

**OHIO**

**House**

**of**

**Representatives**

**JOURNAL**

**WEDNESDAY, DECEMBER 3, 2008**

TWO HUNDRED TWENTY-EIGHTH DAY  
Hall of the House of Representatives, Columbus, Ohio  
**Wednesday, December 3, 2008, 1:30 p.m.**

The House met pursuant to adjournment.

Prayer was offered by Pastor Edwin Beck of the Darrrtown United Methodist Church in Oxford, 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:

Sharon Cole, a guest of Representative Miller-10th-district.

Hilerie Lind, a guest of Representative Beatty-27th district.

Bob Reed, Jim, Angel, Grace, and Caleb King, guests of Representative Fessler-79th district.

### INTRODUCTION OF BILLS

The following joint resolution was introduced:

**H. J. R. No. 8**-Representative Huffman.

Cosponsors: Representatives Grady, Brinkman, Setzer, Evans, Stebelton, Batchelder, Blessing, Adams, Mandel, McGregor, R., Bacon, Uecker, Zehringer.

Applying to the Congress of the United States pursuant to Article V of the United States Constitution to call a constitutional convention for proposing amendments.

Said joint resolution was considered the first time.

### MOTIONS AND RESOLUTIONS

Representative Schneider moved that majority party members asking leave to be absent or absent the week of Wednesday, December 3, 2008, be excused, so long as a written request is on file in the majority leadership offices.

The motion was agreed to.

Representative Strahorn moved that minority party members asking leave to be absent or absent the week of Wednesday, December 3, 2008, be excused, so long as a written request is on file in the minority leadership offices.

The motion was agreed to.

**BILLS FOR THIRD CONSIDERATION**

**Sub. H. B. No. 196**-Representative Patton.

Cosponsors: Representatives Combs, Collier, DeGeeter, Stebelton, Budish, Miller, Skindell, Gibbs, Hagan, J., Schindel, Mecklenborg, Dolan.

To amend section 5747.98 and to enact sections 122.85 and 5747.66 of the Revised Code to authorize income tax credits for investments in motion pictures produced in Ohio, was taken up for consideration the third time.

The question being, "Shall the bill pass?"

The yeas and nays were taken and resulted - yeas 50, nays 39, as follows:

Those who voted in the affirmative were: Representatives

Adams	Aslanides	Bacon	Batchelder
Blessing	Brinkman	Carmichael	Ciafardini
Coley	Collier	Combs	Core
Daniels	Dolan	Evans	Fessler
Gardner	Gibbs	Goodwin	Grady
Hagan J.	Hite	Hottinger	Huffman
Hughes	Jones	Mandel	McGregor J.
McGregor R.	Mecklenborg	Nero	Oelslager
Peterson	Reinhard	Schindel	Schlichter
Schneider	Sears	Setzer	Stebelton
Stewart J.	Uecker	Wachtmann	Wagner
Webster	White	Widener	Wolpert
Zehringer			Husted-50.

Those who voted in the negative were: Representatives

Bolon	Book	Boyd	Brady
Brown	Budish	Celeste	Chandler
DeBose	DeGeeter	Dodd	Domenick
Dyer	Fende	Garrison	Gerberry
Goyal	Harwood	Heard	Koziura
Letson	Luckie	Lundy	Miller
Newcomb	Okey	Otterman J.	Sayre
Skindell	Slesnick	Stewart D.	Strahorn
Sykes	Szollosi	Ujvagi	Williams B.
Williams S.	Yates		Yuko-39.

The bill passed.

Representative Dolan moved to amend the title as follows:

Add the names: "Aslanides, Bacon, Batchelder, Coley, Evans, Grady, Huffman, Hughes, Schneider, Uecker, Webster."

Remove the names: "Budish, DeGeeter, Miller, Skindell."

The motion was agreed to and the title so amended.

The title as amended was agreed to.

**Sub. S. B. No. 267**-Senator Faber.

Cosponsors: Senators Seitz, Cates, Coughlin, Fedor, Harris, Kearney, Miller, D., Niehaus, Wilson, Spada, Miller, R., Wagoner, Stivers, Schuler, Mumper, Mason, Smith, Amstutz, Padgett. Representatives Stewart, D., Hite, Zehringer.

To amend sections 145.01, 145.19, 145.191, 145.33, 145.35, 145.49, 145.58, and 742.45 and to enact section 145.2914 of the Revised Code regarding the Public Employees Retirement System (PERS) law enforcement division and reimbursement by PERS and the Ohio Police and Fire Pension Fund for Medicare Part B premiums, was taken up for consideration the third time.

The question being, "Shall the bill pass?"

Representative Widener moved to amend as follows:

In line 9, after "742.45" insert ", and 742.63"

Between lines 1223 and 1224, insert:

**"Sec. 742.63.** The board of trustees of the Ohio police and fire pension fund shall adopt rules for the management of the Ohio public safety officers death benefit fund and for disbursements of benefits as set forth in this section.

(A) As used in this section:

(1) "Member" means all of the following:

(a) A member of the Ohio police and fire pension fund, including a member of the fund who has elected to participate in the deferred retirement option plan established under section 742.43 of the Revised Code or a member of or contributor to a police or firemen's relief and pension fund established under former Chapter 521. or 741. of the Revised Code;

(b) A member of the state highway patrol retirement system, including a member who is participating in the deferred retirement option plan established under section 5505.50 of the Revised Code;

(c) A member of the public employees retirement system who at the time of the member's death was one of the following:

(i) A county sheriff or deputy sheriff;

(ii) A full-time regular police officer in a municipal corporation or township;

(iii) A full-time regular firefighter employed by the state, an instrumentality of the state, a municipal corporation, a township, a joint fire district, or another political subdivision;

(iv) A full-time park district ranger or patrol trooper;

(v) A full-time law enforcement officer of the department of natural resources;

(vi) A full-time department of public safety enforcement agent;

(vii) A full-time law enforcement officer of parks, waterway lands, or reservoir lands under the control of a municipal corporation;

(viii) A full-time law enforcement officer of a conservancy district;

(ix) A correction officer at an institution under the control of a county, a group of counties, a municipal corporation, or the department of rehabilitation and correction;

(x) A state university law enforcement officer ;

(xi) An investigator, as defined in section 109.541 of the Revised Code, or an investigator commissioned as a special agent of the bureau of criminal identification and investigation.

(xii) A drug agent, as defined in section 145.01 of the Revised Code.

(d) A member of a retirement system operated by a municipal corporation who at the time of death was a full-time law enforcement officer of parks, waterway lands, or reservoir lands under the control of the municipal corporation.

(2) Notwithstanding section 742.01 of the Revised Code, "fire or police department" includes a fire department of the state or an instrumentality of the state or of a municipal corporation, township, joint fire district, or other political subdivision, the state highway patrol, a county sheriff's office, the security force of an institution under the control of the department of rehabilitation and correction, the security force of a jail or workhouse under the control of a county, group of counties, or municipal corporation, the security force of a metropolitan, county, or township park district, the security force of lands under the control of the department of natural resources, department of public safety enforcement agents, the security force of parks, waterway lands, or reservoir lands under the control of a municipal corporation, the security force of a conservancy district, the police department of a township or municipal corporation, and the police force of a state university.

(3) "Firefighter or police officer" includes a state highway patrol trooper, a county sheriff or deputy sheriff, a correction officer at an institution under the control of a county, a group of counties, a municipal corporation, or the department of rehabilitation and correction, a police officer employed by a township or municipal corporation, a firefighter employed by the state, an instrumentality of the state, a municipal corporation, a township, a joint fire district, or another political subdivision, a full-time park district ranger or patrol trooper, a full-time law enforcement officer of the department of natural resources, a full-time department of public safety enforcement agent, a full-time law enforcement officer of parks, waterway lands, or reservoir lands under the

control of a municipal corporation, a full-time law enforcement officer of a conservancy district, and a state university law enforcement officer.

(4) "Correction officer" includes, in addition to any correction officer, any correction corporal, sergeant, lieutenant, or captain, and the equivalents of all such persons.

(5) "A park district ranger or patrol trooper" means a peace officer commissioned to make arrests, execute warrants, and preserve the peace upon lands under the control of a board of park commissioners of a metropolitan, county, or township park district.

(6) "Metropolitan, county, or township park district" means a park district created under the authority of Chapter 511. or 1545. of the Revised Code.

(7) "Conservancy district" means a conservancy district created under the authority of Chapter 6101. of the Revised Code.

(8) "Law enforcement officer" means an officer commissioned to make arrests, execute warrants, and preserve the peace upon lands under the control of the governmental entity granting the commission.

(9) "Department of natural resources law enforcement officer" includes a forest officer designated pursuant to section 1503.29 of the Revised Code, a preserve officer designated pursuant to section 1517.10 of the Revised Code, a wildlife officer designated pursuant to section 1531.13 of the Revised Code, a park officer designated pursuant to section 1541.10 of the Revised Code, and a state watercraft officer designated pursuant to section 1547.521 of the Revised Code.

(10) "Retirement eligibility date" means the last day of the month in which a deceased member would have first become eligible, had the member lived, for the retirement pension provided under section 145.33, Chapter 521. or 741., division (C)(1) of section 742.37, or division (A)(1) of section 5505.17 of the Revised Code or provided by a retirement system operated by a municipal corporation.

(11) "Death benefit amount" means an amount equal to the full monthly salary received by a deceased member prior to death, minus an amount equal to the benefit received under section 145.45, 742.37, 742.3714, or 5505.17 of the Revised Code or the benefit received from a retirement system operated by a municipal corporation, plus any increases in salary that would have been granted the deceased member.

(12) "Killed in the line of duty" means either of the following:

(a) Death in the line of duty;

(b) Death from injury sustained in the line of duty, including heart attack or other fatal injury or illness caused while in the line of duty.

(B) A spouse of a deceased member shall receive a death benefit each

month equal to the full death benefit amount, provided that the deceased member was a firefighter or police officer killed in the line of duty and there are no surviving children eligible for a benefit under this section. The spouse shall receive this benefit during the spouse's natural life until the deceased member's retirement eligibility date, on which date the benefit provided under this division shall terminate.

(C)(1) If a member killed in the line of duty as a firefighter or police officer is survived only by a child or children, the child or children shall receive a benefit each month equal to the full death benefit amount. If there is more than one surviving child, the benefit shall be divided equally among these children.

(2) If the death benefit paid under this division is divided among two or more surviving children and any of the children become ineligible to continue receiving a portion of the benefit as provided in division (H) of this section, the full death benefit amount shall be paid to the remaining eligible child or divided among the eligible children so that the benefit paid to the remaining eligible child or children equals the full death benefit amount.

(3) Notwithstanding divisions (C)(1) and (2) of this section, all death benefits paid under this division shall terminate on the deceased member's retirement eligibility date.

(D) If a member killed in the line of duty as a firefighter or police officer is survived by both a spouse and a child or children, the monthly benefit provided shall be as follows:

(1)(a) If there is a surviving spouse and one surviving child, the spouse shall receive an amount each month equal to one-half of the full death benefit amount and the child shall receive an amount equal to one-half of the full death benefit amount.

(b) If the surviving spouse dies or the child becomes ineligible as provided in division (H) of this section, the surviving spouse or child remaining eligible shall receive the full death benefit amount.

(2)(a) If there is a surviving spouse and more than one child, the spouse shall receive an amount each month equal to one-third of the full death benefit amount and the children shall receive an amount, equally divided among them, equal to two-thirds of the full death benefit amount.

(b) If a spouse and more than one child each are receiving a death benefit under division (D)(2)(a) of this section and the spouse dies, the children shall receive an amount each month, equally divided among them, equal to the full death benefit amount.

(c) If a spouse and more than one child each are receiving a benefit under division (D)(2)(a) of this section and any of the children becomes ineligible to receive a benefit as provided in division (H) of this section, the spouse and remaining eligible child or children shall receive a death benefit as follows:

(i) If there are two or more remaining eligible children, the spouse shall receive an amount each month equal to one-third of the full death benefit amount and the children shall receive an amount each month, equally divided among them, equal to two-thirds of the full death benefit amount;

(ii) If there is one remaining eligible child, the spouse shall receive an amount each month equal to one-half of the full death benefit amount, and the child shall receive an amount each month equal to one-half of the full death benefit amount.

(d) If a spouse and more than one child each are receiving a benefit under division (D)(2)(a) of this section and all of the children become ineligible to receive a benefit as provided in division (H) of this section, the spouse shall receive the full death benefit amount.

(3) Notwithstanding divisions (D)(1) and (2) of this section, death benefits paid under this division to a surviving spouse shall terminate on the member's retirement eligibility date. Death benefits paid to a surviving child or children shall terminate on the deceased member's retirement eligibility date unless earlier terminated pursuant to division (H) of this section.

(E) If a member, on or after January 1, 1980, is killed in the line of duty as a firefighter or police officer and is survived by only a parent or parents dependent upon the member for support, the parent or parents shall receive an amount each month equal to the full death benefit amount. If there is more than one surviving parent dependent upon the deceased member for support, the death benefit amount shall be divided equally among the surviving parents. On the death of one of the surviving parents, the full death benefit amount shall be paid to the other parent.

(F)(1) The following shall receive a monthly death benefit under this division:

(a) A surviving spouse whose benefits are terminated in accordance with division (B) or (D)(3) of this section on the deceased member's retirement eligibility date, or who would qualify for a benefit under division (B) or (D) of this section except that the deceased member reached the member's retirement eligibility date prior to the member's death;

(b) A qualified surviving spouse of a deceased member of or contributor to a police or firemen's relief and pension fund established under former Chapter 521. or 741. of the Revised Code who was a firefighter or police officer killed in the line of duty.

(2) The monthly death benefit shall be one-half of an amount equal to the monthly salary received by the deceased member prior to the member's death, plus any salary increases the deceased member would have received prior to the member's retirement eligibility date. The benefit shall terminate on the surviving spouse's death. A death benefit payable under this division shall be reduced by an amount equal to any allowance or benefit payable to the surviving spouse



under section 742.3714 of the Revised Code.

(3) A benefit granted to a surviving spouse under division (F)(1)(b) of this section shall commence on the first day of the month immediately following receipt by the board of a completed application on a form provided by the board and any evidence the board may require to establish that the deceased spouse was killed in the line of duty.

(G)(1) If there is not a surviving spouse eligible to receive a death benefit under division (F) of this section or the surviving spouse receiving a death benefit under that division dies, a surviving child or children whose benefits under division (C) or (D) of this section are or have been terminated pursuant to division (C)(3) or (D)(3) of this section or who would qualify for a benefit under division (C) or (D) of this section except that the deceased member reached the member's retirement eligibility date prior to the member's death shall receive a monthly death benefit under this division. The monthly death benefit shall be one-half of an amount equal to the monthly salary received by the deceased member prior to the member's death, plus any salary increases the member would have received prior to the member's retirement eligibility date. If there is more than one surviving child, the benefit shall be divided equally among the surviving children.

(2) If two or more surviving children each are receiving a benefit under this division and any of those children becomes ineligible to continue receiving a benefit as provided in division (H) of this section, the remaining eligible child or children shall receive an amount equal to one-half of the monthly salary received by the deceased member prior to death, plus any salary increases the deceased member would have received prior to the retirement eligibility date. If there is more than one remaining eligible child, the benefit shall be divided equally among the eligible children.

(3) A death benefit, or portion of a death benefit, payable to a surviving child under this division shall be reduced by an amount equal to any allowance or benefit payable to that child under section 742.3714 of the Revised Code, but the reduction in that child's benefit shall not affect the amount payable to any other surviving child entitled to a portion of the death benefit.

(H) A death benefit paid to a surviving child under division (C), (D), or (G) of this section shall terminate on the death of the child or, unless one of the following is the case, when the child reaches age eighteen:

(1) The child, because of physical or mental disability, is unable to provide the child's own support, in which case the death benefit shall terminate when the disability is removed;

(2) The child is unmarried, under age twenty-two, and a student in and attending an institution of learning or training pursuant to a program designed to complete in each school year the equivalent of at least two-thirds of the full-time curriculum requirements of the institution, as determined by the trustees of the fund.

(I) Acceptance of any death benefit under this section does not prohibit a spouse or child from receiving other benefits provided under the Ohio police and fire pension fund, the state highway patrol retirement system, the public employees retirement system, or a retirement system operated by a municipal corporation.

(J) No person shall receive a benefit under this section if any of the following occur:

(1) The person fails to exercise the right to a monthly survivor benefit under division (A) or (B) of section 145.45, division (D), (E), or (F) of section 742.37, or division (A)(3), (4), or (7) of section 5505.17 of the Revised Code; to a monthly survivor benefit from a retirement system operated by a municipal corporation; or to a retirement allowance under section 742.3714 of the Revised Code.

(2) The member's accumulated contributions under this chapter or Chapter 145. or 5505. of the Revised Code are refunded unless the member had been a member of the public employees retirement system and had fewer than eighteen months of total service credit at the time of death.

(3) In the case of a full-time park district ranger or patrol trooper, a full-time law enforcement officer of the department of natural resources, a full-time law enforcement officer of parks, waterway lands, or reservoir lands under the control of a municipal corporation, a full-time law enforcement officer of a conservancy district, a correction officer at an institution under the control of a county, group of counties, or municipal corporation, or a member of a retirement system operated by a municipal corporation who at the time of the member's death was a full-time law enforcement officer of parks, waterway lands, or reservoir lands under the control of the municipal corporation, the member died prior to April 9, 1981, in the case of a benefit under division (B), (C), or (D) of this section, or prior to January 1, 1980, in the case of a benefit under division (E) of this section.

(4) In the case of a full-time department of public safety enforcement agent who prior to June 30, 1999, was a liquor control investigator of the department of public safety, the member died prior to December 23, 1986;

(5) In the case of a full-time department of public safety enforcement agent other than an enforcement agent who, prior to June 30, 1999, was a liquor control investigator, the member died prior to June 30, 1999.

(K) A surviving spouse whose benefit was terminated prior to June 30, 1999, due to remarriage shall receive a benefit under division (B), (D), or (F) of this section beginning on the first day of the month following receipt by the board of an application on a form provided by the board. The benefit amount shall be determined as of that date.

(1) If the benefit will begin prior to the deceased member's retirement eligibility date, it shall be paid under division (B) or (D) of this section and shall

terminate as provided in those divisions. A benefit paid to a surviving spouse under division (D) of this section shall be determined in accordance with that division, even if benefits paid to surviving children are reduced as a result.

(2) If the benefit will begin on or after the deceased member's retirement eligibility date, it shall be paid under division (F) of this section and shall terminate as provided in that division. A benefit paid to a surviving spouse under division (F) of this section shall be determined in accordance with that division, even if benefits paid to surviving children are terminated as a result."

In line 1225, delete "and"; after "742.45" insert ", and 742.63"

In line 2 of the title, delete the first "and"; after "742.45" insert ", and 742.63"

In line 5 of the title, after "division" insert ", the Ohio Public Safety Officers Death Benefit Fund,"

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

The yeas and nays were taken and resulted - yeas 85, nays 0, as follows:

Those who voted in the affirmative were: Representatives

Adams	Aslanides	Bacon	Batchelder
Bolon	Book	Boyd	Brady
Brinkman	Budish	Carmichael	Celeste
Chandler	Ciafardini	Coley	Collier
Combs	Core	Daniels	DeBose
DeGeeter	Dodd	Dolan	Domenick
Dyer	Evans	Fende	Fessler
Gardner	Garrison	Gerberry	Gibbs
Goodwin	Goyal	Grady	Hagan J.
Harwood	Heard	Hite	Hottinger
Huffman	Hughes	Jones	Koziura
Letson	Luckie	Lundy	Mandel
McGregor J.	McGregor R.	Mecklenborg	Miller
Nero	Newcomb	Oelslager	Okey
Otterman J.	Peterson	Reinhard	Sayre
Schindel	Schlichter	Schneider	Sears
Setzer	Skindell	Slesnick	Stebelton
Stewart D.	Stewart J.	Strahorn	Sykes
Uecker	Ujvagi	Wachtmann	Wagner
Webster	Widener	Williams B.	Williams S.
Wolpert	Yates	Yuko	Zehringer
			Husted-85.

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 85, nays 0, as follows:

Those who voted in the affirmative were: Representatives

Adams	Aslanides	Bacon	Batchelder
Bolon	Book	Boyd	Brady
Brinkman	Budish	Carmichael	Celeste
Chandler	Ciafardini	Coley	Collier
Combs	Core	Daniels	DeBose
DeGeeter	Dodd	Dolan	Domenick
Dyer	Evans	Fende	Fessler
Gardner	Garrison	Gerberry	Gibbs
Goodwin	Goyal	Grady	Hagan J.
Harwood	Heard	Hite	Hottinger
Huffman	Hughes	Jones	Koziura
Letson	Luckie	Lundy	Mandel
McGregor J.	McGregor R.	Mecklenborg	Miller
Nero	Newcomb	Oelslager	Okey
Ottermann J.	Peterson	Reinhard	Sayre
Schindel	Schlichter	Schneider	Sears
Setzer	Skindell	Slesnick	Stebelton
Stewart D.	Stewart J.	Strahorn	Sykes
Uecker	Ujvagi	Wachtmann	Wagner
Webster	Widener	Williams B.	Williams S.
Wolpert	Yates	Yuko	Zehringer
			Husted-85.

The bill passed.

Representative Widener moved to amend the title as follows:

Add the names: "Bacon, Batchelder, Bolon, Boyd, Chandler, Ciafardini, Coley, DeBose, Domenick, Dyer, Evans, Fende, Gibbs, Goyal, Grady, Hagan, J., Heard, Hughes, Letson, Luckie, Nero, Oelslager, Schlichter, Schneider, Sears, Slesnick, Wachtmann, Widener, Yuko."

The motion was agreed to and the title so amended.

The title as amended was agreed to.

#### Message from the Speaker

Pursuant to House Rules 13, 28, and 30, the Speaker hereby makes the following change to the Health Committee:

remove Representative Raussen; appoint Representative Setzer.

On motion of Representative Carmichael, the House adjourned until Tuesday, December 9, 2008 at 11:00 o'clock a.m.

Attest:

LAURA P. CLEMENS,  
Clerk.