

HOUSE JUDICIARY  
SUBCOMMITTEE ON CIVIL LAW AND JUDICIAL ADMINISTRATION

Hearing Room 357  
8:30 am Tapes - 67

MEMBERS PRESENT:

Rep. Bryan Johnston, Vice-Chair  
Rep. Kate Brown  
Rep. Chuck Carpenter  
Rep. Lisa Naito  
Rep. Eileen Qutub

MEMBER EXCUSED:

Rep. Del Parks, Chair  
Rep. Bob Tiernan

STAFF PRESENT:

Milt Jones, Committee Counsel  
Sarah Watson, Committee Assistant

MEASURES HEARD:

SB 213 - Public Hearing  
SB 214 - Public Hearing  
SB 217 - Public Hearing  
SB 218 - Public Hearing  
SB 58 - Public Hearing  
SB 62 - Public Hearing  
SB 68 - Public Hearing

These minutes contain materials which paraphrase and/or summarize  
statements made during this session. Only text enclosed in quotation marks

report a speaker's exact words. For complete contents of the proceedings,  
please refer to the tapes.

TAPE , A

004 REP. CARPENTER: Calls the meeting to order at 8:40 am.

PUBLIC HEARING ON SB 213

005 MILT JONES, COMMITTEE COUNSEL: SB 213 modifies provisions relating to  
enforcement of support by implementing Uniform Interstate Family Support  
Act.

Witnesses:

John Ellis, Department of Justice  
Carl Stecker, Marion County District Attorney  
Maureen McKnight, Oregon Legal Services  
Phil Yarnell, Oregon's Child Support Program

016 JOHN ELLIS, DEPARTMENT OF JUSTICE: Testifies and submits written testimony in support of SB 213. (EXHIBIT A)

038 REP. NAITO: Asks about other types of tax deductions and what happens if someone claims more than is reasonable.

041 ELLIS: Discusses language that may be appropriate to insert. As an amendment, we would have no objection to that language.

047 REP. NAITO: Would necessary taxes be considered necessary businesses taxes?

049 ELLIS: Cites language and that these taxes would or wouldn't be allowed. Continues discussion of bill.

065 REP. BROWN: Somewhere down the line, all the wage withholding are going to be mandatory? When will that take place?

069 ELLIS: That was effective January 1, 1994. Discusses what the order does and that there are exceptions.

076 REP. BROWN: It isn't retroactive?

077 ELLIS: It is only for new and modified orders after January 1, 1994. Continues with discussion of bill.

120 REP. QUTUB: Asks about burden of proof and if it will be on the obligor.

122 ELLIS: That is correct. Explains that they consciously put the burden on the obligor because it is the obligor who is making the claim, asking for relief, and has complete control over documents concerning taxes. These cases always provide for appeal in the circuit court.

140 REP. QUTUB: I'm concerned that this is like "guilty until proven innocent".

147 ELLIS: I would be happy to consider other language. Explains how the law has worked in the last years. This is an improvement in favor of the debtor.

160 CARL STECKER, DISTRICT ATTORNEY OF MARION COUNTY: Testifies in support of SB 213. Explains language of bill that he helped draft.

186 MAUREEN MCKNIGHT, OREGON LEGAL SERVICES: Testifies and submits written testimony in support of SB 213. (EXHIBIT B)

237 REP. NAITO: When there is an error that the state makes, is there any analysis made as to whether it is better to forget it, rather than go through the whole process of a hearing?

242 MCKNIGHT: I'm not aware of any analysis being done. I do know, that from our experience, the state has never forgotten about it.

244 REP. NAITO: We may be spending more money on administrative hearings, than just to let it go and count it as an error.

248 MCKNIGHT: Some of these errors are substantial amounts of money and some are minor. The states practice for each is the same, explains.

253 REP. BROWN: Were these issues raised on the Senate side, and if so what was the response?

254 MCKNIGHT: They were raised in the Senate, discusses. They were not successful amendments on the Senate side.

268 ELLIS: Maureen stated that thousands of people's only recourse is to sue us. That isn't the whole case, explains. Discusses and explains example case. The fiscal impact was very large on the Senate side.

293 REP. BROWN: Couldn't the amendments be drafted to narrow and address the concerns that they are dealing with?

295 ELLIS: Yes, explains.

306 REP. NAITO: The accounting has been an ongoing problem at DHR. Gives example of problem.

312 ELLIS: Perhaps all sides could sit down and figure something out.

316 PHIL YARNELL, DIRECTOR OF OREGON'S CHILD SUPPORT PROGRAM: Explains circumstances of being short of staff, as to why some of these cases have taken a long while. Discusses that they cleared Ways and means with 150 new staff members. I don't know what a hearing will do to resolve the problem, explains.

343 REP. QUTUB: Is it the enforcement division that is being transferred out of the judicial department?

347 ELLIS: That is included in SB 216. Explains that SB 216 is not scheduled for a hearing.

351 REP. QUTUB: It ought to be.

355 REP. NAITO: I hope it won't be. If people have to call their legislators to figure out their child support, that isn't a good system.

#### PUBLIC HEARING ON SB 214

374 MILT JONES, COMMITTEE COUNSEL: SB 214 modifies time when court may approach administrative order establishing paternity.

Witnesses: John Ellis, Department of Justice  
Peter Grundfossen, Association of Oregon Housing Authority

383 JOHN ELLIS, DEPARTMENT OF JUSTICE: Testifies and submits written testimony in support of SB 214. (EXHIBIT C)

#### TAPE 67, SIDE A

023 REP. NAITO: Does this change any of the existing administrative processes on establishing paternity? Discusses specific case.

031 ELLIS: Discusses case of paternity suit and what happens in that kind of case. This bill wouldn't change what happened in that case.

054 REP. NAITO: Do you know how the blood test came out?

055        ELLIS:    There was no blood test.

056        REP. BROWN:    When the mother had the opportunity to re-open the judgment, she refused to show up for the blood test.

059        REP. JOHNSTON:    There are some people that think remedying some of the deficiencies may be not solving the whole issue, explains.    Would you favor a longer range look at different ways to administer this process?

067        ELLIS:    I work for the Attorney General.    The attorney General has proposed SB 216, explains what this bill would do.    I think it is always a good idea to look at the long range of a structural make up.

084        PETER GRUNDFOSSEN, ASSOCIATION OF OREGON HOUSING AUTHORITY:    Testifies in support of SB 214.

120        REP. NAITO:    When the state is keeping records such as child support payments, are these things signed over to you with a consent form?

125        GRUNDFOSSEN:    Yes.    Discusses that the information made available is actually very limited.    Cites exceptions to the non-disclosure rule.    Discusses that this private information is handled with great care.

157        REP. NAITO:    Could we have a requirement that notice be given to the person seeking services, that the information would be obtained?

165        GRUNDFOSSEN:    I can make an effort to see what that informing process is.

169        REP. BROWN:    They sign a consent form, correct?

171        GRUNDFOSSEN:    They sign a form enabling us to obtain the information.

174        REP. BROWN:    Why not include in that consent form that the information may include (inaudible).

177        GRUNDFOSSEN:    I'm not able to satisfy the questions at this hearing.    I will find the information out and get it back to you.

PUBLIC HEARING ON SB 217

185        MILT JONES, COMMITTEE COUNSEL:    SB 217 establishes Child Support Revolving Fund.

Witnesses:                      John Ellis, Department of Justice  
                                    Phil Yarnell, Oregon's Child Support Program

190        JOHN ELLIS, DEPARTMENT OF JUSTICE:    Testimony on SB 217.    (EXHIBIT D)

223        REP. QUTUB:    How much does the state get of what someone pays for child support?

229        ELLIS:    It depends on whether the family is, or has been on public welfare, explains.    Gives case example.

252        REP. QUTUB:    Does the obligor know that the obligee is on welfare?    If so, are they alerted of that when the obligor applies for welfare?

257        ELLIS:    I do not know what the welfare department does on that issue.

261 PHIL YARNELL, OREGON'S CHILD SUPPORT PROGRAM: Explains how and what the obligor is told.

269 REP. QUTUB: Why is it so confidential for the obligor to know that their money will now go to the state, rather than to his family?

275 YARNELL: Those are federal regulations.

PUBLIC HEARING ON SB 218

283 MILT JONES, COMMITTEE COUNSEL: SB 218 reduces to 15 percent amount of disposable income that may be withheld from support obligor's income under certain circumstances.

Witnesses: John Ellis, Department of Justice  
Maureen McKnight, Oregon Legal Services

289 JOHN ELLIS, DEPARTMENT OF JUSTICE: Testifies and submits written testimony in support of SB 218. (EXHIBIT E) Gives case example

347 REP. NAITO: Earlier, you said it whichever was greater?

348 ELLIS: Explains the standard is if there is current child support. Discusses proposal for getting arrears only. Discusses written testimony, EXHIBIT E.

382 REP. BROWN: Would that address the column by Margie Boule?

384 ELLIS: Yes, it would effect that situation in the column.

387 REP. BROWN: Discusses column for other committee members about child support and public assistance. A problem is that the judge didn't have any discretion in lowering the child support payments.

401 ELLIS: Continues of testimony and discussion of bill.

425 REP. NAITO: This is only when the children are not needing the support anymore?

427 ELLIS: Yes. Continues with discussion and gives case example.

TAPE 66, SIDE B

038 REP. NAITO: It depends on how much they make?

039 ELLIS: No, with any income level.

040 REP. NAITO: If someone is making half a million a year, taking fifty percent of their earnings may be all right.

041 ELLIS: If a person makes that much, then you can go to court and asks for an order, to get greater than fifty percent.

043 REP. NAITO: Each of the parents has to go to court?

044 ELLIS: Yes, in a private party situation, each party would have to go to the court in concern to the child support than is being attached.

048 REP. NAITO: Each time an order is set by a judge, the judge is looking at the formula and figuring out how much there is to pay. The judge takes each wife into account and has to be aware of the prior orders.

053 ELLIS: People's incomes decrease, cites example. The court is only going to consider the person's income, and they will get a slight credit because they have former families. We are not talking about establishing the amount of current monthly support, we are talking about a post-judgment collection situation.

064 REP. NAITO: Would they have to go to court to modify all three of those decrees?

066 ELLIS: Yes. Continues with testimony.

094 MAUREEN MCKNIGHT, OREGON LEGAL SERVICES: Testifies and submits written testimony in support to SB 218. (EXHIBIT F) Discusses possible amendment.

#### PUBLIC HEARING ON SB 58

111 MILT JONES, COMMITTEE COUNSEL: SB 58 allows Chief Justice of Supreme Court to authorize employee of Judicial Department to certify amount of payment on petitions for attorney fees and costs in appeals by persons for whom counsel has been appointed.

Witness: Robin Jones, Oregon State Bar Judicial Administration

114 ROBIN JONES, OREGON STATE BAR JUDICIAL ADMINISTRATION: Testifies and submits written testimony in support of SB 58. (EXHIBIT G)

#### PUBLIC HEARING ON SB 62

143 MILT JONES, COMMITTEE COUNSEL: SB 62 revises cooperative corporation laws.

Witnesses: David Simon, Oregon State Bar  
John McCulley, Agricultural Cooperative Council

151 DAVID SIMON, OREGON COOPERATIVE CORPORATION TASK FORCE: Testifies and submits written testimony in support of SB 62. (EXHIBIT H)

177 JOHN MCCULLEY, AGRICULTURAL COOPERATIVE COUNCIL: Testifies in support of SB 62.

#### PUBLIC HEARING ON SB 68

185 MILT JONES, COMMITTEE COUNSEL: SB 68 increases from \$7,500 to \$10,000 amount that debtor may claim as exempt from execution if amount is received on account of personal bodily injury.

Witness: Maurice Russel, Oregon State Bar

189 MAURICE RUSSEL, OREGON STATE BAR: Testifies in support of SB 68.

221 REP. CARPENTER: Adjourns the hearing at 9:50 am.

Submitted by, Reviewed by,

Sarah Watson Debra Johnson  
Committee Assistant Committee Coordinator

EXHIBIT SUMMARY:

- A. Testimony on SB 213 - John Ellis - 3 pages
- B. Proposed Amendments to SB 213 - Maureen McKnight - 4 pages
- C. Testimony on SB 214 - John Ellis - 3 pages
- D. Testimony on SB 217 - John Ellis - 1 page
- E. Testimony on SB 218 - John Ellis - 3 pages
- F. Proposed Amendments to SB 218 - Maureen McKnight - 3 pages
- G. Testimony on SB 58 - Robin Jones - 1 page
- H. Proposed Amendments to SB 62 - David Simon - 5 pages