A JOINT RESOLUTION

Proposing to enact Section 12 of Article XV of the Constitution of the State of Ohio to provide Ohio critical infrastructure protection.

Be it resolved by the General Assembly of the State of Ohio, three-fifths of the members elected to each house concurring herein, that there shall be submitted to the electors of the state, in the manner prescribed by law at the general election to be held on November 3, 2020, a proposal to enact Section 12 of Article XV of the Constitution of the State of Ohio to read as follows:

ARTICLE XV

Section 12. (A) As used in this section:

(1) "Alien entity" means a corporation or other business entity that is created or organized under the laws of any state, including Ohio, or any foreign nation or has its principal place of business in a foreign nation to which either of the following apply:

(a) Nonresident aliens and alien investors, in aggregate,
hold or acquire at least fifty-one per cent of the shares of stock or other interests in the corporation or entity.

(b) A nonresident alien or alien investor holds or acquires any shares of stock or other interests in the corporation or entity, the holding or acquisition of which grants the nonresident alien or alien investor access to any of the following:

(i) Nonpublic technical information about critical infrastructure;

(ii) Membership or observer rights on the corporation's or entity's board of directors;

(iii) Any other involvement in substantive decision-making regarding critical infrastructure or critical infrastructure technology.

(2) "Alien investor" means a corporation, business trust, estate, trust, partnership, or any other entity or association, created or organized under the laws of a foreign nation or with its principal place of business in a foreign nation that holds or acquires shares of stock or other interest in another corporation or entity.

(3) "Critical infrastructure" means any facility located in this state that affects the life, safety, health, welfare, and economic well-being of the citizens of this state and that is any of the following:

(a) An electric generating facility that meets the following requirements:

(i) The facility has a generating capacity of fifty megawatts or more; and
(ii) The facility is a hydroelectric facility or its primary source of fuel is coal, natural gas, or nuclear power.

(b) An intrastate electric transmission line and any associated facility:

(i) Of a design capacity of one hundred kilovolts or more; and

(ii) That is not a step-down transmission substation for a single industrial customer located at a single location.

(c) A water treatment facility;

(d) An intrastate pipeline that is a major utility facility as defined in section 4906.01 of the Revised Code;

(e) An intrastate oil transmission pipeline.

(4) "Divest" means to release, dispose of, or convey all ownership interests in critical infrastructure that is either held directly or through any type of subsidiary or associated entity or organization.

(5) "Nonresident alien" means any individual who is not a citizen of, and is not domiciled in, the United States.

(B) No alien entity shall have ownership interest in critical infrastructure.

(C) Every corporation or entity with an ownership interest in critical infrastructure shall submit to the secretary of state the following information along with a filing fee of five dollars:

(1) The name of the corporation or entity, address of its principal place of business, and address of its principal Ohio office;
(2) The name, address, telephone number, and country of
citizenship of each nonresident alien, if any, and the name and
address, including country, of the principal place of business
of each alien investor, if any, owning, in aggregate, at least
fifty-one per cent of the shares of stock or other interests in
the corporation or entity;

(3) The name, address, telephone number, and country of
citizenship of each nonresident alien, if any, and the name and
address, including country, of the principal place of business
of each alien investor, if any, owning stock or interest in the
corporation or entity that grants the nonresident alien or alien
investor access to any nonpublic technical information,
membership or observer rights on the corporation's or entity's
board of directors, or any other involvement in substantive
decision-making regarding critical infrastructure or critical
infrastructure technology;

(4) The chairman of the governing board, chief executive,
and partners of the corporation or entity, as applicable;

(5) The corporation's or entity's agent in this state;

(6) The place of incorporation, if a corporation;

(7) The critical infrastructure in which the corporation
or entity has an ownership interest.

(D) The secretary of state, after receipt of information
under division (C) of this section, shall determine if the
corporation or entity is an alien entity. If the secretary of
state determines the corporation or entity is an alien entity,
the secretary of state shall send written notification to the
corporation or entity directing it to divest all ownership
interest in critical infrastructure described in the information
received under division (C) of this section.

(E) The notice the secretary of state is required to send under division (D) of this section shall contain the following:

(1) The name of the corporation or entity the secretary of state has determined is an alien entity, address of its principal place of business, and address of its principal Ohio office;

(2) The critical infrastructure in which the corporation or entity has an ownership interest;

(3) A statement that the corporation or entity must divest any ownership interest it has in the critical infrastructure;

(4) A statement that the corporation or entity must achieve the divestment not later than one year after the notice is sent;

(5) A statement that the corporation or entity may request a mistake of fact hearing under rules adopted by the secretary of state under division (H) of this section if the corporation or entity believes the secretary's alien entity determination under division (D) of this section is erroneous.

(F) Except as provided in division (G) of this section, the corporation or entity that receives notice under division (D) of this section shall divest ownership interest in the critical infrastructure described in the notice not later than one year after the notice is sent. The corporation or entity shall notify the secretary of state in writing once it achieves divestment and the date the divestment is effective.

(G) The corporation or entity shall not be required to divest ownership interest in critical infrastructure as directed
under a notice under division (D) of this section if, pursuant to a mistake of fact hearing, the corporation or entity is determined not to be an alien entity.

(H) The secretary of state shall adopt rules under Chapter 119. of the Revised Code to implement this section, including provisions establishing a mistake of fact hearing procedure for any corporation or entity that objects to the secretary of state's determination that the corporation or entity is an alien entity under division (D) of this section.

EFFECTIVE DATE

If adopted by a majority of the electors voting on this proposal, Section 12 of Article XV of the Constitution of the state of Ohio shall take effect immediately.