

OHIO

SENATE

JOURNAL

WEDNESDAY, MARCH 28, 2007

TWENTY-NINTH DAY
Senate Chamber, Columbus, Ohio
Wednesday, March 28, 2007, 1:30 p.m.

The Senate met pursuant to adjournment.

Prayer was offered by Pastor Ken Kirk, Grove City United Methodist Church, Grove City, 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. 53-Representative Peterson.

Cosponsors: Representatives Yuko, Skindell, Ujvagi, Setzer, Dodd, Bacon, Collier, Fende, Chandler, Strahorn, White, Hagan, R., Wachtmann, Williams, B., Boyd, Brown, DeBose, Flowers, Goodwin, Hottinger, Huffman, Jones, Oelslager, Otterman, Raussen, Uecker, Webster, Adams, Aslanides, Batchelder, Beatty, Bolon, Book, Brady, Bulp, Budish, Carano, Celeste, Combs, DeGeeter, Distel, Dolan, Domenick, Driehaus, Dyer, Evans, Foley, Garrison, Gibbs, Goyal, Harwood, Heard, Hite, Hughes, Latta, Letson, Luckie, Lundy, Mallory, Mandel, McGregor, R., Miller, Okey, Patton, Sayre, Schindel, Schneider, Stebelton, Stewart, D., Stewart, J., Sykes, Wagoner, Williams, S., Yates.

To amend sections 701.01, 711.23, 1775.31, 2111.37, 2111.47, 2307.14, 2317.021, 2317.03, 2317.06, 2721.05, 3763.06, 4303.272, 4399.05, 4971.16, 5301.22, 5305.17, 5305.18, 5305.19, 5305.20, 5305.21, 5305.22, 5307.19, 5307.20, 5310.12, 5711.05, 5711.07, 5907.06, 5907.08, and 5907.09 of the Revised Code to replace terms that refer to persons with certain conditions.

To the Committee on Health, Human Services and Aging.

S. B. No. 128-Senator Miller, D.

Cosponsors: Senators Smith, Cafaro, Fedor, Boccieri, Miller, R.

To create the Ohio Climate Commission for the purpose of studying the probable impacts that global climate change will have on the state of Ohio and for the purpose of recommending appropriate state responses to address global climate change and problems likely to be associated with it.

To the Committee on Environment and Natural Resources.

S. B. No. 129-Senator Schuler.

Cosponsors: Senators Gardner, Spada.

To enact section 4513.66 of the Revised Code to permit local law enforcement agencies and fire departments to remove motor vehicles from the roadway after a motor vehicle accident and to provide immunity to local law enforcement agencies and fire personnel for the removal of damaged or inoperable vehicles from roadways.

To the Committee on Judiciary - Civil Justice.

S. B. No. 130-Senator Padgett.

Cosponsors: Senators Spada, Clancy, Schuring.

To permit school districts and nonpublic schools to count time that schools are in session beyond the required minimum number of hours in order to make up "calamity days" missed during the 2006-2007 school year in excess of the number of days permitted by law, and to declare an emergency.

To the Committee on Education.

S. B. No. 131-Senator Fedor.

Cosponsors: Senators Roberts, Miller, D., Miller, R., Cafaro, Kearney, Mason, Morano, Sawyer, Wilson.

To amend sections 3301.0718, 3313.60, 3313.603, 3314.03, and 3314.21 and to enact sections 3301.0719, 3314.40, and 3319.076 of the Revised Code to require the State Board of Education to adopt instructional standards in physical education, nutrition, and dental care; to specify physical education requirements for grades kindergarten through eight; to require physical education teachers to be licensed in their subject area; and to make other changes relative to physical education.

To the Committee on Education.

YES - 5: J. KIRK SCHURING, TOM ROBERTS, TERESA FEDOR, 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. 24**-Senator Carey, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsors: Roberts, Miller, D., Kearney.

YES - 10: RON AMSTUTZ, ROBERT F. SPADA, DAVID GOODMAN, TIMOTHY O. SCHAFFER, ROBERT L. SCHULER, STEVE STIVERS, THOMAS SAWYER, ERIC H. KEARNEY, DALE MILLER, TOM ROBERTS.

NO - 0.

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

The report of the committee was accepted.

Senator Grendell submitted the following report:

The standing committee on Judiciary - Criminal Justice, to which was referred **S. B. No. 18**-Senator Clancy, et al., having had the same under consideration, reports it back and recommends its passage.

Co-Sponsor: Grendell.

YES - 7: KEITH L. FABER, TIMOTHY O. SCHAFFER, STEVE STIVERS, STEPHEN C. AUSTRIA, TIMOTHY J. GRENDALL, PATRICIA M. CLANCY, LANCE T. MASON.

NO - 1: SHIRLEY A. SMITH.

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:

Ann H. Womer Benjamin, Republican, from Aurora, Portage County, Ohio, as a Member of the State Board of Education for a term beginning January 8, 2007 and ending at the close of business December 31, 2010, replacing Richard E. Baker, whose term expired.

Mark J. Heppner, from Cuyahoga Falls, Summit County, Ohio, as a Member of the Governor's Residence Advisory Commission for a term beginning December 31, 2006 and ending at the close of business December 31, 2010.

Robert D. Hollister, Republican, from New Richmond, Clermont County, Ohio, as a Member of the Governor's Residence Advisory Commission for a term beginning December 31, 2006 and ending at the close of business December 31, 2010, replacing Barbara B. Lach, whose term expired.

Gary W. Meisner, Republican, from Cincinnati, Hamilton County, Ohio, as a Member of the Governor's Residence Advisory Commission for a new term beginning December 31, 2006 and ending at the close of business December 31, 2010.

Carl W. Mercurio, Republican, from Beavercreek, Greene County, Ohio, as a Member of the Clark State Community College Board of Trustees for a term beginning December 8, 2006 and ending at the close of business November 30, 2012, replacing Jennifer Baader, whose term expired.

Aaron C. Michael, Republican, from Oak Hill, Jackson County, Ohio, as a Member of the Credit Union Council for a term beginning January 2, 2007 and ending at the close of business September 22, 2009, replacing Thomas L. Furrey, whose term expired.

John R. Mroczkowski, Republican, from Canton, Stark County, Ohio, as a Member of the Ohio Elections Commission for a term beginning January 5, 2007 and ending at the close of business December 31, 2011, replacing William Booth, whose term expired.

Thomas F. Needles, Republican, from Columbus, Franklin County, Ohio, as a Member of the Ohio Higher Educational Facility Commission for a new term beginning January 2, 2007 and ending at the close of business January 1, 2015.

Christopher B. Nichols, Republican, from Canton, Stark County, Ohio, as a Member of the Clean Ohio Council for a new term beginning January 2, 2007 and ending at the close of business November 23, 2008.

D. Daniel Porras, from Shaker Heights, Cuyahoga County, Ohio, as a Member of the Commission on Hispanic-Latino Affairs for a term beginning January 5, 2007 and ending at the close of business October 7, 2007, replacing Maritza Perza, who resigned.

Kenneth R. Searfoss, Republican, from Perrysburg, Wood County, Ohio,

as a Member of the State Board of Career Colleges and Schools for a new term beginning January 2, 2007 and ending at the close of business November 20, 2011.

Samuel W. Speck, Republican, from Columbus, Franklin County, Ohio, as a Member of the Ohio Higher Educational Facility Commission for a term beginning January 5, 2007 and ending at the close of business January 2, 2014, replacing Douglas G. McMarlin whose term expired.

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, JOHN A. CAREY, J. KIRK SCHURING, LANCE T. MASON, RAY MILLER, TOM ROBERTS, TERESA FEDOR.

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 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Boccieri	Buehrer
Cafaro	Carey	Cates	Clancy
Coughlin	Faber	Fedor	Gardner
Goodman	Grendell	Jacobson	Kearney
Mason	Miller D	Miller R	Morano
Mumper	Niehaus	Padgett	Roberts
Sawyer	Schaffer	Schuler	Schuring
Smith	Spada	Stivers	Wilson
			Harris-33.

So the Senate advised and consented to said appointments.

REPORTS OF CONFERENCE COMMITTEES

Sub. H. B. No. 67-Representative Patton.

Cosponsors: Representatives Webster, Hottinger, Evans, Flowers, Schlichter, Strahorn, Aslanides, Batchelder, Bolon, Brown, Carmichael, Collier, Daniels, DeBose, Dolan, Domenick, Fende, Garrison, Gibbs, Hagan, J., Hagan, R., McGregor, J., Miller, Okey, Otterman, Uecker, Williams, B. Senators Clancy, Padgett, Austria, Buehrer, Cafaro, Carey, Fedor, Grendell, Harris, Kearney, Mason, Miller, D., Miller, R., Morano, Mumper, Roberts, Sawyer, Schaffer, Spada, Smith, Amstutz, Gardner.

To amend sections 737.04, 737.041, 1533.18, 3314.091, 3327.10, 3705.242, 4503.10, 4503.44, 4505.09, 4510.037, 4510.038, 4511.21, 4513.20, 4517.21, 4519.59, 4561.18, 4707.02, 4707.074, 5501.31, 5501.49, 5502.03, 5502.62, 5516.01, 5517.03, 5537.16, 5577.05, 5591.02, and 5735.05; to enact sections 121.51, 1327.70, 4511.092, 4517.021, and 5502.67 of the Revised Code; to amend Section 755.03 of Am. Sub. H.B. 530 of the 126th General Assembly, to amend Section 243.10 of Am. Sub. H.B. 530 of the 126th General Assembly, as subsequently amended, and to amend Sections 235.20.20 and 235.30.70 of Am. Sub. H.B. 699 of the 126th General Assembly to prescribe terms and conditions pertaining to transportation and public safety purposes.

The question being, "Shall the report of the Committee of Conference be agreed to?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Boccieri	Buehrer
Cafaro	Carey	Cates	Clancy
Coughlin	Faber	Fedor	Gardner
Goodman	Grendell	Jacobson	Kearney
Mason	Miller D	Miller R	Morano
Mumper	Niehaus	Padgett	Roberts
Sawyer	Schaffer	Schuler	Schuring
Smith	Spada	Stivers	Wilson
			Harris-33.

So the report of Committee of Conference was agreed to.

BILLS FOR THIRD CONSIDERATION

S. B. No. 18-Senator Clancy.

Cosponsors: Senators Stivers, Cates, Schaffer, Austria, Grendell.

To amend section 2953.36 of the Revised Code to prohibit an offender from having a criminal record sealed when the underlying offense is importuning, or the underlying offense is voyeurism, public indecency, compelling prostitution, promoting prostitution, procuring, disseminating matter harmful to juveniles, displaying matter harmful to juveniles, pandering obscenity, or deception to obtain matter harmful to juveniles when the victim of the offense is under eighteen years of age, was considered the third time.

The question being, "Shall the bill, **S. B. No. 18**, pass?"

The yeas and nays were taken and resulted - yeas 32, nays 1, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Boccieri	Buehrer
Cafaro	Carey	Cates	Clancy
Coughlin	Faber	Fedor	Gardner
Goodman	Grendell	Jacobson	Kearney
Mason	Miller D	Miller R	Morano
Mumper	Niehaus	Padgett	Roberts
Sawyer	Schaffer	Schuler	Schuring
Spada	Stivers	Wilson	Harris-32.

Senator Smith voted in the negative-1.

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: "Coughlin, Harris, Mason, Mumper, Padgett, Faber, Goodman, Carey, Spada, Wilson, Jacobson."

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

The motion was agreed to and the title so amended.

Sub. S. B. No. 24-Senator Carey.

Cosponsors: Senators Niehaus, Grendell, Spada, Harris, Padgett, Mumper, Buehrer, Schaffer, Clancy, Roberts, Miller, D., Kearney.

To amend sections 122.086, 122.087, 122.089, 122.0810, 122.0812, 122.0814, 122.0817, 122.0819, and 122.951 of the Revised Code to require the Director of Development to adopt rules regarding the annual competitive process for the Job Ready Site Program and to increase the maximum grant amount that may be awarded under the Industrial Site Improvement Fund, was considered the third time.

The question being, "Shall the bill, **Sub. S. B. No. 24**, pass?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Boccieri	Buehrer
Cafaro	Carey	Cates	Clancy
Coughlin	Faber	Fedor	Gardner
Goodman	Grendell	Jacobson	Kearney
Mason	Miller D	Miller R	Morano
Mumper	Niehaus	Padgett	Roberts
Sawyer	Schaffer	Schuler	Schuring
Smith	Spada	Stivers	Wilson
			Harris-33.

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: "Cates, Goodman, Sawyer, Cafaro, Faber, Wilson, Morano, Fedor, Stivers."

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

The motion was agreed to and the title so amended.

S. B. No. 34-Senator Padgett.

To enact section 5533.871 of the Revised Code to designate State Route 660 in Guernsey County as the "Major James W. Reed Memorial Highway", was considered the third time.

The question being, "Shall the bill, **S. B. No. 34**, pass?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Bocchieri	Buehrer
Cafaro	Carey	Cates	Clancy
Coughlin	Faber	Fedor	Gardner
Goodman	Grendell	Jacobson	Kearney
Mason	Miller D	Miller R	Morano
Mumper	Niehaus	Padgett	Roberts
Sawyer	Schaffer	Schuler	Schuring
Smith	Spada	Stivers	Wilson
			Harris-33.

So the bill passed.

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

Senator Padgett moved to amend the title as follows:

Add the names: "Bocchieri, Carey, Fedor, Grendell, Harris, Schaffer, Schuring, Wilson, Stivers, Clancy, Austria, Faber."

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

The motion was agreed to and the title so amended.

MOTIONS

Senator Austria moved that Senators absent the week of Sunday, March 25, 2007, 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 bills were introduced and considered the first time:

S. B. No. 132-Senator Schuring.

Cosponsors: Senators Harris, Padgett, Gardner, Spada, Clancy, Schaffer, Faber, Miller, D., Cafaro, Goodman.

To enact section 4503.433 of the Revised Code to authorize the display of combat battle stars on certain special combat or military license plates.

S. B. No. 133-Senator Schuring.

Cosponsors: Senators Schaffer, Faber, Mumper, Schuler, Goodman, Coughlin.

To amend sections 5747.01 and 5747.02 and to enact section 5747.014 of the Revised Code to reduce the income tax rate on capital gains reinvested in Ohio-based investments.

S. B. No. 134-Senator Faber.

To amend sections 5301.01 and 5301.255 of the Revised Code to provide that memoranda of trust be executed and acknowledged only by the trustee of the trust instead of both the settlor and trustee.

S. B. No. 135-Senator Amstutz.

Cosponsors: Senators Carey, Gardner, Schaffer, Schuler, Schuring, Spada.

To amend sections 927.55 and 927.61 of the Revised Code to exempt from license fees a person who is not a nurseryman, dealer, or collector and who makes no more than \$1,000 in sales of nursery stock during a calendar year and to exempt from nursery stock inspection and certification a person who is not a nurseryman, dealer, or collector and who makes no more than \$500 in sales of nursery stock during a calendar year.

OFFERING OF RESOLUTIONS

Pursuant to Senate Rule No. 54, the following resolution was offered:

S. R. No. 40-Senator Miller, R.

Recognizing Greek Independence Day in Ohio, March 25, 2007.

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

So the resolution was adopted.

On the motion of Senator Jacobson, the Senate adjourned until Thursday, March 29, 2007, 11:00 o'clock a.m.

Attest:

DAVID A. BATTOCLETTI,
Clerk.