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# OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research  
and Drafting

Legislative Budget  
Office

S.B. 367  
136<sup>th</sup> General Assembly

## Bill Analysis

**Version:** As Introduced

**Primary Sponsor:** Sen. Brenner

Andrew Little, Attorney

### SUMMARY

- Prohibits port authorities from failing to enter into agreements with developers that will result in projects receiving sales and use tax exemptions for building materials and services provided the projects involve minimally acceptable investments.
- Prohibits counties from failing to approve such agreements involving extraterritorial port authorities.
- Allows developers of qualifying projects to apply to the Tax Credit Authority for a sales and use tax exemption if either a port authority or county refuses to enter into or approve an agreement within 30 days after a developer requests an agreement or approval.

### DETAILED ANALYSIS

#### Sales tax exemption for large development projects

Continuing law exempts building and construction materials and services from sales and use tax if they are sold for incorporation into real property improvements that will ultimately be owned by the state or a political subdivision.<sup>1</sup> Port authorities, which are created by townships, municipalities, or counties for various purposes, including to facilitate economic development, are political subdivisions. As a result, port-authority-owned construction projects are eligible for that sales and use tax exemption. But, current law generally prohibits a port authority from entering into a contract for a project outside its territorial jurisdiction that will result in application of the exemption unless the board of county commissioners of the county or counties where that project will be located consents to the contract.<sup>2</sup>

<sup>1</sup> R.C. 5739.02(B)(13).

<sup>2</sup> R.C. 4582.72(B), as enacted by H.B. 96 of the 136<sup>th</sup> General Assembly.

The bill limits both port authorities and boards of county commissioners in their authority to withhold approval of certain agreements that will result in application of the sales and use tax exemption. Both limitations apply to projects that provide “minimally acceptable investments” – those that would incur at least \$25 million in construction and renovation expenses and include an obligation to finance or complete public infrastructure improvements in the project’s vicinity. The bill does not define public infrastructure improvements, but that term has traditionally included things that benefit the public, such as transportation and utility infrastructure.<sup>3</sup>

Under the bill, if the developer for a project with minimally acceptable investments fails to obtain the approval of the port authority or, if applicable, the county, within 30 days after the request for approval is made, the developer may submit the proposed contract to the Department of Development’s Tax Credit Authority to obtain a sales and use tax exemption for the project. After receiving the proposed contract and verifying that it includes minimally acceptable investments, the Authority must issue a certificate to the developer granting the contractor a sales and use tax exemption for the project.<sup>4</sup>

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## HISTORY

Action	Date
Introduced	02-18-26

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ANSB0367IN-136/ks

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<sup>3</sup> R.C. 4582.72(A).

<sup>4</sup> R.C. 4582.72(C) to (E), 5739.02(B)(13)(k), and 5739.03.