

**OHIO**

**SENATE**

**JOURNAL**

TUESDAY, MARCH 7, 2006

ONE HUNDRED FIFTY-SEVENTH DAY  
Senate Chamber, Columbus, Ohio  
**Tuesday, March 7, 2006, 1:30 p.m.**

The Senate met pursuant to adjournment.

Prayer was offered by Pastor Ken Kirk, Grove City United Methodist Church, Grove City, Ohio, followed by the Pledge of Allegiance to the Flag.

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, standing in order for second consideration, be referred to committee as recommended:

**Am. 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.

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.

To the Committee on Judiciary - Civil Justice.

**Sub. H. B. No. 385**-Representatives Brinkman, Seitz, Law, Schaffer, Webster, Wolpert, Domenick, Fende, Chandler, Daniels, McGregor, J., Combs, Barrett, Blessing, Calvert, Carano, Cassell, Coley, Collier, Distel, Evans, C., Flowers, Hartnett, Martin, McGregor, R., Patton, T., Perry, Raga, Reidelbach, Sayre, Taylor, Uecker, Wagner, Yuko.

To amend sections 148.04, 148.06, 305.11, 504.11, 505.375, 505.391, 505.94, 515.01, and 5705.10 and to enact section 504.021 of the Revised Code to make changes in various laws pertaining to townships, to permit written distribution of records, in lieu of reading the previous proceedings' record, at a session of the board of county commissioners, and to permit townships and municipal corporations to directly form fire and ambulance districts.

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

**Am. Sub. H. B. No. 458**-Representatives Core, Webster, McGregor, J., Fessler, Setzer, Reinhard, Seitz, Hartnett, Reidelbach, Aslanides, Gibbs, Dolan, Schlichter, Distel, Domenick, Sayre, Widener, Cassell, Barrett, Blessing, Brown, Buehrer, Calvert, Coley, Collier, Combs, Daniels, DeBose, Evans, C., Faber, Flowers, Hughes, Law, Otterman, Schaffer, Skindell, Smith, G., Uecker, Wagoner, Williams, Yates.

To amend sections 4741.01, 4741.02, 4741.03, 4741.09, 4741.11, 4741.12, 4741.14, 4741.16, 4741.17, 4741.171, 4741.19, 4741.20, 4741.21, 4741.22, 4741.221, 4741.24, 4741.26, 4741.31, and 4741.99, to enact new sections 4741.13 and 4741.28 and sections 4741.04 and 4741.40 to 4741.47, and to repeal sections 4741.13, 4741.27, and 4741.28 of the Revised Code to revise the veterinary practice law and to create the Veterinarian Loan Repayment Program.

To the Committee on Agriculture.

**S. B. No. 277**-Senators Jacobson, Kearney.

To create the National Statuary Collection Study Committee to recommend an individual to replace Governor William Allen as one of Ohio's representatives in the National Statuary Collection in the United States Capitol.

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

**S. B. No. 278**-Senators Stivers, Clancy, Wachtmann, Goodman, Austria, Schuring, Armbruster, Grendell, Mumper, Coughlin, Schuler, Gardner, Niehaus.

To amend section 1345.09 and to enact section 1345.091 of the Revised Code to limit the liability under the Consumer Sales Practices Act of a supplier that makes a cure offer.

To the Committee on Judiciary - Civil Justice.

**S. B. No. 279**-Senators Stivers, Cates, Spada.

To amend sections 3955.01 and 3955.12 of the Revised Code to exempt the Ohio Insurance Guaranty Association from being obligated to pay more than a single three hundred thousand dollar claim for injury or death to any one

person and a claim of an insured whose net worth exceeds fifty million dollars.

To the Committee on Insurance, Commerce and Labor.

**S. B. No. 280**-Senators Schuring, Jordan, Armbruster, Gardner, Stivers, Carey, Grendell, Padgett, Fingerhut, Miller, R., Zurz, Clancy, Austria.

To enact section 4503.433 of the Revised Code to authorize the display of combat battle stars on certain special combat or military license plates.

To the Committee on Highways and Transportation.

**S. B. No. 281**-Senators Stivers, Padgett, Mumper, Goodman, Austria, Spada.

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 and to establish the method by which the Attorney General reimburses the training costs.

To the Committee on Judiciary - Criminal Justice.

YES - 5: J. KIRK SCHURING, KIMBERLY A. ZURZ, C. J. PRENTISS, JEFF JACOBSON, BILL HARRIS.

NO - 0.

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

The report of the committee was accepted.

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

#### **REPORTS OF STANDING AND SELECT COMMITTEES**

Senator Schuring submitted the following report:

The standing committee on Rules to which were referred the appointments by the Governor of:

**Ronald K. Burford**, Democrat, from Columbus, Franklin County, Ohio, as a Member of the Ohio Private Investigation and Security Services Commission for a term beginning February 3, 2006 and ending at the close of business December 31, 2010.

**Manuel R. Garcia**, Republican, from Strongsville, Cuyahoga County, Ohio, as a Member of the State Board of Orthotics, Prosthetics, and Pedorthics for a new term beginning February 10, 2006 and ending at the close of business December 6, 2008.

**James R. Garges**, Independent, from Cincinnati, Hamilton County, Ohio, as a Member of the Recreation and Resources Commission for a term beginning February 10, 2006 and ending at the close of business February 1, 2010, replacing Joseph J. Sommer, whose term expired.

**Fred J. Hitzhusen**, Independent, from Columbus, Franklin County, Ohio, as a Member of the Recreation and Resources Commission for a term beginning February 10, 2006 and ending at the close of business February 1, 2011, replacing Gary Mullins, who resigned.

**Gregg E. Hollenbaugh**, Republican, From Fairfield, Butler County, Ohio, as a Member of the Ohio Private Investigation and Security Services Commission for a new term beginning February 3, 2006 and ending at the close of business December 31, 2010.

**J. Thomas Pascoe**, Republican, from Sandusky, Erie County, Ohio, as a Member of the Waterways Safety Council for a new term beginning February 10, 2006 and ending at the close of business January 31, 2011.

**Douglas B. Van Atta**, Independent, from Milford, Clermont County, Ohio, as a Member of the State Board of Orthotics, Prosthetics, and Pedorthics for a new term beginning February 10, 2006 and ending at the close of business December 6, 2008.

**Gary L. Vest**, Republican, from Powell, Delaware County, Ohio, as a Member of the Ohio Private Investigation and Security Services Commission for a term beginning February 3, 2006 and ending at the close of business December 31, 2010.

Having had the same under consideration, reports back the recommendation that the Senate advise and consent to said appointments.

YES - 11: BILL HARRIS, JEFF JACOBSON, RANDY GARDNER,  
ROBERT F. SPADA, STEPHEN C. AUSTRIA, JAY  
HOTTINGER, J. KIRK SCHURING, TOM ROBERTS,  
TERESA FEDOR, KIMBERLY A. ZURZ, C. J.  
PRENTISS.

NO - 0.

The question being, "Shall the Senate advise and consent to the appointments by the Governor?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wachtmann	Wilson	Zurz
			Harris-33.

So the Senate advised and consented to said appointments.

### **BILLS FOR THIRD CONSIDERATION**

**Sub. S. B. No. 223**-Senators Niehaus, Schuring, Spada, Mumper, Jacobson, Clancy.

To amend sections 121.04, 121.08, 169.01, 169.13, and 169.99 and to enact sections 169.14, 169.16, and 169.17 of the Revised Code to statutorily recognize the Division of Unclaimed Funds and the Office of Superintendent of Unclaimed Funds in the Department of Commerce and to require the registration of persons who, for compensation, agree to locate or recover the unclaimed funds of another, was considered the third time.

The question being, "Shall the bill, **Sub. S. B. No. 223**, pass?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wachtmann	Wilson	Zurz
			Harris-33.

So the bill passed.

The question being, "Shall the title be agreed to?"

Senator Niehaus moved to amend the title as follows:

Add the names: "Armbruster, Coughlin, Hagan, Harris, Kearney, Miller, D., Roberts, Fedor, Zurz, Miller, R.."

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

The motion was agreed to and the title so amended.

**Sub. S. B. No. 262**-Senators Goodman, Stivers, Clancy, Jacobson, Gardner, Padgett, Schuler, Fedor, Fingerhut, Miller, Dann, Kearney, Zurz.

To amend sections 2901.07, 2953.21, 2953.71, 2953.72, 2953.73, 2953.74, and 2953.82 of the Revised Code to eliminate the former two-year window for applications under a program for post-conviction DNA testing and instead allow an eligible inmate to request post-conviction DNA testing at any time if specified criteria are met, to provide for a court's consideration of all available admissible evidence in determining whether the program's applicable "outcome determinative" criterion is satisfied, to specify that the DNA specimen collection procedures for felons and specified misdemeanors apply regardless of when the offender's conviction occurred or guilty plea was entered, and to declare an emergency, was considered the third time.

The question being, "Shall the section, Section 4, setting forth the emergency features of the bill, stand as a part of the bill?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wachtmann	Wilson	Zurz
			Harris-33.

So the section, Section 4, setting forth the emergency features of the bill stood as a part of the bill.

The question being, "Shall the bill pass as an emergency measure?"

The yeas and nays were taken and resulted - yeas 33, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Dann
Fedor	Fingerhut	Gardner	Goodman
Grendell	Hagan	Hottinger	Jacobson
Jordan	Kearney	Miller D	Miller R
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Stivers	Wachtmann	Wilson	Zurz
			Harris-33.

So the bill having received the required constitutional majority passed as an emergency measure.

The question being, "Shall the title be agreed to?"

Senator Goodman moved to amend the title as follows:

Add the names: "Armbruster, Carey, Coughlin, Hagan, Harris, Hottinger, Miller, D., Niehaus, Spada."

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

The motion was agreed to and the title so amended.

### INTRODUCTION AND FIRST CONSIDERATION OF BILLS

The following bill was introduced and considered the first time:

**S. B. No. 282**-Senators Fingerhut, Dann, Fedor, Hagan, Miller, R., Zurz.

To amend sections 4121.12, 4121.121, 4121.122, and 4123.44 of the Revised Code to require the Workers' Compensation Oversight Commission to employ its own professional and clerical staff rather than use staff provided by the Administrator of Workers' Compensation, and to require the Oversight Commission to adopt rules to establish the objectives, policies, and criteria for the investment program of the Bureau of Workers' Compensation.

### OFFERING OF RESOLUTIONS

Senator Armbruster offered the following concurrent resolution:

**S. C. R. No. 26**-Senators Armbruster, Clancy, Dann, Fingerhut, Gardner, Grendell, Goodman, Hottinger, Jordan, Kearney, Miller, D., Miller, R., Mumper, Padgett, Roberts, Schuler, Spada, Wachtmann, Wilson.

To designate 2006 as the Year of the Historic National Road.

The question being, "Shall the concurrent resolution, **S. C. R. No. 26**, be adopted?"



On the motion of Senator Gardner, **S. C. R. No. 26**, was referred to the Committee on Reference.

Senator Prentiss offered the following resolution:

**S. R. No. 173**-Senator Prentiss.

Recognizing Harriet Tubman Day in Ohio, March 10, 2006.

The question being, "Shall the resolution, **S. R. No. 173**, be adopted?"

So the resolution was adopted.

### COMMUNICATIONS FROM THE GOVERNOR

The President handed down the following message from the Governor which was 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, Donald L. Crain, Republican, from West Chester, Butler County, Ohio, as a Member of the Miami University Board of Trustees for a term beginning March 3, 2006, and ending at the close of business February 28, 2015, replacing Chandra R. Shah, 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 3rd day of March in the year of our Lord, two thousand and six.

[Seal]

Bob Taft,  
Governor.

Said appointment was referred to the Committee on Rules.

### MESSAGE FROM THE PRESIDENT

Pursuant to Section 5902.15 (B) of the Ohio Revised Code, the President of the Senate appoints the following members to serve on the Military Activation Task Force:

Senator Cates (as Chair of the State and Local Government and Veterans' Affairs Committee)

Senator Dale Miller (as Ranking Minority Member of the State and Local Government and Veterans' Affairs Committee)

On the motion of Senator Jacobson, the Senate adjourned until Wednesday, March 8, 2006 at 1:30 p.m.

Attest:

DAVID A. BATTOCLETTI,  
Clerk.