

OHIO

SENATE

JOURNAL

WEDNESDAY, MARCH 15, 2006

ONE HUNDRED SIXTY-FIRST DAY
Senate Chamber, Columbus, Ohio
Wednesday, March 15, 2006, 1:30 p.m.

The Senate met pursuant to adjournment.

Prayer was offered by Father Michael Gribble, St. Joseph's Cathedral, Columbus, Ohio, followed by the Pledge of Allegiance to the Flag.

The journal of the last legislative day was read and approved.

**REPORTS OF REFERENCE AND BILLS FOR SECOND
CONSIDERATION**

Senator Schuring reports for the Standing Committee on Reference, recommending that the following bills, standing in order for second consideration, be referred to committee as recommended:

Am. Sub. H. B. No. 227-Representatives Faber, Patton, T., Fessler, Widowfield, Trakas, Wagoner, Raga, McGregor, J., Martin, Evans, C., Patton, S., Setzer, Evans, D., Fende, Gilb, DeGeeter, Latta, Willamowski, Allen, Blessing, Boccieri, Bulp, Buehrer, Cassell, Collier, Core, Distel, Domenick, Flowers, Garrison, Gibbs, Hagan, Hartnett, Harwood, Mitchell, Oelslager, Reidelbach, Reinhard, Schaffer, Schneider, Smith, G., Stewart, J., Taylor, Uecker, Widener.

To amend sections 2743.191, 2929.14, and 2971.05 and to enact sections 5122.51, 5122.52, 5122.53, 5122.54, 5122.55, 5122.56, 5122.57, 5122.58, 5122.59, 5122.60, 5122.61, and 5122.62 of the Revised Code to require that sexually violent predators who are monitored by global positioning system devices pay the cost of that monitoring, to specify that the failure of a court to notify an offender of post-release control sanctions does not invalidate statutorily required post-release control sanctions, and to authorize the civil commitment of certain sexually violent predators.

To the Committee on Judiciary - Criminal Justice.

H. B. No. 322-Representatives Raussen, McGregor, Seitz, Webster, Setzer, Calvert, Gibbs, Seaver, Wagoner, Gilb, Peterson, Brinkman, Collier, Combs, Flowers, Hughes, Schneider, Uecker, Widowfield.

To amend sections 5747.021, 5747.03, 5747.112, 5748.03, 5748.06, and 5748.08 and to enact sections 5748.11, 5748.12, 5748.13, 5748.14, 5748.15, and 5748.16 of the Revised Code to authorize school districts to enter into agreements with the Department of Taxation or other entities for the collection and administration of school district income taxes.

To the Committee on Ways and Means and Economic Development.

S. B. No. 290-Senators Schuring, Jacobson, Spada, Clancy, Amstutz, Zurz.

To amend section 2913.02 of the Revised Code to authorize a definite jail term of not more than one year for petty theft if the offender, within five years of the offense, previously has been convicted of two or more offenses of theft.

To the Committee on Judiciary - Criminal Justice.

S. B. No. 291-Senators Miller, R., Armbruster, Zurz, Fingerhut, Miller, D..

To amend sections 3313.60 and 3314.03 and to enact sections 3301.80, 3301.81, 3301.82, and 3301.83 of the Revised Code to establish the Amistad Commission to promote education on the history of the African slave trade, slavery, and the contributions of African Americans.

To the Committee on State and Local Government and Veterans' Affairs.

S. B. No. 292-Senator Miller, R..

To amend sections 2923.122, 2923.124, 2923.126, and 2923.1212 of the Revised Code and to amend Section 9 of Am. Sub. H.B. 12 of the 125th General Assembly to permit political subdivisions to prohibit the carrying of concealed handguns in any park, swimming pool, sports field, or other outdoor premises or property owned, leased, or otherwise under the control of the political subdivision.

To the Committee on Judiciary - Criminal Justice.

S. B. No. 293-Senators Amstutz, Wachtmann, Coughlin, Carey, Schuler, Zurz, Dann, Mumper, Schuring, Armbruster, Clancy, Hottinger, Wilson.

To amend sections 3718.02 to 3718.05 of the Revised Code to revise the requirements governing sewage treatment systems rules that the Public Health Council must adopt and to require the Director of Health to adopt rules developed with the Sewage Treatment System Advisory Committee that establish standards and guidelines for approving a sewage treatment system or components of a system.

To the Committee on Environment and Natural Resources.

YES - 5: J. KIRK SCHURING, KIMBERLY A. ZURZ, C. J. PRENTISS, BILL HARRIS, JEFF JACOBSON.

NO - 0.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

Said bills were considered a second time and referred to committee as recommended.

REPORTS OF STANDING AND SELECT COMMITTEES

Senator Amstutz submitted the following report:

The standing committee on Ways and Means and Economic Development, to which was referred **S. B. No. 269**-Senator Amstutz, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsors: Spada, Roberts, Fingerhut, Dann.

YES - 11: STEVE STIVERS, GARY W. CATES, RON AMSTUTZ, ROBERT F. SPADA, TOM ROBERTS, ROBERT L. SCHULER, STEPHEN C. AUSTRIA, KIMBERLY A. ZURZ, DAVID GOODMAN, ERIC D. FINGERHUT, MARC DANN.

NO - 0.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

Senator Armbruster submitted the following report:

The standing committee on Highways and Transportation, to which was referred **S. C. R. No. 26**-Senator Armbruster, et al., having had the same under consideration, reports it back and recommends its adoption.

Co-Sponsor: Schuring, Hagan.

YES - 9: JOY PADGETT, J. KIRK SCHURING, PATRICIA M. CLANCY, KEVIN J. COUGHLIN, MARC DANN, DALE MILLER, ROBERT F. HAGAN, LYNN R. WACHTMANN, JEFFRY J. ARMBRUSTER.

NO - 0.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

Senator Carey submitted the following report:

The standing committee on Finance and Financial Institutions, to which was referred **Sub. H. B. No. 478**-Representative Wagoner, et al., having had the same under consideration, reports it back and recommends its passage.

Co-Sponsor: Gardner.

YES - 9: RANDY GARDNER, TOM NIEHAUS, JOHN A. CAREY, PATRICIA M. CLANCY, DALE MILLER, TOM ROBERTS, CHARLES A. WILSON, RAY MILLER, JOY PADGETT.

NO - 0.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

Senator Goodman submitted the following report:

The standing committee on Judiciary - Civil Justice, to which was referred **H. B. No. 363**-Representative Wagner, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

YES - 7: RON AMSTUTZ, LYNN R. WACHTMANN, STEPHEN C. AUSTRIA, ERIC H. KEARNEY, ERIC D. FINGERHUT, MARC DANN, DAVID GOODMAN.

NO - 0.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

Senator Schuring submitted the following report:

The standing committee on Rules, to which was re-referred **Am. H. B. No. 23**-Representative Reidelbach, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsors: Schuring, Prentiss, Zurz, Roberts, Fedor, Austria, Hottinger,

Jacobson, Harris.

YES - 11: BILL HARRIS, JEFF JACOBSON, RANDY GARDNER, ROBERT F. SPADA, STEPHEN C. AUSTRIA, JAY HOTTINGER, J. KIRK SCHURING, TOM ROBERTS, TERESA FEDOR, KIMBERLY A. ZURZ, C. J. PRENTISS.

NO - 0.

The question being, "Shall the report of the committee be accepted?"

The report of the committee was accepted.

Senator Schuring submitted the following report:

The standing committee on Rules to which were referred the appointments by the Governor of:

James M. Biggar, Democrat, from Pepper Pike, Cuyahoga County, Ohio, as a Member of the Kent State University Board of Trustees for a term beginning February 16, 2006 and ending at the close of business May 16, 2007, replacing James R. Schubert, who passed away.

Donald L. Crain, Republican, from West Chester, Butler County, Ohio, as a Member of the Miami University Board of Trustees for a term beginning March 3, 2006 and ending at the close of business February 28, 2015, replacing Chandra R. Shah, whose term expired.

Paul N. Duncan, Jr., Democrat, from Boardman, Mahoning County, Ohio, as a Member of the Board of Motor Vehicle Collision Repair Registration for a term beginning February 17, 2006 and ending at the close of business January 1, 2009, replacing Dean DeRolph, whose term expired.

Stephen A. Gary, Republican, from Clarksburg, Ross County, Ohio, as a Member of the Banking Commission for a term beginning February 17, 2006 and ending at the close of business January 31, 2009, replacing Zuheir Sofia, who resigned.

Nicholas C. Lahni, Republican, from Cincinnati, Hamilton County, Ohio, as a Member of the Board of Motor Vehicle Collision Repair Registration for a term beginning February 17, 2006 and ending at the close of business January 1, 2009, replacing Dennis Sterwerf, whose term expired.

Mark B. LaPlace, Republican, from Columbus, Franklin County, Ohio, as a Member of the Accountancy Board for a term beginning February 24, 2006 and ending at the close of business October 20, 2012, replacing Tom Mulligan, whose term expired.

Paul M. Reed, Republican, from Middleport, Meigs County, Ohio, as a

Member of the Banking Commission for a term beginning February 17, 2006 and ending at the close of business January 31, 2009, replacing Charlotte Martin, whose term expired.

George A. Smith, Republican, from Dayton, Montgomery County, as a Member of the Ohio Thoroughbred Race Fund Advisory Council for a new term beginning February 10, 2006 and ending at the close of business January 31, 2009.

Having had the same under consideration, reports back the recommendation that the Senate advise and consent to said appointments.

YES - 11: BILL HARRIS, JEFF JACOBSON, RANDY GARDNER, ROBERT F. SPADA, STEPHEN C. AUSTRIA, JAY HOTTINGER, J. KIRK SCHURING, TOM ROBERTS, TERESA FEDOR, KIMBERLY A. ZURZ, C. J. PRENTISS.

NO - 0.

The yeas and nays were taken and resulted - yeas 32, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Wachtmann	Wilson	Zurz	Harris-32.

So the Senate advised and consented to said appointments.

BILLS FOR THIRD CONSIDERATION

Sub. H. B. No. 478-Representatives Wagoner, Ujvagi, Brown, Perry, Latta, Webster, Miller, Core, Hartnett, Evans, C., Hoops, McGregor, J., Sykes, Skindell, Coley, Barrett, Beatty, Blessing, Book, Buehrer, Calvert, Carano, Cassell, Collier, Combs, DeBose, DeGeeter, Distel, Dolan, Domenick, Evans, D., Fende, Flowers, Gilb, Hughes, Key, Martin, Mason, Mitchell, Otterman, Patton, S., Patton, T., Raga, Redfern, Reidelbach, Seitz, Setzer, Smith, G., Smith, S., Stewart, J., Willamowski, Williams, Woodard, Yates, Yuko Senator Gardner.

To amend sections 145.011, 151.04, 154.01, 3305.01, 3307.01, 3333.045, 3334.01, 3345.04, 3345.12, 3345.17, 3345.31, 3345.32, 3345.50, 3345.51, and

3345.71; to enact sections 3364.01, 3364.02, 3364.03, 3364.04, 3364.05, and 3364.06; to repeal sections 3350.01, 3350.02, 3350.03, 3350.04, 3350.05, 3360.01, 3360.02, 3360.03, 3360.04, and 3360.05 of the Revised Code; and to amend Sections 209.63, 209.63.57, and 209.64.22 of Am. Sub. H.B. 66 of the 126th General Assembly to combine the University of Toledo and the Medical University of Ohio at Toledo, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 478**, pass?"

The yeas and nays were taken and resulted - yeas 32, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Wachtmann	Wilson	Zurz	Harris-32.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Gardner moved to amend the title as follows:

Add the names: "Amstutz, Armbruster, Carey, Clancy, Coughlin, Fedor, Fingerhut, Harris, Kearney, Miller, R., Mumper, Padgett, Prentiss, Spada, Wachtmann, Zurz, Austria, Grendell, Jacobson, Miller, D.."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

Sub. S. B. No. 269-Senators Amstutz, Austria, Clancy, Gardner, Grendell, Jacobson, Jordan, Padgett, Schuler, Wachtmann, Zurz, Spada, Roberts, Fingerhut, Dann.

To amend section 5741.02 of the Revised Code to exempt from the use tax items held by a person, but not for that person's own use, and donated to a charitable organization, or to the state or its political subdivisions for exclusively public purposes, was considered the third time.

The question being, "Shall the bill, **Sub. S. B. No. 269**, pass?"

The yeas and nays were taken and resulted - yeas 32, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Wachtmann	Wilson	Zurz	Harris-32.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Amstutz moved to amend the title as follows:

Add the names: "Armbruster, Carey, Goodman, Harris, Kearney, Schuring."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

On the motion of Senator Jacobson the Senate recessed.

The Senate met pursuant to the recess.

Sub. H. B. No. 23-Representatives Reidelbach, Wolpert, Wagner, Flowers, McGregor, Faber, Hood, Calvert, Taylor, Seitz, Raga, Schaffer, Fessler, White, Combs, Brinkman, Allen, Webster, Barrett, Hartnett, DeGeeter, Gilb, Brown, Otterman, Collier, Aslanides, Latta, Buehrer, Distel, C. Evans, Hagan, Hoops, Law, Miller, Perry, Schneider, Seaver, Setzer, Strahorn, Williams Senators Schuring, Prentiss, Zurz, Roberts, Fedor, Hottinger, Austria, Jacobson, Harris.

To amend sections 303.02, 309.09, 503.29, 504.04, 504.15, 519.02, 1901.182, 1901.31, 1907.012, 1907.20, 2151.022, 2152.02, 2505.08, 2506.01, 2506.02, 2506.03, 2506.04, 2907.01, and 4301.25, to amend, for the purpose of adopting a new section number as indicated in parentheses, section 503.29 (503.53), to enact new sections 503.51 and 503.52 and sections 2506.05, 2506.06, 2506.07, 2506.08, 2907.38, and 2907.39, and to repeal sections 503.51, 503.52, 503.53, 503.54, 503.55, 503.56, 503.57, 503.58, 503.59, 503.65, and 503.99 of the Revised Code to grant townships full authority to exercise all powers of local self-government regarding the operation of adult entertainment establishments and to adopt by resolution and enforce within their limits any local police, sanitary, and similar regulations regarding the operation of adult entertainment establishments that are not in conflict with general laws; to require the prosecuting attorney, upon the request of any township that has adopted any resolution of that nature and on behalf of the

township, to prosecute and defend on behalf of the township in the trial and argument of any challenge to the validity of the resolution or to prosecute and defend on behalf of the township actions for injunction or nuisance abatement regarding violations of the resolution; to create an expedited appeal from orders, adjudications, or decisions denying an application for, or suspending or revoking, a license or permit to locate or operate such an establishment; to create an expedited appeal in any case in which a court determines there is a threat of restraint of protected expression; and to create the offenses of permitting unlawful operation of viewing booths depicting sexual conduct, permitting a juvenile on the premises of an adult entertainment establishment, and use by a juvenile of false information to enter an adult entertainment establishment, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 23**, pass?"

Senator Grendell moved to amend as follows:

In line 146, after the underlined period insert "If the challenge to the validity of the resolution is before a federal court, the prosecuting attorney may request the attorney general to assist the prosecuting attorney in prosecuting and defending the challenge and, upon the prosecuting attorney's making of such a request, the attorney general shall assist the prosecuting attorney in performing that service if the resolution was drafted in accordance with legal guidance provided by the attorney general as described in division (B)(2) of section 503.52 of the Revised Code. The attorney general shall provide this assistance without charge to the township for which the service is performed. If a township adopts a resolution without the legal guidance of the attorney general, the attorney general is not required to provide assistance as described in this division to a prosecuting attorney."

In line 280, after "(B)" insert "(1)"

Between lines 285 and 286, insert:

"(2) Upon the request of any township, the attorney general shall provide legal guidance and assistance to the township in developing, formulating, and drafting a resolution regarding the operation of adult entertainment establishments of a type described in division (A) of this section. The attorney general shall provide this service without charge to the township for which the service is performed."

Between lines 357 and 358, insert:

"If a prosecuting attorney is prosecuting and defending a challenge to the validity of a resolution of a township pursuant to a request made pursuant to division (E)(1)(c) of this section and if the challenge is before a federal court, the prosecuting attorney may request the attorney general to assist the prosecuting attorney in prosecuting and defending the challenge, and, upon the prosecuting

attorney's making of such a request, the attorney general shall assist the prosecuting attorney in performing that service if the resolution was drafted in accordance with legal guidance provided by the attorney general as described in division (B)(2) of this section. The attorney general shall provide this assistance without charge to the township for which the service is performed. If a township adopts a resolution without the legal guidance of the attorney general, the attorney general is not being required to provide assistance as described in this division to a prosecuting attorney."

The question being, "Shall the amendment be agreed to?"

The yeas and nays were taken and resulted - yeas 32, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Wachtmann	Wilson	Zurz	Harris-32.

The amendment was agreed to.

The question recurred, "Shall the bill, **Sub. H. B. No. 23**, pass?"

The yeas and nays were taken and resulted - yeas 32, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Wachtmann	Wilson	Zurz	Harris-32.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Austria moved to amend the title as follows:

Add the names: "Amstutz, Cates, Clancy, Dann, Gardner, Goodman, Kearney, Miller, R., Niehaus, Schuler, Wachtmann, Grendell."

The question being, "Shall the motion be agreed to?"

The motion was agreed to and the title so amended.

MOTIONS

Senator Hottinger moved that Senators absent the week of Sunday, March 12, 2006, be excused, so long as a written explanation is on file with the Clerk pursuant to Senate Rule No. 17.

The question being, "Shall the motion be agreed to?"

The motion was agreed to.

INTRODUCTION AND FIRST CONSIDERATION OF BILLS

The following bill was introduced and considered the first time:

S. B. No. 294-Senators Amstutz, Carey, Gardner, Grendell, Harris, Jacobson, Niehaus, Padgett, Schuring, Stivers, Zurz.

To amend sections 5739.03, 5739.031, 5739.033, 5739.034, 5739.035, 5739.123, and 5741.02 of the Revised Code to delay the date when vendors must convert from origin-based situsing to destination-based sourcing for the purposes of determining the appropriate sales tax jurisdiction in which a sale is taxable and to eliminate the plan for delayed transition to destination-based sourcing for vendors with limited Ohio sales.

On the motion of Senator Jacobson, the Senate adjourned until Thursday, March 16, 2006 at 11:00 o'clock a.m.

Attest:

DAVID A. BATTOCLETTI,
Clerk.