

OHIO

House

of

Representatives

JOURNAL

TUESDAY, NOVEMBER 28, 2006

TWO HUNDRED THIRTY-THIRD DAY
Hall of the House of Representatives, Columbus, Ohio
Tuesday, November 28, 2006 at 11:00 o'clock a.m.

The House met pursuant to adjournment.

Prayer was offered by Reverend Randall Haase of the Trinity United Methodist Church in Fremont, Ohio, followed by the Pledge of Allegiance to the Flag.

The journal of the previous legislative day was read and approved.

The following guests of the House of Representatives were recognized by Speaker Husted prior to the commencement of business:

The Mount Notre Dame High School girls volleyball team received H.R. No. 264, presented by Representative Raussen-28th district.

Sondra and Isaiah Williams, guests of Representative Peterson-2nd district.

Tim Hoyt and Amy Vtendorf, guests of Representative Latta-6th district.

Nitsa Filippidis, a guest of Representative Law-64th district.

George, Darlene, and Kristen Hayes, guests of Representative Wagner-81st district.

Students from the West Geauga High School, guests of Representative Dolan-98th.

INTRODUCTION OF BILLS

The following bills were introduced:

H. B. No. 688-Representatives Setzer, Distel, White, D., Martin, Webster.

To amend sections 3109.03 and 3109.04 and to enact section 3109.044 of the Revised Code to ensure that court orders and decrees that allocate parental rights and responsibilities with respect to the care of and access to children provide for substantial equality between the parents except where clear and convincing evidence shows that substantial equality would be harmful to the children and to provide for better enforcement of shared parenting orders and decrees.

H. B. No. 689-Representatives Trakas, Key, Mason, DeGeeter, McGregor, J., Combs.

To create the North East Ohio Universities Collaboration and Innovation Study Commission to make recommendations on further collaborations among certain state institutions of higher education and develop a more unified

approach to the delivery of high quality higher education services in the North East Ohio area and to make an appropriation.

H. B. No. 690-Representative Seitz.

To amend sections 4111.01, 4111.02, and 4111.10, to enact section 4111.14, and to repeal section 4111.08 of the Revised Code to implement Section 34a, Article II, of the Constitution of the State of Ohio and to declare an emergency.

H. B. No. 691-Representative Schaffer.

To amend sections 109.761 and 109.802, to enact new section 109.803, and to repeal section 109.803 of the Revised Code to mandate up to 24 hours a year of continuing professional training for peace officers and state highway patrol troopers, to establish the method by which the Attorney General reimburses the costs of training programs for officers and troopers of public appointing authorities, and to make an appropriation.

H. B. No. 692-Representatives Seitz, McGregor, J., Daniels, White, J., White, D., Gibbs, Raussen, Wagner.

To amend sections 2305.251, 2317.54, 3345.40, and 3701.501 and to enact sections 2305.402, 2307.48, and 2317.024 of the Revised Code relative to the liability of hospitals under an ostensible theory for the acts of independent medical practitioners, confidential medical information, the liability of hospitals regarding emergency services and care, negligent credentialing, and immunity regarding the genetic screening of a newborn child.

Said bills were considered the first time.

CONSIDERATION OF SENATE AMENDMENTS

The Senate amendments to **Sub. H. B. No. 83**-Representative Hughes, et al., were taken up for consideration.

Sub. H. B. No. 83-Representatives Hughes, Coley, Willamowski, Allen, Barrett, Blessing, Book, Brown, Carano, Cassell, Combs, DeBose, Domenick, Evans, C., Flowers, Gilb, Harwood, Key, McGregor, J., Oelslager, Otterman, Patton, T., Perry, Reidelbach, Smith, G., Strahorn, Williams, Woodard, Yuko. -Senators Goodman, Harris, Miller, D., Schuler.

To enact section 2109.361 of the Revised Code to require the probate court, upon application by an affected beneficiary, to determine the fairness of an agreement requiring a fiduciary or beneficiary to pay a percentage of an inheritance or a dollar amount to any person other than the beneficiary and to allow the probate court to approve, modify, or disapprove the agreement.

The question being, "Shall the Senate amendments be concurred in?"

The yeas and nays were taken and resulted - yeas 97, nays 0, as follows:

Those who voted in the affirmative were: Representatives

Aslanides	Barrett	Beatty	Blasdel
Blessing	Bocchieri	Book	Brinkman
Brown	Bubp	Buehrer	Calvert
Carano	Carmichael	Cassell	Chandler
Coley	Collier	Combs	Core
Daniels	DeBose	DeGeeter	DeWine
Distel	Dolan	Domenick	Driehaus
Evans C.	Evans D.	Faber	Fende
Fessler	Flowers	Foley	Garrison
Gibbs	Gilb	Hagan	Hartnett
Harwood	Healy	Hood	Hoops
Hughes	Key	Kilbane	Koziura
Latta	Law	Luckie	Martin
Mason	McGregor J.	McGregor R.	Oelslager
Otterman	Patton S.	Patton T.	Perry
Peterson	Raga	Raussen	Redfern
Reidelbach	Reinhard	Sayre	Schaffer
Schlichter	Schneider	Seaver	Seitz
Setzer	Skindell	Smith S.	Stewart D.
Stewart J.	Strahorn	Sykes	Taylor
Trakas	Uecker	Ujvagi	Wagner
Wagoner	Webster	White D.	White J.
Widener	Widowfield	Willamowski	Williams
Wolpert	Woodard	Yates	Yuko
			Husted-97.

The Senate amendments were concurred in.

BILLS FOR THIRD CONSIDERATION

Sub. H. B. No. 441-Representatives Evans, C., Hoops, Ujvagi, Healy, Evans, D., Wolpert, Faber, Allen, Setzer, Bubp, Book.

To authorize for a two-year period a pilot program that allows the members of the judicial corrections board that oversees the STAR Community Justice Center in Franklin Furnace, Ohio, or its successor judicial advisory board, to be present at board meetings by teleconference or interactive video teleconference, and to require the Center's executive director to issue a report on the effects on the board's operation of member participation in board meetings in this manner, was taken up for consideration the third time.

The question being, "Shall the bill pass?"

Representative Schaffer moved to amend as follows:

In line 11, after the period insert: "That sections 1702.01, 1702.08,

1702.11, 1702.17, 1702.19, 1702.20, 1702.22, 1702.27, 1702.38, 1702.39, 1702.42, and 1702.58 of the Revised Code be amended to read as follows:

Sec. 1702.01. As used in this chapter, unless the context otherwise requires:

(A) "Corporation" or "domestic corporation" means a nonprofit corporation formed under the laws of this state, or a business corporation formed under the laws of this state that, by amendment to its articles as provided by law, becomes a nonprofit corporation.

(B) "Foreign corporation" means a nonprofit corporation formed under the laws of another state.

(C) "Nonprofit corporation" means a domestic or foreign corporation that is formed otherwise than for the pecuniary gain or profit of, and whose net earnings or any part of them is not distributable to, its members, directors, officers, or other private persons, except that the payment of reasonable compensation for services rendered and the distribution of assets on dissolution as permitted by section 1702.49 of the Revised Code is not pecuniary gain or profit or distribution of net earnings. In a corporation all of whose members are nonprofit corporations, distribution to members does not deprive it of the status of a nonprofit corporation.

(D) "State" means the United States; any state, territory, insular possession, or other political subdivision of the United States, including the District of Columbia; any foreign country or nation; and any province, territory, or other political subdivision of a foreign country or nation.

(E) "Articles" includes original articles of incorporation, agreements of merger or consolidation if and only to the extent that articles of incorporation are adopted or amended in the agreements, amended articles, and amendments to any of these, and, in the case of a corporation created before September 1, 1851, the special charter and any amendments to it made by special act of the ~~General Assembly~~ general assembly or pursuant to general law.

(F) "Incorporator" means a person who signed the original articles of incorporation.

(G) "Member" means one having membership rights and privileges in a corporation in accordance with its articles or regulations.

(H) "Voting member" means a member possessing voting rights, either generally or in respect of the particular question involved, as the case may be.

(I) "Person" includes, but is not limited to, a nonprofit corporation, a business corporation, a partnership, an unincorporated society or association, and two or more persons having a joint or common interest.

(J) The location of the "principal office" of a corporation is the place named as such in its articles.

(K) "Directors" means the persons vested with the authority to conduct the affairs of the corporation irrespective of the name, such as trustees, by which they are designated.

(L) "Insolvent" means that the corporation is unable to pay its obligations as they become due in the usual course of its affairs.

(M)(1) Subject to division (M)(2) of this section, "volunteer" means a director, officer, or agent of a corporation, or another person associated with a corporation, who satisfies both of the following:

(a) Performs services for or on behalf of, and under the authority or auspices of, that corporation;

(b) Does not receive compensation, either directly or indirectly, for performing those services.

(2) For purposes of division (M)(1) of this section, "compensation" does not include any of the following:

(a) Actual and necessary expenses that are incurred by a volunteer in connection with the services performed for a corporation, and that are reimbursed to the volunteer or otherwise paid;

(b) Insurance premiums paid on behalf of a volunteer, and amounts paid or reimbursed, pursuant to division (E) of section 1702.12 of the Revised Code;

(c) Modest perquisites.

(N) "Business corporation" means any entity, as defined in section 1701.01 of the Revised Code, other than a public benefit corporation or a mutual benefit corporation, that is organized pursuant to Chapter 1701. of the Revised Code.

(O) "Mutual benefit corporation" means any corporation organized under this chapter other than a public benefit corporation.

(P) "Public benefit corporation" means a corporation that is recognized as exempt from federal income taxation under section 501(c)(3) of the "Internal Revenue Code of 1986," 100 Stat. 2085, 26 U.S.C. 1, as amended, or is organized for a public or charitable purpose and that upon dissolution must distribute its assets to a public benefit corporation, the United States, a state or any political subdivision of a state, or a person that is recognized as exempt from federal income taxation under section 501(c)(3) of the "Internal Revenue Code of 1986," as amended. "Public benefit corporation" does not include a nonprofit corporation that is organized by one or more municipal corporations to further a public purpose that is not a charitable purpose.

(Q) "Authorized communications equipment" means any communications equipment ~~to which both of the following apply:~~

~~(1) The articles, regulations, or bylaws, or the regulations, constitution, or other fundamental agreement if section 1702.08 of the Revised Code applies;~~

~~permit the use of the communications equipment for the purpose of giving notice of meetings or any notice required by this chapter, attending and participating in meetings, giving a copy of any document or transmitting any writing required or permitted under this chapter, or voting.~~

(2) ~~The communications equipment~~ that provides a transmission, including, but not limited to, by telephone, telecopy, or any electronic means, from which it can be determined that the transmission was authorized by, and accurately reflects the intention of, the member or director involved and, with respect to meetings, allows all persons participating in the meeting to contemporaneously communicate with each other.

Sec. 1702.08. (A) When an unincorporated society or association, organized for any of the purposes for which a corporation could be formed under this chapter, authorizes the incorporation of that society or association, by the same procedure and affirmative vote of its voting members that the regulations, constitution, or other fundamental agreement of the society or association requires for an amendment to that fundamental agreement or, if no such vote is specified, by a majority vote of the voting members present in person ~~or, if permitted, by mail, by proxy, or by the use of authorized communications equipment, by mail, or, if permitted, by proxy,~~ at a duly convened meeting the purpose of which is stated in the notice of the meeting, then upon the filing of the articles under section 1702.04 of the Revised Code setting forth those facts and that the required vote has been obtained, that society or association shall become a corporation, and the members of the society or association shall become members of that corporation in accordance with provisions in the articles to that effect.

(B) All the rights, privileges, immunities, powers, franchises, and authority, and all the property and obligations of that unincorporated society or association, shall thereupon pass to, vest in, and (in the case of liabilities and obligations) be obligations of the corporation so formed.

Sec. 1702.11. (A) Without limiting the generality of such authority, the regulations, whether designated a constitution or rules, or by some other term, may include provisions with respect to the following:

(1) The place, if any, and time for holding, the manner of and authority for calling, giving notice of, and conducting, and the requirements of a quorum for, meetings of members, or their elected representatives or delegates;

(2) The qualifications, admission, voluntary withdrawal, censure, and suspension of members, and the termination of membership;

(3) The fees and dues of members;

(4) The rights of members or classes of members, or of their elected representatives or delegates, to vote; the manner of conducting votes of members on matters, including ~~any right to vote~~ voting by mail, by the use of authorized communications equipment, ~~if permitted by this chapter,~~ or by proxy; the

specification of the relative rights and privileges among members and in the property of the corporation; and limitations upon or regulations governing the right of members to examine the books and records of the corporation;

(5) The election of representatives or delegates of members and their authority, rights, and privileges;

(6) The number, classification, manner of fixing or changing the number, qualifications, term of office, voting rights, compensation or manner of fixing compensation, and the removal of directors;

(7) The place, if any, and time for holding, the manner of and authority for calling, giving notice of, and conducting, and the requirements of a quorum for, meetings of the directors;

(8) The appointment of an executive and other committees of the directors or of members, their authority, and the method by which they take action;

(9) The titles, qualifications, duties, term of office, compensation or manner of fixing compensation, and the removal, of officers;

(10) Defining, limiting, or regulating the exercise of the authority of the corporation, the directors, the officers, the members, or any class of members;

(11) The method by which voting members may change the regulations;

(12) Providing for the use of authorized communications equipment.

(B)(1) In the absence of provisions in the articles or the regulations with respect to the method of changing the regulations, the regulations may be amended, or new regulations may be adopted, by the voting members at a meeting held for such purpose, if a quorum is present, by the affirmative vote of a majority of the voting members present in person ~~or, if permitted, by mail~~, by the use of authorized communications equipment, by mail, ~~or, if permitted,~~ by proxy.

(2) For purposes of division (B)(1) of this section, participation by a member in a meeting through the use of any of the means of communication described in that division constitutes presence in person of that member at the meeting for purposes of determining a quorum.

(C) The members of a nonprofit corporation may adopt or authorize the directors to adopt, either before or during an emergency, as defined in division (U) of section 1701.01 of the Revised Code, emergency regulations operative only during an emergency. The emergency regulations may include those provisions that are authorized to be included in regulations by divisions (A) and (B) of this section. In addition, unless expressly prohibited by the articles or regulations, and notwithstanding any different provisions in this chapter and any different provision in the articles or regulations that are not expressly stated to be operative during an emergency, the emergency regulations may make any provision that may be practical or necessary with respect to meetings,

committees, vacancies, and temporary appointments of the directors, and the rank and succession of officers, the same as may be done by corporations for profit under division (C) of section 1701.11 of the Revised Code.

(D) Any change in the regulations made in accordance with their provisions or pursuant to division (B) of this section shall be binding on all members.

(E) If the regulations are amended or new regulations adopted without a meeting of the voting members, the secretary of the corporation shall send by mail, overnight delivery service, or authorized communications equipment a copy of the amendment or the new regulations to each voting member who would have been entitled to vote on the amendment or new regulations and did not participate in the adoption of the amendment or new regulations. If the secretary of the corporation mails the copy or sends it by overnight delivery service, the secretary shall send the copy of the amendment or the new regulations to the voting member at the voting member's address as it appears on the records of the corporation. If the secretary sends the copy by means of authorized communications equipment, the secretary shall send the copy of the amendment or the new regulations to the address provided by the voting member for transmissions by authorized communications equipment.

(F) No person dealing with the corporation shall be charged with constructive notice of the regulations.

(G) Unless expressly prohibited by the articles or regulations, or unless otherwise provided by the emergency regulations, and notwithstanding any different provision in this chapter, the special rules provided for corporations for profit under division (F) of section 1701.11 of the Revised Code are applicable to a nonprofit corporation during an emergency, as defined in division (U) of section 1701.01 of the Revised Code.

Sec. 1702.17. (A) Meetings of voting members may be called by any of the following:

(1) The chairperson of the board, the president, or, in case of the president's absence, death, or disability, the vice-president authorized to exercise the authority of the president;

(2) The directors by action at a meeting, or a majority of the directors acting without a meeting;

(3) The lesser of (a) ten per cent of the voting members or (b) twenty-five of the voting members, unless the articles or the regulations specify for such purpose a smaller or larger proportion or number, but not in excess of fifty per cent of the voting members;

(4) Any other officers or persons that the articles or the regulations authorize to call such meetings.

(B) If so provided in the articles or the regulations, meetings of voting

members may be held either within or without this state or solely by means of authorized communications equipment.

(C) ~~If authorized by~~ Unless the directors articles or regulations provide otherwise, the voting members and proxyholders who are not physically present at a meeting of voting members may attend the meeting by the use of authorized communications equipment that enables the voting members and proxyholders an opportunity to participate in the meeting and to vote on matters submitted to the voting members, including an opportunity to read or hear the proceedings of the meeting, participate in the proceedings, and contemporaneously communicate with the persons who are physically present at the meeting. Any voting member who uses authorized communications equipment under this division is deemed to be present in person at the meeting whether the meeting is held at a designated place or solely by means of authorized communications equipment. The directors may adopt procedures and guidelines for the use of authorized communications equipment in connection with a meeting of voting members to permit the corporation to verify that a person is a voting member or proxyholder and to maintain a record of any vote or other action taken at the meeting.

Sec. 1702.19. (A) Notice of the place, if any, the time, and the purposes of any meeting of voting members or directors, as the case may be, whether required by law, the articles, the regulations, or (in the case of directors) the bylaws, may be waived in writing, either before or after the holding of such meeting, by any member, or by any director, which writing shall be filed with or entered upon the records of the meeting. A transmission by authorized communications equipment that contains a waiver is a writing for purposes of this division.

(B) If a member or director attends a meeting described in division (A) of this section without protesting prior to or at the commencement of the meeting, then the lack of proper notice shall be deemed to be a waiver by the member or director of notice of the meeting.

(C) A member ~~or director~~ shall be considered in attendance at a meeting described in division (A) of this section; if the member ~~or director~~ is present in person ~~or, if permitted by the regulations, is present~~ by the use of authorized communications equipment, by mail, or, if permitted, by proxy. A director shall be considered in attendance at a meeting described in division (A) of this section if the director is present in person or by the use of authorized communications equipment.

Sec. 1702.20. (A) Except as otherwise provided in the articles or the regulations, each member, regardless of class, shall be entitled to one vote on each matter properly submitted to the members for their vote, consent, waiver, release, or other action.

(B) ~~The~~ Unless the articles or the regulations ~~may provide that~~ otherwise, voting at elections and votes on other matters may be conducted by mail or by

the use of authorized communications equipment.

(C) Participation by a member in a meeting through the use of any of the means of communication described in division (B) of this section constitutes presence in person of that member at the meeting. The directors may adopt procedures and guidelines for the use of authorized communications equipment to permit the corporation to verify that a person is a voting member and to maintain a record of any vote.

(D) Unless the articles or the regulations otherwise provide, no member who is a natural person shall vote or act by proxy.

Sec. 1702.22. Unless the articles or the regulations otherwise provide:

(A)(1) The voting members present in person ~~or, if permitted, by mail, by proxy, or~~ by the use of authorized communications equipment, by mail, or, if permitted, by proxy at any meeting of voting members shall constitute a quorum for the meeting.

(2) The affirmative vote of a majority of the voting members present at a meeting at which a quorum is present as provided in division (A)(1) of this section shall be necessary for the authorization or taking of any action voted upon by the members, except that no action required by law, the articles, or the regulations to be authorized or taken by a specified proportion or number of the voting members or of any class of voting members may be authorized or taken by a lesser proportion or number.

(B) A majority of the voting members present at a meeting, whether or not a quorum is present, may adjourn the meeting from time to time.

Sec. 1702.27. (A) Except as provided in division (B) of this section and section 1702.521 of the Revised Code:

(1) The number of directors as fixed by the articles or the regulations shall be not less than three or, if not so fixed, the number shall be three, except that if there are only one or two members of the corporation, the number of directors may be less than three but not less than the number of members.

(2)(a) Subject to division (A)(2)(c) of this section, unless the articles or the regulations fix the number of directors or provide the manner in which that number may be fixed or changed by the voting members, the number may be fixed or changed at a meeting of the voting members called for the purpose of electing directors, if a quorum is present, by the affirmative vote of a majority of the voting members present in person ~~or, if permitted, by mail,~~ by the use of authorized communications equipment, by mail, or, if permitted, by proxy.

(b) For purposes of division (A)(2)(a) of this section, participation by a voting member in a meeting through the use of any of the means of communication described in that division constitutes presence in person of that voting member at the meeting for purposes of determining a quorum.

(c) No reduction in the number of directors shall of itself have the effect

of shortening the term of any incumbent director.

(3) The director shall have the qualifications, if any, that are stated in the articles or the regulations.

(4) The articles or the regulations may provide that persons occupying certain positions within or without the corporation shall be ex officio directors, but, unless otherwise provided in the articles or the regulations, such ex officio directors shall not be considered for quorum purposes and shall have no vote.

(B) The court of common pleas of the county in which the corporation maintains its principal office may, pursuant to division (A) of section 1702.521 of the Revised Code, order the appointment of a provisional director for the corporation without regard to the number or qualifications of directors stated in the articles or regulations of the corporation.

Sec. 1702.38. (A) The articles may be amended from time to time in any respect if the articles as amended set forth all the provisions that are required in, and only those provisions that may properly be in, original articles filed at the time of adopting the amendment, other than with respect to the initial directors, except that a public benefit corporation shall not amend its articles in such manner that it will cease to be a public benefit corporation.

(B) Without limiting the generality of the authority described in division (A) of this section, the articles may be amended to:

(1) Change the name of the corporation;

(2) Change the place in this state where its principal office is to be located;

(3) Change, enlarge, or diminish its purpose or purposes;

(4) Change any provision of the articles or add any provision that may properly be included in the articles.

(C)(1) The voting members present in person ~~or, if permitted, by mail, by proxy, or~~ by use of authorized communications equipment, by mail, or, if permitted, by proxy at a meeting held for that purpose, may adopt an amendment by the affirmative vote of a majority of the voting members present if a quorum is present or, if the articles or the regulations provide or permit, by the affirmative vote of a greater or lesser proportion or number of the voting members, and by the affirmative vote of the voting members of any particular class that is required by the articles or the regulations.

(2) For purposes of division (C)(1) of this section, participation by a voting member at a meeting through the use of any of the means of communication described in that division constitutes presence in person of that voting member at the meeting for purposes of determining a quorum.

(D) In addition to or in lieu of adopting an amendment to the articles, the voting members may adopt amended articles by the same action or vote as that

required to adopt the amendment.

(E) The directors may adopt amended articles to consolidate the original articles and all previously adopted amendments to the articles that are in force at the time, or the voting members at a meeting held for that purpose may adopt the amended articles by the same vote as that required to adopt an amendment.

(F) Amended articles shall set forth all the provisions that are required in, and only the provisions that may properly be in, original articles filed at the time of adopting the amended articles, other than with respect to the initial directors, and shall contain a statement that they supersede the existing articles.

(G) Upon the adoption of any amendment or amended articles, a certificate containing a copy of the resolution adopting the amendment or amended articles, a statement of the manner of its adoption, and, in the case of adoption of the resolution by the directors, a statement of the basis for such adoption, shall be filed with the secretary of state, and upon that filing the articles shall be amended accordingly, and the amended articles shall supersede the existing articles. The certificate shall be signed by any authorized officer of the corporation.

(H) A copy of an amendment or amended articles changing the name of a corporation or its principal office in this state, certified by the secretary of state, may be filed for record in the office of the county recorder of any county in this state, and for that recording the county recorder shall charge and collect the same fee as provided for in division (A) of section 317.32 of the Revised Code. That copy shall be recorded in the records of deeds.

Sec. 1702.39. (A)(1) Unless the articles or the regulations, or the terms of any trust on which the corporation holds any particular property, otherwise provide, a lease, sale, exchange, transfer, or other disposition of any assets of a mutual benefit corporation may be made without the necessity of procuring authorization from the court under section 1715.39 of the Revised Code, upon the terms and for the consideration, which may consist, in whole or in part, of money or other property, including shares or other securities or promissory obligations of any business corporation, domestic or foreign, that may be authorized by the directors, except that a lease, sale, exchange, transfer, or other disposition of all, or substantially all, the assets may be made only when that transaction is also authorized (either before or after authorization by the directors) by the voting members present in person ~~or, if permitted, by mail, by proxy, or~~ by the use of authorized communications equipment, by mail, or, if permitted, by proxy at a meeting held for that purpose, by the affirmative vote of a majority of the voting members present as described in this division, if a quorum is present, or, if the articles or the regulations provide or permit, by the affirmative vote of a greater or lesser proportion or number of the voting members, and by the affirmative vote of the voting members of any particular class that is required by the articles or the regulations. Notice of the meeting of the members shall be given to all members entitled to vote at the meeting. Such notice shall be accompanied by a copy or summary of the terms of that

transaction.

(2) For purposes of division (A)(1) of this section, participation by a voting member at a meeting through the use of any of the means of communication described in that division constitutes presence in person of that voting member at the meeting for purposes of determining a quorum.

(B)(1) A public benefit corporation may not dispose of its assets with value equal to more than fifty per cent of the fair market value of the net tangible and intangible assets, including goodwill, of the corporation over a period of thirty-six consecutive months in a transaction or series of transactions, including the lease, sale, exchange, transfer, or other disposition of those assets, that are outside the ordinary course of its business or that are not in accordance with the purpose or purposes for which the corporation was organized, as set forth in its articles or the terms of any trust on which the corporation holds such assets, unless one or more of the following apply:

(a) The transaction has received the prior approval of the court of common pleas of the county in this state in which the principal office of the corporation is located, in a proceeding of which the attorney general's charitable law section has been given written notice by certified mail within three days of the initiation of the proceeding, and in which proceeding the attorney general may intervene as of right.

(b)(i) The corporation has provided written notice of the proposed transaction, including a copy or summary of the terms of such transaction, at least twenty days before consummation of the lease, sale, exchange, transfer, or other disposition of the assets, to the attorney general's charitable law section and to the members of the corporation, and the proposed transaction has been approved by the voting members present in person ~~or, if permitted, by mail, by proxy, or~~ by the use of authorized communications equipment, by mail, or, if permitted, by proxy at a meeting held for that purpose, by the affirmative vote of a majority of the voting members present as described in this division, if a quorum is present, or, if the articles or regulations provide or permit, by the affirmative vote of a greater or lesser proportion or number of the voting members, and if the articles or regulations require, by the affirmative vote of the voting members of any particular class.

(ii) For purposes of division (B)(1)(b)(i) of this section, participation by a voting member at a meeting through the use of any of the means of communication described in that division constitutes presence in person of that voting member at the meeting for purposes of determining a quorum.

(c) The transaction is in accordance with the purpose or purposes for which the corporation was organized, as set forth in its articles or the terms of any trust on which the corporation holds the assets, and the lessee, purchaser, or transferee of the assets is also a public benefit corporation or a foreign corporation that would qualify under the Revised Code as a public benefit corporation.

(2) The attorney general may require, pursuant to section 109.24 of the Revised Code, the production of the documents necessary for review of a proposed transaction under division (B)(1) of this section. The attorney general may retain, at the expense of the public benefit corporation, one or more experts, including an investment banker, actuary, appraiser, certified public accountant, or other expert, that the attorney general considers reasonably necessary to provide assistance in reviewing a proposed transaction under division (B)(1) of this section.

(C) The attorney general may institute a civil action to enforce the requirements of division (B)(1) of this section in the court of common pleas of the county in this state in which the principal office of the corporation is located or in the Franklin county court of common pleas. In addition to any civil remedies that may exist under common law or the Revised Code, a court may rescind the transaction or grant injunctive relief or impose any combination of these remedies.

(D) The corporation by its directors may abandon the proposed lease, sale, exchange, transfer, or other disposition of the assets of the corporation pursuant to division (A) or (B) of this section, subject to the contract rights of other persons, if that power of abandonment is conferred upon the directors either by the terms of the transaction or by the same vote of voting members and at the same meeting of members as that referred to in division (A) or (B) of this section, as applicable, or at any subsequent meeting.

(E) An action to set aside a conveyance by a corporation, on the ground that any section of the Revised Code applicable to the lease, sale, exchange, transfer, or other disposition of the assets of such corporation has not been complied with, shall be brought within one year after that transaction, or the action shall be forever barred.

Sec. 1702.42. (A) The directors of each constituent corporation, upon approving an agreement of merger or consolidation, shall direct that the agreement be submitted to the voting members entitled to vote on it at a meeting of voting members of such corporation held for that purpose, and notice of the meeting shall be given to all members of the constituent corporation entitled to vote at the meeting. The notice shall be accompanied by a copy or summary of the agreement.

(B)(1) At each meeting described in division (A) of this section, a vote of the members shall be taken on the proposed agreement. In order to be adopted, the agreement (including any amendments or additions to the agreement proposed at each such meeting) must receive the affirmative vote of a majority of the voting members of each constituent corporation present at that meeting in person ~~or, if permitted, by mail, by proxy, or~~ by the use of authorized communications equipment, by mail, or, if permitted, by proxy if a quorum is present, or, if the articles or the regulations of that corporation provide or permit, the affirmative vote of a greater or lesser proportion or number of the voting members, and the affirmative vote of the voting members of any particular class

that is required by the articles or the regulations of such corporation. If the agreement would authorize any particular corporate action that, under any applicable provision of law or under the existing articles of one or more of the constituent corporations, could be authorized only by or pursuant to a specified vote of voting members, the agreement (including any amendments or additions to the agreement proposed at each such meeting) in order to be adopted must receive the affirmative vote so specified.

(2) For purposes of division (B)(1) of this section, participation by a voting member at a meeting through the use of any of the means of communication described in that division constitutes presence in person of that voting member at the meeting for purposes of determining a quorum.

(C) At any time prior to the filing of the agreement, the merger or consolidation may be abandoned by the directors of one or more of the constituent corporations, if the power of abandonment is conferred upon those directors either by the agreement or by the same vote of voting members of each of the constituent corporations and at the same meetings as those referred to in division (B) of this section or at subsequent meetings.

Sec. 1702.58. (A) Except as provided in sections 1702.01 to 1702.58 of the Revised Code, the provisions of those sections shall apply only to domestic corporations, and except as otherwise provided in this section, the provisions of those sections shall apply to all domestic corporations, whether formed under those sections or under previous laws of this state.

(B) Special provisions in the Revised Code for the organization, conduct, or government of designated classes of corporations shall govern to the exclusion of the provisions of sections 1702.01 to 1702.58 of the Revised Code on the same subject, except where it clearly appears that a special provision is cumulative, in which case, that provision and the provisions of those sections on the same subject shall apply.

(C) A corporation incorporated prior to June 9, 1927, with authority to issue shares may continue to issue and reissue shares in accordance with its articles, but shall be without authority to amend its articles in order to increase the authorized number of shares.

(D) A corporation created before September 1, 1851, that (1) has expressly elected to be governed by the laws passed since that date; (2) subsequent to that date has taken such action under laws then in effect as to make it subject, as a matter of law, to the Constitution of 1851 and laws passed under the Constitution of 1851; or (3) subsequent to October 1, 1955, takes any action under sections 1702.01 to 1702.58 of the Revised Code that but for those sections it would not be authorized to take, shall be deemed to be a corporation exercising its corporate privileges under the Constitution of this state and the laws passed in pursuance of the Constitution of this state, and not otherwise.

(E)(1) A corporation created before September 1, 1851, and actually carrying on its activities in this state, and which prior to October 11, 1955, has

not taken action described in division (D) of this section, may accept the provisions of sections 1702.01 to 1702.58 of the Revised Code at a meeting of voting members held for that purpose, by a resolution to that effect adopted by the affirmative vote of a majority of the voting members present in person ~~or, if permitted, by mail, by proxy, or~~ by the use of authorized communications equipment, by mail, or, if permitted, by proxy if a quorum is present, and by filing in the office of the secretary of state a copy of the resolution certified by any authorized officer of the corporation, for which filing the secretary of state shall charge and collect a fee of five dollars. Thereafter the corporation shall be deemed to exercise its corporate privileges under the Constitution of this state and the laws passed in pursuance of the Constitution of this state, and not otherwise.

(2) For purposes of division (E)(1) of this section, participation by a voting member at a meeting through the use of any of the means of communication described in that division constitutes presence in person of that voting member at the meeting for purposes of determining a quorum.

(F) Except as provided in divisions (D) and (E) of this section, a corporation created before September 1, 1851, shall be governed by the laws in force on that date as modified since that date.

(G) A domestic business corporation, upon compliance with the provision of the Revised Code that is in effect from time to time relating to that business corporation's becoming a nonprofit corporation upon amendment to its articles or upon adoption of amended articles, as provided by law, shall, upon filing the prescribed certificate in the office of the secretary of state, become a corporation subject to the provisions of, and entitled to all the rights, privileges, immunities, powers, franchises, and authority granted by, this chapter."

Section 2. That existing sections 1702.01, 1702.08, 1702.11, 1702.17, 1702.19, 1702.20, 1702.22, 1702.27, 1702.38, 1702.39, 1702.42, and 1702.58 of the Revised Code are hereby repealed.

Section 3. Any meeting conducted or vote held by a nonprofit corporation on or after August 19, 2005, pursuant to section 1702.01, 1702.08, 1702.11, 1702.17, 1702.19, 1702.20, 1702.22, 1702.27, 1702.38, 1702.39, 1702.42, or 1702.58 of the Revised Code, as amended by H.B. 42 of the 126th General Assembly, is valid if the meeting or vote would have been valid under those sections as amended by this act if those sections as amended by this act had been in effect at the time of the meeting or vote.

Section 4. "

In line 28, delete "2" and insert "5"; delete "1" and insert "4"

In line 44, delete "1" and insert "4"

In line 1 of the title, after "To" insert "amend sections 1702.01, 1702.08, 1702.11, 1702.17, 1702.19, 1702.20, 1702.22, 1702.27, 1702.38, 1702.39, 1702.42, and 1702.58 of the Revised Code to authorize a nonprofit corporation

to conduct meetings and votes by mail or by the use of authorized communications equipment unless the articles or regulations of the corporation provide otherwise; to validate any action taken by a nonprofit corporation since August 19, 2005, that would have been valid if this act had been in effect when the action was taken; to"

In line 7 of the title, delete the comma and insert a semicolon

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

The yeas and nays were taken and resulted - yeas 91, nays 6, as follows:

Those who voted in the affirmative were: Representatives

Aslanides	Barrett	Blasdel	Blessing
Bocchieri	Book	Brinkman	Brown
Bubp	Buehrer	Calvert	Carano
Carmichael	Cassell	Chandler	Coley
Collier	Combs	Core	Daniels
DeBose	DeGeeter	DeWine	Distel
Dolan	Domenick	Driehaus	Evans C.
Evans D.	Faber	Fende	Fessler
Flowers	Foley	Garrison	Gibbs
Gilb	Hagan	Hartnett	Harwood
Healy	Hood	Hoops	Hughes
Key	Kilbane	Koziura	Latta
Law	Luckie	Martin	Mason
McGregor J.	McGregor R.	Oelslager	Otterman
Patton S.	Patton T.	Perry	Peterson
Raga	Rausen	Reidelbach	Reinhard
Sayre	Schaffer	Schlichter	Schneider
Seaver	Seitz	Setzer	Smith G.
Stewart D.	Stewart J.	Taylor	Trakas
Uecker	Ujvagi	Wagner	Wagoner
Webster	White D.	White J.	Widener
Widowfield	Willamowski	Williams	Wolpert
Woodard	Yuko		Husted-91.

Representatives Beatty, Redfern, Skindell, Strahorn, Sykes, and Yates voted in the negative-6.

The motion was agreed to and the bill so amended.

The question being, "Shall the bill as amended pass?"

The yeas and nays were taken and resulted - yeas 93, nays 4, as follows:

Those who voted in the affirmative were: Representatives

Aslanides	Barrett	Beatty	Blasdel
Blessing	Bocchieri	Book	Brinkman
Brown	Bubp	Buehrer	Calvert
Carano	Carmichael	Cassell	Chandler
Coley	Collier	Combs	Core
Daniels	DeBose	DeGeeter	DeWine
Distel	Dolan	Domenick	Driehaus
Evans C.	Evans D.	Faber	Fende

Flowers	Foley	Garrison	Gibbs
Gilb	Hagan	Hartnett	Harwood
Healy	Hood	Hoops	Hughes
Key	Kilbane	Koziura	Latta
Law	Luckie	Martin	Mason
McGregor J.	McGregor R.	Otterman	Patton S.
Patton T.	Perry	Peterson	Raga
Rausen	Reidelbach	Reinhard	Sayre
Schaffer	Schlichter	Schneider	Seaver
Seitz	Setzer	Smith G.	Stewart D.
Stewart J.	Strahorn	Sykes	Taylor
Trakas	Uecker	Ujvagi	Wagner
Wagoner	Webster	White D.	White J.
Widener	Widowfield	Willamowski	Williams
Wolpert	Woodard	Yates	Yuko
			Husted-93.

Representatives Fessler, Oelslager, Redfern, and Skindell voted in the negative-4.

The bill passed.

Representative Evans, C. moved to amend the title as follows:

Add the names: "Chandler, Combs, DeBose, Domenick, Key, Schneider, Seitz."

The motion was agreed to and the title so amended.

The title as amended was agreed to.

On motion of Representative Blasdel, the House adjourned until Wednesday, November 29, 2006 at 1:30 o'clock p.m.

Attest:

LAURA P. CLEMENS,
Clerk.