

**HOUSE JUDICIARY COMMITTEE ON CIVIL LAW**

**March 11, 1999 Hearing Room 357**

**1:00 p.m. Tapes 62 - 63**

**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: HB 2224 - Public Hearing & Work Session**

**HB 2234 - Work Session**

**HB 2257 - Work Session**

**HB 2391 - Work Session**

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 62, A**

004	Chair Shetterly	Calls meeting to order at 1:08 p.m.
<b><u>HB 2391 ñ WORK SESSION</u></b>		
016	<b>Steve Delaney</b>	<b>Oregon Public Employee Retirement System (PERS)</b>  Explains the "Death and Disability" benefits of a police and fire member of PERS.
070	Counsel Felton	Gives an overview of the ñ2 amendments for HB 2391 ( <b>EXHIBITS A &amp; B</b> ).
170	Rep. Uherbelau	Refers to a mistake on page 6, lines 4 & 5 of the HB 2391 -2 amendments regarding the benefits involving HB 2391 that are received by a child attending school.
186	Chair Shetterly	States that he prefers not to send the amendments back to Legislative Council because any minor changes can be made in Ways & Means Committee.
197	Rep. Edwards	Asks for clarification regarding the benefits of the memorial fund for the child until 23 years of age and whether it is consistent with current law.
199	Rep. Uherbelau	States that the language regarding benefit for the child attending school would be reworded so that it would be consistent with current domestic relations law.
202	Rep. Backlund	Asks if the school, regarding the benefit allowed a child while attending school, should be a credited school.
205	Counsel Felton	Discusses the change in number of years the child attends school in the ñ2 amendment that Rep. Uherbelau suggested. Discusses the ñ2 amendments in relation to the intent of HB 2391.
275	Chair Shetterly	Does the Public Safety Memorial Fund Board (PSMF) have the power to make a determination whether benefits will be paid according to section 8 and section 10 of the ñ2 amendment?
295	Rep. Williams	Explains that Legislative Counsel believed that the board could such a determination.
306	<b>Rep. Ben Westlund</b>	<b>State Representative, House District 55</b>  Expresses his willingness to take out section 8 & 9 if these sections hold up the passage of HB 2391.

309	Rep. Williams	Suggests that issues raised concerning changes to the -2 amendment in HB 2391 will be addressed with the subsequent referral to the Ways & Means committee.
328	Rep. Westlund	Gives an overview of the ñ2 amendments. Discusses the definition of a public safety officer. Discusses the compromise of the \$20,000 Memorial Fund amount. Asks about the changing the word "shall" to "may" regarding whether the PSMF board pays the cash benefit to the children of the deceased.
403	Counsel Felton	Discusses the change on page 5, line 25 of the -2 amendment regarding whether the PSMF "shall" or "may" pay the \$20,000 benefit.
422	Rep. Williams	Discusses how that change might have come about.
430	Rep. Lowe	Suggests that the change of the words, "shall" and "may", might have come from the discussion about whether the funds would be available when needed to pay benefits.
448	Rep. Williams	Asks what happens if there are insufficient resources for the Memorial Fund.
461	Rep. Westlund	States that there is provision in the original bill that allows the PSMF board to not pay the benefit if the funds are not available.
<b>Tape 63, A</b>		
052	Rep. Westlund	Discusses section 5 of the -2 amendments that changes the required age regarding cash benefits for continuing insurance if the child is in school. Discusses the need for hiring an executive director as it pertains to sections 12-14 of -2 amendments.
082	Rep. Williams	States that a public member was also added to the PSMF board in the -2 amendments.
083	Counsel Felton	On page 11, lines 10-11 there is a member from the State Treasurerís Office and a public member added to the Public Safety Memorial Fund board.
088	Rep. Walker	Asks why suicide was eliminated as one of the accepted deaths regarding the benefits.
094	Rep. Westlund	States that suicide is a very difficult issue to prove. Discusses the role of the PSMF board in deciding if a death was suicide.
121	Rep. Walker	Are the suicide deaths going to be classified as accidents so the families can receive money from the memorial fund?

122	Rep. Westlund	HB 2391 would allow suicide if the medical examiner decides on a different cause of death.
127	Rep. Walker	States that this sensitive issue of suicide should not be eliminated from HB 2391.
131	Rep. Uherbelau	Expresses the reason why suicide wasn't mentioned in HB 2391 and that it would be very difficult for the PSMF board to make decisions regarding suicide.
140	Rep. Lowe	Why were officers of the court eliminated as potential beneficiaries?
143	Rep. Uherbelau	Discusses the reason why the work group, who worked on the amendments, did not include officers of the court as potential beneficiaries.
<b>167</b>	<b>Rep. Williams</b>	<b>MOTION: Moves to ADOPT HB 2391-2 amendments dated 03/08/99.</b>
<b>169</b>	<b>Rep. Walker</b>	<b>VOTE: 8-0</b> <b>AYE: 8 - Backlund, Edwards, Lowe, Uherbelau, Walker, Wells, Williams, Witt</b> <b>EXCUSED: 1 - Shetterly</b>
	<b>Vice Chair Williams</b>	<b>The motion CARRIES.</b>
169	Rep. Walker	Expresses her feelings about including suicide as a type of death for cash benefits in HB 2391.
<b>200</b>	<b>Rep. Williams</b>	<b>MOTION: Moves HB 2291-2 to the floor with a DO PASS AS AMENDED recommendation and BE REFERRED to the Public Safety Sub-Committee of the Ways and Means Committee.</b>
<b>203</b>	<b>Rep Edwards</b>	<b>VOTE: 8-0</b> <b>AYE: 8 - Backlund, Edwards, Lowe, Uherbelau, Walker, Wells, Williams, Witt</b> <b>EXCUSED: 1 - Shetterly</b>
	<b>Vice Chair Williams</b>	<b>The motion CARRIES.</b>

240	Vice Chair Williams	Closes work session.
<b><u>HB 2224 n PUBLIC HEARING</u></b>		
250	<b>Ronelle Shankle</b>	<b>Department of Justice, Support Enforcement Division</b> Testifies and submits written testimony in support of HB 2224 ( <b>EXHIBIT C</b> ). Discusses the five individual concepts contained in the proposed amendments for HB 2224 regarding the Child Support Program.
292	Rep. Uherbelau	Are the words, "entry" and "effective", to be deleted in sections 1-4 of ORS 25.287 regarding review and adjustment modifications?
299	Shankle	Yes, you will find them in other parts of ORS 25.287.
302	Rep. Uherbelau	Suggests that "effective date" be defined in the amendments to HB 2224.
313	Shankle	Explains what words were used instead of, "effective date". Discusses the five individual concepts contained in the proposed amendments for HB 2224 regarding the Child Support Program.
393	Rep. Uherbelau	Asks about sections 12 & 13 of HB 2224 and how it refers to section 5 regarding notice provisions.
409	Shankle	Explains how section 12 & 13 refer to section 5 regarding the notice provisions. Proceeds with her discussion of the five concepts contained in HB 2224 regarding the Child Support Program.
468	Rep. Uherbelau	Asks if the language will be repealed in HB 2561(ORS 25.361) regarding the withholding statute.
490	Shankle	States that the repeal of language in HB 2561 will be discussed later.
<b>Tape 62, B</b>		
039	Shankle	Concludes her discussion on the five concepts in HB 2224 regarding the Child Support Program.
048	Rep. Lowe	Asks if instead of using the words, "male party", could we use "putative father" on page 7 , line 11 of the -2 amendments.
052	Shankle	States that the words, "male party" needs to be either "putative father" or "alleged father".

058	Vice Chair Williams	Why would the term, male party, be used to describe a putative father?
061	Shankle	Explains why the term, "male party" was used in the statute. States that the terms, obligee or obligor, could be used in child support statutes.
080	<b>Jean Fogerty</b>	<b>Assistant Attorney General</b>  Explains section 19 of HB 2224 regarding the repeal of HB 2561 (ORS 25.361).
091	Rep. Lowe	Suggests using the term "contested putative father" on page 7, line 11 of the -2 amendments. Asks about the possibility inserting ORS chapter 107 as a reference on page 1, line 1, after the words, "line 2 and on line 2 after the words, "line 3" in the -2 amendments of HB 2224.
107	Shankle	States that it was an oversight to include the changes regarding referencing in the -2 amendments.
112	Rep. Lowe	Would these changes accomplish the purpose of allowing private attorney support enforcement cases to be modified every two years without showing a change of circumstances.
117	Shankle	Discusses how this change would effect the passage of HB 2224.
135	<b>David Nebel</b>	<b>Oregon Law Center</b>  Discusses the issue of incorporating HB 2659 into HB 2224.
155	Shankle	States that the change of the term, "male party" could be changed during hearings in the Senate.
159	Rep. Lowe	Asks if the issue of the two-year private attorney modification could be incorporated into HB 2224.
166	Shankle	Yes, we could amend HB 2224 with the modification change when it goes to the Senate.
169	Vice Chair Williams	Closes public hearing.
<b><u>HB 2224 n WORK SESSION</u></b>		
175	<b>Rep. Uherbelau</b>	<b>MOTION: Moves to ADOPT HB 2224-2 amendments dated 03/05/99.</b>

		<p><b>VOTE: 8-0-1</b></p> <p><b>EXCUSED: SHETTERLY</b></p>
	Vice Chair Williams	Hearing no objection, declares the motion <b>CARRIED</b> .
180	Rep. Uherbelau	<b>MOTION: Moves HB 2224-2 AS AMENDED to the floor with a DO PASS recommendation.</b>
		<p><b>VOTE: 8-0</b></p> <p><b>AYE: 8 - Backlund, Edwards, Lowe, Uherbelau, Walker, Wells, Williams, Witt</b></p> <p><b>EXCUSED: 1 - Shetterly</b></p>
	Vice Chair Williams	<p><b>The motion CARRIES.</b></p> <p><b>REP. UHERBELAU will lead discussion on the floor.</b></p>
<b><u>HB 2234 n WORK SESSION</u></b>		
207	Counsel Felton	HB 2234 allows motion for modification of support orders any time support enforcement services is being provided. Presents -1 amendments ( <b>EXHIBIT D</b> ).
217	Jean Fogerty	<p><b>Department of Justice, Support Enforcement Division</b></p> <p>Discusses the proposals that Mr. Barlow of the Oregon Menís Association suggested at the hearing of 02-03-99 regarding HB 2234. Explains the amendments proposed for HB 2234.</p>
261	Counsel Felton	Asks about Mr. Barlowís inquiry about the Oregon Rules of Civil Procedure (ORCP) being added as a reference in HB 2234.
265	Fogerty	Explains why ORCP was not included in the amendments.
278	Vice Chair Williams	States that a even lay person could understand the amendment.
294	Rep. Wells	Asks about the wording, "administrator may join as a party".
299	Ronelle Shankle	<b>Department of Justice, Support Enforcement Division</b>

		Explains the wording, "administrator may join as a party".
314	Rep. Uherbelau	<b>MOTION: Moves to ADOPT HB 2234-1 amendments dated 03/05/99.</b>
		<b>VOTE: 8-0-1</b> <b>EXCUSED: SHETTERLY</b>
	Vice Chair Williams	<b>Hearing no objection, declares the motion CARRIED.</b>
330	Rep. Uherbelau	<b>MOTION: Moves HB 2234-1 to the floor with a DO PASS AS AMENDED recommendation.</b>
		<b>VOTE: 8-0-1</b> <b>AYE: 8 - Backlund, Edwards, Lowe, Uherbelau, Walker, Wells, Williams, Witt</b> <b>EXCUSED: 1 - Shetterly</b>
	Vice Chair Williams	<b>The motion CARRIES.</b>  <b>REP. BACKLUND will lead discussion on the floor.</b>
<b><u>HB 2257 n WORK SESSION</u></b>		
329	Counsel Felton	HB 2257 establishes procedures that govern granting of certain stays of judgment. Requires granting of stay by trial court for judgments governed by new procedure except when request for stay is based on improper motives or in situations where not granting the stay would result in irreparable harm. Requires do novo review by appellate court of denial or conditions of stay for judgment as governed by new procedure. Allows appellate court reviewing decision of trial court on stay to consider information not submitted to trial court if certain conditions are met. Explains the -1 amendment ( <b>EXHIBIT E</b> ).
354	Philip Schradle	<b>Department of Justice, State of Oregon</b>  Explains the n1 amendments.
461	Jim Nass	<b>Appellate Practice Section, Oregon State Bar</b>  Expresses support for HB 2257-1.



480	Rep. Uherbelau	<b>MOTION: Moves to ADOPT HB 2257-1 amendments dated 03/05/99.</b>
		<b>VOTE: 8-0-1</b> <b>EXCUSED: SHETTERLY</b>
	Vice Chair Williams	<b>Hearing no objection, declares the motion CARRIED.</b>
484	Rep. Uherbelau	<b>MOTION: Moves HB 2257-1 to the floor with a DO PASS AS AMENDED recommendation.</b>
<b>Tape 63, B</b>		
037	Nass	Explains the money judgment process regarding cases in trial courts.
070	Schradle	Discusses one of the concerns regarding reviewed judgments by the Appellate court.
084	Rep. Lowe	Will passage of HB 2257 increase appeals in appellate courts?
087	Nass	No. States that reviewed judgments are limited to the issue of whether you can get a stay, pending an appeal with the court already making a decision.
		<b>VOTE: 8-0</b> <b>AYE: 8 - Backlund, Edwards, Lowe, Uherbelau, Walker, Wells, Williams, Witt</b> <b>EXCUSED: 1 - Shetterly</b>
	Vice Chair Williams	<b>The motion CARRIES.</b>  <b>REP. EDWARDS will lead discussion on the floor.</b>
105	Vice Chair Williams	Adjourns meeting at 3:00 p.m.

Submitted By, Reviewed By,

Nancy Richards, Aaron Felton,  
Administrative Support Counsel

**EXHIBIT SUMMARY**

**A - HB 2391, Proposed -2 amendment, Counsel, p. 15**

**B - HB 2391, Overview of HB 2391 including -2 amendments, Counsel Felton, p. 1**

**C - HB 2224, Written testimony, Ronelle Shankle, p. 4**

**D - HB 2234, Proposed -1 amendment, Counsel p. 1**

**E - HB 2224, Proposed -2 amendment, Counsel, p. 7**

**F - HB 2257, Proposed -1 amendment, Counsel, p. 2**