

OHIO

SENATE

JOURNAL

WEDNESDAY, DECEMBER 12, 2007

ONE HUNDRED SEVENTEENTH DAY
Senate Chamber, Columbus, Ohio
Wednesday, December 12, 2007, 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, standing in order for second consideration, be referred to committee as recommended:

S. B. No. 262-Senator Sawyer.

Cosponsors: Senators Boccieri, Spada, Cafaro, Schuler, Seitz.

To enact section 5533.091 of the Revised Code to designate that part of Interstate 76 within Brimfield Township, in Portage County, as "The Luke 'Doc' Emch and Matt 'Doc' Conte Corpsmen Memorial Highway."

To the Committee on Highways and Transportation.

S. B. No. 263-Senator Buehrer.

Cosponsors: Senators Gardner, Mumper, Cates, Schuring, Carey, Schuler, Faber, Goodman.

To enact section 2927.05 of the Revised Code to prohibit a person from using a deceased soldier's persona for a commercial purpose without written consent.

To the Committee on Judiciary - Criminal Justice.

S. B. No. 264-Senator Carey.

Cosponsors: Senators Padgett, Goodman, Schaffer, Mumper, Coughlin, Cates, Harris, Buehrer.

To amend sections 4117.14 and 4117.15 of the Revised Code to prohibit classroom teachers employed by boards of education from striking and instead require binding arbitration to settle their unresolved collective bargaining disputes and to make an appropriation.

To the Committee on Education.

YES - 4: J. KIRK SCHURING, TOM ROBERTS, TERESA FEDOR, 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 Amstutz submitted the following report:

The standing committee on Ways and Means and Economic Development, to which was referred **Am. H. B. No. 24**-Representative Wagner, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsors: Spada, Amstutz.

YES - 10: RON AMSTUTZ, ROBERT F. SPADA, GARY W. CATES, KEVIN J. COUGHLIN, DAVID GOODMAN, TIMOTHY O. SCHAFFER, ROBERT L. SCHULER, STEVE STIVERS, THOMAS SAWYER, ERIC H. KEARNEY.

NO - 2: DALE MILLER, TOM ROBERTS.

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

The report of the committee was accepted.

Senator Amstutz submitted the following report:

The standing committee on Ways and Means and Economic Development, to which was referred **Am. Sub. H. B. No. 372**-Representatives McGregor, R., Ujvagi, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsors: Spada, Goodman, Schaffer, Schuler, Miller, D..

YES - 10: RON AMSTUTZ, ROBERT F. SPADA, KEVIN J. COUGHLIN, DAVID GOODMAN, TIMOTHY O. SCHAFFER, ROBERT L. SCHULER, THOMAS SAWYER, ERIC H. KEARNEY, DALE MILLER, TOM ROBERTS.

NO - 0.

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

The report of the committee was accepted.

Senator Cates submitted the following report:

The standing committee on State and Local Government and Veterans' Affairs, to which was referred **S. B. No. 241**-Senator Cates, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsors: Seitz, Niehaus.

YES - 7: GARY W. CATES, JOHN A. BOCCIERI, TIMOTHY J. GRENDALL, BILL SEITZ, JOHN A. CAREY, TOM NIEHAUS, ROBERT L. SCHULER.

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:

The Standing Committee on Rules to which were referred the appointments by the Governor of:

Thomas E. Allenstein, from Lewis Center, Delaware County, Ohio, as a Member of the Ohio Medical Transportation Board from a term beginning September 12, 2007 and ending at the close of business July 5, 2009, replacing Barbara Pasztor, whose term expired.

Tony Anteau, from Toledo, Wood County, Ohio, as a Member of the Ohio Medical Transportation Board from a term beginning September 12, 2007 and ending at the close of business July 5, 2009, replacing Jack Popadak, whose term expired.

Joseph A. Balog, Democrat, from Independence, Cuyahoga County, Ohio, as Member of the Ohio Turnpike Commission for a term beginning July 13, 2007, and ending at the close of business June 30, 2015.

Rebecca Blum Baute, from Mason, Warren County, Ohio, as a Member of the Ohio Medical Transportation Board from a new term beginning September 12, 2007 and ending at the close of business July 5, 2009.

Lewis N. Brady, from New Bremen, Auglaize County, Ohio, as a Member of the Ohio Water Advisory Council for a term beginning July 31, 2007 and ending at the close of business February 1, 2009, replacing Vincent T. Ricca, whose term expired.

Matthew Diggs, Republican, from Kettering, Montgomery County, Ohio, as a Member of the Third Frontier Commission for a new term beginning August 28, 2007 and ending at the close of business April 1, 2010.

Brian K. Epperson, Republican, from Xenia, Greene County, Ohio, as a Member of the Petroleum Underground Storage Tank Release Compensation Board for a term beginning August 14, 2007 and ending at the close of business July 11, 2010, replacing R. Scott Hiser, whose term expired.

Ronald A. Nagy, from Clinton, Summit County, Ohio as a Member of the Motor Vehicle Collision Repair Registration for a term beginning June 28, 2007, and ending at the close of business January 1, 2010, replacing David P. Weber, whose term expired.

Ralph M. Della Ratta, Jr., from Gates Mills, Cuyahoga County, Ohio, as a Member of the Ohio Venture Capital Authority for a term beginning June 1, 2007, and ending at the close of business January 31, 2011, replacing Lewis Smoot, whose term expired.

Hamilton P. Schwartz, from Cincinnati, Hamilton County, Ohio, as a Member of the Ohio Medical Transportation Board from a term beginning September 12, 2007 and ending at the close of business July 5, 2009, replacing John Drstvensek, whose term expired.

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

YES - 10: BILL HARRIS, RANDY GARDNER, ROBERT F. SPADA, STEPHEN C. AUSTRIA, JOHN A. CAREY, J. KIRK SCHURING, LANCE T. MASON, RAY MILLER, TOM ROBERTS, TERESA FEDOR.

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

So the Senate advised and consented to said appointments.

REPORTS OF CONFERENCE COMMITTEES

Am. Sub. S. B. No. 155-Senator Faber.

Cosponsors: Senators Schuler, Grendell, Spada, Kearney, Austria, Boccieri, Buehrer, Cates, Harris. Representatives Blessing, Wagoner, Coley, Latta, Gerberry, Bacon, Batchelder, Seitz, Bolon, Brady, Budish, DeBose, Dodd, Domenick, Driehaus, Dyer, Flowers, Harwood, Hughes, Letson, Luckie, Mallory, McGregor, R., Mecklenborg, Schindel, Skindell, Strahorn, Yuko, Zehringer.

To amend sections 1901.08, 2151.07, 2301.02, 2301.03, and 3521.03 and to enact sections 141.06 and 2101.025 of the Revised Code and to amend Section 249.10 of Am. Sub. H.B. 119 of the 127th General Assembly and Section 6 of Sub. H.B. 336 of the 126th General Assembly to specify the rate of compensation of a member of the current or previous General Assembly who is appointed to judicial office, to create a Domestic Relations-Juvenile-Probate Division of the Champaign County Court of Common Pleas, to designate the Champaign County Probate and Juvenile Judge as a judge of that division, to add a judge to that division to be elected in 2008, to make the Hamilton County Drug Court permanent, to extend the deadline by which the report of the Joint Committee to Study Court Costs and Filing Fees is due, to change the status of the judge of the Upper Sandusky Municipal Court from part-time to full-time, to authorize funding for a special election when a vacancy in Congress occurs, to make an appropriation, and to declare an emergency.

The question being, "Shall the emergency clause of the bill stand as part of the report?"

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	Gardner	Goodman
Grendell	Jacobson	Kearney	Mason

Miller D	Miller R	Morano	Mumper
Niehaus	Padgett	Roberts	Sawyer
Schaffer	Schuler	Schuring	Seitz
Spada	Stivers	Wilson	Harris-32.

So the emergency clause stood as part of the report.

The question being, "Shall the report of the Committee of Conference be agreed to as an emergency?"

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	Gardner	Goodman
Grendell	Jacobson	Kearney	Mason
Miller D	Miller R	Morano	Mumper
Niehaus	Padgett	Roberts	Sawyer
Schaffer	Schuler	Schuring	Seitz
Spada	Stivers	Wilson	Harris-32.

The report of the Committee of Conference was agreed to as an emergency.

BILLS FOR THIRD CONSIDERATION

Sub. H. B. No. 24-Representative Wagner.

Cosponsors: Representatives McGregor, J., Wagoner, Gibbs, Combs, Stebelton, Collier, Huffman, Blessing, Bulp, Latta, Schindel, Hagan, J., Wolpert, Adams, Aslanides, Bacon, Barrett, Batchelder, Boyd, Brown, Budish, Carmichael, Chandler, Coley, Core, Daniels, DeBose, Dolan, Domenick, Dyer, Evans, Fende, Fessler, Flowers, Goodwin, Goyal, Harwood, Healy, Hite, Hottinger, Hughes, Jones, Letson, Luckie, Lundy, Mandel, Miller, Oelslager, Otterman, Patton, Raussen, Reinhard, Sayre, Schneider, Seitz, Setzer, Szollosi, Uecker, Wachtmann, Webster, Williams, S., Yuko, Zehringer. Senators Spada, Amstutz.

To amend sections 718.01, 718.02, and 4763.16 of the Revised Code to authorize municipalities to allow self-employed taxpayers to take a municipal income tax deduction for amounts paid for medical care insurance, to authorize municipalities to allow individuals to deduct amounts paid into health savings accounts, to limit the entities that may apply for Real Estate Appraiser Recovery Fund payments, to allow certain property owners whose property is located in certain conservancy districts to have the Supreme Court review denials of their exceptions to an assessment, to establish a moratorium on the levying and collection of assessments by certain conservancy districts,

and to declare an emergency , was considered the third time.

The question being, "Shall the section, Section 7, setting forth the emergency features of the bill, stand as a part of the bill?"

On the motion of Senator Gardner, **Sub. H. B. No. 24** was informally passed and retained its place on the calendar.

Sub. H. B. No. 372-Representatives McGregor, R., Ujvagi.

Cosponsors: Representatives Bupp, Wachtmann, Combs, Aslanides, White, Domenick, Healy, Reinhard, Bacon, Barrett, Batchelder, Beatty, Blessing, Bolon, Book, Boyd, Brady, Brown, Budish, Carmichael, Celeste, Chandler, Coley, Collier, Daniels, DeBose, DeGeeter, DeWine, Distel, Dodd, Dolan, Driehaus, Dyer, Evans, Fende, Flowers, Foley, Garrison, Gerberry, Gibbs, Goodwin, Goyal, Hagan, J., Hagan, R., Harwood, Heard, Hite, Hottinger, Huffman, Hughes, Jones, Latta, Letson, Luckie, Lundy, Mallory, McGregor, J., Mecklenborg, Oelslager, Okey, Otterman, Patton, Peterson, Raussen, Redfern, Sayre, Schindel, Schlichter, Schneider, Setzer, Skindell, Stebelton, Stewart, D., Stewart, J., Strahorn, Sykes, Szollosi, Uecker, Wagner, Wagoner, Widener, Williams, B., Williams, S., Wolpert, Yates, Yuko, Zehringer. Senators Spada, Goodman, Schaffer, Schuler, Miller, D.

To amend sections 124.23, 124.93, 125.111, 153.59, 153.591, 176.04, 176.06, 717.01, 1751.18, 2101.16, 2927.03, 3905.55, 4112.01, 4112.02, 4112.021, 4112.04, 4112.05, 4112.08, 4117.19, 4503.571, 4735.16, 4735.55, 5533.09, 5747.01, 5903.10, and 5903.12 and to enact sections 1349.04, 2101.164, 4112.023, 4503.433, 4503.731, and 5903.121 of the Revised Code to exempt estates of armed forces members who died while serving in a combat zone from probate fees, to exempt military retirement pay from the income tax, to provide that reservists and National Guard members may renew their professional licenses within six months after active duty service, to extend continuing education reporting periods for National Guard members ordered to duty by the Governor, to provide that standard "Purple Heart" license plates be issued without charge, to designate Interstate Routes 70 and 71 as the "Purple Heart Trail," to authorize the display of combat battle stars on certain special combat or military license plates, to prohibit discrimination under the Ohio Civil Rights Commission Law and certain other laws on the basis of military status, to require the Attorney General to appoint a staff member of the Consumer Protection Division to expedite certain cases or issues raised by a person, or the person's immediate family, who is deployed on active duty, to grant certain military persons additional civil service credit, to require relevant military experience to be considered in continuing education determinations, to create an incumbent worker training program, and to create Civil Air Patrol license plates , was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 372**, pass?"

Senator Stivers moved that he be excused from voting under Senate Rule No. 57.

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

The motion was agreed to.

The question recurred, "Shall the bill, **Sub. H. B. No. 372**, pass?"

Senator Harris moved that he be excused from voting under Senate Rule No. 57.

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

The motion was agreed to.

The question recurred, "Shall the bill, **Sub. H. B. No. 372**, pass?"

Senator Bocchieri moved that he be excused from voting under Senate Rule No. 57.

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

The motion was agreed to.

The question recurred, "Shall the bill, **Sub. H. B. No. 372**, pass?"

Senator Fedor moved that she be excused from voting under Senate Rule No. 57.

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

The motion was agreed to.

The question recurred, "Shall the bill, **Sub. H. B. No. 372**, pass?"

The yeas and nays were taken and resulted - yeas 28, nays 0, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Buehrer	Cafaro
Carey	Cates	Coughlin	Faber
Gardner	Goodman	Grendell	Jacobson
Kearney	Mason	Miller D	Miller R
Morano	Mumper	Niehaus	Padgett
Roberts	Sawyer	Schaffer	Schuler
Schuring	Seitz	Spada	Wilson-28.

So the bill passed.

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

Senator Amstutz moved to amend the title as follows:

Add the names: "Austria, Buehrer, Carey, Cates, Faber, Gardner, Grendell, Niehaus, Roberts, Schuring, Wilson, Mumper, Mason, Padgett, Jacobson, Cafaro, 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. 217-Senator Kearney.

Cosponsors: Senators Schuler, Goodman, Gardner, Miller, R., Miller, D., Roberts, Mason, Schaffer, Boccieri, Padgett, Clancy, Morano, Wilson, Sawyer, Smith, Cates, Grendell, Seitz, Niehaus.

To enact section 5.2236 of the Revised Code to designate the Saturday before Thanksgiving as "Adoption Day" and to declare an emergency , was considered the third time.

The question being, "Shall the section, Section 2, setting forth the emergency features of the bill, stand as a part of the bill?"

The yeas and nays were taken and resulted - yeas 23, nays 9, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Boccieri	Cafaro
Carey	Coughlin	Fedor	Gardner
Goodman	Grendell	Kearney	Mason
Miller R	Morano	Mumper	Padgett
Roberts	Sawyer	Schaffer	Seitz
Spada	Wilson		Harris-23.

Those who voted in the negative were: Senators

Buehrer	Cates	Faber	Jacobson
Miller D	Niehaus	Schuler	Schuring
			Stivers-9.

So the section, Section 2, 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	Austria	Boccieri	Buehrer
Cafaro	Carey	Cates	Coughlin
Faber	Fedor	Gardner	Goodman
Grendell	Jacobson	Kearney	Mason
Miller D	Miller R	Morano	Mumper
Niehaus	Padgett	Roberts	Sawyer
Schaffer	Schuler	Schuring	Seitz
Spada	Stivers	Wilson	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 Kearney moved to amend the title as follows:

Add the names: "Amstutz, Buehrer, Carey, Fedor, Harris, Schuring, Spada, Stivers, Jacobson."

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

The motion was agreed to and the title so amended.

Sub. S. B. No. 241-Senator Cates.

Cosponsors: Senators Carey, Mumper, Schuring, Faber, Padgett, Seitz, Niehaus.

To amend section 301.28 of the Revised Code to modify the law governing payment of county expenses by a financial transaction device , was considered the third time.

The question being, "Shall the bill, **Sub. S. B. No. 241**, 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	Bocchieri	Buehrer
Cafaro	Carey	Cates	Coughlin
Faber	Fedor	Gardner	Goodman
Grendell	Jacobson	Kearney	Mason
Miller D	Miller R	Morano	Mumper
Niehaus	Padgett	Roberts	Sawyer
Schaffer	Schuler	Schuring	Seitz
Spada	Stivers	Wilson	Harris-32.

So the bill passed.

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

Senator Cates moved to amend the title as follows:

Add the names: "Gardner, Grendell, Kearney, Spada, Schaffer, Stivers, Harris."

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

The motion was agreed to and the title so amended.

On the motion of Senator Jacobson, **Sub. H. B. No. 24**, having been informally passed, was taken up for consideration.

The question being, "Shall the section, Section 7, setting forth the emergency features of the bill, stand as a part of the bill?"

The yeas and nays were taken and resulted - yeas 27, nays 5, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Bocchieri	Buehrer
Cafaro	Carey	Cates	Coughlin
Faber	Fedor	Gardner	Goodman
Jacobson	Kearney	Miller R	Morano
Mumper	Niehaus	Padgett	Sawyer
Schaffer	Schuler	Schuring	Seitz
Stivers	Wilson		Harris-27.

Senators Grendell, Mason, Miller D, Roberts, and Spada voted in the negative-5.

So the section, Section 7, 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?"

Senator Fedor moved to amend as follows:

Between lines 616 and 617, insert:

"Section 7. (A) Notwithstanding division (E) of section 3704.14 of the Revised Code, the Governor, by executive order, may extend through June 30, 2008, the enhanced motor vehicle inspection and maintenance program that is operating on the effective date of this section in certain counties in this state. In addition, the Governor, by executive order, may extend the terms of any contract concerning that program in those counties through June 30, 2008.

(B) If the Governor, in consultation with the Director of Environmental Protection, determines that the implementation of the enhanced motor vehicle inspection and maintenance program referred to in division (A) of this section is necessary for the state to effectively comply with the requirements of the federal Clean Air Act after June 30, 2008, the Governor, by executive order, may order the program to be implemented from July 1, 2008, through June 30, 2009. The Director of Environmental Protection shall select a vendor to operate the program during that time period via a competitive selection process pursuant to Chapter 125. of the Revised Code. Upon the selection of a vendor by the Director, the Governor, by executive order, shall authorize the Director to enter into a contract with that vendor to operate the enhanced program through June 30, 2009.

(C) Implementation of this section depends upon a previously made appropriation of money for current expenses of state government. Therefore, under Ohio Constitution, Article II, Section 1d, this section goes into immediate

effect."

In line 617, delete "7." and insert "8."

In line 14 of the title, after the comma insert "to provide for the extension of the enhanced motor vehicle inspection and maintenance program,"

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

The amendment was agreed to.

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

The yeas and nays were taken and resulted - yeas 26, nays 6, as follows:

Those who voted in the affirmative were: Senators

Amstutz	Austria	Boccieri	Buehrer
Cafaro	Carey	Cates	Faber
Fedor	Gardner	Goodman	Jacobson
Kearney	Mason	Miller R	Morano
Mumper	Niehaus	Sawyer	Schaffer
Schuler	Schuring	Seitz	Stivers
Wilson			Harris-26.

Senators Coughlin, Grendell, Miller D, Padgett, Roberts, and Spada voted in the negative-6.

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

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

Senator Amstutz moved to amend the title as follows:

Add the names: "Harris, Schaffer."

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

The motion was agreed to.

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

Senator Amstutz moved to amend the title as follows:

Remove the name: "Spada."

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

The motion was agreed to and the title so amended.

MOTIONS

Senator Austria moved that Senators absent the week of Sunday, December 9, 2007, be excused, so long as a written explanation is on file with the Clerk pursuant to Senate Rule No. 17.

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

The motion was agreed to.

INTRODUCTION AND FIRST CONSIDERATION OF BILLS

The following bill was introduced and considered the first time:

S. B. No. 265-Senator Mason.

Cosponsors: Senators Miller, R., Morano, Seitz, Smith.

To amend section 5739.02 of the Revised Code to exempt purchases of energy-saving devices from sales and use taxation.

OFFERING OF RESOLUTIONS

S. C. R. No. 21-Senator Kearney.

To encourage the State Board of Education to adopt a comprehensive life skills curriculum.

The question being, "Shall the concurrent resolution, **S. C. R. No. 21**, be adopted?"

On the motion of Senator Gardner, **S. C. R. No. 21**, was referred to the Committee on Reference.

Pursuant to Senate Rule No. 54, the following resolution was offered:

S. R. No. 151-Senator Schuler.

Honoring the Anderson High School football team for winning the 2007 Division II State Championship.

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

So the resolution was adopted.

On the motion of Senator Gardner, the Senate adjourned until Thursday, December 13, 2007 at 11:00 o'clock a.m.

Attest:

VINCENT L. KEERAN,
Clerk.