OHIO

SENATE

JOURNAL

WEDNESDAY, MAY 7, 2003

FOURTY-SEVENTH DAY
Senate Chamber, Columbus, Ohio
Wednesday, May 7, 2003, 1:30 p.m.

The Senate met pursuant to adjournment.

Prayer was offered by Pastor Brian Hanson, Linworth Baptist Church, Worthington, 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 Carnes reports for the Standing Committee on Reference, recommending that the following bills, standing in order for second consideration, be referred to committee as recommended:

S. B. No. 78-Senators Schuring, Hottinger, Stivers, Robert Gardner, Wachtmann, Dann.

To amend sections 2915.01, 2915.02, 2915.08, 2915.09, 2915.091, 2915.092, 2915.10, 2915.101, and 2915.13 of the Revised Code relative to the conduct of bingo, instant bingo at a bingo session, and instant bingo other than at a bingo session by a charitable organization.

To the Committee on Judiciary - Civil Justice.

S. B. No. 80-Senators Stivers, Hottinger, Goodman, Wachtmann, Amstutz, Randy Gardner, Austria, Nein, Schuring, Armbruster, Coughlin, Carey, Harris, Mumper, Schuler.

To amend sections 1701.76, 1701.82, 1775.14, 2117.06, 2125.01, 2125.02, 2125.04, 2305.01, 2305.03, 2305.10, 2305.25, 2307.011, 2307.23, 2307.29, 2307.60, 2307.71, 2307.75, 2307.80, 2315.01, 2315.21, 2315.32, 2315.33, 2315.34, 2315.36, 2323.41, 2323.43, 2323.51, 4507.07, 4513.263, and 4705.15; to enact sections 901.52, 2305.131, 2307.711, 2307.91 to 2307.97, and 4705.16; and to repeal sections 2315.41, 2315.42, 2315.43, 2315.44, 2315.45, and 2315.46 of the Revised Code to make changes related to the award of certain damages, collateral benefits evidence, and contributory fault in tort actions; to establish a statute of repose for certain product liability claims and claims based on unsafe conditions of real property improvements and to make other changes related to product liability claims; to provide that the product liability statutes are intended to abrogate common law product liability causes of action; to enact a conflicts of law provision for statutes of limitation in civil actions; to modify the provisions on frivolous conduct in filing civil actions; to prohibit imputing any assurances or assumption of liability regarding public access to premises used for growing agricultural

produce; to enact a legal consumer's bill of rights; to limit attorney contingency fees in connection with certain tort actions; to establish minimum medical requirements for filing certain asbestos claims; to establish limitations on successor asbestos-related liabilities relating to corporations; and to make other changes related to civil actions; and to amend the version of section 4513.263 of the Revised Code that is scheduled to take effect January 1, 2004, to continue the provisions of this act on and after that effective date.

To the Committee on Judiciary - Civil Justice.

S. B. No. 81-Senators Fedor, Fingerhut, Dann, Miller.

To amend section 3301.0718 of the Revised Code to require the State Board of Education to propose standards and model curricula for physical education for grades kindergarten through twelve subject to approval by concurrent resolution by both houses of the General Assembly.

To the Committee on Education.

S. B. No. 82-Senators Amstutz, Randy Gardner, Jacobson, Mumper, Stivers, Harris, Spada, DiDonato, Schuler, Hagan.

To amend sections 301.27, 2913.01, and 5705.41 and to enact section 301.29 of the Revised Code to permit boards of county commissioners to approve the use of procurement cards for certain work-related purchases of $1,000, or less to make changes related to the exemption of county expenditures from the certification of availability of funds, and to make changes in the County Credit Card Law.

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

S. B. No. 83-Senator Robert Gardner.

To amend sections 319.301 and 5715.19 of the Revised Code to require property tax reduction factors to be adjusted to account for five years' worth of property value changes resulting from property tax complaints and to specify that real property tax complaints do not automatically continue beyond the triennial reassessment cycle.

To the Committee on Ways and Means and Economic Development.

S. B. No. 84-Senator Austria.

To amend sections 2151.011, 3313.48, 3313.533, 3313.62, 3317.01, and 3317.029; to enact new section 3313.481; and to repeal sections 3313.481 and 3313.482 of the Revised Code to require that school districts and nonpublic schools be open for a minimum of 910 hours of instruction a year for grades one through eight, and a minimum of 1,001 hours for grades nine through twelve.

To the Committee on Education.

JAMES E. CARNES
DOUG WHITE
BILL HARRIS
MARK MALLORY
GREGORY L. DIDONATO

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

The report of the committee was accepted.

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

REPORTS OF STANDING AND SELECT COMMITTEES

Senator Amstutz submitted the following report:

The standing committee on Ways and Means and Economic Development, to which was referred **S. B. No. 37**-Senator Blessing, having had the same under consideration, reports back a substitute bill and recommends its passage.

YES - 9: RON AMSTUTZ, ROBERT F. SPADA, STEVE AUSTRIA, LOUIS W. BLESSING, KEVIN COUGHLIN, ROBERT GARDNER, JIM JORDAN, ERIC D. FINGERHUT, LEIGH E. HERINGTON.

NO - 0.

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

The report of the committee was accepted.

Senator Blessing submitted the following report:

The standing committee on Public Utilities, to which was referred **S. B. No. 28**-Senator Spada, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsors: Roberts, Mallory, Fedor.

YES - 9: MARK MALLORY, TOM ROBERTS, TERESA FEDOR, JEFF JACOBSON, BILL HARRIS, LOUIS W. BLESSING, SCOTT R. NEIN, ROBERT L. SCHULER, ROBERT F. SPADA.

NO - 0.

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

The report of the committee was accepted.

Senator Carnes submitted the following report:

The standing committee on Rules to which was referred the appointment by the Governor of:

William L. Mallory , Democrat, from Cincinnati, Hamilton County, Ohio, as a Member of the Ohio Elections Commission for a term beginning March 7, 2003 and ending at the close of business December 31, 2007, replacing Alphonse P. Cincione, whose term expired.

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

YES - 9: SCOTT R. NEIN, BILL HARRIS, C. J. PRENTISS, JEFF JACOBSON, GREGORY L. DIDONATO, TERESA FEDOR, JAMES E. CARNES, JAY HOTTINGER, DOUG WHITE.

NO - 0.

The question being, "Shall the Senate advise and consent to the appointments by the Governor ?"

Senator Mallory moved that he be excused from voting under Senate Rule No. 57.

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

The motion was agreed to.

The question recurred, "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

Amstutz	Armbruster	Austria	Blessing
Brady	Carey	Carnes	Coughlin
Dann	DiDonato	Fedor	Fingerhut
Randy Gardner	Robert Gardner	Goodman	Hagan
Harris	Herington	Hottinger	Jacobson
Jordan	Miller	Mumper	Nein
Prentiss	Roberts	Schuler	Schuring
Spada	Stivers	Wachtmann	White-32.

So the Senate advised and consented to said appointment.

Senator Carnes submitted the following report:

The standing committee on Rules to which were referred the appointments by the Governor of:

Ronald Billow , Republican, from Fremont, Sandusky County, Ohio, as a Member of the Terra State Community College Board of Trustees for a term beginning March 18, 2003 and ending at the close of business January 31, 2008, replacing Kay Reiter, whose term expired.

Catherine A. Cunningham , Republican, from Hilliard, Franklin County, Ohio, as a Member of the Ohio Elections Commission for a term beginning March 7, 2003 and ending at the close of business December 31, 2007, replacing Mary W. Sullivan, whose term expired.

R. Douglas Gillum , Democrat, from Reynoldsburg, Licking County, Ohio, as a Member of the Ohio Retirement Study Council for a term beginning February 14, 2003 and ending at the close of business June 30, 2005, replacing Bob Barrow, whose term expired.

Betty Kimbrew , Democrat, from Newbury, Geauga County, Ohio, as a Member of the Savings and Loan Associations and Savings Banks Board for a new term beginning March 18, 2003 and ending at the close of business January 31, 2006.

Charlotte Martin , Democrat, from Columbus, Franklin County, Ohio, as a Member of the Banking Commission for a new term beginning March 18, 2003, and ending at the close of business January 31, 2006.

Fred Recktenwald , Democrat, from Fremont, Sandusky County, Ohio, as a Member of the Terra State Community College Board of Trustees for a term beginning March 18, 2003 and ending at the close of business January 31, 2008, replacing Richard Hopkins, whose term expired.

Thomas R. Smith , from Port Clinton, Ottawa County, Ohio, as a Member of the Terra State Community College Board of Trustees for a term beginning March 18, 2003 and ending at the close of business January 31, 2008, replacing John Bolte, whose term expired.

Zuheir Sofia , Republican, from Columbus, Franklin County, Ohio, as a Member of the Banking Commission for a new term beginning March 18, 2003 and ending at the close of business January 31, 2006.

Charles Thigpen , Democrat, from Cleveland Heights, Cuyahoga County, Ohio, as a Member of the Savings and Loan Associations and Savings Banks Board for a new term beginning March 18, 2003 and ending at the close of business January 31, 2006.

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

YES - 11: DOUG WHITE, ROBERT GARDNER, JEFF JACOBSON, JAY HOTTINGER, JAMES E. CARNES, BILL HARRIS, GREGORY L. DIDONATO, MARK MALLORY, SCOTT R. NEIN, TERESA FEDOR, C. J. PRENTISS.

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 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Blessing
Brady	Carey	Carnes	Coughlin
Dann	DiDonato	Fedor	Fingerhut
Randy Gardner	Robert Gardner	Goodman	Hagan
Harris	Herington	Hottinger	Jacobson
Jordan	Mallory	Miller	Mumper
Nein	Prentiss	Roberts	Schuler
Schuring	Spada	Stivers	Wachtmann
			White-33.

BILLS FOR THIRD CONSIDERATION

Sub. S. B. No. 28-Senators Spada, Hagan, Blessing, Nein, Austria, Miller, Goodman, Brady, DiDonato, Coughlin, Schuring, Robert Gardner, Armbruster, Fingerhut, Jacobson, Hottinger, Randy Gardner, Dann, Roberts, Mallory, Fedor.

To enact sections 4719.25 to 4719.38 of the Revised Code to establish certain restrictions regarding telephone solicitations, to require the Attorney General to provide for a do-not-call registry of residential telephone numbers, and to provide certain remedies and penalties for violations, was considered the third time.

The question being, "Shall the bill, **Sub. S. B. No. 28**, pass?"

Senator Spada moved to amend the title as follows:

Delete lines 37 through 39.

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

The motion was agreed to.

The question recurred, "Shall the bill, **Sub. S. B. No. 28**, pass?"

The yeas and nays were taken and resulted - yeas 32, nays 1, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Blessing
Brady	Carey	Carnes	Coughlin
Dann	DiDonato	Fedor	Fingerhut
Randy Gardner	Robert Gardner	Goodman	Hagan
Harris	Herington	Hottinger	Jacobson
Jordan	Mallory	Miller	Mumper
Nein	Prentiss	Roberts	Schuler
Schuring	Spada	Stivers	White-32.

Senator Wachtmann voted in the negative-1.

So the bill passed.

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

Senator Spada moved to amend the title as follows:

Add the names: "Amstutz, Carnes, Herington, Prentiss."

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

The motion was agreed to and the title so amended.

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

Senator Nein moved to amend the title as follows:

Remove the name: "Nein."

The motion was agreed to and the title so amended.

Sub. S. B. No. 37-Senator Blessing.

To amend sections 165.09, 902.11, 2915.01, 4505.06, 4981.20, 5739.01, 5739.02, 5739.03, 5739.11, and 5741.02 of the Revised Code to clarify who pays the sales or use tax on packaging material used in highway transportation for hire and to clarify when the transfer of motion picture films is a sale, was considered the third time.

The question being, "Shall the bill, **Sub. S. B. No. 37**, pass?"

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

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Blessing
Brady	Carey	Carnes	Coughlin
Dann	DiDonato	Fedor	Fingerhut
Randy Gardner	Robert Gardner	Goodman	Hagan
Harris	Herington	Hottinger	Jacobson
Jordan	Mallory	Miller	Mumper
Nein	Prentiss	Roberts	Schuler
Schuring	Spada	Stivers	Wachtmann
			White-33.

So the bill passed.

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

The title was agreed to.

Sub. H. B. No. 81-Representatives Core, S. Patton, Flowers, Schmidt, Walcher.

To amend section 1724.02 of the Revised Code to include in the powers of a community improvement corporation the power to serve as an agent for grant applications and for the administration of grants, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 81**, pass?"

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

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Blessing
Brady	Carey	Carnes	Coughlin
Dann	DiDonato	Fedor	Fingerhut
Randy Gardner	Robert Gardner	Goodman	Hagan
Harris	Herington	Hottinger	Jacobson
Jordan	Mallory	Miller	Mumper
Nein	Prentiss	Roberts	Schuler
Schuring	Spada	Stivers	Wachtmann
			White-33.

So the bill passed.

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

The title was agreed to.

MOTIONS

Senator Jacobson moved that Senators absent the week of Sunday, May 4, 2003, be excused, so long as a written request 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 resolution was offered:

S. R. No. 307 - Senator Schuler.

Honoring James and Joan Glass on their Golden Wedding Anniversary.

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

So the resolution was adopted.

On the motion of Senator Randy Gardner the Senate adjourned until Thursday, May 8, 2003, 1:30 p.m.

Attest: MATTHEW T. SCHULER,
Clerk.