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H.B. 405
134th General Assembly

Final Analysis

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Primary Sponsors: Reps. Stewart and Johnson

Effective date: April 3, 2023

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UPDATED VERSION*

SUMMARY

- Clarifies the nature of the appointing authority for boards of county hospital trustees.
- Allows three members on a board of county hospital trustees to reside outside the county, when the board consists of eight or ten members.
- Allows a county coroner's office to access and view, but not alter, information contained in the Ohio Law Enforcement Gateway.
- Modifies the procedures for filling a vacancy in a county elective office.
- Allows a county treasurer to adopt a policy to allow taxpayers to request the electronic delivery of property tax and manufactured home tax bills.
- Allows a treasurer to rescind such a policy with 30 days' written notice to those who have requested electronic delivery.
- Excludes from public records requests any email address or telephone number provided with requests for electronic delivery.

DETAILED ANALYSIS

Boards of county hospital trustees

Appointing authority

The act 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

* This version updates the effective date.

establishes a county hospital, there must be a board of county hospital trustees to operate the hospital.

Continuing law requires the board of county commissioners ‘together with’ the longest-serving¹ 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.² Under prior law, it was unclear whether this meant: (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 the second meaning – each of the three county commissioners cast an individual vote, thereby totaling five votes.³

Following the Court’s holding, the act 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.⁴

Residency

The act allows up to three members of a board of trustees of a county hospital to reside outside the county when the size of the board is eight or ten. Under prior law, not more than two members were to be electors of the area served by the hospital that is outside the county in which the hospital was located.⁵

County coroner

The act allows a county coroner’s office to access and view, but not alter, information contained in the Ohio Law Enforcement Gateway. Under continuing law, the State Medical Board and the Board of Nursing also have access only to view the information.⁶

County elected office vacancy procedures

The act changes the procedures that apply when a board of county commissioners makes an appointment to fill a county office that is left vacant by an officer who was elected as an independent. The act gives the board up to 45 days to make the appointment, similar to the time allowed when a county political party makes such an appointment. It also allows the board

¹ 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.

² Continuing law also authorizes the appointing authority to increase or decrease the number of members of a board of county hospital trustees. The act’s clarification applies to this as well.

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

⁴ R.C. 339.02(A)(1) and (F)(1).

⁵ R.C. 339.02(G)(3).

⁶ R.C. 109.57(C).

to appoint an acting officer to perform the duties of the office before the board makes the long-term appointment, similar to the procedure allowed when a county political party makes such an appointment. Prior law specified that the board must make the appointment at the time when the vacancy occurred.

Under continuing law, if a vacancy in the office of county commissioner, prosecuting attorney, county auditor, county treasurer, clerk of the court of common pleas, sheriff, county recorder, county engineer, or coroner occur, a person must be appointed to hold the office and to perform the office's duties until a successor is elected and has qualified. If the last occupant of the office was elected as a partisan candidate, the county central committee of the political party that nominated the last occupant of the office for the current term must make the appointment. If the last occupant of the office or the officer-elect was elected as an independent candidate, the board of county commissioners must make the appointment.⁷

Electronic tax bill delivery

Under continuing law, county treasurers are responsible for delivering property tax and manufactured home tax bills. The act allows a county treasurer to adopt a policy authorizing the electronic delivery of those tax bills upon a taxpayer's request. The policy permits a taxpayer to request the bill's delivery to an email address or phone number capable of receiving it, e.g., through text message. If such a policy is adopted for property tax bills, the same policy applies to manufactured home tax bills.

Any person who requests to receive tax bills electronically may rescind the request with written notice. A request also is automatically terminated upon a change in taxpayer, i.e., a transfer of ownership. A county treasurer also may rescind an electronic delivery policy by providing notice to each person who has requested electronic delivery at least 30 days before the policy's rescission. The notice must inform the person that future tax bills will be mailed or delivered to the mailing address the treasurer has on file.

Email addresses and phone numbers disclosed to a county treasurer for electronic delivery purposes are not public records under Ohio Public Records Law.⁸ Additionally, the act does not permit a county treasurer to charge a fee to those who do not elect to receive electronic delivery.⁹

⁷ R.C. 305.02.

⁸ R.C. 149.43, not in the act.

⁹ R.C. 323.13(A)(2) and 4503.06(D)(6).

HISTORY

Action	Date
Introduced	08-30-21
Reported, H. State & Local Gov't	02-15-22
Passed House (98-1)	02-16-22
Reported, S. Local Gov't and Elections	12-13-22
Passed Senate (31-0)	12-13-22
House concurred in Senate amendments (85-2)	12-14-22
