

COMMONWEALTH OF PENNSYLVANIA

LEGISLATIVE JOURNAL

TUESDAY, DECEMBER 5, 1989

SESSION OF 1989

173D OF THE GENERAL ASSEMBLY

No. 73

HOUSE OF REPRESENTATIVES

The House convened at 11 a.m., e.s.t.

THE SPEAKER PRO TEMPORE (IVAN ITKIN) IN THE CHAIR

PRAYER

REV. CLYDE W. ROACH, Chaplain of the House of Representatives, from Harrisburg, Pennsylvania, offered the following prayer:

Let us pray:

Gracious God our Father, often we are perplexed and unsure of what we should do. We do not know exactly what You would want us to do to make the best possible decision. Sometimes we know our goals but do not know how to achieve them.

Grant, Lord, that when we choose among our many options, that our decisions will be in keeping with Your agenda. Guide us in our deliberations and direct our thoughts and our actions so that the interests of our constituents will be better served.

Bless and keep our leadership and give them strength and vision.

In Your dear name we pray. Amen.

PLEDGE OF ALLEGIANCE

(The Pledge of Allegiance was recited by members and visitors.)

JOURNAL APPROVAL POSTPONED

The SPEAKER pro tempore. Without objection, the approval of the Journal of Monday, December 4, 1989, will be postponed until printed. The Chair hears no objection.

HOUSE BILLS INTRODUCED AND REFERRED

No. 2147 By Representatives CORRIGAN,
J. L. WRIGHT and CLYMER

An Act authorizing the Pennsylvania Historical and Museum Commission to accept a gift of certain real property situate in the Township of Solebury, Bucks County, Pennsylvania.

Referred to Committee on STATE GOVERNMENT, December 5, 1989.

No. 2148 By Representatives FARMER, BURD, TANGRETTI, LANGTRY, PISTELLA, E. Z. TAYLOR, PESCI, JACKSON, J. TAYLOR, ALLEN, HERSHEY, BRANDT, YANDRISEVITS, TRELLO, MICHLOVIC, GLADECK and GANNON

An Act amending Title 18 (*Crimes and Offenses*) of the Pennsylvania Consolidated Statutes, prohibiting a person who accepts credit cards from requiring the cardholder to provide personal identification information.

Referred to Committee on JUDICIARY, December 5, 1989.

No. 2149 By Representatives FARGO, JAROLIN, BURD, PESCI, HERMAN, JACKSON, HAGARTY, J. L. WRIGHT, MELIO, NAILOR, CARLSON, JOHNSON, MORRIS, SAURMAN, LAUGHLIN, D. F. CLARK, MICHLOVIC, BELARDI, DIETTERICK and TELEK

An Act requiring notice to police of installation of a burglar alarm.

Referred to Committee on LOCAL GOVERNMENT, December 5, 1989.

No. 2150 By Representatives FARGO, J. L. WRIGHT, PITTS, PESCI, BARLEY, CARLSON, SCRIMENTI, NAHILL, DISTLER, GODSHALL, CORRIGAN, MORRIS, ROBBINS, FOX, VROON, SAURMAN, ARGALL, ADOLPH, HESS, LEVDANSKY, G. SNYDER, KASUNIC, LEE, GLADECK, BATTISTO, NAILOR, TANGRETTI, TIGUE, DIETTERICK, MERRY, BUSH, McCALL, JOHNSON, DEMPSEY, MAINE, BELARDI, D. F. CLARK, RAYMOND, McHALE, BROUJOS, McVERRY, NOYE and FAIRCHILD

An Act amending the act of March 4, 1971 (P. L. 6, No. 2), known as the "Tax Reform Code of 1971," further providing for exemptions from the realty transfer tax.

Referred to Committee on FINANCE, December 5, 1989.

No. 2151 By Representatives THOMAS, BISHOP, WILLIAMS, OLIVER, RITTER, LAUGHLIN, PRESTON, LINTON and ROEBUCK

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, establishing county drug forfeiture councils and providing for their powers and duties; and further providing for the allocation of proceeds of property forfeited in connection with controlled substance violations.

Referred to Committee on HEALTH AND WELFARE, December 5, 1989.

No. 2152 By Representatives FOX, MORRIS, LaGROTTA, NAHILL, GEORGE, JADLOWIEC, JACKSON, COHEN, HAYDEN, HECKLER, HERMAN, JAROLIN, FREEMAN, BISHOP, TRELLO, CAWLEY, LETTERMAN, MICHLOVIC, J. H. CLARK, GLADECK, CLYMER, GODSHALL, BATTISTO, BELARDI, STABACK, JOHNSON, SAURMAN, TIGUE, DONATUCCI, HOWLETT, RAYMOND, FREIND, FLICK, MRKONIC, ADOLPH, KONDRICH, CORRIGAN, KASUNIC, MURPHY, KUKOVICH, VEON, COLAIZZO, GEIST, CIVERA, DeLUCA, E. Z. TAYLOR, B. D. CLARK, JOSEPHS, KOSINSKI, KAISER, LAUGHLIN, RYAN, MAIALE, MARKOSEK, BUNT and PISTELLA

An Act amending the act of March 1, 1974 (P. L. 90, No. 24), known as the "Pennsylvania Pesticide Control Act of 1973," further providing for the regulation and certification of persons using or applying pesticides; and requiring certain notice and posting when pesticides are used.

Referred to Committee on AGRICULTURE AND RURAL AFFAIRS, December 5, 1989.

No. 2153 By Representatives BISHOP, COHEN, EVANS, JOHNSON, THOMAS and CARN

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, defining the offense of harassment of parking authority personnel in first and second class cities.

Referred to Committee on JUDICIARY, December 5, 1989.

HOUSE RESOLUTION INTRODUCED AND REFERRED

No. 233
(Concurrent) By Representatives SAURMAN, WAMBACH, CLYMER, MELIO, FOX, WILSON, HAYDEN, HECKLER, MARKOSEK, COLAFELLA, LESCOVITZ,

REBER, J. H. CLARK, McVERRY, KONDRICH, VAN HORNE, MICHLOVIC, BATTISTO, CESSAR, FARMER, LANGTRY and HAGARTY

Designating the week of December 10, 1989, through December 16, 1989, as "National Drunk and Drugged Driving Awareness Week."

Referred to Committee on RULES, December 5, 1989.

SENATE BILLS FOR CONCURRENCE

The clerk of the Senate, being introduced, presented the following bills for concurrence:

SB 848, PN 944

Referred to Committee on YOUTH AND AGING, December 5, 1989.

SB 895, PN 1703

Referred to Committee on STATE GOVERNMENT, December 5, 1989.

SB 1067, PN 1742

Referred to Committee on JUDICIARY, December 5, 1989.

SB 1070, PN 1663

Referred to Committee on JUDICIARY, December 5, 1989.

SB 1332, PN 1681

Referred to Committee on STATE GOVERNMENT, December 5, 1989.

SB 1340, PN 1692

Referred to Committee on JUDICIARY, December 5, 1989.

BILLS REMOVED FROM TABLE

The SPEAKER pro tempore. The Chair recognizes the majority leader.

Mr. O'DONNELL. Mr. Speaker, I move that the following bills be removed from the tabled bill calendar and placed on the active calendar:

HB 629;

HB 921;

HB 1587;

HB 1742;

HB 1831;

HB 1911;

HB 1912;

HB 1950;

HB 1951;

HB 1955;

HB 1957;

HB 2109;

SB 123;

SB 355;
 SB 498;
 SB 617;
 SB 618;
 SB 620;
 SB 625;
 SB 938;
 SB 940;
 SB 948; and
 SB 950.

On the question,
 Will the House agree to the motion?
 Motion was agreed to.

BILLS RECOMMITTED

The SPEAKER pro tempore. The Chair recognizes the majority leader.

Mr. O'DONNELL. Mr. Speaker, I move that the following bills be recommitted to the Appropriations Committee for fiscal notes:

SB 123;
 SB 355;
 SB 498;
 SB 617;
 SB 618;
 SB 620;
 SB 625;
 SB 938;
 SB 940;
 SB 948; and
 SB 950.

On the question,
 Will the House agree to the motion?
 Motion was agreed to.

SENATE MESSAGE

ADJOURNMENT RESOLUTION FOR CONCURRENCE

The clerk of the Senate, being introduced, presented the following extract from the Journal of the Senate, which was read as follows:

In the Senate
 December 4, 1989

RESOLVED, (the House of Representatives concurring), That when the Senate adjourns this week it reconvene on Monday, December 11, 1989, unless sooner recalled by the President Pro Tempore of the Senate; and be it further

RESOLVED, That when the House of Representatives adjourns this week it reconvene on Monday, December 11, 1989, unless sooner recalled by the Speaker of the House of Representatives.

Ordered, That the clerk present the same to the House of Representatives for its concurrence.

On the question,
 Will the House concur in the resolution of the Senate?
 Resolution was concurred in.
 Ordered, That the clerk inform the Senate accordingly.

SENATE MESSAGE

AMENDED SENATE BILL RETURNED FOR CONCURRENCE

The clerk of the Senate, being introduced, informed that the Senate has concurred in the amendments made by the House by amending said amendments to **SB 134, PN 1743**.

Ordered, That the clerk present the same to the House requesting concurrence.

SENATE MESSAGE

HOUSE BILL CONCURRED IN BY SENATE

The clerk of the Senate, being introduced, returned **HB 709, PN 2157**, with information that the Senate has passed the same without amendment.

COMMUNICATION FROM PENNSYLVANIA STATE UNIVERSITY

The SPEAKER pro tempore. The Chair wishes to acknowledge receipt of the Penn State University's audited financial statements for the year ended June 30, 1989, and such document will be filed with the Journal clerk.

The following communication was submitted:

Penn State
 408 Old Main
 The Pennsylvania State University
 University Park, PA 16802
 November 30, 1989

Mr. Clancy Myer
 Parliamentarian
 House of Representatives
 House Post Office
 Main Capitol Building
 Harrisburg PA 17120

Dear Sir:

Enclosed is a copy of the University's Audited Financial Statements for the year ended June 30, 1989.

Very truly yours,
 Kenneth S. Babe
 Corporate Controller

Enclosure

(Copy of statement is on file with the Journal clerk.)

LEAVES OF ABSENCE

The SPEAKER pro tempore. Are there requests for leaves of absence?

The Chair recognizes the majority whip. There are no leaves of absence requested from the Democratic side.

The Chair now recognizes the minority whip, the gentleman, Mr. Hayes.

Mr. HAYES. Mr. Speaker, I request a leave for the gentleman from Chester County, Mr. FLICK, for the day, and the gentleman from Dauphin County, Mr. DININNI, for the day.

The SPEAKER pro tempore. Without objection, leaves of absence are granted.

MASTER ROLL CALL

The SPEAKER pro tempore. The Chair is about to take the master roll. Members will proceed to vote.

The following roll call was recorded:

PRESENT—196

Acosta	Donatucci	Lashingner	Richardson
Adolph	Dorr	Laughlin	Rieger
Allen	Durham	Lee	Ritter
Angstadt	Evans	Leh	Robbins
Argall	Fairchild	Lescovitz	Robinson
Barley	Fargo	Letterman	Roebuck
Battisto	Farmer	Levdansky	Rudy
Belardi	Feagle	Linton	Ryan
Belfanti	Foster	Lloyd	Rybak
Billow	Fox	Lucyk	Saloom
Birmelin	Freeman	McCall	Saurman
Bishop	Freind	McHale	Scheetz
Black	Gallen	McNally	Schuler
Blaum	Gamble	McVerry	Scrimenti
Bortner	Gannon	Maiale	Semmel
Bowley	Geist	Maine	Serafini
Boyes	George	Markosek	Smith, B.
Brandt	Gigliotti	Marsico	Smith, S. H.
Bunt	Gladeck	Mayermik	Snyder, D. W.
Burd	Godshall	Melio	Snyder, G.
Burns	Gruitza	Merry	Staback
Bush	Gruppo	Michlovic	Stairs
Caltagirone	Hagarty	Micozzie	Steighner
Cappabianca	Haluska	Miller	Stish
Carlson	Harper	Moehlmann	Strittmatter
Carn	Hasay	Morris	Stuban
Cawley	Hayden	Mowery	Tangretti
Cessar	Hayes	Mrkonic	Taylor, E. Z.
Chadwick	Heckler	Murphy	Taylor, F.
Civera	Herman	Nahill	Taylor, J.
Clark, B. D.	Hershey	Nailor	Telek
Clark, D. F.	Hess	Noye	Thomas
Clark, J. H.	Howlett	O'Brien	Tigue
Clymer	Hughes	O'Donnell	Trello
Cohen	Itkin	Olasz	Trich
Colaifella	Jackson	Oliver	Van Horne
Colaizzo	Jadlowiec	Perzel	Veon
Cole	James	Pesci	Vroon
Cornell	Jarolin	Petrarca	Wambach
Corrigan	Johnson	Petrone	Wass
Cowell	Josephs	Phillips	Weston
Coy	Kaiser	Piccola	Williams
DeWeese	Kasunic	Pistella	Wilson
Daley	Kenney	Pitts	Wogan
Davies	Kondrich	Pressmann	Wozniak
Dempsey	Kosinski	Preston	Wright, D. R.
Dietterick	Kukovich	Raymond	Wright, J. L.
Distler	LaGrotta	Reber	Wright, R. C.
Dombrowski	Langtry	Reinard	Yandrisevits

ADDITIONS—0

NOT VOTING—0

EXCUSED—7

Broujos	Fee	Pievsky
DeLuca	Flick	
Dininni		Manderino, Speaker

WELCOME

The SPEAKER pro tempore. The Chair welcomes 15 students from the Academy of Medical Arts and Business in Harrisburg. They are all enrolled in the paralegal program and are accompanied by one of their instructors, attorney Armando Salazar. They are the guests of Representative Peter Wambach of Dauphin County. They are located in the balcony. Will the guests please rise.

BILLS REPORTED FROM COMMITTEES, CONSIDERED FIRST TIME, AND TABLED

HB 624, PN 2832 (Amended)

By Rep. CALTAGIRONE

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, further providing for prostitution.

JUDICIARY.

HB 1186, PN 1364

By Rep. CALTAGIRONE

An Act providing for the recognition and enforcement of money judgments obtained in another country.

JUDICIARY.

HB 1443, PN 2833 (Amended)

By Rep. CALTAGIRONE

An Act prohibiting the use of public or subsidized housing and subsidized mortgage assistance by persons convicted of felonies relating to controlled substances.

JUDICIARY.

HB 1699, PN 2066

By Rep. CALTAGIRONE

An Act amending the act of August 6, 1941 (P. L. 861, No. 323), referred to as the "Pennsylvania Board of Probation and Parole Law," further providing for the membership by the board.

JUDICIARY.

HB 1718, PN 2096

By Rep. CALTAGIRONE

An Act repealing the act of April 6, 1830 (P. L. 272, No. 157), entitled "An act for the levy and collection of taxes upon proceedings in courts, and in the offices of register and recorder, and for other purposes."

JUDICIARY.

HB 1963, PN 2834 (Amended)

By Rep. CALTAGIRONE

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for the disposition of a delinquent child, including driver's license suspension, for an offense involving a motor vehicle.

JUDICIARY.

HB 2054, PN 2697 By Rep. CALTAGIRONE

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for confidential communications to psychiatrists.

JUDICIARY.

HB 2080, PN 2743 By Rep. COWELL

An Act making a supplemental appropriation to the Pennsylvania Higher Education Assistance Agency for the Urban and Rural Teacher Loan Forgiveness Program.

EDUCATION.

SB 775, PN 1348 By Rep. CALTAGIRONE

An Act amending Title 20 (Decedents, Estates and Fiduciaries) of the Pennsylvania Consolidated Statutes, reducing the time for advertisement of accounts to two weeks; adding a section providing that documents submitted to the register of wills, except for probate, may be attested to by an affidavit or by a verified statement; broadening the class of property deemed disclaimed when a spouse takes an elective share; avoiding automatic modification of wills and inter vivos conveyances that are made in contemplation of a marriage or divorce; adding a rule of interpretation for wills and conveyances regarding corporate fiduciaries; confirming existing law that a gift to any unfunded trust is valid; adding a chapter relating to contracts concerning succession; *authorizing personal representatives to make certain temporary investments*; allowing fiduciaries to hold certain securities in book-entry form; further providing for notice to parties in interest; further providing for rights of claimants; authorizing the guardian of the estate of a minor to distribute certain income *without court approval*; adding the *Pennsylvania Uniform Transfers to Minors Act*; clarifying the jurisdiction of the court to appoint certain temporary guardians; authorizing the court to exercise all rights and privileges under certain contracts which provide for payments to an incompetent or others after the incompetent's death; *authorizing the court to modify the estate plan of an incompetent to reflect changes in applicable tax laws*; permitting certain powers of attorney to be executed by mark; ensuring the validity of durable powers of attorney; authorizing the court to allow a shorter period of notice to an absentee; providing that as a matter of law divorce revokes any revocable beneficiary designation made in favor of the former spouse; further providing for the annexation of accounts; further authorizing the court to divide trusts; further authorizing the court to grant declaratory relief with respect to certain interests in real property; and making technical changes.

JUDICIARY.

RESOLUTIONS REPORTED FROM COMMITTEE

HR 229, PN 2787 By Rep. O'DONNELL

Providing for the appointment of a select committee to study the need and availability of funding for domestic violence and rape crisis services in this Commonwealth.

RULES.

HR 232, PN 2828 (Concurrent)

By Rep. O'DONNELL

Memorializing the Congress of the United States to protect the environmental and economic interests of the people of Pennsylvania during consideration of acid rain legislation.

RULES.

BILL ON CONCURRENCE REPORTED
FROM RULES COMMITTEE**HB 650, PN 2686** By Rep. O'DONNELL

An Act amending Title 30 (Fish) of the Pennsylvania Consolidated Statutes, further providing for the powers and duties of the commission; changing the penalties for certain violations; further providing for the powers and duties of waterway patrolmen and deputies; providing for additional violations; providing new fees for lakes; providing for reports by emergency room personnel; providing for tagged fish contests on state boundary lakes; further providing for Class A lakes; and further providing penalties for the registration of powered watercraft.

RULES.

WELCOME

The SPEAKER pro tempore. The Chair would like to acknowledge the following guest pages today: Samantha Blair, Ann Laird, and Kari Temple, and their chaperon, Suzanne Laird. These girls are all students at the Conneaut Lake High School and have been sponsored by Representative Robbins. Will the pages please stand.

BILLS SIGNED BY SPEAKER PRO TEMPORE

The Chair gave notice that he was about to sign the following bills, which were then signed:

HB 709, PN 2157

An Act authorizing the filing of notices of Federal tax liens, certificates and other notices affecting Federal liens; making uniform the law relating thereto; and making a repeal.

SB 122, PN 1153

An Act amending the act of July 28, 1953 (P. L. 723, No. 230), *entitled, as amended, "Second Class County Code,"* further providing for certain annual assessments; providing for the standard of care and liability of retirement board members; further providing for payments into the fund, for the amount of retirement allowances, for eligibility for retirement allowances, for interest on contributions and for requirements for credit for previous service; and further providing for publication of the controller's report.

CALENDAR

BILLS ON SECOND CONSIDERATION

The House proceeded to second consideration of **HB 718, PN 799**, entitled:

An Act amending the act of February 1, 1974 (P. L. 34, No. 15), known as the "Pennsylvania Municipal Retirement Law," redefining the terms "municipal employe" and "retired member's reserve account"; further providing for qualifications for disability; further providing for purchase of military time; changing provisions relating to payout of contributions and excess investment moneys; and making technical changes.

On the question,
Will the House agree to the bill on second consideration?

BILL RECOMMENDED

The SPEAKER pro tempore. The Chair recognizes the majority leader.

Mr. O'DONNELL. Mr. Speaker, I move that HB 718, PN 799, be recommitted to the Appropriations Committee for a fiscal note.

On the question,
Will the House agree to the motion?
Motion was agreed to.

* * *

The House proceeded to second consideration of **HB 1173, PN 1351**, entitled:

An Act amending Title 68 (Real and Personal Property) of the Pennsylvania Consolidated Statutes, requiring municipalities to treat condominium owners the same as single-family dwelling owners for the purposes of collection, removal and disposal of refuse.

On the question,
Will the House agree to the bill on second consideration?

BILL RECOMMENDED

The SPEAKER pro tempore. The Chair recognizes the majority leader.

Mr. O'DONNELL. Mr. Speaker, I move that HB 1173, PN 1351, be recommitted to the Appropriations Committee for a fiscal note.

On the question,
Will the House agree to the motion?
Motion was agreed to.

* * *

The following bill, having been called up, was considered for the second time and agreed to, and ordered transcribed for third consideration:

HB 1199, PN 1377.

* * *

The House proceeded to second consideration of **HB 1659, PN 1987**, entitled:

An Act amending the act of August 9, 1955 (P. L. 323, No. 130), known as "The County Code," further providing for grants or appropriations to historical societies.

On the question,
Will the House agree to the bill on second consideration?

BILL RECOMMENDED

The SPEAKER pro tempore. The Chair recognizes the majority leader.

Mr. O'DONNELL. Mr. Speaker, I move that HB 1659, PN 1987, be recommitted to the Appropriations Committee for the purpose of a fiscal note.

On the question,
Will the House agree to the motion?
Motion was agreed to.

* * *

The following bills, having been called up, were considered for the second time and agreed to, and ordered transcribed for third consideration:

HB 1738, PN 2126; HB 1800, PN 2274; HB 1801, PN 2275; HB 1802, PN 2276; and SB 232, PN 1748.

BILLS ON THIRD CONSIDERATION

The SPEAKER pro tempore. HB 2125, PN 2791. Without objection, this bill will go over temporarily.

Mr. LETTERMAN. Mr. Speaker?

The SPEAKER pro tempore. The Chair recognizes the gentleman from Centre, Mr. Letterman. For what purpose does the gentleman rise?

Mr. LETTERMAN. Mr. Speaker, HB 2125, it is very important that this bill be passed in this House and sent to the Senate as soon as possible. I would like to run the bill now.

The SPEAKER pro tempore. The Chair would like to advise the gentleman that the bill will be run this afternoon.

Mr. LETTERMAN. I would like to run it this morning. It is very important.

Can we have a little break for a minute?

The SPEAKER pro tempore. Will the gentleman speak to the majority leader?

The House will stand at ease.

While the gentleman from Centre is having a sidebar with the majority leader, the Chair will continue the business of reviewing bills.

* * *

The House proceeded to third consideration of **HB 757, PN 1499**, entitled:

An Act providing for the regulation and licensing of mortgage bankers and mortgage brokers; imposing additional powers and duties on the Department of Banking; and providing penalties.

On the question,
Will the House agree to the bill on third consideration?

BILL RECOMMENDED

The SPEAKER pro tempore. The Chair recognizes the majority leader.

Mr. O'DONNELL. Mr. Speaker, I move that HB 757, PN 1499, be recommitted to the Business and Commerce Committee.

On the question,

Will the House agree to the motion?

Motion was agreed to.

* * *

The House proceeded to third consideration of **HB 1633, PN 2714**, entitled:

An Act amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, further providing for periodic review of support guidelines; providing for genetic tests in relation to paternity disputes; providing for mandatory attachment of income in orders of support; and providing for a periodic review of support orders.

On the question,

Will the House agree to the bill on third consideration?

Bill was agreed to.

The **SPEAKER** pro tempore. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

YEAS—196

Acosta	Donatucci	Lashinger	Richardson
Adolph	Dorr	Laughlin	Rieger
Allen	Durham	Lee	Ritter
Angstadt	Evans	Leh	Robbins
Argall	Fairchild	Lescovitz	Robinson
Barley	Fargo	Letterman	Roebuck
Battisto	Farmer	Levdansky	Rudy
Belardi	Fleagle	Linton	Ryan
Belfanti	Foster	Lloyd	Rybak
Billow	Fox	Lucyk	Saloom
Birmelin	Freeman	McCall	Saurman
Bishop	Freind	McHale	Scheetz
Black	Gallen	McNally	Schuler
Blaum	Gamble	McVerry	Scrimenti
Bortner	Gannon	Maiale	Semmel
Bowley	Geist	Maine	Serafini
Boyes	George	Markosek	Smith, B.
Brandt	Gigliotti	Marsico	Smith, S. H.
Bunt	Gladeck	Mayernik	Snyder, D. W.
Burd	Godshall	Melio	Snyder, G.
Burns	Gruitza	Merry	Staback
Bush	Gruppo	Michlovic	Stairs
Caltagirone	Hagarty	Micozzie	Steighner
Cappabianca	Haluska	Miller	Stish
Carlson	Harper	Moehlmann	Strittmatter
Carn	Hasay	Morris	Stuban
Cawley	Hayden	Mowery	Tangretti
Cessar	Hayes	Mrkonic	Taylor, E. Z.
Chadwick	Heckler	Murphy	Taylor, F.
Civera	Herman	Nahill	Taylor, J.
Clark, B. D.	Hershey	Nailor	Telek
Clark, D. F.	Hess	Noye	Thomas
Clark, J. H.	Howlett	O'Brien	Tigue
Clymer	Hughes	O'Donnell	Trello
Cohen	Itkin	Olasz	Trich
Colafella	Jackson	Oliver	Van Horne
Colaizzo	Jadlowiec	Perzel	Veon
Cole	James	Pesci	Vroon
Cornell	Jarolin	Petrarca	Wambach
Corrigan	Johnson	Petrone	Wass
Cowell	Josephs	Phillips	Weston
Coy	Kaiser	Piccola	Williams
DeWeese	Kasunic	Pistella	Wilson
Daley	Kenney	Pitts	Wogan
Davies	Kondrich	Pressmann	Wozniak
Dempsey	Kosinski	Preston	Wright, D. R.

Dietterick	Kukovich	Raymond	Wright, J. L.
Distler	LaGrotta	Reber	Wright, R. C.
Dombrowski	Langtry	Reinard	Yandrisevits

NAYS—0

NOT VOTING—0

EXCUSED—7

Broujos	Fee	Pievsky
DeLuca	Flick	
Dininni		Manderino, Speaker

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk present the same to the Senate for concurrence.

* * *

The House proceeded to third consideration of **HB 2125, PN 2791**, entitled:

An Act appropriating money from the Sunny Day Fund to the Department of Commerce for an economic development project in Clinton County.

On the question,

Will the House agree to the bill on third consideration?

Bill was agreed to.

The **SPEAKER** pro tempore. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

The Chair now recognizes the gentleman from Centre, Mr. Letterman.

Mr. LETTERMAN. Thank you, Mr. Speaker.

Mr. Speaker, I have a few short comments, and I have also submitted some comments for the record.

This is a Sunny Day bill for Piper Aircraft to relocate a wholly owned subsidiary called Piper North in Clinton County. It would authorize a \$10-million loan from the Sunny Day Fund appropriated to the Department of Commerce, which would be repaid over 15 years at a minimum 3 percent for the first \$8 million and 3 points over the prime rate for the remaining \$2 million. The Sunny Day funds would be used for machinery, equipment, and working conditions.

This project will affect more than the Lock Haven area. When Piper was bought out and moved to Florida in 1984, firms such as Textron Lycoming Williamsport were left out with one of their major clients. This bill will benefit a very large area of north-central Pennsylvania as well as the Commonwealth's economic stature in general.

I ask for an affirmative vote. Thank you.

REMARKS SUBMITTED FOR THE RECORD

Mr. LETTERMAN submitted the following remarks for the Legislative Journal:

In 1937, after a devastating fire at the Taylor Aircraft facility in Bradford, Pennsylvania, William T. Piper, Sr., purchased the company, production rights, and with a few key and dedicated employees, relocated to a closed silk mill in Lock Haven, Pennsylvania.

Within a few years, Mr. Piper resurrected his dream, like the phoenix arising from its ashes, to produce a quality aircraft at an affordable price for anyone wishing to learn to fly - the Piper Cub.

Over the next 30 years, Piper Aircraft grew and prospered, and with it, Lock Haven and Pennsylvania prospered, employing more than 2,000 people in Pennsylvania in four facilities in Clinton and Clearfield Counties, not to mention the thousands of jobs throughout Pennsylvania in secondary industries that supplied Piper Aircraft.

This Pennsylvania prosperity led even beyond the dreams of Mr. Piper to a world-recognized leader in the production of quality and dependable aircraft.

In the 1960's Mr. Piper, who was joined by his sons in running this constantly growing giant in the aviation industry, found himself in need of capital for further expansion. Piper Corporation issued public stock, which opened the door for an extended battle in the late 1960's for control of Piper Corporation by the Piper family and some of the first corporate raiders in Pennsylvania history.

A purported friendly takeover soon turned very unfriendly, ending with Mr. Piper and his sons slowly nudged out of all decisionmaking for Piper. Gradually, giant corporation after giant corporation purchased, used, and abused Piper Aircraft Corporation, sucking out its lifeblood equity and passing it down the ladder, while curtailing the production of aircraft and, in the opinion of many, the quality of the product itself.

All Pennsylvania facilities were closed in 1984 and consolidated in Florida by the corporate giant Lear Siegler. Economically devastated were the communities of Lock Haven, Renovo, and South Renovo in Clinton County and Quehanna in Clearfield County, not to mention all the support industries throughout Pennsylvania.

In 1987 M. Stuart Millar, like William T. Piper, staked his personal fortune and purchased outright Piper Aircraft Corporation. One of his first moves was to locate and rehire key Piper Aircraft staff who had left the company during the years of ownership by the corporate giants, and most importantly, the rehiring of Mr. John Piper, grandson of William T. Piper, from Beech Aircraft of the State of Kansas.

Together with William H. Piper, another grandson of William T. Piper and brother of John R. Piper, Gov. Robert P. Casey, his staff, Secretary of Commerce Raymond Christman, his staff, members of the Governor's Response Team, Senator J. Doyle Corman and his staff, officials of the Clinton County Industrial Development Corporation, key elected officials from Clinton County and the city of Lock Haven, myself and my staff, we have worked for 2 years on this project.

I personally feel that we have dotted every "i" and crossed every "t" to make this project a reality and to bring to Pennsylvania, and in particular Lock Haven, one of the best Christmas presents the people have ever received.

I respectfully request your support of HB 2125. Thank you.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Lycoming, Mr. Dempsey.

Mr. DEMPSEY. Thank you, Mr. Speaker.

Mr. Speaker, we in the House of Representatives and in the Department of Commerce are always welcoming new industries back into Pennsylvania. I think this is very important, that we are bringing back an industry that left Pennsylvania.

This industry goes back many, many years in the State of Pennsylvania, and I think we should be very happy to welcome back an industry that has provided employment for over 50 years in central Pennsylvania.

I ask both sides of the aisle to support this legislation.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,
Shall the bill pass finally?

The SPEAKER pro tempore. Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

YEAS—196

Acosta	Donatucci	Lashinger	Richardson
Adolph	Dorr	Laughlin	Rieger
Allen	Durham	Lee	Ritter
Angstadt	Evans	Leh	Robbins
Argall	Fairchild	Lescovitz	Robinson
Barley	Fargo	Letterman	Roebuck
Battisto	Farmer	Levdansky	Rudy
Belardi	Feagle	Linton	Ryan
Belfanti	Foster	Lloyd	Rybak
Billow	Fox	Lucyk	Saloom
Birmelin	Freeman	McCall	Saurman
Bishop	Freind	McHale	Scheetz
Black	Gallen	McNally	Schuler
Blaum	Gamble	McVerry	Scrimenti
Bortner	Gannon	Maiale	Semmel
Bowley	Geist	Maine	Serafini
Boyes	George	Markosek	Smith, B.
Brandt	Gigliotti	Marsico	Smith, S. H.
Bunt	Gladeck	Mayernik	Snyder, D. W.
Burd	Godshall	Melio	Snyder, G.
Burns	Gruitza	Merry	Staback
Bush	Gruppo	Michlovic	Stairs
Caltagirone	Hagarty	Micozzie	Steighner
Cappabianca	Haluska	Miller	Stish
Carlson	Harper	Moehlmann	Strittmatter
Carn	Hasay	Morris	Stuban
Cawley	Hayden	Mowery	Tangretti
Cessar	Hayes	Mrkonic	Taylor, E. Z.
Chadwick	Heckler	Murphy	Taylor, F.
Civera	Herman	Nahill	Taylor, J.
Clark, B. D.	Hershey	Nailor	Telek
Clark, D. F.	Hess	Noye	Thomas
Clark, J. H.	Howlett	O'Brien	Tigue
Clymer	Hughes	O'Donnell	Trello
Cohen	Itkin	Olasz	Trich
Colafella	Jackson	Oliver	Van Horne
Colaizzo	Jadlowiec	Perzel	Veon
Cole	James	Pesci	Vroon
Cornell	Jarolin	Petrarca	Wambach
Corrigan	Johnson	Petrone	Wass
Cowell	Josephs	Phillips	Weston
Coy	Kaiser	Piccola	Williams
DeWeese	Kasunic	Pistella	Wilson
Daley	Kenny	Pitts	Wogan
Davies	Kondrich	Pressmann	Wozniak
Dempsey	Kosinski	Preston	Wright, D. R.
Dieterick	Kukovich	Raymond	Wright, J. L.
Distler	LaGrotta	Reber	Wright, R. C.
Dombrowski	Langtry	Reinard	Yandrisevits

NAYS—0

NOT VOTING—0

EXCUSED—7

Broujos	Fee	Pievsky
DeLuca	Flick	
Dininni		Manderino, Speaker

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk present the same to the Senate for concurrence.

Mr. LETTERMAN. Mr. Speaker?

The SPEAKER pro tempore. The Chair recognizes the gentleman from Centre, Mr. Letterman. For what purpose does the gentleman rise?

Mr. LETTERMAN. I just want to say thank you.

The SPEAKER pro tempore. The Chair appreciates that remark from the gentleman.

* * *

The House proceeded to third consideration of **HB 1903**, **PN 2598**, entitled:

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for additional judges.

On the question,

Will the House agree to the bill on third consideration?

Mr. STRITTMATTER offered the following amendments No. A3908:

Amend Sec. 2, page 3, line 28, by inserting after "THE" where it appears the second time second and

Amend Sec. 2, page 3, line 29, by striking out "DISTRICT, ONE" and inserting districts, one each

Amend Sec. 2, page 3, line 30, by inserting after "ONE" each

On the question,

Will the House agree to the amendments?

The SPEAKER pro tempore. The Chair recognizes the gentleman from Lancaster, Mr. Strittmatter.

Mr. STRITTMATTER. Thank you, Mr. Speaker.

What A3908 will do will be to amend the bill to allow the two additional judges from Lancaster County, in that judicial district, to be elected one in the 1991 election and the other in the 1993 election, which is similar to the Seventh Judicial District which is presented in HB 1903.

I would ask for support. Thank you, Mr. Speaker.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—196

Acosta	Donatucci	Lashing	Richardson
Adolph	Dorr	Laughlin	Rieger
Allen	Durham	Lee	Ritter
Angstadt	Evans	Leh	Robbins
Argall	Fairchild	Lescovitz	Robinson
Barley	Fargo	Letterman	Roebuck
Battisto	Farmer	Levdansky	Rudy
Belardi	Fleagle	Linton	Ryan
Belfanti	Foster	Lloyd	Rybak
Billow	Fox	Lucyk	Saloom
Birmelin	Freeman	McCall	Saurman
Bishop	Freind	McHale	Scheetz
Black	Gallen	McNaily	Schuler

Blaum	Gamble	McVerry	Scrimenti
Bortner	Gannon	Maiale	Semmel
Bowley	Geist	Maine	Serafini
Boyes	George	Markosek	Smith, B.
Brandt	Gigliotti	Marsico	Smith, S. H.
Bunt	Gladeck	Mayernik	Snyder, D. W.
Burd	Godshall	Melio	Snyder, G.
Burns	Gruitza	Merry	Staback
Bush	Gruppo	Michlovic	Stairs
Caltagirone	Hagarty	Micozzie	Steighner
Cappabianca	Haluska	Miller	Stish
Carlson	Harper	Moehlmann	Strittmatter
Carn	Hasay	Morris	Stuban
Cawley	Hayden	Mowery	Tangretti
Cessar	Hayes	Mrkonc	Taylor, E. Z.
Chadwick	Heckler	Murphy	Taylor, F.
Civera	Herman	Nahill	Taylor, J.
Clark, B. D.	Hershey	Nailor	Telek
Clark, D. F.	Hess	Noye	Thomas
Clark, J. H.	Howlett	O'Brien	Tigue
Clymer	Hughes	O'Donnell	Trello
Cohen	Itkin	Olasz	Trich
Colafella	Jackson	Oliver	Van Horne
Colaizzo	Jadlowiec	Perzel	Veon
Cole	James	Pesci	Vroon
Cornell	Jarolin	Petrarca	Wambach
Corrigan	Johnson	Petrone	Wass
Cowell	Josephs	Phillips	Weston
Coy	Kaiser	Piccola	Williams
DeWeese	Kasunic	Pistella	Wilson
Daley	Kenney	Pitts	Wogan
Davies	Kondrich	Pressmann	Wozniak
Dempsey	Kosinski	Preston	Wright, D. R.
Dietterick	Kukovich	Raymond	Wright, J. L.
Distler	LaGrotta	Reber	Wright, R. C.
Dombrowski	Langtry	Reinard	Yandrisevits

NAYS—0

NOT VOTING—0

EXCUSED—7

Broujos	Fee	Pievsky
DeLuca	Flick	
Dininni		Manderino, Speaker

The question was determined in the affirmative, and the amendments were agreed to.

On the question,

Will the House agree to the bill on third consideration as amended?

Mr. D. F. CLARK offered the following amendments No. A3783:

Amend Bill, page 4, by inserting between lines 1 and 2 Section 3. The judge added to the 41st judicial district shall be elected in the municipal election occurring in 1991.

Amend Sec. 3, page 4, line 2, by striking out "3" and inserting

4

On the question,

Will the House agree to the amendments?

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman from Juniata, Mr. Clark.

Mr. D. F. CLARK. Thank you, Mr. Speaker.

This amendment is similar to the amendment that was just passed in that this amendment would provide that the judge added to the 41st Judicial District would be elected in the elections occurring in 1991.

I would appreciate the House's support for this amendment. Thank you.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Perry, Mr. Noye.

Mr. NOYE. Thank you, Mr. Speaker.

Mr. Speaker, I rise in support of the amendment. However, it is necessary for me to be able to put something on the record here, at this point in time, as it relates to the 41st Judicial District.

This bill sort of came ahead of schedule as far as the planning process was concerned for the 41st District, and we are not exactly convinced that another judge is entirely needed in that district at this point in time, and there is a great division among local elected officials on the issue. The question of another judge was in the process of being studied by the court system in the county, and the timetable on that plan was to culminate sometime next year. Obviously, this bill came up at a time when we were not prepared to give a definitive answer as to whether or not the 41st District really needed to be included, but rather than hold up the process later on, we are going to go ahead with it. However, we are going to reserve the right to, at a later time, between now and 1991, revoke. If that study proves that the additional judgeship is not necessary, we will pull back on that additional judge.

So, Mr. Speaker, we will proceed; we will support the amendment, but we do reserve the right later on to strike the action as it relates to the 41st District.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—194

Acosta	Donatucci	Laughlin	Rieger
Adolph	Dorr	Lee	Ritter
Allen	Durham	Leh	Robbins
Angstadt	Evans	Lescovitz	Robinson
Argall	Fairchild	Letterman	Roebuck
Barley	Fargo	Levdansky	Rudy
Battisto	Farmer	Linton	Ryan
Belardi	Fleagle	Lloyd	Rybak
Belfanti	Foster	Lucyk	Saloom
Billow	Fox	McCall	Saurman
Birmelin	Freeman	McHale	Scheetz
Bishop	Freind	McNally	Schuler
Black	Gallen	McVerry	Scrimenti
Blaum	Gamble	Maiale	Semmel
Bortner	Gannon	Maine	Serafini
Bowley	Geist	Markosek	Smith, B.
Boyes	George	Marsico	Smith, S. H.
Brandt	Gigliotti	Mayernik	Snyder, D. W.
Bunt	Gladeck	Melio	Snyder, G.
Burd	Godshall	Merry	Staback
Burns	Gruitza	Michlovic	Stairs
Bush	Gruppo	Micozzie	Steighner
Caltagirone	Hagarty	Miller	Stish
Cappabianca	Haluska	Moehlmann	Strittmatter
Carlson	Hasay	Morris	Stuban
Carn	Hayden	Mowery	Tangretti
Cawley	Hayes	Murphy	Taylor, E. Z.
Cessar	Heckler	Nahill	Taylor, F.
Chadwick	Herman	Nailor	Taylor, J.
Civera	Hershey	Noye	Telek
Clark, B. D.	Hess	O'Brien	Thomas

Clark, D. F.	Howlett	O'Donnell	Tigue
Clark, J. H.	Hughes	Olasz	Trello
Clymer	Itkin	Oliver	Trich
Cohen	Jackson	Perzel	Van Horne
Colafella	Jadlowiec	Pesci	Veon
Colaizzo	James	Petrarca	Vroon
Cole	Jarolin	Petrone	Wambach
Cornell	Johnson	Phillips	Wass
Corrigan	Josephs	Piccola	Weston
Cowell	Kaiser	Pistella	Williams
Coy	Kasunic	Pitts	Wilson
DeWeese	Kenney	Pressmann	Wogan
Daley	Kondrich	Preston	Wozniak
Davies	Kosinski	Raymond	Wright, D. R.
Dempsey	Kukovich	Reber	Wright, J. L.
Dietterick	LaGrotta	Reinard	Wright, R. C.
Distler	Langtry	Richardson	Yandrisevits
Dombrowski	Lashingier		

NAYS—1

Mrkonic

NOT VOTING—1

Harper

EXCUSED—7

Broujos	Fee	Pievsky
DeLuca	Flick	
Dininni		Manderino, Speaker

The question was determined in the affirmative, and the amendments were agreed to.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Mr. BORTNER offered the following amendment No. A3295:

Amend Sec. 1 (Sec. 911), page 2, line 15, by striking out "8" and inserting

9

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman from York, Mr. Bortner.

Mr. BORTNER. Thank you, Mr. Speaker.

Mr. Speaker, this amendment would amend the current provisions of HB 1903 to give York County two additional judges instead of one, as it appears in the bill. I am introducing this amendment along with Representative Dorr at the request of my common pleas court, the president judge of my common pleas court, and with the agreement or without any objection from the county commissioners from my county.

I have a whole file full of information here which I am not going to go into unless somebody would like to ask me some questions but which if you analyze based on population, criminal caseload, civil caseload, family courtload, York County should be in a category of having the two additional judges. I might point out that several of the other counties already in the bill - including Lancaster, Berks, and, I believe, Bucks - are also increasing their judicial complement by two judges.

I would ask the support of all members of the House. Thank you.

On the question recurring,
Will the House agree to the amendment?

The following roll call was recorded:

YEAS—193

Adolph	Dorr	Lashinger	Richardson
Allen	Durham	Laughlin	Rieger
Angstadt	Evans	Lee	Ritter
Argall	Fairchild	Leh	Robbins
Barley	Fargo	Lescovitz	Robinson
Battisto	Farmer	Letterman	Roebuck
Belardi	Fleagle	Levdansky	Rudy
Belfanti	Foster	Linton	Ryan
Billow	Fox	Lloyd	Rybak
Birmelin	Freeman	Lucyk	Saloom
Bishop	Freind	McCall	Saurman
Black	Gallen	McHale	Scheetz
Blaum	Gamble	McNally	Schuler
Bortner	Gannon	McVerry	Scrimenti
Bowley	Geist	Maiale	Semmel
Boyes	George	Maine	Serafini
Brandt	Gigliotti	Markosek	Smith, B.
Bunt	Gladeck	Marsico	Smith, S. H.
Burd	Godshall	Mayernik	Snyder, D. W.
Burns	Gruitza	Melio	Snyder, G.
Bush	Gruppo	Merry	Staback
Caltagirone	Hagarty	Michlovic	Stairs
Cappabianca	Haluska	Micozzie	Steighner
Carlson	Harper	Miller	Stish
Carn	Hasay	Moehlmann	Strittmatter
Cawley	Hayden	Morris	Stuban
Cessar	Hayes	Mowery	Tangretti
Chadwick	Heckler	Murphy	Taylor, E. Z.
Civera	Herman	Nahill	Taylor, F.
Clark, B. D.	Hershey	Nailor	Taylor, J.
Clark, D. F.	Hess	Noye	Telek
Clark, J. H.	Howlett	O'Brien	Thomas
Clymer	Hughes	O'Donnell	Tigue
Cohen	Itkin	Olasz	Trello
Colaifella	Jackson	Oliver	Trich
Colaizzo	Jadlowiec	Perzel	Van Horne
Cole	James	Pesci	Veon
Cornell	Jarolin	Petrarca	Vroon
Corrigan	Johnson	Petrone	Wambach
Cowell	Josephs	Phillips	Wass
Coy	Kaiser	Piccola	Weston
DeWeese	Kasunic	Pistella	Williams
Daley	Kenney	Pitts	Wilson
Davies	Kondrich	Pressmann	Wogan
Dempsey	Kosinski	Preston	Wright, D. R.
Dietterick	Kukovich	Raymond	Wright, J. I.
Distler	LaGrotta	Reber	Wright, R. C.
Dombrowski	Langtry	Reinard	Yandrisevits
Donatucci			

NAYS—1

Wozniak

NOT VOTING—2

Acosta Mrkonic

EXCUSED—7

Broujos	Fee	Pievsky
DeLuca	Flick	
Dininni		Manderino, Speaker

The question was determined in the affirmative, and the amendment was agreed to.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Bill as amended was agreed to.

The SPEAKER pro tempore. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

The Chair recognizes the gentleman from Cambria, Mr. Wozniak.

Mr. WOZNIAK. Thank you, Mr. Speaker.

May I interrogate one of the makers of the bill? I see that Representative Manderino is not here; maybe Representative Kukovich will speak.

The SPEAKER pro tempore. The gentleman, Mr. Kukovich, agrees to be interrogated, and the gentleman from Cambria may proceed.

Mr. WOZNIAK. Thank you, Mr. Speaker.

Mr. Speaker, could you tell me what counties are affected by this bill?

Mr. KUKOVICH. Mr. Speaker, I cannot respond to that, because the bill lists the judicial district numbers and it does not have the counties. If you want to check in the analysis, it should be there, all right?

Mr. WOZNIAK. It is okay. I have it through the bill analysis.

The other question I have, Mr. Speaker, is, do we have a fiscal note on this piece of legislation?

Mr. KUKOVICH. Mr. Speaker, there was a fiscal note attached. I believe that is indicated on the calendar.

Mr. WOZNIAK. If anybody has it in front of them, I would just like to know that for the record. If we do not have— Okay; we are finding it? While we are looking for that, I just want to make a statement.

I rise to oppose this particular legislation. Right now we are over a court battle in deciding as to who pays for the additional employees or the employees of our court system, the county or the State. We have not figured that out yet, and I understand that it is the State that eventually is going to have to pick up the tabs on that. Already that is an incredible price as it stands right now.

I do not think we should be urging a direction to expanding our common pleas system until we decide if and how we are going to fund the present number of judges and their employees that exist in Pennsylvania today. Although perhaps these counties legitimately need additional judges, it has been my experience that the last time we had an increase in the judges in Pennsylvania, it was a haphazard way. It was almost a "Would you like another judge in your county? Sure, why not." I have got a grave concern that we are embellishing the court system, and I think that right now is not a time when we should be spending more tax dollars from the State in this effort and hopefully maybe getting a little more economy at scale with the judges we have in existence today. We also have a large number of senior judges, those that are retired, whose years of experience can be utilized in these efforts and probably in a more cost-containing way.

With that, if they have the information as to how much this ticket is, I would just like to know, but I want to make it clear that I would urge opposition to this particular legislation for the arguments I have just explained.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair now recognizes the gentleman—

Mr. WOZNIAK. Now wait. Mr. Speaker, I still want to know the overall dollar bill of what this particular piece of legislation will cost the State.

Mr. KUKOVICH. Mr. Speaker?

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. Kukovich.

Mr. KUKOVICH. I am still waiting for the fiscal note. Apparently it was circulated some time ago. I have a copy now, but for Representative Wozniak's information, basically the system of paying for common pleas judges is mixed between the State and county. Generally, the State pays roughly \$70,000 per judge. How much the county pays differs from county to county based on how much they budget in their individual county budgets.

Mr. WOZNIAK. That, Mr. Speaker, I understand, but now the State is going to have to be paying the total cost of the court system.

Mr. KUKOVICH. In the fiscal note, which I just received, for the fiscal year 1990-91, the total State cost would be \$728,000.

Mr. WOZNIAK. Thank you, Mr. Speaker.

I just wanted to know the cost to the State, and once again I say that that is the cost possibly for 1990-91, but we are still in a situation where eventually the State is going to be picking up the tab for the entire court administration - the employees and everybody - and I think this is going to be a very large burden on the State. This is an additional 16 or 17 judges now. With Representative Bortner's amendment it is going to make it even more difficult. I do not think now is the time to be making that decision. Thank you very much.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair now recognizes the gentleman from Berks, Mr. Davies, on the amendment.

Mr. DAVIES. Thank you, Mr. Speaker.

Will the same gentleman stand for interrogation?

The SPEAKER pro tempore. The gentleman, Mr. Kukovich, agrees to be interrogated by the gentleman from Berks. The gentleman from Berks is in order and may proceed.

Mr. DAVIES. Mr. Speaker, at any time in your deliberations on the matter of judges, have you talked about or in any way thought about establishing an exact vacation time or some sort of schedule of that nature for the judges in our common pleas courts?

Mr. KUKOVICH. I am sorry, Mr. Speaker. I could hear almost none of that question.

Mr. DAVIES. In your deliberations as a committee, at any particular time have you either broached the subject or in any

way treated the subject of vacation time for judges, an established vacation time for judges, in the common pleas courts?

Mr. KUKOVICH. Mr. Speaker, to the best of my knowledge, the subject of vacation time has not been addressed.

Mr. DAVIES. Thank you, Mr. Speaker.

I would like to comment on the bill.

The SPEAKER pro tempore. The gentleman is in order and may proceed.

Mr. DAVIES. Mr. Speaker, while I support the addition of another judge for the 23d Judicial District, which is Berks County, I am having a difficult time in struggling for a second judge for our district court or our county. We currently have a judge who is exceeding the unwritten vacation time that other judges of our common pleas court have established by custom. Since this is not a law and the court rules do not speak to this in its regulations, I have a difficult time supporting that second judge.

For that reason alone, I cannot support this legislation. Until the courts resolve this issue in some meaningful manner, I cannot vote for the second judge in our county. I do not ignore the backlog of cases or the heavy caseload that all of the other judges of our courts in Berks County are now working under, but until this issue is resolved, I cannot in good conscience support this legislation. Thank you, Mr. Speaker.

On the question recurring,

Shall the bill pass finally?

The SPEAKER pro tempore. Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

YEAS—175

Adolph	Durham	Lashinger	Rieger
Allen	Evans	Laughlin	Ritter
Argall	Fairchild	Leh	Robbins
Barley	Fargo	Lescovitz	Robinson
Battisto	Farmer	Letterman	Roebuck
Belardi	Fleagle	Levdansky	Rudy
Belfanti	Foster	Linton	Ryan
Billow	Fox	Lloyd	Rybak
Birmelin	Freeman	Lucyk	Saloom
Bishop	Freind	McCall	Saurman
Black	Gallen	McHale	Scheetz
Blaum	Gamble	McNally	Schuler
Bortner	Gannon	McVerry	Semmel
Bowley	Geist	Maiale	Serafini
Brandt	Gigliotti	Maine	Smith, B.
Bunt	Gladeck	Markosek	Smith, S. H.
Burd	Godshall	Marsico	Snyder, D. W.
Bush	Gruitza	Mayernik	Snyder, G.
Caltagirone	Gruppo	Melio	Staback
Cappabianca	Hagarty	Michlovic	Stairs
Carlson	Harper	Micozzie	Steighner
Carn	Hayden	Miller	Stish
Cessar	Hayes	Moehlmann	Strittmatter
Chadwick	Heckler	Morris	Suban
Civera	Herman	Murphy	Tangretti
Clark, B. D.	Hershey	Nahill	Taylor, E. Z.
Clark, D. F.	Hess	Nailor	Taylor, F.
Clark, J. H.	Howlett	O'Brien	Taylor, J.
Cohen	Hughes	O'Donnell	Telek
Colafella	Itkin	Olasz	Thomas
Colaizzo	Jackson	Oliver	Trello
Cole	Jadlowiec	Perzel	Trich
Cornell	James	Pesci	Van Horne
Corrigan	Jarolin	Petrarca	Veon
Cowell	Johnson	Petrone	Vroon

Coy	Josephs	Phillips	Wambach
DeWeese	Kaiser	Piccola	Wass
Daley	Kasunic	Pistella	Weston
Dempsey	Kenney	Pitts	Williams
Dietterick	Kondrich	Pressmann	Wogan
Distler	Kosinski	Preston	Wright, D. R.
Dombrowski	Kukovich	Raymond	Wright, R. C.
Donatucci	LaGrotta	Reber	Yandrisevits
Dorr	Langtry	Richardson	

NAYS—20

Angstadt	Davies	Merry	Scrimenti
Boyes	George	Mowery	Tigue
Burns	Haluska	Mrkonc	Wilson
Cawley	Hasay	Noye	Wozniak
Clymer	Lee	Reinard	Wright, J. L.

NOT VOTING—1

Acosta

EXCUSED—7

Broujos	Fee	Pievsky
DeLuca	Flick	
Dininni		Manderino, Speaker

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk present the same to the Senate for concurrence.

WELCOMES

The SPEAKER pro tempore. The Chair at this time wishes to welcome Matthew Lewandowski; his wife, Lee; and their son, Matthew, who is serving as a page. They are from Philadelphia, and they are the guests of Representative Kosinski. Will they please rise. They are to the left of the Speaker.

The Chair at this time would also like to welcome, from the Elk County area, C.A.S.E. - Citizens Action for a Safe Environment. They are the guests of Representative Jim Distler, and they are in the gallery above the House chamber. Would they please rise and be recognized.

ANNOUNCEMENT BY MR. LASHINGER

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Montgomery, Mr. Lashinger, for the purpose of an announcement.

Mr. LASHINGER. Thank you, Mr. Speaker.

Mr. Speaker, just an amendment to that announcement yesterday on the housing package. A number of members are still seeking to add their names to that package. The bills are laid out on the table here, and they will be introduced after we return from lunch this afternoon. That is the affordable and available housing package that was announced yesterday. Mr. Speaker, thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

BILL REREPORTED FROM COMMITTEE

SB 31, PN 1771 (Amended)

By Rep. F. TAYLOR

An Act providing for the regulation and licensing of mortgage bankers and mortgage brokers; imposing additional powers and duties on the Department of Banking and the State Real Estate Commission; and providing penalties.

BUSINESS AND COMMERCE.

BILLS REPORTED FROM COMMITTEES, CONSIDERED FIRST TIME, AND TABLED

HB 1536, PN 1797

By Rep. HARPER

An Act amending the act of July 28, 1953 (P. L. 723, No. 230), known as the "Second Class County Code," further providing for fees for copying certain public records.

URBAN AFFAIRS.

HB 1537, PN 1798

By Rep. HARPER

An Act amending the act of July 28, 1953 (P. L. 723, No. 230), known as the "Second Class County Code," further providing for grave markers.

URBAN AFFAIRS.

HB 1560, PN 1821

By Rep. HARPER

An Act amending the act of July 28, 1953 (P. L. 723, No. 230), known as the "Second Class County Code," further providing for contracts in emergency situations and an easement provision for aviation in a condemnation proceeding.

URBAN AFFAIRS.

HB 1932, PN 2835 (Amended)

By Rep. HARPER

An Act amending the act of April 9, 1929 (P. L. 177, No. 175), known as "The Administrative Code of 1929," establishing the Affordable Housing Trust Fund; establishing the Pennsylvania Housing Council and the Affordable Housing Trust Fund Board and providing for their powers and duties; providing for a ballot question; providing for a Pennsylvania Housing Equity Pool; and renaming the Department of Community Affairs.

URBAN AFFAIRS.

SB 454, PN 1772 (Amended)

By Rep. COWELL

An Act requiring school directors to prohibit the use of steroids by pupils involved in athletics; requiring education regarding the use of anabolic steroids; requiring penalties for unauthorized use of anabolic steroids; and providing for dispensing anabolic steroids and for prescriptions for anabolic steroids.

EDUCATION.

SB 548, PN 1159

By Rep. F. TAYLOR

An Act amending the act of September 20, 1961 (P. L. 1548, No. 658), entitled "Credit Union Act," adding definitions; further providing for investments and for structure, ownership and management of credit unions; further providing for merger and for regulation by the department; further providing for the business of credit unions; and providing for out-of-State credit unions.

BUSINESS AND COMMERCE.

SB 1201, PN 1773 (Amended)

By Rep. COWELL

An Act amending the act of March 10, 1949 (P. L. 30, No. 14), entitled "Public School Code of 1949," further providing for courses of instruction relating to alcohol and chemical abuse; and providing for in-service training for teachers in the field of substance abuse.

EDUCATION.

BILLS REMOVED FROM TABLE

The SPEAKER pro tempore. The Chair recognizes the majority leader.

Mr. O'DONNELL. Mr. Speaker, I move that SB 454 and SB 1201 be taken from the tabled-bill calendar.

On the question,

Will the House agree to the motion?

Motion was agreed to.

BILLS RECOMMENDED

The SPEAKER pro tempore. The Chair recognizes the majority leader.

Mr. O'DONNELL. Mr. Speaker, I move that SB 454 and SB 1201 be recommitted to the Appropriations Committee for fiscal notes.

On the question,

Will the House agree to the motion?

Motion was agreed to.

APPROPRIATIONS COMMITTEE MEETING

The SPEAKER pro tempore. The Chair recognizes the gentleman from Erie, Mr. Cappabianca.

Mr. CAPPABIANCA. Thank you, Mr. Speaker.

The purpose is to call a meeting of the Appropriations Committee at the rear of the chamber on the call of recess; immediately upon the call of recess, a meeting of the Appropriations Committee.

The SPEAKER pro tempore. The Chair wishes to reiterate, there will be a meeting of the Appropriations Committee at the rear of the chamber upon the declaration of the recess.

RECESS

The SPEAKER pro tempore. Without objection, the Chair will now call a recess of the House till 1 p.m. The House is now in recess.

AFTER RECESS

The time of recess having expired, the House was called to order.

BILLS REREPORTED FROM COMMITTEE**HB 855, PN 2596**

By Rep. CAPPABIANCA

An Act amending the act of April 14, 1972 (P. L. 233, No. 64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," classifying anabolic steroids as a Schedule II controlled substance.

APPROPRIATIONS.

HB 1810, PN 2844 (Amended)

By Rep. CAPPABIANCA

An Act amending the act of March 10, 1949 (P. L. 30, No. 14), known as the "Public School Code of 1949," requiring instruction relating to the cause and prevention of alcohol, chemical and tobacco abuse; providing for in-service training programs; and requiring in-service training for teachers in the field of substance abuse.

APPROPRIATIONS.

SB 123, PN 1756

By Rep. CAPPABIANCA

An Act amending the act of April 14, 1972 (P. L. 233, No. 64), entitled "The Controlled Substance, Drug, Device and Cosmetic Act," further providing for schedules of controlled substances; adding an offense; and providing a penalty.

APPROPRIATIONS.

SB 355, PN 1362

By Rep. CAPPABIANCA

An Act amending the act of April 14, 1972 (P. L. 233, No. 64), entitled "The Controlled Substance, Drug, Device and Cosmetic Act," providing that a conviction for any violation involving possession or delivery of a controlled substance will result in a mandatory driver's license suspension.

APPROPRIATIONS.

SB 454, PN 1772

By Rep. CAPPABIANCA

An Act requiring school directors to prohibit the use of steroids by pupils involved in athletics; requiring education regarding the use of anabolic steroids; requiring penalties for unauthorized use of anabolic steroids; and providing for dispensing anabolic steroids and for prescriptions for anabolic steroids.

APPROPRIATIONS.

SB 498, PN 1759

By Rep. CAPPABIANCA

An Act amending Title 75 (Vehicles) of the Pennsylvania Consolidated Statutes, providing for commercial drivers; further providing for buses, for exemptions from licensing, for classes of licenses, for school bus drivers, for issuance and content of driver's license, for revocation or suspension of operating privilege, for schedule of convictions and points, for surrender of license, for chemical testing to determine amount of alcohol or controlled substance, for judicial review, for violations concerning licenses, for driving under foreign license during suspension or revocation; authorizing dealers of motor carrier vehicles and designated agents of the Department of Transportation to be agents for the Department of Revenue for certain purposes relating to the motor carrier road tax identification marker; further providing for penalties for operation of certain vehicles without required identification markers, for reckless driving, for driving under the influence of alcohol or controlled substance, for enforcement agreements and for reports by courts; and providing for careless driving.

APPROPRIATIONS.

SB 617, PN 659 By Rep. CAPPABIANCA

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for participation of parent, guardian or other custodian in treatment program.

APPROPRIATIONS.

SB 618, PN 660 By Rep. CAPPABIANCA

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for a cause of action by parent, guardian or other custodian of a child to whom controlled substances have been sold or transferred.

APPROPRIATIONS.

SB 620, PN 1232 By Rep. CAPPABIANCA

An Act amending the act of August 6, 1941 (P. L. 861, No. 323), entitled, as amended, "Pennsylvania Board of Probation and Parole Law," further providing for the power to parole; and making a repeal.

APPROPRIATIONS.

SB 625, PN 1312 By Rep. CAPPABIANCA

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, providing for reporting of persons convicted of drug offenses to the Department of Revenue.

APPROPRIATIONS.

SB 938, PN 1757 By Rep. CAPPABIANCA

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, providing for aggravated assault on certain public officials and persons employed to assist or assisting said officials in the performance of duties.

APPROPRIATIONS.

SB 940, PN 1758 By Rep. CAPPABIANCA

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for law enforcement records; and further providing for the sentencing procedure for first degree murder.

APPROPRIATIONS.

SB 948, PN 1078 By Rep. CAPPABIANCA

An Act amending Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for Statewide municipal police jurisdictions.

APPROPRIATIONS.

SB 950, PN 1570 By Rep. CAPPABIANCA

An Act amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, providing for the forfeiture of property and interests of persons convicted of involvement with corrupt organizations; and making a repeal.

APPROPRIATIONS.

SB 1055, PN 1400 By Rep. CAPPABIANCA

An Act amending Title 35 (Health and Safety) of the Pennsylvania Consolidated Statutes, requiring the Pennsylvania Emergency Management Agency to establish a radiological emergency response planning and preparedness program; and providing for the funding of the program.

APPROPRIATIONS.

SB 1201, PN 1773 By Rep. CAPPABIANCA

An Act amending the act of March 10, 1949 (P. L. 30, No. 14), entitled "Public School Code of 1949," further providing for courses of instruction relating to alcohol and chemical abuse; and providing for in-service training for teachers in the field of substance abuse.

APPROPRIATIONS.

BILLS ON SECOND CONSIDERATION

The following bills, having been called up, were considered for the second time and agreed to, and ordered transcribed for third consideration:

HB 855, PN 2596; HB 1810, PN 2844; SB 123, PN 1756; SB 355, PN 1362; SB 498, PN 1759; SB 617, PN 659; SB 618, PN 660; SB 620, PN 1232; SB 625, PN 1312; SB 938, PN 1757; SB 940, PN 1758; SB 948, PN 1078; SB 950, PN 1570; and SB 1055, PN 1400.

CALENDAR CONTINUED

BILLS ON THIRD CONSIDERATION

The House proceeded to third consideration of **HB 1058, PN 1206**, entitled:

An Act amending Title 24 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for the competency of witnesses.

On the question,
Will the House agree to the bill on third consideration?
Bill was agreed to.

The **SPEAKER** pro tempore. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?
Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

YEAS—194

Acosta	Dorr	Laughlin	Rieger
Adolph	Durham	Lee	Ritter
Allen	Evans	Leh	Robbins
Angstadt	Fairchild	Lescovitz	Robinson
Argall	Fargo	Letterman	Roebuck
Barley	Farmer	Levdansky	Rudy
Battisto	Fleagle	Linton	Ryan
Belardi	Foster	Lloyd	Rybak
Belfanti	Fox	Lucyk	Saloom
Birmelin	Freeman	McCall	Saurman
Bishop	Freind	McHale	Scheetz
Black	Gallen	McNally	Schuler
Blaum	Gamble	McVerry	Scrimenti
Bortner	Gannon	Maiale	Semmel
Bowley	Geist	Maine	Serafini
Boyes	George	Markosek	Smith, B.
Brandt	Gigliotti	Marsico	Smith, S. H.
Bunt	Gladeck	Mayernik	Snyder, D. W.
Burd	Godshall	Melio	Snyder, G.
Burns	Gruitza	Merry	Staback
Bush	Gruppo	Michlovic	Stairs
Caltagirone	Hagarty	Micozzie	Steighner
Cappabianca	Haluska	Miller	Stish

Carlson	Harper	Moehlmann	Strittmatter
Carn	Hasay	Morris	Stuban
Cawley	Hayden	Mowery	Tangretti
Cessar	Hayes	Mrkonic	Taylor, E. Z.
Chadwick	Heckler	Murphy	Taylor, F.
Civera	Herman	Nahill	Taylor, J.
Clark, B. D.	Hershey	Nailor	Telek
Clark, D. F.	Hess	Noye	Thomas
Clark, J. H.	Howlett	O'Brien	Tigue
Clymer	Hughes	O'Donnell	Trello
Cohen	Itkin	Olasz	Trich
Colaifella	Jackson	Oliver	Van Horne
Colaizzo	Jadlowiec	Perzel	Veon
Cole	James	Pesci	Vroon
Cornell	Jarolin	Petrarca	Wambach
Corrigan	Johnson	Petrone	Wass
Cowell	Josephs	Phillips	Weston
Coy	Kaiser	Piccola	Williams
DeWeese	Kasunic	Pistella	Wilson
Daley	Kenney	Pitts	Wogan
Davies	Kondrich	Preston	Wozniak
Dempsey	Kosinski	Raymond	Wright, D. R.
Dietterick	Kukovich	Reber	Wright, J. L.
Distler	LaGrotta	Reinard	Wright, R. C.
Dombrowski	Langtry	Richardson	Yandrisevits
Donatucci	Lashingier		

NAYS—1

Pressmann

NOT VOTING—1

Billow

EXCUSED—7

Broujos	Fee	Pievsky
DeLuca	Flick	
Diminni		Manderino, Speaker

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk present the same to the Senate for concurrence.

* * *

The House proceeded to third consideration of **HB 1781, PN 2709**, entitled:

An Act amending Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes, further providing for custody and visitation in certain cases.

On the question,
Will the House agree to the bill on third consideration?
Bill was agreed to.

The SPEAKER pro tempore. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

REMARKS SUBMITTED FOR THE RECORD

Mr. DALEY submitted the following remarks for the Legislative Journal:

HB 1781 amends the State's custody laws to help prevent children from being subjected to abuse in custody and visitation arrangements. Most of us assume that certain protections or safeguards already exist in the law. Unfortunately, they do not.

We assume that most courts would give paramount consideration to the needs of the child, with the child's safety being a basic need. However, it appears that the power, rights, and control of parents over their children sometimes conflict with the protection and safety of the children.

The legislation that we are considering today would give the courts discretion in making custody decisions but would require the courts to consider each parent and adult household member's present and past violent or abusive conduct in making an order for custody or visitation.

In cases where a parent has been convicted of a serious crime that could endanger the child's welfare, the court must appoint and take testimony from a qualified professional concerning the provision of counseling. In these cases, the court would also have to determine that the parent no longer poses a threat of harm to the child before issuing a custody or visitation order. The court is empowered to require subsequent, periodic counseling and reports on the rehabilitation of the parent and well-being of the child.

Testimony from the committee's hearing on the bill, correspondence from my own constituents, and recent court cases all point to the need for this legislation. Some case examples illustrate the problem:

- A physician and her husband, who is also an M.D., get divorced after 13 years of marriage and three children. The main reason for the divorce was the husband's verbal and physical abuse of the wife and children. Battering by the father of the children continued during visitation, when the mother had full custody. The violence and threats to the children increased. The court continued to grant him visitation even though the children were physically abused by him. He threatened to kill the children. The current custody order, after all this violence and abuse, has suspended the visitation for the two daughters. The physician who testified before the committee pleaded with the members to protect children and said, "I don't want my children to grow up to be abusive, disturbed adults."
- In another case, a mother panicked when she found that her ex-husband, who was convicted of raping their two daughters and had served a prison sentence for the crimes, had been granted visitation and was now requesting sleep-over privileges. Nothing in the law provided any reassurance to the mother that the judge would consider this dangerous.
- In a third case, a judge permitted a mother to retain custody of her 6-year-old son even though she had decided to resume living with her boyfriend who had murdered the boy's father. The boy was ordered to remain with his mother rather than uncle. No counseling was arranged for the boy, mother, or the murderer, who had been found guilty by reason of insanity and released after 90 days in a State mental hospital. Relatives had indicated that the son wants to kill this man.

These are examples of how the welfare of children too often becomes a secondary rather than primary consideration.

HB 1781 represents an effort to ensure basic protection for children. In drafting this legislation, I took into account testimony received by the committee from a broad cross section of groups representing victims of domestic violence, fathers' rights, legal services, and advocates for children.

On the question recurring,
Shall the bill pass finally?

The SPEAKER pro tempore. Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

YEAS—195

Acosta	Donatucci	Lashinger	Richardson
Adolph	Dorr	Laughlin	Rieger
Allen	Durham	Lee	Ritter
Angstadt	Evans	Leh	Robbins
Argall	Fairchild	Lescovitz	Robinson
Barley	Fargo	Letterman	Roebuck
Battisto	Farmer	Levdansky	Rudy
Belardi	Fleagle	Linton	Ryan
Belfanti	Foster	Lloyd	Rybak
Billow	Fox	Lucyk	Saloom
Birmelin	Freeman	McCall	Saurman
Bishop	Freind	McHale	Scheetz
Black	Gallen	McNally	Schuler
Blaum	Gamble	McVerry	Scrimenti
Bortner	Gannon	Maiale	Semmel
Bowley	Geist	Maine	Serafini
Boyes	George	Markosek	Smith, B.
Brandt	Gigliotti	Marsico	Smith, S. H.
Bunt	Gladeck	Mayernik	Snyder, D. W.
Burd	Godshall	Melio	Snyder, G.
Burns	Gruitza	Merry	Staback
Bush	Gruppo	Michlovic	Stairs
Caltagirone	Hagarty	Micozzie	Steighner
Cappabianca	Haluska	Miller	Stish
Carlson	Harper	Mochlmann	Strittmatter
Carn	Hasay	Morris	Suban
Cawley	Hayden	Mowery	Tangretti
Cessar	Hayes	Mrkonic	Taylor, E. Z.
Chadwick	Heckler	Murphy	Taylor, F.
Civera	Herman	Nahill	Telek
Clark, B. D.	Hershey	Nailor	Thomas
Clark, D. F.	Hess	Noye	Tigue
Clark, J. H.	Howlett	O'Brien	Trello
Clymer	Hughes	O'Donnell	Trich
Cohen	Itkin	Olasz	Van Horne
Colafrilla	Jackson	Oliver	Veon
Colaizzo	Jadlowiec	Perzel	Vroon
Cole	James	Pesci	Wambach
Cornell	Jarolin	Petrarca	Wass
Corrigan	Johnson	Petrone	Weston
Cowell	Josephs	Phillips	Williams
Coy	Kaiser	Piccola	Wilson
DeWeese	Kasunic	Pistella	Wogan
Daley	Kenney	Pitts	Wozniak
Davies	Kondrich	Pressmann	Wright, D. R.
Dempsey	Kosinski	Preston	Wright, J. L.
Dietterick	Kukovich	Raymond	Wright, R. C.
Distler	LaGrotta	Reber	Yandrisevits
Dombrowski	Langtry	Reinard	

NAYS—0

NOT VOTING—1

Taylor, J.

EXCUSED—7

Broujos	Fee	Pievsky
DeLuca	Flick	
Dininni		Manderino, Speaker

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk present the same to the Senate for concurrence.

REPORT OF COMMITTEE
OF CONFERENCE CONSIDERED

Mr. BATTISTO called up for consideration the following Report of the Committee of Conference on **HB 53, PN 2790**, entitled:

An Act authorizing and directing the Department of General Services, with the approval of the Governor and the Chancellor of the State System of Higher Education, to convey to Pocono Medical Center a certain tract of land situate in the Borough of East Stroudsburg, Monroe County, in exchange for a certain monetary consideration and a certain tract of land; and authorizing the Department of General Services, with the approval of the Department of Environmental Resources, to supplement and amend a lease between the Commonwealth and the City of Philadelphia, authorized pursuant to the act of December 9, 1980 (P. L. 1133, No. 201), subject to certain conditions, in the fifth ward of the City of Philadelphia.

On the question,
Will the House adopt the report of the committee of conference?

The SPEAKER pro tempore. The Chair recognizes the gentleman from Monroe, Mr. Battisto.

Mr. BATTISTO. Thank you, Mr. Speaker.
Mr. Speaker, I move that this House adopt the Conference Committee Report on HB 53.

The conferees made one change, Mr. Speaker. We made a change in the section of the bill dealing with a lease that was entered into between the Commonwealth and the city of Philadelphia in 1980. This amendment that the Senate put in extended that lease for 99 more years, and in that section there is language dealing with the fact that the city of Philadelphia is allowed to enter into a sublease with private entities for the purpose of developing the land. What we did is we changed the percentage that the State would receive with respect to any moneys derived from a sublease. The original lease provided for 75 percent for the Commonwealth, 25 percent for the city of Philadelphia. When the Senate put the extension in, they changed it to 50-50. What the conferees did was simply restore the original language. The original language says that the Commonwealth would receive 75 percent of the moneys and the city of Philadelphia 25 percent.

Therefore, I move that we adopt the Conference Committee Report on HB 53.

On the question recurring,
Will the House adopt the report of the committee of conference?

The SPEAKER pro tempore. Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

YEAS—196

Acosta	Donatucci	Lashinger	Richardson
Adolph	Dorr	Laughlin	Rieger
Allen	Durham	Lee	Ritter
Angstadt	Evans	Leh	Robbins
Argall	Fairchild	Lescovitz	Robinson
Barley	Fargo	Letterman	Roebuck
Battisto	Farmer	Levdansky	Rudy
Belardi	Fleagle	Linton	Ryan
Belfanti	Foster	Lloyd	Rybak
Billow	Fox	Lucyk	Saloom

Birmelin	Freeman	McCall	Saurman
Bishop	Freind	McHale	Scheetz
Black	Gallen	McNally	Schuler
Blaum	Gamble	McVerry	Scrimenti
Bortner	Gannon	Maiale	Semmel
Bowley	Geist	Maine	Serafini
Boyes	George	Markosek	Smith, B.
Brandt	Gigliotti	Marsico	Smith, S. H.
Bunt	Gladeck	Mayernik	Snyder, D. W.
Burd	Godshall	Melio	Snyder, G.
Burns	Gruitza	Merry	Staback
Bush	Gruppo	Michlovic	Stairs
Caltagirone	Hagarty	Micozzie	Steighner
Cappabianca	Haluska	Miller	Stish
Carlson	Harper	Moehlmann	Strittmatter
Carn	Hasay	Morris	Stuban
Cawley	Hayden	Mowery	Tangretti
Cessar	Hayes	Mrkonic	Taylor, E. Z.
Chadwick	Heckler	Murphy	Taylor, F.
Civera	Herman	Nahill	Taylor, J.
Clark, B. D.	Hershey	Nailor	Telek
Clark, D. F.	Hess	Noye	Thomas
Clark, J. H.	Howlett	O'Brien	Tigue
Clymer	Hughes	O'Donnell	Trello
Cohen	Itkin	Olasz	Trich
Colaifella	Jackson	Oliver	Van Horne
Colaizzo	Jadlowiec	Perzel	Veon
Cole	James	Pesci	Vroon
Cornell	Jarolin	Petrarca	Wambach
Corrigan	Johnson	Petrone	Wass
Cowell	Josephs	Phillips	Weston
Coy	Kaiser	Piccola	Williams
DeWeese	Kasunic	Pistella	Wilson
Daley	Kenney	Pitts	Wogan
Davies	Kondrich	Pressmann	Wozniak
Dempsey	Kosinski	Preston	Wright, D. R.
Dietterick	Kukovich	Raymond	Wright, J. L.
Distler	LaGrotta	Reber	Wright, R. C.
Dombrowski	Langtry	Reinard	Yandrisevits

NAYS—0

NOT VOTING—0

EXCUSED—7

Broujos	Fee	Pievsky
DeLuca	Flick	
Dininni		Manderino, Speaker

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the report of the committee of conference was adopted.

Ordered, That the clerk inform the Senate accordingly.

WELCOME

The SPEAKER pro tempore. The Chair at this time wishes to welcome the students and chaperons of Canaan Christian Academy of Lake Ariel in Wayne County, who are the guests of Representatives Birmelin, Belardi, and Staback. They are located in the balcony. Would the guests please rise.

FILMING PERMISSION

The SPEAKER pro tempore. The Chair wishes to announce that it has granted permission for John Sanks of WPVI-TV, Philadelphia, to film on the floor of the House for the next 10 minutes.

**BILLS ON THIRD
CONSIDERATION CONTINUED**

The House proceeded to third consideration of **HB 539, PN 931**, entitled:

A Joint Resolution proposing amendments to the Constitution of the Commonwealth of Pennsylvania, changing provisions relating to judicial discipline; and providing for financial disclosure.

On the question,

Will the House agree to the bill on third consideration?

Mr. DeWEESE offered the following amendments No. A3869:

Amend Sec. 1 (Sec. 18), page 10, by inserting between lines 8 and 9

(g) If on a complaint of mental or physical disability the Judicial Conduct Board finds probable cause to file formal charges against a justice, judge or justice of the peace, before filing formal charges, the board shall present its findings to the justice, judge or justice of the peace and provide him with a reasonable period of time within which to exercise the opportunity to resign or, when appropriate, to enter a rehabilitation program.

Amend Sec. 1 (Sec. 18), page 10, line 9, by striking out “(G)” and inserting

(h)

Amend Sec. 1 (Sec. 20), page 12, line 20, by inserting after “APPEALABLE.”

In the case of a mentally or physically disabled justice, judge or justice of the peace, the Court of Judicial Discipline may enter an order of removal from office, suspension or other limitations on the activities of the justice, judge or justice of the peace as warranted by the record.

On the question,

Will the House agree to the amendments?

The SPEAKER pro tempore. The Chair recognizes the majority whip.

Mr. DeWEESE. Mr. Speaker, this amendment, amendment No. A3869, would permit the Conduct Board to encourage a judge to face life’s unpleasant facts and relinquish office or undertake a program of rehabilitation.

Dr. Itkin, who is at the podium, as well as Representative Hagarty have had some consultation regarding this amendment, and I am hopeful that it is agreed to.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—195

Acosta	Donatucci	Laughlin	Rieger
Adolph	Dorr	Lee	Ritter
Allen	Durham	Leh	Robbins
Angstadt	Evans	Lescovitz	Robinson
Argall	Fairchild	Letterman	Roebuck
Barley	Fargo	Levdansky	Rudy
Battisto	Farmer	Linton	Ryan
Belardi	Fleagle	Lloyd	Rybak
Belfanti	Foster	Lucyk	Saloom
Billow	Fox	McCall	Saurman
Birmelin	Freeman	McHale	Scheetz
Bishop	Freind	McNally	Schuler
Black	Gallen	McVerry	Scrimenti
Blaum	Gamble	Maiale	Semmel

Bortner	Gannon	Maine	Serafini
Bowley	Geist	Markosek	Smith, B.
Boyes	George	Marsico	Smith, S. H.
Brandt	Gigliotti	Mayernik	Snyder, D. W.
Bunt	Gladeck	Melio	Snyder, G.
Burd	Godshall	Merry	Staback
Burns	Gruitza	Michlovic	Stairs
Bush	Gruppo	Micozzie	Steighner
Caltagirone	Hagarty	Miller	Stish
Cappabianca	Haluska	Moehlmann	Strittmatter
Carlson	Harper	Morris	Stuban
Carn	Hasay	Mowery	Tangretti
Cawley	Hayden	Mrkonic	Taylor, E. Z.
Cessar	Hayes	Murphy	Taylor, F.
Chadwick	Heckler	Nahill	Taylor, J.
Civera	Herman	Nailor	Telek
Clark, B. D.	Hershey	Noye	Thomas
Clark, D. F.	Hess	O'Brien	Tigue
Clark, J. H.	Hughes	O'Donnell	Trello
Clymer	Itkin	Olasz	Trich
Cohen	Jackson	Oliver	Van Horne
Colafella	Jadlowiec	Perzel	Veon
Colaizzo	James	Pesci	Vroon
Cole	Jarolin	Petrarca	Wambach
Cornell	Johnson	Petrone	Wass
Corrigan	Josephs	Phillips	Weston
Cowell	Kaiser	Piccola	Williams
Coy	Kasunic	Pistella	Wilson
DeWeese	Kenney	Pitts	Wogan
Daley	Kondrich	Pressmann	Wozniak
Davies	Kosinski	Preston	Wright, D. R.
Dempsey	Kukovich	Raymond	Wright, J. L.
Dieterick	LaGrotta	Reber	Wright, R. C.
Distler	Langtry	Reinard	Yandrisevits
Dombrowski	Lashinger	Richardson	

NAYS—0

NOT VOTING—1

Howlett

EXCUSED—7

Broujos	Fee	Pievsky
DeLuca	Flick	
Dininni		Manderino, Speaker

The question was determined in the affirmative, and the amendments were agreed to.

On the question,

Will the House agree to the bill on third consideration as amended?

Mr. RYAN offered the following amendments No. A3980:

Amend Sec. 1 (Sec. 18), page 3, line 11, by inserting after "the"

Chief Justice of the

Amend Sec. 1 (Sec. 18), page 3, line 12, by inserting after "the"

Chief Justice of the

Amend Sec. 1 (Sec. 18), page 3, line 13, by inserting after "the" where it appears the second time

Chief Justice of the

Amend Sec. 1 (Sec. 18), page 3, line 19, by inserting brackets before and after "for terms of four years" and inserting immediately thereafter

terms which run concurrent with the term of their appointing authority

Amend Sec. 1 (Sec. 19), page 10, line 25, by striking out "FOR TERMS OF FOUR YEARS" and inserting

terms which run concurrent with the term of their appointing authority

On the question,

Will the House agree to the amendments?

The SPEAKER pro tempore. On the question, the Chair recognizes the gentleman from Delaware, Mr. Ryan, the minority leader.

Mr. RYAN. Mr. Speaker, the effect of my amendment, I think, is to fall in line with a lot of the actions we have taken here over the past several years when we have dealt with legislation that gave appointing powers to elected officials. What this amendment does is it says that anyone who is appointed by the Governor or any other elected official, their term ends when the appointing authority's term ends.

Let me give you an example: If this board or commission had on it—assuming that this was in law today—if this board or commission had on it appointees of Governor Thornburgh for 4 years who would continue over into Governor Casey's term, you would have Governor Casey in the position of being responsible, in the eyes of the public at least, for the activities of this commission despite the fact that they were not his appointees. Governor Thornburgh would have had Governor Shapp's appointees. Governor Casey would have had Thornburgh's, and Governor Hafer will have Governor Casey's. This being the case, I think the proper thing to do is what we have been doing lately, and that is having these appointments coincide with the term of the appointing authority so that that appointing authority is responsible for the actions and the activities of their appointee, and they cannot get off the hook by saying, oh, I did not appoint him; that is one left over from the prior Governor. It makes sense that the appointee's term coincide with the term of the person who made the appointment.

I would ask for support for this really noncontroversial amendment that Mr. DeWeese, in the interest of the Christmas spirit, I know will cause some havoc with.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Greene, Mr. DeWeese, the majority whip.

Mr. DeWEESE. With all due respect to the gentleman from Media, I do not intend to cause havoc, but I would like for the members of the chamber to be aware of the alternative position to the gentleman, Mr. Ryan.

I am enthused about partisanship. I believe that the two-party system is not only essential but has been the flagship of our success as a democracy. From time to time, however, I think it is prudent for us to at least consider the elimination of partisanship, and as we are considering the discipline of our judiciary, the discipline of our judiciary, I have a hard time invoking a call for ideological posturing. I think this is a delicate situation, and the fact that our nominees or the gubernatorial nominees will be staggered, will be staggered, will allow for overlap, will allow for one Governor to make some crucial appointments but yet have appointments from the past administration still lingering. I think that our judicial system would be the beneficiary of the bill as it is written. I just do not believe that the gentleman, Mr. Ryan, is accurate

on this particular amendment, and it would keep any Governor, if we defeat the gentleman's amendment, it would keep any Governor from dominating the system, and I think that the gubernatorial domination is what we are trying to avoid.

So I do not mean to cause havoc. I just mean to express a different point of view than the gentleman from Delaware County. Thank you.

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Delaware for the second time, the minority leader, Mr. Ryan.

Mr. RYAN. Mr. Speaker, I think what we are trying to do is we are trying to create a sound board that can oversee the discipline of our courts, and I believe that a Governor, regardless of party—I am not concerned about party. This is something, if it is established, that will go on I hope for years and years and years. But what we are trying to do, we are trying to have the public in a position that they can say, Governor X, the Supreme Court or the courts of this Commonwealth are creating problems and your board is not doing anything to address these problems, your judicial board that is charged with the disciplining of judges, and having a Governor in a position that he can say, it is not mine; it is the board of the last guy's. I think we are looking both, eventually down the road perhaps in merit selection, we are saying, Governor whoever you are, you create a board that is going to nominate top-notch people and you pick from those top-notch people, and if you pick bad ones, then, Governor, you are going to suffer the consequences of bad press. And the same thing is true with the judicial discipline board that is going to look over these judges. You have got to have the appointing authority's feet to the fire, not some other guy's, but the person who makes the appointment has got to put on top-notch people so that their feet are to the fire and they cannot get off the hook by saying these appointees are the result of the transgressions of a prior administration. It has got to be the appointing authority who has to bite the bullet each time, Mr. Speaker.

This is not political. Believe me, it is not political.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Greene for the second time, the majority whip, Mr. DeWeese.

Mr. DeWEESE. Quickly and finally, I would agree that the gentleman's remarks are accurate in the area that this is not political, and in fact, none of us should live or die on this amendment.

I believe we have two points of view, and may the House voice its own perspective collectively in just a minute. It really means that if Matthew Ryan's perspective is embraced, that a Governor will be almost entirely responsible and that Governor alone would be almost entirely responsible for the complexion of these boards or at least the gubernatorial aspect of these boards.

My view and I think the view of some other people is that if there was a mixture of responsibility from a prior administration or, depending upon the length of the gubernatorial term, possibly two prior administrations, depending upon if there

was an abrupt end of one, that this would more or less measure responsibility throughout the system and not put it on the shoulders of one person.

So I would agree that Mr. Ryan is not injecting a partisan argument here; it is just a matter of opinion. I happen to be of the opinion that one Governor should not necessarily be responsible for the system. I think that if judicial discipline were now being carried out in Pennsylvania by a mixture of the current administration and the last administration, that would be a healthy situation for our Commonwealth and for our judicial review process. So it is not a vehement and strained struggle; it is just that there are two points of view, and I would ask that Mr. Ryan's position not be sustained at this moment. Thank you very much.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Berks, Mr. Davies.

Mr. DAVIES. Thank you, Mr. Speaker.

In light of what I said this morning about the bill relative to the additional judges in the matter of vacation time and some of the cases and conditions that confront us right now, I do not know how anyone can take credit for any judicial discipline. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair recognizes the gentleman from York, Mr. Bortner.

Mr. BORTNER. Thank you, Mr. Speaker.

I would like to support the position that is being stated by the sponsor of this legislation, Representative DeWeese. While I would not quarrel with Mr. Ryan's statement that the intent of the amendment is not to be political, I think that the integrity of any commission or any board that is going to undertake the very serious task of disciplining judges ought to not even appear to be politically motivated in any way. I think that if one Governor has the ability to appoint all of the members to a commission that, as I said, will take up the very serious business of disciplining judges, there could at least be an appearance that there is some motivation behind that.

I think that it is important to have these kinds of staggered terms where members who are appointed to the commission do not owe their term to any particular person who may be in office at that time.

Regardless of how you may feel about the subject of merit selection, the commission that is contemplated there would have staggered or phased-in terms. I believe—and somebody can correct me—that when we established the Ethics Commission, we made sure that not a single Governor would appoint all the members to an Ethics Commission, that they are also phased in.

I think it is important to the integrity of the board that there not be an appearance that there is any possible political or ulterior motivation in appointing the members. I think it makes a lot of sense to have these staggered appointments, and I would urge that we defeat this amendment and stick with the original concept as proposed in the legislation introduced by Representative DeWeese. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,
Will the House agree to the amendments?

The following roll call was recorded:

YEAS—97

Adolph	Dorr	Johnson	Reinard
Allen	Durham	Kenney	Robbins
Angstadt	Fairchild	Kondrich	Ryan
Argall	Fargo	Langtry	Saurman
Barley	Farmer	Lashinger	Scheetz
Birmelin	Fleagle	Lee	Schuler
Black	Foster	Leh	Semmel
Boyes	Fox	McVerry	Serafini
Brandt	Fréind	Marsico	Smith, B.
Bunt	Gallen	Merry	Smith, S. H.
Burd	Gannon	Micozzie	Snyder, D. W.
Burns	Geist	Miller	Snyder, G.
Bush	Gladeck	Moehlmann	Stairs
Carlson	Godshall	Mowery	Stritmatter
Cessar	Gruppo	Nahill	Taylor, E. Z.
Chadwick	Hagarty	Nailor	Taylor, J.
Civera	Hasay	Noye	Telek
Clark, D. F.	Hayes	O'Brien	Vroon
Clark, J. H.	Heckler	Perzel	Wass
Clymer	Herman	Phillips	Weston
Cornell	Hershey	Piccola	Wilson
Davies	Hess	Pitts	Wogan
Dempsey	Jackson	Raymond	Wright, J. L.
Dietterick	Jadlowiec	Reber	Wright, R. C.
Distler			

NAYS—99

Acosta	Evans	Lloyd	Ritter
Battisto	Freeman	Lucyk	Robinson
Belardi	Gamble	McCall	Roebuck
Belfanti	George	McHale	Rudy
Billow	Gigliotti	McNally	Rybak
Bishop	Gruitza	Maiale	Saloom
Blaum	Haluska	Maine	Scrimenti
Bortner	Harper	Markosek	Staback
Bowley	Hayden	Mayernik	Steighner
Caltagirone	Howlett	Melio	Stish
Cappabianca	Hughes	Michlovic	Stuban
Carn	Itkin	Morris	Tangretti
Cawley	James	Mrkonic	Taylor, F.
Clark, B. D.	Jarolin	Murphy	Thomas
Cohen	Josephs	O'Donnell	Tigue
Colaafella	Kaiser	Olasz	Trello
Colaizzo	Kasunic	Oliver	Trich
Cole	Kosinski	Pesci	Van Horne
Corrigan	Kukovich	Petrarca	Veon
Cowell	LaGrotta	Petrone	Wambach
Coy	Laughlin	Pistella	Williams
DeWeese	Lescovitz	Pressmann	Wozniak
Daley	Letterman	Preston	Wright, D. R.
Dombrowski	Levdansky	Richardson	Yandrisevits
Donatucci	Linton	Rieger	

NOT VOTING—0

EXCUSED—7

Broujos	Fee	Pievsky
DeLuca	Flick	
Dininni		Manderino, Speaker

The question was determined in the negative, and the amendments were not agreed to.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Mr. COHEN offered the following amendments No. A3846:

Amend Title, page 1, line 2, by inserting after "Pennsylvania,"

further providing for judicial administration;

Amend Sec. 1, page 1, line 8, by striking out "section" and inserting

sections 10(c) and

Amend Sec. 1, page 1, by inserting between lines 8 and 9

§ 10. Judicial administration.

(c) The Supreme Court shall have the power to prescribe general rules governing practice, procedure and the conduct of all courts, justices of the peace and all officers serving process or enforcing orders, judgments or decrees of any court or justice of the peace, including the power to provide for assignment and reassignment of classes of actions or classes of appeals among the several courts as the needs of justice shall require, and for admission to the bar and to practice law, and the administration of all courts and supervision of all officers of the Judicial Branch[, if such rules are]. All other courts shall have the power to prescribe rules governing their own practice, procedure and conduct, if such rules are consistent with rules prescribed by the Supreme Court. All rules prescribed by the courts and the procedure under which they are prescribed shall be consistent with this Constitution and neither abridge, enlarge nor modify the substantive rights of any litigant, nor affect the right of the General Assembly to determine the jurisdiction of any court or justice of the peace, nor suspend nor alter any statute of limitation or repose. No rule prescribed by any court shall take effect until the court has given appropriate public notice and an opportunity for comment and the Chief Justice or president judge of the court has reported the adoption of the rule to the General Assembly and 90 days have elapsed following such a report, not including any time during which the General Assembly is not in session. All laws shall be suspended to the extent that they are inconsistent with rules prescribed under these provisions.

On the question,

Will the House agree to the amendments?

The SPEAKER pro tempore. On the question, the Chair recognizes the gentleman from Philadelphia, Mr. Cohen.

Mr. COHEN. Mr. Speaker, this makes the rulemaking power of the courts in Pennsylvania similar to the rulemaking power of the courts at the Federal level. In the United States Congress, when rules are promulgated, Congress is notified of the rules that are promulgated. In Pennsylvania this legislation is not notified.

I am informed that there is a section of the State Constitution saying that the Supreme Court shall exercise the power to promulgate rules, and this amendment does not change that power. What this amendment says is that there has to be a period for public comment and the adoption of the rule has to be reported to the General Assembly and 90 days have to follow after the report to the General Assembly. The purpose of this is to make sure there is maximum public input so that members of the General Assembly and the general public are fully aware of the proposed rules. Every once in a while, just

like when the executive branch promulgates a rule, somebody might come along and have a serious, meaningful objection to the rule. This allows people with such objections to have these objections heard.

I urge support of this amendment.

The SPEAKER pro tempore. The Chair now recognizes the gentleman, Mr. Lashinger, from Montgomery County.

Mr. LASHINGER. Thank you, Mr. Speaker.

Mr. Speaker, this is an important amendment for those members who have been concerned about the judicial administration in the Commonwealth. I know that over the last few years especially a number of the members have expressed concern about what some members have characterized as the Supreme Court's entry into our area, the substantive area of the law, through their rulemaking power. Let me give the members an example.

Just this year, despite the actions of the General Assembly in the Divorce Code amendments that were adopted previously, the Supreme Court came back through its rulemaking power and reversed a clear legislative mandate through what they called their procedural rulemaking power, a clear legislative mandate of this body. The example: We said that in all actions that took place under the Divorce Code as amended by us, that the parties could demand discovery. The Supreme Court came back, despite input from a number of legislators, a number of practitioners across the Commonwealth, a number of interested parties, the Supreme Court came back and said, there shall be no discovery without leave of court. It clearly flew in the face of the language. There could be no charge that it was imprecise, the language that we put in the Divorce Code, but they came back and they completely reversed what we had done. Maybe its effect has not been as dramatic as some had expected it to be, because fortunately our courts in the 67 counties are continuing to grant discovery by leave of that court, but if perchance one of our respective courts did not, they would have clearly, through the Supreme Court rulemaking power, reversed what we have challenged.

Now, I as a member and various members of the Judiciary Committee and various practitioners around the Commonwealth wrote to Chief Justice Nix and asked if they would at least enter into a dialogue with members of the General Assembly so we could demonstrate what our concerns were as regard to that specific provision. We heard back continuously prior to final adoption that we would be able to meet with the court. We were never able to meet with the court, and therefore, they reversed what we did.

I think Representative Cohen's amendment will put a halt to those types of efforts. I am sure we will hear a challenge from some members that we are entering into an area that is probably prohibited by the Constitution, that the Supreme Court is the master of its own house, that only the Supreme Court can administer itself, that only the Supreme Court and the courts can make their own rules. But I am asking the members, do not buy that argument, because Representative Cohen is not saying that we have any veto power over the rules that come to us from our respective courts or from the

Supreme Court. All he is saying is just give this body, which provides some of the funding for those courts—probably not just some, but the lion's share of the funding—give us an opportunity to at least look at the procedural rules. I am sure, as regard to procedure, this body is not going to do anything, but when the court treads into the substantive area, which is within our purview, we would at least want to have some input or some dialogue with the court and hope that they would recognize our input. That is all Representative Cohen is asking for.

I can see no harm in the amendment. I do not think it is unconstitutional, because we are not usurping the rulemaking power because we do not have a veto function, and it will give us some idea of what the court is doing so that there is some compatibility between what they do and what we do and vice versa.

I think we should support the amendment if we are really interested in judicial administration. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair now recognizes the gentleman from Dauphin, Mr. Piccola.

Mr. PICCOLA. Thank you, Mr. Speaker.

I would suggest that the House of Representatives oppose the Cohen amendment. I have listened carefully to the argument of Mr. Cohen and Mr. Lashinger, and I for the life of me am not really aware of the problem that they are complaining about.

Pennsylvania Rules of Civil Procedure and, as far as I am aware, the local rules are generally published—in fact, I believe always published—in the Pennsylvania Bulletin during the promulgation process. After they are promulgated, they are published every year in a book like the one that I have right here for members of the General Assembly, members of the bar, and members of the public to peruse at their leisure.

Back in 1968 we amended our Constitution in a Constitutional Convention in which we created what is commonly referred to as a unified judiciary, and we gave to the Supreme Court the power to promulgate rules under that branch of government, the judicial branch of government. Under this proposed amendment, it seems to me that we are getting away somewhat from that concept of the unified judiciary, because under this amendment, I see we are giving local courts the power to promulgate rules so long as they are not inconsistent with the Supreme Court rules.

Now, right now local courts do promulgate rules, but they do so under the authority of the Supreme Court, and while this does not make a complete break with the authority of the Supreme Court, it is inching in that direction. I think that the fact that we have had complaints with the administration of justice in certain specific cases over the years is not sufficient reason to abrogate the principle of a unified judiciary which we adopted back in 1968.

I think this is a break from that concept, Mr. Speaker, and I think that it is cluttering up or would potentially clutter up the

Constitution with needless procedure, which I think is already accomplished by the de facto, by the Supreme Court in the way that it operates. I think it would be uselessly cluttering our Constitution, and I would urge that we defeat the amendment.

The SPEAKER pro tempore. The Chair now recognizes the majority whip, Mr. DeWeese from Greene County.

Mr. DeWEESE. Would the gentleman, Mr. Lashinger, stand for brief interrogation?

The SPEAKER pro tempore. The gentleman from Montgomery consents to being interrogated, and the gentleman, Mr. DeWeese, may proceed.

Mr. DeWEESE. Mr. Speaker, what is your opinion as an attorney as to the reaction of the Supreme Court when they receive this legislation from us and they find out that we, as the legislature, are getting involved in their rulemaking effort? Since there is no severability language in this particular measure, they could find this part unconstitutional, and therefore would allow the whole bill to be seen as unconstitutional. I am just curious as to your opinion as an attorney.

Mr. LASHINGER. I have a couple of answers to that question, Mr. Speaker. Of course, the court has never wanted this body to tread into the area of judicial administration, whether it is rulemaking or otherwise. We are passing financial disclosure requirements in this bill. We know that there are parts or factions of that court that do not want that either, but that does not mean that we should not do it, Mr. Speaker.

If you ask me as an attorney, do I think it is unconstitutional? No, because we are not usurping their rulemaking power. We are merely saying, allow us 90 days to review your rules. But absent the authority to reject those rules, Mr. Speaker, I would say that it should, if level heads prevail, it should be found to be constitutional.

Mr. DeWEESE. Thank you.

I have no further questions on that. Thank you.

The SPEAKER pro tempore. The Chair now recognizes the lady from Montgomery, Mrs. Hagarty.

Mrs. HAGARTY. Thank you, Mr. Speaker.

Mr. Speaker, I rise to oppose this amendment, and I do so for slightly different reasons, which I would like to share.

I believe that the court's rules in many instances do invade in fact the legislative prerogative and that they do move beyond the procedural and into the substantive, and in fact in prior sessions have sponsored constitutional amendments to supersede rules of court by legislative statute. So it is not that I am philosophically opposed to the General Assembly having more to say about the Supreme Court rules.

The reason I am opposed to this amendment is twofold. The first is, I think it is meaningless. If, as we have heard, the Supreme Court absolutely suspended sections of the Divorce Code amendments which this legislature had passed, I do not understand why that same Supreme Court is going to give any regard to the General Assembly's thoughts after we receive the copies of proposed rules, which, as Representative Piccola mentioned, we can access in the Pennsylvania Bulletin.

So if it is meaningless, you may ask why I oppose it. I oppose it because we are at a very important day on a very important concept in Pennsylvania history, and that is, we are finally, after probably almost 10 years now when I recall introducing the first judicial reform legislation, actually voting on the floor of this House to change the way judges are disciplined in this Commonwealth. By changing the way judges are disciplined - because we are taking control of appointments to the JIR Board (Judicial Inquiry and Review Board) away from the Supreme Court, we are giving final authority to the board itself, and we are opening up this process to public scrutiny - we hope that we will restore public confidence in our courts.

I think that to muddy this very important concept to the integrity of the judiciary in Pennsylvania by debating over whether or not rules should be submitted to the General Assembly, and to having that go on the constitutional amendments so that that will be voted on by the public at large, will confuse and muddy a very important issue that ought to go to the electorate alone, and that is whether or not we want more accountability by judges in this Commonwealth for alleged improprieties and violations of the Judicial Canons of Ethics. So I oppose this amendment.

The SPEAKER pro tempore. The Chair now recognizes the gentleman from York, Mr. Bortner.

Mr. BORTNER. Thank you, Mr. Speaker.

Much of what I have to say has been recanted by previous speakers.

I have listened to the statements of Mr. Lashinger. I have listened to the statements of Mr. Piccola. I have read the Constitution. I think that this issue is probably arguable. The Constitution gives very broad rulemaking authority to the Supreme Court. My own guess is that they would probably reject the idea that the legislature could in any way interfere with their rulemaking authority, but obviously, what is constitutional and unconstitutional would be decided by the Supreme Court.

I would suggest, as the previous speaker did, that this issue is too important to even risk inserting a provision that may or may not be constitutional. I think that this issue could be brought up separately or perhaps with another bill.

I would urge the members to proceed at this time without the additional amendment so that we can be sure that when we enact a bill governing discipline of judges across the Commonwealth of Pennsylvania, that there is not going to be a challenge to what would appear to me to be a rather minor part of that legislation. Thank you.

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Philadelphia, Mr. Cohen, for the second time.

Mr. COHEN. Thank you, Mr. Speaker.

Mr. Speaker, listening to the other speakers, there seems to be some misunderstanding here. Some people apparently believe that we can have an unconstitutional constitutional amendment. This bill is a constitutional amendment. Any amendment to this bill is a constitutional amendment. A con-

stitutional amendment, if it is enacted by the voters, is, by definition, constitutional.

This is clearly constitutional. The voters, if they approve this amendment, are certainly not going to be indignant that the legislature will have the opportunity to comment on proposed judicial regulations. This is only a small part of the process of real judicial reform in this Commonwealth. It is a part that ought to be absolutely noncontroversial. I do not see how any of our constituents could object to the fact that if they find something wrong with a rule and they complain to us, we can complain to the court about it in a timely fashion. Why would that offend the single constituent?

I urge that this amendment be adopted. Representative Piccola waved a big green book and said, "See. Here are all the rules," and it was a big, heavy book. That is the problem. When you have big, heavy books with hundreds and hundreds of pages, rule changes get lost.

What this amendment seeks to do is to take the new proposed rules and isolate them from all of the other rules in that big, heavy green book that Representative Piccola waved and call the new rules to our attention so that we can inform the judges and inform our constituents if any of these rules are of any significance.

I urge support for this amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman and now recognizes the gentleman from Chester, Mr. Morris.

Mr. MORRIS. Thank you, Mr. Speaker.

I think Mr. Cohen has taken my interrogation and made it into a speech. I was going to ask either Mr. Bortner or Mrs. Hagarty how the Constitution of Pennsylvania could be declared unconstitutional by the Supreme Court.

That is all.

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Montgomery, Mr. Lashinger, for the second time.

Mr. LASHINGER. Thank you, Mr. Speaker.

Mr. Speaker, Representative Piccola is correct. These are published every Saturday and we do get them in the Pennsylvania Bulletin, but I will give you an example of what just happened here today, something that was interesting that would prove how helpful this would be.

This morning in the a.m. session we passed a bill here, HB 1633, Representative Ritter's Federal compliance legislation. In that bill we said that the Supreme Court should go back and adopt statewide support guidelines. That is what we said today, and we are going to send this House bill to the Senate and it is going to go to the Governor's desk, and probably you would guess that we are going to adopt statewide support guidelines for child support and spousal support. Well, guess what? The Supreme Court adopted these guidelines without us ever looking at them, without us ever having any input. They were published. We never knew, unless you all checked the Pennsylvania Bulletin on that Saturday in September, probably around Labor Day. We did not know it, and here we are today, we are telling the Supreme Court, go ahead and

adopt those statewide support guidelines; we finally agree that we should come into compliance with the Federal law and the support guidelines should be statewide. It is meaningless. It is silly that we did this. Most of us voted on it, and some probably, and again, not to discredit those members who did not, but did not know that the court did it without even acknowledging it to us, asking us for any input, if we really were for statewide support guidelines; if we were opposed to them; whether we thought that they were correctly developed. I think Representative Cohen's amendment will go a long way towards not creating combat between the two branches of government but at least getting some continuity between the two branches of government so the right hand knew what the left hand was doing.

For those members, especially the nonlawyer members, you should be especially interested in taking a lot of these functions out of the hands of a very narrow group and getting more people involved, not necessarily, again, for the opportunity to veto anything they do but at least for the opportunity to know a little bit about judicial administration.

I do not see any harm in opening up the court that we all claim is so secretive and so mysterious in the Commonwealth. All this will do is shed a little light for the public, for our constituents, for our own purposes, a little light on what that court is doing, because we know a very little bit about it now, today, Mr. Speaker. It is helpful. Some of the speakers have said it is harmless. If it is harmless, then I would vote for the amendment.

I would ask for support, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and recognizes, for the second time, the gentleman from Dauphin, Mr. Piccola.

Mr. PICCOLA. Thank you, Mr. Speaker.

I will not wave my big green book of rules, but I will say that first of all, I never argued that this was unconstitutional. I agree with the gentleman, Mr. Cohen, that if it goes into this bill, it becomes constitutional. What I was arguing was that a portion of this amendment is a break with the unified judicial system that we adopted in the Constitution in 1968, and that is, it gives the power to the local courts to promulgate rules under the Constitution. They currently have that power, but they get that power through the Supreme Court, and I think that is the way it should stay. I do not think we should adopt this amendment to change it.

Secondly, the argument that Mr. Lashinger is making seems to presuppose that there is some cabal or conspiracy by the Supreme Court to keep its rulemaking process secret and permanent for all time - unchangeable.

Over the course of the years I have had opportunity to look at the Pennsylvania Bulletin and to review the rules that are promulgated by the court. I have never commented on them as such. I have commented on them on occasion after the fact when I find that a rule is either not workable or perhaps in conflict with statute, and as a member of the General Assembly, have expressed that opinion to the court, to the administrative offices of the court. Nothing is going to preclude us

from doing that. And as far as notice is concerned, I think both Mr. Cohen and Mr. Lashinger have indicated, we get more than adequate notice through the Pennsylvania Bulletin and the publication in this green book.

I think Mrs. Hagarty's rationale is the best. Let us not clutter up this very important bill, and more importantly our Constitution, with these types of frivolous and minor procedural matters. I think we should leave these in the hands of the administrative offices of the court. I think they have, on balance, been handled adequately, and I would urge that we defeat the amendment.

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Montgomery, Mr. Reber.

Mr. REBER. Thank you, Mr. Speaker.

Mr. Speaker, I rise in opposition to the amendment that is currently before the House. I think we have all been groping, especially a lot of the earlier speakers today, groping in some way, shape, or form to either justify this under the Constitution and the growth of constitutional law or to find a way to oppose this under the Constitution and the growth of constitutional law that might justify an opposition to this amendment.

I would simply say, Mr. Speaker, that this particular amendment reminds me of the dilemma of Justice Potter Stewart, as he expressed in the pornography case Jacobellis v. Ohio. I have that same problem. I cannot define it, but I know it when I see it, and I am telling you that this particular concept runs afoul in my mind of what is the intent of separation of powers; runs afoul of what is section I, Article V, language that talks about a unified judicial system; runs afoul in my mind of what was done in 1968 at the Constitutional Convention when we took not a look per se at discipline of the judiciary but in essence the manner in which the judiciary operates in every aspect of its daily operating life.

I think, Mr. Speaker, there is good intention behind what is being attempted to do here, but it does not far outweigh the problems that will be created by the dilemma that this treads upon in carrying out the doctrine that Mr. Cohen is attempting to bring about.

I would respectfully urge, to avoid what in my mind could be a developing constitutional crisis on separation of powers, that this amendment be respectfully defeated. Thank you.

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Greene, Mr. DeWeese.

Mr. DeWEESE. Thank you, Mr. Speaker.

I would respectfully agree with the gentleman, Mr. Reber, and the gentleman, Mr. Piccola, and the eloquent testimony of the gentelady from Montgomery, Mrs. Hagarty, who, I might add, has been a fighter in this arena for quite some time.

The Judiciary chairman, Mr. Caltagirone, and the Judiciary Committee have been diligent in their pursuit of this legislation for quite some time. This legislation comes to us today at a dizzying speed at the final moment and, in my opinion, is, as Mrs. Hagarty observed, very, very potentially going to obstruct the forward momentum of this bill.

The whole merit selection package is not a sure thing. Many people would argue against certain aspects of it, and I myself have some tentativeness about certain parts of it. This is the gut of the bill that we thought we could move, that we could have adopted by the General Assembly. We have a good deal of bipartisan agreement. But these words should ring out to the Frank Gigliottis of the chamber and to the Leo Triches of the chamber and to friends who have not had the benefit of long discussions about judicial reform over the past 10 years: We have a chance to make substantive changes in the way we discipline our judges. We are taking those forward steps today, but we must remember, we must remember that they are our sister branch of government. We should not be making their rules. We should eliminate ourselves from their internal processes. I do not want the judiciary making rules for the legislature, for the House of Representatives, and I do not think we should be making their rules.

I would ask that we oppose this amendment, that we make a bipartisan effort to push this bill to the State Senate and to realize some success along the lines of judicial reform. I ask for a negative vote on this amendment, which comes to us at the final moment.

On the question recurring,
Will the House agree to the amendments?

(Members proceeded to vote.)

VOTE STRICKEN

The SPEAKER pro tempore. The clerk will strike the vote. We seem to have a problem with the machine.

On the question recurring,
Will the House agree to the amendments?

The following roll call was recorded:

YEAS—38

Battisto	Freeman	Maiale	Serafini
Belardi	Hasay	Maine	Smith, B.
Blaum	Howlett	Morris	Snyder, G.
Cappabianca	Itkin	Noye	Steighner
Carn	Jarolin	Petrarca	Stuban
Cawley	Kasunic	Phillips	Tangretti
Cohen	Kenney	Pitts	Tigue
Daley	Lashinger	Pressmann	Veon
Dorr	McHale	Semmel	Wozniak
Foster	McNally		

NAYS—156

Adolph	Dombrowski	Langtry	Richardson
Allen	Donatucci	Laughlin	Rieger
Angstadt	Durham	Lee	Ritter
Argall	Evans	Leh	Robbins
Barley	Fairchild	Lescovitz	Robinson
Belfanti	Fargo	Letterman	Roebuck
Billow	Farmer	Levdansky	Rudy
Birmelin	Fleagle	Linton	Ryan
Bishop	Fox	Lloyd	Rybak
Black	Freind	Lucyk	Saloom
Bortner	Gallen	McCall	Saurman
Bowley	Gamble	McVerry	Scheetz
Boyes	Gannon	Markosek	Schuler
Brandt	Geist	Marsico	Scrimenti
Bunt	George	Mayernik	Smith, S. H.
Burd	Gigliotti	Melio	Snyder, D. W.
Burns	Gladeck	Merry	Staback
Bush	Godshall	Michlovic	Stairs

Caltagirone	Gruitza	Micozzie	Stish
Carlson	Gruppo	Miller	Stritmatter
Cessar	Hagarty	Moehlmann	Taylor, E. Z.
Chadwick	Haluska	Mowery	Taylor, F.
Civera	Hayden	Mrkonic	Taylor, J.
Clark, B. D.	Hayes	Murphy	Telek
Clark, D. F.	Heckler	Nahill	Thomas
Clark, J. H.	Herman	Nailor	Trello
Clymer	Hershey	O'Brien	Trich
Colafrilla	Hess	O'Donnell	Van Horne
Colaizzo	Hughes	Olasz	Vroon
Cole	Jackson	Oliver	Wambach
Cornell	Jadlowiec	Perzel	Wass
Corrigan	James	Pesci	Weston
Cowell	Johnson	Petrone	Williams
Coy	Josephs	Piccola	Wilson
DeWeese	Kaiser	Pistella	Wogan
Davies	Kondrich	Preston	Wright, D. R.
Dempsey	Kosinski	Raymond	Wright, J. L.
Dietterick	Kukovich	Reber	Wright, R. C.
Distler	LaGrotta	Reinard	Yandrisevits

NOT VOTING—2

Acosta Harper

EXCUSED—7

Broujos	Fee	Pievsky
DeLuca	Flick	
Dininni		Manderino, Speaker

The question was determined in the negative, and the amendments were not agreed to.

WELCOME

The SPEAKER pro tempore. The Chair at this time would like to welcome to the hall of the House senior nursing students from Bloomsburg University, Bloomsburg, Pennsylvania. They are present today for a Capitol Hill Day sponsored by the Pennsylvania Nurses Association. The faculty member also present is Dr. Christine Alichnie, who is also a registered nurse, and they are all the guests of Representative Ted Stuban from Columbia County. Will our guests please rise, in the gallery.

CONSIDERATION OF HB 539 CONTINUED

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Bill as amended was agreed to.

The SPEAKER pro tempore. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

The Chair recognizes the gentleman from Berks, Mr. Gallen.

Mr. GALLEN. Mr. Speaker, I thought there was another amendment to this bill - Mr. Freeman's amendment. Is that not here?

The SPEAKER pro tempore. Mr. Freeman has seen fit to withdraw the amendment.

Mr. GALLEN. Mr. Speaker, since the amendment has been circulated, is it possible that I could offer that amendment?

The SPEAKER pro tempore. The Chair has been advised by the Parliamentarian that that would not be appropriate.

Mr. GALLEN. Well, Mr. Speaker, then I would like to have this bill held over until I can have that amendment prepared and offer it. I thought it was going to be offered. That was a logical assumption—the amendment had been circulated—and I would like to have the courtesy of having the opportunity to offer that amendment.

The SPEAKER pro tempore. The Chair recognizes the gentleman, Mr. DeWeese.

Mr. DeWEESE. Regretfully and respectfully, I would like the bill voted today.

The SPEAKER pro tempore. The Chair now recognizes the gentleman, Mr. Gallen.

Mr. GALLEN. Mr. Speaker, we were told in caucus the amendment would be offered. The amendment was circulated. It is a subject for which I have striven for 10 years to bring before this House. This is an opportunity, and I do not think that Mr. DeWeese should deprive me of that opportunity. I think that it is something that I have worked on for many, many years, and I thought this would be an opportunity for me to do that. We were told in caucus the amendment was going to be offered. The amendment is before us, and if Mr. Freeman is not going to offer it, I want to have that opportunity.

The SPEAKER pro tempore. Mr. Gallen, you are out of order. If you care to be in order, you have to make an appropriate motion at this time.

MOTION TO PASS OVER

Mr. GALLEN. I move that the bill go over until I have a chance to prepare the amendment, and that is a motion.

Mr. RYAN. Mr. Speaker?

The SPEAKER pro tempore. The Chair recognizes the gentleman from Delaware, the minority leader, Mr. Ryan.

Mr. RYAN. Mr. Speaker, I am not sure how I am going to vote if I get an opportunity to vote on the content of the Freeman amendment. Our caucus, however, was under the impression, had been told, that Mr. Freeman was going to offer that amendment. Under those circumstances, rather than duplicate all these amendments, we—when I say “we,” I am talking about my members—did not go to the trouble of ordering another amendment. I think under the circumstances all we are really talking about, Mr. Speaker, is taking one copy of the Freeman amendment, scratching his name off it, putting Gallen's name on it, and rerunning it—and spending the money, of course—rerunning it through the Xerox machine and putting those 203 copies out on the floor.

MOTION TO RECESS

Mr. RYAN. Now, that is not a big deal. If we have to do it, then I move that this House be in recess for a period of 20 minutes to allow for the xeroxing of the Freeman amendment with his name scratched out.

The SPEAKER pro tempore. May I have the leaders come to the desk, please.

(Conference held at Speaker's podium.)

MOTIONS WITHDRAWN

The SPEAKER pro tempore. The Chair now asks Mr. Gallen whether he will withdraw his motion to hold the bill over for the purpose of offering an amendment.

Mr. RYAN. Yes; the gentleman, Mr. Gallen, withdraws his motion, and so do I. I had one pending also.

The SPEAKER pro tempore. The Chair thanks the gentlemen.

DECISION OF CHAIR RESCINDED

The SPEAKER pro tempore. Without objection, the Chair rescinds its decision that HB 539 has been agreed to on third consideration as amended. The Chair hears no objection.

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Messrs. FREEMAN and GALLEN offered the following amendments No. A3926:

Amend Title, page 1, line 2, by inserting after "Pennsylvania,"

providing for the election of certain justices and judges;

Amend Sec. 1, page 1, by inserting between lines 7 and 8

(1) That section 13(a) of Article V be amended and that the section be amended by adding a subsection to read:

§ 13. Election of justices, judges and justices of the peace; vacancies.

(a) [Justices, judges] Judges, other than judges of the Superior Court and the Commonwealth Court, and justices of the peace shall be elected at the municipal election next preceding the commencement of their respective terms of office by the electors of the [Commonwealth or the] respective districts in which they are to serve.

(a.1) (1) Justices of the Supreme Court, Judges of the Superior Court and Judges of the Commonwealth Court shall be elected at the municipal election next preceding the commencement of their respective terms of office by the electors of the respective judicial electoral districts. One justice or judge shall be elected from each judicial electoral district for each appellate court.

(2) Prior to the municipal election next following one year from the adoption of this subsection, the General Assembly shall, by law, divide the Commonwealth into seven Supreme Court judicial electoral districts, and as many Superior Court electoral districts and Commonwealth Court electoral districts as there are Superior Court and Commonwealth Court judges as provided by law. Each district shall be composed of compact and contiguous territory as nearly equal in population as practicable and shall be based on the 1990 Federal decennial census. These districts shall in like manner be reapportioned following each subsequent decennial census.

(3) The General Assembly shall, by law, determine the manner of elections under this subsection.

Amend Sec. 1, page 1, line 8, by striking out "(1)" and inserting

(2)

Amend Sec. 1, page 2, line 28, by striking out "(2)" and inserting

(3)

Amend Sec. 1, page 10, line 12, by striking out "(3)" and inserting

(4)

Amend Sec. 3, page 15, line 11, by striking out "AND (3)" and inserting

, (3) and (4)

On the question,

Will the House agree to the amendments?

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman from Northampton, Mr. Freeman.

Mr. FREEMAN. Thank you, Mr. Speaker.

Mr. Speaker, the issue of merit selection is one that has been debated around the newspapers of late. The amendment we have before us today, the Freeman-Gallen amendment, is, I hope, a middle course to the issue of reforming the current judicial system here in Pennsylvania.

Many of us on both sides of the aisle are concerned over the quality of appellate judges under the current elected system. However, I am sure many of my colleagues would agree with Jim Gallen and me that we are uncomfortable with the notion of establishing a so-called merit selection process - a process where a panel of faceless individuals, each with his own or her own individual ax to grind, would dictate to this Commonwealth who could be considered for an appellate court judgeship.

This amendment, in my opinion, offers a middle course. By electing judges for the appellate court system on a district level or a regional level, we would have the best of all possible worlds. We would retain the electoral system. We would insure that the people would still choose the judges in Pennsylvania at the appellate level, but by doing it on a regional or district level, we would make it far easier for the electorate to find out about their judicial candidates, to find out if they truly are qualified to serve on the highest courts in this Commonwealth.

Under a district or regional system, it would be possible for a candidate for the office of judge to campaign throughout the region, to let themselves be known and their qualifications be known throughout that region, something which is very difficult to do currently on a statewide system. I think if we have a district system of election, we would make it possible to realize the benefits of an elected system, of keeping the selection of our judges in the hands of the people, and eradicate a lot of the current concerns that exist with the concept of merit selection and with the concept of statewide election.

I would urge the members of this House to vote for the Freeman-Gallen amendment.

The SPEAKER pro tempore. The Chair now recognizes the cosponsor of the amendment, from Berks County, Mr. Gallen.

Mr. GALLEN. Thank you, Mr. Speaker, and I thank the gentleman, Mr. Freeman, for the opportunity to cosponsor his amendment.

Mr. Speaker, there are few members of this General Assembly who could name the 31 Justices on our appellate courts. Every second year there are people who run around this State attempting to get elected, and they are absolutely faceless

people. The electorate has no idea who they are and what the courts are for which they are running. It is extremely expensive to campaign statewide. Should we create judicial districts and allow these potential Justices to campaign in a two- or three-county area, the electorate would get to be familiar with who they are and what they stand for.

Mr. Speaker, this is really the way we should have justice in the Commonwealth of Pennsylvania - an opportunity for us to elect people that we know as opposed to names on a ballot - and I urge support for this amendment. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Allegheny, Mr. Preston.

Mr. PRESTON. Thank you, Mr. Speaker.

Could I ask the maker of the amendment, either Mr. Freeman or Mr. Gallen, a couple of questions?

The SPEAKER pro tempore. Mr. Gallen agrees to be interrogated. The gentleman from Allegheny may proceed.

Wait a second. Mr. Freeman, do you wish to be interrogated?

Mr. FREEMAN. I am sorry, Mr. Speaker. I was in conference with some other members. I thought I was being asked to be interrogated.

The SPEAKER pro tempore. Okay. Mr. Freeman, you have been asked to be interrogated by the gentleman from Allegheny County. You consent. The gentleman from Allegheny County may proceed.

Mr. PRESTON. Thank you, Mr. Speaker.

Am I correct in assuming that in your amendment there would be created judicial districts within the Superior, Commonwealth, and Supreme Courts? Could you explain to me how those districts would be put together?

Mr. FREEMAN. I am sorry. How districts would be what?

Mr. PRESTON. If I am correct, it is the Supreme Court, the Superior Court, and the Commonwealth Court. Could you explain to me how those districts would be outlined and how many districts for each one we would have?

Mr. FREEMAN. They would be divided based on population, as is currently done in House legislative districts and State Senate districts.

Mr. PRESTON. Okay. I think we have seven in the Supreme Court. I am not exactly clear. How many do we have in the Commonwealth and the Superior Courts?

Mr. FREEMAN. I believe that it is 7 for the Supreme Court, 15 for the Superior Court, and Commonwealth Court is 9.

Mr. PRESTON. I am also assuming that within those districts then, each candidate would only be able to run within the limited district unless constitutionally we changed the number to increase or decrease the numbers as we have done in the past as far as the Commonwealth and Superior Courts. Am I correct?

Mr. FREEMAN. Under the State Constitution, we designate seven specific slots for Supreme Court, but I believe the other two appellate courts - Commonwealth and Superior - can be increased in number or altered by an act of the General Assembly.

Mr. PRESTON. In other words, we currently have the power to change the numbers of Superior Court and Commonwealth Court by a vote of the legislature?

Mr. FREEMAN. Within certain restrictions of the Constitution, yes.

Mr. PRESTON. Can you refresh me as far as what those restrictions are?

Mr. FREEMAN. If the gentleman will wait for a minute for me to grab a copy of the Constitution, I will be happy to.

Mr. PRESTON. Sure.

Mr. FREEMAN. Mr. Speaker, I have the information you requested. The Supreme Court is definitely set at the number of 7; Superior Court can have no less than 7, though the number can be increased, obvious by the current situation where there are 15 judges; and there is no set number for Commonwealth Court. Again, that can be altered.

Mr. PRESTON. So in other words, what you are saying is, by a vote of the legislature, if we wanted to increase the Commonwealth Court or Superior Court, say, by 10 or 15 judges, we could do that by our vote and increase the number statewide or change the number of districts, or would it be constitutionally changed? That is my question.

Mr. FREEMAN. As I read the Constitution, both the Superior and Commonwealth Courts could be increased in size by an act of the legislature.

Mr. PRESTON. Okay.

Mr. Speaker, may I speak on the amendment?

The SPEAKER pro tempore. The gentleman is in order and may proceed.

Mr. PRESTON. I know that a lot of members would feel that coming from Allegheny County and with the current structure of the court system and what appears to be an awful lot of members—and in reality, there is an awful lot of members, I guess, on the Superior Court and the Supreme Court—therefore, that I should be against the Freeman amendment. That is just not my reason, really, to be against this.

What concerns me and what could happen is different than what could happen within our own legislative House and body. What we would be doing is giving judicial district representation. What we are talking about versus currently, where I am able to vote for everyone who runs for Supreme, Superior, and Commonwealth Courts, is to be able to eliminate my right of choice for the highest courts within our Commonwealth, and I have extreme reservations about that. I also go by how our Constitution was put together, not just within the Commonwealth of Pennsylvania but the U.S. Constitution. I am not going to argue the merits as far as merit selection. My concern, though, and everybody's concern is that, supposedly, the best of judges are chosen and elected, whether it is by election or if we ever go to merit.

If we go to this current system, what we will be saying is the best person within a particular region will be selected. We are not saying that if there are two or three vacancies, that the best person cannot be from Carbon County, Erie County, Allegheny County, Montgomery County, or Dauphin

County. What we are saying is, by a region, that is how far our choice will be limited. That had always been my primary premise of why personally I cannot support the merit selection issue, but also now what we are seeing is to create these judicial—and I will call them, for my own preference, not districts but they would be zones. All we would be doing is creating different zones for a judicial candidate to be able to run, and I have heard different responses from people who simply say, it would save money; it would give representation to the district within the area that a person will be able to run. But what we are talking about is a statewide office, not a person who represents and would be elected to represent a particular zone. He is elected to represent the whole Commonwealth of Pennsylvania. The Supreme Court does not represent the northeastern corner, southwestern corner, or northwestern corner. It is supposed to represent the whole Commonwealth.

Now, if you want to make it easier and cheaper, to be able to limit everybody's access also, no matter how you look at it, what you are going to be doing is giving the right for the most populous district—and think about what you will be doing if we go to merit selection—what you are saying is the areas that have the highest concentration of population will still have the most judges. Now, which areas are those? Still the southwest and southeast corners. You are not going to help yourselves. You are going to hurt yourselves. That is common sense. Numerically, one plus one equals two. If the other gentlemen are going to see different numbers, then I would suggest you follow the lead and follow the yellow brick road.

I really think that you will be hurting yourselves. I do not think that this will accomplish anything. I think that we ought to fight this battle between merit selection and elective office. I do not think that the Supreme Court should be limited to a line being drawn or composed—by whom, we really do not know—other than by population. We have already seen what some of the districts may be. Can you imagine a district, and a district could actually go across from Erie County all the way over to the New Jersey line, if you want it to be. That could be a district. It could encompass 30, 40, 50 different counties. It is possible.

Now, if you are going to say that that is logical, then do it. I am going to speak on it a little bit later after the other gentleman does, after he speaks, but this is an illogical concept when you are talking about the statewide offices and the people who are supposed to represent the whole Commonwealth of Pennsylvania and not just a particular region. This is a court system that is just supposed to be representative of everybody, not a particular type of individual, a particular type of motif, but the whole Commonwealth.

I would ask for us not to support the Freeman amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair now recognizes the gentleman from Beaver, Mr. Veon.

Mr. VEON. Thank you, Mr. Speaker.

Mr. Speaker, would the maker of the amendment stand for brief interrogation?

The SPEAKER pro tempore. The prime sponsor of the amendment agrees to be interrogated, and the gentleman from Beaver may proceed.

Mr. VEON. Thank you, Mr. Speaker.

Mr. Speaker, about in the middle of your amendment, under paragraph (2), you suggest that "...the General Assembly shall, by law, divide the Commonwealth,..." et cetera, et cetera. Mr. Speaker, what, in your opinion, would happen if the General Assembly would not undertake that part of your amendment and would not divide the Commonwealth within 1 year after adoption of this amendment?

Mr. FREEMAN. I suppose, Mr. Speaker, the same factors that would come into play if we decided not to divide the State by districts for the congressional offices. In a case such as that, the offices are elected statewide until such time as which districts are selected.

Mr. VEON. Thank you, Mr. Speaker.

Mr. Speaker, if I could follow up on that question, I would ask the maker of the amendment if he could speculate, if at all possible, as to what would happen if the amendment were to pass, saying that the judges shall be elected by electoral districts. However, in the second part of the amendment, Mr. Speaker, you suggest that the General Assembly still must undertake the task of dividing the State into judicial districts. I guess my question is, what would happen if we pass this amendment that says they shall be elected but we do not pass the law 1 year from the date of this effective date that in fact we divide the State into judicial districts?

Mr. FREEMAN. Again, Mr. Speaker, I would point out to the gentleman what usually happens in a case where a State is to divide itself into congressional districts and where they do not settle on boundaries in enough time for the next election. In cases where that has arisen as a situation, the Congressmen are then elected statewide on a single ballot, and I would point out that the same circumstances would probably come into play here for the judicial districts. If we could not decide on districts in time, statewide election would continue, but we would be mandated, under this amendment to the Constitution, to eventually draw districts based on a census, based on the concept of equal districts by population.

Mr. VEON. Thank you, Mr. Speaker.

Mr. Speaker, I would like to make a brief statement on the amendment.

The SPEAKER pro tempore. The gentleman is in order and may proceed.

Mr. VEON. Thank you, Mr. Speaker.

Mr. Speaker, I rise to oppose this amendment for many of the reasons that the gentleman, Mr. Preston, already articulated, but I would like to add that even those members who think this proposal has some merit—and I think it does have some merit—I would suggest that we are creating a lot of problems by leaving it up to the General Assembly that within 1 year from the adoption of this amendment, we would go through a rather brutal political process of redistricting judicial elections, or districting them, as the case may be here, of gerrymandering judicial elections, and I would suggest that

that process would be as political as any process that we currently go through.

I would suggest that this proposal does have some merit; that in fact the gentleman, Mr. Bortner, has a bill on merit selection that is working its way through the process; that we will have plenty of time to deal with that issue when we get to it; and that this issue ought to remain to be debated and discussed fully and that the merit of it ought to be looked at more closely by the proponents and that we ought to deal with it at another time. For that, I would request that we defeat the amendment at this time. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair now recognizes the gentleman from Bradford, Mr. Chadwick.

Mr. CHADWICK. Thank you, Mr. Speaker.

I have to say, in all candor, that to some degree I agree with Mr. Veon that this may be a little bit premature. I think this is an idea whose time is coming. Nevertheless, we are faced with it today, and we need to vote on it.

If I was the gentleman, Mr. Preston, I would have stood up and said the same things he did. After all, he has all the judges. But I hope you will understand if some of the rest of us in the other 66 counties feel a little bit disenfranchised in this process. We think judges should come from all 67 counties. We think judges should come from all regions of the State.

If this amendment passes, we would all have representation on our appellate courts. Further, our judges would have higher name recognition in the districts they were running in, because the districts would be smaller. With the smaller districts, the judges could get around and campaign better. They could do a better job of getting their message across, and furthermore, they would not have to raise as much money to campaign, because in all likelihood, they would only be running in one media market.

If you believe that people have a fundamental right to select their judges, yet you are troubled by the problems with the current system, I suggest that this is the answer, and I think we all should seriously consider voting "yes" on the Freeman amendment. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Lehigh, Mr. Pressmann.

Mr. PRESSMANN. Thank you, Mr. Speaker.

Mr. Speaker, I rise in support of the Freeman amendment.

Mr. Speaker, I have done some quick mathematics based on a population of 12 million in Pennsylvania. The size of a Supreme Court district would be approximately 1.7 million people; a Superior Court district would be about 800,000 people; a Commonwealth Court district would be about 1.3 million people. Mr. Speaker, I think with this type of system, we could bring the election directly to the people. As Mr. Chadwick says, it would be more affordable for more candidates to run and it would also allow more representation for other areas of the State.

Mr. Speaker, at the present time I believe there are only eight counties who are represented on the appellate courts of our Commonwealth. Mr. Speaker, of those eight counties, one county has half. Half of the 31 judges in our Commonwealth come from the environs of 1 county. Mr. Speaker, we saw the results when that can be heavily weighted in the Allegheny court decision on the funding of the courts, when we saw a predominance of Allegheny court judges rule in favor of their home county, that this Commonwealth should be in charge of funding all the court-related areas. Mr. Speaker, I think that shows what can happen when the court is weighted in one area. Mr. Speaker, I am very fortunate that my county has two judges on the court. It is also very surprising that a county the size of Lehigh has that many judges.

Mr. Speaker, I ask for a positive vote. I think this is a way of improving our system and getting away from the proposals for merit selection. Let us let the people decide, let us let the people vote who their judges should be, and let us give them a chance to make a more informed decision. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair now recognizes the gentleman from York, Mr. Bortner.

Mr. BORTNER. Thank you, Mr. Speaker.

I stand before the House of Representatives as one member who would like to see the way that we put judges on the appellate courts changed. I have one idea of how that ought to be done. Representative Freeman, Representative Gallen, and others have some other ideas.

I could get into a lot of the substantive reasons as to why I think this is not a good idea. I know Representative Freeman said that he felt this would be the best of both worlds. Frankly, I think this would probably be the worst of both worlds. But I would urge members to hold off this issue until the day that we delve into the subject of selecting members for the appellate courts - the Supreme Court, the Superior Court, and the Commonwealth Court.

We have before us a bill that, I think, is extremely important. It is a bill that has been around the General Assembly for 4 or 5 years and deals with the subject of how we are going to discipline judges, how we are going to insure the integrity of judges on the appellate courts. I think to insert the issue of selection along with the issue of judicial discipline not only confuses the two issues but probably guarantees that this bill is going to be at least, at a very minimum, delayed and perhaps may even prevent it from becoming law.

We have a bill in the Appropriations Committee that some people refer to as merit selection. We fully intend to bring that bill before the House of Representatives. I would suggest that this is certainly an amendment that will and should come up at that time, and I would hope that at that time we could fully debate the issue of how we are going to select judges to serve on our appellate courts. I think that this issue ought to be held off until that debate on that day and that we ought not to clutter up this bill, dealing with judicial discipline, with the subject of judicial selection.

I would urge the members to vote "no" on this amendment and would suggest to the members that we will have an opportunity to debate that other issue on selection fully at a future date, hopefully in the near future. Thank you.

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Allegheny, Mr. Trello.

Mr. TRELLO. Mr. Speaker, I have come to the conclusion that there are members of this General Assembly who believe that judicial candidates are elected because of their geographical area - as a matter of speaking, western Pennsylvania. Well, I do not believe that for a minute, because never underestimate the intelligence of the voters. I think the voters are the most intelligent of all from my district, because they elected me, and I think before you start saying that our voters are not intelligent enough to make a proper selection of the judicial candidates, just remember, they elected you.

Let us defeat this amendment and put it back to where it belongs, with the merit selection of judges. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair now goes to the eastern part of the State and recognizes the gentleman from Philadelphia, Mr. Cohen.

Mr. COHEN. Thank you, Mr. Speaker.

Mr. Speaker, I would oppose this amendment, although I understand very well the motivations behind the people who want it. I would point out that we only have 31 statewide judgeships anyway and we have 67 counties, so there is no system, unless we more than double the number of judges, there is absolutely no system under which every county is going to get representation on the appellate courts.

Furthermore, under this system it would appear that Philadelphia and Allegheny Counties would each be guaranteed one seat on the Supreme Court; Philadelphia and Allegheny Counties would each be guaranteed two seats on the Superior Court; and Philadelphia and Allegheny Counties would each be guaranteed one seat on the Commonwealth Court. Therefore, Philadelphia and Allegheny Counties are guaranteed 8 seats under this proposal out of a total of 31 and there would only be 23 seats left for the remaining counties, and I would suspect, depending on how the districts were drawn, that the larger counties, such as Lehigh County, such as Delaware County, Montgomery County, and so forth, would wind up with the lion's share of those 23 seats and that many smaller counties would have very little, if any, representation anyway.

The main reason I am against this amendment is that a court is not a legislative body. You cannot run for a court seat and say, elect me to the court; I am going to do more for Philadelphia; I am going to do more for Lehigh County; I am going to do more for Carbon County. We can introduce bills. Judges cannot introduce bills. We can appropriate money. Judges cannot appropriate money.

Then there are other practical problems beyond the huge difference between a court and a legislative body. If somebody is elected at the age of 45 to one of these appellate courts from any district, there is not going to be another chance for anybody in that district to get on that court for 25 years,

because it will just be retention, yes-no, for that whole period. That is not unreasonable. That is not at all an unreasonable prediction. Mr. McHale ran for a seat at the age of 39. Dan Pellegrini I think was 41 when he was elected to the Commonwealth Court. Kate Ford Elliott was 38. People who are elected at young ages are going to have the effect of stopping anybody else from that county or from that region from getting on the court for a very, very long period of time.

This is a proposal that has other problems as well. Mr. Freeman concedes that he cannot throw those judges out of office who are now on the court. This amendment does not terminate anybody's terms, although there is going to be an election eventually for Supreme Court. The next election for Supreme Court will take place in 8 or 9 years. In what district are the people going to get to fill that vacancy when Justice Nix retires? Will that be a Philadelphia district filled? Will it be an Allegheny County district filled? How are we going to make that determination? We elect the legislature by districts and we all run every year. The Senate runs in half the years. The Supreme Court just runs sporadically. It is going to be a very, very difficult if not an impossible problem to figure out where the elections are, and the effect is that while we are waiting for people to retire, decades might go by in which nobody at all in a given county is eligible for a seat. It might be 20 or 30 years before somebody in any county, depending on what the legislature decides, is eligible for the Supreme Court or the Commonwealth Court or the Superior Court.

There are very, very real, practical problems with this amendment and with this general approach. I urge the defeat of this amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair now recognizes the gentleman from Allegheny, Mr. McNally.

Mr. McNALLY. Thank you, Mr. Speaker.

I also rise to oppose this amendment. One thing that I think is absent in this amendment, even if it were a good idea, is any kind of residency requirement. I think that under our Constitution today a judge or a Justice of the Supreme Court need only be a resident of the Commonwealth of Pennsylvania. This amendment would not change that residency requirement, so that you could conceivably have someone from Allegheny County elected from the judicial district in Philadelphia or Allentown or Scranton.

Another difficulty that the amendment would not address is that every 10 years these judicial districts would be redrawn and we could have problems where two judges or Justices or more than two judges or Justices have been included in the same judicial district. That would cause a problem with the constitutional provisions of 10-year terms and the fact that the retention elections are only called for after the initial election. How would we resolve that 10-year term and the retention election provision in our Constitution with the fact that Justices could be drawn out of a judicial district every 10 years before their term is up?

I think that the gentleman, Mr. Freeman, has made a valiant attempt to try and resolve a *lack of geographic balance* in our appellate courts, but I do not think that this is the answer. I think that there are many unanswered questions in *this amendment*, and I would ask the members to vote against it. Thank you.

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Cambria, Mr. Wozniak.

Mr. WOZNIAK. Thank you, Mr. Speaker.

I rise to support the Freeman amendment. If you see who has been up speaking for it and against it, you will quickly understand that the situation is two urban centers and the lawyers who want to cross the "t's" and dot the "i's." The amendment might not be perfect, but the concept is there. *Some of the details might have to be worked out.*

I do not know many of you out there in the rural and small communities of Pennsylvania, but the counties of Cambria, Elk, Clearfield, Bedford, Blair, Somerset, Indiana, I do not know the last time we ever had a real honest crack at having one of our judges attain the position of appellate or higher in Pennsylvania. I think we have 203 members here. We have 50 Senators who are elected across this State. We bring with us our own local flavor and we are a deliberative body to come hopefully in making laws in the land of Pennsylvania. I think by having a region or an area represented by our judges, we can bring the local flavor of all of Pennsylvania to sit on those benches so that they can make their deliberative decisions in a *just and fair fashion.*

I think this amendment is a good effort to change the judicial system and to continue to give the citizens an opportunity to even better understand and know the people whom they are voting for, and I urge a "yes" vote. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Berks, Mr. Gallen, for the second time.

Mr. GALLEN. Thank you, Mr. Speaker.

Could I interrogate Mr. Preston, Mr. Speaker?

The SPEAKER pro tempore. The gentleman from Allegheny consents to being *interrogated*, and the gentleman from Berks may proceed.

Mr. GALLEN. Mr. Speaker, you talked at great length about the courts and the makeup and representation and so on, and you are quite familiar with the court system. I was wondering if you can name half of the members of the Pennsylvania Superior Court. Can you do that?

Mr. PRESTON. What will I win if I do, sir?

Mr. GALLEN. Pardon? What was the response?

Mr. PRESTON. What will I win if I do, sir?

Mr. GALLEN. You will win the admiration of your colleagues, I think.

Mr. PRESTON. I do not think, if you read my testimony, that I said, but if you want to challenge on how many I know, then you are going to have to give up something, too, if I win, sir.

Mr. GALLEN. That is the end of the interrogation, Mr. Speaker.

I would suspect that few members of this General Assembly can name half of the members of the Superior Court, and it is the very point of this legislation. The point is, let us know whom we are voting for, whom we are electing.

In response to Mr. Veon, this is a constitutional amendment. It will take this session of the legislature—we must enact it—and again in the next session of the legislature. It will then have to go on the ballot. We have years, really, to devise the legislation that we are going to need to put this into force.

In response to Mr. Bortner, Mr. Speaker, I think you are deluding yourself if you *think we are ever going to vote on merit selection* in this General Assembly. It has not happened; it will not happen. This is a viable alternative. It can work.

With regard to the overload of Justices: For example, if somebody's term is up soon after this becomes law and we would have to have a special election, we would have to allow, in my opinion as the House's official curbstone lawyer, we would have to allow the Justice who is up for retention to be retained, which would mean we would have more Justices on the court until such time as those Justices opt to run in a district or their time for retirement comes about.

There are many States—I think nine—who elect their appellate courts by district. It makes sense for Pennsylvania to do that, because Mr. Trello does not know who sits on the Pennsylvania Superior Court unless he looks at a manual, nor does Mr. Preston, and nor do I, because these are faceless people who run around the State spending a lot of money on television and so on but who really do not get recognized. We know who the Lieutenant Governor is. We know who the Auditor General is, but we sure as heck do not know the 31 people sitting on the court. But one thing I do know: There are too darn many of them from Allegheny County. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair now recognizes the gentleman from Northampton, Mr. Freeman.

Mr. FREEMAN. Just to refute a few points made by those who oppose this amendment.

We are told by the gentleman, Mr. Preston, that by dividing the State up into districts, we would rob the voter of their choice to select individuals, able individuals, for the bench from, say, Allegheny County, to use an example. We are then told by the gentleman, Mr. McNally, that one of the problems with this amendment is that there is no residency requirement. It appears as if the gentlemen from Allegheny County are *trying to argue both sides of the issue.*

There is nothing in this amendment which would prohibit any able jurist from throughout this Commonwealth from running in any one of the districts. However, the benefit that is accrued to the average voter is the chance to get to know the candidates who run for judge so that we do not select solely on the name of the county they come from or on a popular name that they happen to hold. With district election under this amendment, any able jurist could run in any district, but

again, we make it possible for the individual to know his districts, to know the candidates by having a smaller district within which to run and to give them the chance to learn the credentials and the abilities of each candidate as opposed to letting it become a Russian roulette game on a statewide level.

There was concern raised also by the gentleman, Mr. Cohen, that we do not provide for a transitional phase-in. I would point out to the gentleman point (3) of the amendment, which states that "The General Assembly shall, by law, determine the manner of elections under this subsection." That is the elastic clause which gives us the opportunity to refine the system once the amendment is adopted and to deal with the issue of phase-in.

The bottom line here before us today is whether we will embrace as a concept the idea of district election as a middle course between the concept of merit selection and the statewide election of judges. By allowing for district election, we enable the voter to have a better understanding, a better opportunity to understand, the qualifications of candidates for the appellate courts here in Pennsylvania, a very desired end. There are problems with the current statewide election system, and to my mind, there are some severe problems with the concept of merit selection. Let us choose the middle course here today. Let us make sure that we protect the process of electing our judges, but do it in a very common-sense and equitable manner, and that is by adopting this amendment.

I urge the members to vote for this amendment.

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Allegheny for the second time, Mr. Preston.

Mr. PRESTON. Thank you, Mr. Speaker.

As Mr. Gallen has said, "There are," and I quote, "too darn many statewide judges in Allegheny County." I have openly and publicly agreed with his statement, but I will refuse to step down and deal with that from a personal level just because of region.

I guess this year I had a very tough decision politically and personally evolve, to give you an example. One of my constituents, Mr. Pellegrini, was running for statewide office. He came and he talked to me about supporting him, and I told him that I would not, that I was going to support a friend of mine by the name of Paul McHale. Now, both of these gentlemen I look to as far as being friends is concerned. One was a constituent within my own legislative district and another one was 200 miles away.

I have listened to my good friend from Lehigh County, because I can remember when they sent a judge, Judge Wieand, who also sits on a statewide court, whom I personally took around with me door to door. As a matter of fact, I even wore him out so bad that he wanted to quit, but I kept him campaigning on a statewide basis. I will also say that the gentleman who happened to be my constituent—and I have heard an awful lot of statements about money—ran a statewide campaign in the primary and the general and spent \$50,000, again refuting erroneous statements about saving costs, because if he was running within that region in south-

western Pennsylvania, he probably would have wound up having to spend about a half a million dollars.

I ask you to sit down and look at the real reason. You cannot say it is cheaper, because it is really not going to be cheaper. You cannot say that it creates accessibility per se, because how many of you currently now are accessible in Lehigh County? Or any of my colleagues in Allegheny County, how many of you are really accessible to the Supreme Court, Commonwealth, or Superior Court judges? Personally, I have been on the record that if it were up to me, we would abolish the Superior Court. So no one can say from Allegheny County Representative Preston, yes, he would be for this, because it is a lie; it is an inaccuracy, because the record speaks for itself.

Now, you tell me if a gentleman can run a primary statewide for \$15,000, and roughly that is what Mr. Pellegrini spent. I had another good friend—even though Mr. Gallen says I cannot name them—and I am not going to talk about whether it is Beck or whether it is Wieand or whether it is Barry, but even Doris Smith ran statewide on \$8,000. It was not just Allegheny County that she carried. She carried an awful lot of counties, not just the majority. So now you explain to me, and I ask Mr. Gallen to come up to the logic, if someone is going to be cheaper, if they can spend \$8,000 and run statewide, how could you run \$8,000 in a region? You know you cannot add up the fact; you cannot prove it. He cannot run his campaign, his own campaign, for that little bit of money, but she ran and she won.

Do not fool yourselves, because this, one way or another, whatever you do, does not benefit me. Having them all from Allegheny County, take my word for it, as I always say, you see them once every 10 years. It does not do anything. If it were up to me, we would eliminate retention and have them run every 6 years.

All we are going to do is politicize the office even more than what some of you want. As Mr. Gallen says, merit selection. You are going to politicize it even more, and then think about it. What happens now? Okay. So we go to the Superior Court and we go into these regions. Well, I think it is unfair. I am willing to support that everybody here, every county, ought to have a member who sits on the Superior Court and the Commonwealth Court, and then we would not have to draw any lines because each county would have one. Why not give everybody somebody on the Supreme Court? Let us change that constitutionally and give every county somebody on the Supreme Court. Let us make it fair. Every one of you will have representation. But think what is going to happen. We by a vote, we by a vote right now can add 10 to 15 members to the Superior or Commonwealth Court. Are you really going to benefit from it? We by a vote can eliminate the Commonwealth and Superior Court; we can eliminate the numbers.

Again I say that if we go to merit selection and we decide to increase or decrease the Commonwealth Court or the Superior Court, where are you going to be? Logic would tell you it is really not that good of an idea, and I just do not understand how you want to hurt yourself. Again I say in Allegheny County, it does not mean any difference to me.

I will disagree with the one colleague who said, because one county commissioner wanted to do something about the court employees. We have had bills in this legislature for years to take over the court employees, for years all the way down to the district justice level, and I would say to the member that I would not impugn myself to be able to say that just because a particular judge is from a particular region, that he is going to support, and I will truly say that the county commissioner, all those people there, he has the support of them all. And I will also say again from Allegheny County, there was one judge that I openly opposed as far as retention is concerned. So do not say from Allegheny County that Joe Preston is going to support this, because that is inaccurate. It is for the record, and it is not exactly true.

But I will say to some of you also, whether you are from Lehigh County, what happens if your district has 1 million people? What if you go from Allentown all the way down to Philadelphia? It is possible. What happens if you come from Erie all the way down to Pittsburgh? It is possible. What happens if you go from Allentown all the way up to Scranton? It is possible. You have not gained anything. To do this really does not add anything. It only muddles up the current system that we are trying to come together politically, to come across whether we are going to have a merit system or an elective system. But to be able to take away from me and my constituents or any of your constituents the choice to be able to vote for all of the members who are supposed to represent all of the Commonwealth just does not make a lot of sense. To be able to just use money as a reason, which I have already proven to be inaccurate, to be able to just say representation and name identification, that is inaccurate and most of us know that. Or as one gentleman has said, maybe somebody is very popular in Philadelphia; maybe they will move up to Allentown and buy some media. Maybe they have an extra hundred thousand dollars and they want to be a judge. So those people who have the most money can sit up here and buy the most media. That is just not fair.

I do not think the Freeman amendment is a good idea at this time, and I would ask for a negative vote.

The SPEAKER pro tempore. The Chair now recognizes hopefully the final speaker, the gentleman from Greene, Mr. DeWeese, the majority whip.

Mr. DeWEESE. Mr. Speaker, I think we can, as is my habit, try to boil this down to the nub. The whole concept of judicial reform that ladies like Connie Maine have come to visit with me over the years, the League of Women Voters, the good government folks back home, the whole concept of judicial reform has been in our chamber for quite some time, and today, today we have got a chance to take half, half of that package home.

Now, I do not want to be considered a goody-goody, and I am not so sure that I would embrace every aspect of the so-called *judicial reform initiatives*. I may even side with the honorable gentleman from Coraopolis, Mr. Trello, on certain aspects of this whole concept. But for judicial discipline, judicial discipline, this finely crafted, finely honed, bipartisan

piece of work, a piece of work that we are presenting today, is being molested by the gentlemen, the gentlemen on both sides of this amendment. Now, what they are doing conceptually is altruistic, idealistic, good, substantive, farsighted, maybe, maybe, but we want to win. We are practical people. We are politicians. We want to go home with just half of the judicial reform packages.

Now, judges will be better disciplined if this bill goes to the Senate without this baggage. This is baggage, in our vernacular, in our political lexicon. This is baggage. We do not need this amendment. It does not do our bill any good, and it is our bill. It is Tommy Caltagirone's bill. It is the House Judiciary Committee's bill. It is Nick Moehlmann and Piccola and Hagarty and Reber's bill. It is Bortner's bill. It is McHale's bill. It is a good bill. It is McNally's bill. We need this bill to pass.

I admire, I admire the gentleman, Mr. Freeman, as others have said, for what he is trying to do, but this is not the place to do it. I hope that we can demolish his amendment in the next few moments. Thank you.

On the question recurring,

Will the House agree to the amendments?

The following roll call was recorded:

YEAS—126

Adolph	Distler	Lee	Rybak
Allen	Dombrowski	Leh	Saloom
Angstadt	Dorr	Lescovitz	Saurman
Argall	Durham	Linton	Scheetz
Barley	Fairchild	Lloyd	Schuler
Battisto	Fargo	Lucyk	Scrimenti
Belfanti	Fleagle	McHale	Semmel
Billow	Foster	Maine	Serafini
Birmelin	Fox	Marsico	Smith, B.
Bishop	Freeman	Merry	Smith, S. H.
Black	Gallen	Micozzie	Snyder, D. W.
Bowley	Gannon	Miller	Snyder, G.
Boyes	Geist	Moehlmann	Staback
Brandt	George	Morris	Stairs
Bunt	Gladeck	Mowery	Stish
Burd	Godshall	Nahill	Strittmatter
Burns	Gruitza	Nailor	Stuban
Bush	Gruppo	Noye	Tangretti
Caltagirone	Haluska	Pesci	Taylor, E. Z.
Carlson	Hasay	Petrarca	Taylor, F.
Cawley	Hayes	Phillips	Telek
Chadwick	Heckler	Piccola	Tigue
Civera	Herman	Pitts	Trich
Clark, D. F.	Hershey	Pressmann	Vroon
Clark, J. H.	Hess	Raymond	Wambach
Cornell	Howlett	Reber	Wass
Corrigan	Hughes	Reinard	Wilson
Coy	Jackson	Ritter	Wozniak
Daley	Jadlowiec	Robbins	Wright, D. R.
Davis	Johnson	Rudy	Wright, R. C.
Dempsey	Kasunic	Ryan	Yandrisevits
Dietterick	Lashingier		

NAYS—68

Belardi	Freind	Laughlin	Perzel
Blaum	Gamble	Letterman	Petrone
Bortner	Gigliotti	Levdansky	Pistella
Cappabianca	Hagarty	McCall	Preston
Carn	Harper	McNally	Rieger
Cessar	Hayden	McVerry	Robinson
Clark, B. D.	Itkin	Maiale	Roebuck
Clymer	James	Markosek	Steighner

Cohen	Jarolin	Mayernik	Taylor, J.
Colafella	Josephs	Melio	Thomas
Colaizzo	Kaiser	Michlovic	Trello
Cole	Kenney	Mrkonic	Van Horne
Cowell	Kondrich	Murphy	Veon
DeWeese	Kosinski	O'Brien	Weston
Donatucci	Kukovich	O'Donnell	Williams
Evans	LaGrotta	Olasz	Wogan
Farmer	Langtry	Oliver	Wright, J. L.

NOT VOTING—2

Acosta Richardson

EXCUSED—7

Broujos	Fee	Pievsky
DeLuca	Flick	
Dininni		Manderino, Speaker

The question was determined in the affirmative, and the amendments were agreed to.

WELCOME

The SPEAKER pro tempore. The Chair would like now at this time to have the House pause in its deliberations to welcome Mr. Ed Phelps, who is the president and CEO (chief executive officer) of Lunn Industries, who is the guest of Representative Geist from Blair, and he is located to the left of the Speaker. Would Mr. Phelps stand, please.

CONSIDERATION OF HB 539 CONTINUED

On the question recurring,

Will the House agree to the bill on third consideration as amended?

Bill as amended was agreed to.

The SPEAKER pro tempore. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

YEAS—185

Adolph	Dombrowski	Langtry	Ritter
Allen	Donatucci	Lashingner	Robbins
Angstadt	Dorr	Laughlin	Robinson
Argall	Durham	Lee	Roebuck
Barley	Evans	Leh	Rudy
Battisto	Fairchild	Lescovitz	Ryan
Belardi	Fargo	Levdansky	Rybak
Belfanti	Farmer	Linton	Saloom
Billow	Fleagle	Lloyd	Saurman
Birmelin	Foster	Lucyk	Scheetz
Bishop	Fox	McCall	Schuler
Black	Freeman	McHale	Scrimenti
Blaum	Freind	McNally	Semmel
Bortner	Gallen	McVerry	Serafini
Bowley	Gannon	Maiale	Smith, B.
Boyes	Geist	Maine	Smith, S. H.
Brandt	George	Markosek	Snyder, D. W.
Bunt	Gladeck	Marsico	Snyder, G.
Burd	Godshall	Melio	Staback
Burns	Gruitza	Merry	Stairs
Bush	Gruppo	Micozzie	Steighner
Caltagirone	Hagarty	Miller	Stish
Cappabianca	Haluska	Moehlmann	Strittmatter

Carlson	Harper	Morris	Stuban
Carn	Hasay	Mowery	Tangretti
Cawley	Hayden	Nahill	Taylor, E. Z.
Cessar	Hayes	Nailor	Taylor, F.
Chadwick	Heckler	Noye	Taylor, J.
Civera	Herman	O'Brien	Telek
Clark, B. D.	Hershey	O'Donnell	Thomas
Clark, D. F.	Hess	Oliver	Tigue
Clark, J. H.	Howlett	Perzel	Trello
Clymer	Hughes	Pesci	Trich
Cohen	Jackson	Petrarca	Veon
Colafella	Jadlowiec	Petrone	Vroon
Colaizzo	James	Phillips	Wambach
Cole	Jarolin	Piccola	Wass
Cornell	Johnson	Pistella	Weston
Corrigan	Josephs	Pitts	Williams
Cowell	Kaiser	Pressmann	Wilson
Coy	Kasunic	Preston	Wogan
DeWeese	Kenney	Raymond	Wozniak
Daley	Kondrich	Reber	Wright, D. R.
Davies	Kosinski	Reinard	Wright, J. L.
Dempsey	Kukovich	Richardson	Wright, R. C.
Dietterick	LaGrotta	Rieger	Yandrisevits
Distler			

NAYS—8

Gamble	Itkin	Mrkonic	Olasz
Gigliotti	Michlovic	Murphy	Van Horne

NOT VOTING—3

Acosta	Letterman	Mayernik
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EXCUSED—7

Broujos	Fee	Pievsky
DeLuca	Flick	
Dininni		Manderino, Speaker

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk present the same to the Senate for concurrence.

* * *

The House proceeded to third consideration of **HB 2118, PN 2785**, entitled:

An Act providing for a capital project for the acquisition and installation of modular units for the Department of Corrections; providing for the issuance of bonds; and making an appropriation.

On the question,

Will the House agree to the bill on third consideration?

Mr. FARGO offered the following amendment No. A3975:

Amend Sec. 3, page 3, by inserting between lines 6 and 7

(d) Nothing in this act shall be construed as changing the intended purpose of the State Regional Correctional Facility at Mercer.

On the question,

Will the House agree to the amendment?

The SPEAKER pro tempore. On that question, the Chair recognizes the gentleman from Mercer, Mr. Fargo.

Mr. FARGO. Thank you, Mr. Speaker.

The Mercer Regional Correctional Facility outside of Mercer, Pennsylvania, is a minimum security facility in which

the living units are set up so that they are not the traditional cells. This particular bill provides finances and has instructions in it to establish modular units at this facility. Those modular units are maximum security modular units.

It is my concern that by constructing these modular units there, that it may cause a change in the function of the Mercer Regional Correctional Facility, which is presently used only for short-term inmates, inmates that are sent there by our county government to a major extent, and that was the original purpose of this particular facility.

All this amendment does is state that nothing in this act will change that, and I would appreciate your support.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Northumberland, Mr. Belfanti.

Mr. BELFANTI. Thank you, Mr. Speaker.

I have no problem with the amendment. It was never the intention of this bill to change the designation of any of the facilities that will be receiving these modular units.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Luzerne, Mr. Blaum.

Mr. BLAUM. Thank you, Mr. Speaker.

Mr. Speaker, I rise to oppose the amendment. We have several State correctional institutions all across this State, and I think if we start tying the hands of the Department of Corrections that they cannot move prisoners around from one facility to the other as they see fit— I mean, we may all want to adopt amendments to insure and guarantee that only certain kinds of prisoners will be placed at our various types of prisons across Pennsylvania. I do not think it is appropriate at all that we should designate one institution and say that modular units cannot go there. Modular units can be used to hold all different kinds of inmates, and I think we make a great mistake if we begin to single out certain correctional facilities and not allow the Department of Corrections to manage it as they see fit.

I think this is a very bad amendment, and while I do not disagree with the thrust of it and hope that the gentleman's wishes are carried out by the Department of Corrections, I think it is a very bad amendment when we start infringing upon the discretion of the Department of Corrections, especially in light of some of the problems that we have seen lately. We cannot put something like this, it seems to me, into law, and I would ask the members to defeat the amendment.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair now recognizes the gentleman from Mercer, Mr. Fargo, for the second time.

Mr. FARGO. Thank you, Mr. Speaker.

I would just like to say that nothing in this amendment prevents the installation of the modular maximum security units at Mercer. There is no question but, as I understand it, that that is going to happen.

All I am saying is— And incidentally, this facility is not set up as a maximum security facility. In order to do that, you would have to have double fencing, which is not there. We would have to change the entire concept of the cell system that

is presently set up, because the units are set up in a circular area, which are not the types of cells that you would normally see in a maximum security unit.

In setting up this particular facility as a State regional correctional facility, that was the purpose of that facility originally, and all I am asking is that it stay with that same purpose. This will not in any way impede the construction of these modular units at the Mercer facility.

The SPEAKER pro tempore. The Chair would like to recognize now the lady from Montgomery, Mrs. Hagarty.

Mrs. HAGARTY. Thank you.

Mr. Speaker, I rise to support this amendment.

I think there may have been a misunderstanding by Representative Blaum in opposing this. This amendment only speaks to these modular units which are going to be added under this appropriation to make it clear that these modular units shall not be inconsistent with the purpose of the current State Regional Correctional Facility at Mercer. I do not see how anyone can have any objection to that. It does not seem to me that we would want, if it were even the intent of the department, which I cannot imagine, to place maximum security modulars at a facility which is intended otherwise. Let me just suggest that while we have yet to uncover the entire causes of Camp Hill, it was clear that one of the reasons that the riot occurred at Camp Hill was because a facility which was built for a younger, less violent population was being used for maximum security violent prisoners.

So I certainly think we do no harm by insuring that these particular modulars at this prison facility are consistent with what that facility is intended for, and I urge a "yes" vote.

The SPEAKER pro tempore. The Chair thanks the lady and now recognizes the gentleman from Mercer, Mr. Gruitza.

Mr. GRUITZA. Thank you, Mr. Speaker.

Mr. Speaker, I rise to support the Fargo amendment. I think that this legislature, when the institution was created in Mercer, intended that facility as a minimum security facility, and for the reasons stated by the previous speakers, I think that if the intention would ever come about to change the nature of that facility, it should be done here rather than within the department.

I think the amendment is a good one, and I do not think that the department has a problem with it. I think we should support it. Thank you.

The SPEAKER pro tempore. The Chair now recognizes the sponsor of the bill for the second time, Mr. Belfanti from Northumberland.

Mr. BELFANTI. As I said before, Mr. Speaker, I believe the maker of the amendment, Mr. Fargo, has good intentions, and it was never the intent of this legislation to change the designation of those prisons that are currently classified as "minimum" or "medium security" prisons; simply to provide much needed additional bedspace to house maximum security prisoners. Also, as Mr. Fargo said, the prison in question is not set up to be a permanent maximum security prison.

So I again am not taking a position on the amendment, but I do not have a problem with it.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,

Will the House agree to the amendment?

The following roll call was recorded:

YEAS—178

Adolph	Distler	Langtry	Ritter
Allen	Dombrowski	Lashingier	Robbins
Angstadt	Donatucci	Laughlin	Roebuck
Argall	Dorr	Lee	Rudy
Barley	Durham	Leh	Ryan
Battisto	Evans	Lescovitz	Rybak
Belardi	Fairchild	Letterman	Saloom
Belfanti	Fargo	Levdansky	Saurman
Billow	Farmer	Linton	Scheetz
Birmelin	Fleagle	Lloyd	Schuler
Bishop	Foster	Lucyk	Scrimenti
Black	Fox	McCall	Semmel
Bortner	Freind	McVerry	Serafini
Bowley	Gallen	Maine	Smith, B.
Boyes	Gamble	Markosek	Smith, S. H.
Brandt	Gannon	Marsico	Snyder, D. W.
Bunt	Geist	Mayernik	Snyder, G.
Burd	George	Melio	Staback
Burns	Gigliotti	Merry	Stairs
Bush	Gladeck	Micozzie	Steighner
Caltagirone	Godshall	Miller	Stish
Cappabianca	Gruitza	Moehlmann	Strittmatter
Carlson	Gruppo	Morris	Stuban
Carn	Hagarty	Mowery	Tangretti
Cawley	Haluska	Nahill	Taylor, E. Z.
Cessar	Harper	Nailor	Taylor, F.
Chadwick	Hayes	Noye	Taylor, J.
Civera	Heckler	O'Brien	Telek
Clark, B. D.	Herman	O'Donnell	Thomas
Clark, D. F.	Hershey	Olasz	Tigue
Clark, J. H.	Hess	Oliver	Trello
Clymer	Itkin	Perzel	Veon
Cohen	Jackson	Pesci	Vroon
Colafrella	Jadlowiec	Petrarca	Wambach
Colaizzo	James	Petrone	Wass
Cole	Jarolin	Phillips	Weston
Cornell	Johnson	Piccola	Williams
Corrigan	Josephs	Pistella	Wilson
Cowell	Kaiser	Pitts	Wogan
Coy	Kasunic	Raymond	Wozniak
DeWeese	Kenney	Reber	Wright, D. R.
Daley	Kondrich	Reinard	Wright, J. L.
Davies	Kosinski	Richardson	Wright, R. C.
Dempsey	Kukovich	Rieger	Yandrisevits
Dietterick	LaGrotta		

NAYS—16

Blaum	Howlett	Maiale	Preston
Freeman	Hughes	Michlovic	Robinson
Hasay	McHale	Murphy	Trich
Hayden	McNally	Pressmann	Van Horne

NOT VOTING—2

Acosta Mrkonic

EXCUSED—7

Broujos	Fee	Pievsky	
DeLuca	Flick		
Dininni		Manderino, Speaker	

The question was determined in the affirmative, and the amendment was agreed to.

On the question,

Will the House agree to the bill on third consideration as amended?

Bill as amended was agreed to.

The SPEAKER pro tempore. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

The Chair recognizes the minority leader, the gentleman, Mr. Ryan.

Mr. RYAN. Will the gentleman, Mr. Belfanti, consent to brief interrogation?

Mr. BELFANTI. Yes, sir.

Mr. RYAN. Mr. Speaker, the analysis that I received from our legal staff makes reference to some of the provisions in the bill, and they call it the contractual provisions of the bill, which include, and I am quoting now, "authority for the Secretary of General Services to modify or waive technical requirements that would unreasonably delay this project." Then the other thing it has is a provision specifically exempting the project from the provisions of the Administrative Code which require separate specifications for plumbing, heating, ventilating, and electrical work, and I am wondering if you could explain these two things.

Mr. BELFANTI. Mr. Speaker, it is my impression, after talking with administration officials, that modular units fall under different criteria as permanent structures. So therefore, rather than delay the installation of these modular units, exact building code and other structural requirements that are typically required for permanent structures be waived so that we can get on with the installation of these facilities in a most expedient period of time.

Mr. RYAN. Mr. Speaker?

The SPEAKER pro tempore. The gentleman is in order and may proceed.

Mr. RYAN. That was my thought also, as I first read it. However, your HB 2116, which is part of this package and is not restricted to modular units, has the same provision with respect to General Services waiving any technical requirements, and I am wondering if you would again address that issue, that part of the issue, rather than just the modular construction portion of the issue.

Mr. BELFANTI. Mr. Speaker, I will speak with General Services prior to the debate on HB 2116 and HB 2117, which are not scheduled for today, and see to it that I have a clarification for you at that period of time. I do not believe that the actual language in the legislation before us, HB 2118, is out of sync in what we are trying to do by providing immediate relief to the overcrowding problem.

Mr. RYAN. Mr. Speaker, are you telling us, though, that it is, for instance, not your intention by this bill that certain of the technical requirements that we have of General Services, such as low bid, are going to be waived? That requirement would not be waived, would it? The responsible lowest bidder?

Mr. BELFANTI. I do not believe so, Mr. Speaker. Again, my impression, after talking with correctional—

Mr. Speaker, rather than answer that, my colleague, Representative Wambach, who was employed by the Department of General Services previous to his employment here, understands the Separations Act in better detail than I and would be glad to address exactly what process we are talking about short-circuiting, if you will, to get on with solving the problem.

I yield to Mr. Wambach.

The SPEAKER pro tempore. Is the gentleman from Delaware finished with his interrogation?

Mr. RYAN. No; I am awaiting a response from the gentleman, Mr. Wambach.

Mr. WAMBACH. I am going to attempt a response.

The SPEAKER pro tempore. Okay. The gentleman from Dauphin, Mr. Wambach, is in order and may proceed.

Mr. WAMBACH. Mr. Speaker, I may be pulling out some cobwebs in my mind from when I worked in the Department of General Services, but it is my understanding that the act of 1913 is the Separations Act of this Commonwealth, which mandates basically that when there is a construction project, various functions of that construction project shall be separated from the others. In other words, there will be a general contractor; there will be an HVAC (heating, ventilating, and air-conditioning) contractor; there will be a plumbing contractor, et cetera, and they will, in fact, be bid separately.

So I think what the bill is saying is that the act of 1913 shall not apply to the awarding of these contracts based on the site preparations for these units.

Mr. RYAN. I understand that part of it. My question is, this bill says that General Services can waive technical requirements. I want assurances that those, quote, “technical requirements” do not include waiving of public bid. I do not care about not having the three or four major contractors bidding, which is, I think, what you are referring to.

Mr. WAMBACH. That is the Separations Act of 1913, and I think that is what the P.L. (pamphlet law) that is being related to is, the Separations Act, Mr. Speaker, not the low bid award for contracts as expressed in the Administrative Code of 1929.

Mr. BELFANTI. Mr. Speaker, if I can clarify again, the legislative intent is not to waive those things that involve direct bidding process, et cetera. They will not be single bid awards. That is not the intention of the bill; simply to, in an expeditious manner, clear the three or four layers of paperwork and red tape that need be done typically to provide units of this type in a quicker period of time.

Mr. RYAN. If I may, Mr. Speaker.

The SPEAKER pro tempore. Is the gentleman finished with his interrogation? The gentleman is in order and may proceed.

Mr. RYAN. Mr. Speaker, I am not sure that the answers I have received were responsive, but by the same token, I am not so sure that the questions I asked made sense. My concern, however, is as follows: Everyone in this room is anxious to address the prison problem. I do not think there is

anyone here who would deny that. As I read the analysis, I see that we are not going to be as concerned with separate specs—and I think this is what the gentleman, Mr. Wambach, was talking about—on plumbing, heating, ventilating, and electrical work. That makes some sense to me, because it is modular. Presumably it all comes in one great big piece of concrete that they load on top of another great big piece of concrete; it has all that stuff in it.

The part that I am concerned about is that the provision of this bill that says that the Secretary of General Services may modify or waive technical requirements that would unreasonably delay this project does not mean that the Secretary of General Services has the right, for instance, to waive requirements dealing with OSHA (Occupational Safety and Health Administration) or requirements dealing with safety or requirements dealing with the environment - environmental impact studies and the like - that ordinarily would be required.

I do not have an answer to that. I am voting for the bill, but I am hoping that perhaps someone in the Senate will take a look at this language, and on its way over, can make a determination as to whether or not there are fears or whether my concerns are really unfounded. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman and now recognizes the gentleman from Northumberland, Mr. Belfanti.

Mr. BELFANTI. Thank you, Mr. Speaker.

Mr. Speaker, Pennsylvania finds itself in a crisis insofar as our prison system is concerned, and although the crisis has been the subject of a lot of media hype as a result of the recent rioting at Camp Hill, this problem has been there in ever-growing proportions for the last decade. We in the General Assembly have been part of the problem, particularly in recent years, and today we can become part of the solution.

The State legislature has repeatedly over the past 4 or 5 terms, at least since I have been here, engaged in legislation dealing with mandatory sentencing guidelines, which were intended to bring uniformity to sentences given by common pleas justices from the four corners of the State, and however well intended, the net effect of these sentencing guidelines has been that judges are sending twice as many people to prison as they were 10 years ago and handing out sentences that last about twice as long as they did pre-sentence-guideline-legislation era. They require the incarceration of more prisoners; four times the number of prison days per bed as just 10 years ago. We in the General Assembly have not kept pace with that fact. We continue to mandate longer sentences. We continue to mandate that more and more people go to prison for crimes that were not in existence 10 years ago, but we have not provided the bedspace to house these prisoners. We have drug- and alcohol-related offenses which now require prison time that did not a short decade ago, and I could go on and on.

The legislation before us is one of a three-bill package dealing with the overcrowding problem and directly related to maximum security prisons. We are only voting on HB 2118 today. I do not believe that this particular part of the package

will be controversial at all, and we will deal with the controversial parts as they come up. But today we have a crisis; today we have a need for a number of beds, and this particular bill will provide 1,440 beds in 12 units for 7 institutions in the State of Pennsylvania.

The cost is \$23.9 million. That will be the cost of the debt, and amortized over 15 years, it will cost the Commonwealth \$38 million.

I urge my colleagues to support HB 2118.

On the question recurring,
Shall the bill pass finally?

The SPEAKER pro tempore. Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

YEAS—195

Adolph	Dorr	Laughlin	Rieger
Allen	Durham	Lee	Ritter
Angstadt	Evans	Leh	Robbins
Argall	Fairchild	Lescovitz	Robinson
Barley	Fargo	Letterman	Roebuck
Battisto	Farmer	Levdansky	Rudy
Belardi	Fleagle	Linton	Ryan
Belfanti	Foster	Lloyd	Rybak
Billow	Fox	Lucyk	Saloom
Birmelin	Freeman	McCall	Saurman
Bishop	Freind	McHale	Scheetz
Black	Gallen	McNally	Schuler
Blaum	Gamble	McVerry	Scrimenti
Bortner	Gannon	Maiale	Semmel
Bowley	Geist	Maine	Serafini
Boyes	George	Markosek	Smith, B.
Brandt	Gigliotti	Marsico	Smith, S. H.
Bunt	Gladeck	Mayernik	Snyder, D. W.
Burd	Godshall	Melio	Snyder, G.
Burns	Gruitza	Merry	Staback
Bush	Gruppo	Michlovic	Stairs
Caltagirone	Hagarty	Micozzie	Steighner
Cappabianca	Haluska	Miller	Stish
Carlson	Harper	Moehlmann	Strittmatter
Carn	Hasay	Morris	Suban
Cawley	Hayden	Mowery	Tangretti
Cessar	Hayes	Mrkonic	Taylor, E. Z.
Chadwick	Heckler	Murphy	Taylor, F.
Civera	Herman	Nahill	Taylor, J.
Clark, B. D.	Hershey	Nailor	Telek
Clark, D. F.	Hess	Noye	Thomas
Clark, J. H.	Howlett	O'Brien	Tigue
Clymer	Hughes	O'Donnell	Trello
Cohen	Itkin	Olasz	Trich
Colafrilla	Jackson	Oliver	Van Horne
Colaizzo	Jadlowiec	Perzel	Veon
Cole	James	Pesci	Vroon
Cornell	Jarolin	Petrarca	Wambach
Corrigan	Johnson	Petrone	Wass
Cowell	Josephs	Phillips	Weston
Coy	Kaiser	Piccola	Williams
DeWeese	Kasunic	Pistella	Wilson
Daley	Kenney	Pitts	Wogan
Davies	Kondrich	Pressmann	Wozniak
Dempsey	Kosinski	Preston	Wright, D. R.
Dietterick	Kukovich	Raymond	Wright, J. L.
Distler	LaGrotta	Reber	Wright, R. C.
Dombrowski	Langtry	Reinard	Yandrisevits
Donatucci	Lashingier	Richardson	

NAYS—0

NOT VOTING—1

Acosta

EXCUSED—7

Broujos	Fee	Pievsky
DeLuca	Flick	
Dininni		Manderino, Speaker

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk present the same to the Senate for concurrence.

ANNOUNCEMENT BY MR. FOX

The SPEAKER pro tempore. The Chair recognizes the gentleman from Montgomery, Mr. Fox. For what purpose does the gentleman rise?

Mr. FOX. Mr. Speaker, I rise to inform the House members that the Drug Caucus, which had a meeting scheduled for 3 o'clock today with members of the Attorney General's Office, will be rescheduled for another date due to our legislative debate this afternoon.

The SPEAKER pro tempore. The Chair thanks the gentleman.

Mr. FOX. Thank you.

BILLS ON THIRD
CONSIDERATION CONTINUED

The House proceeded to third consideration of **HB 1631, PN 2674**, entitled:

An Act amending Title 71 (State Government) of the Pennsylvania Consolidated Statutes, further providing for venture capital investments.

On the question,
Will the House agree to the bill on third consideration?
Bill was agreed to.

The SPEAKER pro tempore. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

On that question, the Chair recognizes the gentleman from Bucks, Mr. Clymer.

Mr. CLYMER. Thank you, Mr. Speaker.

Mr. Speaker, would the sponsor of the bill stand for brief interrogation?

The SPEAKER pro tempore. The gentleman from Northumberland agrees to be interrogated, and the gentleman from Bucks is in order and may proceed.

Mr. CLYMER. Mr. Speaker, could we have a history as to the probability of the 1-percent venture that has taken place thus far with the money taken from SERS (State Employees' Retirement System)?

Mr. BELFANTI. A complete history?

Mr. CLYMER. Has the fund been making money from the 1-percent venture fund?

Mr. BELFANTI. Yes; the fund is making money.

The legislation before us is bipartisan in nature. It has the support of the business community and the labor community. The principal motivation behind the legislation is the MILRITE (Make Industry and Labor Right in Today's Economy) Council, which, as you know, is made up of 50 percent business leaders and 50 percent labor leaders. The part of the fund, the pension fund, that is now being invested is giving a very good yield. However, we cannot give you exact figures for at least 1 more year, but we assume that those figures will be in the neighborhood of a 15- to 20-percent return on their 1-percent investment.

The legislation before us simply allows the pension fund, their board—not the State; not MILRITE, but the State retirees' board—to at some point, should interest rates allow for it, invest more than 1 percent or up to 2 percent into venture capital which is directly related to economic development in the State of Pennsylvania. As interest rates are up and they can make investments that are non-venture-capital related, that is fine, but when interest rates come down, they would like to have the ability at some periods of time to make a higher investment through venture capital.

This is a “may” bill; it is not a “shall” bill. It does not require the State pension funds to use 2 percent in venture capital for economic development.

Mr. CLYMER. Thank you.

Mr. Speaker, that is very encouraging. For a venture capital return of 15 to 20 percent, I think that is very good, because normally when you put money into venture capital, it is companies just starting up or those who are in the process of needing this kind of funding, and when you can achieve that kind of return, I think that is excellent. And that is correct. It is a 15- to 20-percent return on 1-percent venture capital that the fund has put forth so far. I heard you; that is what you had told me. Is that correct?

Mr. BELFANTI. That is correct. We have had a number of meetings with the two pension funds, some actuaries, and again, we cannot give exact figures for approximately 1 more year until the first term of the 1-percent venture capital is complete, because if you understand venture capital investments, they are back-end loaded; they are not front-end loaded. The money that is made in venture capital investments is made in the rear end, and even though some of the companies and some of the investments go belly-up, because of the high risk involved in venture capital, the profit is also there to balance itself out very well.

Historically, venture capital has done very well in the State, not necessarily only our fund, but other venture capital investments have been doing very well, and the most important thing is that we have a prudent mix of investments. We do invest, the State pension fund does invest in securities and stocks and bonds and many other things. This is simply one cog in a big wheel of investments that the MILRITE Council,

the members of that particular board, feel that it would be most prudent to raise the ceiling to 2 percent.

Again, it is a “may” bill, not a “shall” bill. It is up to the board. It is up to the trustees that are elected by the State retirees as to whether or not they will invest any more than 1 percent. This bill would allow them the ability to do that.

Mr. CLYMER. Thank you, Mr. Speaker. I have no further questions.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair now recognizes the gentleman from Cumberland, Mr. Mowery.

Mr. MOWERY. Thank you very much, Mr. Speaker.

I would just like to make a couple of observations.

As far as being on the State Retirement Board—which I was in the last session but not this session—we, at many of our meetings, had concern about the investment of money into high-risk business. I would certainly imagine that the labor and business community in Pennsylvania would be interested in having more money invested from our pension fund into venture capital. I think that is obvious. The concern that we had as board members at that time was that it is the highest risk investment that a pension fund can make. There are many pension funds today in this country that are not allowed to invest any money in venture capital, because what you lose in a venture capital type of investment, it takes many years on the interest and normal stock portfolio investment to make up any losses.

So my recommendation is that because of the fact— And I cannot speak for this year, but in previous years we could not find satisfactory investments in Pennsylvania to even invest the 1 percent, so I see no reason in expanding that to 2 percent. I understand that the teachers' pension fund has rejected any additional venture capital investments at this time. So my recommendation is to keep the pension funds as solid as we can, to not go too far out in left field here as far as our investment practices are concerned, and I recommend that we vote against this bill. Thank you.

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Chester, Mr. Vroon.

Mr. VROON. Mr. Speaker, may I interrogate the maker of the bill?

The SPEAKER pro tempore. The gentleman from Northumberland, Mr. Belfanti, consents to interrogation. The gentleman, Mr. Vroon, may proceed.

Mr. VROON. Mr. Speaker, what is the total amount of the limit now? What is the total limit now for venture capital as it is now contained in our regulations?

Mr. BELFANTI. Mr. Speaker, I am sorry; I did not hear the question.

Mr. VROON. All right. In effect, what I am saying is, what does 1 percent of the fund amount to right now?

Mr. BELFANTI. I do not have that figure at my fingertips, Mr. Speaker. Mr. Geist might have it. It is \$78 million or something in that neighborhood.

Mr. VROON. Do we not have something like \$8 billion in the fund, or is it \$9 billion? Do you want to pass and let Mr. Geist answer this? Do you want to revert to Mr. Geist?

Mr. BELFANTI. Eight billion dollars, I believe, is fairly accurate.

Mr. VROON. All right. So what is 1 percent of that, \$80 million?

Mr. BELFANTI. Yes; that would be correct.

Mr. VROON. Yes, \$80 million. Okay. Is all \$80 million of this invested in venture capital now?

Mr. BELFANTI. Mr. Speaker, I believe that figure fluctuates, again, with the market. If interest rates are high and investments can be made to take advantage of high interest rates in money market or mutual funds or other such commodities, then the money is invested in that direction. If interest rates fall and the risk is far outweighed by the amount of moneys to be derived, then the board has the ability to invest more into venture capital.

My understanding is that both the State retirees' fund and the State retired teachers' fund are doing well insofar as their venture capital investments, but again, because they are back-end loaded, it is difficult to say exactly how well they are doing. We can only go by the historical data of other venture capital investments that have been made in Pennsylvania that the data is already in for, and those funds have yielded in the neighborhood of 15 to 20 percent.

Mr. VROON. Guaranteed?

Mr. BELFANTI. Nothing in life is guaranteed, Mr. Speaker.

Mr. VROON. Okay. Are you suggesting, Mr. Speaker, that the managers of that fund can go in and out of venture capital loans just like you do in and out of money market funds?

Mr. BELFANTI. I do not believe that they can do that as easily as they can go in and out of money market or CD (certificate of deposit) accounts or anything of that nature. No; it is quite more involved than that. But this legislation will impact the venture capital funds for the next 10 years. It is not designed to impact what they are going to do next month or the month after.

Mr. VROON. Okay. Mr. Speaker, let us change the subject and ask this question: Do you believe that this funding is necessary to support new venture capital projects in this State? Is there any other source available? Do you believe there is, or does this meet a need that would not be met otherwise?

Mr. BELFANTI. I think that anything that we can do to create more employment and provide more economic development for a rust belt State like ours is something that should be looked at, and this 1-percent venture capital investment, again, is just a small cog in a large wheel that has kept Pennsylvania rolling. Even if there is some squeak in the wheel, it has kept it rolling, and it has been a part of it. I think venture capital plays a role in economic development, not simply the venture capital fund we are talking about today but venture capital in general.

Mr. VROON. Mr. Speaker, you did not answer my question. I said, does this meet a need that would not be met other-

wise? In other words, are we short of venture capital in this State and you are looking to this to meet the need? Is there an unmet need?

Mr. BELFANTI. Until we have unemployment down to 2 percent in this State, I believe there is an unmet need.

Mr. VROON. That is not quite the answer either, Mr. Speaker, but I would suggest that this is a test of whether or not we are meeting the need. Are there a lot of venture capital projects going begging today, where they cannot get money and where they would get into a profitable business and employ people if we were nice enough to give them some money on a loan? Is that the case or is it not?

Mr. BELFANTI. I am not following the gentleman's line of questioning.

Mr. VROON. This is just a very simple matter, Mr. Speaker. I want to know—

Mr. BELFANTI. I have given three simple answers, and you keep telling me I have not answered the question, so—

Mr. VROON. If we did not have the 1 percent now and if we do not make this 2 percent now, are we going to be leaving a lot of proposals in the venture capital area unfunded?

Mr. BELFANTI. It is quite conceivable that we will not have the flexibility to fund a large economic development project because of limited ability and accessibility to what is remaining in the venture capital pool. Originally we discussed raising that cap to 3 percent. We felt that it would be more prudent to go halfway and go for 2 percent, and the MILRITE Council—and I am sure you know the makeup of the MILRITE Council—is in unanimous agreement, both business and labor, that this legislation is beneficial both to the State of Pennsylvania, to future economic development, and to the fund itself.

Mr. VROON. Mr. Speaker, do you know the number of companies that are in venture capital today and the number of individuals who are engaged in lending money to venture capital projects? Do you have any idea?

Mr. BELFANTI. No; I do not, but I perceive that your question probably is asking me whether or not venture capital investments made by the Commonwealth of Pennsylvania are in direct competition with private venture capital investments, and if that is the question, the answer is probably yes; there is some competition, but after all, it is a free enterprise system.

Mr. VROON. You misinterpreted my motive, Mr. Speaker. I am just suggesting by this tone of questioning that there is a lot of venture capital available all across the State for any good venture capital projects which apply for the money, and I am suggesting, perhaps, that maybe this is not necessary. Do we really need this? Are we meeting a need that is not being met by the private sector? Are we meeting a need that is not being met by specialists in the field, in which there are hundreds and thousands of them across the country?

All right. I will cease my questioning at this point, and I would like to now comment on the bill.

The SPEAKER pro tempore. The gentleman is in order and may proceed.

Mr. VROON. Mr. Speaker, the use of pension funds is a very important trust. I happen to be a member of the Public School Employees' Retirement Board, and we just got through reviewing in great detail what the responsibilities are and what the limitations are of the trustees who run these pension funds, and one of the requirements is that we get the best return, and the second requirement is at the least amount of risk.

This sort of thing, this venture capital funding, does not meet the latter requirement, the least amount of risk. There is a great deal of risk involved there. I would daresay to you, without fear of contradiction, that out of every 100 venture capital projects which are proposed in these United States, maybe one is successful. There is a tremendous amount of risk involved in going into venture capital funding, but those people who are looking for a tremendous amount of return which offsets the amount of or at least compensates in part for the amount of risk involved, these people make a specialty of this. It is not the job of pension funds and it is not the job of governments to invest in venture capital, which is risky to say the least. If you want to finance good venture capital which you know is good, you are not even going to be able to get them, because they are all gobbled up already, because that is what everybody is looking for. I would love to invest in a sure thing and get 15 percent return on my money anytime, but this is not likely to happen, and this is not the right kind of funding for a pension fund.

I am very much opposed to this. I am opposed to the use of 1 percent, and I certainly am opposed to making it 2 percent, because this kind of money is available. It is available, and there is really a glut of these funds available for the people who are willing to pay the price for it. We do not need to use our funds for this purpose, and I plead with you to vote "no" on this bill.

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Blair, Mr. Geist.

Mr. GEIST. Thank you, Mr. Speaker.

I serve with Representative Belfanti on the MILRITE Council and have so for 10 years. We have been looking at venture capital investment and venture capital placement as an economic development tool and as a stabilizing tool for the economy of Pennsylvania since the beginning of that. This bill does not mandate that we add the extra 1 percent. It is a "may" provision.

It is a good piece of legislation. It is a good investment for Pennsylvania's money, and it is good overall for this General Assembly to vote "yes." I urge that vote.

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Allegheny, Mr. Cowell.

Mr. COWELL. Thank you, Mr. Speaker.

Mr. Speaker, I would like to join Representative Belfanti in speaking in favor of this legislation. I had the opportunity to serve on the MILRITE Council for several years when this concept was originally put into place and approved by the General Assembly. It has worked well, and I believe it has served the pension fund well. This legislation, of course, deals

with only one of the retirement systems, and that is the State Employees' Retirement System.

We need to keep in mind a couple of things. One, it is simply permissive. It says they "may" do this. It does not say they have got to do it. It does not say they are required to do it. We leave it to the good judgment of the managers of the pension system. As Representative Vroon suggested earlier, this is a very important trust. The passage of this legislation in no way reduces the fiduciary responsibility of the managers of that fund. They need to make the decisions about whether or not to invest in venture capital activities, keeping in mind their fiduciary responsibilities. I would suggest that it is appropriate for us to give them this broader discretion.

One of the other opponents said that this is a high-risk venture, a high-risk investment. It is. It is also one of the highest return ventures that you can get. That is why this General Assembly decided several years ago to give, in a tentative, limited way, this authority to the pension funds, to allow them to step out and invest in the higher risk, with the possibility of the greater return - to the benefit of the pension fund, to the benefit of those who depend upon it, and ultimately to the benefit of the Pennsylvania taxpayers who have to heavily subsidize that pension system on an annual basis.

There has been some discussion about whether or not additional venture capital is necessary from an economic development standpoint in Pennsylvania. Over the last several years, the members of this Assembly and the Thornburgh and Casey administrations earned the reputation for creating a very comprehensive inventory of economic development tools in Pennsylvania, and we have also earned the reputation for enhancing the capital tools in this Commonwealth. What we did in terms of the pension system, in allowing them to invest in venture capital activities where appropriate, added to that inventory of tools that we provided for economic development in this State.

We have a chance to further enhance that with the passage of this legislation, but more important than anything else, we have a chance to enhance the ability of the managers of this fund to do what they think is prudent, to do what they think is in the best interest of the pensioners or the annuitants in this State. I would urge that we pass this legislation and give them this additional discretionary authority.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair now recognizes the gentleman from Allegheny, Mr. Murphy.

Mr. MURPHY. Thank you, Mr. Speaker.

I just want to touch on a little history of where we were in Pennsylvania in 1980 and why we initially proposed and passed legislation to invest 1 percent into venture capital and why we have to continue that progress by extending it to 2 percent.

In 1980, in western Pennsylvania, for example, there was one venture capital firm. There were none in the central part of the State. There were just a handful in the eastern part of the State. That meant if a small company typically was

looking for investment, they had to leave Pennsylvania to find that investment. In fact, 80 percent of the venture capital invested in the United States in 1980 was invested in just 2 States, in Massachusetts and California. Less than 1 percent of all the venture capital invested in the United States in 1980 was invested in Pennsylvania. Far too many companies left Pennsylvania to get started because they could not find the financing here. They could not find people willing to take a risk with them.

Subsequent to our investment of 1 percent, in western Pennsylvania in 1989, today there are 18 venture capital firms headquartered there. In the central part of the State, there are 4 or 5, and in eastern Pennsylvania there are in excess of 20. Those companies grew in part because we created a climate in this State that encouraged them to come here. None of them have used just pension funds. They have all used pension funds to attract private investments. Literally hundreds of millions of dollars of private funds have been drawn to Pennsylvania to match those pension funds.

Please understand that the pension managers are not investing in, themselves, a small company. They are investing in venture capital funds, mingling public money with private funds so that there is an equal risk involved, or often, most often, there is a much higher risk from the private sector. Those investments have been critical in turning the State's economy around, an economy that has given us surpluses so that we can solve some of the other State problems.

So please understand that that 1-percent investment was critical in turning Pennsylvania around. We still do not meet, by any means, the kind of creation of new companies that other States enjoy. We still have a ways to go. But again, if we had not made the decisions we did in the early eighties and if we do not make this decision today in voting for this bill, we will be putting Pennsylvania again in a position of not being able to compete, of not keeping the best and the brightest in this State, of not building on the technology advantages we have created in our universities to create small companies.

For that reason I would urge you to continue this kind of investment. It is prudent, it is rational, and best of all, it invests in the very and most important ingredient we have in this State - the entrepreneurial spirit, the knowledge-based economy that we have. Please vote for this bill. Thank you.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair now recognizes another gentleman from Allegheny County, Mr. Brian Clark.

Mr. B. D. CLARK. Thank you, Mr. Speaker.

I urge support for this legislation. Representative Murphy got into a clear explanation of how the system works, and Representative Vroon earlier pointed to part of the problem with venture capital firms today. Those people in business development activities around the country refer to them sometimes as vulture capitalists in that they ask for too much of a company before they will make the investment, and therefore, companies around the country do not have the opportunity to grow. By sending a clear message to the pension funds that we

support this kind of a program, they will be more willing to invest in companies without being the vulture capitalists that we have seen come out of New York. It is true that we have attracted a lot of money from outside of Pennsylvania, commingled with these funds, but I think the pension boards need to heed the advice of Representative Vroon: When we pass this legislation, deal with venture fund managers that are willing to make investments in Pennsylvania.

I support this legislation. I think the benefits that Pennsylvania and Pennsylvanians can realize from this legislation greatly outweigh any risks that we may take. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Chester, Mr. Vroon.

Mr. VROON. I do appreciate the sentiments which were expressed by Mr. Murphy and also by Mr. Clark. There is not one shred of evidence, however, that these people who were funded for their particular projects were funded out of our pension fund. Actually, I just wonder if you gentlemen from Allegheny County are familiar with a very familiar billionaire out there who has a venture capital company, and it was noted in the Wall Street Journal of late that this particular gentleman very easily parted with a hundred million dollars' worth of losses because of the nature of venture capital and these loans. I would daresay that if you think that we can take the place of people like that and lend out our money, that we would not sustain those losses, oh, yes, we would have to sustain those losses.

But the important thing to remember is that we have a trust. We are not allowed to gamble with our funds. We have a trust, and if you can find me a guaranteed venture capital project that will pay 15 percent interest, that is fine; I have no objection, and these people are allowed to do that who run the funds. They do not need an additional amount of prerogative from us. They can use up that 1 percent to supply venture capital where they believe nobody else is able to supply it.

Secondly, let me remind you, of all of this glad talk about what happened since 1980, that our economic development program in this State was very largely responsible for the good development of our economy in the State, and it cannot be attributed to that 1 percent. That \$80 million that we had available there was certainly not responsible for the growth in economic development of the State of Pennsylvania. I assure you of that.

So when it comes right down to it, let us call it what it is: A venture capital loan is a risky loan. We have no business making risky loans from our fund. There are other people available who are willing to take the risk. Our trust is to protect those funds. Do not let anything happen to the pension funds which are there to meet your pensions and mine, too, by the way. This is the SERS you are talking about, and my pension funds are involved in that, and I hope to get a bigger share of them in the future.

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Blair, Mr. Geist.

Mr. GEIST. Thank you, Mr. Speaker, for the second time.

I agree with Representative Murphy, who probably put it better than anybody so far on the floor of the House. This is a good piece of legislation. The way the deals are done has been effective. It has shown how effective it has been in other States. I think it is up to us to provide the moneys or the abilities for the moneys to be invested very prudently.

I ask for a "yes" vote.

The SPEAKER pro tempore. The Chair thanks the gentleman.

The Chair now recognizes the prime sponsor of the bill, from Northumberland County, Mr. Belfanti.

Mr. BELFANTI. Thank you, Mr. Speaker.

I am not going to belabor the debate with a long list of business and labor organizations who have written to the membership supporting this legislation. Let it suffice to say that if you have ever heard from a business group or a labor group since you have been elected, they are on board on this particular piece of legislation along with the leadership of the four caucuses. In very rare instances in my tenure in the House have so many people agreed on one particular thing, and this particular legislation is one of those few times.

It is a good piece of legislation; it is very prudent; it is very conservative, and as we said four or five times, it is a "may" bill, not a "shall" bill. But should the opportunity present itself for the pension fund to make wise investments to bring us a large return on our money, I, like Mr. Vroon, hope to share someday in the State retired employees' pension fund, and I hope that there is going to be more money in it as a result of what we do here today.

On the question recurring,

Shall the bill pass finally?

The SPEAKER pro tempore. Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

YEAS—181

Adolph	Dorr	Laughlin	Richardson
Allen	Durham	Lee	Rieger
Angstadt	Evans	Leh	Ritter
Argall	Fairchild	Lescovitz	Robbins
Barley	Fargo	Letterman	Robinson
Battisto	Farmer	Levdansky	Roebuck
Belardi	Fleagle	Linton	Rudy
Belfanti	Foster	Lloyd	Ryan
Billow	Fox	Lucyk	Rybak
Birmelin	Freeman	McCall	Saloom
Bishop	Gallen	McHale	Saurman
Black	Gamble	McNally	Scheetz
Blaum	Geist	McVerry	Scrimenti
Bortner	George	Maiale	Semmel
Bowley	Gigliotti	Maine	Smith, B.
Boyes	Gladeck	Markosek	Smith, S. H.
Brandt	Godshall	Marsico	Snyder, D. W.
Bunt	Gruitza	Mayernik	Snyder, G.
Burd	Gruppo	Melio	Staback
Bush	Hagarty	Merry	Stairs
Caltagirone	Haluska	Michlovic	Steighner
Cappabianca	Harper	Micozzie	Stish
Carlson	Hayden	Moehlmann	Strittmatter
Carn	Hayes	Morris	Stuban
Cawley	Herman	Mrkonic	Tangretti
Cessar	Hershey	Murphy	Taylor, E. Z.
Chadwick	Hess	Nahill	Taylor, F.
Civera	Howlett	Nailor	Taylor, J.

Clark, B. D.	Hughes	Noye	Telek
Clark, D. F.	Itkin	O'Brien	Thomas
Clark, J. H.	Jackson	O'Donnell	Tigue
Cohen	Jadlowiec	Olasz	Trello
Colafella	James	Perzel	Trich
Colaizzo	Jarolin	Pesci	Van Horne
Cole	Johnson	Petrarca	Veon
Cornell	Josephs	Petrone	Wambach
Corrigan	Kaiser	Phillips	Wass
Cowell	Kasunic	Piccola	Weston
Coy	Kenney	Pistella	Williams
DeWeese	Kondrich	Pitts	Wogan
Daley	Kosinski	Pressmann	Wozniak
Dempsey	Kukovich	Preston	Wright, D. R.
Dieterick	LaGrotta	Raymond	Wright, J. L.
Distler	Langtry	Reber	Wright, R. C.
Dombrowski	Lashingier	Reinard	Yandrisevits
Donatucci			

NAYS—13

Burns	Gannon	Miller	Serafini
Clymer	Hasay	Mowery	Vroon
Davies	Heckler	Schuler	Wilson
Freind			

NOT VOTING—2

Acosta	Oliver
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EXCUSED—7

Broujos	Fee	Pievsky
DeLuca	Flick	
Diminni		Manderino, Speaker

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk present the same to the Senate for concurrence.

* * *

The House proceeded to third consideration of **HB 1890, PN 2423**, entitled:

An Act authorizing and directing the Department of General Services, with the approval of the Governor and the Secretary of Environmental Resources, to convey to Morris Township a road situate in Morris Township, Tioga County, Pennsylvania.

On the question,

Will the House agree to the bill on third consideration?

Bill was agreed to.

The SPEAKER pro tempore. This bill has been considered on three different days and agreed to and is now on final passage.

The question is, shall the bill pass finally?

The Chair recognizes the gentleman from Tioga, Mr. Carlson.

Mr. CARLSON. Mr. Speaker, this bill conveys a road from DER (Department of Environmental Resources) to the township of Morris, Tioga County, which has no winter maintenance on it during the winter months, and this will legally let the township plow and cinder the road, because there are three families living on it.

I would also like to thank the leadership for the courtesy and opportunity afforded me here today to present this bill

for final passage so we can get it over to the Senate so that the township can get some liquid fuels in order to prepare this road. Thank you very much.

The SPEAKER pro tempore. The Chair thanks the gentleman.

On the question recurring,
Shall the bill pass finally?

The SPEAKER pro tempore. Agreeable to the provisions of the Constitution, the yeas and nays will now be taken.

YEAS—193

Adolph	Durham	Laughlin	Richardson
Allen	Evans	Lee	Rieger
Angstadt	Fairchild	Leh	Ritter
Argall	Fargó	Lescovitz	Robbins
Barley	Farmer	Letterman	Robinson
Battisto	Fleagle	Levdansky	Roebuck
Belardi	Foster	Linton	Rudy
Belfanti	Fox	Lloyd	Ryan
Birmelin	Freeman	Lucyk	Rybak
Bishop	Freind	McCall	Saloom
Black	Gallen	McHale	Saurman
Blaum	Gamble	McNally	Scheetz
Bortner	Gannon	McVerry	Schuler
Bowley	Geist	Maiale	Scrimenti
Boyes	George	Maine	Semmel
Brandt	Gigliotti	Markosek	Serafini
Bunt	Gladeck	Marsico	Smith, B.
Burd	Godshall	Mayernik	Smith, S. H.
Burns	Gruitza	Melio	Snyder, D. W.
Bush	Gruppo	Merry	Snyder, G.
Caltagirone	Hagarty	Michlovic	Staback
Cappabianca	Haluska	Micozzie	Stairs
Carlson	Harper	Miller	Steighner
Carn	Hasay	Moehlmann	Stish
Cawley	Hayden	Morris	Strittmatter
Cessar	Hayes	Mowery	Stuban
Chadwick	Heckler	Mrkonic	Tangretti
Civera	Herman	Murphy	Taylor, E. Z.
Clark, B. D.	Hershey	Nahill	Taylor, F.
Clark, D. F.	Hess	Nailor	Taylor, J.
Clark, J. H.	Howlett	Noye	Telek
Clymer	Hughes	O'Brien	Tigue
Cohen	Itkin	O'Donnell	Trello
Colafiglia	Jackson	Olasz	Trich
Colaizzo	Jadlowiec	Oliver	Van Horne
Cole	James	Perzel	Veon
Cornell	Jarolin	Pesci	Vroon
Corrigan	Johnson	Petrarca	Wambach
Cowell	Josephs	Petrone	Wass
Coy	Kaiser	Phillips	Weston
DeWeese	Kasunic	Piccola	Williams
Daley	Kenney	Pistella	Wilson
Davies	Kondrich	Pitts	Wogan
Dempsey	Kosinski	Pressmann	Wozniak
Dietterick	Kukovich	Preston	Wright, D. R.
Distler	LaGrotta	Raymond	Wright, J. L.
Dombrowski	Langtry	Reber	Wright, R. C.
Donatucci	Lashinger	Reinard	Yandrisevits
Dorr			

NAYS—0

NOT VOTING—3

Acosta	Billow	Thomas
		EXCUSED—7
Broujos	Fee	Pievsky
DeLuca	Flick	
Dininni		Manderino, Speaker

The majority required by the Constitution having voted in the affirmative, the question was determined in the affirmative and the bill passed finally.

Ordered, That the clerk present the same to the Senate for concurrence.

APPROPRIATIONS COMMITTEE MEETING

The SPEAKER pro tempore. The gentleman from Erie, Mr. Cappabianca, is recognized. For what purpose does the gentleman rise?

Mr. CAPPABIANCA. Mr. Speaker, for the purpose, before everybody leaves, that there will be a brief meeting of the Appropriations Committee at the rear of the chamber.

The SPEAKER pro tempore. The Chair thanks the gentleman.

Appropriations Committee meeting at the rear of the chamber.

RULES COMMITTEE MEETING

The SPEAKER pro tempore. The Chair wishes to recognize the majority leader, who mentions that there will be a Rules Committee meeting at the majority leader's desk.

SUBCOMMITTEE MEETING

The SPEAKER pro tempore. In addition, we have a couple of members seeking recognition regarding announcements. The first one is Mr. Preston from Allegheny.

Mr. PRESTON. Thank you, Mr. Speaker.

Immediately at the call of the recess, the Subcommittee on Second Class Cities and Counties will meet at the rear of the House.

The SPEAKER pro tempore. The Chair thanks the gentleman.

STATEMENT BY MR. DAVIES

The SPEAKER pro tempore. The Chair recognizes now the gentleman from Berks, Mr. Davies, for the purpose of an announcement.

Mr. DAVIES. Mr. Speaker, unanimous consent.

The SPEAKER pro tempore. Without objection, the gentleman may proceed.

Mr. DAVIES. Mr. Speaker, I want to pay tribute to Carol Ilgenfritz, who is retiring at the end of this year. She has served the Republican Caucus for 27 years and had to put up as my secretary for a number of those years. She has been a dedicated and professional administrator, assistant, and secretary. Today we are celebrating her retirement.

My staff and I want to wish Carol well in her retirement. Thank you, Mr. Speaker.

The SPEAKER pro tempore. The Chair thanks the gentleman for his remarks.

There will be no more roll-call votes. The members are free to leave. When we adjourn today's session, we will reconvene tomorrow at 11 a.m.

BILL ON CONCURRENCE REPORTED FROM RULES COMMITTEE

HB 121, PN 2300

By Rep. O'DONNELL

An Act amending Titles 18 (Crimes and Offenses), 42 (Judiciary and Judicial Procedure) and 75 (Vehicles) of the Pennsylvania Consolidated Statutes, further providing for corrupt organizations; providing for insurance fraud; providing for certification of pleadings, motions and other papers; providing for special damages; further providing for chemical testing to determine amount of alcohol or controlled substances; providing for suspension of drivers' licenses for driving under the influence of alcohol; further providing for financial responsibility and insurance related to motor vehicles; providing for proof of insurance; further providing for reinstatement of operating privileges or vehicle registration; further providing for driving under the influence of alcohol or controlled substances, for issuance of inspection certificates and for administrative duties of the Department of Transportation; further providing for securing loads in vehicles; further providing for the inspection of newly purchased vehicles; further providing for transporting foodstuffs in vehicles used to transport waste and for penalties; conferring powers and duties on the Insurance Department and the Department of Transportation; and making repeals.

RULES.

BILL REREPORTED FROM COMMITTEE

HB 103, PN 2291

By Rep. CAPPABIANCA

An Act amending the act of May 22, 1933 (P. L. 853, No. 155), known as "The General County Assessment Law," clarifying certain provisions relating to exemptions from taxation.

APPROPRIATIONS.

BILL ON SECOND CONSIDERATION

The following bill, having been called up, was considered for the second time and agreed to, and ordered transcribed for third consideration:

HB 103, PN 2291

BILLS AND RESOLUTIONS PASSED OVER

The SPEAKER pro tempore. Without objection, all remaining bills and resolutions on today's calendar will be passed over. The Chair hears no objection.

ADJOURNMENT

The SPEAKER pro tempore. The Chair now recognizes the gentleman from Allegheny County, Mr. Ted Kondrich.

Mr. KONDRICH. Mr. Speaker, I move that this House do now adjourn until Wednesday, December 6, 1989, at 11 a.m., e.s.t., unless sooner recalled by the Speaker.

On the question,
Will the House agree to the motion?
Motion was agreed to, and at 4:17 p.m., e.s.t., the House adjourned.