OHIO

SENATE

JOURNAL

TUESDAY, APRIL 27, 2004

ONE HUNDRED SEVENTY-FIRST DAY
Senate Chamber, Columbus, Ohio
Tuesday, April 27, 2004, 1:30 p.m.

The Senate met pursuant to adjournment.

Prayer was offered by Pastor Joel Kangas, Cornerstone Christian Fellowship, Hilliard, 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 Jordan reports for the Standing Committee on Reference, recommending that the following bills, standing in order for second consideration, be referred to committee as recommended:

Am. H. B. No. 30-Representatives Williams, Kearns, Calvert, Flowers, S. Patton, Perry, Price, Reinhard, Schlichter, Widowfield, Carano, Distel, Driehaus, C. Evans, D. Evans, T. Patton, Peterson, Redfern, Setzer, Sferra, Taylor.

To amend sections 4521.01, 4521.02, and 4521.10 of the Revised Code to permit a local authority to consider for purposes of the Local Noncriminal Parking Law a fine of $250 to $500 for a violation of an ordinance, resolution, or regulation that regulates the standing or parking of a vehicle in a disability parking space, and to provide that if a person fails to pay a fine for such a violation that person may not be permitted to register a motor vehicle in that person's name.

To the Committee on Highways and Transportation.

Sub. H. B. No. 236-Representatives Willamowski, Kearns, Schmidt, McGregor, Hughes, C. Evans, Allen, Key, Ujvagi, Beatty, Brown, Buehrer, Carano, Cirelli, DeBose, DeGeeter, Distel, Domenick, Gilb, Hagan, Hartnett, Latta, Miller, Price, Reidelbach, S. Smith, D. Stewart, J. Stewart, Sykes, Woodard, Yates.

To amend sections 3119.89, 3119.90, 3119.94, and 3121.38 and to enact sections 3121.373 and 3121.382 of the Revised Code to increase penalties against and permit electronic transfers from the bank account of an employer who willfully fails to withhold the amount required under a support order and to make changes to the laws governing the impoundment of child support.

To the Committee on Judiciary.

Sub. H. B. No. 303-Representatives Oelslager, DeGeeter, C. Evans, Kearns, McGregor, Skindell.

To amend section 149.43, to enact sections 2710.01 to 2710.10, and to repeal section 2317.023 of the Revised Code to adopt the Uniform Mediation Act.

To the Committee on Judiciary.

Am. Sub. H. B. No. 368-Representatives Gibbs, Aslanides, Allen, Collier, McGregor, Faber, Taylor, Domenick, C. Evans, Niehaus, Walcher, Setzer, Distel, Perry, Seaver, Barrett, Calvert, Carmichael, Chandler, Cirelli, Gilb, Grendell, Hughes, T. Patton, Reidelbach, Reinhard.

To amend sections 1901.184, 1907.032, 1923.01, 3701.83, 3709.085, 3709.09, 3733.01, 3733.02, 3733.021, 3733.023, 3733.03, 3733.031, 3733.04, 3733.05, 3733.06, 3733.07, 3733.081, 4503.06, 4736.01, 5321.01, and 6111.46; to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 3733.023 (3729.04), 3733.081 (3729.12), and 3733.082 (3729.13); and to enact sections 3729.01, 3729.02, 3729.03, 3729.05, 3729.06, 3729.07, 3729.08, 3729.09, 3729.10, 3729.11, and 3729.99 of the Revised Code to create separate regulatory programs for manufactured home parks and recreational vehicle parks, recreation camps, combined park-camps, and temporary park-camps.

To the Committee on Energy, Natural Resources and Environment.

Am. H. B. No. 421-Representatives Schlichter, McGregor, Fessler, Gibbs, Collier, Aslanides, Wolpert, Seaver, Reinhard, Carmichael, Distel, Domenick, C. Evans, Niehaus, Perry, Setzer, Wagner, Widener, Yates, Driehaus, Barrett, Book, Carano, Chandler, Cirelli, Combs, D. Evans, Flowers, Grendell, Hollister, Hoops, Hughes, Schaffer, Schmidt, Seitz, G. Smith, Taylor, Wilson.

To amend sections 926.16, 926.17, 926.18, and 926.19 of the Revised Code to revise the statutes governing the Agricultural Commodity Depositors Fund.

To the Committee on Agriculture.

S. B. No. 230-Senators Mumper, Carey, Randy Gardner, Harris, Coughlin.

To amend sections 4561.17, 4561.18, and 4561.21 of the Revised Code to calculate the annual general aviation aircraft license tax on a per seat basis and to deposit the money into the renamed Airport Assistance Fund to be used for improvements to publicly owned airports.

To the Committee on Ways and Means and Economic Development.

S. B. No. 231-Senators Hagan, Fingerhut, Fedor.

To amend section 3704.05 and to enact sections 3704.30 to 3704.36 of the Revised Code to require electric generating facilities to comply with certain requirements regarding mercury emissions.

To the Committee on Public Utilities.

S. B. No. 232-Senator Robert Gardner.

To amend sections 3301.075, 3302.04, 3319.22, 3319.227, and 3319.302 and to enact sections 3312.01, 3312.02, 3312.03, 3312.04, 3312.05, 3312.06, 3312.09, 3312.10, 3312.11, and 3312.14 of the Revised Code to require the State Board of Education to establish the Ohio Regional Education Delivery System by July 1, 2007.

To the Committee on Education.

JIM JORDAN
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 Austria submitted the following report:

The standing committee on Judiciary, to which was referred **S. B. No. 66**-Senator Schuring, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

YES - 8: STEPHEN C. AUSTRIA, JIM JORDAN, LOUIS W. BLESSING, DAVID GOODMAN, J. KIRK SCHURING, STEVE STIVERS, MARC DANN, KIMBERLY A. ZURZ.

NO - 0.

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

The report of the committee was accepted.

Senator Austria submitted the following report:

The standing committee on Judiciary, to which was referred **Am. Sub. H. B. No. 52**-Representative Hughes, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsors: Goodman, Dann, Zurz.

YES - 9: STEPHEN C. AUSTRIA, LOUIS W. BLESSING, DAVID GOODMAN, J. KIRK SCHURING, STEVE STIVERS, MARC DANN, KIMBERLY A. ZURZ, TERESA FEDOR, JIM JORDAN.

NO - 0.

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

The report of the committee was accepted.

Senator Jordan submitted the following report:

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

Josiah H. Blackmore, Democrat, from Blacklick, Franklin County, Ohio, as a Member of the Ethics Commission for a term beginning March 19, 2004 and ending at the close of business January 1, 2009, replacing Herbert Brown, who resigned.

William S. White, Independent, from Dublin, Franklin County, Ohio, as a Member of the Industrial Technology and Enterprise Advisory Council for a

term beginning February 13, 2004 and ending at the close of business December 31, 2004, replacing Gilbert C. Brunnfoeffer, who resigned.

Thomas M. Zaino, Republican, from Gahanna, Franklin County, Ohio, as a Member of the State Racing Commission, for a term beginning March 5, 2004 and ending at the close of business March 31, 2007, replacing Scott Borgemenke, who resigned.

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

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

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 31, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Blessing
Brady	Carey	Coughlin	Dann
DiDonato	Fedor	Randy Gardner	Robert Gardner
Goodman	Harris	Hottinger	Jacobson
Jordan	Mallory	Miller	Mumper
Nein	Padgett	Prentiss	Roberts
Schuler	Schuring	Spada	Stivers
Wachtmann	Zurz		White-31.

So the Senate advised and consented to said appointments.

BILLS FOR THIRD CONSIDERATION

Sub. S. B. No. 66-Senators Schuring, Stivers, Jacobson, Dann, Fedor, Miller, Brady.

To amend sections 2151.421, 3109.17, and 3109.18 and to enact sections 2151.425, 2151.426, 2151.427, 2151.428, and 3109.171 of the Revised Code to permit counties to establish Children's Advocacy Centers to perform and provide certain functions, activities, and services that are agreed upon with the public children services agency, relative to reports of child sexual abuse or other types of abuse of a child over which the document creating the center gives it jurisdiction and the children who are the subjects of the report; to

require the Children's Trust Fund Board to develop and provide to certain entities and persons a list of funding sources for establishing or operating a Children's Advocacy Center; to permit child abuse and child neglect prevention advisory boards to use up to $5,000 per county out of Children's Trust Fund Board funds as one-time, start-up costs for a Children's Advocacy Center; and to provide the Children's Trust Fund Board with more authority and flexibility to approve, revise, or deny a child abuse and child neglect prevention advisory board's local plan, was considered the third time.

The question being, "Shall the bill, **Sub. S. B. No. 66**, pass?"

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

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Blessing
Brady	Carey	Coughlin	Dann
DiDonato	Fedor	Randy Gardner	Robert Gardner
Goodman	Harris	Hottinger	Jacobson
Jordan	Mallory	Miller	Mumper
Nein	Padgett	Prentiss	Roberts
Schuler	Schuring	Spada	Stivers
Wachtmann	Zurz		White-31.

So the bill passed.

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

Senator Schuring moved to amend the title as follows:

Add the names : "Armbruster, Carey, Mumper, Prentiss, Roberts, Spada, Zurz."

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

The motion was agreed to and the title so amended.

Sub. H. B. No. 52-Representatives Hughes, Latta, Gilb, Grendell, DePiero, Seaver, Redfern, Young, Willamowski, D. Evans, Barrett, Brown, Buehrer, Carano, Carmichael, Chandler, Cirelli, DeGeeter, DeWine, Distel, Domenick, Driehaus, C. Evans, Flowers, Hagan, Hartnett, Husted, Jolivette, McGregor, Oelslager, Olman, Otterman, T. Patton, Perry, Reidelbach, Schaffer, Schlichter, Schmidt, Sferra, Skindell, D. Stewart, Walcher, Widener, Wilson, Wolpert, Woodard Senators Goodman, Dann, Zurz.

To amend sections 2152.02, 2152.17, 2152.20, 2152.21, 2903.06, 2903.08, 2923.162, 2929.01, 2929.13, 2929.14, 2929.18, 2929.21, 2929.28, 4510.021, 4510.12, 4510.15, 4510.16, 4510.54, 4511.01, 4511.251, 4511.98, and 5501.27 and to enact sections 2903.081, 2941.1413, and 2941.1414 of the Revised Code to expand the offenses of aggravated vehicular homicide, vehicular homicide, and vehicular assault to also prohibit causing death or

serious physical harm as a proximate result of committing a reckless operation or speeding violation in a construction zone when the victim is any person in the construction zone and notice of the prohibitions was posted; to impose a five-year mandatory prison term for a conviction of aggravated vehicular homicide and a peace officer victim specification; to impose a three-year mandatory prison term for a conviction of aggravated vehicular homicide and a specification of three or more OVI-related violations; to increase the penalty for discharging a firearm upon or over a public road or highway and link the amount of the increase to the injury caused, or risk of injury created, by the offense; to limit the use of restitution as a sanction for misdemeanor offenders and delinquent children and change the terminology used regarding the court's imposition of a restitution sanction; to revise the effect of a restitution sanction for a misdemeanor; to revise the definition of "economic loss" that applies to the Delinquent Child Law and the Criminal Sentencing Law; to eliminate the application of the overriding purposes of misdemeanor sentencing to certain misdemeanor offenses; to correct errors in and otherwise modify certain provisions that contain some of the Ohio Criminal Sentencing Commission's traffic law and misdemeanor sentencing law revisions; and to declare an emergency, was considered the third time.

The question being, "Shall the section, Section 4, setting forth the emergency features of the bill, stand as a part of the bill?"

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

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Blessing
Brady	Carey	Coughlin	Dann
DiDonato	Fedor	Randy Gardner	Robert Gardner
Goodman	Harris	Hottinger	Jacobson
Jordan	Mallory	Miller	Mumper
Nein	Padgett	Prentiss	Roberts
Schuler	Schuring	Spada	Stivers
Wachtmann	Zurz		White-31.

So the section, Section 4, setting forth the emergency features of the bill stood as a part of the bill.

The question being, "Shall the bill pass as an emergency measure?"

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

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Blessing
Brady	Carey	Coughlin	Dann
DiDonato	Fedor	Randy Gardner	Robert Gardner
Goodman	Harris	Hottinger	Jacobson
Jordan	Mallory	Miller	Mumper
Nein	Padgett	Prentiss	Roberts
Schuler	Schuring	Spada	Stivers
Wachtmann	Zurz		White-31.

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

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

Senator Austria moved to amend the title as follows:

Add the names : "Austria, Robert Gardner, Harris, Miller."

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

The motion was agreed to and the title so amended.

Sub. H. B. No. 278-Representatives Niehaus, Reidelbach, Seitz, Webster, Gibbs, Husted, Peterson, Hoops, Carmichael, Blasdel, T. Patton, D. Evans, McGregor, Gilb, DeWine, Setzer, Willamowski, Raga, Schaffer, Book, Widowfield, Hollister, Callender, Cates, Flowers, Hagan, Walcher, Wolpert.

To amend sections 303.211, 519.211, 1509.02, 1509.03, 1509.06, 1509.23, 1509.31, and 1510.11 and to repeal section 1509.39 of the Revised Code to declare that the Division of Mineral Resources Management in the Department of Natural Resources has exclusive authority to regulate the permitting, location, and spacing of oil and gas wells in the state, and to revise the laws governing the drilling of oil and gas and the oil and natural gas marketing program, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 278**, pass?"

The yeas and nays were taken and resulted - yeas 26, nays 5, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Blessing
Carey	Coughlin	DiDonato	Fedor
Randy Gardner	Goodman	Harris	Hottinger
Jacobson	Jordan	Mallory	Miller
Mumper	Nein	Padgett	Prentiss
Roberts	Schuler	Schuring	Stivers
Wachtmann			White-26.

Senators Brady, Dann, Robert Gardner, Spada, and Zurz voted in the negative-5.

So the bill passed.

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

Senator Mumper moved to amend the title as follows:

Add the names : "Mumper, Harris, Nein, White, Amstutz, Wachtmann, Austria, Padgett."

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

The motion was agreed to and the title so amended.

OFFERING OF RESOLUTIONS

Senator Jordan offered the following resolution:

S. R. No. 1732-Senator Jordan.

Authorizing TeenPact to use the Ohio Senate Chamber to conduct a conference.

WHEREAS, The members of the Senate of the 125th General Assembly of Ohio have learned that TeenPact has requested permission to use the Ohio Senate Chamber for a conference, April 29-30, 2004; and

WHEREAS, A beneficial educational program, TeenPact provides young people with the opportunity to better appreciate and understand government and its components, and the knowledge gained through this event will certainly be of value to participants in the years to come; and

WHEREAS, Utilizing the facility which accommodates those involved in the state legislative process, TeenPact will effectively offer youth an accurate depiction of state government and the manner in which legislation is processed; and

WHEREAS, Through participation in TeenPact's conference, young people will be better prepared to become productive members of our complex and ever-changing society. The maturity and experience participants will gain through their involvement in this program will not only enrich their total educational experience but also enable them to make better-informed decisions as they assume the responsibilities of adult citizenship; therefore be it

RESOLVED, That we, the members of the Senate of the 125th General Assembly of Ohio, in adopting this Resolution, permit TeenPact to use the Ohio Senate Chamber for a conference, contingent upon the availability of that facility, and salute its participants as some of Ohio's finest young citizens; and be it further

RESOLVED, That the Clerk of the Senate transmit a duly authenticated copy of this Resolution to TeenPact.

The question being, "Shall the resolution, **S. R. No. 1732**, be adopted?"

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

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Blessing
Brady	Carey	Coughlin	Dann
DiDonato	Fedor	Gardner, Randy	Gardner, Robert
Goodman	Harris	Hottinger	Jacobson
Jordan	Mallory	Miller	Mumper
Nein	Padgett	Prentiss	Roberts

Schuler	Schuring	Spada	Stivers
Wachtmann	Zurz		White-31.

So the resolution was adopted.

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

S. R. No. 1733-Senator Austria.

Honoring Charles and Marilyn Sauers on their Golden Wedding Anniversary.

S. R. No. 1734-Senator Austria.

Honoring Herman and Loraine Glenn on their Fifty-third Wedding Anniversary.

S. R. No. 1735-Senator Austria.

Honoring Richard and Maureen Luke on their Golden Wedding Anniversary.

S. R. No. 1736-Senator Austria.

Honoring Howard and Wyvonna Molen on their Sixtieth Wedding Anniversary.

S. R. No. 1737-Senator Austria.

Honoring Richard and Esther Roberts on their Sixtieth Wedding Anniversary.

S. R. No. 1738-Senator Austria.

Honoring Ferman and Sondra Wilhelm on their Golden Wedding Anniversary.

S. R. No. 1739-Senator Austria.

Honoring Ben and Thelma Gaddis on their Seventieth Wedding Anniversary.

S. R. No. 1740-Senator Austria.

Honoring Richard and Ida Moffitt on their Sixty-seventh Wedding Anniversary.

S. R. No. 1741-Senator Austria.

Honoring Kyle and Ruth Gerhardt on their Sixtieth Wedding Anniversary.

S. R. No. 1742-Senator Austria.

Honoring Kenneth and Jo Ann Stapleton on their Golden Wedding Anniversary.

S. R. No. 1743-Senator Austria.

Honoring Everett and Margaret Clements on their Golden Wedding Anniversary.

S. R. No. 1744-Senator Jordan.

Honoring the Versailles High School boys basketball team as the 2003-2004 OHSAA Division III State runner-up.

S. R. No. 1745-Senator Austria.

Honoring Orris and Zora Spencer on their Sixty-fifth Wedding Anniversary.

S. R. No. 1746-Senator Austria.

Honoring Robert and Zelma Lockwood on their Golden Wedding Anniversary.

S. R. No. 1747-Senator Dann.

Honoring Denver and Sally Douglas on their Golden Wedding Anniversary.

S. R. No. 1748-Senator Wachtmann.

Honoring the Ottawa-Glandorf High School boys basketball team as the 2004 Division II State Champions.

S. R. No. 1749-Senator Wachtmann.

Honoring the Holgate High School boys basketball team as the 2004 Division IV State Champions.

S. R. No. 1750-Senator Robert Gardner.

In memory of Jerry Zovko.

S. R. No. 1751-Senators Jacobson, Roberts, Austria.

Honoring Vicki Pegg for her innumerable contributions to higher education in Ohio.

S. R. No. 1752-Senator Randy Gardner.

Honoring the Monroeville High School varsity cheerleading squad as a 2004 AmeriCheer National Champion.

S. R. No. 1753-Senator Zurz.

Honoring Jerry and Mary Lou Williams on their Golden Wedding Anniversary.

S. R. No. 1754-Senator Stivers.

Honoring the Dublin Coffman High School Robotics Team as the recipient of a 2004 Engineer's Award.

S. R. No. 1755-Senator Stivers.

Honoring the Dublin Scioto High School Robotics Team as the recipient of a 2004 Engineer's Award.

S. R. No. 1756-Senator Stivers.

Honoring Wendell and Mary Janet Ellenwood on their Sixtieth Wedding Anniversary.

S. R. No. 1757-Senator Stivers.

Honoring Norman and Dorothy Howard on their Golden Wedding Anniversary.

S. R. No. 1758-Senator Mumper.

Honoring Ray and Alice Luhring on their Golden Wedding Anniversary.

S. R. No. 1759-Senator Mumper.

Honoring Arnulf and Margaret Beck on their Golden Wedding Anniversary.

S. R. No. 1760-Senator Mumper.

Honoring Eldon and Sarah Parker on their Golden Wedding Anniversary.

S. R. No. 1761-Senator Mumper.

Honoring Edward and Glenna Wilds on their Golden Wedding Anniversary.

S. R. No. 1762-Senator Zurz.

Honoring Jim Christian as the 2003-2004 Division I District 10 Coach of the Year.

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

So the resolutions were adopted.

On the motion of Senator Randy Gardner, the Senate adjourned until Wednesday, April 28, 2004 at 1:30 p.m.

Attest: MATTHEW T. SCHULER,
Clerk.