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# COUNTY ADVISORY BULLETIN

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Bulletin 2005-06

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**SUBSTITUTE HOUSE BILL 239 OF THE 125<sup>TH</sup> GENERAL ASSEMBLY ALLOWS  
BOARDS OF COUNTY COMMISSIONERS TO CONTRACT WITH THIRD PARTIES  
TO MANAGE A COUNTY HOME, PERMITS THE TRANSFER OF OPERATION  
AUTHORITY OF A COUNTY HOME TO A COUNTY BOARD OF HOSPITAL  
TRUSTEES, AND MAKES OTHER MODIFICATIONS TO COUNTY HOME  
OPERATING OPERATIONS**

**Lead Sponsor:** Representative Tony Core (R-Rushsylvania)

**House Co-Sponsors:** Seitz (R-Cincinnati), McGregor (R-Gahanna), Kearns (R- Springfield), Aslanides (R-Coshocton), Gilb (R-Findlay), Hollister (R- Marietta), Flowers (R-Canal Winchester), Schmidt (R-Loveland), Willamowski (R-Lima)

**Revised Code Sections Affected:** 140.01, 339.06, 5155.01, 5155.02, 5155.03, 5155.04, 5155.14, 5155.16, 5155.19, 5155.27, and 5155.31 (amended), to enact new section 140.051 and sections 5155.011 and 5155.012, and to repeal sections 140.051, 5155.05, 5155.06, 5155.07, 5155.28, and 5155.30.

**Effective Date:** April 29, 2005

## Background

The primary purpose of this bill when introduced was to validate amendments made back in Am. Sub. S.B. 109 of the 113<sup>th</sup> General Assembly pertaining to hospital agency law and enacting law dealing with contracts for facilities to be leased by a public hospital agency to a nonprofit hospital agency. This bill was held unconstitutional by the Ohio Supreme Court on the grounds that it was enacted in violation of the “three hearing rule” of the Ohio Constitution which states that every bill shall be considered by each house on three different days. Therefore, Sub. H.B. 239 serves to confirm Am. Sub. S.B. 109 in order to eliminate any legal challenges that may be raised concerning the constitutionality of these provisions.

Once introduced, it was later amended to achieve various objectives for county homes and county

hospitals. These provisions are detailed below.

## **County Hospitals and Secured Line of Credit**

### The Law Prior to Sub. H.B. 239

A board of county hospital trustees could already enter into a contract for a secured line of credit if the following requirements were met:

1. It did not exceed a term of 180 days;
2. It did not exceed \$500,000;
3. The amount extended had to be repaid in full before any additional credit could be extended;
4. In the event of default, lending institutions are prohibited from commencing a civil action to recover any outstanding amount from the board of county commissioners, any board member, or the county;
5. Only hospital assets are used to secure the line of credit;
6. All applicable federal and state laws are followed.

### Changes Made by Sub. H.B. 239

The act does the following:

1. It eliminates the \$500,000 limit;
2. The maximum term of the contract is expanded to one year;
3. Automatic renewal is allowed as long as the aggregate outstanding draws remaining unpaid do not exceed 50% of the maximum amount that can be drawn under the line of credit;
4. Additional credit can be extended before another line of credit is paid in full.

All other conditions and limitations on county hospitals with respect to obtaining a secured line of credit remain, including the critical language that states lending institutions are prohibited from commencing civil action to recover balances from the county.

## **County Home Provisions**

### Management Contracts

This provision clarifies that county commissioners can enter into a contract to aid in the execution of the board's powers and duties for the management and good government of the county home. This change was sought at the request of certain member counties of CCAO.

### Transfer of Operation of County Home to Board of Hospital Trustees

Another option available to commissioners under this act is to transfer the operational control of the county home to the board of county hospital trustees of a county hospital located in the county. There are two methods for completing this transfer:

1. Complete Transfer by Resolution – If county commissioners desire to transfer all operational control of the county home to the county hospital, this can be achieved by adopting a resolution transferring all operational control. Note that even if all operational control is transferred, the county commissioners do not lose ownership of any real or personal property of the county to the board of county hospital trustees.
2. Complete or Partial Transfer by Agreement – This option allows county commissioners to specify duties of operating the county home that will be retained by the board of county commissioners.

Once the operational duties are transferred to a board of county hospital trustees, the hospital trustees are referred to as the “operator” of the county home. The operator then takes on the statutory duties governing county homes, such as providing an annual report to county commissioners and avoiding conflicts of interest.

#### Bond for Superintendent or Administrator

The amount of bond required to be given to county commissioners by the county home superintendent or administrator used to be limited in statute to a range of between \$2,000 to \$20,000 and required that the bond must be given with two or more sureties. The bond requirement no longer specifies an amount nor requires two sureties.

#### Rules on the Function of County Homes

The act eliminates a provision requiring that the board of county commissioners prescribe rules, “to promote sobriety, morality, and industry among the residents of the county home.” The language now reads that county commissioners shall prescribe rules for the management and good government of the home.

#### Placement of Spouses

The act eliminates a provision specifying that in all cases in which both the husband and wife have been admitted to a county home, the couple must not be separated, unless otherwise requested by either of them, and must be given quarters in the same part of the facility.

#### Removal of County Home Superintendent or Administrator

County Home Superintendents fit the definition of unclassified employees under ORC 124.11 because they are persons employed by and directly responsible to elected county officials and hold a fiduciary and administrative relationship to county commissioners. The antiquated county home language contained in 5155.03 used wording that today is associated with classified civil service, namely a reference to removal for good and sufficient cause. This language was removed to clarify their employment status in the unclassified civil service.

#### Sale of County Homes

Language was added to ORC 5155.31 that allows county commissioners to either close the county home or sell it to a third party. There had previously been some confusion about whether a sale to a third party was allowable. County commissioners continue to have the authority to lease the county home for up to five years as well.

#### Repeal of Antiquated Provisions

*Reports Requiring Farm Product Tallies and Accounting for Outdoor Relief* - The county home statutes used to contain references to reports that were to be submitted monthly and annually to county commissioners accounting for the county home’s farm products and amounts paid for “outdoor relief,” dating back to the days when county homes functioned as poor houses. Such references have been removed from the statutes. Now, county commissioners have great latitude in determining what information they desire to be submitted to the board pertaining to the county home. Commissioners have complete latitude on if they want a monthly report, and if so, what is in the report. An annual report is still required, but again, greater flexibility is granted. Listed below are the new parameters associated with the annual report:

1. The number of residents at the beginning of the year, the number admitted during the year, the number born in the home, and the total number of resident days for the year;
2. The number of residents discharged, the number of deaths, the number removed to other counties, states, and institutions during the year, and the number of residents remaining;
3. The daily average census;
4. The total current expenses for the year;
5. The amount of salaries paid during the year to the superintendent or administrator and the administrative assistant, and the amount of wages paid other employees;
6. Any other information the board or operator requires.

*Maintenance of Buildings* – Responsibility for building maintenance used to be a statutory job duty of the county home administrator. This language has been removed so that a county may have options as to how building maintenance responsibilities are handled.

*Labor by Residents* – There was still language in the ORC that mandated the county home administrator to require residents of county homes to perform reasonable and moderate labor without compensation, as it suited their age and bodily strength. This language was repealed.

*Purchasing Procedures* – County homes used to have specific statutes for their purchasing. This language was removed, thus purchasing procedures now fall under the general county purchasing requirements.

*Sale of Farm Products* – Counties were still required to sell all products of the county home's farm not necessary for use of the home. Since farms are not usually a part of the county home landscape these days, this language has been repealed.

*Registration Book* – There is no longer a statutory requirement that county homes keep a book on statistical and medical information of each person received in the county home.

*Prohibitions on County Commissioners* – ORC 5155.28 contained language that stated, "No county commissioner or employee shall be sold or given any article belonging to, grown, or produced at a county home or other public facility." Some county prosecutors interpreted this language to prohibit county commissioners from accepting an invitation from the county home to join them for a holiday dinner. This language has been repealed.

*Religious Services* – ORC 5155.30 required that county commissioners provide for religious services on Sunday in the county home at least once a month, as well as providing for funeral services over deceased residents. This statutory provision has been repealed.

## **Conclusion**

The provisions pertaining to county homes and county hospitals provided in H.B. 239 add flexibility to county commissioners with respect to how these facilities are operated.

