

OHIO

SENATE

JOURNAL

WEDNESDAY, DECEMBER 14, 2005

ONE HUNDRED TWENTY-SIXTH DAY
Senate Chamber, Columbus, Ohio
Wednesday, December 14, 2005, 1:30 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:

Am. Sub. H. B. No. 397-Representatives Hagan, Collier, Law, Harwood, Schaffer, Cassell, DeBose, Domenick, Book, Brown, Carano, Chandler, Evans, C., Evans, D., Flowers, McGregor, J., Miller, Oelslager, Patton, S., Peterson, Seitz, Setzer, Smith, G., Stewart, J., Uecker, Webster, Williams, Yates.

To amend sections 3714.01, 3714.02, 3714.03, 3714.04, 3714.05, 3714.06, 3714.07, 3714.071, 3714.073, 3714.09, 3714.11, 3714.12, 3714.13, 3734.281, 3734.57, 3745.04, 3745.05, and 3745.06 and to enact sections 3714.051, 3714.052, 3714.053, 3714.061, 3714.062, 3714.081, 3714.082, 3714.083, 3714.101, and 3714.20 of the Revised Code to revise the statutes governing construction and demolition debris facilities and to declare an emergency.

To the Committee on Environment and Natural Resources.

Am. Sub. H. B. No. 145-Representatives Seaver, Evans, D., Reinhard, Evans, C., Setzer, Raga, Wolpert, Flowers, Reidelbach, Chandler, Fende, Allen, Aslanides, Blessing, DeBose, Domenick, Hughes, Latta, McGregor, J., Patton, T., Stewart, D., Uecker, Wagoner, Walcher, Widowfield.

To amend sections 2935.01, 2935.03, and 3737.33 and to enact sections 109.791 and 505.382 of the Revised Code to give townships and joint fire districts authority to confer certain investigative and arrest powers upon some officers in their fire departments and to require the Ohio Fire Academy, in conjunction with the Ohio Peace Officer Training Academy, to conduct a fire investigative law enforcement course.

To the Committee on Judiciary - Criminal Justice.

Am. H. B. No. 231-Representatives Mason, McGregor, Otterman, Allen, Brown, Chandler, Williams, Carano, S. Smith, Boccieri, Fende, Driehaus, Ujvagi, Harwood, Oelslager, C. Evans, Key, S. Patton, DeBose, Collier, Reidelbach, Yuko, Beatty, Barrett, Blessing, Book, Buehrer, Cassell, Coley, DeGeeter, Domenick, Flowers, Garrison, Gibbs, Gilb, Hartnett, Hoops, Hughes, Latta, Law, Mitchell, Patton, T., Perry, Peterson, Raussen, Sayre, Schaffer, Schneider, Seaver, Skindell, Smith, G., Stewart, D., Stewart, J., Sykes, Walcher, Willamowski, Woodard, Yates.

To amend section 2909.21 and to enact section 2909.081 of the Revised Code to prohibit a person from knowingly discharging a laser into the cockpit of an aircraft.

To the Committee on Judiciary - Criminal Justice.

Sub. H. B. No. 259-Representatives Wagner, McGregor, J., Martin, Evans, C., Fende, Bulp, Wagoner, Seaver, Evans, D., Setzer, Hagan, Harwood, Gilb, Wolpert, Distel, Willamowski, Collier, Latta, Faber, Brown, Aslanides, Uecker, Allen, Perry, Mason, Hughes, Blessing, Daniels, DeBose, DeGeeter, Domenick, Fessler, Flowers, Gibbs, Law, Oelslager, Otterman, Patton, T., Reidelbach, Schaffer, Schlichter, Schneider, Smith, G., Stewart, J., Taylor, Williams.

To amend section 2921.38 of the Revised Code to prohibit a person, with intent to harass, annoy, threaten, or alarm a law enforcement officer, from causing or attempting to cause the law enforcement officer to come into contact with a bodily substance and to prohibit any person from engaging in the same action with respect to any person when the person is a knowing carrier of certain viruses or bacteria.

To the Committee on Judiciary - Criminal Justice.

H. B. No. 296-Representatives Buehrer, Latta, Hagan, Aslanides, Setzer, Seaver, Hood, Kearns, Garrison, Blessing, Boccieri, Book, Bulp, Carano, Cassell, Coley, Core, Dolan, Domenick, Evans, C., Evans, D., Faber, Fende, Fessler, Gibbs, Gilb, Harwood, Hoops, Key, Law, Martin, McGregor, J., McGregor, R., Oelslager, Otterman, Perry, Peterson, Raga, Reinhard, Sayre, Schaffer, Schlichter, Schneider, Seitz, Stewart, D., Taylor, Uecker, Wagoner, Webster, White, Willamowski, Yuko, Patton, T..

To amend sections 1531.01, 1533.10, and 1533.111 and to enact section 1533.102 of the Revised Code to provide for the issuance of apprentice hunting licenses and apprentice fur taker permits and to enable persons who

are sixteen or seventeen years of age to obtain youth hunting licenses and youth fur taker permits.

To the Committee on Agriculture.

H. B. No. 421-Representatives Beatty, Reidelbach, Allen, Redfern, Ujvagi, Cassell, Harwood, Brown, Healy, Oelslager, Latta, McGregor, J., Miller, Gilb, Boccieri, Perry, Skindell, Evans, C., Carano, Chandler, Barrett, Hughes, Combs, Driehaus, Aslanides, Flowers, DeGeeter, Hoops, Hood, Strahorn, Peterson, Mitchell, Bulp, Smith, S., McGregor, R., Otterman, Stewart, D., Raussen, Book, Yuko, Patton, S., Fende, Hartnett, Mason, Wolpert, Woodard, Wagoner, Schaffer, Fessler, Calvert, Carmichael, Core, Raga, Schlichter, Smith, G., Koziura, Setzer, Blasdel, Husted.

To enact section 5.2231 of the Revised Code to designate December 1 as "Rosa Parks Day."

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

YES - 4: J. KIRK SCHURING, KIMBERLY A. ZURZ, C. J. PRENTISS, 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 Carey submitted the following report:

The standing committee on Finance and Financial Institutions, to which was referred **Sub. H. B. No. 81**-Representative Smith, G., et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsors: Carey, Stivers, Gardner, Clancy, Roberts.

YES - 11: STEVE STIVERS, RANDY GARDNER, JOY PADGETT, RON AMSTUTZ, PATRICIA M. CLANCY, TOM ROBERTS, CHARLES A. WILSON, RAY MILLER, JOHN A. CAREY, TOM NIEHAUS, STEPHEN C. AUSTRIA.

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 **H. B. No. 367**-Representative Calvert, et al., having had the same under consideration, reports it back and recommends its passage.

Co-Sponsors: Carey, Gardner, Clancy, Roberts.

YES - 11: STEVE STIVERS, RON AMSTUTZ, JOY PADGETT, RANDY GARDNER, PATRICIA M. CLANCY, TOM ROBERTS, CHARLES A. WILSON, RAY MILLER, JOHN A. CAREY, TOM NIEHAUS, STEPHEN C. AUSTRIA.

NO - 0.

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

The report of the committee was accepted.

Senator Niehaus submitted the following report:

The standing committee on Environment and Natural Resources, to which was referred **S. B. No. 234**-Senator Niehaus, having had the same under consideration, reports back a substitute bill and recommends its passage.

YES - 8: JOHN A. CAREY, LARRY A. MUMPER, TIMOTHY J. GRENDALL, ROBERT F. SPADA, JAY HOTTINGER, TOM NIEHAUS, ROBERT F. HAGAN, TERESA FEDOR.

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:

Lavea Brachman, Democrat, from Columbus, Franklin County, Ohio, as a Member of the Clean Ohio Council for a new term beginning November 25, 2005 and ending at the close of business November 23, 2007.

Adam K. Brandt, Independent, from Bexley, Franklin County, Ohio, as a Member of the Ohio cultural Facilities Commission for a term beginning November 4, 2005 and ending at the close of business December 31, 2007.

Bruce Cornett, Republican, from Yellow Springs, Greene County, Ohio, as a Member of the Clean Ohio Council for a new term beginning November 25, 2005 and ending at the close of business November 23, 2007.

Ronald W. Dachtler, Democrat, from Middleburg Heights, Cuyahoga County, Ohio, as a Member of the Board of Building Appeals for a new term beginning November 14, 2005 and ending at the close of business October 13, 2009.

Carol N. Drake, Republican, from Columbus, Franklin County, Ohio, as Director of the Ohio Department of Administrative Services for a term beginning November 21, 2005 and continuing at the pleasure of the Governor.

Dennis M. Garvin, from Toledo, Lucas County, Ohio, as a Member of the Environmental Education Council for a new term beginning November 25, 2005 and ending at the close of business January 1, 2007.

Robert W. Hare, Independent, from Sandusky, Erie County, Ohio, as a Member of the Environmental Education Council for a new term beginning November 25, 2005 and ending at the close of business January 1, 2007.

Sharon Howard, from Dayton, Montgomery County, Ohio, as a Member of the Ohio Arts Council for a term beginning November 14, 2005 and ending at the close of business July 1, 2010, replacing Gail Johnson, who resigned.

Nicholas E. King, Independent, from Willard, Huron County, Ohio, as a Member of the University of Toledo Board of Trustees (Student) for a term beginning November 14, 2005 and ending at the close of business July 1, 2006, replacing Kristopher Keating, who resigned.

Thomas L. Kovacik, Independent, from Toledo, Lucas County, Ohio, as a Member of the Clean Ohio Council for a new term beginning November 25, 2005 and ending at the close of business November 23, 2007.

James B. Krimmel, Republican, from Twinsburg, Summit County, Ohio, as a Member of the Environmental Education Council for a new term

beginning November 25, 2005 and ending at the close of business January 1, 2007.

Harry J. Lehman, Democrat, from New Albany, Franklin County, Ohio, as a Member of the Ohio cultural Facilities Commission for a term beginning November 4, 2005 and ending at the close of business December 31, 2008.

Jack H. Schron, Jr., Republican, from Chagrin Falls, Cuyahoga County, Ohio, as a Member of the Clean Ohio Council for a new term beginning November 25, 2005 and ending at the close of business November 23, 2007.

Lee C. Weingart, from Cleveland, Cuyahoga County, Ohio, as a Member of the State Lottery Commission for a term beginning November 18, 2005 and ending at the close of business August 1, 2007, replacing Beverly Martin, who resigned.

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

YES - 10: BILL HARRIS, RANDY GARDNER, ROBERT F. SPADA, STEPHEN C. AUSTRIA, JAY HOTTINGER, J. KIRK SCHURING, ROBERT F. HAGAN, TERESA FEDOR, KIMBERLY A. ZURZ, 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	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller	Mumper
Niehaus	Padgett	Prentiss	Roberts
Schuler	Schuring	Spada	Stivers
Wachtmann	Wilson	Zurz	Harris-32.

So the Senate advised and consented to said appointments.

BILLS FOR THIRD CONSIDERATION

Senator Jacobson moved that Article II, Section 15(c) of the Ohio Constitution, requiring a bill to be considered on three different days, be suspended with respect to the third consideration of **Am. Sub. H. B. No. 397** .

The question being, "Shall the motion 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	Mumper
Niehaus	Padgett	Prentiss	Roberts
Schuler	Schuring	Spada	Stivers
Wachtmann	Wilson	Zurz	Harris-32.

The motion was agreed to.

Senator Jacobson moved that **Am. Sub. H. B. No. 397**, having been referred to the Committee on Environment and Natural Resources, be brought up for immediate consideration.

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

The motion was agreed to.

Am. Sub. H. B. No. 397-Representatives Hagan, Collier, Law, Harwood, Schaffer, Cassell, DeBose, Domenick, Book, Brown, Carano, Chandler, Evans, C., Evans, D., Flowers, McGregor, J., Miller, Oelslager, Patton, S., Peterson, Seitz, Setzer, Smith, G., Stewart, J., Uecker, Webster, Williams, Yates.

To amend sections 3714.01, 3714.02, 3714.03, 3714.04, 3714.05, 3714.06, 3714.07, 3714.071, 3714.073, 3714.09, 3714.11, 3714.12, 3714.13, 3734.281, 3734.57, 3745.04, 3745.05, and 3745.06 and to enact sections 3714.051, 3714.052, 3714.053, 3714.061, 3714.062, 3714.081, 3714.082, 3714.083, 3714.101, and 3714.20 of the Revised Code to revise the statutes governing construction and demolition debris facilities and to declare an emergency, was considered the third time.

The question being, "Shall the section, Section 5, setting forth the emergency features of the bill, stand as a part of the bill?"

Senator Wilson moved to amend as follows:

In line 2415, after "3." delete the balance of the line

Delete lines 2416 through 2475 and insert "It is the intent of the General Assembly in enacting this act that the amendments to Chapter 3714. of the

Revised Code by this act, including the amendments to the siting requirements established in section 3714.03 of the Revised Code, apply to all new construction and demolition debris facilities established after the effective date of this act, including any new construction and demolition debris facility for which the owner or operator of the proposed facility submitted an application for a license to establish the facility to the Director of Environmental Protection or a board of health before July 1, 2005, but for which the license has not been issued as of the effective date of this act."

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

Senator Niehaus moved that the amendment be laid on the table.

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

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 21, nays 11, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Gardner
Goodman	Hottinger	Jacobson	Jordan
Mumper	Niehaus	Padgett	Schuler
Schuring	Spada	Stivers	Wachtmann
			Harris-21.

Those who voted in the negative were: Senators

Dann	Fedor	Fingerhut	Grendell
Hagan	Kearney	Miller	Prentiss
Roberts	Wilson		Zurz-11.

The amendment was laid on the table.

The question recurred, "Shall the section, Section 5, setting forth the emergency features of the bill, stand as a part of the bill?"

Senator Dann moved to amend as follows:

In line 468 delete "five hundred" and insert "one thousand"

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

Senator Niehaus moved that the amendment be laid on the table.

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

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 21, nays 11, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Gardner
Goodman	Hottinger	Jacobson	Jordan
Mumper	Niehaus	Padgett	Schuler
Schuring	Spada	Stivers	Wachtmann
			Harris-21.

Those who voted in the negative were: Senators

Dann	Fedor	Fingerhut	Grendell
Hagan	Kearney	Miller	Prentiss
Roberts	Wilson		Zurz-11.

The amendment was laid on the table.

The question recurred, "Shall the section, Section 5, setting forth the emergency features of the bill, stand as a part of the bill?"

Senator Dann moved to amend as follows:

In line 2475, after "4." insert "The Construction and Demolition Debris Facility Study Committee is recreated. The Speaker of the House of Representatives, the President of the Senate, and the Governor shall appoint the same individuals appointed under Section 513.03 of Am. Sub. H.B. 66 of the 126th General Assembly to the Committee not later than fifteen days after the effective date of this act. The Director of Environmental Protection or the Director's designee shall be a member of the Committee.

Members of the Committee shall not receive compensation for their service on the Committee and shall not receive reimbursement for expenses incurred related to that service.

The Committee shall study the recycling of construction and demolition debris and shall make recommendations to the General Assembly regarding that recycling.

The Committee shall submit a report of its study and any recommendations that it has developed to the General Assembly not later than three months after the effective date of this act. The Committee shall cease to exist on the date on which it submits its report.

The General Assembly shall enact legislation based on the recommendations of the Committee as soon as is practicable.

Section 5."

In line 2484, delete "5." and insert "6."

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

Senator Niehaus moved that the amendment be laid on the table.

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

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 22, nays 9, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Gardner
Goodman	Grendell	Hottinger	Jacobson
Jordan	Mumper	Niehaus	Padgett
Prentiss	Schuler	Spada	Stivers
Wachtmann			Harris-22.

Those who voted in the negative were: Senators

Dann	Fedor	Fingerhut	Hagan
Kearney	Miller	Roberts	Schuring
			Wilson-9.

The amendment was laid on the table.

The question being, "Shall the section, Section 5, setting forth the emergency features of the bill, stand as a part of the bill?"

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	Mumper
Niehaus	Padgett	Prentiss	Roberts
Schuler	Schuring	Spada	Stivers
Wachtmann	Wilson	Zurz	Harris-32.

So the section, Section 5, setting forth the emergency features of the bill stood as a part of the bill.

The question being, "Shall the bill pass as an emergency measure?"

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	Mumper
Niehaus	Padgett	Prentiss	Roberts
Schuler	Schuring	Spada	Stivers

Wachtmann Wilson Zurz Harris-32.

So the bill having received the required constitutional majority passed as an emergency measure.

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

Senator Niehaus moved to amend the title as follows:

Add the names: "Niehaus, Armbruster, Zurz, Cates, Coughlin, Fedor, Harris, Prentiss, Hagan, Kearney, Mumper, Roberts, Schuring, Spada, Wilson, Gardner, Dann, Schuler, Fingerhut, Padgett, Grendell."

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

The motion was agreed to and the title so amended.

Senator Jacobson moved that Article II, Section 15(c) of the Ohio Constitution, requiring a bill to be considered on three different days, be suspended with respect to the third consideration of **H. B. No. 421**.

The question being, "Shall the motion 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	Mumper
Niehaus	Padgett	Prentiss	Roberts
Schuler	Schuring	Spada	Stivers
Wachtmann	Wilson	Zurz	Harris-32.

The motion was agreed to.

Senator Jacobson moved that **H. B. No. 421**, having been referred to the Committee on State and Local Government and Veterans' Affairs, be brought up for immediate consideration.

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

The motion was agreed to.

H. B. No. 421-Representatives Beatty, Reidelbach, Allen, Redfern, Ujvagi, Cassell, Harwood, Brown, Healy, Oelslager, Latta, McGregor, J., Miller, Gilb, Boccieri, Perry, Skindell, Evans, C., Carano, Chandler, Barrett, Hughes,

Combs, Driehaus, Aslanides, Flowers, DeGeeter, Hoops, Hood, Strahorn, Peterson, Mitchell, Bubb, Smith, S., McGregor, R., Otterman, Stewart, D., Raussen, Book, Yuko, Patton, S., Fende, Hartnett, Mason, Wolpert, Woodard, Wagoner, Schaffer, Fessler, Calvert, Carmichael, Core, Raga, Schlichter, Smith, G., Koziura, Setzer, Blasdel, Husted, Blessing, Buehrer, Coley, Daniels, DeBose, DeWine, Dolan, Domenick, Evans, D., Faber, Garrison, Hagan, Key, Kilbane, Law, Martin, Patton, T., Sayre, Schneider, Seaver, Stewart, J., Sykes, Taylor, Trakas, Uecker, Walcher, Webster, White, Widener, Willamowski, Williams, Yates.

To enact section 5.2231 of the Revised Code to designate December 1 as "Rosa Parks Day, was considered the third time."

The question being, "Shall the bill, **H. B. No. 421**, 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	Mumper
Niehaus	Padgett	Prentiss	Roberts
Schuler	Schuring	Spada	Stivers
Wachtmann	Wilson	Zurz	Harris-32.

So the bill passed.

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

Senator Miller moved to amend the title as follows:

Add the names: "Miller, Amstutz, Armbruster, Austria, Carey, Cates, Clancy, Coughlin, Dann, Fedor, Fingerhut, Gardner, Goodman, Grendell, Hagan, Harris, Hottinger, Jacobson, Jordan, Kearney, Mallory, Mumper, Niehaus, Padgett, Prentiss, Roberts, Schuler, Schuring, Spada, Stivers, Wachtmann, Wilson, Zurz."

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

The motion was agreed to and the title so amended.

On the motion of Senator Harris the Senate recessed.

The Senate met pursuant to the recess.

Sub. H. B. No. 81-Representatives Smith, G., Webster, McGregor, J., Patton, S., Ujvagi, Perry, Wolpert, Woodard, Peterson, Barrett, Strahorn,

Kearns, Taylor, Allen, Law, Reidelbach, Stewart, D., Carano, Flowers, Beatty, Blessing, Brown, Buehrer, Chandler, Collier, DeBose, DeGeeter, Distel, Domenick, Evans, D., Hagan, Hughes, Key, Mason, Otterman, Patton, T., Schneider, Seitz, Willamowski, Williams, Yuko Senators Carey, Stivers, Gardner, Clancy, Roberts.

To amend sections 109.71, 109.73, 109.79, 111.15, 119.01, 1121.05, 1155.18, 1163.22, 1317.01, 1733.04, 1733.16, 1733.22, 1733.24, 1733.25, 1733.251, 1733.29 to 1733.33, 1733.37, 1733.38, 1733.412, 1733.44, 2101.161, 2105.31, 2109.13, 2109.372, 2109.41, 4705.09, 4973.17, 4973.171, and 5725.01 of the Revised Code to make changes in the Credit Union Law relating to general powers and services offered, lending authority, shares issued to minors, meetings of directors, compensation of officers, record keeping, eligible investments, liquidity fund requirements, public records, and use of trade names; to authorize accounts to be held by credit unions and savings banks under laws relating to probate and intestate succession; to authorize a credit union or savings bank to maintain interest-bearing trust accounts on behalf of attorneys; to authorize and specify qualifications for on-premises police officers at any financial institution; to revise the parity rule authority of banks, savings banks, savings and loan associations, and credit unions; and to exempt transactions between credit unions and their customers from the Retail Installment Sales Act and the Consumer Sales Practices Act, was considered the third time.

The question being, "Shall the bill, **Sub. H. 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	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller	Mumper
Niehaus	Padgett	Prentiss	Roberts
Schuler	Schuring	Spada	Stivers
Wachtmann	Wilson	Zurz	Harris-32.

So the bill passed.

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

Senator Spada moved to amend the title as follows:

Add the names: "Spada, Armbruster, Austria, Cates, Dann, Fedor, Grendell, Harris, Kearney, Niehaus, Schuler, Schuring, Zurz, Miller, Mumper, Hagan, Wilson, Fingerhut, Prentiss."

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

The motion was agreed to and the title so amended.

H. B. No. 367-Representatives Calvert, Buehrer, Coley, Flowers, Dolan, McGregor, J., Martin, Stewart, J., Faber, Evans, C., Wagoner, Schlichter, Aslanides, Blessing, Book, Cassell, Chandler, Evans, D., Garrison, Gibbs, Gilb, Hagan, Hoops, Latta, Patton, T., Reidelbach, Sayre, Schaffer, Smith, G., Widener, Willamowski Senators Carey, Gardner, Clancy, Roberts.

To amend Section 209.18.03 of Am. Sub. H.B. 66 of the 126th General Assembly to exempt the Division of Wildlife from making payments into the Department of Natural Resources' Central Support Indirect Fund, was considered the third time.

The question being, "Shall the bill, **H. B. No. 367**, 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	Mumper
Niehaus	Padgett	Prentiss	Roberts
Schuler	Schuring	Spada	Stivers
Wachtmann	Wilson	Zurz	Harris-32.

So the bill passed.

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

Senator Carey moved to amend the title as follows:

Add the names: "Armbruster, Austria, Cates, Dann, Fedor, Goodman, Grendell, Harris, Hottinger, Padgett, Wachtmann, Wilson, Kearney, Niehaus, Mumper, Miller, Schuler, Schuring, Spada, Stivers."

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, December 11, 2005, 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. 239-Senators Dann, Fedor.

To amend section 3301.0714 and to enact sections 117.53, 3301.41, 3313.21, and 3314.19 of the Revised Code to require school districts and community schools to implement anti-harassment policies, to require the State Board of Education to develop a model anti-harassment policy, to require the Auditor of State to determine whether anti-harassment policies are in place when conducting audits of schools, and to require the State Board of Education to collect and maintain data on harassment in schools through the Education Management Information System.

OFFERING OF RESOLUTIONS

Senator Cates offered the following resolution:

S. R. No. 148-Senator Cates.

Honoring the Father Stephen T. Badin High School girls soccer team for winning the 2005 Division II State Championship.

The question being, "Shall the resolution, **S. R. No. 148**, be adopted?"

So the resolution was adopted.

Senator Padgett offered the following resolution:

S. R. No. 149-Senators Padgett, Harris, Amstutz, Austria, Dann, Fedor, Fingerhut, Gardner, Miller, Niehaus, Schuler, Schuring, Wachtmann, Wilson.

Honoring Dick Maxwell as recipient of the Ohio Pioneer in Education Award.

The question being, "Shall the resolution, **S. R. No. 149**, be adopted?"

So the resolution was adopted.

On the motion of Senator Harris the Senate recessed.

The Senate met pursuant to the recess.

Message from the House of Representatives

Mr. President:

I am directed to inform you that the House of Representatives has refused to concur in the Senate amendments to:

Am. Sub. H. B. No. 3 - Representative DeWine - et al.

Attest: Laura P. Clemens,
Clerk.

On the motion of Senator Jacobson the Senate insist on the Senate amendments to **Am. Sub. H. B. No. 3**, and ask for a Committee of Conference.

Message from the House of Representatives

Mr. President:

I am directed to inform you that the House of Representatives has concurred in the passage of the following bill:

Am. Sub. S. B. No. 236 - Senators Carey, Roberts, Zurz, Harris, Padgett, Kearney, Spada, Armbruster, Prentiss, Fingerhut, Wilson, Austria, Miller Representatives Calvert, Trakas, McGregor, J., Schlichter, Wagoner, Flowers, Martin, Peterson, Yates, Evans, C., Stewart, J., Hartnett, Miller, Allen, Aslanides, Barrett, Beatty, Blessing, Brown, Carano, Cassell, Chandler, Daniels, DeBose, Dolan, Domenick, Evans, D., Fende, Hughes, Law, Mason, Otterman, Patton, T., Redfern, Seitz, Setzer, Stewart, D., Strahorn, Uecker, Williams, Yuko

To amend sections 151.01, 151.02, 184.01, 184.02, and 184.03 and to enact sections 122.013, 122.085, 122.086, 122.087, 122.088, 122.089, 122.0810, 122.0811, 122.0812, 122.0813, 122.0814, 122.0815, 122.0816, 122.0817, 122.0818, 122.0819, 122.0820, 151.10, 151.11, 184.10, 184.11, 184.111, 184.112, 184.113, 184.114, 184.115, 184.116, 184.12, 184.13, 184.14, 184.15, 184.151, 184.16, 184.17, 184.171, 184.172, 184.173, 184.18, 184.19, and 184.20 of the Revised Code, and to amend sections 203.99, 203.99.33, 203.99.51, and 209.99 of Am. Sub. H.B. 66 of the 126th General Assembly to implement certain provisions of Article VIII, Section 2p of the Ohio Constitution regarding the issuance of obligations to support research and development projects and the development of certain sites and facilities and to make an appropriation.

As a substitute bill with the following additional amendments, in which the concurrence of the Senate is requested:

In line 1192, delete "or"; after "organizations" insert ", or other in-state entities specifically formed for the sole purpose of both investing in and providing direct management support to any one or combination of any of the foregoing entities or any other in-state entities"

In line 25, delete "and"; after "184.19" insert ", and 184.20"

In line 1054, delete "184.19" and insert "184.20"

In line 1081, delete "184.18" and insert "184.20"

In line 1115, delete "184.19" and insert "184.20"

In line 1179, delete "184.19" and insert "184.20"

In line 1435, after "184.18" insert "and 184.20"

Between lines 1436 and 1437, insert:

"Sec. 184.20. (A) A member of the third frontier commission or a member of the third frontier advisory board shall not do either of the following:

(1) Receive support under section 184.11 of the Revised Code;

(2) Receive any financial gain from an entity that is awarded support under section 184.11 of the Revised Code if that financial gain is directly related to, or is the direct result of, the awarding of such support.

(B) A member who violates division (A) of this section shall forfeit the support or financial gain received and shall pay the amount forfeited to the third frontier commission."

In line 1568, delete "184.19" and insert "184.20"

In line 1573, delete "184.19" and insert "184.20"

In line 9 of the title, delete "and"; after "184.19" insert ", and 184.20"

Attest:

Laura P. Clemens,
Clerk.

On the motion of Senator Jacobson **Am. Sub. S. B. No. 236**, was brought up for consideration.

The question being, "Shall the Senate concur in the amendments of the House of Representatives?"

The yeas and nays were taken and resulted - yeas 30, nays 1, as follows:

Those who voted in the affirmative were: Senators

Armbruster
Coughlin

Austria
Dann

Carey
Fedor

Clancy
Fingerhut

Gardner	Goodman	Grendell	Hagan
Hottinger	Jacobson	Jordan	Kearney
Miller	Mumper	Niehaus	Padgett
Prentiss	Roberts	Schuler	Schuring
Spada	Stivers	Wachtmann	Wilson
Zurz			Harris-30.

Senator Amstutz voted in the negative-1.

So the Senate concurred in the amendments of the House of Representatives.

Message from the House of Representatives

Mr. President:

I am directed to inform you that the House of Representatives has concurred in the passage of the following bill:

Am. Sub. S. B. No. 9 - Senators Jacobson, Clancy, Gardner, Harris, Spada, Cates, Austria Representatives Domenick, Evans, C., Evans, D., Hagan, Law, Patton, T., Seitz, Smith, G., Uecker

To amend sections 121.40, 2901.13, 2909.21, 2923.31, 2933.51, 3701.04, 4505.02, 4507.08, 4561.17, 4561.18, 4561.22, 4931.45, 4931.49, 5502.011, 5502.03, 5502.28, and 5502.41, and to enact sections 9.63, 121.404, 1547.80, 2909.26, 2909.27, 2909.28, 2909.29, 2909.30, 2909.31, 2909.32, 2909.33, 2909.34, 2921.29, 2935.033, 3750.22, and 4563.30 of the Revised Code to establish requirements for state and local compliance with federal homeland security authorities and laws pertaining to terrorism and homeland security; to create criminal offenses for specified acts carried out in support of terrorism; to provide a 20-year limitation period for certain terrorism-related offenses; to establish notification requirements regarding illegal aliens convicted of a felony or in custody of the Department of Rehabilitation and Correction; to require individuals to show identification or provide personal information in specified situations; to limit licensing, employing, and doing business with persons who have provided material assistance to an organization on the United States Department of State Terrorist Exclusion List; to expand the definition of "corrupt activity" under the Corrupt Activity Law to include the bill's terrorism-related offenses and animal and ecological terrorism; to include the bill's terrorism-related offenses as "designated offenses" for which an interception warrant may be issued under the Communications Interception Law; to clarify the authority of Ohio peace officers and personnel in the Department of Public Safety to assist federal law enforcement officers; to prohibit the reinstatement of a suspended driver's license to a person who is the subject of an active arrest warrant; to amend specified aspects of the 9-1-1 law; to provide for the establishment of a homeland security advisory council; to designate the National Incident Management System as the standard procedure for incident management within the state; to require the registrar of

motor vehicles to adopt rules ensuring reasonably accurate identification of applicants for a certificate of title; to expand the responsibilities of the Ohio Community Service Council with respect to volunteers; to provide registered volunteers with immunity from liability in specified situations; to expand the duties of the Director of Health with respect to volunteers; to provide security-related measures for ports and public-use and private-use airports; and to expand the homeland security duties of the Department of Public Safety.

As a substitute bill with the following additional amendments, in which the concurrence of the Senate is requested:

In line 1075, after "(F)" insert "(1)"

Delete lines 1081 through 1083 and insert:

"(2) No employer shall terminate an employee pursuant to this division unless the employer complies with one of the following hearing procedures:

(a) If the employee is entitled to termination proceedings under a collective bargaining agreement, the employer shall comply with those procedures.

(b) If the employee is entitled to termination proceedings pursuant to division (C) of section 124.34 of the Revised Code, the employer shall comply with those procedures.

(c) If the employee does not qualify for the termination proceedings described in division (F)(2)(a) or (b) of this section, the employer shall comply with the procedures set forth in division (B) of section 124.34 of the Revised Code."

Attest:

Laura P. Clemens,
Clerk.

On the motion of Senator Jacobson **Am. Sub. S. B. No. 9** , was brought up for consideration.

The question being, "Shall the Senate concur in the amendments of the House of Representatives?"

The yeas and nays were taken and resulted - yeas 29, nays 2, as follows:

Those who voted in the affirmative were: Senators

- | | | | |
|-----------|------------|---------|----------|
| Amstutz | Armbruster | Austria | Carey |
| Clancy | Coughlin | Dann | Fedor |
| Fingerhut | Gardner | Goodman | Grendell |
| Hottinger | Jacobson | Jordan | Kearney |
| Miller | Mumper | Niehaus | Padgett |

Roberts
StiversSchuler
WachtmannSchuring
WilsonSpada
Zurz
Harris-29.

Senators Hagan and Prentiss voted in the negative-2.

So the Senate concurred in the amendments of the House of Representatives.

CLERK'S NOTATION

Pursuant to section 10, Article II of the Constitution of the State of Ohio, the following protest was filed by Senator Robert F. Hagan on December 14, 2005:

We protest the Senate's decision to protect, without any rational basis, six landfill operators at the expense of the rights of Ohio land and homeowners.

In one respect, House Bill 397 does a service to the people of the State of Ohio by establishing new, improved criteria for the establishment of landfills. However, HB 397 undermines this goal by carving out a special "grandfather clause" for six landfill applications. These grandfathered applications will be subject to the old criteria which allow landfills to locate closer to adjacent property owners.

The grandfather clause in House Bill 397 in lines 2414-2435 violates the rights of individuals who own land or homes adjacent to locations which are the subject of these pending applications. The rights violated by this grandfather clause include rights protected by the Fifth and Fourteenth Amendments to the United States Constitution.

The Fourteenth Amendment provides that no state shall "deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

The Fifth Amendment, as incorporated by the Fourteenth Amendment, provides that no private property shall "be taken for public use, without just compensation."

The grandfather clause in HB 397 violates Fourteenth Amendment's equal protection clause by treating similarly situated adjacent property owners differently. Some property owners will benefit from the new criteria. Others, however, will face the prospect of landfills locating closer to their homes simply because the landfill filed a piece of paper at an arbitrarily determined time. Such arbitrary, irrational difference in treatment of similarly situated property owners violates the Fourteenth Amendment.

HB 397's grandfather clause also violates the due process clause of the Fourteenth Amendment by depriving adjacent property owners of their rights without due process of law. There is no question that HB 397 arbitrarily

deprives some property owners of their property. Property values of landowners adjacent to sites subject to the grandfather clause will be diminished more than the property of landowners adjacent to sites subject to the new criteria. HB 397 does nothing to provide a due process mechanism to protect the property rights of those harmed by the grandfather clause.

Similarly, HB 397's grandfather clause imposes an unconstitutional taking of property without just compensation. As noted above, some homeowners will suffer disproportionate property value reduction as a result of the grandfather clause. This governmental taking requires just compensation, which HB 397 fails to provide.

For the above noted reasons, HB 397's grandfather clause is likely to lead to lengthy and costly litigation. This could have been avoided simply by deleting the grandfather clause from the bill. We accordingly protest the Senate's decision today to include the landfill protecting grandfather clause in HB 397.

/s/Robert Hagan
Assistant Minority Whip

/s/Marc Dann

/s/Charles Wilson

On the motion of Senator Jacobson, the Senate adjourned until Thursday, December 15, 2005 at 11:00 o'clock a.m.

Attest:

DAVID A. BATTOCLETTI,
Clerk.