

OHIO

SENATE

JOURNAL

TUESDAY, APRIL 12, 2005

THIRTY-EIGHTH DAY
Senate Chamber, Columbus, Ohio
Tuesday, April 12, 2005, 12:30 p.m.

The Senate met pursuant to adjournment.

Prayer was offered by Pastor Brian Hanson, Linworth Baptist Church, Worthington, 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:

Sub. H. B. No. 25-Representatives Wagner, J. Stewart, Hartnett, Carano, Otterman, Latta, Widener, Aslanides, S. Patton, Buehrer, Wolpert, Combs, Kearns, Webster, McGregor, Reidelbach, Law, Core, Schaffer, Faber, Chandler, Cassell, Hagan, Wagoner, Martin, Gilb, Allen, Barrett, Blessing, Book, Carmichael, Coley, Collier, Daniels, DeBose, Dolan, Domenick, C. Evans, Fessler, Flowers, Gibbs, Harwood, Hughes, Key, Mason, Miller, Perry, Schneider, Seaver, Seitz, D. Stewart, Strahorn, Taylor, Walcher, Willamowski, Williams, Yates, Yuko.

To amend section 2743.02 of the Revised Code to allow a state officer or employee who in a civil action is alleged to lack immunity from personal liability to participate in proceedings to determine whether the officer or employee is entitled to personal immunity.

To the Committee on Judiciary - Civil Justice.

Sub. H. B. No. 58-Representatives Dolan, Willamowski, Barrett, Beatty, Brown, Carano, Cassell, Chandler, Coley, Daniels, Domenick, C. Evans, Fende, Flowers, Hartnett, Hughes, Key, Law, Martin, McGregor, Redfern, Schaffer, Schlichter, Schneider, Seitz, J. Stewart, Uecker, Yuko.

To amend sections 109.71, 109.73, 109.79, 4973.17, and 4973.171 of the Revised Code relative to the appointment and commissioning of amusement park police officers and to the training of those officers and to declare an emergency.

To the Committee on Judiciary - Criminal Justice.

S. B. No. 119-Senators Hagan, Jacobson, Harris, Spada, Coughlin, Mumper, Cates, Carey, Padgett, Amstutz, Jordan, Zurz, Fingerhut, Dann, Miller.

To amend sections 3517.092 and 3517.992 of the Revised Code to prohibit county elective officers and candidates for county elective office from accepting contributions from certain county employees, to prohibit municipal elective officers and candidates for municipal elective office from soliciting or accepting contributions from certain employees of the municipal corporation, and to prohibit township elective officers and candidates for township elective office from soliciting or accepting contributions from certain township employees.

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

S. B. No. 120-Senators Grendell, Coughlin, Fingerhut.

To amend sections 3704.035, 3704.05, 3704.141, 3704.143, 3704.16, 3704.99, 3706.01, 4503.03, 4503.10, 4503.102, 4503.103, 4503.51, 5552.01, and 5739.02, to enact sections 3704.20, 3704.21, 3704.22, 3704.23, and 4503.043, and to repeal sections 3704.14, 3704.142, and 3704.17 of the Revised Code regarding motor vehicle emissions inspections.

To the Committee on Environment and Natural Resources.

YES - 5: MARK MALLORY, J. KIRK SCHURING, C. J. PRENTISS, JEFF JACOBSON, BILL HARRIS.

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. 26**-Senator Amstutz, et al., having had the same under consideration, reports back a substitute bill and recommends its

passage.

YES - 8: RON AMSTUTZ, ROBERT F. SPADA, DAVID GOODMAN, TOM NIEHAUS, ROBERT L. SCHULER, MARC DANN, TOM ROBERTS, KIMBERLY A. ZURZ.

NO - 0.

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

The report of the committee was accepted.

Senator Hottinger submitted the following report:

The standing committee on Insurance, Commerce and Labor, to which was referred **S. B. No. 81**-Senator Armbruster, having had the same under consideration, reports it back with the following amendments and recommends its passage when so amended.

In line 977, delete "division (B) (2) of"; delete "4141.29" and insert "4141.292"

In line 2842, delete "division (B) (2) of"

Co-Sponsors: Hottinger, Spada.

YES - 8: JAY HOTTINGER, JEFFRY J. ARMBRUSTER, STEPHEN C. AUSTRIA, LYNN R. WACHTMANN, PATRICIA M. CLANCY, RAY MILLER, ROBERT F. SPADA, MARK MALLORY.

NO - 0.

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

The report of the committee was accepted.

Senator Wachtmann submitted the following report:

The standing committee on Health, Human Services and Aging, to which was referred **S. B. No. 41**-Senator Clancy, et al., having had the same under consideration, reports it back and recommends its passage.

YES - 11: RAY MILLER, LYNN R. WACHTMANN, RANDY GARDNER, LARRY A. MUMPER, JIM JORDAN, KEVIN J. COUGHLIN, PATRICIA M. CLANCY, JEFF JACOBSON, JEFFRY J. ARMBRUSTER, CHARLES A. WILSON, ERIC D. FINGERHUT.

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:

Sandra P. Baird, Republican, from Dublin, Franklin County, Ohio, as a Member of the Motor Vehicle Dealers Board for a new term beginning February 7, 2005 and ending at the close of business October 4, 2007.

Ralph C. Emus, Republican, from Conneaut, Ashtabula County, Ohio, as a Member of the Board of Motor Vehicle Collision Repair Registration for a new term beginning February 7, 2005 and ending at the close of business January 1, 2008.

Richard P. Finney, Republican, from Cadiz, Harrison County, Ohio, as a Member of the Board of Motor Vehicle Collision Repair Registration for a new term beginning February 7, 2005 and ending at the close of business January 1, 2008, replacing Robert Anderson, whose term expired.

Gary L. Jones, Democrat, from Gahanna, Franklin County, Ohio, as a Member of the Motor Vehicle Dealers Board for a new term beginning February 7, 2005 and ending at the close of business October 4, 2007.

Michelle Primm, Independent, from Akron, Summit County, Ohio, as a Member of the Motor Vehicle Dealers Board for a new term beginning February 7, 2005 and ending at the close of business October 4, 2007.

David Raizk, Democrat, from Wilmington, Clinton County, Ohio, as a Member of the Motor Vehicle Dealers Board for a term beginning February 7, 2005 and ending at the close of business October 4, 2007, replacing Jeffrey Rader, whose term expired.

Roberto Vazquez, Independent, from Galloway, Franklin County, Ohio, as a Member of the Motor Vehicle Dealers Board for a term beginning February 7, 2005 and ending at the close of business October 4, 2007, replacing Norma J. Ross, whose term expired.

William F. Woeste, Jr., Republican, from Cincinnati, Hamilton County, Ohio, as a Member of the Motor Vehicle Dealers Board for a new term beginning February 7, 2005 and ending at the close of business October 4, 2007.

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, ROBERT F. SPADA, STEPHEN C. AUSTRIA, RANDY GARDNER, JAY HOTTINGER, J. KIRK SCHURING, ROBERT F. HAGAN, TERESA FEDOR, MARK MALLORY, C. J. PRENTISS.

NO - 0.

The question being, "Shall the Senate advise and consent to the appointments by the Governor?"

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	Brady
Carey	Cates	Clancy	Coughlin
Dann	Fedor	Fingerhut	Gardner
Goodman	Grendell	Hagan	Hottinger
Jacobson	Jordan	Mallory	Miller
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. S. B. No. 26-Senators Amstutz, Austria, Clancy, Carey, Coughlin, Gardner, Goodman, Harris, Hottinger, Jacobson, Mumper, Padgett, Schuring, Spada, Wachtmann, Zurz.

To amend sections 5739.031, 5739.033, 5739.034, 5739.035, 5739.123, and 5740.10 of the Revised Code to phase-in destination-based sourcing of sales for small businesses, was considered the third time.

The question being, "Shall the bill, **Sub. S. B. No. 26**, 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	Brady
Carey	Cates	Clancy	Coughlin
Dann	Fedor	Fingerhut	Gardner
Goodman	Grendell	Hagan	Hottinger
Jacobson	Jordan	Mallory	Miller
Mumper	Niehaus	Padgett	Prentiss

Roberts
Wachtmann

Schuler
Wilson

Schuring
Zurz

Spada
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: "Cates, Grendell, Niehaus."

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

The motion was agreed to and the title so amended.

S. B. No. 41-Senators Clancy, Prentiss, Fedor, Cates, Spada, Wilson, Wachtmann, Mumper, Armbruster, Jacobson, Austria, Coughlin, Goodman, Gardner, Brady, Hagan, Miller.

To enact section 3781.55 of the Revised Code to require any place of public accommodation to allow a mother to breast-feed within the place of public accommodation, was considered the third time.

The question being, "Shall the bill, **S. B. No. 41**, pass?"

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

Those who voted in the affirmative were: Senators

Amstutz
Carey
Dann
Goodman
Jacobson
Mumper
Roberts
Wachtmann

Armbruster
Cates
Fedor
Grendell
Jordan
Niehaus
Schuler
Wilson

Austria
Clancy
Fingerhut
Hagan
Mallory
Padgett
Schuring
Zurz

Brady
Coughlin
Gardner
Hottinger
Miller
Prentiss
Spada
Harris-32.

So the bill passed.

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

Senator Clancy moved to amend the title as follows:

Add the names: "Amstutz, Niehaus, Roberts, Schuler, Dann, Mallory, Harris, Zurz."

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

The motion was agreed to and the title so amended.

Am. S. B. No. 81-Senators Armbruster, Hottinger, Spada.

To amend sections 4141.01, 4141.11, 4141.131, 4141.24, 4141.242, 4141.25, 4141.26, 4141.28, 4141.282, 4141.283, 4141.29, 4141.301, 4141.31, 4141.312, and 4141.99, to enact sections 4141.292 and 4141.48, and to repeal section 4141.311 of the Revised Code to conform state law to federal requirements in the establishment of civil and criminal penalties for manipulating payroll and business transfer information to obtain lower contribution rates and in the treatment of Indian tribes as employers, to establish a state disaster unemployment benefit payment to pay the first week of an individual's unemployment caused by a major disaster, to make changes involving the appeal process for claims under the unemployment compensation law, and to make various changes in the administration of the unemployment compensation law, was considered the third time.

The question being, "Shall the bill, **Am. S. B. No. 81**, 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	Brady
Carey	Cates	Clancy	Coughlin
Dann	Fedor	Fingerhut	Gardner
Goodman	Grendell	Hagan	Hottinger
Jacobson	Jordan	Mallory	Miller
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 Armbruster moved to amend the title as follows:

Add the names: "Austria, Gardner, Goodman, Harris."

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

The motion was agreed to and the title so amended.

INTRODUCTION AND FIRST CONSIDERATION OF BILLS

The following bill was introduced and considered the first time:

S. B. No. 121-Senator Hottinger.

To enact section 5533.321 of the Revised Code to designate a bridge on State Route 13 in Licking County as the "K.I.A. Memorial Bridge" and to declare an emergency.

OFFERING OF RESOLUTIONS

Pursuant to Senate Rule No. 54, the following resolutions were offered:

S. R. No. 58-Senator Clancy.

Honoring the North College Hill High School boys basketball team as the 2005 Division III State Champion.

S. R. No. 59-Senator Coughlin.

Honoring the Walsh Jesuit High School girls basketball team as the 2005 Division II State Champion.

S. R. No. 60-Senator Coughlin.

Honoring Mike Pucillo as a 2005 Division II State Wrestling Champion.

S. R. No. 61-Senator Coughlin.

Honoring David Rells as a 2005 Division II State Wrestling Champion.

S. R. No. 62-Senator Wachtmann.

Honoring Jamison Moss as a 2005 Division III State Wrestling Champion.

The question being, "Shall the resolutions listed under the President's prerogative be adopted?"

So the resolutions were adopted.

COMMUNICATIONS FROM THE GOVERNOR

The President handed down the following messages from the Governor which were read by the Clerk:

**STATE OF OHIO
EXECUTIVE DEPARTMENT
OFFICE OF THE GOVERNOR
COLUMBUS**

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, Charles W. Brougher, Republican, from Springfield, Clark County, Ohio, as a Member of the Financial Planning and Supervision Commission for Springfield City Schools for a term beginning March 18, 2005 and serving at the pleasure of the Governor.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused

the Great Seal of the State of Ohio to be affixed, at Columbus, this 18th day of March in the year of our Lord, two thousand and five.

[Seal]

Bob Taft,
Governor.

**STATE OF OHIO
EXECUTIVE DEPARTMENT
OFFICE OF THE GOVERNOR
COLUMBUS**

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, Kenneth E. Delaney, Democrat, from Beavercreek, Greene County, Ohio, as a Member of the Unemployment Compensation Review Commission for a new term beginning March 18, 2005 and ending at the close of business February 27, 2011.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed, at Columbus, this 18th day of March in the year of our Lord, two thousand and five.

[Seal]

Bob Taft,
Governor.

**STATE OF OHIO
EXECUTIVE DEPARTMENT
OFFICE OF THE GOVERNOR
COLUMBUS**

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, Douglas N. Johnson, Republican, from Xenia, Greene County, Ohio, as a Member of the Ohio Water Advisory Council for a new term beginning March 18, 2005 and ending at the close of business February 1, 2007.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed, at Columbus, this 18th day of March in the year of our Lord, two thousand and five.

[Seal]

Bob Taft,
Governor.

**STATE OF OHIO
EXECUTIVE DEPARTMENT
OFFICE OF THE GOVERNOR
COLUMBUS**

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, Harry M. Kaneshige, Democrat, from Athens, Athens County, Ohio, as a Member of the Ohio Water Advisory Council for a new term beginning March 18, 2005 and ending at the close of business February 1, 2007.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed, at Columbus, this 18th day of March in the year of our Lord, two thousand and five.

[Seal]

Bob Taft,
Governor.

**STATE OF OHIO
EXECUTIVE DEPARTMENT
OFFICE OF THE GOVERNOR
COLUMBUS**

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, Paul R. Labovitz, Independent, from Akron, Summit County, Ohio, as a Member of the Ohio Water Advisory Council for a new term beginning March 18, 2005 and ending at the close of business February 1, 2007.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed, at Columbus, this 18th day of March in the year of our Lord, two thousand and five.

[Seal]

Bob Taft,
Governor.

**STATE OF OHIO
EXECUTIVE DEPARTMENT
OFFICE OF THE GOVERNOR
COLUMBUS**

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, Vincent T. Ricca, Republican, from Upper Arlington, Franklin County, Ohio, as a Member of the Ohio Water Advisory Council for a new term beginning March 18, 2005 and ending at the close of business February 1, 2007.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed, at Columbus, this 18th day of March in the year of our Lord, two thousand and five.

[Seal]

Bob Taft,
Governor.

**STATE OF OHIO
EXECUTIVE DEPARTMENT
OFFICE OF THE GOVERNOR
COLUMBUS**

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, Priscilla A. Swain, Republican, from East Sparta, Stark County, Ohio, as a Member of the Waterways Safety Council for a new term beginning March 18, 2005 and ending at the close of business January 31, 2010.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed, at Columbus, this 18th day of March in the year of our Lord, two thousand and five.

[Seal]

Bob Taft,
Governor.

Said appointments were referred to the Committee on Rules.

On the motion of Senator Gardner, the Senate recessed until 5:25 p.m.

The Senate met pursuant to the recess.

On the motion of Senator Spada, the Senate reverted to the Second Order of Business, Reports of Standing and Select Committees.

Senator Armbruster submitted the following report:

The standing committee on Highways and Transportation, to which was referred **S. B. No. 55**-Senator Spada, et al., having had the same under consideration, reports it back and recommends its passage.

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

NO - 0.

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

The report of the committee was accepted.

Senator Coughlin submitted the following report:

The standing committee on State and Local Government and Veterans' Affairs, to which was referred **S. B. No. 84**-Senator Mallory, et al., having had

the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsors: Grendell, Zurz.

YES - 9: JEFFRY J. ARMBRUSTER, TIMOTHY J. GRENDALL, KEVIN J. COUGHLIN, TERESA FEDOR, KIMBERLY A. ZURZ, DANIEL R. BRADY, TOM NIEHAUS, LARRY A. MUMPER, J. KIRK SCHURING.

NO - 0.

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

The report of the committee was accepted.

Senator Coughlin submitted the following report:

The standing committee on State and Local Government and Veterans' Affairs, to which was referred **S. R. No. 35**-Senator Mallory, et al., having had the same under consideration, reports it back and recommends its adoption.

Co-Sponsor: Zurz.

YES - 9: JEFFRY J. ARMBRUSTER, TIMOTHY J. GRENDALL, KEVIN J. COUGHLIN, TERESA FEDOR, KIMBERLY A. ZURZ, DANIEL R. BRADY, TOM NIEHAUS, LARRY A. MUMPER, J. KIRK SCHURING.

NO - 0.

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

The report of the committee was accepted.

MESSAGE FROM THE PRESIDENT

Pursuant to Section 145.72 of the Ohio Revised Code, the President of the Senate appoints Senator Hottinger to serve on the Public Employees Deferred Compensation Board.

Pursuant to Section 3924.08 (A) of the Ohio Revised Code, the President of the Senate appoints Senator Hottinger to serve as an ex-officio member of the Ohio Health Reinsurance Program.

On the motion of Senator Spada, the Senate adjourned until Wednesday, April 13, 2005 at 1:30 p.m.

Attest:

MATTHEW T. SCHULER,
Clerk.