

OHIO

SENATE

JOURNAL

WEDNESDAY, JUNE 15, 2011

SIXTY-THIRD DAY
Senate Chamber, Columbus, Ohio
Wednesday, June 15, 2011, 1:30 p.m.

The Senate met pursuant to adjournment.

Prayer was offered by Austin Schafer, St. Thomas More Newman Center, 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 Niehaus reports for the Standing Committee on Rules and Reference, recommending that the following bills and resolutions, standing in order for second consideration, be referred to committee as recommended:

H. C. R. No. 12-Representative Thompson, et al.

To urge the Administration of President Barack Obama to reconsider proposals to increase taxes on producers of coal, natural gas, and petroleum and instead commit to adopting policies that encourage domestic production of these important resources.

To the Committee on Agriculture, Environment and Natural Resources.

Sub. H. B. No. 32-Representative Amstutz, et al.

To enact section 4733.011 of the Revised Code to exempt certain plans and measurements relating to household or small flow on-site sewage treatment systems from the Professional Engineers and Surveyors Law, and to authorize the use of the enforcement provisions of the Household and Small Flow On-site Sewage Treatment Systems Law to enforce existing rules governing household sewage disposal systems until those rules are superseded by rules that are required to be adopted under that Law.

To the Committee on Agriculture, Environment and Natural Resources.

Sub. H. B. No. 138-Representative Gerberry, et al.

To amend sections 109.73, 317.08, 959.131, 1717.01, 1717.04, 1717.06, and 1717.09 of the Revised Code to require an individual to file proof of successful completion of training with the county recorder prior to being appointed as a humane society agent and to require the revocation or

suspension of an appointment under certain circumstances.

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

Am. H. B. No. 158-Representatives Stebelton, Okey, 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.

Am. Sub. H. B. No. 163-Representative Balderson, et al.

To amend sections 1513.07, 1513.073, 1513.075, 1513.081, 1513.16, 1513.18, and 1513.371 of the Revised Code to revise the coal mining laws regarding permit application, set-back, and alternative water treatment or supply requirements.

To the Committee on Agriculture, Environment and Natural Resources.

Am. H. B. No. 188-Speaker Batchelder, et al.

To enact sections 103.61, 103.62, 103.63, 103.64, 103.65, 103.66, and 103.67 of the Revised Code to establish the Ohio Constitutional Modernization Commission.

To the Committee on Government Oversight and Reform.

H. B. No. 209-Representative Adams, R., et al.

To amend sections 135.18 and 135.37 and to enact sections 135.145 and 135.354 of the Revised Code to permit a political subdivision, upon the deposit of public moneys with an eligible public depository, to arrange for the public depository to redeposit those moneys with other federally insured banks and savings and loan associations in accordance with specified conditions.

To the Committee on Financial Institutions.

S. R. No. 89-Senator Grendell.

To urge Congress to enact House Resolution 2070 requiring the installation in the area of the World War II Memorial in Washington D.C., a suitable plaque or an inscription with the words that President Franklin D. Roosevelt prayed with the nation on June 6, 1944.

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

S. C. R. No. 13-Senator Tavares, et al.

To urge the Secretary of the United States Department of Health and Human Services to include all federally approved prescription contraceptive drugs and devices in the list of women's preventive health services that must be covered by new health insurance plans.

To the Committee on Insurance, Commerce and Labor.

S. B. No. 182-Senator Tavares, et al.

To enact section 3727.60 of the Revised Code to require a hospital to provide information regarding breast reconstruction to a patient before obtaining the patient's consent for a mastectomy, lymph node dissection, or lumpectomy.

To the Committee on Health, Human Services and Aging.

S. B. No. 183-Senator Tavares, et al.

To amend section 3314.35 of the Revised Code to exempt from closure certain community schools that enroll students receiving behavioral health services.

To the Committee on Education.

S. B. No. 184-Senator Tavares, et al.

To amend sections 5725.98, 5729.98, 5733.01, 5733.98, 5747.98, and 5751.98 and to enact section 715.58 of the Revised Code to authorize nonrefundable tax credits for authorized donations to projects of nonprofit

entities and municipal agencies providing community services.

To the Committee on Ways and Means and Economic Development.

S. B. No. 185-Senator Turner, et al.

To amend section 2901.13 of the Revised Code to provide that there is no period of limitation for the prosecution of an offense of rape or sexual battery.

To the Committee on Judiciary - Criminal Justice.

S. B. No. 186-Senator Skindell, et al.

To amend sections 1501.30, 1501.32, 1501.33, 1521.01, 1521.04, 1521.16, 1522.03, and 1522.05 and to enact sections 1522.10 to 1522.23 and 1522.99 of the Revised Code to establish a program for the regulation of withdrawals and consumptive uses of waters from the Lake Erie basin.

To the Committee on Agriculture, Environment and Natural Resources.

S. B. No. 187-Senator Grendell.

To enact section 5533.622 of the Revised Code to designate a portion of United States Route 322 within Geauga County only the "Chief Warrant Officer Christopher R. Thibodeau Memorial Highway."

To the Committee on Highways and Transportation.

S. B. No. 188-Senator Patton, et al.

To amend sections 5747.98 and 5751.98 and to enact sections 5747.78 and 5751.54 of the Revised Code to allow a credit against the personal income tax or commercial activity tax for the installation of an alternative fuel facility.

To the Committee on Ways and Means and Economic Development.

YES - 9: THOMAS E. NIEHAUS, KEITH L. FABER, JIMMY STEWART, MARK D. WAGONER, SCOTT

OELSLAGER, JASON H. WILSON, EDNA BROWN,
SHIRLEY A. SMITH, CAPRI S. CAFARO.

NO - 0.

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

The report of the committee was accepted.

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

REPORTS OF STANDING AND SELECT COMMITTEES

Senator Bacon submitted the following report:

The standing committee on Insurance, Commerce and Labor, to which was referred **S. J. R. No. 1**-Senator Grendell, et al., having had the same under consideration, reports it back and recommends its adoption.

Co-Sponsors: Hughes, Hite.

YES - 8: KEITH L. FABER, BILL BEAGLE, JIM HUGHES,
SHANNON JONES, KRIS JORDAN, TIMOTHY O.
SCHAFFER, CLIFF HITE, KEVIN BACON.

NO - 4: JOSEPH SCHIAVONI, EDNA BROWN, THOMAS
SAWYER, ERIC H. KEARNEY.

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. 54**-Representatives Maag, Martin, et al., having had the same under consideration, reports it back and recommends its passage.

YES - 7: TIMOTHY J. GRENDALL, LARRY OBHOF, FRANK
LAROSE, PEGGY B. LEHNER, SCOTT OELSLAGER,
JOSEPH SCHIAVONI, MARK D. WAGONER.

NO - 2: NINA TURNER, ERIC H. KEARNEY.

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

The report of the committee was accepted.

Senator Hite submitted the following report:

The standing committee on Agriculture, Environment and Natural Resources, to which was referred **Am. Sub. H. B. No. 133**-Representative Adams, J., et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsors: Faber, Schaffer.

YES - 6: KEITH L. FABER, CLIFF HITE, TIMOTHY O. SCHAFFER, GAYLE MANNING, KRIS JORDAN, JASON H. WILSON.

NO - 3: TIMOTHY J. GRENDALL, EDNA BROWN, JOSEPH SCHIAVONI.

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 Rules & Reference to which were referred the appointment by the Governor of:

Deborah Pryce, Republican, from Columbus, Franklin County, Ohio, as a Member of the Liquor Control Commission for a term beginning April 18, 2011 and ending at the close of business February 8, 2017, replacing Bob Gardner, whose term expired.

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

YES - 9: THOMAS E. NIEHAUS, KEITH L. FABER, JIMMY STEWART, MARK D. WAGONER, SCOTT OELSLAGER, JASON H. WILSON, EDNA BROWN, SHIRLEY A. SMITH, CAPRI S. CAFARO.

NO - 0.

The question being, "Shall the Senate advise and consent to the appointment 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

Bacon	Beagle	Brown	Cafaro
Coley	Daniels	Faber	Gillmor
Grendell	Hite	Hughes	Jones
Jordan	Kearney	LaRose	Lehner
Manning	Obhof	Oelslager	Patton

Sawyer	Schaffer	Schiavoni	Seitz
Skindell	Smith	Stewart	Tavares
Turner	Wagoner	Widener	Wilson
			Niehaus-33.

So the Senate advised and consented to said appointment.

HOUSE AMENDMENTS TO SENATE BILLS AND RESOLUTIONS

The amendments of the House of Representatives to:

Am. S. B. No. 22-Senator Schaffer. Cosponsors: Senators Sawyer, Seitz, Patton, Beagle, Gillmor, Stewart, Hite, Wilson, Brown, Schiavoni, Daniels, Faber, Jones, LaRose, Jordan, Manning, Wagoner, Obhof, Turner, Tavares, Oelslager, Widener, Smith, Lehner. Representatives Anielski, Balderson, Barnes, Beck, Boose, Brenner, Buchy, Carey, Carney, Clyde, Combs, Damschroder, Dovilla, Driehaus, Fedor, Gardner, Garland, Gentile, Gerberry, Goodwin, Grossman, Hackett, Hagan, C., Hall, Hayes, Hottinger, Johnson, Kozlowski, Letson, Luckie, Lundy, Mallory, McClain, McGregor, McKenney, Milkovich, Newbold, O'Brien, Patmon, Peterson, Phillips, Schuring, Sears, Slaby, Sprague, Stebelton, Thompson, Wachtmann, Weddington, Williams, Winburn, Young, Yuko, Speaker Batchelder.

To enact section 6111.60 of the Revised Code to require the Director of Environmental Protection to consider, to the extent allowable under the Federal Water Pollution Control Act, specified factors before issuing NPDES permits for publicly owned sewerage systems, requiring and approving long-term control plans for wet weather discharges from publicly owned sewerage systems, and enforcing provisions of that Act as applied to publicly owned sewerage systems, having been informally passed, were taken up.

The question being, "Shall the Senate concur in the amendments of the House of Representatives?"

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

Those who voted in the affirmative were: Senators

Bacon	Beagle	Brown	Cafaro
Coley	Daniels	Faber	Gillmor
Grendell	Hite	Hughes	Jones
Jordan	Kearney	LaRose	Lehner
Manning	Obhof	Oelslager	Patton
Sawyer	Schaffer	Schiavoni	Seitz
Skindell	Smith	Stewart	Tavares
Turner	Wagoner	Widener	Wilson
			Niehaus-33.

So the Senate concurred in the amendments of the House of Representatives.

RESOLUTIONS REPORTED BY COMMITTEE

S. J. R. No. 1-Senator Grendell.

Cosponsors: Senators Faber, Jones, Wagoner, Cates, Schaffer, Bacon, Daniels, LaRose, Jordan, Hughes, Hite.

Proposing to enact Section 21 of Article I of the Constitution of the State of Ohio to preserve the freedom of Ohioans to choose their health care and health care coverage.

Be it resolved by the General Assembly of the State of Ohio, three-fifths of the members elected to each house concurring herein, that there shall be submitted to the electors of the state, in the manner prescribed by law at the general election to be held November 8, 2011, a proposal to enact Section 21 of Article I of the Constitution of the State of Ohio to read as follows:

ARTICLE I

Section 21. (A) To preserve the freedom of Ohioans to choose their health care and health care coverage:

(1) No law or rule shall compel, directly or indirectly, any person, employer, or health care provider to participate in a health care system.

(2) No law or rule shall prohibit the purchase of health care or health insurance or the sale of health care or health insurance.

(3) No law or rule shall impose a penalty or fine for the purchase or sale of health care or health insurance.

(B) This section does not affect any law or rule in effect as of March 19, 2010; affect which services a health care provider or hospital is required to perform or provide; affect terms and conditions of government employment; affect any law or rule calculated to deter fraud or punish wrongdoing in the health care industry; or affect any law or rule related to workers' compensation.

(C) As used in this section:

(1) "Compel" includes the levying of, or the threat of levying, any penalty or fine.

(2) "Health care system" means any public or private entity or program whose function or purpose includes the management of, processing of, enrollment of individuals for, or payment for, in full or in part, health care services, health care data, or health care information for its participants.

(3) "Penalty or fine" means any civil or criminal penalty or fine, tax,

salary or wage withholding or surcharge, or any named fee with a similar effect established by law or by rule of a government-established, -created, or -controlled agency that is used to punish or discourage the exercise of rights protected under this section.

EFFECTIVE DATE

If adopted by a majority of the electors voting on this proposal at the general election held November 8, 2011, Section 21 of Article I of the Constitution of the State of Ohio shall take effect immediately.

The question being, "Shall the joint resolution, **S. J. R. No. 1**, be adopted?"

The yeas and nays were taken and resulted - yeas 24, nays 9, as follows:

Those who voted in the affirmative were: Senators

Bacon	Beagle	Coley	Daniels
Faber	Gillmor	Grendell	Hite
Hughes	Jones	Jordan	LaRose
Lehner	Manning	Obhof	Oelslager
Patton	Schaffer	Seitz	Stewart
Wagoner	Widener	Wilson	Niehaus-24.

Those who voted in the negative were: Senators

Brown	Cafaro	Kearney	Sawyer
Schiavoni	Skindell	Smith	Tavares
			Turner-9.

So the joint resolution was adopted.

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

Senator Grendell moved to amend the title as follows:

Add the names: "Beagle, Coley, Gillmor, Lehner, Manning, Niehaus, Obhof, Patton, Seitz, Widener."

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

The motion was agreed to and the title so amended.

BILLS FOR THIRD CONSIDERATION

H. B. No. 54-Representatives Maag, Martin.

Cosponsors: Representatives Adams, J., Adams, R., Balderson, Beck, Boose, Bupp, Derickson, Grossman, Kozlowski, McGregor, Mecklenborg, Uecker, Young, Amstutz, Pillich, Hayes, Slaby, Blair, Blessing, Brenner, Buchy, Butler, Combs, Dovilla, Goodwin, Hackett, Hagan, C., Hall, Henne, Johnson, Letson, Newbold, Roegner, Rosenberger, Ruhl, Sears, Stautberg, Speaker Batchelder.

To amend sections 2923.13 and 2923.14 of the Revised Code to conform the restoration of civil firearm rights with federal law and U.S. Supreme Court

case law; to eliminate the prohibition against persons with certain misdemeanor drug offense convictions acquiring or possessing firearms or dangerous ordnance; and to allow restoration of civil firearm rights for firearms that are dangerous ordnance, was considered the third time.

The question being, "Shall the bill, **H. B. No. 54**, pass?"

The yeas and nays were taken and resulted - yeas 24, nays 9, as follows:

Those who voted in the affirmative were: Senators

Bacon	Beagle	Cafaro	Coley
Daniels	Faber	Gillmor	Grendell
Hite	Jones	Jordan	LaRose
Lehner	Manning	Obhof	Oelslager
Patton	Schiavoni	Seitz	Stewart
Wagoner	Widener	Wilson	Niehaus-24.

Those who voted in the negative were: Senators

Brown	Hughes	Kearney	Sawyer
Schaffer	Skindell	Smith	Tavares
			Turner-9.

So the bill passed.

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

Senator Wilson moved to amend the title as follows:

Add the names: "Wilson, Cafaro, Coley, Daniels, Hite, Jordan, Manning, Oelslager, Wagoner."

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

The motion was agreed to and the title so amended.

Sub. H. B. No. 133-Representative Adams, J.

Cosponsors: Representatives Beck, Blessing, Boose, Brenner, Buchy, Burke, Combs, Gonzales, Goodwin, Grossman, Hackett, Hall, Hayes, Huffman, Landis, Maag, Martin, McKenney, Rosenberger, Ruhl, Sears, Stebelton, Thompson, Uecker, Wachtmann, Young, Amstutz, Blair, Hagan, C., Hottinger, Mecklenborg, Newbold, Roegner, Slaby. Senators Faber, Schaffer.

To amend sections 123.01, 1531.06, 1531.33, and 3345.181, to enact sections 131.50, 1503.012, 1509.70, 1509.71, 1509.72, 1509.73, 1509.74, 1509.75, 1509.76, 1509.77, 1509.78, and 1541.26, and to repeal sections 5119.40, 5120.12, and 5123.23 of the Revised Code to create the Oil and Gas Leasing Commission, to establish a procedure for leasing land owned or under the control of state agencies for oil and gas production in order to provide funding for capital costs for the agencies, and to exclude nature preserves from

drilling, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 133**, pass?"

Senator Hite moved to amend as follows:

In line 492, delete " In the calendar quarter" and insert " Not less than thirty days, but not more than one hundred twenty days"

In line 494, delete " enter into a"

In line 495, delete " lease for" and insert " approve or disapprove the nomination for the purpose of leasing"

In line 544, delete " deny" and insert " disapprove"

In line 546, delete " denial" and insert " disapproval"

In line 552, delete " deny" and insert " disapprove"

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

The motion was agreed to.

The question recurred, "Shall the bill, **Sub. H. B. No. 133**, pass?"

Senator Skindell moved to amend as follows:

In line 912, after the period insert "(A) As used in this section, "well" and "stimulation of a well" have the same meanings as in section 1509.01 of the Revised Code.

(B) Beginning on the effective date of this section, horizontal stimulation of a well shall not occur in this state until the United States Environmental Protection Agency publishes a report that contains a study of the relationship of hydraulic fracturing to drinking water resources.

Section 5."

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

Senator Stewart moved that, pursuant to Senate Rule 57, he be excused from voting on all subsequent amendments to and passage of, **Sub. H. B. No. 133**.

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

The motion was agreed to.

The question recurred, "Shall the motion to amend be agreed to?"

Senator Faber moved that the amendment be laid on the table.

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

The motion was agreed to.

The question recurred, "Shall the bill, **Sub. H. B. No. 133**, pass?"

Senator Skindell moved to amend as follows:

In line 13, after "123.01," insert "1505.07,"

Between lines 348 and 349, insert:

"Sec. 1505.07. Subject to the limitation set forth in section 1505.08 of the Revised Code, the director of natural resources, with the approval of the director of environmental protection, the attorney general, and the governor, may issue permits and make leases to parties making application for permission to take and remove sand, gravel, stone, and other minerals or substances from and under the bed of Lake Erie other than oil or gas, either upon a royalty or rental basis, as ~~he~~ the director of natural resources determines to be best for the state. Permits shall be issued for terms of not less than one year nor more than ten years, and leases shall be for a term of years or until the economic extraction of the mineral or other substance covered thereby has been completed. Such taking and removal shall be within certain fixed boundaries that do not conflict with the rights of littoral owners. Upon request from the holder of a permit, it shall be canceled, but in the case of any permit or lease, any equipment or buildings owned by the permittee or lessee shall be held as security by the director of natural resources for payment of all rentals or royalties due the state at the time of cancellation.

No person shall remove sand, gravel, stone, or other minerals or substances from and under the bed of Lake Erie without first obtaining a permit or lease therefor from the director.

The director of natural resources may, in accordance with Chapter 119. of the Revised Code, adopt, amend, and rescind rules for the administration, implementation, and enforcement of this section."

In line 904, after "123.01," insert "1505.07,"

In line 1 of the title, after "123.01," insert "1505.07,"

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

Senator Faber moved that the amendment be laid on the table.

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

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 19, nays 13, as follows:

Those who voted in the affirmative were: Senators

Bacon
Faber

Beagle
Gillmor

Coley
Hite

Daniels
Hughes

Jones
Manning
Seitz

Jordan
Obhof
Widener

LaRose
Oelslager

Lehner
Schaffer
Niehaus-19.

Those who voted in the negative were: Senators

Brown
Patton
Smith

Cafaro
Sawyer
Tavares

Grendell
Schiavoni
Turner

Kearney
Skindell
Wagoner
Wilson-13.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. H. B. No. 133**, pass?"

Senator Skindell moved to amend as follows:

Between lines 658 and 659, insert:

" (J) Not later than two hundred seventy days after the effective date of this section, the attorney general shall create a standard lease form that contains at least a one-eighth landowner royalty, which standard lease form shall be used by a state agency for leases entered into under this section. The lease form shall allow a state agency to include special terms and conditions through an addendum."

In line 684, delete everything after " (F)"

Delete lines 685 through 688

In line 689, delete " (G)"

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

Senator Faber moved that the amendment be laid on the table.

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

The motion was agreed to.

The question recurred, "Shall the bill, **Sub. H. B. No. 133**, pass?"

Senator Skindell moved to amend as follows:

In line 557, delete " notify" and insert " forward all materials concerning the nomination to"

In line 558, delete " a" and insert " the"; delete " of the commission's"

Delete lines 559 through 564

In line 565, delete " from the commission"

In line 566, after " (6)" delete the balance of the line

In line 567, delete " land that is class 1 property, the commission shall" and insert " The director of a state agency that owns or controls a parcel of land has exclusive authority to develop the parcel of land for oil or gas exploration and development and to enter into leases for that purpose. If a state agency receives materials concerning a nomination of a parcel of land that was approved by the commission under division (B)(5) of this section, the director of the state agency may"

In line 568, delete " If the"

Delete lines 569 through 573

In line 574, delete " parcel of land may be offered for lease" and insert " In addition, the director of the state agency that owns or controls the parcel of land that is the subject of a nomination that was approved by the commission shall provide an official written explanation of the reasons why the director is or is not leasing a formation or formations within the parcel of land. The director shall send the written explanation to the department of natural resources. The department shall post the explanation on the department's web site"

In line 575, after " (C)" delete the balance of the line

Delete lines 576 through 582

In line 583, delete " lease" and insert " If the director of a state agency that has received materials concerning a nomination of a parcel of land that was approved by the commission under division (B)(5) of this section has determined to lease a formation or formations that are within the parcel of land, the state agency may proceed to advertise for bids for a lease for a formation or formations within the parcel of land"

In line 586, delete " commission" and insert " state agency"

In line 590, after " (2)" delete the balance of the line

Delete lines 591 and 592

In line 593, delete " (3)"; delete " standard"

In line 595, delete " (4)" and insert " (3)"

In line 598, delete " (5)" and insert " (4)"

In line 600, delete " (6)" and insert " (5)"

In line 608, delete " the commission" and insert " a state agency"

In line 610, delete " commission" and insert " state agency"

In line 611, delete " The commission" and insert " A state agency"

In line 619, delete " The commission" and insert " A state agency"

In line 623, delete " commission" and insert " state agency"

In line 624, delete "commission shall notify the applicable state"

In line 625, delete "agency and send the person's bid to the agency. The"

In line 626, delete "shall" and insert "may"

In line 627, delete "commission" and insert "state agency"

In line 684, after "(F)" delete the balance of the line

Delete lines 685 through 688

In line 689, delete "(G)"

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

Senator Faber moved that the amendment be laid on the table.

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

The motion was agreed to.

The question recurred, "Shall the bill, **Sub. H. B. No. 133**, pass?"

Senator Skindell moved to amend as follows:

In line 13, after "123.01," insert "1509.22,"

In line 14, after "1503.012," insert "1509.051, 1509.227, 1509.228,"

In line 16, delete "and"; after "1541.26" insert ", and 4905.901"

Between lines 348 and 349, insert:

Sec. 1509.051. The chief of the division of mineral resources management shall not issue a permit to inject brine or other waste substances resulting from, obtained from, or produced in connection with oil or gas drilling, exploration, or production into an underground formation or a well that is located in a state park established under Chapter 1541. of the Revised Code.

Sec. 1509.22. (A) Except when acting in accordance with section 1509.226 of the Revised Code, no person shall place or cause to be placed brine, crude oil, natural gas, or other fluids associated with the exploration or development of oil and gas resources in surface or ground water or in or on the land in such quantities or in such manner as actually causes or could reasonably be anticipated to cause either of the following:

(1) Water used for consumption by humans or domestic animals to exceed the standards of the Safe Drinking Water Act;

(2) Damage or injury to public health or safety or the environment.

(B) No person shall store or dispose of brine in violation of a plan approved under division (A) of section 1509.222 or section 1509.226 of the Revised Code, in violation of a resolution submitted under section 1509.226 of

the Revised Code, or in violation of rules or orders applicable to those plans or resolutions.

(C) The chief of the division of mineral resources management shall adopt rules and issue orders regarding storage and disposal of brine and other waste substances; however, the storage and disposal of brine and other waste substances and the chief's rules relating to storage and disposal are subject to all of the following standards:

(1) Brine from any well except an exempt Mississippian well shall be disposed of only by injection into an underground formation, including annular disposal if approved by rule of the chief, which injection shall be subject to division (D) of this section; by surface application in accordance with section 1509.226 of the Revised Code; in association with a method of enhanced recovery as provided in section 1509.21 of the Revised Code; or by other methods approved by the chief for testing or implementing a new technology or method of disposal. Brine from exempt Mississippian wells shall not be discharged directly into the waters of the state.

(2) Muds, cuttings, and other waste substances shall not be disposed of in violation of any rule.

(3) Pits or steel tanks shall be used as authorized by the chief for containing brine and other waste substances resulting from, obtained from, or produced in connection with drilling, well stimulation, reworking, reconditioning, plugging back, or plugging operations. The pits and steel tanks shall be constructed and maintained to prevent the escape of brine and other waste substances.

(4) A dike or pit may be used for spill prevention and control. A dike or pit so used shall be constructed and maintained to prevent the escape of brine and crude oil, and the reservoir within such a dike or pit shall be kept reasonably free of brine, crude oil, and other waste substances.

(5) Earthen impoundments constructed pursuant to the division's specifications may be used for the temporary storage of fluids used in the stimulation of a well.

(6) No pit, earthen impoundment, or dike shall be used for the temporary storage of brine or other substances except in accordance with divisions (C)(3) to (5) of this section.

(7) No pit or dike shall be used for the ultimate disposal of brine or other liquid waste substances.

Rules adopted under division (C) of this section shall not conflict with section 1509.227 of the Revised Code.

(D) No person, without first having obtained a permit from the chief, shall inject brine or other waste substances resulting from, obtained from, or produced in connection with oil or gas drilling, exploration, or production into

an underground formation unless a rule of the chief expressly authorizes the injection without a permit. The permit shall be in addition to any permit required by section 1509.05 of the Revised Code, and the permit application shall be accompanied by a permit fee of one thousand dollars. The chief shall adopt rules in accordance with Chapter 119. of the Revised Code regarding the injection into wells of brine and other waste substances resulting from, obtained from, or produced in connection with oil or gas drilling, exploration, or production. The rules may authorize tests to evaluate whether fluids or carbon dioxide may be injected in a reservoir and to determine the maximum allowable injection pressure, which shall be conducted in accordance with methods prescribed in the rules or in accordance with conditions of the permit. In addition, the rules shall include provisions regarding applications for and issuance of the permits required by this division; entry to conduct inspections and to examine and copy records to ascertain compliance with this division and rules, orders, and terms and conditions of permits adopted or issued under it; the provision and maintenance of information through monitoring, recordkeeping, and reporting; and other provisions in furtherance of the goals of this section and the Safe Drinking Water Act. To implement the goals of the Safe Drinking Water Act, the chief shall not issue a permit for the injection of brine or other waste substances resulting from, obtained from, or produced in connection with oil or gas drilling, exploration, or production unless the chief concludes that the applicant has demonstrated that the injection will not result in the presence of any contaminant in ground water that supplies or can reasonably be expected to supply any public water system, such that the presence of the contaminant may result in the system's not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons. This division and rules, orders, and terms and conditions of permits adopted or issued under it shall be construed to be no more stringent than required for compliance with the Safe Drinking Water Act unless essential to ensure that underground sources of drinking water will not be endangered.

(E) The owner holding a permit, or an assignee or transferee who has assumed the obligations and liabilities imposed by this chapter and any rules adopted or orders issued under it pursuant to section 1509.31 of the Revised Code, and the operator of a well shall be liable for a violation of this section or any rules adopted or orders or terms or conditions of a permit issued under it.

(F) An owner shall replace the water supply of the holder of an interest in real property who obtains all or part of the holder's supply of water for domestic, agricultural, industrial, or other legitimate use from an underground or surface source where the supply has been substantially disrupted by contamination, diminution, or interruption proximately resulting from the owner's oil or gas operation, or the owner may elect to compensate the holder of the interest in real property for the difference between the fair market value of the interest before the damage occurred to the water supply and the fair market value after the damage occurred if the cost of replacing the water supply exceeds this difference in fair market values. However, during the pendency of any order issued under

this division, the owner shall obtain for the holder or shall reimburse the holder for the reasonable cost of obtaining a water supply from the time of the contamination, diminution, or interruption by the operation until the owner has complied with an order of the chief for compliance with this division or such an order has been revoked or otherwise becomes not effective. If the owner elects to pay the difference in fair market values, but the owner and the holder have not agreed on the difference within thirty days after the chief issues an order for compliance with this division, within ten days after the expiration of that thirty-day period, the owner and the chief each shall appoint an appraiser to determine the difference in fair market values, except that the holder of the interest in real property may elect to appoint and compensate the holder's own appraiser, in which case the chief shall not appoint an appraiser. The two appraisers appointed shall appoint a third appraiser, and within thirty days after the appointment of the third appraiser, the three appraisers shall hold a hearing to determine the difference in fair market values. Within ten days after the hearing, the appraisers shall make their determination by majority vote and issue their final determination of the difference in fair market values. The chief shall accept a determination of the difference in fair market values made by agreement of the owner and holder or by appraisers under this division and shall make and dissolve orders accordingly. This division does not affect in any way the right of any person to enforce or protect, under applicable law, the person's interest in water resources affected by an oil or gas operation.

(G) In any action brought by the state for a violation of division (A) of this section involving any well at which annular disposal is used, there shall be a rebuttable presumption available to the state that the annular disposal caused the violation if the well is located within a one-quarter-mile radius of the site of the violation.

(H) The prohibitions established in this section are in addition to the prohibitions established in sections 1509.051 and 1509.227 of the Revised Code. Rules adopted under this section shall not conflict with those sections.

Sec. 1509.227. On and after the effective date of this section, no person shall place, cause to be placed, or inject brine or other waste substances resulting from, obtained from, or produced in connection with oil or gas drilling, exploration, or production into an underground formation or a well that is located in a state park established under Chapter 1541. of the Revised Code.

Sec. 1509.228. On and after the effective date of this section, pits for containing, storing, or disposal of brine and other waste substances resulting from, obtained from, or produced in connection with drilling, well stimulation, reworking, reconditioning, plugging back, or plugging operations shall not be used in a state park established under Chapter 1541. of the Revised Code."

Between lines 903 and 904, insert:

" **Sec. 4905.901.** On and after the effective date of this section, a pipeline that will be used for oil or gas shall not be constructed within, through, or under

the geographical boundaries of a state park established under Chapter 1541. of the Revised Code."

In line 904, after "123.01," insert "1509.22,"

In line 1 of the title, after "123.01," insert "1509.22,"

In line 2 of the title, after "1503.012," insert "1509.051, 1509.227, 1509.228,"

In line 4 of the title, delete "and"; after "1541.26," insert "and 4905.901,"

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

Senator Faber moved that the amendment be laid on the table.

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

The motion was agreed to.

The question recurred, "Shall the bill, **Sub. H. B. No. 133**, pass?"

Senator Skindell moved to amend as follows:

In line 13, after "123.01," insert "1509.19,"

Between lines 348 and 349, insert:

"Sec. 1509.19. (A) Water, surface or underground, that is within the geographical boundary of a state park that is established under Chapter 1541. of the Revised Code shall not be used to stimulate a well.

(B) An owner who elects to stimulate a well shall stimulate the well in a manner that will not endanger underground sources of drinking water. Not later than twenty-four hours before commencing the stimulation of a well, the owner or the owner's authorized representative shall notify a mineral resources inspector. If during the stimulation of a well damage to the production casing or cement occurs and results in the circulation of fluids from the annulus of the surface production casing, the owner shall immediately terminate the stimulation of the well and notify the chief of the division of mineral resources management. If the chief determines that the casing and the cement may be remediated in a manner that isolates the oil and gas bearing zones of the well, the chief may authorize the completion of the stimulation of the well. If the chief determines that the stimulation of a well resulted in irreparable damage to the well, the chief shall order that the well be plugged and abandoned within thirty days of the issuance of the order.

For purposes of determining the integrity of the remediation of the casing or cement of a well that was damaged during the stimulation of the well, the chief may require the owner of the well to submit cement evaluation logs, temperature surveys, pressure tests, or a combination of such logs, surveys, and tests."

In line 904, after "123.01," insert "1509.19,"

In line 1 of the title, after "123.01," insert "1509.19,"

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

Senator Faber moved that the amendment be laid on the table.

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

The motion was agreed to.

The question recurred, "Shall the bill, **Sub. H. B. No. 133**, pass?"

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

Those who voted in the affirmative were: Senators

Bacon	Beagle	Coley	Daniels
Faber	Gillmor	Hite	Hughes
Jones	Jordan	LaRose	Lehner
Manning	Obhof	Oelslager	Patton
Schaffer	Seitz	Wagoner	Widener
Wilson			Niehaus-22.

Those who voted in the negative were: Senators

Brown	Cafaro	Grendell	Kearney
Sawyer	Schiavoni	Skindell	Smith
Tavares			Turner-10.

So the bill passed.

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

Senator Jordan moved to amend the title as follows:

Add the names: "Bacon, Coley, Daniels, Hite, Jones, Jordan, Niehaus, Seitz, Widener, Wilson, Lehner."

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

The motion was agreed to and the title so amended.

Message from the House of Representatives

Mr. President:

I am directed to inform you that the House of Representatives has concurred in the passage of the following bill:

Sub. S. B. No. 17 -Senator Schaffer

Cosponsors: Senators Jones, Faber, Cafaro, Jordan, Grendell, Daniels, Beagle, Seitz, Wilson, Widener, Oelslager, Manning, Cates, Hite, Niehaus, Obhof, Stewart Representatives Mecklenborg, Maag, Blessing, Buchy, Combs, Dovilla, Huffman, Young, Amstutz, Balderson, Beck, Boose, Brenner, Bulp,

Carey, Derickson, Goodwin, Hackett, Hagan, C., Hall, Hayes, Henne, Johnson, Kozlowski, Landis, Martin, Newbold, Roegner, Ruhl, Sears, Thompson, Uecker, Speaker Batchelder

To amend sections 2923.121, 2923.125, 2923.128, 2923.16, 2953.321, 2953.33, and 2953.35 and to enact section 2953.37 of the Revised Code to permit a concealed carry licensee to possess a firearm in a liquor permit premises, or an open air arena, for which a D permit has been issued if the licensee is not consuming beer or intoxicating liquor or under the influence of alcohol or a drug of abuse, to modify the offense of improperly handling firearms in a motor vehicle as it applies to concealed carry licensees, and to authorize the expungement of a prior conviction of improperly handling firearms in a motor vehicle that no longer would be a crime under the bill.

As a substitute bill, in which the concurrence of the Senate is requested.

Attest:

Laura P. Clemens,
Clerk.

Senator Faber moved that Senate Rule No. 44 be suspended and that **Sub. S. B. No. 17** be brought up for consideration.

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

The motion was agreed to.

The question being, "Shall the Senate concur in the amendments of the House of Representatives?"

The yeas and nays were taken and resulted - yeas 25, nays 7, as follows:

Those who voted in the affirmative were: Senators

Bacon	Beagle	Cafaro	Coley
Daniels	Faber	Gillmor	Grendell
Hite	Hughes	Jones	Jordan
LaRose	Lehner	Manning	Obhof
Oelslager	Patton	Schaffer	Schiavoni
Stewart	Wagoner	Widener	Wilson
			Niehaus-25.

Senators Brown, Kearney, Sawyer, Skindell, Smith, Tavares, and Turner voted in the negative-7.

So the Senate concurred in the amendments of the House of Representatives.

MOTIONS

Senator Jones moved that Senators absent the week of Sunday, June 12,

2011, 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

Pursuant to Senate Rule No. 54, the following resolutions were offered:

S. R. No. 94-Senator Patton.

Honoring the Olmsted Falls High School academic team on winning the 2011 NAQT Ohio State Championship.

S. R. No. 95-Senator Sawyer.

In memory of Specialist Adam S. Hamilton.

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

So the resolutions were adopted.

On the motion of Senator Faber, the Senate adjourned until Thursday, June 16, 2011 at 11:00 o'clock a.m.

Attest:

VINCENT L. KEERAN,
Clerk.