

OHIO

SENATE

JOURNAL

THURSDAY, JANUARY 27, 2005

ELEVENTH DAY

Senate Chamber, Columbus, Ohio

Thursday, January 27, 2005, 10:00 o'clock a.m.

The Senate met pursuant to adjournment.

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

**REPORTS OF REFERENCE AND BILLS FOR SECOND
CONSIDERATION**

Senator Schuring reports for the Standing Committee on Reference, recommending that the following bills and joint resolution, standing in order for second consideration, be referred to committee as recommended:

H. B. No. 10-Representatives Schneider, Seitz, Setzer, C. Evans, Allen, Book, Daniels, Gibbs, Hagan, Mason, S. Patton, G. Smith, S. Smith, J. Stewart, White, Barrett, Beatty, Blasdel, Blessing, Bulp, Buehrer, Calvert, Carano, Carmichael, Cassell, Chandler, Coley, Collier, Combs, Core, DeBose, Distel, Dolan, Domenick, Driehaus, D. Evans, Faber, Fende, Fessler, Flowers, Gilb, Hartnett, Hoops, Hughes, Kearns, Key, Koziura, Law, Martin, Mitchell, Oelslager, Otterman, T. Patton, Perry, Peterson, Raussen, Redfern, Reidelbach, Reinhard, Schaffer, Schlichter, Seaver, Skindell, D. Stewart, Sykes, Taylor, Uecker, Ujvagi, Wagoner, Walcher, Widener, Willamowski, Williams, Wolpert.

To amend sections 145.384, 145.46, 742.3711, 3307.60, 3309.46, and 5505.162 of the Revised Code regarding an election by a retirant of one of the state's public retirement systems who has married or remarried to change the plan under which a retirement benefit is paid.

To the Committee on Health, Human Services and Aging.

Am. Sub. H. B. No. 16-Representatives Calvert, Allen, C. Evans, Flowers, Hartnett, McGregor, S. Patton, Trakas, Aslanides, Barrett, Beatty, Blessing, Book, Brown, Carano, Carmichael, Cassell, DeBose, Distel, Domenick, D. Evans, Fende, Hagan, Harwood, Hughes, Kearns, Key, Koziura, Law, Martin, Mason, Miller, Mitchell, T. Patton, Peterson, Schaffer, Schlichter, Schneider, Seitz, Setzer, G. Smith, J. Stewart, Walcher, White, Widowfield.

To amend sections 9.98, 105.41, 123.10, 125.28, 126.11, 131.02, 133.01, 145.011, 151.01, 151.04, 154.01, 154.02, 154.07, 755.16, 755.18, 2716.11, 3305.01, 3307.01, 3318.01, 3318.02, 3318.03, 3318.04, 3318.11, 3318.37, 3318.41, 3333.045, 3334.01, 3345.04, 3345.12, 3345.17, 3345.31, 3345.32, 3345.50, 3345.71, 3350.01, 3350.02, 3350.03, 3350.04, 3350.05, 3383.01, 3383.02, 3383.07, 3770.073, 5537.01, 5540.01, 5709.61, 5709.62, 5709.632,

5709.75, 5709.91, 5733.121, and 5747.12, to enact sections 105.42, 122.012, 123.17, 131.021, 154.23, 1541.23, 2743.712, 3301.21, 3333.072, 3345.51, 5715.70, and 5715.701, and to repeal section 123.023 of the Revised Code and to amend Sections 6 and 31 of Am. Sub. H.B. 95 of the 125th General Assembly, to amend Sections 89, 89.04, and 89.08 of Am. Sub. H.B. 95 of the 125th General Assembly, as amended by Am. Sub. S.B. 189 of the 125th General Assembly, and to amend Sections 18.02, 18.16, 22, 26.10, 26.14, 26.19, 26.23, 26.48, and 27 of Am. Sub. S.B. 189 of the 125th General Assembly to make capital and other appropriations, to change the name of the Medical College of Ohio at Toledo to the Medical University of Ohio at Toledo, to amend the versions of sections 3305.01 and 3307.01 of the Revised Code that are scheduled to take effect August 1, 2005, to continue the provisions of this act on and after that effective date, and to provide authorization and conditions for the operation of state programs.

To the Committee on Finance and Financial Institutions.

S. B. No. 20-Senators Goodman, Amstutz, Coughlin, Clancy, Schuler, Jacobson, Cates, Mumper, Austria, Schuring, Grendell, Wachtmann, Gardner, Carey, Padgett, Jordan, Spada, Hottinger.

To amend sections 2901.11 and 2901.12 of the Revised Code to clarify the application of the state's criminal jurisdiction statute to offenses committed in a jurisdiction other than Ohio that result from a conspiracy, an attempt, or complicity to commit the offense that occurs in Ohio and to offenses of violence or theft offenses that are committed in a jurisdiction other than Ohio subsequent to the kidnapping, abduction, unlawful restraint, or criminal child enticement of the victim in Ohio and removal to the other jurisdiction; to clarify that Ohio criminal specifications are applicable to persons who commit an offense in a jurisdiction other than Ohio but are subject to Ohio criminal jurisdiction; and to make other related changes to the state's criminal jurisdiction and venue statutes.

To the Committee on Judiciary - Criminal Justice.

S. B. No. 21-Senators Hottinger, Carey, Wachtmann.

To amend sections 145.384, 145.46, 3307.60, 3309.46, and 5505.162 of the Revised Code regarding the election by a retirant of one of the state's public retirement systems who has married or remarried to change the plan under which a retirement benefit is paid.

To the Committee on Health, Human Services and Aging.

S. B. No. 22-Senators Padgett, Amstutz, Hottinger, Wilson.

To enact section 4928.141 of the Revised Code to further state policy under the Electric Restructuring Law by providing for implementation of rate stabilizations plans where there is insufficient, generation market development or a lack of effective competition in an electric utility's service area and ensuring against any undue competitive disadvantage between Ohio and regional customers of an electric utility or its affiliates, and to declare an emergency.

To the Committee on Energy and Public Utilities.

S. B. No. 23-Senators Clancy, Cates, Gardner, Spada, Schuler.

To enact section 4511.86 of the Revised Code to provide that if a person is convicted of a state motor vehicle traffic offense and at the time of the offense the person's vehicle collided with a public service vehicle and the offense was the proximate cause of the accident, the offense is an offense of the next higher degree than the degree specified in the Revised Code for that offense.

To the Committee on Judiciary - Criminal Justice.

S. B. No. 24-Senators Mumper, Jordan, Cates, Wachtmann.

To enact sections 3345.80 and 3345.81 of the Revised Code to establish the academic bill of rights for higher education.

To the Committee on Education.

S. B. No. 25-Senator Armbruster.

To amend sections 153.65, 153.67, 4743.05, and 4745.01 and to enact sections 4768.01 to 4768.10 and 4768.99 of the Revised Code to permit interior designers who meet certain requirements to be certified as Ohio Certified Interior Designers by the State Board for Certified Interior Designers, which is created.

To the Committee on Insurance, Commerce and Labor.

S. B. No. 26-Senators Amstutz, Austria, Clancy, Carey, Coughlin, Gardner,

Goodman, Harris, Hottinger, Jacobson, Mumper, Padgett, Schuring, Spada, Wachtmann, Zurz.

To amend sections 5739.031, 5739.033, and 5739.034 and to enact section 5739.035 of the Revised Code to establish a period during which vendors with total Ohio taxable sales of one million dollars or more must make the transition to destination-based sourcing of their sales and to allow origin-based siting for sales made under certain circumstances.

To the Committee on Ways and Means and Economic Development.

S. B. No. 27-Senators Amstutz, Clancy, Gardner, Jacobson, Padgett, Schuring.

To amend sections 303.02, 503.29, 519.02, 2505.08, 2506.01, 2506.02, 2506.03, 2506.04, 2907.01, and 4301.25, to amend, for the purpose of adopting a new section number as indicated in parentheses, section 503.29 (503.53), to enact new sections 503.51 and 503.52 and sections 2506.05, 2506.06, 2506.07, 2506.08, 2907.38, 3768.01, 3768.02, 3768.03, 3768.04, 3768.05, 3768.06, and 3768.99, and to repeal sections 503.51, 503.52, 503.53, 503.54, 503.55, 503.56, 503.57, 503.58, 503.59, 503.65, and 503.99 of the Revised Code to generally regulate adult entertainment establishments; to permit townships to regulate the location and operation of those establishments; to create an expedited appeal from orders, adjudications, or decisions denying an application for, or suspending or revoking, a license or permit to locate or operate such an establishment; to create an expedited appeal in any case in which a court determines there is a threat of restraint of protected expression; and to create the offense of permitting unlawful operation of viewing booths depicting sexual conduct.

To the Committee on State and Local Government and Veterans' Affairs.

S. B. No. 28-Senator Coughlin.

To require the Department of Education to establish the Healthy Kids Pilot Project and to make an appropriation.

To the Committee on Finance and Financial Institutions.

S. B. No. 29-Senators Coughlin, Clancy, Jordan, Hagan.

To amend section 5739.05 and to enact section 5739.029 of the Revised Code to provide a one-week period each year from 2005 to 2008 during which

sales of personal computer systems are exempt from sales and use taxes.

To the Committee on Ways and Means and Economic Development.

S. B. No. 30-Senators Coughlin, Schuring, Gardner, Hagan, Mumper, Spada, Fedor, Clancy.

To amend section 5747.01 of the Revised Code to exempt from the personal income tax up to \$10,000 in local, state, and federal government employee and military retirement benefits.

To the Committee on Ways and Means and Economic Development.

S. B. No. 31-Senators Coughlin, Spada, Stivers, Schuler, Wachtmann.

To amend sections 4111.01, 4111.03, 4111.05, 4111.10, 4111.13, and 4111.99 and to enact sections 4111.031 and 4111.032 of the Revised Code to afford to private sector employers the option to offer and to employees the option to accrue and use compensatory time off and to afford to both public and private employees and employers the option to institute biweekly work schedule programs.

To the Committee on Insurance, Commerce and Labor.

S. B. No. 32-Senators Spada, Gardner, Jacobson, Armbruster, Amstutz, Schuler, Padgett, Mumper.

To amend section 117.10 and to enact section 117.102 of the Revised Code regarding audits of Medicaid providers and a performance audit of the Medicaid program.

To the Committee on Health, Human Services and Aging.

S. B. No. 33-Senators Spada, Jacobson, Amstutz, Schuler, Mumper.

To enact section 1349.19 of the Revised Code to prohibit the sale of a gift certificate that has an expiration date that is less than two years after the date the gift certificate is issued and to prohibit service charges or fees having the effect of reducing the value of the gift certificate.

To the Committee on Insurance, Commerce and Labor.

S. B. No. 34-Senators Spada, Jacobson, Clancy.

To amend section 122.17 and to enact sections 5725.32 and 5729.032 of the Revised Code to extend the job creation tax credit to insurance companies.

To the Committee on Ways and Means and Economic Development.

S. B. No. 35-Senators Spada, Jacobson, Coughlin, Clancy, Mumper.

To amend sections 5747.08 and 5747.09 of the Revised Code to allow married couples to file joint or separate state income tax returns, regardless of their federal income tax filing status.

To the Committee on Ways and Means and Economic Development.

S. B. No. 36-Senators Spada, Jacobson, Armbruster, Schuler, Mumper.

To amend section 3505.18 of the Revised Code to generally require all electors who appear in a polling place to vote to provide identification before being permitted to cast a ballot.

To the Committee on Rules.

S. B. No. 37-Senators Grendell, Jacobson, Clancy.

To amend sections 924.01, 924.04, 924.07, and 924.09 and to enact sections 924.011 and 924.071 of the Revised Code to enable certain persons associated with the equine industry to establish an equine marketing program.

To the Committee on Agriculture.

S. B. No. 38-Senators Grendell, Jacobson.

To amend sections 109.71, 109.73, 109.79, 4973.17, and 4973.171 of the Revised Code relative to the appointment and commissioning of amusement park police officers and to the training of those officers.

To the Committee on Judiciary - Criminal Justice.

S. B. No. 39-Senators Goodman, Gardner, Harris, Schuler, Jacobson, Padgett, Dann.

To enact sections 109.45, 109.46, 109.47, 109.48, and 109.49 of the Revised Code to prohibit and provide civil penalties for the filing of false or fraudulent claims with the state and for defrauding the state of money or property, to create a procedure for the investigation by the Attorney General of suspected violations, and to authorize the Attorney General and private persons to bring civil enforcement actions on behalf of the state.

To the Committee on Judiciary - Civil Justice.

S. B. No. 40-Senators Jordan, Spada.

To enact section 4734.162 of the Revised Code regarding solicitation of chiropractic business.

To the Committee on Health, Human Services and Aging.

S. J. R. No. 3-Senator Coughlin.

Proposing to amend Sections 6 and 13 of Article IV and to enact Section 7 of Article IV of the Constitution of the State of Ohio to provide for the appointment of the Chief Justice and Justices of the Supreme Court of Ohio by the Governor for ten-year terms, subject to retention elections by the electors of the State, and to create a Supreme Court Nominating Commission to submit to the Governor the names of nominees to the Supreme Court.

To the Committee on State and Local Government and Veterans' Affairs.

YES - 4: MARK MALLORY, J. KIRK SCHURING, C. J. PRENTISS, BILL HARRIS.

NO - 0.

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

The report of the committee was accepted.

Said bills and joint resolution were considered a second time and referred to committee as recommended.

OFFERING OF RESOLUTIONS

Senator Jordan offered the following joint resolution:

S. J. R. No. 4-Senators Jordan, Hottinger.

Proposing to enact Sections 14 and 15 of Article XII of the Constitution of the State of Ohio to establish limitations on the state and local governments regarding expenditures, taxes, and other aspects of governmental finance.

The question being, "Shall the joint resolution, **S. J. R. No. 4**, be adopted?"

On motion of Senator Schuring, **S. J. R. No. 4**, was referred to the Committee on Reference.

COMMUNICATIONS FROM THE GOVERNOR

The President handed down the following messages from the Governor which were read by the Clerk:

**STATE OF OHIO
EXECUTIVE DEPARTMENT
OFFICE OF THE GOVERNOR
COLUMBUS**

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, Mark E. Horwitz, Republican, from Dayton, Montgomery County, Ohio, as a Member of the State Board of Orthotics, Prosthetics, and Pedorthics for a term beginning December 17, 2004 and ending at the close of business December 6, 2007.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed, at Columbus, this 21st day of December in the year of our Lord, two thousand and four.

[Seal]

Bob Taft,
Governor.

**STATE OF OHIO
EXECUTIVE DEPARTMENT
OFFICE OF THE GOVERNOR
COLUMBUS**

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, Pernel Jones Sr., Republican, from Cleveland, Cuyahoga County, Ohio, as a Member of the Board of Embalmers and Funeral Directors for a new term beginning December 17, 2004 and ending at the close of business June 30, 2009.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed, at Columbus, this 21st day of December in the year of our Lord, two thousand and four.

[Seal]

Bob Taft,
Governor.

**STATE OF OHIO
EXECUTIVE DEPARTMENT
OFFICE OF THE GOVERNOR
COLUMBUS**

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, John A. Kubincanek, Republican, from North Ridgeville, Lorain County, Ohio, as a Member of the State Board of Emergency Medical Services for a term beginning December 17, 2004, and ending at the close of business November 12, 2005, replacing Darla Cooper, who resigned.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed, at Columbus, this 21st day of December in the year of our Lord, two thousand and four.

[Seal]

Bob Taft,
Governor.

**STATE OF OHIO
EXECUTIVE DEPARTMENT
OFFICE OF THE GOVERNOR
COLUMBUS**

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, Laura C. Leonard, Republican, from Cincinnati, Hamilton County, Ohio, as a Member of the Cincinnati State Technical and Community College Board of Trustees for a term beginning December 17, 2004, and ending at the close of business August 31, 2010, replacing J. Roger Erwin, who resigned.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed, at Columbus, this 21st day of December in the year of our Lord, two thousand and four.

[Seal]

Bob Taft,
Governor.

**STATE OF OHIO
EXECUTIVE DEPARTMENT
OFFICE OF THE GOVERNOR
COLUMBUS**

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, David H. Madison, Democrat, from Bexley, Franklin County, Ohio, as a Member of the Ohio Expositions Commission for a new term beginning December 17, 2004 and ending at the close of business December 1, 2010.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed, at Columbus, this 21st day of December in the year of our Lord, two thousand and four.

[Seal]

Bob Taft,
Governor.

**STATE OF OHIO
EXECUTIVE DEPARTMENT
OFFICE OF THE GOVERNOR
COLUMBUS**

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, Jay Mulligan, Democrat, from Cortland, Trumbull County, Ohio, as a Member of the Board of Building Appeals for a term beginning December 17, 2004, and ending at the close of business October 13, 2008, replacing Thomas J. Witucky, whose term expired.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed, at Columbus, this 21st day of December in the year of our Lord, two thousand and four.

[Seal]

Bob Taft,
Governor.

**STATE OF OHIO
EXECUTIVE DEPARTMENT
OFFICE OF THE GOVERNOR
COLUMBUS**

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, Rita Pennix, Democrat, from Somerville, Preble County, Ohio, as a Member of the Financial Planning and Supervision Commission for the Village of West Elkton for a term beginning December 17, 2004 and continuing at the pleasure

of the Governor.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed, at Columbus, this 21st day of December in the year of our Lord, two thousand and four.

[Seal]

Bob Taft,
Governor.

**STATE OF OHIO
EXECUTIVE DEPARTMENT
OFFICE OF THE GOVERNOR
COLUMBUS**

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, Marritza L. Perez, Republican, from Strongsville, Cuyahoga County, Ohio, as a Member of the Commission on Hispanic/Latino Affairs for a new term beginning December 17, 2004 and ending at the close of business October 7, 2007.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed, at Columbus, this 21st day of December in the year of our Lord, two thousand and four.

[Seal]

Bob Taft,
Governor.

**STATE OF OHIO
EXECUTIVE DEPARTMENT
OFFICE OF THE GOVERNOR
COLUMBUS**

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, Thomas E. Price, Republican, from Delaware, Delaware County, Ohio, as a Member of the Ohio Expositions Commission for a term beginning December 17, 2004, and ending at the close of business December 1, 2010, replacing Nancy Patterson, whose term expired.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed, at Columbus, this 21st day of December in the year of our Lord, two thousand and four.

[Seal]

Bob Taft,
Governor.

**STATE OF OHIO
EXECUTIVE DEPARTMENT
OFFICE OF THE GOVERNOR
COLUMBUS**

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, Ramona R. Reyes, Independent, from Columbus, Franklin County, Ohio, as a Member of the Commission on Hispanic/Latino Affairs for a term beginning December 17, 2004, and ending at the close of business October 7, 2007, replacing Donna Alvarado, whose term expired.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed, at Columbus, this 21st day of December in the year of our Lord, two thousand and four.

[Seal]

Bob Taft,
Governor.

**STATE OF OHIO
EXECUTIVE DEPARTMENT
OFFICE OF THE GOVERNOR
COLUMBUS**

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, Richard Romero, Democrat, from Lorain, Lorain County, Ohio, as a Member of the Commission on Hispanic/Latino Affairs for a new term beginning December 17, 2004 and ending at the close of business October 7, 2007.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed, at Columbus, this 21st day of December in the year of our Lord, two thousand and four.

[Seal]

Bob Taft,
Governor.

**STATE OF OHIO
EXECUTIVE DEPARTMENT
OFFICE OF THE GOVERNOR
COLUMBUS**

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, Lee M. Smith, Democrat, from Columbus, Franklin County, Ohio, as a Member of the Ohio Expositions Commission for a new term beginning December 17, 2004 and ending at the close of business December 1, 2010.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed, at Columbus, this 21st day of December in the year of our Lord, two thousand and four.

[Seal]

Bob Taft,
Governor.

**STATE OF OHIO
EXECUTIVE DEPARTMENT
OFFICE OF THE GOVERNOR
COLUMBUS**

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, Fred Specht, Republican, from West Elkton, Preble County, Ohio, as a Member of the Financial Planning and Supervision Commission for the Village of West Elkton for a term beginning December 17, 2004 and continuing at the pleasure of the Governor.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed, at Columbus, this 21st day of December in the year of our Lord, two thousand and four.

[Seal]

Bob Taft,
Governor.

**STATE OF OHIO
EXECUTIVE DEPARTMENT
OFFICE OF THE GOVERNOR
COLUMBUS**

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, Roger W. Tracy, Republican, from New Albany, Franklin County, Ohio, as a Member of the State Personnel Board of Review for a new term beginning February 9, 2005 and ending at the close of business February 8, 2011.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed, at Columbus, this 21st day of December in the year of our Lord, two thousand and four.

[Seal]

Bob Taft,
Governor.

**STATE OF OHIO
EXECUTIVE DEPARTMENT
OFFICE OF THE GOVERNOR
COLUMBUS**

I, Bob Taft, Governor of the State of Ohio, do hereby appoint, Paul A. Watkins, Republican, from Sommerville, Preble County, Ohio, as a Member of the Financial Planning and Supervision Commission for the Village of West Elkton for a term beginning December 17, 2004 and continuing at the pleasure of the Governor.

IN WITNESS WHEREOF, I have hereunto subscribed my name and caused the Great Seal of the State of Ohio to be affixed, at Columbus, this 21st day of December in the year of our Lord, two thousand and four.

[Seal]

Bob Taft,
Governor.

Said appointments were referred to the Committee on Rules.

MESSAGE FROM THE PRESIDENT

Pursuant to Section 3318.30 (B) of the Ohio Revised Code, the President of the Senate appoints the following senators to serve as non-voting members on the Ohio School Facilities Commission:

Senator Mumper
Senator Fedor

On the motion of Senator Schuring, the Senate adjourned until Tuesday, February 1, 2005 at 1:30 p.m.

Attest:

MATTHEW T. SCHULER,
Clerk.