Wendy H. Gridley *Legislative Service Commission*

Bill Analysis

S.B. 55

123rd General Assembly
(As Introduced)

Sen. White

BILL SUMMARY

- Authorizes a county hospital board of trustees to hold executive sessions to consider trade secrets.
- Excludes from the Public Records Law information pertaining to county hospital employees and county hospital information that constitutes trade secrets.
- Exempts from the Prevailing Wage Law public improvements undertaken by a county hospital when the funds used have not been appropriated by the board of county commissioners.
- Authorizes county hospitals to observe four designated state holidays on dates other than those specified by state law.
- Specifies approved investment strategies for certain county hospital funds.
- Makes other changes to the County Hospital Law, including changes pertaining to board of trustees' membership requirements, construction of branch outpatient health facilities in other counties, donations of funds, property, and services, and the hospital administrator's employment and functions.

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CONTENT AND OPERATION

Exemption from the Open Meetings Law for certain county hospital matters

Existing law requires public officials to take official action and to conduct all deliberations upon official business only in open meetings unless the subject matter is specifically excepted by law (sec. 121.22(A) and (C)). Public officials generally may hold an executive session (a portion of a meeting closed to the public) only after a majority of a quorum of the public body determines, by a roll call vote, to hold an executive session and only at a regular or special meeting for the sole purpose of considering any of several enumerated subject matters (sec. 121.22(G)). The bill adds to the list of excepted subject matters the consideration of *trade secrets* by a county hospital operated under Chapter 339. of the Revised Code (sec. 121.22(G)(7)). "Trade secret" is defined as information, including the whole or any portion or phase of any scientific or technical information, design, process, procedure, formula, pattern, compilation, program, device, method, technique, or improvement, or any business information or plans, financial information, or listing of names, addresses, or telephone numbers, that satisfies both of the following: (1) it derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use, and (2) it is the subject of efforts that are reasonable under the circumstances to maintain its secrecy (sec. 1333.61(D)--not in the bill).

Normally, if a public body holds an executive session to consider any of the enumerated subject matters, the motion and vote to hold the executive session must state which one or more of the approved matters are to be considered at the

executive session. The bill does not contain a similar requirement for the consideration of trade secrets by a county hospital. (Sec. 121.22(G).)

Exemption from the Public Records Law for certain records of county hospitals

The Public Records Law generally requires that all public records kept by a public office be promptly prepared and made available for inspection to any person at all reasonable times during regular business hours. Specified records are excluded from the definition of a "public record" and therefore do not have to be made available for public inspection. (Sec. 149.43(A)(1) and (B).)

The bill adds as an exclusion any information of a county hospital operated under Chapter 339. of the Revised Code that constitutes a trade secret as defined above *and* any records held by the hospital pertaining to its employees (sec. 149.43(A)(1)(p)).

Exemption from the Prevailing Wage Law for certain public improvements of county hospitals

Generally, under existing law, every public authority authorized to contract for, or construct with its own forces, a public improvement must have the Bureau of Employment Services determine the prevailing rates of wages of mechanics and laborers for the class of work called for by the public improvement in the locality where the work is to be performed. The schedule of wages must be printed on the bidding blanks if the work is done by contract. (Sec. 4115.04.)

The bill exempts public improvements undertaken by or under contract for a county hospital if the funds used in constructing the improvements, including funds used to repay any amounts borrowed to construct the improvements, are not funds that have been appropriated by the board of county commissioners for the hospital (sec. 4115.04(B)(4)).

Holiday leave benefits for county hospital employees

State law entitles full-time county employees to eight hours of holiday pay for ten specified days each year. The bill provides that for four of these days (Martin Luther King Day, Washington-Lincoln Day, Columbus Day, and Veterans' Day) a county hospital may observe the holiday on days other than those

designated by state law (in sec. 1.14--not in the bill).[1] (Secs. 325.19(D)(2)(b) and 339.06(H)(6).)

Changes to the law pertaining to authority to construct an outpatient health facility

Under existing law, a board of county commissioners may purchase, acquire, lease, appropriate, and construct a county hospital or hospital facilities. After a county hospital or hospital facilities have been fully completed and sufficiently equipped for occupancy, any subsequent improvements, enlargements, or rebuilding must be made by the board of county hospital trustees or a hospital commission. (Sec. 339.01(B).)

Under existing law, a board of county hospital trustees or a hospital commission may purchase, acquire, lease, appropriate, or construct an "outpatient health facility" in *another county* as a branch of the county hospital. Written notice must be provided to the other county's board of county commissioners. (Sec. 339.01(C)(1).) If the board of county commissioners of the *county in which the hospital is located* provides a subsidy for uncompensated care, the board of county hospital trustees or hospital commission may establish the outpatient health facility outside the county only if the board of county commissioners approves the establishment, and, even if approved, no funds generated by a tax levy may be used to finance the acquisition, construction, repair, maintenance, or operation of the facility (sec. 339.01(C)(3)). Otherwise, the board of county hospital trustees or hospital commission may establish and operate the facility unless the board of county commissioners of the *county where the facility is to be located* adopts a resolution, no later than 60 days after receiving the notice mentioned above, denying the trustees or commission the right to establish the facility (sec. 339.01(C)(2)).

The bill removes all of the provisions explained above pertaining to notice to and approval of a board of county commissioners. Instead, the bill adds a board of county commissioners to the entities listed and authorized to purchase, acquire, lease, appropriate, or construct an outpatient health facility in another county as a branch of a county hospital. (Sec. 339.01(C).)

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[1] *Section 1.14 specifies that the four holidays are legal holidays to be celebrated, respectively on the third Monday in January, the third Monday in February, the second Monday in October, and November 11.*

Changes in board of county hospital trustees membership requirements

"Electors" references

Under current law, after a board of county commissioners determines by resolution to establish a county hospital, a board of trustees is appointed in a specified manner. Current law uses the term "electors" (of the "are a served by the hospital") when referring to the members of the board of trustees. The bill removes the term "elector" and substitutes "member" where elector currently is so used. However, the qualifications of an elector of the area served by the county hospital continue to be requirements of appointment to the board of trustees (see below). (Sec. 339.02(B), (C), (D), and (F).)

Political affiliation, elector status, and physician provisions

Current law provides that no more than one-half of the members of a board of county hospital trustees may belong to the same political party or be independents. Each member must be an *elector* of the geographic area from which the county hospital regularly draws its patients, but no more than two members may be from an area served by the hospital that is outside the county in which the hospital is located. (Sec. 339.02.)

The bill retains (but relocates) the latter provisions and also allows a physician who has been authorized to practice in the county hospital to be appointed to serve as a member of the board of trustees, but the physician cannot participate in any activity that may require board involvement in determining whether a physician will be granted authority or will continue to possess authority to practice in the hospital. The bill continues current law's removal "for cause" or "unbecoming conduct" provisions and its prohibition against removing a member of the board of trustees for "political reasons." It further specifies that a change of political affiliation during a member's term of office is a "political reason that may *not* be a basis for removal from office. (Sec. 339.02(D) and (F).)

Bond

Under current law, each trustee is required to be bonded for the proper performance of the trustee's duties, in whatever sum the board of county commissioners requires and with sureties approved by the board. The expense of the bonding is paid for out of hospital operating funds. The bill removes the requirement for a trustee's bond. (Sec. 339.03.)

Disposition of property and money by a board of county hospital trustees

Background

Under current law, a board of county hospital trustees, upon completion of construction or leasing and equipping of a county hospital, assumes and continues the operation of the hospital. The board has the entire management and control of the hospital. The board has control of the property of the hospital, including management and disposal of surplus property other than real estate or an interest in real estate, and has control of all funds used in the hospital's operation, including moneys received from the operation of the hospital, moneys appropriated for its operation by the board of county commissioners, and moneys resulting from special levies submitted by the board of county commissioners. (Sec. 339.06(A).)

Investments

Current law authorizes the *hospital's administrator* or the administrator's designee to deposit funds not needed for immediate expenses in interest bearing or noninterest bearing accounts or United States government obligations. The bill removes this authorization and provides instead that all or part of the moneys determined not to be necessary to meet current demands on the hospital may be invested by the board of hospital trustees, subject to the approval of the board's investment strategy by the board of county commissioners. The bill states the following as permissible investment strategies: (1) investing in securities that have been ranked by two nationally recognized rating agencies in their highest rating category, and (2) entering into business ventures with other entities for the purpose of making health services available to the community. (Sec. 339.06(A).)

Donations of funds, property, and services

Under current law, the board of county hospital trustees submits a budget, annually, to the board of county commissioners. The board of trustees is not permitted to expend funds until its budget is submitted to and approved by the board of county commissioners. Thereafter, funds may be disbursed by the board of trustees, consistent with the approved budget, for the uses and purposes of the hospital, for the replacement of necessary equipment, or for the acquisition, leasing, or construction of permanent improvements to county hospital property. The bill adds an authorization for funds to be used for making a donation as authorized by the bill. The bill provides that, for the public purpose of improving the health, safety, and general welfare of the community, the board of trustees may donate to a nonprofit entity any of the following: (1) moneys and other financial assets determined not to be necessary to meet current demands on the hospital, (2) surplus hospital property, including supplies, equipment, office facilities, and other

property that is not real estate or an interest in real estate, and (3) services rendered by the hospital. (Sec. 339.06(B) and (C).)

Employment of a hospital administrator

Under existing law, a board of county hospital trustees must employ an administrator who has authority to employ necessary hospital personnel and to deposit hospital moneys in banks or trust companies or into specified interest or noninterest bearing accounts or United States government obligations. The bill removes the authority for the administrator to so deposit in hospital moneys and authorizes a board of county hospital trustees to provide for the administration of the county hospital either by directly employing a hospital administrator or by entering into a contract for the management of the hospital under which an administrator is provided. If an administrator is employed directly, the board, as under existing law, must adopt a job description delineating the administrator's powers and duties and may pay the administrator's salary and other benefits from funds provided for the hospital. The administrator, as under existing law, must ensure that the hospital has physicians, nurses, and other necessary employees. Similar to existing law, the administrator may directly employ these types of personnel or may enter into contracts or grant authority to practice in the hospital. If the employees are directly employed, they are required to be in the unclassified civil service, as under existing law. (Secs. 339.03, 339.06, and 339.07.)

HISTORY

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