

HOUSE JUDICIARY COMMITTEE ON CIVIL LAW

February 22, 1999 Hearing Room 357

1:00 p.m. Tapes 42 - 43

**MEMBERS PRESENT:** Rep. Lane Shetterly, Chair

Rep. Max Williams, Vice-Chair

Rep. Judy Uherbelau, Vice-Chair

Rep. Vic Backlund

Rep. Randall Edwards

Rep. Kathy Lowe

Rep. Vicki Walker

Rep. Larry Wells

Rep. Bill Witt

**STAFF PRESENT:** Aaron Felton, Counsel

Nancy Richards, Administrative Support

**MEASURE/ISSUES HEARD:** SB 391

HB 2659

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 42, A		

004	Chair Shetterly	Calls meeting to order at 1:15 p.m.
<b><u>SB 391 - PUBLIC HEARING</u></b>		
011	Counsel Parker	SB 391 establishes Department of Justice Client Trust Account for deposit and distribution of moneys recovered in civil enforcement actions by Department of Justice.
023	<b>Pete Shepherd</b>	<b>Attorney, Financial Fraud, Consumer Protection Section, Department of Justice</b>  Testifies in support of SB 391. Discusses the enforcement action regarding the Trust Account and how this bill gives the Department of Justice the authority to appropriate the funds in this account. Discusses how the interest follows the principle.
037	Chair Shetterly	Does the interest of the fund follow the principle and are they distributed together to the consumers?
040	Shepherd	That is correct, it is the basic rule in the bill.
043	Rep. Walker	When someone receives a refund from a travel agency fraud, would this money go into the Trust Account?
046	Shepherd	Gives example of the laundry ball case and how they needed a place to deposit the claim money received.
055	Rep. Walker	How is the money from these cases handled now?
058	Shepherd	Because of the process for distribution of money now, we were not able to distribute interest to consumers.
066	Chair Shetterly	How is the interest money allocated to individuals?
069	Shepherd	Discusses how the money allocations are distributed and the necessity of pro-rata allocations.
078	Rep. Wells	Is the interest taxable?
079	Shepherd	In the case of a consumer recipient, it would not be taxable because it represents damages that they are recovering. The businesses that pay out damage money will be able to deduct those amounts.
087	Rep. Wells	I was referring just to the interest in the Trust Account.

090	Shepherd	The Department of Justice and the State of Oregon would not pay taxes on the interest.
093	Rep. Wells	Refers to the taxes paid on campaign accounts and the high tax percentage on these accounts.
101	Shepherd	These are funds that do not belong to the DOJ, so they would not fit into the category of being taxable.
108	Rep. Uherbelau	Asks about the formula that would distribute the exact amount of interest to the persons who receive the principle.
117	Shepherd	The accounting department will rely on lines 12 & 13, page 1 of the bill to establish sub-accounts for each individual consumer and the interest earned would be proportionately distributed.
128	Rep. Uherbelau	Was there any discussion of using that interest to pay the costs of keeping these accounts?
133	Shepherd	No, we did not discuss that issue, but there isn't a significant cost for this process.
143	Rep. Uherbelau	Comments on her feelings about the significant time that would be spent processing these funds, resulting in higher costs.
150	Shepherd	Discusses the interest and how it is distributed quickly so it would not effect the workload. Gives statistics involving this operation.
162	Chair Shetterly	Explains that the fiscal analysis to this bill indicates that by shifting the interest to the account as opposed to the General Fund, it would shift less than a \$1000.00.
		Closes public hearing.
<b><u>SB 391 - WORK SESSION</u></b>		
175	Rep. Williams	<b>MOTION: Moves SB 391 to the floor with a DO PASS recommendation.</b>
		<b>VOTE: 9-0</b> <b>AYE: 9 - Backlund, Edwards, Lowe, Uherbelau, Walker, Wells, Williams, Witt, Shetterly</b>

	<b>Chair Shetterly</b>	<p><b>The motion CARRIES.</b></p> <p><b>REP. BACKLUND will lead discussion on the floor.</b></p>
<b><u>HB 2659 - PUBLIC HEARING</u></b>		
189	<b>Kathy Lowe</b>	<p><b>State Representative, House District 26</b></p> <p>Testifies and submits written testimony in support of HB 2659 (<b>EXHIBIT A</b>). Discusses the "change of circumstances" rule and why a change was needed and the legal right of the custodial parents regarding modification of child support. Discusses the language in the bill that needs refining concerning the DA and DOJ seeking court orders modifying child support every two years..</p>
274	Rep. Uherbelau	If a public enforcement agency does a modification review and we add the private parties to the bill, would this create a backlog for the judicial system?
283	Rep. Lowe	This does not increase the caseload because you simply have to supply a chart and process a calculation every two years and further explains with an example.
321	Rep. Uherbelau	If the courts just have to look at a chart, where is proof of change in circumstance for child support?
336	Rep. Lowe	Once you get your case in court, applied through the administrative rule, it would allow for rebuttal on any changes or problems, gives an example.
366	Rep. Uherbelau	If there is a change of circumstances, could anything be done before the two-years was up?
376	Rep. Lowe	Discusses the change of circumstances and how it works regarding a modification of child support.
406	<b>Ronelle Shankle</b>	<p><b>Department of Justice, Support Enforcement Division</b></p> <p>Testifies and submits written testimony in support of HB 2659 (<b>EXHIBIT B</b>). Discusses how this bill proposes to allow private practitioners to initiate a child support review and the adjustment of modifications. Discusses the changes listed in her testimony regarding the child support review procedures.</p>
465	Rep. Uherbelau	Asks Rep. Lowe if she has discussed this bill with the Family Law Section of the Oregon Bar?
472	Rep. Lowe	States that she has discussed this with numerous Family Law lawyers who practice in Clackamas county.

476	Rep. Uherbelau	Expresses her surprise that no one was here to testify for the Family Law Section of DOJ.
483	Shankle	Our division has made contact with that section and they support the concept of this bill, but did not plan to testify.
491	Chair Shetterly	Has anyone had conversations, concerning the changes that HB 2659 enacts, with the Judicial Department?
495	Shankle	We did not have time to contact Bradd Swank in the Judicial Department regarding this bill.
<b>Tape 43, A</b>		
034	<b>Carl Stecker</b>	<b>Marion County District Attorney's Office, Oregon District Attorneys Association</b>  Testifies in support of HB 2659. Discusses the concern that the program receives ample notice that a private party is choosing to avail themselves of this remedy, if they have a case within the system. Discusses the lack of any problems with the process of child support modifications within the court.
076	Chair Shetterly	Does the opportunity for deviation have an impact on the courts, so that time lines will not be met?
081	Stecker	Because these cases would be initiated outside the administrative process, they wouldn't necessarily implicate the court.
083	<b>David Nebel</b>	<b>Oregon Law Center</b>  Testifies in support of HB 2659. Discusses concerns regarding how this bill creates a private way to do periodical review of modifications and how it might affect the 4-D (Social Security Act) that is currently used.
110	Chair Shetterly	Closes public hearing.
119	<b>Chair Shetterly</b>	<b>MOTION: Requests unanimous consent that the rules be SUSPENDED to allow REP. WITT and REP. EDWARDS to BE RECORDED as voting AYE on SB 191 Do Pass recommendation.</b>
122	Chair Shetterly	Adjourns meeting at 1:55 p.m.

Submitted By, Reviewed By,

Nancy Richards, Aaron Felton,  
Administrative Support Counsel

**EXHIBIT SUMMARY**

**A - HB 2659, Written testimony, Rep. Lowe, p. 1**

**B - HB 2659, Written testimony, Ronelle Shankle, p. 2**