

HOUSE JUDICIARY
SUBCOMMITTEE ON CIVIL LAW

January 24, 2001
8:00 a.m.

Hearing Room 357
Tapes 4 and 5

MEMBERS PRESENT: **Rep. Cheryl Walker, Chair**
 Rep. Vic Backlund
 Rep. Kathy Lowe
 Rep. Charlie Ringo
 Rep. Lane Shetterly
 Rep. Max Williams

STAFF PRESENT: **Andrea Shartel, Administrator**
 Ann Martin, Committee Assistant

MEASURE/ISSUES HEARD: **HB 2338 Public Hearing and Work Session**
 HB 2333 Public Hearing and Work Session
 HB 2334 Public Hearing and Work Session
 HB 2219 Public Hearing

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.

TAPE/#	Speaker	Comments
TAPE 4, A		
<u>HB 2338 PUBLIC HEARING</u>		
006	Chair Walker	Calls the meeting to order at 8:10 a.m.
013	Counsel Shartel	Introduces HB 2338 relating to appeals.
040	Jim Nass	Legal Counsel for Appellate Courts, Oregon Judicial Department Testifies in support of HB 2338 and submits testimony (EXHIBIT A) .
095	Rep. Shetterly	Asks about line 20, page 1 and the use of the word "directs". Asks how that directive is done.
098	Nass	Answers that it's a notice generated by the record section.
102	Rep. Backlund	Asks if this change was made would one party benefit more than the other party.
108	Nass	States that mediation attempts to give the parties an opportunity to discuss settlement of the case before they have incurred substantial more costs.
125	Chair Walker	Closes the public hearing on HB 2338 and opens a work session on HB 2338.
<u>HB 2338 WORK SESSION</u>		
126	Rep. Shetterly	MOTION: Moves HB 2338 to the full committee with a DO PASS recommendation.
		VOTE: 5-0
126	Chair Walker	Hearing no objection, declares the motion CARRIED.

129	Chair Walker	Closes the work session on HB 2338 and opens a public hearing on HB 2333.
<u>HB 2333 PUBLIC HEARING</u>		
162	Chair Walker	Introduces HB 2333 relating to delinquent accounts.
164	Kingsley Click	State Court Administrator, Judicial Department Testifies in support of HB 2333 and submits testimony (EXHIBIT B) .
228	Rep. Ringo	Asks about liquidated accounts and asks if this means a specified amount.
233	Click	Answers yes.
234	Rep. Ringo	Wonders if this would apply to disputed accounts and asks if this relates only to judgments.
236	Click	Says yes.
253	Rep. Shetterly	Asks what other debts would likely be collected through this mechanism.
264	Click	Says that in civil cases it may be fees that were deferred but not dismissed and in criminal cases it also includes restitution.
271	Rep. Shetterly	States that he has a problem with this method by which other agencies collect through the Department of Revenue. Asks if all of the debts have already been determined by the court.
288	Click	Answers that is correct.
289	Rep. Ringo	Says that it sounds like these debts are small, but wonders if this includes larger amounts.
304	Susan Klosterman	Finance Director, State Court Administrator's Office Responds that she doesn't have that information now, but could run a query and get more information.
305	Rep. Ringo	Assumes that the problem has been that the state needs to turn over these cases to collection agencies because they don't have time.
315	Click	Says that is the turnover of "delinquent cases" and the court sets up payment schedules.
322	Klosterman	Adds that the courts are staffed at minimal level to interview those who owe money to the court and to set-up payment schedules for those individuals and get that information into the automated system and then a past due letter is sent out to those individuals that have not paid.
340	Rep. Lowe	Asks if there is an opt-out system for certain cases plus an oversight over the private collection process.
353	Klosterman	Answers that exceptions can be made for individual cases.
364	Rep. Lowe	Expresses concern about software conforming to new requirements for Executive Department's reporting.
384	Click	Answers that we do not have a fiscal with our information technology on this bill. Clarifies that the money comes back through the court that is collected by the private collection agencies collecting on behalf of the state.
419	Counsel Shartel	Inquires if somebody makes a payment to the court, then the year starts over for him or her.
426	Klosterman	Answers that is correct.
428	Rep. Shetterly	Wants clarity on when the bill states that an account must be both liquidated and delinquent.
TAPE 5, A		
016	Chair Walker	Wonders if the Oregon Health Plan falls under the category of public assistance under the Adult and Family Services as applied

027	Click	in the bill.
044	Matt Markee	Says that she doesn't know the answer to that. Oregon Collectors Association
076	Rep. Ringo	Testifies in support of HB 2333.
081	Markee	Asks if the 1.8 billion figure includes entire state government.
083	Rep. Ringo	Answers that is correct.
085	Markee	Asks if the delinquent accounts include uncollected child support.
088	Rep. Ringo	Answers that the collections would be mostly restitution and traffic fines, not child support.
090	Markee	Asks if he has a prediction as to how much they will collect.
096	Chair Walker	Says he doesn't have a prediction. Closes the public hearing on HB 2333 and opens a work session on HB 2333.

HB 2333 WORK SESSION

098	Rep. Backlund	MOTION: Moves HB 2333 to the full committee with a DO PASS recommendation.
098	Chair Walker	VOTE: 5-0 Hearing no objection, declares the motion CARRIED.
110	Chair Walker	Closes the work session on HB 2333 and opens a public hearing on HB 2334.

HB 2334 PUBLIC HEARING

120	Counsel Shartel	Introduces HB 2334 relating to Court Productivity and Access Improvement Revolving Account.
155	Kingsley Click	State Court Administrator Testifies in support of HB 2334 and submits testimony (EXHIBIT C) .
222	Rep. Shetterly	Wonders why we need "findings" in the bill.
232	Click	Answers that she is not sure how findings got in the bill.
240	Rep. Shetterly	Wants "findings" amended out of the bill.
254	Rep. Ringo	Asks how much money they are estimating to generate from this bill in Section 2, page 1.
258	Click	Answers that 4% shall be waived and guesses approximately \$344,000 will be deposited into the account.
266	Rep. Ringo	Asks if there is an estimate on funds saved in Section 2, (2)(a), page 1.
269	Click	Says that she doesn't have an estimate.
274	Susan Klosterman	Finance Director, State Court Administrator's Office Answers that she doesn't know, but can look into it.
299	Rep. Ringo	Asks who will decide where the funds saved will go.
304	Klosterman	Answers that those decisions would be made in the Court Administrator's Office.
311	Rep. Ringo	Asks if they are going to suggest a sum to Ways and Means.
314	Click	States that they will suggest \$100,000-500,000 to Ways and Means.
347	Chair Walker	Closes the public hearing on HB 2334 and opens a work session on HB 2334.

HB 2334 WORK SESSION

352	Rep. Shetterly	MOTION: Moves to adopt conceptual amendment deleting Section 1 of HB 2334. VOTE: 4-1
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AYE: 4 - Backlund, Ringo, Shetterly, Walker C

NAY: 1 - Lowe

352 Chair Walker

The motion CARRIES.

355 Rep. Lowe

Expresses that she doesn't want to delete Section 1 in its entirety and explains that the only thing she doesn't like in Section 1 is the second paragraph.

417 Rep. Ringo

Comments that it seems unfortunate that we have to offer financial incentives to ask government to be efficient. Says that he wants to support the court system so that they can be innovative, but he feels this is a complicated way to do it.

TAPE 4, B

005 Rep. Shetterly

Expresses that the benefit of this is that you create a fund that is dedicated for particular purposes that can be used by the court without having to go to the Ways and Means Committee every 2 years.

018 Rep. Lowe

Concurs and feels that the bill will stimulate creativity in government.

028 Rep. Shetterly

MOTION: Moves HB 2334 to the full committee with a DO PASS AS AMENDED recommendation and subsequent referral to Ways and Means.

VOTE: 5-0

028 Chair Walker

Hearing no objection, declares the motion CARRIED.

036 Chair Walker

Closes the work session on HB 2334 and opens a public hearing on HB 2219.

HB 2219 PUBLIC HEARING

046 Counsel Shartel

Introduces HB 2219 relating to judicial review of orders other than contested cases.

077 **Tim Wood**

Chief Trial Counsel, The Oregon Department of Justice

Testifies in support of HB 2219 and submits testimony **(EXHIBIT D).**

215 **Phil Schradle**

Special Counsel to Attorney General

Testifies in support of HB 2219.

240 Rep. Shetterly

Asks about the development of evidence before the agency in other than a contested case.

256 Wood

States that the evidence must get to the agency and this bill sets up a procedure that balances everyone's rights.

270 Rep. Lowe

Inquires about a situation where there was a hearing on a substantial issue before the Board of Medical Examiners and the defendant defaults.

285 Wood

Says that it would be treated as a contested case.

292 Rep. Backlund

Comments that in general he likes this bill and supports it.

302 Rep. Ringo

Asks for more examples of non-contested cases.

306 Wood

Responds that another example would be designation as a sexual predator.

316 Schradle

Answers that the order is extremely broad.

350 Rep. Lowe

Says that she is uncomfortable with the notion of removing judicial review.

361 Wood

Contends that the bill tries to balance the rights of all of the

380	Chair Walker	parties concerned. Asks question about lines 35 and 36, page 2, regarding provision for the petitioner's cost or attorney fees.
406	Wood	Answers that the Administrative Procedure Act takes that into consideration and there is a provision in the bill that covers that.
435	Bradd Swank	State Court Administrator's Office Testifies as neutral on HB 2219. Comments that they want more time to look at the bill.
TAPE 5, B		
024	Swank	Continues testifying on HB 2219.
030	Francine Shetterly	Staff Attorney, Judicial Department, Court of Appeals, States for the record that she is married to Rep. Shetterly. Testifies as neutral on HB 2219 on behalf of the Administrative Law Section of the Oregon State Bar and submits testimony (EXHIBIT E) .
108	Rep. Ringo	Wants to get a handle on the practical impact of this bill and asks what kinds of hearings are they talking about.
114	Shetterly	Responds that there is a huge variety of contested cases.
121	Andrea Meyer	Executive Director, American Civil Liberties Union of Oregon (ACLU) Testifies against HB 2219 and states that this bill removes an important check on the administrative branch.
210	Rep. Lowe	Asks how this bill would work in the case of a sexual predator.
219	Meyer	Says she doesn't know.
221	Rep. Shetterly	Answers that the State Police make a determination of a sexual predator.
222	Rep. Lowe	Recognizes that under this bill there may not be partial review.
246	Meyer	Stresses that the ACLU's position is for a full due process for every individual.
275	Chair Walker	Closes the public hearing on HB 2219 and adjourns the meeting at 9:50 a.m.

Submitted By,

Reviewed By,

Ann Martin,
Committee Assistant

Andrea Shartel,
Administrator

EXHIBIT SUMMARY

A – HB 2338, written testimony submitted by James W. Nass, Legal Counsel, Oregon Supreme Court and Court of Appeals, dated 1/24/01, 3 pgs.

B – HB 2333, written testimony submitted by Kingsley Click, State Court Administrator, dated 1/24/01, 2 pgs.

C – HB 2334, written testimony submitted by Kingsley Click, State Court Administrator, dated 1/24/01, 2 pgs.

D – HB 2219, written testimony submitted by Timothy Wood, Chief Trial Counsel for the Oregon

Department of Justice, dated 1/24/01, 3 pgs.

E – HB 2219, written testimony submitted by Francine Shetterly, Administrative Law Section of the Oregon State Bar, dated 1/24/01, 2 pgs.