

HOUSE JUDICIARY COMMITTEE ON CIVIL LAW

March 31, 1999 Hearing Room 357

1:00 p.m. Tapes 82 - 84

MEMBERS PRESENT: Rep. Lane Shetterly, Chair

Rep. Max Williams, Vice-Chair

Rep. Judy Uherbelau, Vice-Chair

Rep. Randall Edwards

Rep. Kathy Lowe

Rep. Larry Wells

MEMBER EXCUSED: Rep. Vic Backlund

Rep. Vicki Walker

Rep. Bill Witt

STAFF PRESENT: Aaron Felton, Counsel

Nancy Richards, Administrative Support

MEASURE/ISSUES HEARD: HB 2991 - Public Hearing

HB 2877 - Public Hearing

HB 2229 - Public Hearing and Work Session

HB 2706 - Work Session

SB 415 - 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.

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TAPE/#	Speaker	Comments
TAPE 82, A		
004	Chair Shetterly	Calls meeting to order at 1:08 p.m.
<u>HB 2991 & HB 2877 - PUBLIC HEARING</u>		
011	Counsel Felton	<p>HB 2991 expands class of person authorized to perfect claim of lien for professional services rendered in constructing improvement to land. Authorizes land surveyor's lien for survey prepared at owner's request that is used in construction or for establishing property boundaries.</p> <p>HB 2877 authorized land surveyor's lien for survey prepared at owner's request that is used in construction or for establishing property boundaries.</p>
035	Chair Shetterly	Reviews what the proposed amendments to HB 2877 will be once drafted.
048	Steve Kafoury	<p>Oregon Council of Architects and Professional Land Surveyors of Oregon</p> <p>Testifies in support of HB 2991 & HB 2877. Discusses the issues of HB 2991 and HB 2877 for architects and land surveyors regarding the property lien law.</p>
071	John Baker	<p>Legislative Affairs, Architects Council of Oregon (ACO)</p> <p>Testifies and submits written testimony in opposition of HB 2877 (EXHIBIT A). Discusses the history of HB 2991. Explains the proposed changes to HB 2991 regarding property liens. Discusses a court case regarding property liens.</p>
190	Chair Shetterly	Asks about the architect giving lien notice to the property owner.
195	Baker	States that the architect gives the property owner the lien notice then the lien would be valid against any property development.
200	Chair Shetterly	Could the owner disavow knowledge of the lien notice?
203	Baker	HB 2877 states that the owner does not have to say anything about the lien notice, but the architect can give a lien notice and work until the end of the project.
208	Rep. Uherbelau	Is the language on lines 27 & 28, page 1 about establishing boundary lines being taken out of HB 2991?
215	Baker	Yes.

219	Kafoury	Discusses the differences in HB 2991 and HB 2877.
234	Baker	Discusses the process of adjusting timing provisions for property liens. Discusses the importance of understanding property liens before making any legislative laws. Explains the proposed language changes to HB 2991 regarding current property lien laws.
491	Chair Shetterly	Asks about the existing law regarding property liens.
Tape 83, A		
040	Baker	Explains the existing property lien law. Discusses proposed language changes to HB 2991 regarding current property lien laws.
144	Chair Shetterly	Asks about taking out the word "allow" and substituting "allocate" on line 17, page 5 of HB 2991.
153	Baker	States that the language could be clearer about the court allocating fees attributable to the lien defense.
179	Greg Crites	Professional Land Surveyors of Oregon Testifies in support of HB 2991. Discusses the improvement to property regarding boundary surveying. Discusses the financial impact of boundary surveying in the State of Oregon.
213	Chair Shetterly	Asks about the meaning of "improvement to property" regarding adding more value.
223	Crites	Discusses the reasons why the property owners request the boundary surveying that would effect the property value. Explains how often a lien would be filed with a boundary survey.
273	Jim Markee	Oregon Mortgage Bankers Association Testifies in opposition of HB 2991 & HB 2877. Discusses the circumstances when mortgage lenders become the unpaid bill collectors for property owners. States that unpaid liens on property can slow up the sale of that property for months.
336	Jack Zuber	Oregon Mortgage Bankers Association Testifies and submits written testimony in opposition of HB 2991 & HB 2877 (EXHIBIT B). Explains the process of the Oregon Construction Lien Law and why HB 2877 goes beyond the intent of the Oregon Construction Lien Law. Discusses the theory of the Oregon Construction Lien Law regarding property value. Lists other service providers entitled to lien rights. Explains the right to lien real property under the Construction Lien Law.

Tape 82, B

032	Rep. Wells	Asks if surveyor's right to lien fits under the definition of land improvement.
058	Zuber	I do not know. States that surveyors have to provide notice of property liens.
067	Rep. Wells	States that under current law, not everyone has to provide notice. Asks about lien rights and who has to give the notice for property liens.
076	Chair Shetterly	Explains that under HB 2877 the surveyors fall under the same notice procedures as anyone else.
079	Rep. Wells	Asks about the surveying of a boundary and whether it is a commercial improvement.
083	Chair Shetterly	States that it depends on how the boundary surveying fits into the lien statutes because they do not fit under the specifications of a construction lien.
086	Rep. Wells	Who has to give notice of a right to lien?
096	Zuber	Discusses the notice issue that requires that the owner must respond affirmatively to disavow any lien.
112	Phil Donovan	Oregon Equipment Rental Association (OERA) Testifies and submits written testimony in opposition to HB 2991 & HB 2877 (EXHIBITS C-E). Discusses what problems that HB 2991 & HB 2877 would create for the land surveyor regarding construction lien statutes. States that land surveyors would no longer be able to assert a lien because they would not be an owner's common law agents. Explains why a lien is not appropriate if there is no construction on the property.
161	Chair Shetterly	Closes public hearing.
<u>HB 2229 n PUBLIC HEARING</u>		
174	Counsel Felton	HB 2229 requires Support Enforcement Division of Department of Justice to provide high volume automated administrative support enforcement services to other states upon their request. Explains the -4 proposed amendments (EXHIBIT F).
196	Ronelle Shankle	Support Enforcement Division (SED), State of Oregon Testifies and submits written testimony in support of HB 2229 (EXHIBIT G). Discusses SED's two key points regarding the new enforcement mechanism

		"High Volume Automated Administrative Enforcement in Interstate Cases" (AEI) and the enforcement of interstate support order cases. Explains the AEI process regarding the data exchange workgroup. Discusses why HB 2229 is needed for compliance to the federal regulations of the Child Support Program. Discusses the work group that will work on garnishment procedures. Explains how the amendments effect the garnishment procedures.
368	Rep. Backlund	Could an obligee have \$300-\$400 in several accounts and each of those be garnished?
375	Shankle	The \$500 limit would be for all bank accounts.
396	Carl Stecker	Oregon District Attorneys Association Testifies in support of HB 2229. Explains that a series of accounts could only have a \$500 limit.
412	Rep. Wells	How do you know which bank to send the garnishment to?
417	Shankle	Explains how the garnishment procedures works with a database from financial institution that regulates the list of those that owe child support.
450	Rep. Wells	Asks about the database showing bank accounts.
454	Shankle	Discusses the agreements and contracts with all financial institutions with SED and the tape matching that lists the personís banking facility.
467	Jean Fogarty	Family Law Section, Oregon State Bar Testifies in support of HB 2229. States that SED only had the obligorís volunteered financial information before the availability of the data base procedure.
488	Shankle	States that the only names that will show up on the database match will be the obligors that owe child support from Oregon or from another state.
503	Chair Shetterly	Are you only matching obligors that are in arrears with their child support payments?
504	Shankle	Yes.
Tape 83, B		
032	Rep. Wells	How many financial institutions have the ability to find out how much money is in bank accounts?

036	Shankle	States that those testifying from the financial institutions would have to answer that question.
039	Chair Shetterly	Explains that the obligee can be made to reveal financial information in court.
045	Rep. Wells	Asks about the privacy of bank accounts.
047	Rep. Williams	Explains that the bank can verify funds to cover a check if they have an account number.
059	Rep. Wells	Asks about how to get bank account information.
063	Rep. Williams	Explains that garnishment requests can be sent out to all banks in the area.
068	Chair Shetterly	Explains how the judgment order works regarding freezing bank assets.
075	Rep. Lowe	Is there a federal penalty for the State of Oregon if HB 2229 does not pass?
080	Shankle	Yes. Discusses the federal penalties that would be imposed if Oregon does not in comply with the Welfare Reform Act.
088	Rep. Lowe	How are Oregon and other states handling joint bank accounts?
093	Fogerty	Discusses the process of exemption that would exclude some bank accounts from garnishment.
109	Rep. Lowe	Asks about uncooperative states that do not comply with requests for financial information.
117	Shankle	Explains the federal penalties implemented on states that do not comply with financial requests.
123	Fogerty	Discusses the SEDis involvement with other states on implementing laws to conform to the Federal Child Support Program.
137	Shankle	States that the big impact for Oregon was the data name matches. Adds that there is a "4D complaint" against another state if that state does not comply to financial requests.
149	Stecker	Explains the benefits that obligees, who live in Oregon have to obtain financial information from other states regarding the new federal laws.

160	Rep. Uherbelau	Does the new federal law regarding child support apply to the Department of Justice welfare cases.
173	Shankle	I do not know.
178	Pamela Leavitt	Oregon Credit Union League Testifies and submits written testimony in support of HB 2229 (EXHIBIT H). Discusses the 1996 Welfare Reform bill and its effect to the financial institutions regarding child support enforcement.
210	Rep. Wells	Asks about the list of names that are provided by the financial institutions who have bank accounts.
217	Leavitt	Discusses the privacy process of the data matching lists regarding the child support obligors.
230	Rep. Wells	Who has the authority to receive account information from financial institutions?
236	Leavitt	States that there are several regulations on the privacy of account information, but does not have further information.
241	Chair Shetterly	Does the Internal Revenue Service and the Department of Revenue have access to account information?
243	Leavitt	States that the data matching for accounts is available for these agencies.
258	Bradd Swank	Office of the State Court Administrator Testifies and submits written testimony in neutrality to HB 2229 (EXHIBIT I). Discusses the qualification requirement of the Federal Financial Participation (FFP) regarding reimbursement of child support enforcement activities. Explains the two policy issues for receiving federal money for child support services regarding HB 2229. Discusses the changes in statutory language of HB 2229 proposed by the State Court Administrator. (EXHIBIT J).
444	Shankle	Explains the relationship between State Court Administrator's Office and Support Enforcement Division regarding the new federal child support laws.
451	Chair Shetterly	States that Ways & Means will provide a fiscal impact on HB 2229.
460	Chair Shetterly	Closes public hearing.
<u>HB 2229 - WORK SESSION</u>		

460	Chair. Shetterly	MOTION: Moves to ADOPT HB 2229-4 amendments dated 03/29/99.
		VOTE: 6-0 AYE: 6 - Edwards, Lowe, Uherbelau, Wells, Williams, Shetterly EXCUSED: 3 - Backlund, Walker, Witt
	Chair Shetterly	The motion CARRIES.
472	Rep. Edwards	MOTION: Moves HB 2229-3 to the floor with a DO PASS AS AMENDED recommendation to WAYS & MEANS.
478	Rep. Wells	Asks about cutting Oregonís cost for the new Child Support Program.
Tape 84, A		
047	Chair Shetterly	States that a lot of the revenues questions will be answered when HB 2229 comes back from Ways & Means.
051		VOTE: 6-0 AYE: 6 - Edwards, Lowe, Uherbelau, Wells, Williams, Shetterly EXCUSED: 3 - Backlund, Walker, Witt
	Chair Shetterly	The motion CARRIES.
<u>HB 2706 ñ WORK SESSION</u>		
064	Rep. Williams	Discusses the problems with HB 2706 regarding protection for anyone cutting timber on private property.
072	Chair Shetterly	States that no one has come forth to speak against HB 2706.
076	Rep. Wells	Asks about the difference between felled logs and sawed logs as stated in HB 2706.

083	Counsel Felton	Explains the difference between felled logs and sawed logs.
098	Rep. Williams	MOTION: Moves HB 2706 to the floor with a DO PASS recommendation.
		VOTE: 5-1 AYE: 5 - Edwards, Lowe, Uherbelau, Williams, Shetterly NAY: 1 - Wells EXCUSED: 3 - Backlund, Walker, Witt
	Chair Shetterly	The motion CARRIES. REP. SIMMONS will lead discussion on the floor.
<u>SB 415 - WORK SESSION</u>		
116	Rep. Williams	MOTION: Moves that the rules be suspended for the purpose of RECONSIDERING the vote on SB 415 to resolve conflicts.
		VOTE: 6-0 AYE: 6 - Edwards, Lowe, Uherbelau, Wells, Williams, Shetterly EXCUSED: 3 - Backlund, Walker, Witt
	Chair Shetterly	The motion CARRIES.
126	Rep. Williams	MOTION: Moves to RECONSIDER the vote by which SB 415 was voted out of the committee.
		VOTE: 6-0 AYE: 6 - Edwards, Lowe, Uherbelau, Wells, Williams, Shetterly EXCUSED: 3 - Backlund, Walker, Witt

	Chair Shetterly	The motion CARRIES.
133	Counsel Felton	Explains the conflict amendments for SB 415 (EXHIBIT K).
145	Rep. Williams	MOTION: Moves to ADOPT SB 415-A2 amendments dated 03/29/99.
		VOTE: 6-0 AYE: 6 - Edwards, Lowe, Uherbelau, Wells, Williams, Shetterly EXCUSED: 3 - Backlund, Walker, Witt
	Chair Shetterly	The motion CARRIES.
150	Rep. Williams	MOTION: Moves SB 415-A2 to the floor with a DO PASS AS AMENDED recommendation.
		VOTE: 6-0 AYE: 6 - Edwards, Lowe, Uherbelau, Wells, Williams, Shetterly EXCUSED: 3 - Backlund, Walker, Witt
	Chair Shetterly	The motion CARRIES. REP. UHERBELAU will lead discussion on the floor.
161	Chair Shetterly	Adjourns meeting at 3:10 p.m.

Nancy Richards, Aaron Felton,
Administrative Support Counsel

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EXHIBIT SUMMARY

- A - HB 2991, Written testimony, John Baker, p. 4**
- B - HB 2877, Written testimony, Jack Zuber, p. 2**
- C - HB 2991 & HB 2877, Written testimony, Phil Donovan, p. 1**
- D - HB 2877, Written testimony, Phil Donovan, p. 1**
- E - HB 2991, Written testimony, Phil Donovan, p. 3**
- F - HB 2229, Proposed -4 amendment, Counsel, p. 4**
- G - HB 2229, Written testimony, Ronelle Shankle, p. 17**
- H - HB 2229, Written testimony, Pamela Leavitt, p. 1**
- I - HB 2229, Written testimony, Bradd Swank, p. 4**
- J - HB 2229, Proposed -3 amendment, Court Administer, p. 7**
- K - SB 415, Proposed A2 amendment, Counsel, p. 2**