

OHIO

SENATE

JOURNAL

CORRECTED VERSION
WEDNESDAY, FEBRUARY 1, 2012

ONE HUNDRED FORTIETH DAY
Senate Chamber, Columbus, Ohio
Wednesday, February 1, 2012, 1:30 p.m.

The Senate met pursuant to adjournment.

Prayer was offered by Pastor Brian Hanson, Cedarville Baptist Church, Cedarville, 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 Niehaus reports for the Standing Committee on Rules and Reference, recommending that the following bills, standing in order for second consideration, be referred to committee as recommended:

S. B. No. 286-Senator Jones, et al.

To enact section 4731.297 of the Revised Code to create a visiting clinical professional development certificate for certain physicians who are not licensed in Ohio.

To the Committee on Health, Human Services and Aging.

S. B. No. 287-Senators LaRose, Cafaro, et al.

To amend sections 4757.41, 4758.01, 4758.02, 4758.10, 4758.20, 4758.21, 4758.22, 4758.23, 4758.24, 4758.26, 4758.27, 4758.30, 4758.40, 4758.41, 4758.42, 4758.43, 4758.44, 4758.45, 4758.51, 4758.55, 4758.56, 4758.59, 4758.61, and 4758.70; to enact sections 4758.221, 4758.241, 4758.39, 4758.46, 4758.47, 4758.52, 4758.54, and 4758.561; and to repeal sections 3793.07, 4758.04, 4758.53, and 4758.58 of the Revised Code to revise the law governing the professions of chemical dependency counseling and alcohol and other drug prevention.

To the Committee on Health, Human Services and Aging.

YES - 8: THOMAS E. NIEHAUS, TOM PATTON, KEITH L. FABER, SHANNON JONES, EDNA BROWN, NINA TURNER, JOSEPH SCHIAVONI, ERIC H. KEARNEY.

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 Bacon submitted the following report:

The standing committee on Insurance, Commerce and Labor, to which was referred **Am. H. B. No. 207**-Representatives Balderson, Letson, et al., having had the same under consideration, reports it back and recommends its passage.

Co-Sponsors: Beagle, Faber, Bacon, Hite, Schaffer, Jordan, Sawyer.

YES - 12: BILL BEAGLE, TIMOTHY O. SCHAFFER, SHANNON JONES, JIM HUGHES, KEITH L. FABER, KEVIN BACON, JOSEPH SCHIAVONI, EDNA BROWN, ERIC H. KEARNEY, CLIFF HITE, THOMAS SAWYER, KRIS JORDAN.

NO - 0.

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

The report of the committee was accepted.

Senator Hite submitted the following report:

The standing committee on Agriculture, Environment and Natural Resources, to which was referred **S. B. No. 130**-Senators Hughes, Cates, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsor: Hite.

YES - 9: CLIFF HITE, TIMOTHY O. SCHAFFER, DAVE BURKE, KEITH L. FABER, GAYLE MANNING, JOSEPH SCHIAVONI, LOU GENTILE, TROY BALDERSON, ERIC H. KEARNEY.

NO - 0.

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

The report of the committee was accepted.

Senator Wagoner submitted the following report:

The standing committee on Judiciary, to which was referred **H. B. No. 20**-Representatives Burke, Letson, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsors: Wagoner, Obhof.

YES - 10: MARK D. WAGONER, FRANK LAROSE, JOHN EKLUND, LARRY OBHOF, ERIC H. KEARNEY, NINA TURNER, MICHAEL J. SKINDELL, SCOTT OELSLAGER, BILL SEITZ, KEITH L. FABER.

NO - 0.

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

The report of the committee was accepted.

Senator Wagoner submitted the following report:

The standing committee on Judiciary, to which was referred **S. B. No. 202**-Senator Seitz, et al., having had the same under consideration, reports it back and recommends its passage.

Co-Sponsors: Eklund, LaRose.

YES - 7: MARK D. WAGONER, SCOTT OELSLAGER, KEITH L. FABER, JOHN EKLUND, LARRY OBHOF, FRANK LAROSE, BILL SEITZ.

NO - 3: NINA TURNER, MICHAEL J. SKINDELL, ERIC H. KEARNEY.

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

The report of the committee was accepted.

Senator Wagoner submitted the following report:

The standing committee on Judiciary, to which was referred **S. B. No. 268**-Senator Eklund, et al., having had the same under consideration, reports back a substitute bill and recommends its passage.

Co-Sponsor: Wagoner.

YES - 10: MARK D. WAGONER, SCOTT OELSLAGER, KEITH L. FABER, JOHN EKLUND, LARRY OBHOF, NINA TURNER, MICHAEL J. SKINDELL, FRANK LAROSE, BILL SEITZ, ERIC H. KEARNEY.

NO - 0.

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

The report of the committee was accepted.

BILLS FOR THIRD CONSIDERATION

Sub. H. B. No. 32-Representative Amstutz.

Cosponsors: Representatives Burke, Carey, Slaby, Derickson, Patmon, Henne, Hackett, Wachtmann, Barnes, Gerberry, Letson, Mallory, Newbold, Weddington, Winburn, Speaker Batchelder.

To enact section 4733.011 of the Revised Code to exempt certain plans and measurements relating to household or small flow on-site sewage treatment systems from the Professional Engineers and Surveyors Law, and to authorize the use of the enforcement provisions of the Household and Small Flow On-site Sewage Treatment Systems Law to enforce existing rules governing household sewage disposal systems until those rules are superseded by rules that are required to be adopted under that Law, was considered the third time.

The question being, "Shall the bill, **Sub. H. B. No. 32**, pass?"

Senator Schaffer 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. 32**, pass?"

The yeas and nays were taken and resulted - yeas 26, nays 3, as follows:

Those who voted in the affirmative were: Senators

Bacon	Balderson	Beagle	Brown
Burke	Coley	Eklund	Faber
Gentile	Hite	Hughes	Jones
Jordan	Kearney	LaRose	Lehner
Manning	Obhof	Patton	Sawyer
Schiavoni	Seitz	Skindell	Wagoner
Widener			Niehaus-26.

Senators Cafaro, Tavares, and Turner voted in the negative-3.

So the bill passed.

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

Senator Hite moved to amend the title as follows:

Add the names: "Coley, Hite, Lehner, Patton, Seitz."

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

The motion was agreed to and the title so amended.

Sub. H. B. No. 268-Representatives Szollosi, Butler.

Cosponsors: Representatives Pillich, Garland, Letson, Antonio, Gardner, Yuko, Stinziano, Okey, Murray, Anielski, Baker, Barnes, Blair, Bulp, Carney, DeGeeter, Gonzales, Grossman, Hagan, C., Johnson, Luckie, Mallory, Martin, McClain, Milkovich, Patmon, Peterson, Weddington, Williams, Winburn, Speaker Batchelder. Senator Skindell.

To amend sections 3.08, 163.10, 311.17, 509.15, 733.73, 733.74, 1901.25, 1907.28, 2101.30, 2311.42, 2313.01, 2313.02, 2313.03, 2313.05, 2313.11, 2313.12, 2313.13, 2313.16, 2313.18, 2313.19, 2313.20, 2313.251, 2313.29, 2313.34, 2313.38, 2313.41, 2313.42, 2313.46, 2313.47, 2313.99, 2335.28, 2938.05, 2938.14, 2939.02, 2939.03, 2945.24, 2947.23, 3314.03, 3326.11, 5155.12, and 5563.05, to amend, for the purpose of adopting new section numbers as indicated in parentheses, sections 2313.05 (2313.04), 2313.11 (2313.18), 2313.13 (2313.15), 2313.16 (2313.14), 2313.18 (2313.19), 2313.19 (2313.07), 2313.20 (2313.08), 2313.251 (2313.10), 2313.29 (2313.20), 2313.34 (2313.22), 2313.38 (2313.11), 2313.41 (2313.16), 2313.42 (2313.17), 2313.46 (2313.24), and 2313.47 (2313.13), to enact new sections 2313.05, 2313.06, 2313.09, 2313.21, and 2313.23, and to repeal sections 2313.04, 2313.06, 2313.07, 2313.08, 2313.09, 2313.10, 2313.14, 2313.15, 2313.21, 2313.22, 2313.23, 2313.24, 2313.25, 2313.26, 2313.30, 2313.32, 2313.33, 2313.35, 2313.36, 2313.37, 2313.39, 2313.40, 2313.43, and 2313.45 of the Revised Code to modernize the language of, to reorganize, and to remove obsolete provisions from the jury service law, was considered the third time.

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

The yeas and nays were taken and resulted - yeas 30, nays 0, as follows:

Those who voted in the affirmative were: Senators

Bacon	Balderson	Beagle	Brown
Burke	Cafaro	Coley	Eklund
Faber	Gentile	Hite	Hughes
Jones	Jordan	Kearney	LaRose
Lehner	Manning	Obhof	Patton
Sawyer	Schaffer	Schiavoni	Seitz
Skindell	Tavares	Turner	Wagoner
Widener			Niehaus-30.

So the bill passed.

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

Senator Wagoner moved to amend the title as follows:

Add the names: "Jones, Obhof, Sawyer, Wagoner."

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

The motion was agreed to and the title so amended.

Sub. S. B. No. 130-Senators Hughes, Cates.

Cosponsors: Senators Lehner, Seitz, Skindell, Turner, Hite.

To amend sections 955.02, 955.10, 955.12, 955.20, 955.26, and 1901.183 and to enact sections 956.01 to 956.06 and 956.08 to 956.21 of the Revised Code to regulate certain dog breeding kennels, dog retailers, and animal rescues for dogs, was considered the third time.

The question being, "Shall the bill, **Sub. S. B. No. 130**, pass?"

The yeas and nays were taken and resulted - yeas 30, nays 0, as follows:

Those who voted in the affirmative were: Senators

Bacon	Balderson	Beagle	Brown
Burke	Cafaro	Coley	Eklund
Faber	Gentile	Hite	Hughes
Jones	Jordan	Kearney	LaRose
Lehner	Manning	Obhof	Patton
Sawyer	Schaffer	Schiavoni	Seitz
Skindell	Tavares	Turner	Wagoner
Widener			Niehaus-30.

So the bill passed.

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

Senator Hughes moved to amend the title as follows:

Add the names: "Beagle, Burke, Gentile, Jones, LaRose, Niehaus, Patton, Sawyer, Schiavoni, Tavares, Wagoner."

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

The motion was agreed to and the title so amended.

S. B. No. 202-Senator Seitz.

Cosponsors: Senators Patton, Grendell, Eklund, LaRose.

To enact section 2305.402 of the Revised Code to specify the responsibility of a possessor of real property to a trespasser and the circumstances in which the possessor may be liable in a tort action for the death or injury of a trespasser, was considered the third time.

The question being, "Shall the bill, **S. B. No. 202**, pass?"

The yeas and nays were taken and resulted - yeas 26, nays 4, as follows:

Those who voted in the affirmative were: Senators

Bacon	Balderson	Beagle	Burke
Cafaro	Coley	Eklund	Faber
Gentile	Hite	Hughes	Jones
Jordan	Kearney	LaRose	Lehner
Manning	Obhof	Patton	Sawyer
Schaffer	Schiavoni	Seitz	Wagoner
Widener			Niehaus-26.

Senators Brown, Skindell, Tavares, and Turner voted in the negative-4.

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: "Bacon, Balderson, Beagle, Burke, Coley, Faber, Hite, Hughes, Jones, Jordan, Lehner, Manning, Niehaus, Schaffer, Widener."

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

The motion was agreed to and the title so amended.

S. B. No. 260-Senator Obhof.

Cosponsors: Senators Jones, Schaffer, Seitz, Patton, Bacon, Kearney, Wagoner, Brown.

To enact section 5.2268 of the Revised Code to designate May as "Pediatric Stroke Awareness Month", was considered the third time.

The question being, "Shall the bill, **S. B. No. 260**, pass?"

Senator Faber moved to amend as follows:

In line 4, delete "5.2268" and insert "5.2275"

In line 6, delete " **5.2268**" and insert " **5.2275**"

In line 1 of the title, delete "5.2268" and insert "5.2275"

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

The motion was agreed to.

The question recurred, "Shall the bill, **S. B. No. 260**, pass?"

The yeas and nays were taken and resulted - yeas 30, nays 0, as follows:

Those who voted in the affirmative were: Senators

Bacon	Balderson	Beagle	Brown
Burke	Cafaro	Coley	Eklund

Faber	Gentile	Hite	Hughes
Jones	Jordan	Kearney	LaRose
Lehner	Manning	Obhof	Patton
Sawyer	Schaffer	Schiavoni	Seitz
Skindell	Tavares	Turner	Wagoner
Widener			Niehaus-30.

So the bill passed.

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

Senator Obhof moved to amend the title as follows:

Add the names: "Balderson, Beagle, Burke, Cafaro, Coley, Eklund, Faber, Grendell, Hite, Hughes, Lehner, Manning, Schiavoni, Skindell, Tavares, Turner, Widener."

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 Eklund.

Cosponsors: Senators Seitz, Patton, LaRose, Jones, Wagoner.

To amend sections 2901.07, 2953.51, 2953.52, and 2953.53 of the Revised Code to provide for the taking of a DNA sample from a person who is charged with a felony but not arrested for the offense or whose DNA sample related to a felony offense was not taken when required and to provide for a court order, upon the person's request, requiring the Bureau of Criminal Identification and Investigation to seal DNA specimens, records, and profiles taken from a person when the person is found not guilty, the charges are dismissed with prejudice, or the charges are dismissed without prejudice and the statute of limitations has expired, 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 30, nays 0, as follows:

Those who voted in the affirmative were: Senators

Bacon	Balderson	Beagle	Brown
Burke	Cafaro	Coley	Eklund
Faber	Gentile	Hite	Hughes
Jones	Jordan	Kearney	LaRose
Lehner	Manning	Obhof	Patton
Sawyer	Schaffer	Schiavoni	Seitz
Skindell	Tavares	Turner	Wagoner
Widener			Niehaus-30.

So the bill passed.

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

Senator Eklund moved to amend the title as follows:

Add the names: "Bacon, Coley, Hite, Hughes, Lehner, Niehaus, Widener."

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

The motion was agreed to and the title so amended.

MOTIONS

Senator Jones moved that Senators absent the week of Sunday, January 29, 2012, 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. 288-Senator LaRose.

Cosponsors: Senators Seitz, Patton.

To amend sections 124.23, 124.26, 3319.085, 3737.881, 3781.10, 4123.022, 5321.04, 5903.10, 5903.11, 5911.07, 5923.12, 5924.01, 5924.02, 5924.03, 5924.06, 5924.07, 5924.08, 5924.09, 5924.10, 5924.11, 5924.13, 5924.14, 5924.15, 5924.16, 5924.17, 5924.18, 5924.19, 5924.20, 5924.22, 5924.23, 5924.24, 5924.25, 5924.26, 5924.27, 5924.28, 5924.29, 5924.30, 5924.31, 5924.32, 5924.33, 5924.34, 5924.35, 5924.36, 5924.37, 5924.38, 5924.39, 5924.41, 5924.42, 5924.43, 5924.44, 5924.45, 5924.46, 5924.47, 5924.48, 5924.49, 5924.50, 5924.51, 5924.52, 5924.54, 5924.56, 5924.57, 5924.58, 5924.59, 5924.60, 5924.63, 5924.72, 5924.73, 5924.74, 5924.75, 5924.76, 5924.77, 5924.78, 5924.82, 5924.83, 5924.84, 5924.85, 5924.86, 5924.87, 5924.88, 5924.89, 5924.90, 5924.91, 5924.92, 5924.93, 5924.94, 5924.95, 5924.96, 5924.97, 5924.98, 5924.103, 5924.108, 5924.109, 5924.111, 5924.113, 5924.115, 5924.128, 5924.131, 5924.132, 5924.133, and 5924.146, to enact new sections 5924.21, 5924.61, 5924.62, 5924.64, 5924.65, 5924.66, 5924.70, 5924.71, and 5924.120 and sections 4743.04, 5924.501, 5924.502, 5924.503, 5924.504, 5924.505, 5924.506, 5924.581, 5924.582, 5924.67, 5924.68, 5924.69, 5924.761, and 5924.1121, and to repeal sections 5924.04, 5924.12, 5924.21, 5924.61, 5924.62, 5924.64, 5924.65, 5924.66, 5924.70, 5924.71, 5924.99, 5924.100, 5924.101, 5924.102, 5924.104, 5924.105, 5924.106, 5924.110, 5924.114, 5924.118, 5924.119, 5924.120, 5924.122, 5924.1231, 5924.124, 5924.125, 5924.126, 5924.129, 5924.130, 5924.145, and 5924.147 of the Revised Code to allow extra credit to military veterans and reserve component members on state civil service examinations, to

provide for the reemployment of nonteaching school employees following military service in accordance with federal law, to extend the period of time within which persons serving in the Ohio National Guard may meet continuing education requirements for occupational licenses and renew their licenses, to require that workers' compensation claims of members of the organized militia be determined in accordance with applicable line of duty regulations, to require landlords to observe the rights of tenants who are service members under federal law, to recognize former members of the Ohio National Guard as veterans with regard to burial and related rights, to modify the order of priority in which veterans may participate in job training programs, to permit but not require the use of armories by patriotic and national organizations, to update references in the Revised Code to federal statutes relating to the National Guard, to conform the Ohio Code of Military Justice to the United States Code of Military Justice, and to make other changes to the Ohio Code of Military Justice.

OFFERING OF RESOLUTIONS

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

S. R. No. 194-Senators Bacon, Brown, Tavares.

Recognizing April 2012 as Child Abuse and Neglect Prevention Month in Ohio.

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

So the resolution was 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:

Sub. S. B. No. 223 -Senator Bacon

Cosponsors: Senators Wagoner, Faber, Turner, Kearney, Obhof, Balderson, Beagle, Burke, Cafaro, Coley, Daniels, Eklund, Hite, Hughes, Jones, Lehner, Manning, Niehaus, Oelslager, Sawyer, Schaffer, Schiavoni, Seitz, Smith, Tavares, Widener Representatives Winburn, Pillich, Williams, Slaby, Hayes, Bulp, Sprague, Uecker, Young, Conditt, Blessing, Anielski, Antonio, Boose, Boyd, Buchy, Combs, DeVitis, Dovilla, Grossman, Hackett, Hall, Hill, Johnson, McGregor, Newbold, O'Brien, Patmon, Roegner, Thompson, Speaker Batchelder

To amend sections 2913.05 and 4719.17 and to enact section 109.88 of the

Revised Code to allow the Attorney General to investigate the offenses of unauthorized use of property and telecommunications fraud, to modify the penalties for telecommunications fraud, and to create the offense of telecommunications fraud perpetrated against an elderly person or disabled adult.

As a substitute bill, in which the concurrence of the Senate is requested.

Attest: Jennifer E. Woodring,
Clerk.

Pursuant to Senate Rule No. 44, Senator Faber moved that the amendments of the House of Representatives to **Sub. S. B. No. 223** be brought up for consideration.

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

The motion was agreed to.

The question being, "Shall the Senate concur in the amendments of the House of Representatives?"

The yeas and nays were taken and resulted - yeas 9, nays 21, as follows:

Those who voted in the affirmative were: Senators

Cafaro	Gentile	Hughes	Kearney
Schaffer	Schiavoni	Skindell	Tavares
			Turner-9.

Those who voted in the negative were: Senators

Bacon	Balderson	Beagle	Brown
Burke	Coley	Eklund	Faber
Hite	Jones	Jordan	LaRose
Lehner	Manning	Obhof	Patton
Sawyer	Seitz	Wagoner	Widener
			Niehaus-21.

So the Senate did not concur 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:

Am. H. B. No. 215 -Representative Dovilla - et al.

Attest:

Jennifer E. Woodring,
Clerk.

MESSAGE FROM THE PRESIDENT

Pursuant to Senate Rule 19 and 20, the President of the Senate makes the following appointment changes to the following Senate Standing Committee:

- **Removes** Senator Cafaro as a member of the Standing Committee on Rules and Reference.
- **Appoints** Senator Kearney as a member and the ranking minority member of the Standing Committee on Rules and Reference.
- **Removes** Senator Smith as a member of the Standing Committee on Rules and Reference.
- **Appoints** Senator Turner as a member of the Standing Committee on Rules and Reference.

On the motion of Senator Faber, the Senate adjourned until Thursday, February 2, 2012 at 11:00 o'clock a.m.

Attest:

VINCENT L. KEERAN,
Clerk.