



Alan Van Dyne

*Bill Analysis*  
*Legislative Service Commission*

## **S.B. 126**

126th General Assembly  
(As Introduced)

**Sen. Wachtmann**

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### **BILL SUMMARY**

- Requires vacancies on a board of county hospital trustees to be filled by selecting from lists of individuals nominated by a selection committee consisting of the board's chair, the county hospital administrator, and one county commissioner.
- Requires the appointing authority to fill each vacancy within six months, and if the vacancy remains unfilled, provides for the vacancy to be filled by the remaining members of the board of county hospital trustees.
- Permits up to two physicians at a time to serve as members of a board of county hospital trustees.
- Authorizes the removal of a member for neglect of duty, misconduct, or malfeasance in office.
- Modifies the November and December deadlines for submission and approval of a budget for the county hospital by (1) requiring the board of county hospital trustees to submit its proposed budget at least 60 days before the beginning of the fiscal year used by the hospital and (2) requiring the board of county commissioners to approve the budget by the first day of that fiscal year.
- Provides for the "deemed" approval of a county hospital's proposed budget if the board of county commissioners has not approved the budget by the first day of the fiscal year used by the hospital.
- Eliminates the duty of the board of county hospital trustees to file an annual report of revenues and expenditures with the board of county commissioners, and instead, requires the board of county hospital trustees

to provide for an annual financial audit of the county hospital and to submit a copy of the audit to the board of county commissioners.

- Removes limitations on the authority of a board of county hospital trustees to control real property, including limitations that (1) require the board to take title to and leasehold interests in the name of the county, (2) restrict the board from disposing of or donating real estate or an interest in real estate, and (3) restrict the board from using real property to secure a line of credit.
- Specifies that the board of county hospital trustees has complete charge of the purchase and lease of all necessary and proper property, including vehicles.
- Prohibits a board of county commissioners from adopting a resolution authorizing an initial agreement for the acquisition, operation, or lease of a county hospital unless (1) the board of county hospital trustees adopts a resolution in favor of the agreement, (2) the board of county commissioners finds that the agreement reflects the intent of the board of county hospital trustees, and (3) the board of county commissioners finds that the agreement will meet the needs of the residents of the county for hospital service.
- Eliminates the requirement that a county election be held to approve a resolution adopted by the board of county commissioners authorizing an initial agreement for acquisition, operation, or lease of a county hospital.
- Permits a board of county hospital trustees to enter into a contract with an employer or other entity whereby the services of any of the employees of the board or county hospital are rendered for a fee.
- Specifies that the authority of the board of county hospital trustees to provide health, liability, and other insurance for the board's employees also applies with regard to the county hospital's employees.
- Makes technical and clarifying changes to the laws governing county hospitals.

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## CONTENT AND OPERATION

### Boards of county hospital trustees

(R.C. 339.02 and 339.03(D))

Current law provides for the establishment of a board of county hospital trustees to govern the operation of a county hospital. Appointments to the board are made by the board of county commissioners, together with the county's probate judge senior in point of service and the county's judge of the court of common pleas senior in point of service. Members serve for six-year terms, which expire on a staggered schedule. Vacancies must be filled each year on the first Monday in March.

The bill modifies the laws pertaining to the appointment of the board's members by (1) establishing a selection committee to nominate individuals for appointment, (2) establishing a deadline for filling vacancies, (3) permitting the appointment of physicians, (4) specifying different reasons for which a member may be removed from office, and (5) clarifying the length of a member's term when filling an unexpired term.

#### Selection committee

(R.C. 339.02(F)(2))

The bill requires each vacancy on a board of county hospital trustees to be filled by an individual who has been nominated by a selection committee. The selection committee must consist of the following:

- (1) One county commissioner designated by the board of county commissioners;
- (2) The chair of the board of county hospital trustees;
- (3) The county hospital administrator.

For each vacancy, the selection committee must nominate at least three individuals. The nominees must be presented to the board of county hospital trustees to be considered for acceptance. The nominees accepted by the board must be presented by the selection committee to the appointing authority for purposes of filling the vacancy.

**Deadline for filling vacancies**

(R.C. 339.02(F)(4))

The bill requires the appointing authority to fill a vacancy on a board of county hospital trustees not later than six months after the vacancy occurs. If the vacancy remains unfilled on that date, the remaining members of the board, by majority vote, must appoint an individual to fill the vacancy.

**Appointment of physicians**

(R.C. 339.02(C)(2))

The bill authorizes the appointment of a physician to serve as a member of a board of county hospital trustees, including a physician who is authorized to admit and treat patients at the hospital. The authority to appoint a physician is limited, however, by the following conditions: (1) not more than two physicians may serve as members at the same time and (2) no physician who is employed by the hospital may serve as a member.

**Removal from office**

Under current law, a member of a board of county hospital trustees may be removed from office by the appointing authority for the following reasons: (1) causes that impair faithful, efficient, and intelligent administration, or (2) conduct unbecoming to the office. Written charges must be initiated by the appointing authority or the board of county hospital trustees. The member must be given an opportunity to be heard before the appointing authority. Members cannot be removed for political reasons.

The bill modifies the provisions for removal of members by specifying that the appointing authority may remove a member from office for neglect of duty, misconduct, or malfeasance in office. As under current law, the member must be informed in writing of the charges and afforded an opportunity for a hearing before the appointing authority; however, the bill does not limit the entities that may initiate the charges to the appointing authority or the board of county hospital trustees. The bill continues the prohibition on removing a member for political reasons.

### **Unexpired terms**

(R.C. 339.02(F))

Current law requires the appointing authority of a board of county hospital trustees to fill all vacancies that result from death, resignation, or removal from office.

The bill does not specify the reasons that may result in an unexpired term, but clarifies that a member who is appointed to fill an unexpired term is to hold office for the remainder of that term.

### **Budget approval**

(R.C. 339.06(D)(3) and (4))

Annually, by the first day of November, the board of county hospital trustees is required by current law to submit its proposed budget for the ensuing fiscal year to the board of county commissioners for approval. The board of county commissioners is required to approve a budget for the county hospital by the first day of December. The board of county commissioners may require the board of county hospital trustees to revise the proposed budget.

The bill eliminates the November and December deadlines for submission and approval of the county hospital's budget. Instead, the bill requires the board of county hospital trustees to submit its proposed budget not later than 60 days before the end of the fiscal year used by the county hospital. The board of county commissioners must review and approve the budget by the first day of that fiscal year. The bill does not specify procedures for revision of the proposed budget. If the board of county commissioners has not approved the budget by the first day of the applicable fiscal year, the bill provides that the budget is "deemed" to have been approved by the board on that date.

### **Financial reports**

(R.C. 339.06(D)(8))

Current law requires the board of county hospital trustees to file an annual report of revenues and expenditures for the fiscal year. The report must be filed with the board of county commissioners within 90 days after the fiscal year's end.

The bill, instead, requires the board to provide for the conduct of an annual financial audit of the county hospital. Not later than 30 days after it receives the final report of the audit, the board must file a copy of the report with the board of county commissioners.

### **Control over real property**

(R.C. 339.03(A) and 339.06(C) and (E))

Under current law, the board of county hospital trustees has control of county hospital property, but there are limitations with respect to real estate or an interest in real estate. These limitations are specified as follows:

(1) The board has complete charge of the selection and purchase or lease of a site or sites for a county hospital, but the title or leasehold interest in the property is to be taken in the name of the county.

(2) The board has control over the property of the hospital, including the management and disposal of surplus property, but the authority to manage and control surplus property does not apply to real estate or an interest in real estate.

(3) The board is authorized to donate surplus hospital property to a nonprofit entity for the public purpose of improving the health, safety, and general welfare of the community, but the authority to donate property does not apply to real estate or an interest in real estate.

(4) The board may enter into a contract for a secured line of credit, and may secure the line of credit by granting a security interest in its property, but the property that may be used to grant the security interest is limited to tangible and intangible personal property.<sup>1</sup>

The bill eliminates the provisions that specify limitations on the board's control over real property. The bill does not, however, expressly state that the board has control over real property.

### **Purchase, lease, and installation of property**

(R.C. 339.03(A))

In addition to the authority of the board of county hospital trustees to select and purchase or lease a site for the county hospital, existing law provides that the board has complete charge of the selection and installation of all necessary and proper furniture, fixtures, and equipment for the hospital.

The bill provides that the board has complete charge of the selection and purchase or lease of all property that is necessary and proper for the hospital,

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<sup>1</sup> According to Black's Law Dictionary, 7<sup>th</sup> edition, "personal property" is "any movable or intangible thing that is subject to ownership and not classified as real property."

including vehicles. Under the bill, the board's authority to install property applies not only to furniture, fixtures, and equipment, but also to all other property that requires installation.

**Agreements for acquisition, operation, or lease of a county hospital**

(R.C. 339.091 and 339.092 (repealed); 140.03, 140.05, 339.09, 339.14, and 339.17)

Unless there is another general hospital operating in the county, current law requires an initial agreement for the acquisition, operation, or lease of a county hospital to be approved by the board of county commissioners and the electors of the county. Specifically, before the agreement may be entered into, the board of county commissioners must review the agreement. If the board finds that the agreement will meet the needs of the county's residents for hospital service, it may adopt a resolution authorizing the agreement. The authorization can become effective only if it is approved by the electors of the county. Procedures for providing public notice and conducting the election must be followed.

The bill eliminates the requirement that a county election be held to approve the board's resolution authorizing an initial agreement for acquisition, operation, or lease of a county hospital. With regard to the board's duty to review the agreement, the bill prohibits the board from adopting a resolution authorizing the action proposed in the agreement until all of the following occur:

- (1) The board of county hospital trustees of the county hospital to be acquired, operated, or leased adopts a resolution in favor of the agreement;
- (2) The board of county commissioners finds that the agreement reflects the intent of the board of county hospital trustees in its adoption of the resolution in favor of the agreement.
- (3) The board of county commissioners finds that the agreement will meet the needs of the residents of the county for hospital service.

**Alternative use of employees**

(R.C. 339.06(J)(5))

The bill authorizes a board of county hospital trustees to enter into a contract with an employer or other entity whereby the services of any employee of

the board or county hospital<sup>2</sup> are rendered to or on behalf of the employer or other entity for a fee paid to the board or county hospital.

**Health and liability insurance**

(R.C. 339.16)

Current law permits a board of county hospital trustees to provide health and other insurance as fringe benefits for any or all of its employees and their immediate dependents. Similarly, current law permits the board to provide liability insurance for its trustees and employees.

The bill specifies that the board's authority to provide these fringe benefits is also applicable with respect to the employees of the county hospital.

**Technical and clarifying provisions**

The bill includes provisions for purposes of making technical and clarifying modifications to the laws governing county hospitals. In addition to making technical and clarifying changes in the provisions described above, the bill does the following:

(1) Clarifies that the duty to provide notice to the board of county commissioners when adding an out-of-county outpatient facility (R.C. 339.01);

(2) Clarifies that provisions of existing law describing the organization of a board of county hospital trustees are ongoing requirements, and are not limited to the original appointment of the board (R.C. 339.02(E), (J) and (K));

(3) Coordinates statutory cross-references to correspond with other changes in the bill (R.C. 133.07 and 325.19).

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**HISTORY**

ACTION	DATE	JOURNAL ENTRY
Introduced	04-19-05	p. 418

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<sup>2</sup> *Some employees of a county hospital are in the unclassified civil service (R.C. 339.07, not in the bill).*