

OHIO

SENATE

JOURNAL

TUESDAY, MAY 17, 2005

FIFTY-THIRD DAY
Senate Chamber, Columbus, Ohio
Tuesday, May 17, 2005, 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:

Sub. H. B. No. 34-Representatives Setzer, Flowers, Kearns, Allen, Webster, DeGeeter, Carano, Taylor, Latta, D. Evans, Gilb, Hughes, Seitz, Willamowski, Perry, Barrett, Boccieri, Brown, Buehrer, Calvert, Cassell, Collier, Daniels, DeBose, Distel, Domenick, C. Evans, Gibbs, Harwood, Martin, McGregor, T. Patton, Raga, Reidelbach, Schaffer, Seaver, G. Smith, Uecker, Williams.

To amend section 2933.24 of the Revised Code to specify that a search warrant must be returned promptly.

To the Committee on Judiciary - Criminal Justice.

H. B. No. 36-Representatives Carmichael, Blasdel, J. Stewart, Daniels, McGregor, C. Evans, Kearns, Hoops, T. Patton, Seitz, Skindell, Flowers, Oelslager, Combs, Hughes, D. Evans, Carano, Hartnett, Aslanides, DeWine, Raga, DeGeeter, Allen, Ujvagi, Setzer, Barrett, Reidelbach, Perry, Miller, Strahorn, Taylor, Chandler, Reinhard, Hagan, Schlichter, Brown, Buehrer, D. Stewart, Book, Walcher, Uecker, Beatty, Boccieri, Brinkman, Bulp, Calvert, Cassell, Coley, Collier, DeBose, Distel, Dolan, Domenick, Driehaus, Faber, Fende, Fessler, Gibbs, Gilb, Harwood, Key, Kilbane, Latta, Law, Martin, Mason, Otterman, S. Patton, Raussen, Redfern, Sayre, Schaffer, Schneider, Seaver, G. Smith, Sykes, Wagoner, Webster, Widener, Willamowski, Williams, Wolpert, Yates, Yuko.

To enact section 5.2230 of the Revised Code to designate September as "Leukemia, Lymphoma, and Myeloma Awareness Month."

To the Committee on Health, Human Services and Aging.

H. B. No. 102-Representatives Wolpert, Faber, Core, Seaver, Willamowski, Raussen, Combs, G. Smith, Martin, Hoops, Reidelbach, Harwood, Allen, Buehrer, Cassell, Coley, Collier, Domenick, C. Evans, Flowers, Gibbs, Gilb, Hagan, Hood, Hughes, McGregor, Schaffer, Setzer, White, Williams.

To amend section 3111.03 and to enact section 3111.97 of the Revised Code to clarify the parentage of children born as a result of embryo donation.

To the Committee on Health, Human Services and Aging.

H. B. No. 144-Representatives Buehrer, Aslanides, Barrett, Daniels, Domenick, C. Evans, D. Evans, Faber, Flowers, Gilb, Harwood, Hughes, Latta, McGregor, Miller, Oelslager, Reidelbach, Schneider, Seaver, Seitz, G. Smith.

To amend section 2317.02 of the Revised Code to waive the physician-patient and attorney-client privileges in probate cases under certain circumstances.

To the Committee on Judiciary - Civil Justice.

H. B. No. 185-Representatives Latta, McGregor, C. Evans, Perry, Carano, T. Patton, Daniels, J. Stewart, Coley, Gibbs, Allen, Buehrer, DeBose, Dolan, Domenick, D. Evans, Flowers, Gilb, Hughes, Oelslager, Reidelbach, Seaver, G. Smith, Wagoner, Yuko.

To amend section 4705.10 of the Revised Code to require a depository institution maintaining an interest-bearing trust account (IOLTA) for a lawyer, law firm, or legal professional association to notify the Ohio Supreme Court when a properly payable item is presented for payment from an IOLTA having insufficient funds.

To the Committee on Finance and Financial Institutions.

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

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 Carey submitted the following report:

The standing committee on Finance and Financial Institutions, to which was referred **Sub. H. B. No. 2**-Representative Widowfield, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsors: Carey, Amstutz, Padgett, Gardner, Niehaus, Clancy, Roberts, Wilson, Goodman, Austria.

YES - 10: RON AMSTUTZ, JOY PADGETT, RANDY GARDNER,
TOM NIEHAUS, JOHN A. CAREY, PATRICIA M.
CLANCY, TOM ROBERTS, CHARLES A. WILSON,
DAVID GOODMAN, STEPHEN C. AUSTRIA.

NO - 0.

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

The report of the committee was accepted.

Senator Schuring submitted the following report:

Pursuant to Senate Rule No. 37, the Standing Committee on Rules, recommends that **S. B. No. 145**- Senator Armbruster, having been referred to the Standing Committee on Judiciary-Civil Justice, be re-referred to the Standing Committee on Judiciary-Criminal Justice.

YES - 9: BILL HARRIS, STEPHEN C. AUSTRIA, TERESA
FEDOR, RANDY GARDNER, ROBERT F. HAGAN,
MARK MALLORY, C. J. PRENTISS, J. KIRK
SCHURING, ROBERT F. SPADA.

NO - 0.

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

The report of the committee was accepted.

BILLS FOR THIRD CONSIDERATION

Sub. H. B. No. 2-Representatives Widowfield, Buehrer, Flowers, Walcher, Hartnett, Mitchell, Uecker, Carmichael, Book, D. Stewart, Aslanides, Beatty, Blasdel, Blessing, Brown, Calvert, Carano, Cassell, Chandler, Coley, Collier, Combs, Core, Daniels, DeWine, Distel, Dolan, Domenick, C. Evans, D. Evans, Faber, Fende, Garrison, Gibbs, Gilb, Hagan, Harwood, Hoops, Hughes, Kearns, Key, Kilbane, Koziura, Latta, Law, Martin, Mason, Miller, Oelslager, Otterman, T. Patton, Perry, Peterson, Raga, Raussen, Reidelbach, Reinhard, Schaffer, Schlichter, Schneider, Seaver, Seitz, Setzer, J. Stewart, Strahorn, Taylor, Trakas, Ujvagi, Wagner, Wagoner, Webster, White, Widener, Willamowski, Williams, Wolpert, Yuko Senators Carey, Amstutz, Padgett, Gardner, Niehaus, Clancy, Roberts, Wilson, Goodman, Austria.

To amend sections 5747.026 and 5747.08 of the Revised Code to grant to all members of the National Guard and reserve components of the United States armed forces who have been called to active duty an extension of time in which to file income tax returns and pay income taxes, to increase the number of authorized participants in the Ohio National Guard Scholarship Program for the 2005 summer term, and to declare an emergency, was considered the third time.

The question being, "Shall the section, Section 5, setting forth the emergency features of the bill, stand as a part of the bill?"

Senator Dann moved to amend as follows:

In line 10, delete "and" and insert a comma; delete "of the Revised"

In line 11, delete "Code" and insert ", 5902.02, and 5902.08"; after "amended" insert "and section 5902.09 of the Revised Code be enacted"

Between lines 307 and 308, insert:

"Sec. 5902.02. The duties of the director of the governor's office of veterans affairs shall include the following:

(A) Furnishing the veterans service commissions of all counties of the state copies of the state laws, rules, and legislation relating to the operation of the commissions and their offices;

(B) Upon application, assisting the general public in obtaining records of vital statistics pertaining to veterans or their dependents;

(C) Adopting rules pursuant to Chapter 119. of the Revised Code pertaining to minimum qualifications for hiring, certifying, and accrediting county veterans service officers and ~~pertaining~~ to their required duties;

(D) Adopting rules pursuant to Chapter 119. of the Revised Code ~~for~~pertaining to the education, training, certification, and duties of veterans

service commissioners;

(E) Developing and monitoring programs and agreements enhancing employment and training for veterans in single or multiple county areas;

(F) Developing and monitoring programs and agreements to enable county veterans service commissions to address homelessness, indigency, and other veteran-related issues individually or jointly;

(G) Developing and monitoring programs and agreements to enable state agencies, ~~individually or jointly~~, that provide services to veterans, including the veterans' homes operated under Chapter 5907. of the Revised Code and the director of job and family services, to address homelessness, indigency, employment, and other veteran-related issues, individually or jointly;

(H) Establishing and providing statistical reporting formats and procedures for county veterans service commissions;

(I) Publishing annually, promulgating change notices for, and distributing a listing of county veterans service officers, county veterans service commissioners, state directors of veterans affairs, and national and state service officers of accredited veterans organizations and their state headquarters. The listing shall include the expiration dates of commission members' terms of office and the organizations they represent; the names, addresses, and telephone numbers of county veterans service officers and state directors of veterans affairs; and the addresses and telephone numbers of the Ohio offices and headquarters of state and national veterans ~~service~~ organizations.

(J) Publishing, by the first day of April of each odd-numbered year, a directory of the laws of this state dealing with veterans, as enacted through the conclusion of the previous session of the general assembly, and distributing the publication to each county veterans service office and the state headquarters of each congressionally chartered veterans organization in the state;

(K) Establishing a veterans advisory committee to advise and assist the governor's office of veterans affairs in its duties. Members shall include a state representative of congressionally chartered veterans organizations referred to in section 5901.02 of the Revised Code, a representative of any other congressionally chartered state veterans organization that has at least one veterans service commissioner in the state, three representatives of the Ohio state association of county veterans service commissioners, who shall have a combined vote of one, three representatives of the state association of county veterans service officers, who shall have a combined vote of one, one representative of the county commissioners association of Ohio, who shall be a county commissioner not from the same county as any of the other county representatives, and a representative of the office of the attorney general. The governor's office of veterans affairs shall submit to the advisory committee proposed rules for the committee's operation. The committee may review and revise these proposed rules prior to submitting them to the joint committee on agency rule review.

(L) Adopting, with the advice and assistance of the veterans advisory committee, policy and procedural guidelines that the veterans service commissions shall adhere to in the development and implementation of rules, policies, procedures, and guidelines for the administration of Chapter 5901. of the Revised Code. The governor's office of veterans affairs shall adopt no guidelines or rules regulating the purposes, scope, duration, or amounts of financial assistance provided to applicants pursuant to sections 5901.01 to 5901.15 of the Revised Code. The director of the governor's office of veterans affairs may obtain opinions from the office of the attorney general regarding rules, policies, procedures, and guidelines ~~offor~~ the veterans service commissions and may enforce compliance with Chapter 5901. of the Revised Code.

(M) Receiving copies of form DD214 filed in accordance with the director's guidelines adopted under division (L) of this section from members of veterans service commissions appointed under section 5901.02 of the Revised Code and from county veterans service officers employed under section 5901.07 of the Revised Code;

(N) Developing the Ohio veterans legion of honor program under section 5902.09 of the Revised Code;

(O) Taking any other actions required by this chapter.

Sec. 5902.08. The director of the governor's office of veterans affairs, ~~or any employee thereof,~~ and the employees of the office shall not receive directly or indirectly a fee or reward of any kind from a claimant or other person for services rendered or to be rendered, relating to a duty required of ~~him~~ the director or employee under ~~sections 5902.01 to 5902.07 of the Revised Code,~~ this chapter or in any manner connected therewith.

Sec. 5902.09. (A) As used in this section, "veteran" has the same meaning as in division (A)(1) of section 5901.01 of the Revised Code.

(B) The director of the governor's office of veterans affairs shall develop the Ohio veterans legion of honor program to recognize and commemorate veterans who are residents of this state or were residents of this state at the time of their death or listing as missing in action. The program shall allow such a veteran or, if the veteran is deceased or listed as missing in action, such a veteran's spouse, adult child, or parent to apply to the veterans service commission of the applicant's county of residence for the issuance of a veterans legion of honor certificate. Upon the submission with the application of proof of the veteran's active duty service in the armed forces of the United States and honorable discharge or honorable separation from the armed forces, death on active duty, or listing as missing in action, and upon the applicant's compliance with any other requirements the director may establish for the issuance of a certificate, the county veterans service commission shall issue to the applicant the requested certificate.

(C) The director of the governor's office of veterans affairs may adopt

rules under Chapter 119. of the Revised Code as necessary to implement this section."

In line 308, delete "and" and insert a comma; after "5747.08" insert ", 5902.02, and 5902.08"

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

Senator Gardner moved that the amendment be laid on the table.

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

A roll call was requested which was properly supported.

The yeas and nays were taken and resulted - yeas 21, nays 11, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Carey
Cates	Clancy	Coughlin	Gardner
Goodman	Grendell	Hottinger	Jacobson
Jordan	Mumper	Niehaus	Padgett
Schuler	Schuring	Spada	Wachtmann
			Harris-21.

Those who voted in the negative were: Senators

Brady	Dann	Fedor	Fingerhut
Hagan	Mallory	Miller	Prentiss
Roberts	Wilson		Zurz-11.

The amendment was laid on the table.

The question recurred, "Shall the section, Section 5, setting forth the emergency features of the bill, stand as a part of the bill?"

The yeas and nays were taken and resulted - yeas 32, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Brady
Carey	Cates	Clancy	Coughlin
Dann	Fedor	Fingerhut	Gardner
Goodman	Grendell	Hagan	Hottinger
Jacobson	Jordan	Mallory	Miller
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Wachtmann	Wilson	Zurz	Harris-32.

So the section, Section 5, 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 32, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Armbruster	Austria	Brady
Carey	Cates	Clancy	Coughlin
Dann	Fedor	Fingerhut	Gardner
Goodman	Grendell	Hagan	Hottinger
Jacobson	Jordan	Mallory	Miller
Mumper	Niehaus	Padgett	Prentiss
Roberts	Schuler	Schuring	Spada
Wachtmann	Wilson	Zurz	Harris-32.

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

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

Senator Grendell moved to amend the title as follows:

Add the names: "Brady, Cates, Dann, Fedor, Grendell, Harris, Jordan, Mallory, Miller, Mumper, Prentiss, Schuler, Schuring, Hagan, Zurz, Fingerhut, Wachtmann, Coughlin, Armbruster, Hottinger, Jacobson, 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 bills were introduced and considered the first time:

S. B. No. 147-Senator Austria.

To authorize the conveyance of state-owned real estate in Stark County to the City of Massillon, in Warren County to Cincinnati Gas and Electric Company, in Brown County to a purchaser to be determined, in Franklin County to the Columbus Board of Education, and in Clark County to a purchaser to be determined, and to declare an emergency.

S. B. No. 148-Senator Hottinger.

To amend section 317.09 of the Revised Code to authorize a county recorder to use electronic or magnetic mediums for recording federal tax and other federal liens and to request the disposal of paper versions of those recorded documents.

S. B. No. 149-Senator Grendell.

To amend sections 107.08, 1901.06, 1907.13, 2101.02, 2101.021, 2301.01, 2301.02, 2301.03, 2501.02, 2503.01, 2503.02, and 2503.03, to enact sections 2501.021 and 2503.51, and to repeal sections 2501.011, 2501.012, and

2501.013 of the Revised Code to increase the terms of office for judges of the courts of common pleas, courts of appeals, and the Supreme Court, to change the qualifications for all judges, and to require the Supreme Court to establish a qualification program for candidates for judicial office.

OFFERING OF RESOLUTIONS

Senator Mumper offered the following resolution:

S. R. No. 75-Senator Mumper.

Honoring the Marysville High School Mock Trial team on winning the 2005 State Championship.

The question being, "Shall the resolution, **S. R. No. 75**, be adopted?"

So the resolution was adopted.

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, Howard L. Barber, Republican, from Shelby, Richland County, Ohio, as a Member of the Financial Planning and Supervision Commission for Shelby City School District for a term beginning April 25, 2005 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 29th day of April in the year of our Lord, two thousand and five.

[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, Owen V.

Hall, Republican, from Celina, Mercer County, Ohio, as a Member of the Ohio Parks and Recreation Council for a new term beginning April 29, 2005 and ending at the close of business January 31, 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 29th day of April in the year of our Lord, two thousand and five.

[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 R. Swan, Republican, from St. Claisville, Belmont County, Ohio, as a Member of the Belmont Technical College Board of Trustees for a new term beginning April 29, 2005 and ending at the close of business May 13, 2008.

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 29th day of April in the year of our Lord, two thousand and five.

[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, Ronald E. Weinberg, Republican, from Cleveland, Cuyahoga County, Ohio, as a Member of the Cleveland State University Board of Trustees for a new term beginning April 29, 2005 and ending at the close of business May 1, 2014.

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 29th day of April in the year of our Lord, two thousand and five.

[Seal]

Bob Taft,
Governor.

Said appointments were referred to the Committee on Rules.

MESSAGE FROM THE PRESIDENT

Pursuant to Section 103.51 of the Ohio Revised Code, the President of the Senate appoints the following people to serve on the Legislative Task Force on Redistricting, Reapportionment, and Demographic Research:

Senator Prentiss, Co-Chair
Senator Jacobson
Teri Geiger

Pursuant to Section 183.04 of the Ohio Revised Code, the President of the Senate reappoints the following public member to serve on the Tobacco Use Prevention and Control Foundation Board of Trustees:

Rob Crane, M.D.
(5-year term beginning June 1, 2005 and ending June 1, 2010)
Dublin, Ohio

On the motion of Senator Jacobson, the Senate adjourned until Wednesday, May 18, 2005 at 1:30 p.m.

Attest:

MATTHEW T. SCHULER,
Clerk.