



OHIO LEGISLATIVE SERVICE COMMISSION

Bill Analysis

Emily E. Wendel

Sub. H.B. 453*

132nd General Assembly

(As Reported by S. Government Oversight and Reform)

Reps. Greenspan, Antonio, Boyd, Huffman, Kick, Seitz, Sweeney, Hambley, Arndt, Carfagna, Anielski, Barnes, Howse, Kent, LaTourette, Lepore-Hagan, Rogers, Ryan, Sprague, West

BILL SUMMARY

- Specifies that a charter county hospital owns all rights to intellectual property resulting from research conducted in the hospital's facilities or by its employees acting within the scope of their employment or with hospital funding.
 - Authorizes the hospital's board of trustees to dispose of all rights to any intellectual property that the charter county hospital owns or may acquire.
 - Requires the board to adopt certain rules under which a hospital employee may receive a financial interest in any individual, firm, association, corporation, or governmental agency to which the board has sold the hospital's rights to its intellectual property, notwithstanding the requirements of the Ethics Law.
 - Requires the Ohio Ethics Commission, at the request of the hospital's board, to advise the board in implementing the board's rules and to address matters outside the scope of those rules.
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CONTENT AND OPERATION

Charter county hospital's ownership of intellectual property

The bill specifies that a charter county hospital owns all rights to, interests in, and income from intellectual property, including discoveries, inventions, or patents,

* This analysis was prepared before the report of the Senate Government Oversight and Reform Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.

resulting from research conducted in the hospital's facilities or by its employees acting within the scope of their employment or with hospital funding. The bill applies only in counties that have adopted charters (Cuyahoga and Summit). Currently, only Cuyahoga County has a county hospital, MetroHealth Medical Center.

Specifically, under the bill, all rights to, interests in, and income from intellectual property, including discoveries, inventions, or patents, are the sole property of a charter county hospital if they result from research or investigation conducted under either of the following circumstances:

- ◆ In an experiment station, bureau, laboratory, research facility, or other facility of the hospital;
- ◆ By employees of the hospital acting within the scope of their employment or with funding, equipment, or infrastructure provided by or through the hospital.

No individual, firm, association, corporation, or governmental agency that uses the hospital's facilities in connection with conducting research or investigation, and no employee of the hospital participating in or making discoveries or inventions or obtaining patents, has any rights to, interests in, or income from that intellectual property, including discoveries, inventions, or patents, unless the hospital's board of trustees directs otherwise, as discussed below.¹

Disposition of charter county hospital's intellectual property

The bill allows a charter county hospital's board of trustees to retain, assign, license, transfer, sell, or otherwise dispose of any and all rights to, interests in, or income from any intellectual property, including discoveries, inventions, or patents, that the hospital owns or may acquire. The board may make those dispositions in whole or in part, and on the terms directed by the board, to any individual, firm, association, corporation, or governmental agency, or to an employee of the hospital. The board must apply all income or proceeds derived or retained from the dispositions to the general or special use of the hospital.²

Hospital employee financial interests

Generally

Notwithstanding any Revised Code provision to the contrary (see "**Ethics Law exception**," below), the board of trustees of a charter county hospital must adopt rules

¹ R.C. 339.062(A) and (B). See also Ohio Const., art. X, sec. 3, which allows counties to adopt charters.

² R.C. 339.062(C).

that set forth circumstances under which an employee of the hospital may solicit or accept, and under which a person may give or promise to give to that employee, a financial interest in any individual, firm, association, corporation, or governmental agency to which the board has assigned, licensed, transferred, sold, or otherwise disposed of the hospital's rights to, interests in, or income from its intellectual property, including discoveries or inventions made or created by that employee or patents issued to that employee. For example, if a hospital employee created a vaccine and the hospital sold the patent for that vaccine to a corporation, the rules would govern the circumstances under which the employee could receive a financial interest in the corporation.

The rules must include all of the following, and may include other provisions at the board's discretion:³

- ♦ A requirement that each hospital employee disclose to the board any financial interest the employee holds in any individual, firm, association, corporation, or governmental agency to which the board has assigned, licensed, transferred, sold, or otherwise disposed of the hospital's rights to, interests in, or income from its intellectual property.

- ♦ A requirement that all disclosures made by the employee be reviewed by officials designated by the board. The designated officials must 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.

- ♦ A requirement that in implementing rules, all hospital board members be governed by the Ethics Law and related criminal prohibitions, as described below.

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

Ethics Law exception

The bill requires the hospital board to adopt the rules discussed above to allow a hospital employee to receive a financial interest in an entity to which the hospital has sold its intellectual property, despite several provisions of the Ethics Law and related criminal prohibitions that might conflict with that action. Specifically, the bill cites the sections of law that prohibit public officials and employees from doing the following:

³ R.C. 339.062(D). See also R.C. 339.06, not in the bill, which generally allows the board to adopt rules.

- ♦ Representing certain persons before the official or employee's former agency (the "revolving door" statute);
- ♦ Disclosing or using confidential information without appropriate authorization;
- ♦ Participating in license or rate-making proceedings that directly affect certain persons or businesses in which the official or employee or the official's or employee's immediate family has a financial interest;
- ♦ Seeking or accepting anything of value that is of such a character as to manifest a substantial and improper influence upon the public official or employee with respect to that person's duties;
- ♦ Accepting an honorarium or certain types of travel expenses;
- ♦ Soliciting or accepting improper compensation;
- ♦ Having an unlawful interest in a public contract.

In the example mentioned above, in which a hospital employee who created a vaccine received a financial interest in the corporation to which the hospital sold the patent for the vaccine, the Ethics Law normally might prohibit the employee from receiving compensation from the corporation for work the employee did as a hospital employee. But, the bill specifies that the Ethics Law does not apply in that situation, provided that the employee complies with rules adopted by the board.⁴

Assistance from the Ohio Ethics Commission

Although the bill generally excludes a charter county hospital's board and employees from the Ethics Law with respect to the bill's provisions, the bill requires the Ohio Ethics Commission, at the request of the board, to advise the board in the implementation of the board's rules and to address any matter that is outside the scope of those rules.⁵

⁴ R.C. 102.03, 102.04, 2921.42, and 2921.43, not in the bill.

⁵ R.C. 339.062(E).



HISTORY

ACTION	DATE
Introduced	12-19-17
Reported, H. State & Local Gov't	02-20-18
Passed House (94-2)	03-07-18
Reported, S. Gov't Oversight & Reform	---

