

**HOUSE COMMITTEE ON JUDICIARY**

**SUBCOMMITTEE ON CIVIL LAW**

**January 26, 2005 Hearing Room 357**

**8:30 A.M. Tapes 6 - 7**

**MEMBERS PRESENT: Rep. Bob Ackerman, Chair**

**Rep. Linda Flores**

**Rep. Bill Garrard**

**Rep. Kelley Wirth**

**STAFF PRESENT: Sam Sears, Counsel**

**Louann Rahmig, Committee Assistant**

**MEASURES/ISSUES HEARD AND WITNESSES:**

**HB 2247 Public Hearing**

**John VanLandingham, Lane County Law and Advocacy Center**

**Don Miner, Oregon Manufactured Housing Association**

**HB 2256 Public Hearing and Work Session**

**HB 2213 Public Hearing**

**Ronelle Shankle, Department of Justice**

**Shani Fuller, Oregon Child Support Program**

**Concetta Schwesinger, District Attorneys Association**

**Sybil Hebb, Oregon Law Center**

**These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.**

<b>TAPE/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>TAPE 6, A</b>		
004	Chair Ackerman	Calls the meeting to order at 8:32 a.m. Opens a public hearing on HB 2247.
008	Sam Sears	Counsel. Introduces HB 2247, which replaces two abandoned property landlord-tenant statutes with several revised shorter statutes.

#### **HB 2247 – PUBLIC HEARING**

013	John VanLandingham	Lawyer, Lane County Law and Advocacy Center. Testifies in opposition of the bill. Raises questions about what to do with abandoned property or manufactured home. Indicates that the manufactured housing coalition supports amending ORS 90.425 and 90.675 to simplify, but more time is needed.
065	Don Miner	Oregon Manufactured Housing Association. Testifies in opposition to HB 2247. Requests the issue be set over to interim for additional work.
078	Chair Ackerman	Expresses appreciation for the offer of additional work to clear up the complicated property abandonment issues.
082	Rep. Krieger	Cites concern about the 20-plus bills from Legislative Counsel and what is substantive change vs. “wordsmithing.”
091	Chair Ackerman	Closes the public hearing on HB 2247 and opens the public hearing on HB 2256.

#### **HB 2256 – PUBLIC HEARING**

096 Chair Ackerman Since no testimony was offered, closes the public hearing on HB 2256 and opens a work session on HB 2256.

**HB 2256 – WORK SESSION**

098 Sam Sears Counsel. Explains HB 2256, which identifies provisions to which definitions apply.

106 Chair Ackerman Asks if the changes are housekeeping and not substantive.

107 Sears Responds, that is correct.

110 Rep. Garrard **MOTION: Moves HB 2256 to the full committee with a DO PASS recommendation.**

**VOTE: 3-0-1**

**EXCUSED: 1 - Wirth**

**AYE: In a roll call vote, all members present vote Aye.**

121 Chair Ackerman **The motion CARRIES.**

**REP. GARRARD will lead discussion in the full committee.**

124 Chair Ackerman Closes the work session on HB 2256 and opens a public hearing on HB 2213.

**HB 2213 – PUBLIC HEARING**

125 Sam Sears Counsel. Explains that HB 2213 removes requirements for withholding services when spouse is receiving spousal support only.

134 Ronelle Shankle Policy, Projects and Legislative Coordinator, Department of Justice. Submits testimony and testifies in support of HB 2213 (**EXHIBIT A**). Provides overview of current law on income withholding services.

211 Shankle Explains that federal law does not require or fund for spousal support only withholding; however, the Attorney General recognizes it as an important policy issue.

236	Shankle	Refers to data in <b>Exhibit A</b> on spousal support only cases. Indicates Oregon District Attorneys Association supports the bill. States that if the members want to carry this bill over, a compromise amendment should be reached.
248	Rep. Garrard	Asks about Oregon Law Center’s statement that this bill is in violation of federal law ( <b>EXHIBIT B</b> ).
251	Shankle	Responds that their attorneys do not see it as a violation of federal law; that the intent is to assure that any change does not create an implied change in the underlying child support income withholding.
262	Rep. Macpherson	Asks about relative volume of activity between child support withholding and spousal support withholding under current law.
267	Shankle	Responds that the figures in <b>Exhibit A</b> indicate that spousal support only is a small portion.
273	Rep. Wirth	Asks how a spousal support decision is any different legally from a child support decision.
283	Shankle	Replies that the judgment is not different in respect to enforcement. The issue is who should provide that service.
303	Rep. Wirth	Asks for clarification that there is no difference between a judgment for spousal support and one for child support in legal standing.
313	Shankle	Responds, that is correct.
320	Chair Ackerman	Asks where the bill allows discretionary authority.
327	Shani Fuller	Manager for the Policy, Rules and Legislative Section, Oregon Child Support Program. Responds that ORS 25.080(4)(d) provides the discretionary language.
355	Chair Ackerman	Inquires about the savings generated if this measure passes.
358	Shankle	

Indicates that the program will not see a saving but a shift in resources.

- 367 Chair Ackerman Asks what criterion will be followed to continue discretionary enforcement of some spousal support orders.
- 372 Fuller Answers that cases currently in the system where income withholding is in place will be serviced, but future cases needing income withholding may be handled by some district attorneys.
- 394 Concetta Schwesinger Oregon District Attorneys Association. Agrees with Ms. Fuller's analysis of processing future cases.
- 398 Chair Ackerman Asks if existing spousal support cases would be serviced to their conclusion.

#### TAPE 7, A

- 013 Fuller Responds, yes.
- 024 Chair Ackerman Inquires if services would be discontinued if a spouse changes employment.
- 028 Fuller Responds, that is true.
- 031 Rep. Wirth Asks for statistics on percentage of divorce and separation cases that result in award of spousal support.
- 034 Shankle Replies that information is not received by the Child Support Program.
- 038 Sybil Hebb Oregon Law Center. Describes the importance of income withholding as a tool in enforcing support orders. Submits testimony and testifies in opposition of HB 2213 (**EXHIBIT B**).
- 064 Hebb Explains how this provision interacts with federal law. Raises concern that this provision will be interpreted to overrule other statutes. Agrees that further work on the wording is needed.
- 083 Hebb

Refers to deleted language in lines 10 and 11 of HB 2213. States that establishment of a payment record is important when a support order is not being paid and arrears have accumulated. Current service provides that information. Other provisions in law exist but are not mandatory.

- 109 Chair Ackerman Asks if repeal of that language would eliminate the authority of the Division of Child Support to begin arrears proceedings in any case.
- 113 Hebb Responds, no. States concern that deletion of language in lines 11 and 12 removes the mandatory requirement that the service be provided. Says permissive language appears elsewhere in statute to provide the service.
- 123 Chair Ackerman Requests clarification that determination of arrears is one of the main prerequisites before a wage withholding order can be obtained.
- 126 Hebb Replies, yes. Believes language agreeable to all parties can be developed.
- 133 Rep. Wirth Asks for percentage of cases awarded spousal support and character type of person needing income withholding to comply with order.
- 142 Hebb Advises that the percentage is unknown but is not the majority of their cases, most of which are low income. Commits to provide follow-up research. Regarding the second question, the types vary. Points out that income withholding has been provided as a matter of course when payments are not being made voluntarily, and the reasons for nonpayment vary.
- 175 Rep. Wirth Comments that spousal award cannot be revisited; therefore, the cost of income withholding for spousal support should be less than child support, which can be revised with substantial change in circumstances.
- 183 Hebb Responds that spousal support laws have changed and understands that spousal support awards can be modified, but it does not happen as often.
- 190 Rep. Wirth

		Asks if it would cost less to provide income withholding on a static support award than a changing one.
193	Hebb	Explains that the cost of income withholding depends on how often the obligor changes jobs, each of which requires a new income withholding order. The process is difficult for individuals without resources.
209	Rep. Flores	Requests the number of cases of spousal support collection only.
215	Hebb	Replies that unsure if that information is being tracked, but will provide that information if available.
223	Rep. Flores	Refers to the areas of objection in the proposed bill and asks if all could be resolved with ongoing discussion.
228	Hebb	Responds that if the state discontinues income withholding in spousal support only cases, they can arrive at agreeable language. Reiterates concern for their clients about stopping that service.
238	Rep. Macpherson	Asks Ms. Shankle if consideration was given to withholding services for spouses receiving public assistance.
247	Shankle	Replies that they did not look at that issue. Indicates these would be individuals without children so qualifying for state assistance is limited.
253	Rep. Macpherson	Asks Ms. Hebb to also respond.
254	Hebb	Agrees with Ms. Shankle's representation that the majority are receiving food stamps, which is a form of public assistance.
264	Shankle	Clarifies that out of the 250,000 case load, there is a large and growing majority of citizens that were never married. Says income withholding for spousal support only are requested services, which is different from child support.
296	Shankle	Explains that the processes to carry out the language in ORS 25.080 are in rule.
310	Rep. Wirth	

		Asks if it is possible to apply for exemption from withholding in spousal support as in child support.
313	Shankle	Responds that where child support is required to be paid through income withholding, unless qualifying under one of the statutory exemptions, there is not the same requirement.
328	Fuller	Believes that statute language is generic to “support” but will confirm.
324	Rep. Wirth	Requests percentage of spousal support awards being paid.
331	Shankle	Agrees to see if the information is available.
333	Chair Ackerman	Comments that more work on language is indicated.
354	Rep. Garrard	Agrees; has not heard compelling reasons for changing statute.
370	Rep. Wirth	Agrees. Requests percentage of dissolution cases being awarded spousal support and the average amount of that support.
389	Chair Ackerman	Asks for the amount of money being collected out of the support only cases.
396	Rep. Macpherson	Comments that compelling information is the cost allocation of \$169,000 that could be available for other services. Requests breakdown of public assistance cases vs. others reported in the case load.

**TAPE 6, B**

007	Rep. Flores	Wants an opportunity to review the information requested.
013	Chair Ackerman	Closes the public hearing on HB 2213.
017	Chair Ackerman	Adjourns the meeting at 9:24 a.m.



## **EXHIBIT SUMMARY**

- A. **HB 2213, written testimony, Ronelle Shankle, 4 pp**
- B. **HB 2213, written testimony, Sybil Hebb, 3 pp**