

As Introduced

133rd General Assembly

Regular Session

2019-2020

H. J. R. No. 2

Representatives Manning, D., Callender

Cosponsors: Representatives Stein, Ghanbari, Lang, Cross

A JOINT RESOLUTION

Proposing to enact Section 12 of Article XV of the 1
Constitution of the State of Ohio to provide Ohio 2
critical infrastructure protection. 3

Be it resolved by the General Assembly of the State of 4
Ohio, three-fifths of the members elected to each house 5
concurring herein, that there shall be submitted to the electors 6
of the state, in the manner prescribed by law at the general 7
election to be held on November 3, 2020, a proposal to enact 8
Section 12 of Article XV of the Constitution of the State of 9
Ohio to read as follows: 10

ARTICLE XV 11

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

(1) "Alien entity" means a corporation or other business 13
entity that is created or organized under the laws of any state, 14
including Ohio, or any foreign nation or has its principal place 15
of business in a foreign nation to which either of the following 16
apply: 17

(a) Nonresident aliens and alien investors, in aggregate, 18

hold or acquire at least fifty-one per cent of the shares of 19
stock or other interests in the corporation or entity. 20

(b) A nonresident alien or alien investor holds or 21
acquires any shares of stock or other interests in the 22
corporation or entity, the holding or acquisition of which 23
grants the nonresident alien or alien investor access to any of 24
the following: 25

(i) Nonpublic technical information about critical 26
infrastructure; 27

(ii) Membership or observer rights on the corporation's or 28
entity's board of directors; 29

(iii) Any other involvement in substantive decision-making 30
regarding critical infrastructure or critical infrastructure 31
technology. 32

(2) "Alien investor" means a corporation, business trust, 33
estate, trust, partnership, or any other entity or association, 34
created or organized under the laws of a foreign nation or with 35
its principal place of business in a foreign nation that holds 36
or acquires shares of stock or other interest in another 37
corporation or entity. 38

(3) "Critical infrastructure" means any facility located 39
in this state that affects the life, safety, health, welfare, 40
and economic well-being of the citizens of this state and that 41
is any of the following: 42

(a) An electric generating facility that meets the 43
following requirements: 44

(i) The facility has a generating capacity of fifty 45
megawatts or more; and 46

(ii) The facility is a hydroelectric facility or its primary source of fuel is coal, natural gas, or nuclear power. 47
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(b) An intrastate electric transmission line and any associated facility: 49
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(i) Of a design capacity of one hundred kilovolts or more; 51
and 52

(ii) That is not a step-down transmission substation for a single industrial customer located at a single location. 53
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(c) A water treatment facility; 55

(d) An intrastate pipeline that is a major utility facility as defined in section 4906.01 of the Revised Code; 56
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(e) An intrastate oil transmission pipeline. 58

(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. 59
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(5) "Nonresident alien" means any individual who is not a citizen of, and is not domiciled in, the United States. 63
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(B) No alien entity shall have ownership interest in critical infrastructure. 65
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(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: 67
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(1) The name of the corporation or entity, address of its principal place of business, and address of its principal Ohio office; 71
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(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; 74
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(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; 80
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(4) The chairman of the governing board, chief executive, and partners of the corporation or entity, as applicable; 90
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(5) The corporation's or entity's agent in this state; 92

(6) The place of incorporation, if a corporation; 93

(7) The critical infrastructure in which the corporation or entity has an ownership interest. 94
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(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 96
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received under division (C) of this section. 103

(E) The notice the secretary of state is required to send 104
under division (D) of this section shall contain the following: 105

(1) The name of the corporation or entity the secretary of 106
state has determined is an alien entity, address of its 107
principal place of business, and address of its principal Ohio 108
office; 109

(2) The critical infrastructure in which the corporation 110
or entity has an ownership interest; 111

(3) A statement that the corporation or entity must divest 112
any ownership interest it has in the critical infrastructure; 113

(4) A statement that the corporation or entity must 114
achieve the divestment not later than one year after the notice 115
is sent; 116

(5) A statement that the corporation or entity may request 117
a mistake of fact hearing under rules adopted by the secretary 118
of state under division (H) of this section if the corporation 119
or entity believes the secretary's alien entity determination 120
under division (D) of this section is erroneous. 121

(F) Except as provided in division (G) of this section, 122
the corporation or entity that receives notice under division 123
(D) of this section shall divest ownership interest in the 124
critical infrastructure described in the notice not later than 125
one year after the notice is sent. The corporation or entity 126
shall notify the secretary of state in writing once it achieves 127
divestment and the date the divestment is effective. 128

(G) The corporation or entity shall not be required to 129
divest ownership interest in critical infrastructure as directed 130

under a notice under division (D) of this section if, pursuant 131
to a mistake of fact hearing, the corporation or entity is 132
determined not to be an alien entity. 133

(H) The secretary of state shall adopt rules under Chapter 134
119. of the Revised Code to implement this section, including 135
provisions establishing a mistake of fact hearing procedure for 136
any corporation or entity that objects to the secretary of 137
state's determination that the corporation or entity is an alien 138
entity under division (D) of this section. 139

EFFECTIVE DATE 140

If adopted by a majority of the electors voting on this 141
proposal, Section 12 of Article XV of the Constitution of the 142
state of Ohio shall take effect immediately. 143