

COMMONWEALTH OF PENNSYLVANIA
Legislative Journal

TUESDAY, JULY 7, 2009

SESSION OF 2009 193RD OF THE GENERAL ASSEMBLY

No. 52

SENATE

TUESDAY, July 7, 2009

The Senate met at 1 p.m., Eastern Daylight Saving Time.

The PRESIDENT (Lieutenant Governor Joseph B. Scarnati III) in the Chair.

PRAYER

The Chaplain, Reverend Dr. PAUL GEHRIS, of American Baptist Churches - U.S.A., Shermans Dale, offered the following prayer:

Let us pray.

Almighty and eternal God, we offer gratitude for Your calling the creation from stillness to vibrancy and making humanity in Your image, and for Your love, which sustains us as we make space for You in the depths of our beings and in the expanse of our earth. We give thanks for the gift, and the gifts of life, and the opportunities of this day.

May Your blessing be felt by this upper Chamber of our Commonwealth. Grant Members and staff strength and sense to be diligent in their stewardship for district and the whole State. May ardor for each one's ideas include openness to those of others. May certitude exclude arrogance. May courage and tenacity be joined by wisdom. May all be opened to Your presence in their comings in and goings out. Help all be knit together in the ongoing search for the best for our beloved Commonwealth. Amen.

The PRESIDENT. The Chair thanks Reverend Gehris, who is the guest today of Senator Corman.

PLEDGE OF ALLEGIANCE

(The Pledge of Allegiance was recited by those assembled.)

COMMUNICATIONS FROM THE GOVERNOR

NOMINATIONS REFERRED TO COMMITTEE

The PRESIDENT laid before the Senate the following communications in writing from His Excellency, the Governor of the Commonwealth, which were read as follows and referred to the Committee on Rules and Executive Nominations:

**MEMBER OF THE CONSTABLES'
EDUCATION AND TRAINING BOARD**

July 7, 2009

To the Honorable, the Senate
of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, The Honorable Harry C. Walsh, 1415 Freemont Street, McKeesport 15132, Allegheny County, Forty-fifth Senatorial District, for appointment as a member of the Constables' Education and Training Board, to serve for a term of three years and until his successor is appointed and qualified, vice The Honorable Charles G. Benhayon, Levittown, whose term expired.

EDWARD G. RENDELL
Governor

MAGISTERIAL DISTRICT JUDGE

July 7, 2009

To the Honorable, the Senate
of the Commonwealth of Pennsylvania:

In conformity with law, I have the honor hereby to nominate for the advice and consent of the Senate, Ethan T. Ward, 279 Shaler Road, West Alexander 15376, Washington County, Forty-sixth Senatorial District, for appointment as Magisterial District Judge, in and for the County of Washington, Magisterial District 27-3-10, to serve until the first Monday of January 2010, vice Jay H. Dutton, mandatory retirement.

EDWARD G. RENDELL
Governor

**RECALL COMMUNICATION
REFERRED TO COMMITTEE**

The PRESIDENT laid before the Senate the following communication in writing from His Excellency, the Governor of the Commonwealth, which was read as follows and referred to the Committee on Rules and Executive Nominations:

**MEMBER OF THE BOARD OF GOVERNORS OF
THE STATE SYSTEM OF HIGHER EDUCATION**

July 7, 2009

To the Honorable, the Senate
of the Commonwealth of Pennsylvania:

In accordance with the power and authority vested in me as Governor of the Commonwealth, I do hereby recall my nomination dated April 22, 2009, for the reappointment of Guido M. Pichini, 24 Upland Road, Wyomissing Hills 19609, Berks County, Forty-eighth Senatorial District, as a member of the Board of Governors of the State System of Higher Education, to serve until December 31, 2012, and until his successor is appointed and qualified.

I respectfully request the return to me of the official message of nomination on the premises.

EDWARD G. RENDELL
Governor

LEAVES OF ABSENCE

Senator PILEGGI asked and obtained a leave of absence for Senator BAKER, for today's Session, for personal reasons.

Senator MELLOW asked and obtained a military leave of absence, pursuant to Senate Rule XXI(3), for Senator STACK.

SPECIAL ORDER OF BUSINESS JOURNAL APPROVED

The PRESIDENT. The Journal of the Session of June 25, 2009, is now in print.

The Clerk proceeded to read the Journal of the Session of June 25, 2009.

Senator PILEGGI. Mr. President, I move that further reading of the Journal be dispensed with and that the Journal be approved.

On the question,

Will the Senate agree to the motion?

The yeas and nays were required by Senator PILEGGI and were as follows, viz:

YEA-48

Alloway	Ferlo	Musto	Tomlinson
Argall	Folmer	O'Pake	Vance
Boscola	Fontana	Orie	Vogel
Browne	Gordner	Piccola	Ward
Brubaker	Greenleaf	Pileggi	Washington
Corman	Hughes	Pippy	Waugh
Costa	Kasunic	Rafferty	White, Donald
Dinniman	Kitchen	Robbins	White, Mary Jo
Earll	Leach	Scarnati	Williams
Eichelberger	Logan	Smucker	Wonderling
Erickson	McIlhinney	Stout	Wozniak
Farnese	Mellow	Tartaglione	Yaw

NAY-0

A majority of the Senators having voted "aye," the question was determined in the affirmative.

The PRESIDENT. The Journal is approved.

GUEST OF SENATOR JAKE CORMAN PRESENTED TO THE SENATE

The PRESIDENT. The Chair recognizes the gentleman from Centre, Senator Corman.

Senator CORMAN. Mr. President, you know you have been here a little too long when you start introducing the offspring of your staff, who are now working for you as well. I had the good fortune when I was chairman of the Committee on Health and Welfare to employ Scott Johnson as my executive director for 2

years. Scott has since retired, and this year, I have had the great pleasure of employing his daughter, Rachel, as my intern here in my Harrisburg office.

This fall, Rachel will be a senior at Penn State University, that used-to-be-public school here in central Pennsylvania. She is a political science major and a history minor, and she hopes to move to Washington, D.C., after graduation, and plans on attending law school. So it looks like she will be going after her father's retirement for some time. Rachel has been a great asset to my office--a constituent of Senator Piccola--and I wanted to take the time to introduce Rachel here on the Senate floor today.

The PRESIDENT. Would the guest of Senator Corman please rise to be welcomed by the Senate.

(Applause.)

RECESS

The PRESIDENT. The Chair recognizes the gentleman from Delaware, Senator Pileggi.

Senator PILEGGI. Mr. President, I request a recess of the Senate for the purpose of a Republican caucus to be held in the Majority Caucus Room immediately. I expect the caucus to last approximately 1 hour.

The PRESIDENT. The Chair recognizes the gentleman from Berks, Senator O'Pake.

Senator O'PAKE. Mr. President, I ask Democrats to report to our caucus room immediately.

The PRESIDENT. For purposes of Republican and Democratic caucuses, without objection, the Senate stands in recess.

AFTER RECESS

The PRESIDENT. The time of recess having expired, the Senate will come to order.

DISCHARGE PETITION

The PRESIDENT laid before the Senate the following communication, which was read by the Clerk as follows:

July 7, 2009

A PETITION

To place before the Senate the nomination of Guido M. Pichini as a member of the Board of Governors of the State System of Higher Education.

TO: The Presiding Officer of the Senate:

WE, The undersigned members of the Senate, pursuant to section 8(b) of Article IV of the Constitution of Pennsylvania, do hereby request that you place the nomination of Guido M. Pichini, Wyomissing Hills, Pennsylvania, as [data missing] Board of Governors of the State System of Higher Education, before the entire Senate body for a vote, the nomination not having been voted upon within 15 legislative days:

Robert D. Robbins
Joseph B. Scarnati III
Dominic F. Pileggi
Jane C. Orié
Michael L. Waugh

The PRESIDENT. The communication will be laid on the table.

CALENDAR

BILL ON CONCURRENCE IN HOUSE AMENDMENTS

SENATE CONCURS IN HOUSE AMENDMENTS

SB 33 (Pr. No. 1230) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending the act of June 3, 1937 (P.L.1333, No.320), known as the Pennsylvania Election Code, further providing for powers and duties of the Secretary of the Commonwealth, for Voting Standards Development Board and for restrictions on alteration of boundaries of election districts.

On the question, Will the Senate concur in the amendments made by the House to Senate Bill No. 33?

Senator PILEGGI. Mr. President, I move that the Senate do concur in the amendments made by the House to Senate Bill No. 33.

On the question, Will the Senate agree to the motion?

The yeas and nays were required by Senator PILEGGI and were as follows, viz:

YEA-48

Table with 4 columns: Alloway, Ferlo, Musto, Tomlinson, Argall, Folmer, O'Pake, Vance, Boscola, Fontana, Orié, Vogel, Browne, Gordner, Piccola, Ward, Brubaker, Greenleaf, Pileggi, Washington, Corman, Hughes, Pippy, Waugh, Costa, Kasunic, Rafferty, White, Donald, Dinniman, Kitchen, Robbins, White, Mary Jo, Earll, Leach, Scarnati, Williams, Eichelberger, Logan, Smucker, Wonderling, Erickson, McIlhinney, Stout, Wozniak, Farnese, Mellow, Tartaglione, Yaw

NAY-0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate inform the House of Representatives accordingly.

THIRD CONSIDERATION CALENDAR

BILL OVER IN ORDER

HB 92 -- Without objection, the bill was passed over in its order at the request of Senator PILEGGI.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

HB 262 (Pr. No. 1776) -- The Senate proceeded to consideration of the bill, entitled:

An Act regulating prescribed burning practices; providing for the powers and duties of the Department of Conservation and Natural Resources and the Department of Environmental Protection; and establishing certain immunities.

Considered the third time and agreed to, And the amendments made thereto having been printed as required by the Constitution,

On the question, Shall the bill pass finally?

The yeas and nays were taken agreeably to the provisions of the Constitution and were as follows, viz:

YEA-48

Table with 4 columns: Alloway, Ferlo, Musto, Tomlinson, Argall, Folmer, O'Pake, Vance, Boscola, Fontana, Orié, Vogel, Browne, Gordner, Piccola, Ward, Brubaker, Greenleaf, Pileggi, Washington, Corman, Hughes, Pippy, Waugh, Costa, Kasunic, Rafferty, White, Donald, Dinniman, Kitchen, Robbins, White, Mary Jo, Earll, Leach, Scarnati, Williams, Eichelberger, Logan, Smucker, Wonderling, Erickson, McIlhinney, Stout, Wozniak, Farnese, Mellow, Tartaglione, Yaw

NAY-0

A constitutional majority of all the Senators having voted "aye," the question was determined in the affirmative.

Ordered, That the Secretary of the Senate return said bill to the House of Representatives with information that the Senate has passed the same with amendments in which concurrence of the House is requested.

BILL OVER IN ORDER

SB 628 -- Without objection, the bill was passed over in its order at the request of Senator PILEGGI.

BILL ON THIRD CONSIDERATION AND FINAL PASSAGE

SB 711 (Pr. No. 1247) -- The Senate proceeded to consideration of the bill, entitled:

An Act amending Title 4 (Amusements) of the Pennsylvania Consolidated Statutes, further providing for legislative intent and for the definitions of "conviction," "licensed entity" and "slot machine licensee"; providing for the definitions of "executive-level public employee," "licensed entity representative" and "trustee"; further providing for the Pennsylvania Gaming Control Board, for powers of the board and for code of conduct; providing for expenses of Pennsylvania Gaming Control Board; further providing for license or permit application hearing process and public hearings, for board minutes and records, for regulatory authority of board, for collection of fees and fines, for slot machine license fee, for reports of board, for license or permit prohibition, for slot machine license application character requirements, for applications for license or permit, for supplier licenses, for manufacturer licenses, for additional licenses and permits and approval of agreements, for license renewals, for change in ownership or control of slot machine

licensees and for nonportability of slot machine license; providing for appointment of trustee; further providing for Pennsylvania Gaming Economic Development and Tourism Fund, for transfers from State Gaming Fund and for financial and employment interests; providing for prosecutorial and adjudicative functions; and further providing for investigations and enforcement and for conduct of public officials and employees.

Considered the third time and agreed to,

And the amendments made thereto having been printed as required by the Constitution,

On the question,

Shall the bill pass finally?

The PRESIDENT. The Chair recognizes the gentlewoman from Erie, Senator Earll.

Senator EARLL. Mr. President, today, I rise to speak in support of Senate Bill No. 711, and to point out a couple of pieces of information for the Members. This work product is the result of over 1 1/2 years of a bipartisan, cooperative effort that has culminated in these significant reforms to the Commonwealth's gaming law.

As everyone is already aware, in 2004, the Governor and the General Assembly legalized gambling in Pennsylvania, which was certainly a very controversial measure at the time. As a result, an entire new industry has migrated to this State. Thousands of jobs have been created, and the investment of private capital dollars has been in the billions, and I say that again, in the billions. As a result of the revenues accruing to the State by virtue of the tax assessments on the gross terminal revenues, over \$1 billion has been collected for redistribution back to property taxpayers, as well as wage tax relief in various parts of the State.

We recognized, when we passed Act 71 back in 2004, that the legislature has the responsibility to monitor, assess, and exercise oversight over that then-newly created independent authority, the Pennsylvania Gaming Control Board, and the bureaucracy charged with regulating gaming. We knew at the time that we passed Act 71 that we would have to continue to tinker with it, as the nascent industry grew in Pennsylvania, to make sure that the law was keeping up to date with the actual experience of having this industry in our Commonwealth. And in that regard, back in 2006, we passed our first reform measure, Senate Bill No. 862, and today, we have Senate Bill No. 711.

Senate Bill No. 711 is a serious attempt to address a variety of issues, with the ultimate goal of insuring that the industry is held to the highest standards of accountability and transparency and that the public has confidence in the Pennsylvania Gaming Control Board. As I said, Senate Bill No. 711 is an omnibus bill that contains some 36 different provisions, and obviously, I am not going to go through all of them right now, but I will highlight a few.

It reestablishes, first of all, the prohibition on political campaign contributions by individuals and entities subject to the Gaming Act. It prohibits future board members from having any outside employment and requires board members to wait 2 years before being appointed to any regulated gaming entity. It strengthens the code of conduct for Gaming Board members, including stronger prohibitions on ex parte communications. It

limits reimbursement for board members and employees to actual and reasonable expenses and requires receipts to be submitted for any reimbursement over \$10. Monthly and annual expense reports will also be posted on the Gaming Control Board's Web site for taxpayers to view.

To improve transparency and public confidence, Senate Bill No. 711 requires the Gaming Control Board to post, on its Web site, information related to individuals with a controlling interest or ownership interest in any licensed entity and any licensed applicant, and it imposes a lifetime ban on applicants who have prior felony convictions.

This legislation has been constructed after an incredible amount of work by numerous stakeholders. And again, I would point out that over a year and a half ago, we convened a bipartisan, bicameral task force, and along with the Attorney General's Office, the Governor's Office, the Pennsylvania Gaming Control Board, Department of Revenue, and others, we vetted a variety of proposals, many of which found their way into this omnibus bill today.

There are numerous Members of this Chamber who have introduced a variety of different pieces of legislation that have been incorporated into Senate Bill No. 711. It has been my pleasure to work with a number of people in this Chamber on this important bill, and certainly, I give my most sincere thanks to Senator Jane Orie, who has been one of the leading and strongest advocates for reform. Senator Rafferty has provided invaluable assistance. Senator Tomlinson, Senator Piccola, Senator Eichelberger, Senator Ward, Senator Pileggi, Senator Scarnati - everybody has really had a piece of determining what is in this omnibus bill.

And I also rise today to sincerely thank my colleagues on the other side of the aisle. As I mentioned, this has truly been a bipartisan, cooperative effort, and I want to thank today Senator Mellow and his staff, Senator Costa, Senator Farnese, and Senator Wozniak. Every single person whom I have mentioned has had some input into Senate Bill No. 711.

Lastly, I would like to thank the members of our joint staffs, who really have done the hard work of putting this bill together, parsing through the language, drafting, redrafting, vetting, revetting. Their assistance has been truly invaluable, and I appreciate their efforts. The team, which was led by my staffer, attorney Jason Brehouse, along with attorney Mark Mekilo, attorney Kathy Eakin, attorney Fran Cleaver, attorney Mike Sarfert from Senator Orie's staff, they all did a great job, and as usual, it really is the staff under this dome that puts these very complex pieces of legislation together, and I am appreciative of their efforts.

I am proud of the work that has gone into this bill. Again, it has been a very bipartisan, cooperative effort. I am proud to stand before you today to ask for support, and I urge all of my colleagues for a favorable vote.

Thank you, Mr. President.

The PRESIDENT. The Chair recognizes the gentleman from Philadelphia, Senator Farnese.

Senator FARNESE. Mr. President, I want to take this opportunity to lend my voice in support of Senate Bill No. 711. As everyone knows, Mr. President, casinos are an important and critical issue for me within the First District of Pennsylvania, as we now have two licensees with facilities ready to be built within its boundaries.

And I am also proud to stand before this Chamber today, and before the people of the Commonwealth of Pennsylvania, because today, I am proud to support Senate Bill No. 711, because it truly is an opportunity for me to fulfill a campaign promise which I made to the people of Philadelphia, when I told them that I would take this office and do everything I possibly could to reform the Gaming Act and to give the people of Philadelphia and the Commonwealth of Pennsylvania a voice that they so desperately need. This bill truly is a necessary step toward an open and transparent process that is needed in the gaming industry.

I would like to thank Senator Mellow and his staff for taking a lead on this in our Caucus. I would also like to thank and congratulate Senator Earll and Senator Fontana as the Majority and Minority chairs, respectively, of the Committee on Community, Economic and Recreational Development, who oversaw the writing of this bill and made sure it got through committee so that we have the bill before us today to vote on.

I would also like to recognize the efforts of Senator Orié and Senator Rafferty, who have kept the pressure on this issue by drawing attention to many of the loopholes and problems that have emerged since the original passage of the act. We are at this point today because of your efforts as well.

This bill does many things, Mr. President, but some of the highlights that I think need to be noted are: language to address the recent *DePaul v. Commonwealth* Supreme Court decision, by again putting campaign contribution limits in place; allowing for the opportunity to have voices heard at each and every Gaming Control Board meeting; requiring a public hearing in the jurisdiction where a license was granted, in the instance of re-siting and redesign, a point that is critical to the people of Philadelphia; having full criminal records, including expungement, including an investigation of a licensee, even if just for a character evaluation; and banning outside employment for those employees and board members moving forward.

I think this is a very good bill, and I hope that it will stay intact as we send it over to the House. And as a realist, I understand and know that changes will be forthcoming. I hope that our colleagues in the other Chamber will keep the intent of this bill alive--reform--and that changes to Senate Bill No. 711 only help to strengthen the openness and transparency of what is needed in the gaming industry.

I thank you, Mr. President, and I again urge a positive vote on Senate Bill No. 711.

The PRESIDENT. The Chair recognizes the gentlewoman from Allegheny, Senator Orié.

Senator ORIE. Mr. President, I ask if the maker of the bill will stand for brief interrogation.

The PRESIDENT. Will the maker agree to rise for interrogation?

Senator EARLL. Yes, Mr. President.

The PRESIDENT. She indicates she will. The gentlewoman may proceed.

Senator ORIE. Mr. President, I would just like to inquire as to whether or not the gentlewoman has had any communications with the House in regard to this bill, this reform bill, that expanded gaming or table games would be attached to this and sent back over to the Senate?

Senator EARLL. Mr. President, there have been many conversations about Senate Bill No. 711 and the variety of provisions that are in it. However, I can tell you unequivocally that I have not participated in, nor am I aware of, any deal for table games. That is not our intention. We are not going to use Senate Bill No. 711 as a vehicle for table games. Certainly, that is not the intent going out of here today.

Senator ORIE. Thank you, Mr. President. And my second inquiry is in regard to one of the measures that was championed by Senator Piccola and by Members not only in the Senate but in the House, which dealt with the Attorney General doing the background checks for casino operators. It is my understanding, through the course of working with various parties, that the gentlewoman has had communications with the Attorney General, that he would want the entire BIE under the Attorney General, versus just doing the background checks. Is that correct?

Senator EARLL. That is correct, Mr. President. As the gentlewoman knows, we have wrestled with the issue of BIE and have vetted a variety of different proposals to deal with making BIE more independent, or at least give the appearance of more independence. They are independent from the Gaming Control Board. We did come up with the compromise measure that is contained in this bill. It still needs some work, and we have pledged to the Attorney General that once this bill gets to the House, we will continue to work on that language.

Senator ORIE. And that would be my third line of inquiry. I had received some correspondence from the Attorney General's office--I know the gentlewoman has and other offices have--we would continue to work with the Attorney General on the immunity clause and see where we can get a compromise. I am just asking that we continue that dialogue with the Attorney General and the House so that we can make the improvements that need to be done.

Senator EARLL. Absolutely. I have committed that to the Attorney General, and I commit that to the gentlewoman here today.

Senator ORIE. Thank you. Mr. President, I would like to speak on the bill itself.

The PRESIDENT. The gentlewoman is in order.

Senator ORIE. It is sometimes hard to believe that it has been 5 years since Pennsylvania has legalized slots gambling in Pennsylvania. Time has gone by so fast due to the continued controversy sometimes surrounding the adoption or implementation or oversight of the gaming law. But no matter what, Mr. President, whether you are a supporter or an opponent of gaming, gaming is here to stay in Pennsylvania, and that is not what today is about.

When Pennsylvania approved its gaming law 5 years ago, it was understood that it would need careful oversight and a strong law in place to prevent corruption and malfeasance and to insure public confidence. It is imperative today that all of us move forward and address gambling reform and address the issues that have been surrounding gaming. I believe this measure, Senate Bill No. 711, is a tremendous step forward in Pennsylvania.

In a relatively short history, this Gaming Control Board has mired itself in some controversy. But I want to set the record straight today, Mr. President. To the credit of the Gaming Control Board, they have met with me extensively and have gone

