penalty phase. Life without parole would have cost the county about \$750,000 and had the same effect in sending that monster away forever. Instead, he now has three appeals pending with two full-time attorneys along with a special care status instead of being in general population. This puts the victims' families in a legal hell as they are now subjected to living with Nissensohn, almost forever or until his death, whichever comes first."

In Briggs' challenge to Proposition 66 he contends the new law will be a greater financial burden to taxpayers.

Briggs told *LTN* that because the proposition keeps the appeals in the trial court it eliminates the appellate and Supreme Court from entering the appeals process. "This is in conflict with the Constitution that vests jurisdiction within all courts in any legal proceeding. This means if you or I are condemned, our appeals are kept with the trial court who, in a Prop. 66 world, is charged in reviewing their own proceedings to discover any wrong steps. I do not know about you; I want a separate set of eyes reviewing, not the judge who made the decisions."

Briggs and Van de Kamp also take issue with the proposition's giving unqualified attorneys death penalty appeals cases.