

OHIO

SENATE

JOURNAL

CORRECTED VERSION
TUESDAY, APRIL 8, 2008

ONE HUNDRED FIFTY-SEVENTH DAY
Senate Chamber, Columbus, Ohio
Tuesday, April 8, 2008, 1:30 p.m.

The Senate met pursuant to adjournment.

Prayer was offered by Father Michael Gribble, St. Joseph's Cathedral, Columbus, 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 and concurrent resolution, standing in order for second consideration, be referred to committee as recommended:

Sub. H. B. No. 248-Representative Blessing.

Cosponsors: Representatives Adams, Bacon, Boyd, Combs, Domenick, Dyer, Evans, Flowers, Hughes, Mallory, McGregor, J., Oelslager, Patton, Webster.

To enact section 1349.55 of the Revised Code to set forth requirements governing non-recourse civil litigation advance contracts.

To the Committee on Judiciary - Civil Justice.

Sub. H. B. No. 350-Representative Wolpert.

Cosponsors: Representatives Batchelder, Huffman, Evans, Peterson, Fende, Flowers, Williams, S., Webster, Bulp, Combs, Brown, Adams, Bacon, Barrett, Beatty, Bolon, Book, Boyd, Brady, Celeste, Chandler, Daniels, DeBose, DeGeeter, Dolan, Domenick, Driehaus, Dyer, Foley, Garrison, Gerberry, Gibbs, Goodwin, Goyal, Hagan, J., Hagan, R., Harwood, Heard, Hite, Hughes, Jones, Letson, Luckie, Lundy, Mallory, McGregor, J., McGregor, R., Newcomb, Okey, Otterman, J., Patton, Reinhard, Sayre, Schindel, Schlichter, Schneider, Sears, Setzer, Stewart, D., Stewart, J., Strahorn, Sykes, Szollosi, Uecker, Ujvagi, Wachtmann, White, Williams, B., Yates, Yuko, Zehringer.

To amend sections 3501.22 and 3503.01 of the Revised Code to permit a student at an Ohio institution of higher education to serve as a precinct election official in the county where the student attends school, to permit up to two high school seniors to serve as precinct officers at a polling place with six or more precinct officers, and to permit a board of elections to assign voters who reside in a political subdivision or other district that includes territory in more than one precinct to vote at a special election in another precinct that includes the subdivision's or district's territory.

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

S. B. No. 312-Senator Fedor.

Cosponsors: Senators Roberts, Miller, D., Mason, Spada, Cates, Schuring, Morano, Wagoner, Stivers, Cafaro, Grendell, Mumper, Seitz, Schuler, Wilson, Goodman, Kearney, Schaffer, Harris, Padgett.

To amend section 5747.113 and to enact section 5907.111 of the Revised Code to allow taxpayers to contribute a portion of their income tax refunds to the Ohio Veterans' Home Agency.

To the Committee on Ways and Means and Economic Development.

S. B. No. 313-Senator Amstutz.

Cosponsors: Senators Carey, Buehrer.

To amend section 3770.03 of the Revised Code to prohibit the State Lottery Commission from establishing a lottery game that has more than two announcements of prize winners per day or that is played on a slot machine, including a game of keno.

To the Committee on Finance and Financial Institutions.

S. C. R. No. 24-Senator Mason.

Cosponsors: Senators Roberts, Miller, D., Seitz, Padgett, Wilson, Fedor.

To memorialize the Congress of the United States to reauthorize the Debbie Smith DNA Backlog Grant Program at current or increased levels, thereby assisting in the reduction of DNA backlogs and improvement of the utilization of DNA in the criminal justice system in the State of Ohio and every state throughout the nation.

To the Committee on Judiciary - Criminal Justice.

YES - 5: JEFF JACOBSON, J. KIRK SCHURING, SHIRLEY A. SMITH, RAY MILLER, 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 concurrent resolution 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:

Rosalind J. Batley, Democrat, from Canal Winchester, Franklin County, Ohio, as Member of the State Board of Orthotics, Prosthetics and Pedorthics for a term beginning January 9, 2008 and ending at the close of business December 6, 2009, replacing James J. Powers, whose term expired.

Susan E. Bender, from Columbus, Franklin County, Ohio, as a Member of the Ohio Optical Dispensers Board from a term beginning August 8, 2007 and ending at the close of business March 21, 2012, replacing Denise M. Capretta, whose term expired.

Mark G. Burgess, Republican, from Ashland, Ashland County, Ohio, as a Member of the State Board of Emergency Medical Services for a new term beginning February 1, 2008 and ending at the close of business November 12, 2010.

Thomas E. Collins, Republican, from Chagrin Falls, Geauga County, Ohio, as a Member of the State Board of Emergency Medical Services for a new term beginning January 9, 2008 and ending at the close of business November 12, 2010.

NeCole P. Cumberlander, Democrat, from Solon, Cuyahoga County, Ohio, as a Member of the State Board of Cosmetology for a term beginning December 20, 2007 and ending at the close of business October 31, 2012, replacing James M. Rogers, whose term expired.

James E. Davis, Democrat, from Westerville, Delaware County, Ohio, as a Member of the State Board of Emergency Medical Services for a new term beginning January 9, 2008 and ending at the close of business November 12, 2010.

John M. Ellis, from Olmsted Falls, Lorain County, Ohio, as a Member of the Chemical Dependency Professionals Board for a term beginning February 1, 2008 and ending at the close of business December 23, 2010, replacing Joe R.A. Gay, whose term expired.

David B. Fiffick, Democrat, from Boardman, Mahoning County, Ohio, as a Member of the State Board of Emergency Medical Services for a new term beginning January 10, 2008 and ending at the close of business November 12, 2010.

Delphenia W. Gilbert, Democrat, from Akron, Summit County, Ohio, as a Member of the Board of Nursing for a term beginning January 10, 2008 and ending at the close of business December 31, 2011, replacing Cynthia Krueger, whose term expired.

Vickie Graymire, Republican, from Ottawa, Putnam County, Ohio, as a Member of the State Board of Emergency Medical Services for a new term beginning January 9, 2008 and ending at the close of business November 12, 2010.

Whitney Frank Hairston, Jr., Democrat, from Ravenna, Portage County, Ohio, as a Member of the State Medical Board for a term beginning December 5, 2007 and ending at the close of business July 31, 2012, replacing Anquetette Sloan, whose term expired.

James L. Hearst, D.V.M., Republican, from Cincinnati, Hamilton County, Ohio, as a Member of the State Veterinary Medical Board for a term beginning January 10, 2008 and ending at the close of business December 31, 2010, replacing James K. Burt, whose term expired.

James E. Holcomb, Republican, from Pickerington, Fairfield County, Ohio, as a Member of the State Board of Emergency Medical Services for a new term beginning January 9, 2008 and ending at the close of business November 12, 2010.

Chamese R. Jarrett, Republican, from Pataskala, Licking County, Ohio, as a Member of the Ohio Reclamation Forfeiture Fund Advisory Board for a term beginning January 10, 2008 and ending at the close of business January 10, 2012.

G. Gary Kaster, Democrat, from McConnelsville, Morgan County, Ohio, as a Member of the Ohio Reclamation Forfeiture Fund Advisory Board for a term beginning January 10, 2008 and ending at the close of business January 10, 2011.

Nelson L. Kidder, Republican, from Pickerington, Fairfield County, Ohio, as a Member of the Ohio Reclamation Forfeiture Fund Advisory Board for a term beginning January 10, 2008 and ending at the close of business January 10, 2011.

Bernadine Neal, Democrat, from Columbus, Franklin County, Ohio, as a Member of the State Board of Cosmetology for a new term beginning December 13, 2007 and ending at the close of business October 31, 2012.

Robert W. Nelson, Democrat, from Yellow Springs, Greene County, Ohio, as a Member of the Counselor, Social worker, and Marriage and Family Therapist Board for a term beginning January 8, 2008 and ending at the close of business October 10, 2010, replacing Theresa Cluse-Tolar, whose term expired.

Francine E. Packard, Independent, from Youngstown, Mahoning County, Ohio, as a Member of the Counselor, Social worker, and Marriage and Family

Therapist Board for a term beginning January 8, 2008 and ending at the close of business October 10, 2010, replacing Randi Cohen, whose term expired.

Gary Siciliano, Independent, from Sagamore Hills, Summit County, Ohio, as a Member of the Motor Vehicle Salvage Dealer's Licensing Board for a term beginning January 10, 2008 and ending at the close of business July 31, 2010, replacing Jay W. Dupler, whose term expired.

Gary K. Starner, Democrat, from Logan, Hocking County, Ohio, as a Member of the Ohio Reclamation Forfeiture Fund Advisory Board for a term beginning January 10, 2008 and ending at the close of business January 10, 2010.

Robert Vazquez, Independent, from Upper Arlington, Franklin County, Ohio, as a Member of the Motor Vehicle Dealers board for a new term beginning January 10, 2008 and ending at the close of business October 4, 2010.

Christopher I. Walton, Democrat, from Logan, Hocking County, Ohio, as a Member of the Ohio Reclamation Forfeiture Fund Advisory Board for a term beginning January 10, 2008 and ending at the close of business January 10, 2011.

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

YES - 10: BILL HARRIS, JEFF JACOBSON, TOM NIEHAUS, ROBERT F. SPADA, JOHN A. CAREY, J. KIRK SCHURING, CAPRI S. CAFARO, LANCE T. MASON, SHIRLEY A. SMITH, RAY MILLER.

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 32, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Bocchieri	Buehrer
Cafaro	Carey	Cates	Coughlin
Faber	Fedor	Goodman	Grendell
Jacobson	Kearney	Mason	Miller D
Miller R	Morano	Mumper	Niehaus
Padgett	Roberts	Schaffer	Schuler
Schuring	Seitz	Smith	Spada
Stivers	Wagoner	Wilson	Harris-32.

So the Senate advised and consented to said appointments.

HOUSE AMENDMENTS TO SENATE BILLS AND RESOLUTIONS

The amendments of the House of Representatives to:

Am. Sub. S. B. No. 84-Senator Schaffer.

Cosponsors: Senators Boccieri, Cates, Amstutz, Fedor, Harris, Mason, Padgett, Seitz, Schuler, Schuring, Spada, Wilson, Smith, Stivers, Faber, Gardner, Niehaus, Sawyer. Representatives Combs, McGregor, J., Flowers, Mallory, Chandler, Adams, Blessing, Budish, DeBose, Domenick, Dyer, Evans, Hagan, R., Hughes, Patton, Schindel, Uecker.

To amend sections 305.09, 305.10, 305.11, and 5502.31 of the Revised Code to allow boards of county commissioners to maintain meeting records by electronic means and to specify an additional type of Emergency Management Agency for which a political subdivision may make an appropriation, were taken up.

The question being, "Shall the Senate concur in the House amendments to **Am. Sub. S. B. No. 84**?"

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

Those who voted in the affirmative were: Senators

Amstutz	Austria	Boccieri	Buehrer
Cafaro	Carey	Cates	Coughlin
Faber	Fedor	Goodman	Grendell
Jacobson	Kearney	Mason	Miller D
Miller R	Morano	Mumper	Niehaus
Padgett	Roberts	Schaffer	Schuler
Schuring	Seitz	Smith	Spada
Stivers	Wagoner	Wilson	Harris-32.

So the Senate concurred in the amendments of the House of Representatives.

BILLS FOR THIRD CONSIDERATION

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

Cosponsor: Senator Seitz.

To amend sections 145.01, 145.19, 145.191, 145.33, 145.35, 145.47, and 145.49 and to enact section 145.2914 of the Revised Code regarding the Public Employees Retirement System law enforcement division and late penalties assessed by the retirement system, was considered the third time.

The question being, "Shall the bill, **Sub. S. B. No. 267**, pass?"

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

Those who voted in the affirmative were: Senators

Amstutz	Austria	Boccieri	Buehrer
Cafaro	Carey	Cates	Coughlin
Faber	Fedor	Goodman	Grendell
Jacobson	Kearney	Mason	Miller D
Miller R	Morano	Mumper	Niehaus
Padgett	Roberts	Schaffer	Schuler
Schuring	Seitz	Smith	Spada
Stivers	Wagoner	Wilson	Harris-32.

So the bill passed.

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

Senator Seitz moved to amend the title as follows:

Add the names: "Cates, Coughlin, Fedor, Harris, Kearney, Miller, D., Niehaus, Wilson, Spada, Miller, R., Wagoner, Stivers, Schuler, Mumper, Mason, Smith, Amstutz, Padgett."

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

The motion was agreed to and the title so amended.

Sub. S. B. No. 268-Senator Seitz.

Cosponsors: Senators Niehaus, Gardner, Schuler, Schuring, Cates, Fedor, Roberts.

To amend sections 9.48, 125.04, 307.86, and 3313.46 and to enact section 307.862 of the Revised Code to allow a county contracting authority to use competitive sealed proposals instead of competitive sealed bidding when doing so would be advantageous to the county, to extend the current county and township joint purchasing authority to other political subdivisions, and to authorize boards of education to forgo the second newspaper publication of bid advertisement in lieu of an internet web site posting, was considered the third time.

The question being, "Shall the bill, **Sub. S. B. No. 268**, pass?"

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

Those who voted in the affirmative were: Senators

Amstutz	Austria	Boccieri	Buehrer
Cafaro	Carey	Cates	Coughlin
Faber	Fedor	Goodman	Grendell
Jacobson	Kearney	Mason	Miller D
Miller R	Morano	Mumper	Niehaus
Padgett	Roberts	Schaffer	Schuler

Schuring
Stivers

Seitz
Wagoner

Smith
Wilson

Spada
Harris-32.

So the bill passed.

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

Senator Faber moved to amend the title as follows:

Add the names: "Buehrer, Harris, Kearney, Mumper, Spada, Wilson."

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. 314-Senator Carey.

Cosponsors: Senators Mason, Spada, Harris, Roberts, Miller, D., Wilson, Fedor, Sawyer, Smith.

To amend section 135.63 and to enact sections 135.101, 135.102, 135.103, 135.104, 135.105, and 135.106 of the Revised Code to authorize the Treasurer of State to administer a linked deposit program designed to encourage personal savings and promote personal financial education.

S. B. No. 315-Senator Roberts.

Cosponsors: Senators Seitz, Spada, Fedor, Smith, Miller, R.

To amend sections 2151.354 and 2152.19 of the Revised Code to provide that if a juvenile court suspends a child's probationary driver's license or temporary instruction permit, the suspension remains in effect for the period of time prescribed by the court but cannot last beyond the child's twenty-first birthday.

S. B. No. 316-Senator Padgett.

Cosponsors: Senators Cafaro, Fedor, Smith, Morano.

To amend section 1333.99 and to enact section 1333.71 of the Revised Code to regulate sales of United States and state of Ohio flags.

OFFERING OF RESOLUTIONS

Pursuant to Senate Rule No. 54, the following resolutions were offered:

S. R. No. 196-Senator Seitz.

In memory of Captain Robin Broxterman.

S. R. No. 197-Senator Seitz.

In memory of Firefighter Brian Schira.

The question being, "Shall the resolutions listed under the President's prerogative be adopted?"

So the resolutions were adopted.

Message from the House of Representatives

Mr. President:

I am directed to inform you that the House of Representatives has concurred in the passage of the following bill:

Am. S. B. No. 192 -Senator Gardner

Cosponsors: Senators Carey, Niehaus, Coughlin, Harris, Spada
Representatives Wolpert, Combs, McGregor, J., Flowers

To amend sections 3703.01, 3703.08, and 3781.03 of the Revised Code to permit the board of health of a health district to enter into a contract with a board of county commissioners to authorize the county building department to inspect plumbing in any type of building for which the county department is certified, to permit the board of health of a health district to enter into a contract with the board of health of another health district for the inspection of plumbing within the first board's district, to require the Treasurer of State to liquidate the Tobacco Use Prevention and Control Foundation Endowment Fund in a prudent manner, to create the Jobs Fund, and to declare an emergency.

With the following additional amendment, in which the concurrence of the Senate is requested.

After line 193, insert:

"Section 3. Notwithstanding any provision of law to the contrary, on the effective date of this section, the Treasurer of State shall liquidate the Tobacco Use Prevention and Control Foundation Endowment Fund created by section 183.08 of the Revised Code in a prudent manner. The first \$40 million in proceeds from liquidation shall be held in the custody of the Treasurer of State, but shall not be part of the state treasury. Those moneys shall be made available to the Tobacco Use Prevention and Control Foundation for the sole purpose of paying contractual or other legally binding obligations that were entered into by the Foundation on or before the effective date of this section. The Treasurer of

State shall deposit the remaining proceeds from liquidation into the state treasury to the credit of the Jobs Fund (Fund 5Z30), which is hereby created.

Section 4. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is to promote public health and safety by increasing the efficiency of plumbing inspection procedures under county government as well as to minimize the impact of current economic stresses by using state funds in a prudent manner to increase employment and job security. Therefore, this act shall go into immediate effect."

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

In line 11 of the title, after "district" insert ", to require the Treasurer of State to liquidate the Tobacco Use Prevention and Control Foundation Endowment Fund in a prudent manner, to create the Jobs Fund, and to declare an emergency"

Attest:

Laura P. Clemens,
Clerk.

Senator Jacobson moved that the amendments of the House of Representatives to **Am. S. B. No. 192**, be brought up for consideration.

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

The motion was agreed to.

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 30, nays 2, as follows:

Those who voted in the affirmative were: Senators

Austria	Bocchieri	Buehrer	Cafaro
Carey	Cates	Coughlin	Faber
Fedor	Goodman	Grendell	Jacobson
Kearney	Mason	Miller R	Morano
Mumper	Niehaus	Padgett	Roberts
Schaffer	Schuler	Schuring	Seitz
Smith	Spada	Stivers	Wagoner
Wilson			Harris-30.

Senators Amstutz and Miller D voted in the negative-2.

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 Senate concur in the amendments of the House of Representatives?"

The yeas and nays were taken and resulted - yeas 29, nays 3, as follows:

Those who voted in the affirmative were: Senators

Austria	Bocchieri	Buehrer	Cafaro
Carey	Cates	Faber	Fedor
Goodman	Grendell	Jacobson	Kearney
Mason	Miller R	Morano	Mumper
Niehaus	Padgett	Roberts	Schaffer
Schuler	Schuring	Seitz	Smith
Spada	Stivers	Wagoner	Wilson
			Harris-29.

Senators Amstutz, Coughlin, and Miller D voted in the negative-3.

So the Senate concurred in the amendments of the House of Representatives.

Message from the House of Representatives

Mr. President:

I am directed to inform you that the House of Representatives has concurred in the Senate amendments to:

Sub. H. B. No. 289 -Representative Core - et al.

Attest:

Laura P. Clemens,
Clerk.

Message from the House of Representatives

Mr. President:

I am directed to inform you that the Speaker of the House of Representatives has signed the following bill:

Am. Sub. H. B. No. 429 -Representative Gibbs - et al.

Attest:

Laura P. Clemens,
Clerk.

The President signed said bill.

Message from the House of Representatives

Mr. President:

I am directed to inform you that the Speaker of the House of Representatives has signed the following bill:

Am. S. B. No. 192 -Senator Gardner - et al.

Attest:

Laura P. Clemens,
Clerk.

The President signed said bill.

On the motion of Senator Jacobson, the Senate adjourned until Wednesday,
April 9, 2008 at 1:30 p.m.

Attest:

VINCENT L. KEERAN,
Clerk.