

OHIO

SENATE

JOURNAL

TUESDAY, DECEMBER 15, 2009

ONE HUNDRED TWENTY-SEVENTH DAY
Senate Chamber, Columbus, Ohio
Tuesday, December 15, 2009, 1:30 p.m.

The Senate met pursuant to adjournment.

Prayer was offered by Reverend Vernon Barrell, First Church of Christ, Logan, 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 Goodman reports for the Standing Committee on Reference, recommending that the following bills and resolution, standing in order for second consideration, be referred to committee as recommended:

Am. H. B. No. 81-Representatives Boyd, Gardner, et al.

To amend sections 1739.05 and 1751.01 and to enact sections 1751.69 and 3923.71 of the Revised Code to require certain health care policies, contracts, agreements, and plans to provide benefits for equipment, supplies, and medication for the diagnosis, treatment, and management of diabetes and for diabetes self-management education and to create the Small Business Health Care Affordability Task Force.

To the Committee on Insurance, Commerce and Labor.

Am. Sub. H. B. No. 8-Representatives Celeste, Garland, et al.

To amend section 1739.05 and to enact sections 1751.68 and 3923.84 of the Revised Code to prohibit health insurers from excluding coverage for specified services for individuals diagnosed with an autism spectrum disorder.

To the Committee on Insurance, Commerce and Labor.

Am. Sub. H. B. No. 167-Representative Murray, et al.

To amend section 3113.31 and to enact sections 9.131, 4113.80 to 4113.84, 5321.171, 5321.172, 5321.173, and 5321.174 of the Revised Code to prohibit an employer or a landlord from discriminating against a victim of domestic violence or stalking; to require a metropolitan housing authority to move a victim of domestic violence or stalking if another unit is available; to prohibit charging a fee when law enforcement officers assist a victim of domestic

violence or stalking; to allow a victim of domestic violence or stalking to take unpaid leave for purposes relating to the incident of domestic violence or stalking and to change or have changed the locks to the tenant's dwelling unit, and to permit a victim of domestic violence to terminate a rental agreement.

To the Committee on Judiciary - Civil Justice.

Sub. H. B. No. 271-Representatives Patten, Stewart, et al.

To amend sections 4117.01 and 4117.09 of the Revised Code to modify coverage of the Public Employees' Collective Bargaining Law with respect to township fire departments.

To the Committee on Insurance, Commerce and Labor.

S. R. No. 133-Senator Fedor.

Recognizing January 11 as "National Human Trafficking Awareness Day" in Ohio.

To the Committee on Judiciary - Criminal Justice.

YES - 6: SHIRLEY A. SMITH, KEITH L. FABER, DAVID GOODMAN, BILL HARRIS, CAPRI S. CAFARO, TOM NIEHAUS.

NO - 0.

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

The report of the committee was accepted.

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

REPORTS OF STANDING AND SELECT COMMITTEES

Senator Schaffer submitted the following report:

The standing committee on Environment and Natural Resources, to which was referred **S. B. No. 181**-Senator Stewart, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsor: Niehaus.

YES - 8: TIMOTHY O. SCHAFFER, JIMMY STEWART, TOM NIEHAUS, GARY W. CATES, TIMOTHY J. GRENDALL, SUSAN L. MORANO, DALE MILLER, FRED STRAHORN.

NO - 0.

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

The report of the committee was accepted.

Senator Widener submitted the following report:

The standing committee on Energy and Public Utilities, to which was referred **S. B. No. 162**-Senator Buehrer, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

YES - 12: CHRIS WIDENER, TIMOTHY O. SCHAFFER, KAREN GILLMOR, JIM HUGHES, JON A. HUSTED, JIMMY STEWART, STEPHEN BUEHRER, RAY MILLER, THOMAS SAWYER, JASON H. WILSON, JOSEPH SCHIAVONI, TOM PATTON.

NO - 0.

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

The report of the committee was accepted.

Senator Harris 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 for a new term beginning August 31, 2009 and ending at the close of business July 5, 2011.

Michael P. Bakes, Democrat, from Kent, Portage County, as a Member of the Ohio Medical Transportation Board for a term beginning April 20, 2009 and ending at the close of business July 5, 2010, replacing Indira Mulligan, who resigned.

Russell A. Westfall, Democrat, from Cadiz, Harrison County, Ohio, as a Member of the Board of Motor Vehicle Collision Repair Registration for a term beginning June 1, 2009 and ending at the close of business December 31, 2010, replacing Michael A. Martin, who passed away.

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

YES - 11: BILL HARRIS, TOM NIEHAUS, KEITH L. FABER, MARK D. WAGONER, JON A. HUSTED, JOHN A. CAREY, KEVIN J. COUGHLIN, JASON H. WILSON, RAY MILLER, SHIRLEY A. SMITH, CAPRI S. CAFARO.

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

Buehrer	Cafaro	Carey	Cates
Coughlin	Faber	Fedor	Gillmor
Goodman	Grendell	Hughes	Husted
Jones	Kearney	Miller D	Miller R
Morano	Niehaus	Patton	Sawyer
Schaffer	Schiavoni	Schuring	Seitz
Smith	Stewart	Strahorn	Turner
Wagoner	Widener	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:

Sub. S. B. No. 106-Senators Buehrer, Kearney.

Cosponsors: Senators Miller, R., Schuler, Seitz, Turner, Fedor, Gillmor, Harris, Hughes, Schiavoni, Wagoner, Wilson, Smith, Sawyer. Representatives Book, Stautberg, Harwood, Skindell, Foley, Stebelton, Okey, Adams, J., Blessing, Brown, Bubb, Carney, Chandler, Coley, Combs, DeBose, DeGeeter, Derickson, Domenick, Dyer, Evans, Fende, Gardner, Goyal, Grossman, Hackett, Hite, Huffman, Letson, Luckie, Maag, McClain, Mecklenborg, Moran, Oelslager, Pillich, Pryor, Ruhl, Sayre, Sears, Snitchler, Stewart, Szollosi, Winburn, Yuko.

To amend sections 2101.16, 2107.76, 2109.21, 2111.05, 2111.18, 2125.04, 2305.19, 5747.01, and 5815.31 of the Revised Code to exclude from the application of the savings statute certain estate and trust proceedings that have limitation periods, to raise the threshold amount for the termination or avoidance of guardianships of small estates of wards, to raise the threshold

amount for the avoidance of guardianship upon the settlement of claims of minors or adult incompetents, to clarify that termination of marriage revokes any trust provision conferring a beneficial interest on the former spouse, to modify the period within which a plaintiff in a wrongful death action may commence a new action after the reversal of a judgment for the plaintiff or the plaintiff's failure otherwise than upon the merits, and to modify the residency qualifications for a person's appointment as a guardian, were taken up.

The question being, "Shall the Senate concur in the House amendments to **Sub. S. B. No. 106**?"

Senator Cafaro moved that she be excused from voting pursuant to Senate Rule No. 57.

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

The motion was agreed to.

The question recurred, "Shall the Senate concur in the House amendments to **Sub. S. B. No. 106**?"

The yeas and nays were taken and resulted - yeas 31, nays 0, as follows:

Those who voted in the affirmative were: Senators

Buehrer	Carey	Cates	Coughlin
Faber	Fedor	Gillmor	Goodman
Grendell	Hughes	Husted	Jones
Kearney	Miller D	Miller R	Morano
Niehaus	Patton	Sawyer	Schaffer
Schiavoni	Schuring	Seitz	Smith
Stewart	Strahorn	Turner	Wagoner
Widener	Wilson		Harris-31.

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

BILLS FOR THIRD CONSIDERATION

Sub. S. B. No. 165-Senator Niehaus. Cosponsors: Senators Gibbs, Stewart, Carey, Harris, Seitz. To amend sections 1509.01, 1509.02, 1509.03, 1509.04, 1509.05, 1509.06, 1509.07, 1509.071, 1509.072, 1509.10, 1509.11, 1509.12, 1509.13, 1509.14, 1509.17, 1509.18, 1509.20, 1509.21, 1509.22, 1509.221, 1509.222, 1509.225, 1509.226, 1509.23, 1509.24, 1509.27, 1509.31, 1509.35, 1509.36, 1565.07, 1565.13, 1571.05, and 5749.06 and to enact sections 1509.021, 1509.062, 1509.073, 1509.19, 1509.34, 1509.50, 1509.60, and 1509.61 of the Revised Code to revise the Oil and Gas Law, having been informally passed, was taken up.

The question being, "Shall the bill, **Sub. S. B. No. 165**, pass?"

Senator Cafaro moved to amend as follows:

In line 245, after " (A)" delete the balance of the line

Delete lines 246 through 256 and insert " On and after the effective date of this section, no well shall be drilled within one thousand feet of a residential dwelling."

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

Senator Faber 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 18, nays 14, as follows:

Those who voted in the affirmative were: Senators

Buehrer	Carey	Cates	Coughlin
Faber	Gillmor	Goodman	Hughes
Husted	Jones	Niehaus	Schaffer
Schuring	Seitz	Stewart	Wagoner
Widener			Harris-18.

Those who voted in the negative were: Senators

Cafaro	Fedor	Grendell	Kearney
Miller D	Miller R	Morano	Patton
Sawyer	Schiavoni	Smith	Strahorn
Turner			Wilson-14.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. S. B. No. 165**, pass?"

Senator Cafaro moved to amend as follows:

In line 194, after "**1509.02.**" insert " (A)(1)"

In line 197, strike through "The" and insert " Except as provided in divisions (A)(2) and (3) of this section, the"; strike through "sole and exclusive"

In line 199, strike through "The"

Strike through lines 200 through 204

In line 205, strike through "restoration and disposal of wastes from those wells. Nothing" and insert:

" (2) On and after the effective date of this amendment, no well shall be drilled in an urbanized area unless the well will comply with the zoning

requirements of the municipal corporation or of the township, as applicable, in which the well will be located.

(3) Nothing"

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

Senator Faber 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 18, nays 14, as follows:

Those who voted in the affirmative were: Senators

Buehrer	Carey	Cates	Coughlin
Faber	Gillmor	Goodman	Hughes
Husted	Jones	Niehaus	Schaffer
Schuring	Seitz	Stewart	Wagoner
Widener			Harris-18.

Those who voted in the negative were: Senators

Cafaro	Fedor	Grendell	Kearney
Miller D	Miller R	Morano	Patton
Sawyer	Schiavoni	Smith	Strahorn
Turner			Wilson-14.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. S. B. No. 165**, pass?"

Senator Strahorn moved to amend as follows:

In line 15, delete "1509.27,"

Delete lines 600 and 601

Delete lines 2272 through 2371

In line 3152, delete "1509.27,"

In line 3153, after "5749.06" insert "and section 1509.27"

In line 6 of the title, delete "1509.27,"

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

In line 9 of the title, after "1571.18" insert ", and to repeal section 1509.27"

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

Senator Faber 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 19, nays 13, as follows:

Those who voted in the affirmative were: Senators

Buehrer	Carey	Cates	Coughlin
Faber	Gillmor	Goodman	Hughes
Husted	Jones	Niehaus	Schaffer
Schuring	Seitz	Stewart	Wagoner
Widener	Wilson		Harris-19.

Those who voted in the negative were: Senators

Cafaro	Fedor	Grendell	Kearney
Miller D	Miller R	Morano	Patton
Sawyer	Schiavoni	Smith	Strahorn
			Turner-13.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. S. B. No. 165**, pass?"

Senator Miller, D. moved to amend as follows:

In line 245, after " (A)" delete the balance of the line

Delete lines 246 through 256 and insert " On and after the effective date of this section, no well shall be drilled within three hundred feet of a residential dwelling unless the owner of the land on which the dwelling is located voluntarily has entered into an oil and gas lease agreement."

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

Senator Faber 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 17, nays 15, as follows:

Those who voted in the affirmative were: Senators

Buehrer	Carey	Cates	Coughlin
Faber	Gillmor	Goodman	Hughes
Husted	Jones	Niehaus	Schaffer
Seitz	Stewart	Wagoner	Widener
			Harris-17.

Those who voted in the negative were: Senators

Cafaro	Fedor	Grendell	Kearney
Miller D	Miller R	Morano	Patton
Sawyer	Schiavoni	Schuring	Smith
Strahorn	Turner		Wilson-15.

The amendment was laid on the table.

The question recurred, "Shall the bill, **Sub. S. B. No. 165**, pass?"

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

Those who voted in the affirmative were: Senators

Buehrer	Carey	Cates	Coughlin
Faber	Gillmor	Goodman	Hughes
Husted	Jones	Morano	Niehaus
Sawyer	Schaffer	Schiavoni	Schuring
Seitz	Stewart	Strahorn	Wagoner
Widener	Wilson		Harris-23.

Those who voted in the negative were: Senators

Cafaro	Fedor	Grendell	Kearney
Miller D	Miller R	Patton	Smith
			Turner-9.

So the bill passed.

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

Senator Niehaus moved to amend the title as follows:

Add the names: "Hughes, Schaffer, Wilson, Cates, Wagoner, Coughlin."

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

The motion was agreed to and the title so amended.

S. B. No. 162-Senator Buehrer.

Cosponsors: Senators Gibbs, Gillmor, Grendell, Patton, Seitz, Stewart, Wagoner.

To amend sections 324.01, 324.03, 1332.24, 2317.02, 2917.21, 4901.01, 4901.02, 4901.11, 4901.12, 4901.15, 4901.22, 4903.01, 4903.20, 4903.22, 4903.23, 4905.01, 4905.02, 4905.03, 4905.04, 4905.09, 4905.12, 4905.14, 4905.16, 4905.18, 4905.20, 4905.21, 4905.26, 4905.30, 4905.40, 4905.402, 4905.41, 4905.42, 4905.45, 4905.46, 4905.47, 4905.51, 4905.52, 4905.58, 4905.59, 4905.61, 4905.63, 4905.71, 4905.73, 4905.84, 4905.99, 4907.01, 4907.14, 4907.30, 4909.01, 4909.02, 4909.03, 4909.17, 4911.01, 4921.01, 4923.01, 4927.01, 4927.02, 4929.02, 4931.02, 4931.03, 4931.04, 4931.11, 4931.99, 4933.14, 4933.18, 4933.19, 4939.01, 5515.01, 5733.57, 6101.17, and 6115.21, to amend sections 4931.11 (4931.05) and 4931.35 (4931.06) for the purpose of adopting new section numbers as shown in parentheses, to enact

new sections 4927.03 and 4927.04 and sections 4927.05, 4927.06, 4927.07, 4927.08, 4927.09, 4927.10, 4927.11, 4927.12, 4927.13, 4927.14, 4927.15, 4927.16, 4927.17, 4927.18, and 4931.01, and to repeal sections 4905.041, 4905.23, 4905.231, 4905.24, 4905.241, 4905.242, 4905.243, 4905.244, 4905.25, 4905.381, 4905.49, 4905.491, 4905.50, 4927.03, 4927.04, 4931.06, 4931.07, 4931.12, 4931.13, 4931.14, 4931.15, 4931.16, 4931.17, 4931.18, 4931.19, 4931.21, 4931.22, 4931.25, 4931.26, 4931.27, 4931.28, 4931.29, 4931.30, and 4931.31 of the Revised Code to revise state regulation of telephone companies, remove telegraph companies from utility regulation, and revise law concerning confidential information of public utilities, was considered the third time.

The question being, "Shall the bill, **Sub. S. B. No. 162**, pass?"

Senator Sawyer moved to amend as follows:

In line 3613, after "(4)" insert "The Consumers' Counsel or an officer or employee of the Office of the Consumers' Counsel who shall serve as the designee of the Consumers' Counsel;

(5)"

In line 3615, delete "(5)" and insert "(6)"

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

The yeas and nays were taken and resulted - yeas 31, nays 1, as follows:

Those who voted in the affirmative were: Senators

- | | | | |
|----------|-----------|----------|------------|
| Buehrer | Cafaro | Carey | Cates |
| Coughlin | Faber | Fedor | Gillmor |
| Goodman | Grendell | Hughes | Husted |
| Jones | Kearney | Miller D | Miller R |
| Morano | Niehaus | Patton | Sawyer |
| Schaffer | Schiavoni | Schuring | Seitz |
| Smith | Strahorn | Turner | Wagoner |
| Widener | Wilson | | Harris-31. |

Senator Stewart voted in the negative-1.

The motion to amend was agreed to.

The question being, "Shall the bill, **Sub. S. B. No. 162**, pass as amended?"

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

Those who voted in the affirmative were: Senators

- | | | | |
|----------|--------|---------|---------|
| Buehrer | Cafaro | Carey | Cates |
| Coughlin | Faber | Gillmor | Goodman |
| Grendell | Hughes | Husted | Jones |

Kearney	Miller D	Miller R	Morano
Niehaus	Patton	Sawyer	Schaffer
Schiavoni	Seitz	Stewart	Strahorn
Turner	Wagoner	Widener	Wilson
			Harris-29.

Senators Fedor, Schuring, and Smith voted in the negative-3.

So the bill passed.

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

Senator Buehrer moved to amend the title as follows:

Add the names: "Harris, Jones, Kearney, Strahorn, Wilson, Widener, Turner, Schiavoni, Miller, R., Hughes."

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

The motion was agreed to and the title so amended.

Am. S. B. No. 183-Senator Schaffer.

Cosponsors: Senators Patton, Kearney.

To amend section 4703.18 of the Revised Code to eliminate a grandfather exemption from the requirements of the Architects Law granted to certain corporations, was considered the third time.

The question being, "Shall the bill, **Am. S. B. No. 183**, pass?"

Senator Widener moved that he be excused from voting pursuant to Senate Rule No. 57.

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

The motion was agreed to.

The question recurred, "Shall the bill, **Am. S. B. No. 183**, pass?"

The yeas and nays were taken and resulted - yeas 30, nays 1, as follows:

Those who voted in the affirmative were: Senators

Buehrer	Cafaro	Carey	Cates
Coughlin	Faber	Fedor	Gillmor
Goodman	Hughes	Husted	Jones
Kearney	Miller D	Miller R	Morano
Niehaus	Patton	Sawyer	Schaffer
Schiavoni	Schuring	Seitz	Smith
Stewart	Strahorn	Turner	Wagoner
Wilson			Harris-30.

Senator Grendell voted in the negative-1.

So the bill passed.

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

Senator Schaffer moved to amend the title as follows:

Add the names: "Buehrer, Harris, Husted, Wagoner, Wilson, Hughes, Miller, R., Gillmor."

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

The motion was agreed to and the title so amended.

INTRODUCTION AND FIRST CONSIDERATION OF BILLS

The following bill was introduced and considered the first time:

S. B. No. 220-Senator Jones.

Cosponsors: Senators Carey, Miller, D., Hughes, Schiavoni, Wagoner.

To amend section 955.011 of the Revised Code to revise the definition of "mobility impaired person" to include a person who is diagnosed with autism for purposes of the statutes governing assistance dogs.

OFFERING OF RESOLUTIONS

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

S. R. No. 136-Senator Hughes.

Honoring the Hilliard Davidson High School football team on winning the 2009 Division I State Championship.

S. R. No. 137-Senator Wagoner.

Honoring the Huron High School volleyball team on winning the 2009 Division III State Championship.

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

So the resolutions were adopted.

On the motion of Senator Niehaus, the Senate adjourned until Wednesday, December 16, 2009 at 1:30 p.m.

Attest:

VINCENT L. KEERAN,
Clerk.