



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Bethany Boyd

H.B. 453

132nd General Assembly
(As Introduced)

Reps. Greenspan, Antonio, Boyd, Huffman, Kick, Seitz, Sweeney

BILL SUMMARY

- Requires that all rights and interests in discoveries, inventions, or patents made by any employee of a charter county hospital using hospital facilities or with hospital funding are the charter county hospital's property, and not that of the employee.
 - Authorizes the charter county hospital's board of county hospital trustees to dispose of, upon terms the board directs, all rights to, interests in, or income from any discoveries, inventions, or patents that the charter county hospital owns or may acquire.
 - Authorizes the board to establish rules under which a charter county hospital employee may solicit or accept, or a person may give to an employee, a financial interest in any firm, corporation, or other association to which the board has assigned, licensed, transferred, or sold the charter county hospital's interests in its intellectual property.
 - Specifies requirements the rules must include, if the board establishes rules.
 - Requires that the Ohio Ethics Commission retain authority to provide assistance to the board in implementing the bill and in matters outside the scope of the board's rules.
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CONTENT AND OPERATION

Charter county hospital's ownership of intellectual property

The bill requires that all rights and interests in discoveries, inventions, or patents made by any employee of a charter county hospital using hospital facilities or funding

are the charter county hospital's property, and not that of the employee.¹ The bill applies only to county hospitals based in charter counties, i.e., Cuyahoga and Summit;² currently, only Cuyahoga County has a county hospital, MetroHealth Medical Center.

Specifically, the bill requires that all rights and interests in discoveries, inventions, or patents are the sole property of a charter county hospital if they result from research or investigation conducted (1) in an experiment station, bureau, laboratory, research facility, or other facility of the charter county hospital, or (2) by employees of the charter county hospital acting within the scope of their employment or with funding, equipment, or infrastructure provided by or through the charter county hospital. No person, firm, association, corporation, or governmental agency that uses charter county hospital facilities in connection with conducting research or investigation and no employee of such a hospital participating in or making discoveries or inventions, has any rights to or interest in such discoveries or inventions,³ including income therefrom, except as may, by determination of the board of county hospital trustees of a charter county hospital, be assigned, licensed, transferred, or paid to persons or entities at the board's discretion, or in accordance with rules adopted by the board (both exceptions are addressed below).⁴

Disposition of charter county hospital's intellectual property

Disposition by direction of the board

As may be determined from time to time by the charter county hospital's board of county hospital trustees, the charter county hospital may retain, assign, license, transfer, sell, or otherwise dispose of, in whole or in part and upon such terms as the board may direct, any and all rights to, interests in, or income from any discoveries, inventions, or patents that the charter county hospital owns or may acquire. The dispositions may be to any individual, firm, association, corporation, or governmental agency, or employee of the charter county hospital, as the board may direct. All income or proceeds derived or retained from the dispositions must be applied to the general or special use of the charter county hospital as determined by the board.⁵

¹ R.C. 339.062(A) and (B).

² Cuyahoga and Summit counties are the only two counties that have adopted charters for their governance, under the authority granted to them by Section 3 of Article X of the Ohio Constitution.

³ As a clarification and for consistency, perhaps patents should be included in this prohibition.

⁴ R.C. 339.062(B).

⁵ R.C. 339.062(C).



Disposition pursuant to the board's rules, if any are established

Notwithstanding any Revised Code provision to the contrary, including the "revolving door" ethics law that applies to public officers,⁶ the ethics law that prohibits public officers from receiving compensation for services other than from the agency by which they are employed,⁷ and the laws prohibiting public officials from having an unlawful interest in a public contract and public servants from soliciting or accepting improper compensation,⁸ the board of county hospital trustees of a charter county hospital may, but is not required to, establish rules, in accordance with existing law,⁹ that set forth circumstances under which an employee of the charter county hospital may solicit or accept, and under which a person may give or promise to give to an employee, a financial interest in any firm, corporation, or other association that the board has assigned, licensed, transferred, or sold the charter county hospital's interests in¹⁰ its intellectual property, including discoveries or inventions made or created by that employee or in patents issued to that employee. (This sentence in the bill is not clear. Perhaps for clarity the bill should state "to whom the board has assigned . . ." instead of "that the board has assigned") The rules, if established, must include all of the following:¹¹

- ♦ A requirement that each charter county hospital employee disclose to the board any financial interest the employee holds in a firm, corporation, or other association to which the board has assigned, licensed, transferred, or sold the charter county hospital's interests in its intellectual property.

- ♦ A requirement that all disclosures made by the employee are reviewed by officials designated by the board. The designated officials are required to determine the information that must be disclosed and safeguards that are to be applied in order to manage, reduce, or eliminate any actual or potential conflict of interest.

⁶ R.C. 102.03, not in the bill.

⁷ R.C. 102.04, not in the bill.

⁸ R.C. 2921.42 and 2921.43, not in the bill.

⁹ The existing law to which the bill refers, R.C. 339.06, not in the bill, does not contain any type of procedure the board must follow to establish rules.

¹⁰ The bill does not include a reference to the hospital disposing of its "rights to" or "income from" its intellectual property, which does not track with the board's authority in R.C. 339.062(C).

¹¹ R.C. 339.062(D)(1) and (2).



♦ A requirement that in implementing rules, all board members of the charter county hospital must be governed by the Ethics Laws for public officers¹² and the laws that prohibit them from having an unlawful interest in a public contract and from soliciting or accepting improper compensation.¹³

♦ Guidelines to ensure that any financial interest held by any employee of the charter county hospital does not result in misuse of the hospital's employees or resources for the benefit of the firm, corporation, or other association in which the interest is held or does not otherwise interfere with duties and responsibilities of the employee who holds the interest.

The board's rules may include other provisions at the board's discretion.¹⁴

Assistance from the Ohio Ethics Commission

Notwithstanding the bill's language that, in order to give them authority to adopt rules, excludes the charter county hospital's board of county hospital trustees from the "revolving door" ethics law that applies to public officers, the ethics law that prohibits public officers from receiving compensation for services other than from the agency by which they are employed, and the laws prohibiting public officials from having an unlawful interest in a public contract and public servants from soliciting or accepting improper compensation, the bill provides that the Ohio Ethics Commission retains authority to provide assistance to the board in the implementation of its rules and to address any matter that is outside the bill's scope or the scope of the rules the board establishes.¹⁵

HISTORY

ACTION	DATE
Introduced	12-19-17

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¹² R.C. Chapter 102., not in the bill.

¹³ R.C. 2921.42 and 2921.43, not in the bill.

¹⁴ R.C. 339.062(D)(3).

¹⁵ R.C. 339.062(E). The Ethics Commission's authority under this provision is not clear. Perhaps the bill should refer to the board's authority under R.C. 339.062(C) to dispose of intellectual property at its own direction, or should specify how the Commission may assist the board.

