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LEGISLATIVE REPORT

114TH GENERAL ASSEMBLY

SENATE VOTES TO REINSTATE THE DEATH PENALTY

A bill reinstating the death penalty and providing stiffer alternative penalties for aggravated murder (Sub. SB 1) was approved Wednesday by the Senate by a vote of 23-10.

The bill now goes to the House, which approved a death penalty bill last session that was defeated in the Senate after the then-Democratic Senate majority angered Republicans by taking out provisions for imposing the death penalty in cases of murders committed during a felony.

No attempt was made during the nearly three hours of Senate floor debate to remove the felony murder provision in this latest bill but opponents staged a major but unsuccessful attempt to replace death with life imprisonment without parole, one of the alternatives that is in the bill in sentencing a person convicted of aggravated murder.

Senator Richard Finan (R-Cincinnati), the sponsor, said no one supporting the bill "relishes" the proposal but called it a "medicine that has to be taken" and the "spinich the state has to eat."

He said the bill is "heavy" with due process provisions to protect the accused and predicted it would serve as a deterrent to those who might consider killing another.

The bill allows imposition of the death penalty for aggravated murder convictions involving the slaying of a police officer or public official, felony murders, murders committed during an escape attempt, multiple murders, murders for hire, murder by repeat offenders, and murder of a person under age 16.

If a person is found guilty of an aggravated murder in which the death penalty could be imposed there would be a second trial to weigh the mitigating factors against the aggravating factors and the jury or judicial panel which heard the case would have the option of imposing the death penalty, life imprisonment without parole, or life imprisonment with parole eligibility.

As the bill came to the floor it provided for the pre-sentence psychiatric and probation investigations that would be needed for sentencing hearing to be conducted before the initial verdict on guilt or innocence so as to reduce the time a jury would have to be held. Sponsors of the bill deleted this with a floor amendment, explaining that it could lead to the bill being declared unconstitutional on grounds it violated the presumption of innocence.

SENATE VOTES TO REINSTATE THE DEATH PENALTY (Cont.)

Opponents of the bill attacked claims that the death penalty serves as a deterrent, citing murder rates in states that do not have capital punishment, and said those sentenced to death are most often those least able to defend themselves. They also reminded their colleagues of a recent Ohio case involving a Wood County man who was convicted of a felony murder, which would carry the death penalty, and was later found to be innocent.

Senator Michael Schwarzwald (D-Columbus) predicted there will be others sentenced to death who are innocent. "Make no mistake, there are certainly going to be others," he said.

Senator Marcus Roberto (D-Ravenna), an opponent, said he voted for the last death penalty bill, which was part of a general revision of the state's criminal code, but feels that capital punishment is not a deterrent and suggested the state now try setting an example by not killing offenders and see if this works.

One of the ten votes against the bill came from freshman Senator Steven Maurer (D-Botkins), who was elected by 78 votes and whose victory is being challenged in an election contest that will be decided later by the Senate.

Senator Maurer said he thought he favored the death penalty and still feels the state has the right to impose it but said he feels he can protect society by voting in favor of imprisonment and "leave vengeance to God." He added that he was sure his vote would be unpopular in his senatorial district.

Senator Thomas Walsh (R-Canton), one of the two Republicans who voted against the bill, said he also feels a duty and responsibility to protect Ohioans from harm but not by imposing the death penalty. He said it is a question of whether the state will administer justice or administer revenge.

Voting for the bill were Republicans Aronoff, Collins, DeWine, Finan, Gaeth, Gray, Kasich, Lukens, Matia, Pfeifer, Ress, Skall, Speck, Suhadolnik, Van Meter and Gillmor and Democrats Butts, Carney, Cox, Curran, Jackson, Meshel, and Zimmers.

Voting against the bill were Republicans Snyder and Walsh and Democrats Bowen, Maurer, McCormack, Nabakowski, Ocacek, Roberto, Schwarzwald and Valiquette.

HOUSE APPROVES BILL CHANGING PRIMARY ELECTION DATE FOR CITIES AFFECTED BY CENSUS

The House approved its first bill of the session Wednesday, sending to the Senate a proposal (HB 144) delaying until September 1 the primary election in cities and villages affected by the 1980 federal census.

The proposal, requested by the secretary of state, is intended to accomodate cities that become villages and villages that become cities as a result of population changes and consequently will result, in some cases, in changing the make-up of city and village government bodies. The bill also changes the filing deadline for candidates for local offices to June 18. The measure, if enacted, would be effective only for 1981. It was approved as an emergency by a 91-0 vote.

SUPREME COURT AGREES TO EXPEDITE HEARING ON MESHEL'S SUIT CHALLENGING ORTA CUT

The Ohio Supreme Court has agreed to expedite hearings on a suit filed by Senate Minority Leader Harry Meshel (D-Youngstown) challenging the legality of the Controlling Board's approval of a cut in the budget of the Ohio Rail Transportation Authority (ORTA).