

OHIO

SENATE

JOURNAL

WEDNESDAY, DECEMBER 9, 2009

ONE HUNDRED TWENTY-FIFTH DAY
Senate Chamber, Columbus, Ohio
Wednesday, December 9, 2009, 1:30 p.m.

The Senate met pursuant to adjournment.

Prayer was offered by Rabbi Melissa Crespy, Congregation Agudas Achim, Bexley, Ohio, followed by the Pledge of Allegiance to the Flag.

The journal of the last legislative day was read and approved.

On the motion of Senator Niehaus, the Senate recessed until 3:25 p.m.

The Senate met pursuant to the recess.

**REPORTS OF REFERENCE AND BILLS FOR SECOND
CONSIDERATION**

Senator Goodman reports for the Standing Committee on Reference, recommending that the following bills and resolution, standing in order for second consideration, be referred to committee as recommended:

S. R. No. 132-Senator Kearney.

To urge the Administrator of the United States Environmental Protection Agency to grant an emergency exemption for the use of the insecticide Propoxur to control bedbugs in Ohio.

To the Committee on Environment and Natural Resources.

S. B. No. 218-Senators Schaffer, Sawyer, et al.

To enact sections 303.214, 519.214, 713.082, and 5502.031 of the Revised Code to codify federal restrictions on local zoning of amateur station antenna structures thereby preserving amateur radio service communications as a Homeland Security resource and to place the burden of proof for compliance on the zoning authority.

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

S. B. No. 219-Senator Grendell, et al.

To amend sections 145.27, 145.56, 145.561, 145.82, 145.95, 742.41, 742.46, 742.47, 742.64, 2329.66, 2929.192, 3305.07, 3305.20, 3305.22,

3307.20, 3307.41, 3307.42, 3309.22, 3309.66, 3309.661, 3309.82, 3309.95, 5505.04, 5505.22, and 5505.34 and to enact sections 145.573, 742.464, 2929.193, 3305.12, 3307.373, 3309.673, and 5505.263 of the Revised Code regarding termination of the disability benefit of a state retirement system member convicted of certain felonies committed while serving in a position of honor, trust, or profit.

To the Committee on Health, Human Services and Aging.

YES - 4: SHIRLEY A. SMITH, BILL HARRIS, DAVID GOODMAN, KEITH L. FABER.

NO - 0.

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

The report of the committee was accepted.

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

Senator Niehaus moved that **S. B. No. 219** - Senator Grendell, et al., having been referred to the standing committee on Health, Human Services, and Aging, be re-referred to the standing committee on Government Oversight, pursuant to Senate Rule 37.

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

The motion was agreed to.

REPORTS OF STANDING AND SELECT COMMITTEES

Senator Buehrer submitted the following report:

The standing committee on Insurance, Commerce and Labor, to which was referred **S. B. No. 183**-Senator Schaffer, et al., having had the same under consideration, reports it back with the following amendments and recommends its passage when so amended.

In line 105, after " of" insert " division (J) of"

Co-Sponsor: Kearney.

YES - 10: STEPHEN BUEHRER, KEITH L. FABER, JOSEPH

SCHIAVONI, FRED STRAHORN, ERIC H. KEARNEY,
KAREN GILLMOR, JIM HUGHES, SHANNON JONES,
TIMOTHY O. SCHAFFER, BILL SEITZ.

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:

Pursuant to Senate Rule No. 37 the standing committee on Rules, recommends that **H. B. No. 19** - Representative Harwood, et al., having been reported by the standing committee on Education, be re-committed to the standing committee on Education.

YES - 9: BILL HARRIS, JOHN A. CAREY, KEVIN J.
COUGHLIN, KEITH L. FABER, JON A. HUSTED, RAY
MILLER, SHIRLEY A. SMITH, MARK D. WAGONER,
JASON H. WILSON.

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. 8**-Senator Seitz, having had the same under consideration, reports back a substitute bill and recommends its passage.

YES - 5: MARK D. WAGONER, TIMOTHY J. GRENDALL,
JIMMY STEWART, BILL SEITZ, JIM HUGHES.

NO - 4: NINA TURNER, TERESA FEDOR, RAY MILLER,
JOHN A. CAREY.

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

The report of the committee was accepted.

Senator Schaffer submitted the following report:

The standing committee on Environment and Natural Resources, to which was referred **S. B. No. 165**-Senator Niehaus, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

YES - 7: SUSAN L. MORANO, FRED STRAHORN, JIMMY STEWART, BOB GIBBS, TOM NIEHAUS, GARY W. CATES, TIMOTHY O. SCHAFFER.

NO - 2: DALE MILLER, TIMOTHY J. GRENDALL.

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 Agriculture, to which was referred **Sub. H. B. No. 363**-Representatives Okey, Newcomb, et al., having had the same under consideration, reports it back and recommends its passage.

Co-Sponsors: Schuring, Gibbs, Faber, Grendell.

YES - 8: J. KIRK SCHURING, BOB GIBBS, KEITH L. FABER, KAREN GILLMOR, SUSAN L. MORANO, TIMOTHY J. GRENDALL, GARY W. CATES, JASON H. WILSON.

NO - 1: FRED STRAHORN.

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:

Paul Booth, Democrat, from Cincinnati, Hamilton County, Ohio, as a Member of the Liquor Control Commission for a term beginning June 1, 2009 and ending at the close of business February 7, 2015, replacing Keith McNamara, whose term expired.

Patricia Costello, Independent, from Granville, Licking County, Ohio, as a Member of the Real Estate Appraiser Board for a term beginning September 1, 2009 and ending at the close of business June 30, 2012, replacing Margaret Hambleton, whose term expired.

Steven R. Cotner, Independent, from Perrysburg, Wood County, Ohio, as a Member of the Ohio Private Investigation and Security Services Commission for a new term beginning April 3, 2009 and ending at the close of business December 29, 2013.

Kenneth D. Davis, Republican, from Leesburg, Highland County, Ohio, as a

Member of the Southern Ohio Agricultural and Community Development Foundation for a new term beginning July 9, 2009 and ending at the close of business June 2, 2014.

Pat Raines, Republican, from Seaman, Adams County, Ohio, as a Member of the Southern Agricultural and Community Development Foundation for a new term beginning July 9, 2009 and ending at the close of business June 2, 2014.

Catherine L. Worley, Democrat, from Laurelville, Hocking County, Ohio, as a Member of the Ohio Expositions Commission for a term beginning June 19, 2009 and ending at the close of business November 30, 2010, replacing David Madison, 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, KEITH L. FABER, MARK D. WAGONER, JON A. HUSTED, JOHN A. CAREY, KEVIN J. COUGHLIN, JASON H. WILSON, RAY MILLER, SHIRLEY A. SMITH.

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	Carey	Cates	Coughlin
Faber	Fedor	Gibbs	Gillmor
Goodman	Grendell	Hughes	Husted
Jones	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.

BILLS FOR THIRD CONSIDERATION

Sub. S. B. No. 8-Senator Seitz.

To amend sections 3.02, 133.06, 133.18, 302.03, 302.09, 303.11, 303.12, 303.25, 305.02, 305.31, 306.32, 306.321, 306.70, 306.71, 307.676, 307.677, 307.695, 307.697, 307.791, 307.94, 307.95, 322.02, 322.021, 324.02, 324.021, 345.03, 351.26, 503.02, 503.161, 503.24, 503.41, 504.01, 504.03, 505.13,

505.14, 511.01, 511.22, 511.27, 511.28, 511.33, 511.34, 513.06, 513.13, 513.18, 517.05, 519.11, 519.12, 519.25, 705.01, 707.21, 709.29, 709.39, 709.45, 709.462, 709.48, 709.50, 715.69, 715.691, 715.70, 715.71, 715.77, 718.01, 718.09, 718.10, 731.03, 731.28, 731.29, 733.09, 733.261, 733.262, 733.31, 733.48, 749.021, 755.01, 757.02, 759.25, 1515.28, 1545.21, 1545.36, 1711.30, 1901.07, 1901.10, 1901.31, 1907.13, 2101.43, 2301.02, 3311.053, 3311.059, 3311.21, 3311.213, 3311.22, 3311.231, 3311.25, 3311.26, 3311.37, 3311.38, 3311.50, 3311.73, 3316.08, 3318.06, 3318.061, 3318.361, 3354.12, 3355.02, 3355.09, 3357.02, 3357.11, 3375.19, 3375.201, 3375.211, 3375.212, 3501.02, 3501.05, 3501.07, 3501.10, 3501.11, 3501.22, 3501.301, 3501.35, 3501.39, 3501.90, 3503.14, 3503.15, 3503.19, 3505.01, 3505.10, 3505.13, 3505.21, 3505.23, 3505.32, 3506.02, 3506.21, 3509.01, 3509.03, 3509.04, 3509.05, 3509.06, 3509.07, 3511.01, 3511.02, 3511.03, 3511.04, 3511.05, 3511.06, 3511.08, 3511.09, 3511.10, 3511.11, 3511.12, 3511.13, 3513.01, 3513.02, 3513.04, 3513.041, 3513.05, 3513.052, 3513.121, 3513.122, 3513.151, 3513.19, 3513.191, 3513.20, 3513.251, 3513.253, 3513.254, 3513.255, 3513.256, 3513.257, 3513.259, 3513.263, 3513.30, 3513.31, 3513.311, 3513.312, 3515.09, 3519.08, 3519.16, 3709.051, 3709.071, 3709.29, 3767.05, 3769.27, 4301.33, 4301.331, 4301.332, 4301.333, 4301.334, 4301.356, 4301.421, 4301.424, 4303.29, 4305.14, 4504.021, 4504.15, 4504.16, 4504.21, 4928.20, 4929.26, 4931.51, 4931.52, 4931.53, 4951.44, 4955.05, 5705.19, 5705.191, 5705.195, 5705.199, 5705.20, 5705.21, 5705.211, 5705.212, 5705.213, 5705.217, 5705.218, 5705.219, 5705.2111, 5705.22, 5705.221, 5705.222, 5705.23, 5705.24, 5705.25, 5705.251, 5705.261, 5705.27, 5705.71, 5739.021, 5739.022, 5739.026, 5743.021, 5743.024, 5743.026, 5748.02, 5748.04, 5748.08, 6105.18, 6105.20, 6119.31, and 6119.32, to enact sections 125.042, 3501.012, 3503.191, 3505.184, 3511.021, and 3511.14, and to repeal section 3509.022 of the Revised Code to revise the Election Law, was considered the third time.

The question being, "Shall the bill, **Sub. S. B. No. 8**, pass?"

Senator Seitz moved to amend as follows:

In line 9724, after "(A)" insert "(1)"

In line 9726, strike through "(1)" and insert "(a)"

In line 9730, strike through "ten" and insert "fifty"

In line 9731, strike through "any elector"; delete "waiting"; strike through "in"; strike through "line"; delete "to vote" and insert "the entrance to a polling place"

In line 9732, strike through "(2)" and insert "(b)"

In line 9734, strike through "(3)" and insert "(c)"

In line 9741, strike through "(4)" and insert "(d)"

In line 9743, strike through "(5)" and insert "(e)"

Between lines 9744 and 9745, insert:

" (2) Whoever violates division (A)(1)(a) of this section is guilty of a minor misdemeanor; if the person refuses to comply with the judges of election or law enforcement officers who are enforcing that division, or if the person repeats the violation, the person is guilty of a misdemeanor of the first degree."

In line 9753, after "(D)" insert "The line of waiting voters and persons loitering, congregating, or campaigning near that line shall not impede the normal flow of traffic or access to the entrance or exit of any business or organization in the vicinity.

(E)"

In line 9807, after "(1)" insert "(a)"; strike through "(2), (3), or (5)" and insert "(b), (c), or (e)"

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

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

The motion was agreed to.

The question being, "Shall the bill, **Sub. S. B. No. 8**, pass as amended?"

The yeas and nays were taken and resulted - yeas 22, nays 10, as follows:

Those who voted in the affirmative were: Senators

Buehrer	Carey	Cates	Coughlin
Faber	Gibbs	Gillmor	Goodman
Grendell	Hughes	Husted	Jones
Niehaus	Patton	Sawyer	Schaffer
Schuring	Seitz	Stewart	Wagoner
Widener			Harris-22.

Those who voted in the negative were: Senators

Fedor
Morano
Turner

Kearney
Schiavoni

Miller D
Smith

Miller R
Strahorn
Wilson-10.

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: "Carey, Faber, Gibbs, Goodman, Niehaus, Patton, Wagoner, Harris, Jones, Husted."

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

The motion was agreed to and the title so amended.

Sub. H. B. No. 363-Representatives Okey, Newcomb.

Cosponsors: Representatives Evans, Adams, J., Harwood, Yuko, Amstutz, Bacon, Blessing, Bolon, Boose, Coley, Combs, Daniels, Derickson, Dyer, Garland, Grossman, Hackett, Heard, Letson, Luckie, McClain, Oelslager, Ruhl, Snitchler, Weddington, Zehringer. Senators Schuring, Gibbs, Faber, Grendell.

To amend sections 903.01, 903.02, 903.03, 903.04, 903.05, 903.06, 903.07, 903.08, 903.081, 903.082, 903.09, 903.10, 903.15, 903.16, 903.17, and 6111.03 of the Revised Code, and to amend Section 640.24 of Am. Sub. H.B. 1 of the 128th General Assembly and Sections 120.01 and 120.02 of Am. Sub. H.B. 119 of the 127th General Assembly, as amended by Am. Sub. H.B. 1 of the 128th General Assembly, to revise the Concentrated Animal Feeding Facilities Law, to specify that certain provisions amended by this act do not become operative until the Administrator of the United States Environmental Protection Agency approves the National Pollutant Discharge Elimination System program submitted by the Director of Agriculture, to extend from January 1, 2010, to July 1, 2010, the termination date of the suspension of statutes and temporary law governing sewage treatment systems that were enacted by Am. Sub. H.B. 119 of the 127th General Assembly and subsequently amended and reenacted by Am. Sub. H.B. 1 of the 128th General Assembly, and to declare an emergency, was considered the third time.

The question being, "Shall the section, Section 8, setting forth the emergency features of the bill, stand as a part of the bill?"

The yeas and nays were taken and resulted - yeas 29, nays 3, as follows:

Those who voted in the affirmative were: Senators

Buehrer
Faber
Goodman
Jones

Carey
Fedor
Grendell
Kearney

Cates
Gibbs
Hughes
Miller D

Coughlin
Gillmor
Husted
Miller R

Morano	Niehaus	Patton	Sawyer
Schaffer	Schiavoni	Schuring	Seitz
Stewart	Turner	Widener	Wilson
			Harris-29.

Senators Smith, Strahorn, and Wagoner voted in the negative-3.

So the section, Section 8, 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 29, nays 3, as follows:

Those who voted in the affirmative were: Senators

Buehrer	Carey	Cates	Coughlin
Faber	Fedor	Gibbs	Gillmor
Goodman	Grendell	Hughes	Husted
Jones	Kearney	Miller D	Miller R
Morano	Niehaus	Patton	Sawyer
Schaffer	Schiavoni	Schuring	Seitz
Smith	Stewart	Widener	Wilson
			Harris-29.

Senators Strahorn, Turner, and Wagoner voted in the negative-3.

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

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

Senator Gibbs moved to amend the title as follows:

Add the names: "Buehrer, Gillmor, Sawyer, Schaffer, Widener, Wilson, Harris, Hughes, Cates."

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

The motion was agreed to and the title so amended.

Sub. S. B. No. 165-Senator Niehaus.

Cosponsors: Senators Gibbs, Stewart, Carey, Harris, Seitz.

To amend sections 1509.01, 1509.02, 1509.03, 1509.04, 1509.05, 1509.06, 1509.07, 1509.071, 1509.072, 1509.10, 1509.11, 1509.12, 1509.13, 1509.14, 1509.17, 1509.18, 1509.20, 1509.21, 1509.22, 1509.221, 1509.222, 1509.225, 1509.226, 1509.23, 1509.24, 1509.27, 1509.31, 1509.35, 1509.36, 1565.07, 1565.13, 1571.05, and 5749.06 and to enact sections 1509.021, 1509.062, 1509.073, 1509.19, 1509.34, 1509.50, 1509.60, and 1509.61 of the Revised Code to revise the Oil and Gas Law, was considered the third time.

The question being, "Shall the bill, **Sub. S. B. No. 165**, pass?"

On the motion of Senator Niehaus, **Sub. S. B. No. 165** was informally passed and retained its place on the calendar.

MOTIONS

Senator Wagoner moved that Senators absent the week of Sunday, December 6, 2009, 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.

OFFERING OF RESOLUTIONS

S. R. No. 133-Senator Fedor.

Recognizing January 11 as "National Human Trafficking Awareness Day" in Ohio.

The question being, "Shall the resolution, **S. R. No. 133**, be adopted?"

On the motion of Senator Niehaus, **S. R. No. 133**, was referred to the Committee on Reference.

Message from the House of Representatives

Mr. President:

I am directed to inform you that the House of Representatives has passed the following bills in which the concurrence of the Senate is requested:

Am. H. B. No. 81 -Representatives Boyd, Gardner
Cosponsors: Representatives Weddington, Mallory, Domenick, Newcomb, Luckie, Miller, Yuko, Williams, B., Murray, Foley, Hagan, Chandler, Harris, Skindell, Oelslager, Okey, Pryor, Phillips, Williams, S., Bolon, Letson, Stewart, Brown, Garrison, Fende, Book, Winburn, Garland, Patten, Belcher, Carney, Celeste, DeBose, Dodd, Dyer, Harwood, Heard, Lundy, Moran, Szollosi, Ujvagi, Yates

To amend sections 1739.05 and 1751.01 and to enact sections 1751.69 and 3923.71 of the Revised Code to require certain health care policies, contracts, agreements, and plans to provide benefits for equipment, supplies, and medication for the diagnosis, treatment, and management of diabetes and for diabetes self-management education and to create the Small Business Health Care Affordability Task Force.

Am. Sub. H. B. No. 8 -Representatives Celeste, Garland
Cosponsors: Representatives Okey, Harris, Dyer, Foley, Lundy, Harwood,

Koziura, Stebelton, Hagan, Skindell, Stewart, Heard, Mallory, DeBose, Patten, Pryor, Yuko, Pillich, Newcomb, Murray, Phillips, Winburn, Letson, Bolon, Luckie, Williams, B., Slesnick, Moran, Belcher, Boyd, Brown, Chandler, Dodd, Domenick, Driehaus, Fende, Gerberry, Sykes, Szollosi, Ujvagi, Weddington, Yates

To amend section 1739.05 and to enact sections 1751.68 and 3923.84 of the Revised Code to prohibit health insurers from excluding coverage for specified services for individuals diagnosed with an autism spectrum disorder.

Am. Sub. H. B. No. 167 -Representative Murray

Cosponsors: Representatives Foley, Heard, Slesnick, Domenick, Hagan, Letson, Luckie, Yuko, Weddington, Harris, Boyd, Phillips, Okey, Williams, S., Pillich, Driehaus, Ujvagi, Otterman, Stewart, Belcher, Brown, Celeste, Chandler, DeBose, Dodd, Dyer, Fende, Garland, Garrison, Lundy, Newcomb, Patten, Skindell, Szollosi, Williams, B., Winburn, Yates

To amend section 3113.31 and to enact sections 9.131, 4113.80 to 4113.84, 5321.171, 5321.172, 5321.173, and 5321.174 of the Revised Code to prohibit an employer or a landlord from discriminating against a victim of domestic violence or stalking; to require a metropolitan housing authority to move a victim of domestic violence or stalking if another unit is available; to prohibit charging a fee when law enforcement officers assist a victim of domestic violence or stalking; to allow a victim of domestic violence or stalking to take unpaid leave for purposes relating to the incident of domestic violence or stalking and to change or have changed the locks to the tenant's dwelling unit, and to permit a victim of domestic violence to terminate a rental agreement.

Sub. H. B. No. 271 -Representatives Patten, Stewart

Cosponsors: Representatives DeGeeter, Dodd, Domenick, Foley, Garland, Gerberry, Goyal, Hagan, Harris, Letson, Luckie, Mallory, Murray, Oelslager, Phillips, Pryor, Szollosi, Ujvagi, Brown, Book, Boyd, Carney, Celeste, Chandler, DeBose, Driehaus, Dyer, Fende, Garrison, Harwood, Heard, Lundy, Okey, Otterman, Pillich, Sayre, Skindell, Slesnick, Weddington, Williams, B., Williams, S., Winburn, Yuko

To amend sections 4117.01 and 4117.09 of the Revised Code to modify coverage of the Public Employees' Collective Bargaining Law with respect to township fire departments.

Attest:

Tom Sherman,
Clerk.

Said bills were considered the first time.

On the motion of Senator Niehaus, the Senate adjourned until Thursday, December 10, 2009 at 11:00 o'clock a.m.

Attest:

VINCENT L. KEERAN,
Clerk.