

OHIO

SENATE

JOURNAL

WEDNESDAY, JUNE 24, 2009

SIXTY-FOURTH DAY
Senate Chamber, Columbus, Ohio
Wednesday, June 24, 2009, 1:30 p.m.

The Senate met pursuant to adjournment.

Prayer was offered by Father Michael Gribble, St. Joseph's Cathedral, 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 Harris reports for the Standing Committee on Reference, recommending that the following bills and joint resolution, standing in order for second consideration, be referred to committee as recommended:

Am. Sub. H. B. No. 12-Representatives Lundy, Schneider, et al.

To enact sections 3345.86 and 3345.87 of the Revised Code to require institutions of higher education to provide financial literacy education to students and adopt and adhere to policies regarding credit card marketing on campus.

To the Committee on Finance and Financial Institutions.

Sub. H. B. No. 48-Representative Ujvagi, et al.

To amend section 4117.10 and to enact sections 5906.01, 5906.02, 5906.03, and 5906.99 of the Revised Code to provide up to two weeks of leave for any employee who is the spouse, parent, or a person who has or had legal custody of a member of the uniformed services who is called to active duty or is injured, wounded, or hospitalized while serving on active duty.

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

S. B. No. 148-Senator Turner.

To enact section 731.60 of the Revised Code to authorize municipal corporations to have a deficit in special funds under certain circumstances.

To the Committee on Ways and Means and Economic Development.

S. B. No. 149-Senator Strahorn, et al.

To enact sections 185.01, 185.02, 185.021, and 185.03 to 185.07 of the Revised Code to establish procedures for the Ohio Civil Rights Commission to extend state recognition to native American tribes, native American groups, and native American special interest groups, and to specify the rights, duties, and responsibilities of any native American tribe that the Commission recognizes and to extend such state recognition to the Shawnee Nation United Remnant Band.

To the Committee on Finance and Financial Institutions.

S. J. R. No. 6-Senators Gibbs, Wilson.

Proposing to enact Section 1 of Article XIV of the Constitution of the State of Ohio to create the Ohio Livestock Care Standards Board.

To the Committee on Agriculture.

YES - 4: BILL HARRIS, SHIRLEY A. SMITH, CAPRI S. CAFARO, TOM NIEHAUS.

NO - 0.

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

The report of the committee was accepted.

Said bills and joint resolution were considered a second time and referred to committee as recommended.

REPORTS OF STANDING AND SELECT COMMITTEES

Senator Harris submitted the following report:

The standing committee on Reference, to which was referred **H. C. R. No. 24**-Representative Lundy, et al., having had the same under consideration, reports it back and recommends its adoption.

YES - 4: BILL HARRIS, SHIRLEY A. SMITH, CAPRI S. CAFARO, TOM NIEHAUS.

NO - 0.

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

The report of the committee was accepted.

Senator Hughes submitted the following report:

The standing committee on State and Local Government and Veterans' Affairs, to which was referred **S. B. No. 125**-Senator Coughlin, et al., having had the same under consideration, reports it back and recommends its passage.

Co-Sponsors: Fedor, Hughes.

YES - 8: TERESA FEDOR, RAY MILLER, NINA TURNER, JIM HUGHES, BILL SEITZ, MARK D. WAGONER, JIMMY STEWART, JOHN A. CAREY.

NO - 0.

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

The report of the committee was accepted.

Senator Hughes submitted the following report:

The standing committee on State and Local Government and Veterans' Affairs, to which was referred **S. B. No. 127**-Senator Goodman, et al., having had the same under consideration, reports it back and recommends its passage.

Co-Sponsor: Fedor.

YES - 9: RAY MILLER, NINA TURNER, TERESA FEDOR, JIMMY STEWART, BILL SEITZ, MARK D. WAGONER, JIM HUGHES, TIMOTHY J. GRENDALL, JOHN A. CAREY.

NO - 0.

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

The report of the committee was accepted.

Senator Harris submitted the following report:

The Standing Committee on Rules to which were referred the appointments by the Governor of:

John B. Ackerman, Democrat, form Woodsfield, Monroe County, Ohio, as a Member of the Technical Advisory Council on Oil and Gas for a new term beginning February 6, 2009 ending at the close of business January 31, 2012.

Daniel M. Binder, Democrat, from Bexley, Franklin County, Ohio, as a Member of the Ohio Water Advisory Council for a new term beginning March 3, 2009, and ending at the close of business February 1, 2011.

Lewis N. Brady, Republican, from New Bremen, Auglaize County, Ohio, as a Member of the Ohio Water Advisory Council for a new term beginning February 13, 2009 and ending at the close of business February 1, 2011.

Ruth E. Collins, Democrat, from Manchester, Adams County, Ohio, as a Member of the Southern Ohio Agricultural and Community Development Foundation for a new term beginning June 4, 2008 and ending at the close of business June 3, 2013.

David P. Corey, Independent, from Columbus, Franklin County, Ohio, as a Member of the Ohio Expositions Commission for a new term beginning March 11, 2009 and ending at the close of business December 1, 2014.

John M. Hoopingarner, Democrat, from Dover, Tuscarawas County, Ohio, as a Member of the Ohio Water Advisory Council for a new term beginning February 13, 2009 and ending at the close of business February 1, 2011.

Lisa Mach, Democrat, from Cleveland, Cuyahoga County, Ohio, as a Member of the State Veterinary Medical Board for a term beginning March 26, 2009 and ending at the close of business December 31, 2011, replacing David Koncal, whose term expired.

Michael E. Noel, Democrat, from Portsmouth, Scioto County, Ohio, as a Member of the Ohio Expositions Commission for a new term beginning March 11, 2009 and ending at the close of business December 1, 2014.

Alan R. Schriber, Independent, for Cincinnati, Hamilton County, Ohio, as a Member of the of the Ohio Public Utilities Commission of Ohio for a new term beginning April 11, 2009 and ending at the close of business April 10, 2014.

Jodie Marie Taylor, Democrat, from Columbus, Franklin County, Ohio, as a Member of the Industrial Commission of Ohio for a term beginning June 30, 2009 and ending at the close of business June 29, 2015, replacing William H. Thompson, whose term expired.

Sherrilyn Farkas VanTassel, Democrat, from Cadiz, Harrison County, Ohio, as a Member of Ohio Expositions Commission for a term beginning March 11, 2009 and ending at the close of business December 1, 2014, replacing Opal Holfinger, whose term expired.

Lorry Yale Wagner, from Solon, Cuyahoga County, Ohio, as a Member of the Power Siting Board for a term beginning January 12, 2009 and ending at the close of business January 10, 2010, replacing Andrew Boatright, who resigned.

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

YES - 9: BILL HARRIS, TOM NIEHAUS, KEITH L. FABER, MARK D. WAGONER, JOHN A. CAREY, JASON H. WILSON, RAY MILLER, SHIRLEY A. SMITH, CAPRI S. CAFARO.

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

Buehrer	Cafaro	Carey	Cates
Coughlin	Faber	Fedor	Gibbs
Gillmor	Goodman	Grendell	Hughes
Husted	Kearney	Miller D	Miller R
Morano	Niehaus	Patton	Sawyer
Schaffer	Schiavoni	Schuring	Seitz
Smith	Stewart	Strahorn	Turner
Wagoner	Widener	Wilson	Harris-32.

So the Senate advised and consented to said appointments.

Senator Harris submitted the following report:

The Standing Committee on Rules to which was referred the appointment by the Attorney General of:

Karen Osterfeld, Republican, Centerville, Montgomery County, representing organized labor on the Ohio Consumers' Counsel Governing Board, term beginning September 1, 2008 and ending September 1, 2011.

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

YES - 9: BILL HARRIS, TOM NIEHAUS, KEITH L. FABER, MARK D. WAGONER, JOHN A. CAREY, JASON H. WILSON, RAY MILLER, SHIRLEY A. SMITH, CAPRI S. CAFARO.

NO - 0.

The question being, "Shall the Senate advise and consent to the appointment by the Attorney General?"

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

Those who voted in the affirmative were: Senators

Buehrer	Cafaro	Carey	Cates
Coughlin	Faber	Fedor	Gibbs
Gillmor	Goodman	Grendell	Hughes
Husted	Kearney	Miller D	Miller R
Morano	Niehaus	Patton	Sawyer
Schaffer	Schiavoni	Schuring	Seitz
Smith	Stewart	Strahorn	Turner
Wagoner	Widener	Wilson	Harris-32.

So the Senate advised and consented to said appointment.

RESOLUTIONS REPORTED BY COMMITTEE

S. C. R. No. 12-Senator Grendell.

To request the Supreme Court to amend the Ohio Rules of Criminal Procedure to provide for open discovery.

WHEREAS, Rule 16 of the Ohio Rules of Criminal Procedure requires the prosecuting attorney to disclose specified types of information, such as prior written statements made by the defendant and documents that are "material to the preparation of [a] defense," and "all evidence, known or which may become known to the prosecuting attorney, favorable to the defendant and material either to guilt or punishment"; and

WHEREAS, Rule 16 requires the prosecuting attorney to disclose the results of medical and scientific reports and other types of information only upon motion of the defendant and order of the court; and

WHEREAS, Determinations as to the materiality of evidence, the exculpatory nature of evidence, and similar matters are difficult questions upon which the prosecuting and defense attorneys may reasonably disagree and therefore should neither be left to the decision of the prosecuting attorney nor become the subjects of costly and time-consuming motions; and

WHEREAS, Defense attorneys often need to make additional discovery motions, adding to the burdens borne by both counsel and the court; and

WHEREAS, A rule requiring the prosecuting attorney, upon request of the defense attorney, to disclose all police reports, witness statements, and other relevant evidence, would promote the fair and expeditious administration of justice and reduce the strain on the judiciary; now therefore be it

RESOLVED, That the General Assembly respectfully requests the Supreme Court to amend the Ohio Rules of Criminal Procedure to provide for open discovery in all criminal cases in all courts in this state, subject only to the court's power, upon motion of the prosecuting attorney and, if appropriate, an in

camera hearing, to limit discovery in order to protect a witness or for other good cause as determined by the court.

The question being, "Shall the concurrent resolution, **S. C. R. No. 12**, be adopted?"

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

Those who voted in the affirmative were: Senators

Buehrer	Cafaro	Carey	Cates
Coughlin	Faber	Fedor	Gibbs
Gillmor	Goodman	Grendell	Hughes
Husted	Kearney	Miller D	Miller R
Morano	Niehaus	Patton	Sawyer
Schaffer	Schiavoni	Schuring	Seitz
Smith	Stewart	Strahorn	Turner
Wagoner	Widener	Wilson	Harris-32.

So the concurrent resolution was adopted.

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

Senator Grendell moved to amend the title as follows:

Add the names: "Fedor, Gibbs, Gillmor, Harris, Miller, D., Niehaus, Sawyer, Schuring, Smith, Miller, R., Hughes, Turner, Schiavoni, Strahorn, Morano, Stewart."

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

The motion was agreed to and the title so amended.

BILLS FOR THIRD CONSIDERATION

Sub. S. B. No. 77-Senator Goodman.

Cosponsors: Senators Seitz, Miller, R., Stewart, Schuring, Miller, D., Kearney.

To amend sections 109.573, 2901.07, 2953.21, 2953.23, 2953.71, 2953.72, 2953.73, 2953.74, 2953.75, 2953.76, 2953.77, 2953.78, 2953.79, 2953.81, 2953.83, and 2953.84, to enact sections 109.561, 2933.81, 2933.82, 2933.83, 2953.56, 2953.57, 2953.58, and 2953.59, and to repeal section 2953.82 of the Revised Code relative to the expansion of DNA testing for certain convicted felons, the elimination of the DNA testing mechanism for felons who pleaded guilty or no contest to the offense, the collection of DNA specimens from all persons eighteen years of age or older who are arrested for a felony offense, the sealing of the official records of persons who have their convictions vacated and set aside due to DNA testing, the preservation and accessibility of biological evidence in a criminal or delinquency investigation or proceeding, the improvement of eyewitness identification procedures, and the electronic recording of custodial interrogations, was considered the third time.

The question being, "Shall the bill, **Sub. S. B. No. 77**, pass?"

Senator Goodman moved to amend as follows:

In line 35, delete " defender's" and insert " defenders"

In line 38, delete " (D)" and insert " (C)"

In line 427, delete " the effective date of this amendment" and insert " July 1, 2011."

In line 577, after the second underlined comma insert " or"; delete the third underlined comma; after the first " or" insert " of division (A)(4) or (B) of section"

In line 601, after the fifth underlined comma insert " or"; delete the sixth underlined comma; after " or" insert " of division (A)(4) or (B) of section"

In line 615, after the fourth underlined comma insert " or"; delete the fifth underlined comma; after " or" insert " of division (A)(4) or (B) of section"

In line 800, delete " (f)" and insert " (g)"

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

The motion was agreed to.

The question recurred, "Shall the bill, **Sub. S. B. No. 77**, pass?"

The yeas and nays were taken and resulted - yeas 31, nays 1, as follows:

Those who voted in the affirmative were: Senators

Buehrer	Cafaro	Carey	Cates
Coughlin	Faber	Fedor	Gibbs
Gillmor	Goodman	Hughes	Husted
Kearney	Miller D	Miller R	Morano
Niehaus	Patton	Sawyer	Schaffer
Schiavoni	Schuring	Seitz	Smith
Stewart	Strahorn	Turner	Wagoner
Widener	Wilson		Harris-31.

Senator Grendell voted in the negative-1.

So the bill passed.

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

Senator Goodman moved to amend the title as follows:

Add the names: "Cates, Coughlin, Fedor, Gibbs, Gillmor, Harris, Husted, Niehaus, Patton, Sawyer, Schiavoni, Smith, Strahorn, Turner, Wagoner, Wilson, Morano."

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

The motion was agreed to and the title so amended.

Sub. S. B. No. 85-Senator Stewart.

Cosponsors: Senators Seitz, Wagoner.

To enact sections 9.29, 735.054, 6101.161, 6103.101, 6115.201, and 6119.101 of the Revised Code to authorize certain political subdivisions to contract for engineering, repair, sustainability, water quality management, and maintenance of a water storage tank through a professional service contract under specified conditions, was considered the third time.

The question being, "Shall the bill, **Sub. S. B. No. 85**, pass?"

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

Those who voted in the affirmative were: Senators

Buehrer	Cafaro	Carey	Cates
Coughlin	Faber	Fedor	Gibbs
Gillmor	Goodman	Grendell	Hughes
Husted	Kearney	Miller D	Miller R
Morano	Niehaus	Patton	Sawyer
Schaffer	Schiavoni	Schuring	Seitz
Smith	Stewart	Strahorn	Turner
Wagoner	Widener	Wilson	Harris-32.

So the bill passed.

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

Senator Stewart moved to amend the title as follows:

Add the names: "Fedor, Harris, Hughes, Husted, Kearney, Miller, D., Morano, Patton, Sawyer, Smith, Turner, Wilson."

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. 77-Senator Kearney.

Cosponsors: Senators Cates, Niehaus, Seitz.

Honoring the University of Cincinnati civil engineering concrete canoe team as the 2009 ASCE Ohio Valley Regional Conference Champion.

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

So the resolution was adopted.

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:

Sub. H. B. No. 15 -Representative Sykes - et al.

Attest:

Tom Sherman,
Clerk.

Senator Carey moved that the Senate insist on the Senate amendments to **Sub. H. B. No. 15**, and ask for a Committee of Conference.

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

The motion was agreed to.

Message from the House of Representatives

Mr. President:

I am directed to inform you that the House of Representatives accedes to the request of the Senate for a Committee of Conference on matters of difference between the two Houses on:

Sub. H. B. No. 15 -Representative Sykes - et al.

The Speaker of the House has appointed as managers on the part of the House on such matters of difference:

Representatives Dodd, Bolon, and Wachtmann

Attest:

Tom Sherman,
Clerk.

MESSAGE FROM THE PRESIDENT

Pursuant to Senate Rule 30, the President of the Senate appoints the following members to serve on the Conference Committee on Am. Sub. H. B. No. 15 of the 128th General Assembly:

Senator Buehrer
Senator Gillmor
Senator Schiavoni

On the motion of Senator Carey, the Senate adjourned until Thursday, June 25, 2009 at 11:00 o'clock a.m.

Attest:

VINCENT L. KEERAN,
Clerk.