



# OHIO LEGISLATIVE SERVICE COMMISSION

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## Bill Analysis

Bethany Boyd

### **Sub. H.B. 453**

132nd General Assembly

(As Reported by H. State and Local Government)

**Reps.** Greenspan, Antonio, Boyd, Huffman, Kick, Seitz, Sweeney, Hambley, Arndt, Carfagna

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### **BILL SUMMARY**

- Requires that all rights to, interests in, and income from intellectual property, including discoveries, inventions, or patents, resulting from research conducted in charter county hospital facilities or by charter county hospital employees acting within the scope of their employment or with hospital funding, are the charter county hospital's property.
- 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 intellectual property that the charter county hospital owns or may acquire.
- Requires the board to adopt 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 individual, firm, association, corporation, or governmental agency to which the board has assigned, licensed, transferred, sold, or otherwise disposed of the charter county hospital's rights to, interests in, or income from its intellectual property.
- Specifies the requirements and guidelines that must be included in the rules.
- Requires that the Ohio Ethics Commission, at the request of the charter county 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 requires that all rights to, interests in, and income from intellectual property, including discoveries, inventions, or patents, resulting from research conducted in charter county hospital facilities or by charter county hospital employees acting within the scope of their employment or with hospital funding, are the charter county hospital's property.<sup>1</sup> The bill applies only to county hospitals based in charter counties, i.e., Cuyahoga and Summit;<sup>2</sup> currently, only Cuyahoga County has a county hospital, MetroHealth Medical Center.

Specifically, the bill requires that 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 (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 individual, 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 or obtaining patents, has any rights to, interests in, or income from such intellectual property, including discoveries, inventions, or patents, except as may, by determination of the board of county hospital trustees of a charter county hospital, be assigned, licensed, transferred, sold, or otherwise disposed of, to those entities or employees at the board's direction, or in accordance with rules adopted by the board (both exceptions are addressed below).<sup>3</sup>

### **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 intellectual

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<sup>1</sup> R.C. 339.062(A) and (B).

<sup>2</sup> 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.

<sup>3</sup> R.C. 339.062(B).

property, including 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 to an 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.<sup>4</sup>

### **Disposition pursuant to the board's rules**

Notwithstanding any Revised Code provision to the contrary, including the "revolving door" ethics law that applies to public officers,<sup>5</sup> the ethics law that prohibits public officers from receiving compensation for services other than from the agency by which they are employed,<sup>6</sup> and the laws prohibiting public officials from having an unlawful interest in a public contract and public servants from soliciting or accepting improper compensation,<sup>7</sup> the board of county hospital trustees of a charter county hospital must adopt rules under existing law,<sup>8</sup> 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 individual, firm, association, corporation, or governmental agency to which the board has assigned, licensed, transferred, sold, or otherwise disposed of the charter county 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. The rules must include all of the following:<sup>9</sup>

- ♦ A requirement that each charter county 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 charter county hospital's rights to, interests in, or income from 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

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<sup>4</sup> R.C. 339.062(C).

<sup>5</sup> R.C. 102.03, not in the bill.

<sup>6</sup> R.C. 102.04, not in the bill.

<sup>7</sup> R.C. 2921.42 and 2921.43, not in the bill.

<sup>8</sup> The existing law to which the bill refers is R.C. 339.06, not in the bill, authorizes the board to adopt rules "for the hospital's government, management, control, and the admission of persons as are expedient."

<sup>9</sup> R.C. 339.062(D)(1) and (2).

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 board members of the charter county hospital must be governed by the Ethics Laws for public officers<sup>10</sup> and the laws that prohibit them from having an unlawful interest in a public contract and from soliciting or accepting improper compensation.<sup>11</sup>

- ♦ 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 individual, firm, association, corporation, or governmental agency 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.<sup>12</sup>

## **Assistance from the Ohio Ethics Commission**

Notwithstanding the bill's provision that excludes charter county hospital employees and the 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 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.<sup>13</sup>

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## **HISTORY**

### **ACTION**

### **DATE**

Introduced  
Reported, H. State and Local Government

12-19-17  
02-20-18

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<sup>10</sup> R.C. Chapter 102., not in the bill.

<sup>11</sup> R.C. 2921.42 and 2921.43, not in the bill.

<sup>12</sup> R.C. 339.062(D)(3).

<sup>13</sup> R.C. 339.062(E).

