

OHIO

SENATE

JOURNAL

WEDNESDAY, MAY 7, 2008

ONE HUNDRED SEVENTIETH DAY
Senate Chamber, Columbus, Ohio
Wednesday, May 7, 2008, 1:30 p.m.

The Senate met pursuant to adjournment.

Prayer was offered by Father Michael Lumpe, St. Catharine's Church, 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:

S. B. No. 330-Senator Bocchieri.

To amend sections 4141.31 and 4141.312 of the Revised Code to eliminate the reduction in the amount of a claimant's unemployment compensation benefits by the amount the claimant concurrently receives in specified military benefits.

To the Committee on Finance and Financial Institutions.

S. B. No. 331-Senator Roberts.

Cosponsors: Senators Fedor, Mason, Miller, D., Morano, Sawyer, Miller, R.

To amend sections 3302.03, 3313.672, 3314.012, 3314.015, 3314.03, 3314.19, and 3314.21 and to enact sections 3314.101, 3314.38, and 3314.39 of the Revised Code to require regular on-site evaluations of community schools, to require certain community school teachers to be "highly qualified," and to make other changes regarding public schools.

To the Committee on Education.

S. B. No. 332-Senator Roberts.

Cosponsors: Senators Fedor, Mason, Miller, D., Morano, Sawyer, Miller, R.

To amend sections 117.11, 3314.03, 3314.072, and 3314.19 and to enact sections 117.103 and 3314.40 of the Revised Code regarding the application of the Public Records Law and Public Audit Law to community school sponsors and operators and sanctions for community schools in arrears on

workers' compensation payments.

To the Committee on Education.

S. B. No. 333-Senator Roberts.

Cosponsors: Senators Fedor, Mason, Miller, D., Morano, Sawyer, Miller, R.

To amend sections 3313.41, 3314.051, and 3318.08 of the Revised Code regarding the sale of school district property to community schools.

To the Committee on Finance and Financial Institutions.

YES - 5: RAY MILLER, J. KIRK SCHURING, SHIRLEY A. SMITH, 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 Grendell submitted the following report:

The standing committee on Judiciary - Criminal Justice, to which was referred **S. B. No. 310**-Senator Cates, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsors: Schaffer, Faber.

YES - 8: TIMOTHY J. GRENDALL, TIMOTHY O. SCHAFFER, STEVE STIVERS, KEITH L. FABER, LANCE T. MASON, STEPHEN C. AUSTRIA, TERESA FEDOR, SHIRLEY A. SMITH.

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. 323**-Senator Niehaus, et al., having had the same under consideration, reports it back with the following amendments and recommends its passage when so amended.

Between lines 571 and 572, insert:

"Section 3. That Section 512.70 of Am. Sub. H.B. 100 of the 127th General Assembly be amended to read as follows:

Sec. 512.70. The Administrator of Workers' Compensation shall completely transition from use of the Micro Insurance Reserve Analysis System to a different system or different version of that system to determine the reserves for use in establishing premium rates assessed for the purposes of Chapter 4121., 4123., 4127., or 4131. of the Revised Code on or before ~~June 30~~ July 1, 2008. A contract between the Administrator and a vendor for the System in existence on the effective date of this section shall expire in accordance with the terms of the contract, and the Administrator may renew or extend that contract only for a period of time that does not extend past June 30, 2008.

The Administrator shall transition to a reserve analysis system that is characterized as transparent in nature and for that purpose of transparency, satisfies both of the following criteria:

(A) The manner in which the system uses data can be understood in general terms by employers who are subject to Chapters 4121., 4123., 4127., and 4131. of the Revised Code and other persons interested in use of the system;

(B) The type of data the system uses in making reserve analysis can be explained to employers who are subject to Chapters 4121., 4123., 4127., and 4131. of the Revised Code and other persons interested in use of the system.

The Administrator shall communicate information describing the manner in which the new reserve analysis system uses data and the type of data the system uses in making reserve analysis to employers who are subject to Chapters 4121., 4123., 4127., and 4131. of the Revised Code and to any other persons who request such information.

Section 4. That existing Section 512.70 of Am. Sub. H.B. 100 of the 127th General Assembly is hereby repealed."

In line 572, delete "3" and insert "5"

In line 588, delete "4" and insert "6"

In line 4 of the title, after "Code" insert "and to amend Section 512.70 of Am. Sub. H.B. 100 of the 127th General Assembly"

In line 10 of the title, after the comma insert "to delay the date by which the Administrator of Workers' Compensation must transition from the Micro

Insurance Reserve Analysis System by one day,"

Co-Sponsors: Schaffer, Morano.

YES - 9: ROBERT F. SPADA, DAVID GOODMAN, LARRY A. MUMPER, TIMOTHY O. SCHAFFER, TOM NIEHAUS, DALE MILLER, SUSAN L. MORANO, LANCE T. MASON, TIMOTHY J. GRENDALL.

NO - 0.

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

The report of the committee was accepted.

Senator Padgett submitted the following report:

The standing committee on Education, to which was referred **S. B. No. 57**-Senator Coughlin, Mumper, having had the same under consideration, reports back a substitute bill and recommends its passage.

YES - 6: JEFF JACOBSON, JOHN A. CAREY, TOM NIEHAUS, LARRY A. MUMPER, JOY PADGETT, GARY W. CATES.

NO - 3: TOM ROBERTS, SUSAN L. MORANO, THOMAS SAWYER.

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

The report of the committee was accepted.

BILLS FOR THIRD CONSIDERATION

Sub. S. B. No. 57-Senator Coughlin.

Cosponsor: Senator Mumper.

To amend sections 109.57, 109.572, 3301.0714, 3317.022, 3317.03, 4776.01, and 5727.84 and to enact sections 3310.51 to 3310.64 and 3323.052 of the Revised Code to create the Special Education Scholarship Pilot Program, was considered the third time.

The question being, "Shall the bill, **Sub. S. B. No. 57**, pass?"

The yeas and nays were taken and resulted - yeas 17, nays 15, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Buehrer	Carey
Cates	Coughlin	Faber	Goodman
Jacobson	Mumper	Niehaus	Padgett
Schaffer	Schuler	Spada	Wagoner
			Harris-17.

Those who voted in the negative were: Senators

Boccieri	Cafaro	Fedor	Grendell
Kearney	Mason	Miller D	Miller R
Morano	Roberts	Sawyer	Schuring
Smith	Stivers		Wilson-15.

So the bill passed.

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

Senator Coughlin moved to amend the title as follows:

Add the names: "Buehrer, Goodman, Harris, Cates."

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

The motion was agreed to and the title so amended.

Sub. S. B. No. 279-Senator Schuring.

To amend sections 4730.03, 4730.09, 4731.19, 4731.281, 4731.293, and 4760.131 of the Revised Code regarding certain State Medical Board procedures, restrictions on physician assistants, and admission to the massage or cosmetic therapist examination, was considered the third time.

The question being, "Shall the bill, **Sub. S. B. No. 279**, pass?"

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

Those who voted in the affirmative were: Senators

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

So the bill passed.

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

Senator Schuring moved to amend the title as follows:

Add the names: "Harris, Niehaus, Padgett, Stivers, Wilson."

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

The motion was agreed to and the title so amended.

Am. S. B. No. 323-Senator Niehaus.

Cosponsors: Senators Wilson, Harris, Carey, Schuler, Padgett, Seitz, Spada, Mumper, Schaffer, Morano.

To amend sections 1561.011, 1561.16, 1561.17, 1561.23, 1561.25, 1561.26, 1565.15, and 4131.03, and to enact sections 1561.24, 1561.261, 1567.64, and 1567.681 of the Revised Code and to amend Section 512.70 of Am. Sub. H.B. 100 of the 127th General Assembly to revise certain coal mine safety requirements, to create the Mine Safety Fund to be used for specified mine safety purposes, to allow the Administrator of the Bureau of Workers' Compensation to transfer a portion of the investment earnings of the Coal-Workers Pneumoconiosis Fund to the Mine Safety Fund, to delay the date by which the Administrator of Workers' Compensation must transition from the Micro Insurance Reserve Analysis System by one day, and to declare an emergency, was considered the third time.

The question being, "Shall the section, Section 4, setting forth the emergency features of the bill, stand as a part of the bill?"

The yeas and nays were taken and resulted - yeas 30, nays 2, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Boccieri	Buehrer
Cafaro	Carey	Cates	Coughlin
Faber	Fedor	Goodman	Grendell
Jacobson	Kearney	Mason	Miller D
Miller R	Morano	Mumper	Niehaus
Padgett	Roberts	Sawyer	Schaffer
Schuring	Spada	Stivers	Wagoner
Wilson			Harris-30.

Senators Schuler and Smith voted in the negative-2.

So the section, Section 4, 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	Austria	Boccieri	Buehrer
Cafaro	Carey	Cates	Coughlin
Faber	Fedor	Goodman	Grendell
Jacobson	Kearney	Mason	Miller D
Miller R	Morano	Mumper	Niehaus

Padgett	Roberts	Sawyer	Schaffer
Schuler	Schuring	Smith	Spada
Stivers	Wagoner	Wilson	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: "Bocchieri, Cafaro, Fedor, Goodman, Grendell, Kearney, Miller, D., Miller, R., Sawyer, Smith, Stivers, Cates, Amstutz, Faber, Mason, Wagoner, Austria."

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

The motion was agreed to and the title so amended.

OFFERING OF RESOLUTIONS

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

S. R. No. 220-Senators Padgett, Buehrer, Carey, Grendell, Miller, D., Miller, R., Mumper, Niehaus, Roberts, Schuler, Seitz, Stivers, Wilson.

Recognizing National AmeriCorps Week, May 11-18, 2008.

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

So the resolution was 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, Ted Strickland, Governor of the State of Ohio, do hereby appoint, Susan M. Ciarlariello, Democrat, from Dayton, Montgomery County, Ohio, as a Member of the Ohio Respiratory Care Board for a new term beginning April 3, 2008 and ending at the close of business March 14, 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 3rd day of April in the year of our Lord, two thousand and eight.

[Seal]

Ted Strickland,
Governor.

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

I, Ted Strickland, Governor of the State of Ohio, do hereby appoint, Col. Richard H. Collins, from Columbus, Franklin County, Ohio, as a Member of the Ohio Peace Officer Training Commission for a term beginning March 19, 2008 and ending at the close of business September 19, 2009, replacing Col. Paul McClellan.

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 19th day of March in the year of our Lord, two thousand and eight.

[Seal]

Ted Strickland,
Governor.

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

I, Ted Strickland, Governor of the State of Ohio, do hereby appoint, Betty Davis, Republican, from Mason, Warren County, Ohio, as a Member of the Ethics Commission for a term beginning February 28, 2008 and ending at the close of business January 1, 2014, replacing Sarah M. Brown, whose term expired.

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 28th day of February in the year of our Lord, two thousand and eight.

[Seal]

Ted Strickland,
Governor.

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

I, Ted Strickland, Governor of the State of Ohio, do hereby appoint, Joseph F. Denk Jr., from Fairview Park, Cuyahoga County, Ohio, as a Member of the Board of Building Standards for a term beginning March 19, 2008 and ending at the close of business October 13, 2010, replacing Richard Gale Johnson, who passed away.

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 19th day of March in the year of our Lord, two thousand and eight.

[Seal]

Ted Strickland,
Governor.

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

I, Ted Strickland, Governor of the State of Ohio, do hereby appoint, Robert A. Fiatal, from Sagamore Hills, Summit County, Ohio, as a Member of the Ohio Peace Officer Training Commission for a term beginning February 26, 2008 and ending at the close of business September 19, 2008, replacing John Guthrie, who resigned.

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 26th day of February in the year of our Lord, two thousand and eight.

[Seal]

Ted Strickland,
Governor.

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

I, Ted Strickland, Governor of the State of Ohio, do hereby appoint, Susan Huss, from Luckey, Wood County, Ohio, as a Member of the Counselor, Social Worker, and Marriage and Family Therapist Board for a new term

beginning March 6, 2008 and ending at the close of business October 10, 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 6th day of March in the year of our Lord, two thousand and eight.

[Seal]

Ted Strickland,
Governor.

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

I, Ted Strickland, Governor of the State of Ohio, do hereby appoint, Esther L. Kester, Republican, from Ravenna, Portage County, Ohio, as a Member of the Ohio Respiratory Care Board for a term beginning April 3, 2008 and ending at the close of business March 14, 2011, replacing Margaret Traband, whose term expired.

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 3rd day of April in the year of our Lord, two thousand and eight.

[Seal]

Ted Strickland,
Governor.

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

I, Ted Strickland, Governor of the State of Ohio, do hereby appoint, James R. Lynch, from Columbus, Franklin County, Ohio, as a Member of the Wildlife Council for a new term beginning March 31, 2008 and ending at the close of business January 31, 2012.

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 31st day of March in the year of our Lord, two thousand and eight.

[Seal]

Ted Strickland,
Governor.

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

I, Ted Strickland, Governor of the State of Ohio, do hereby appoint, Melvin W. Mock, Republican, from Gallipolis, Gallia County, Ohio, as a Member of the Hearing Aid Dealers and Fitters Licensing Board for a new term beginning March 12, 2008 and closing at the end of business January 25, 2012.

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 12th day of March in the year of our Lord, two thousand and eight.

[Seal]

Ted Strickland,
Governor.

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

I, Ted Strickland, Governor of the State of Ohio, do hereby appoint, Albert Oliver, from Portsmouth, Scioto County, Ohio, as a Member of the Ohio Community Service Council for a term beginning March 27, 2008 and ending at the close of business April 21, 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 27th day of March in the year of our Lord, two thousand and eight.

[Seal]

Ted Strickland,
Governor.

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

I, Ted Strickland, Governor of the State of Ohio, do hereby appoint, John T. Savage, Democrat, from Hubbard, Trumbull County, Ohio, as a Member of the Ohio Building Authority for a term beginning March 19, 2008 and ending at the close of business December 31, 2013, replacing G. Duane Welsh, whose term expired.

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 19th day

of March in the year of our Lord, two thousand and eight.

[Seal]

Ted Strickland,
Governor.

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

I, Ted Strickland, Governor of the State of Ohio, do hereby appoint, Adriana A. Sfalcin, Democrat, from Dublin, Franklin County, Ohio, as a Member of the State Personnel Board of Review for a term beginning December 10, 2007 and ending at the close of business February 8, 2011, replacing Roger Tracy, who passed away.

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 10th day of December in the year of our Lord, two thousand and seven.

[Seal]

Ted Strickland,
Governor.

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

I, Ted Strickland, Governor of the State of Ohio, do hereby appoint, Susan E. Stephens, Democrat, from Gates Mills, Cuyahoga County, Ohio, as a Member of the State Medical Board for a term beginning March 19, 2008 and ending at the close of business March 18, 2013, replacing Deepak Kumar, whose term expired.

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 19th day of March in the year of our Lord, two thousand and eight.

[Seal]

Ted Strickland,
Governor.

Said appointments were referred to the Committee on Rules.

Message from the House of Representatives

Mr. President:

I am directed to inform you that the Speaker of the House of Representatives has signed the following bill:

Sub. H. B. No. 544 -Representative Hottinger - et al.

Attest:

Laura P. Clemens,
Clerk.

The President signed said bill.

MESSAGE FROM THE PRESIDENT

Pursuant to Senate Rule 19, the President of the Senate makes the following appointment changes to the following Senate Standing Committee:

Removes Senator Amstutz from the Standing Committee on Finance and Financial Institutions.

Appoints Senator Jacobson as a member of the Standing Committee on Finance and Financial Institutions.

On the motion of Senator Jacobson, the Senate adjourned until Thursday, May 8, 2008 at 11:00 o'clock a.m.

Attest:

VINCENT L. KEERAN,
Clerk.