

**OHIO**

**SENATE**

**JOURNAL**

**WEDNESDAY, DECEMBER 10, 2008**

TWO HUNDRED FORTY-SECOND DAY  
Senate Chamber, Columbus, Ohio  
**Wednesday, December 10, 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 bill and joint resolution, standing in order for second consideration, be referred to committee as recommended:

**Sub. H. B. No. 470**-Representative Setzer.

Cosponsors: Representatives Strahorn, Collier, Combs, Evans, Harwood, Uecker, Wagner, McGregor, J., Bacon, Batchelder, Blessing, Bulp, Coley, Flowers, Grady, Hagan, J., Hughes, Koziura, Lundy, Nero, Newcomb, Schneider, Zehringer.

To amend section 5543.14 and to enact sections 503.35, 5543.15, and 5571.18 of the Revised Code to authorize a board of county commissioners and a board of township trustees to order removal of vegetation on private property that blocks or otherwise interferes with the sight lines of motorists traveling on county or township roads, to authorize a board of township trustees to require certain ditches or culverts located in the township to be cleaned, and to require notice be given to abutting landowners before the trimming or removal of certain vegetation growing in or encroaching onto the right-of-way of county or township roads.

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

**S. J. R. No. 9**-Senator Faber.

Cosponsors: Senators Seitz, Schaffer.

Applying to the Congress of the United States pursuant to Article V of the United States Constitution to call a constitutional convention for proposing amendments.

To the Committee on Finance and Financial Institutions.

YES - 4: J. KIRK SCHURING, RAY MILLER, BILL HARRIS,  
TOM NIEHAUS.

NO - 0.

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

The report of the committee was accepted.

Said bill and joint resolution 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 **Am. H. B. No. 458**-Representative Uecker, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsors: Amstutz, Schaffer, Roberts, Sawyer.

YES - 7: RON AMSTUTZ, TIMOTHY O. SCHAFFER, TOM  
PATTON, 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 Buehrer submitted the following report:

The standing committee on Highways and Transportation, to which was referred **Am. H. B. No. 273**-Speaker Husted, Representative Beatty, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsors: Buehrer, Austria, Miller, D., Schaffer.

YES - 8: STEPHEN BUEHRER, STEPHEN C. AUSTRIA, JOY  
PADGETT, DALE MILLER, CAPRI S. CAFARO,  
JASON H. WILSON, KEVIN J. COUGHLIN, TIMOTHY  
O. SCHAFFER.

NO - 0.

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

The report of the committee was accepted.

Senator Cates submitted the following report:

The standing committee on State and Local Government and Veterans' Affairs, to which was referred **S. B. No. 353**-Senator Spada, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsor: Cates, Fedor, Roberts, Wagoner.

YES - 8: GARY W. CATES, TIMOTHY J. GRENDALL, TERESA FEDOR, TOM ROBERTS, MARK D. WAGONER, BILL SEITZ, JOHN A. CAREY, JOHN A. BOCCIERI.

NO - 0.

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

The report of the committee was accepted.

Senator Cates submitted the following report:

The standing committee on State and Local Government and Veterans' Affairs, to which was referred **Am. Sub. H. B. No. 525**-Representative Combs, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsors: Cates, Seitz, Wagoner.

YES - 8: BILL SEITZ, JOHN A. CAREY, MARK D. WAGONER, TERESA FEDOR, GARY W. CATES, JOHN A. BOCCIERI, TOM ROBERTS, TIMOTHY J. GRENDALL.

NO - 0.

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

The report of the committee was accepted.

Senator Goodman submitted the following report:

The standing committee on Judiciary - Civil Justice, to which was referred **S. B. No. 370**-Senator Seitz, having had the same under consideration, reports back a substitute bill and recommends its passage.

YES - 6: J. KIRK SCHURING, BILL SEITZ, KEITH L. FABER,  
STEVE STIVERS, STEPHEN BUEHRER, DAVID  
GOODMAN.

NO - 3: NINA TURNER, ERIC H. KEARNEY, TERESA FEDOR.

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

The report of the committee was accepted.

Senator Goodman submitted the following report:

The standing committee on Judiciary - Civil Justice, to which  
was referred **Sub. H. B. No. 395**-Representative Hughes, et al., having had the  
same under consideration, reports it back with the following amendments and  
recommends its passage when so amended.

In line 96, reinsert "and separate"

In line 97, reinsert "equitably"

In line 112, reinsert "an equitable"; delete " a"

In line 173, reinsert "equitably"

YES - 9: KEITH L. FABER, STEPHEN BUEHRER, J. KIRK  
SCHURING, ERIC H. KEARNEY, NINA TURNER,  
STEVE STIVERS, BILL SEITZ, TERESA FEDOR,  
DAVID GOODMAN.

NO - 0.

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

The report of the committee was accepted.

Senator Goodman submitted the following report:

The standing committee on Judiciary - Civil Justice, to which  
was referred **Am. H. B. No. 522**-Representative Oelslager, et al., having had  
the same under consideration, reports it back with the  
following amendments and recommends its passage when so amended.

In line 297, after " attorney" insert " general's charitable law section by  
certified mail on a form prescribed by the attorney"

Between lines 305 and 306 insert:

" (E) The attorney general may extend for a period of up to an additional sixty days the effective date of a release or modification of a restriction that is proposed under division (D) of this section and shall provide notice of that extension to the institution that proposed the release or modification. The notice shall set forth the reasons necessitating the extension. The attorney general shall notify the institution prior to the effective date of the proposed release or modification of any objection to the proposed release or modification of the restriction."

In line 320, delete "January" and insert "June"

In line 429, delete "January" and insert "June"

Co-Sponsors: Kearney, Turner, Goodman, Fedor.

YES - 9: DAVID GOODMAN, NINA TURNER, STEPHEN BUEHRER, KEITH L. FABER, J. KIRK SCHURING, STEVE STIVERS, ERIC H. KEARNEY, BILL SEITZ, TERESA FEDOR.

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

Co-Sponsor: Schaffer.

YES - 6: TIMOTHY J. GREDELLE, STEVE STIVERS, TIMOTHY O. SCHAFFER, STEPHEN C. AUSTRIA, TERESA FEDOR, NINA TURNER.

NO - 2: KEITH L. FABER, BILL SEITZ.

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 **H. B. No. 209**-Representative Core, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsor: Turner.

YES - 8: KEITH L. FABER, TIMOTHY J. GRENDALL,  
TIMOTHY O. SCHAFFER, STEPHEN C. AUSTRIA,  
BILL SEITZ, NINA TURNER, TERESA FEDOR, STEVE  
STIVERS.

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. 292**-Senator Roberts, et al., having had the same under consideration, reports it back and recommends its passage.

YES - 8: TOM NIEHAUS, TIMOTHY O. SCHAFFER, TOM  
PATTON, TIMOTHY J. GRENDALL, NINA TURNER,  
DALE MILLER, SUSAN L. MORANO, DAVID  
GOODMAN.

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. 386**-Senator Grendell, et al., having had the same under consideration, reports it back and recommends its passage.

YES - 6: TOM NIEHAUS, TIMOTHY O. SCHAFFER, TOM  
PATTON, DAVID GOODMAN, TIMOTHY J.  
GRENDALL, NINA TURNER.

NO - 2: DALE MILLER, SUSAN L. MORANO.

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

The report of the committee was accepted.

On the motion of Senator Niehaus, the Senate recessed until 2:50 p.m.

The Senate met pursuant to the recess.

### BILLS FOR THIRD CONSIDERATION

**Sub. H. B. No. 318**-Representative Gibbs.

Cosponsors: Representatives Aslanides, Domenick, Bacon, Batchelder, Bolon, Chandler, Combs, Daniels, DeBose, Dyer, Evans, Flowers, Garrison, Goyal, Hagan, J., Hagan, R., Harwood, Hughes, Luckie, McGregor, J., Patton, Sayre, Schindel, Schneider, Setzer, Uecker, Zehringer.

To amend sections 5541.05, 5553.11, 5571.20, and 5735.27 of the Revised Code to make changes relative to the provisions that govern the placing of county and township roads on nonmaintained status and to establish that proceedings to vacate a road are not subject to real property appropriation procedures, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 318**, pass?"

The yeas and nays were taken and resulted - yeas 31, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Boccieri	Buehrer
Cafaro	Carey	Cates	Coughlin
Faber	Fedor	Goodman	Grendell
Kearney	Lehner	Miller D	Miller R
Morano	Niehaus	Padgett	Patton
Roberts	Sawyer	Schaffer	Schuler
Schuring	Seitz	Stivers	Turner
Wagoner	Wilson		Harris-31.

So the bill passed.

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

Senator Buehrer moved to amend the title as follows:

Add the names: "Amstutz, Buehrer, Harris, Lehner, Padgett, Patton, Sawyer, Schaffer, Wagoner, Wilson, Miller, R., Miller, D.."

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

The motion was agreed to and the title so amended.



**Sub. H. B. No. 458**-Representative Uecker.

Cosponsors: Representatives Evans, McGregor, J., Huffman, Harwood, Wagner, Bacon, Batchelder, Chandler, Combs, Daniels, Domenick, Dyer, Flowers, Gerberry, Gibbs, Goyal, Hagan, J., Hughes, Letson, Newcomb, Sayre, Schindel, Schlichter, Setzer, Zehringer. Senators Amstutz, Schaffer, Roberts, Sawyer.

To amend sections 505.60, 505.601, 5701.11, 5705.05, 5705.06, and 5709.121 of the Revised Code to authorize townships to use money derived from the general current expense levy for road and bridge construction and repair, to make clarifying changes to the laws authorizing a township to provide health care insurance, to expressly incorporate changes in the Internal Revenue Code since December 21, 2007, into Ohio tax law, to clarify qualifications for charitable institution exemptions from property taxation, 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 1, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Boccieri	Buehrer
Cafaro	Carey	Cates	Coughlin
Faber	Fedor	Goodman	Kearney
Lehner	Miller D	Miller R	Morano
Niehaus	Padgett	Patton	Roberts
Sawyer	Schaffer	Schuler	Schuring
Seitz	Stivers	Turner	Wagoner
Wilson			Harris-30.

Senator Grendell voted in the negative-1.

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 30, nays 1, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Boccieri	Buehrer
Cafaro	Carey	Cates	Coughlin
Faber	Fedor	Goodman	Kearney
Lehner	Miller D	Miller R	Morano
Niehaus	Padgett	Patton	Roberts
Sawyer	Schaffer	Schuler	Schuring
Seitz	Stivers	Turner	Wagoner
Wilson			Harris-30.

Senator Grendell voted in the negative-1.

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

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

Senator Amstutz moved to amend the title as follows:

Add the names: "Buehrer, Fedor, Harris, Kearney, Patton, Schuler, Seitz, Wagoner."

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

The motion was agreed to and the title so amended.

**Sub. H. B. No. 525**-Representative Combs.

Cosponsors: Representatives McGregor, J., Peterson, Setzer, Harwood, Szollosi, Raussen, Chandler, Uecker, Adams, Batchelder, Blessing, Boyd, Brown, Ciafardini, Coley, Domenick, Dyer, Evans, Flowers, Gardner, Gerberry, Hite, Huffman, Letson, Lundy, Mecklenborg, Nero, Patton, Schneider, Stebelton. Senators Cates, Seitz, Wagoner.

To amend sections 101.45, 117.18, 119.09, 124.09, 169.08, 317.36, 505.495, 709.032, 733.39, 1121.38, 1315.17, 1315.24, 1321.07, 1321.42, 1509.36, 1513.131, 1571.10, 1571.14, 1707.23, 1901.26, 1905.26, 2335.06, 2335.08, 2743.06, 2743.65, 3745.05, 3901.04, 3901.321, 4112.04, 4121.16, 4123.13, 4167.10, 4301.04, 4503.03, 4517.32, 4701.29, 4723.29, 4725.23, 4728.05, 4730.26, 4731.22, 4735.04, 4738.11, 4741.03, 4760.14, 4762.14, 4763.04, 4769.06, 4903.05, 5101.37, 5120.30, 5123.14, 5123.96, 5149.11, 5703.29, 5727.62, and 5924.47 and to enact sections 119.094, 317.114, 317.37, and 3333.30 of the Revised Code to establish standard format requirements for documents to be recorded by a county recorder, to allow recording of a single instrument for multiple transactions pertaining to oil and gas, to permit the board of county commissioners in each county to set the mileage reimbursement rate for witnesses in civil cases in county courts at a rate not to exceed fifty and one-half cents per mile, to set the mileage reimbursement rate for witnesses in other courts of record and state adjudication hearings at fifty and one-half cents per mile, and to authorize the Chancellor of the Ohio Board of Regents to enter into an agreement with private entities to provide access to career information on the Board of Regents' web site, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 525**, pass?"

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

Those who voted in the affirmative were: Senators

Amstutz	Austria	Boccieri	Buehrer
Cafaro	Carey	Cates	Coughlin
Faber	Fedor	Goodman	Kearney
Lehner	Miller D	Miller R	Morano
Niehaus	Padgett	Patton	Roberts

Sawyer  
Seitz  
Wilson

Schaffer  
Stivers

Schuler  
Turner

Schuring  
Wagoner  
Harris-30.

Senator Grendell voted in the negative-1.

So the bill passed.

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

Senator Cates moved to amend the title as follows:

Add the names: "Harris, Morano, Sawyer."

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

The motion was agreed to and the title so amended.

**Sub. S. B. No. 353**-Senator Spada.

Cosponsors: Senators Harris, Mason, Miller, D., Roberts, Smith, Seitz, Cates, Fedor, Wagoner.

To amend sections 135.341, 135.35, 135.351, 307.01, 307.07, 307.09, 307.10, 307.12, 307.64, 307.698, 307.78, 307.806, 307.846, 319.20, 319.201, 319.30, 319.43, 319.45, 319.54, 321.24, 321.261, 321.34, 323.121, 323.132, 323.15, 323.25, 323.26, 323.28, 323.31, 323.47, 323.49, 323.50, 323.65, 323.66, 323.67, 323.68, 323.69, 323.70, 323.71, 323.72, 323.73, 323.74, 323.75, 323.76, 323.77, 323.78, 715.26, 715.261, 1724.01, 1724.02, 1724.04, 1724.05, 1724.07, 1724.10, 1724.11, 5705.05, 5705.19, 5709.12, 5721.01, 5721.011, 5721.03, 5721.06, 5721.10, 5721.11, 5721.18, 5721.19, 5721.191, 5721.20, 5721.25, 5721.30, 5721.31, 5721.32, 5721.33, 5721.36, 5721.37, 5721.38, 5721.39, 5721.40, 5721.43, 5722.01, 5722.02, 5722.03, 5722.04, 5722.06, 5722.07, 5722.08, 5722.09, 5722.10, 5722.13, 5722.14, 5722.15, 5722.21, 5723.01, 5723.03, 5723.04, 5723.08, 5723.11, 5723.12, and 5723.18, to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 321.341 (321.342) and 323.78 (323.79), to enact new sections 321.341 and 323.78 and sections 133.082, 307.781, 321.263, 321.36, 1724.03, 4582.07, 4582.08, 4582.09, 4582.32, 4582.33, 4582.34, and 5722.22 of the Revised Code to authorize the creation of land reutilization corporations to facilitate the reclamation, rehabilitation, and reutilization of vacant, abandoned, tax-foreclosed, or other real property, to revise the expedited, nonjudicial foreclosure procedure for abandoned lands, and to require port authorities to adopt plans of improvement, was considered the third time.

The question being, "Shall the bill, **Sub. S. B. No. 353**, pass?"

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

Those who voted in the affirmative were: Senators

Austria

Boccieri

Buehrer

Cafaro

Carey	Cates	Coughlin	Faber
Fedor	Goodman	Grendell	Kearney
Lehner	Miller D	Miller R	Morano
Niehaus	Padgett	Patton	Roberts
Sawyer	Schaffer	Schuler	Schuring
Seitz	Stivers	Turner	Wagoner
Wilson			Harris-30.

Senator Amstutz voted in the negative-1.

So the bill passed.

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

Senator Patton moved to amend the title as follows:

Add the names: "Bocchieri, Cafaro, Grendell, Lehner, Morano, Sawyer, Schuler, Turner, Wilson, Miller, R., Patton."

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

The motion was agreed to and the title so amended.

**Sub. S. B. No. 370**-Senator Seitz.

To enact sections 2307.951, 2307.952, 2307.953, and 2307.954 of the Revised Code to require claimants in asbestos tort actions to make certain disclosures pertaining to asbestos trust claims that have been submitted to asbestos trust entities for the purpose of compensating the claimant for asbestos exposure, was considered the third time.

The question being, "Shall the bill, **Sub. S. B. No. 370**, pass?"

The yeas and nays were taken and resulted - yeas 20, nays 11, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Buehrer	Carey
Cates	Coughlin	Faber	Goodman
Grendell	Lehner	Niehaus	Padgett
Patton	Schaffer	Schuler	Schuring
Seitz	Stivers	Wagoner	Harris-20.

Those who voted in the negative were: Senators

Bocchieri	Cafaro	Fedor	Kearney
Miller D	Miller R	Morano	Roberts
Sawyer	Turner		Wilson-11.

So the bill passed.

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

Senator Seitz moved to amend the title as follows:

Add the names: "Buehrer, Cates, Goodman, Harris, Schaffer, Stivers, Amstutz, Schuler."

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

The motion was agreed to and the title so amended.

**S. B. No. 386-Senator Grendell.**

Cosponsors: Senators Wilson, Carey, Cafaro, Padgett, Schaffer, Seitz, Niehaus.

To amend sections 1513.02, 1513.07, 1513.181, 1513.99, 3745.114, 6111.03, 6111.035, 6111.04, 6111.30, and 6111.44 and to enact sections 1513.50 to 1513.59 of the Revised Code to transfer authority to issue section 401 water quality certifications, installation permits for disposal systems, and NPDES permits with respect to coal mining and reclamation operations from the Director of Environmental Protection to the Chief of the Division of Mineral Resources Management in the Department of Natural Resources and to provide for the timely issuance of coal mining and reclamation permits, and to amend the versions of sections 6111.04 and 6111.44 of the Revised Code that are scheduled to take effect July 1, 2009, to continue the provisions of this act on and after that effective date, was considered the third time.

The question being, "Shall the bill, **S. B. No. 386**, pass?"

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

Those who voted in the affirmative were: Senators

Amstutz	Austria	Buehrer	Cafaro
Carey	Cates	Faber	Goodman
Grendell	Lehner	Niehaus	Padgett
Patton	Schaffer	Schuler	Schuring
Seitz	Stivers	Turner	Wagoner
Wilson			Harris-22.

Those who voted in the negative were: Senators

Boccieri	Coughlin	Fedor	Kearney
Miller D	Miller R	Morano	Roberts
			Sawyer-9.

So the bill passed.

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

Senator Grendell moved to amend the title as follows:

Add the names: "Austria, Harris, Patton, Schuler."

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, December 7, 2008, 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. 390**-Senator Wilson.

Cosponsors: Senators Roberts, Sawyer, Miller, D., Turner, Miller, R.

To amend sections 3314.012 and 3314.37 of the Revised Code to require the Department of Education to issue annual report cards for community school sponsors containing aggregated performance data for the schools they sponsor.

### **OFFERING OF RESOLUTIONS**

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

**S. R. No. 306**-Senator Patton.

Honoring the Olmsted Falls High School volleyball team as the 2008 Division I State Champion.

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

So the resolution was adopted.

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

Attest:

VINCENT L. KEERAN,  
Clerk.