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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

H.B. 405\*  
134<sup>th</sup> General Assembly

## Bill Analysis

[Click here for H.B. 405's Fiscal Note](#)

**Version:** As Reported by House State and Local Government

**Primary Sponsors:** Reps. Stewart and Johnson

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### SUMMARY

- Clarifies the nature of the appointing authority for boards of county hospital trustees.
- Allows additional members on the board of a charter county hospital.

### DETAILED ANALYSIS

#### Boards of county hospital trustees

The bill clarifies the nature of the appointing authority for boards of county hospital trustees. Under continuing law, a county may establish a county hospital. If the county establishes a county hospital, there must be a board of county hospital trustees to operate the hospital.

Current law requires the board of county commissioners 'together with' the longest-serving<sup>1</sup> probate judge and the longest-serving judge of the court of common pleas (other than the probate judge) to appoint the board of county hospital trustees.<sup>2</sup> It is unclear whether this means: (1) the board of county commissioners cast one vote as a body, thereby totaling three votes or (2) each of the three county commissioners casts an individual vote, thereby totaling five votes. The Ohio Supreme Court considered this question in 2020 and held the language has

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\* This analysis was prepared before the report of the House State and Local Government Committee appeared in the House Journal. Note that the legislative history may be incomplete.

<sup>1</sup> The language the Revised Code uses is 'probate judge of the county senior in point of service' and 'judge . . . of the common pleas court of the county senior in point of service.' This is understood to mean the longest-serving judge.

<sup>2</sup> Continuing law also authorizes the appointing authority to increase or decrease the number of members of a board of county hospital trustees; the bill's clarification applies to this as well.

the second meaning – each of the three county commissioners cast an individual vote, thereby totaling five votes.<sup>3</sup>

Following the Court’s holding, the bill clarifies the appointing authority is comprised of five votes: one from each of the two judges and one from each of the three county commissioners. The bill also specifies that, in the case of a charter county hospital (a county hospital located in a charter county), the appointing authority of a charter county hospital includes the *county executive* and the two judges.<sup>4</sup>

### **Charter county hospital changes**

The bill makes additional changes applicable only to a charter county hospital.<sup>5</sup> Primarily, the bill increases the minimum number of board members from six to 10, and increases the maximum from 10 to 15. The appointing authority designates the number of members on the board, as under continuing law,<sup>6</sup> but the bill makes the appointments of all members (not only additional members) subject to confirmation by the county council.<sup>7</sup> If the appointing authority increases the number of members, the terms must be staggered so that the terms of the additional members expire each year. Subsequent appointments must be for terms of uniform length.<sup>8</sup> And, the bill makes a conforming change to the provision regarding quorum; for a charter county hospital, a majority of the number of members constitutes a quorum.<sup>9</sup>

Finally, the bill exempts two members of a charter county hospital board from the elector requirement, wherein a board’s members are required to be electors of the county where the hospital is located. Continuing law exempts two members of any county hospital board (including in non-charter counties) from the elector requirement, but those two members must at least live in the ‘area served by the hospital.’ The bill’s change allows two additional members to live anywhere.<sup>10</sup>

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<sup>3</sup> *State ex rel. Drouhard v. Morrow Cty. Bd. of Comm’rs*, 161 Ohio St. 3d 357 (2020).

<sup>4</sup> R.C. 339.02(A).

<sup>5</sup> Ohio has only one charter county hospital system, in Cuyahoga County. See the [Department of Health list of registered hospitals](#).

<sup>6</sup> R.C. 339.02(D).

<sup>7</sup> R.C. 339.02(C)(1)(c).

<sup>8</sup> R.C. 339.02(G).

<sup>9</sup> R.C. 339.02(K).

<sup>10</sup> R.C. 339.02(C)(1).

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## HISTORY

Action	Date
Introduced	08-30-21
Reported, H. State & Local Gov't	---

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