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Bill Analysis
Legislative Service Commission

Sub. H.B. 239
125th General Assembly
(As Reported by H. Health)

Reps. Core, Seitz, McGregor, Kearns, Aslanides, Gilb, Hollister

BILL SUMMARY

- Confirms and validates amendments held unconstitutional on procedural grounds to the law governing hospital agencies.
- Expands the definition of "costs of hospital facilities" in the law governing hospital agencies.
- Specifies that a trustee, officer, or director of a hospital agency does not have an interest in the profits or benefits of an agreement between hospital agencies solely by virtue of being a trustee, officer, or director of one of the participating hospital agencies.

CONTENT AND OPERATION

Validation of amendments held unconstitutional

(R.C. 140.01 and 140.051; Section 3)

Existing law provides for the establishment of hospital agencies, including public hospital agencies and nonprofit hospital agencies. Hospital agencies may take a number of actions, including entering into agreements for acquisition or construction of hospital facilities, operation of facilities, and participation in programs related to hospital facilities. A public hospital agency may lease a facility to a nonprofit hospital agency or to a government entity such as a county board of mental retardation and developmental disabilities or the Ohio Department of Mental Health.

"Nonprofit hospital agency" means a corporation or association not for profit, no part of the earnings of which may lawfully inure to the benefit of any private shareholder or individual, that has authority to operate a hospital facility or is to provide services to one or more other hospital agencies.

"Public hospital agency" means any county, board of county hospital trustees, county hospital commission, municipal corporation, new community authority, joint township hospital district, or state or municipal university authorized to operate a hospital facility.

Am. Sub. S.B. 109 of the 113th General Assembly, enacted in 1980, modified the hospital agency law by amending a number of definitions used in that law and enacting a new section dealing with contracts for facilities to be leased by a public hospital agency to a nonprofit hospital agency. In 1985, S.B. 109 was held unconstitutional by the Ohio Supreme Court on the grounds that it was enacted in violation of "three hearing rule" of Section 15(C) of Article II of the Ohio Constitution.* (*Hoover v. Board of County Commissioners* (1985) 19 Ohio St.3d 1.) A further amendment to the hospital agency law had been made in 1983 by Am. Sub. S.B. 227 of the 115th General Assembly, but the court did not consider that amendment.

The bill confirms and validates the amendments made by S.B. 109 and S.B. 227 to eliminate any legal challenges that have been or may be raised concerning the constitutionality of those amendments. It does this in Revised Code section 140.01, the definitional section, by striking the amendments and repeating them as new law and by repealing R.C. 145.051 and enacting it as new law.

In the definitional section, the re-enacted provisions do the following:

(1) Amend the definition of "public hospital agency" to include the state.

(2) Amend the definition of "governing body," in the case of the state, to include the Director of Development or the Ohio Higher Educational Facilities Commission.

(3) Amend the definition of "costs of hospital facilities" to include "the costs of refinancing obligations issued by, or reimbursement of money advanced by, nonprofit hospital agencies or others the proceeds of which were used for the payment of costs of hospital facilities, if the governing body of the public hospital agency determines that the refinancing or reimbursement advances the purposes of [the hospital agencies law], whether or not the refinancing or reimbursement is in conjunction with the acquisition or construction of additional hospital facilities."

* Section 15(C), Article II provides in part:

*"Every bill shall be considered by each house on three different days, unless two-thirds of the members elected to the house in which it is pending suspend this requirement, and every individual consideration of a bill or action suspending the requirement shall be recorded in the journal of the respective house. * * *"*

(4) Amend the definition of "bond proceedings" to provide that terms may include variable interest rates.

The section repealed and re-enacted by the bill, R.C. 145.051, permits a public hospital agency to enter into certain contracts, including a contract for the acquisition, construction, improvement, equipment, or furnishing of a hospital facility to be leased to a nonprofit hospital agency if the costs of the hospital facility are to be paid with funds derived from revenue obligations issued pursuant to the hospital agency law and other funds derived from the nonprofit hospital agency. It provides that the public hospital agency's action is pursuant to negotiation and in the manner determined in its sole discretion by the agency's governing body. The section further provides that any requirement of competitive bidding, other restriction, or other procedures that are imposed on a public hospital agency with respect to contracts is not applicable to any contract entered into pursuant to the section. The section specifies that a hospital facility is not exempt from applicable zoning, planning, and building regulations by reason of being financed from the proceeds of obligations issued pursuant to the hospital agency law.

Costs of hospital facilities

(R.C. 140.01)

The bill further amends the definition of "costs of hospital facilities" in the law governing hospital agencies by providing that that term includes the costs of interests in hospital facilities, including membership interests in nonprofit hospital agencies.

No interest in an agreement

(R.C. 140.03)

In the section of existing law authorizing hospital agencies to enter into agreements concerning hospital facilities, the bill provides that no trustee, officer, or director of a hospital agency who has entered into an agreement with another hospital agency will be considered to have an interest in the profits or benefits of the agreement solely by virtue of being a trustee, officer, or director.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	07-01-03	p. 1004
Reported, H. Health	05-12-04	p. 1898

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