

As Introduced

131st General Assembly

Regular Session

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H. B. No. 403

Representative Dovilla

**Cosponsors: Representatives Antonio, Arndt, Brown, Grossman, Hambley, Hill,
Sheehy**

A BILL

To enact sections 9.58, 9.581, 9.582, 9.583, and 1
9.584 of the Revised Code relative to the 2
financing of capital improvement projects in 3
this state by another state or a political 4
subdivision of another state. 5

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 9.58, 9.581, 9.582, 9.583, and 6
9.584 of the Revised Code be enacted to read as follows: 7

Sec. 9.58. As used in sections 9.58 to 9.584 of the 8
Revised Code: 9

(A) "Eligible project" means any capital improvement 10
project located in this state that is designed to enhance, aid, 11
provide, or promote transportation, economic development, 12
housing, health care, recreation, education, government 13
operations, culture, research, or purposes or activities 14
authorized by Section 13 or 16 of Article VIII, Ohio 15
Constitution. 16

(B) "Foreign entity" means a state of the United States 17

other than this state, or a political subdivision or 18
governmental entity created by, or pursuant to the laws of, a 19
state of the United States other than this state. The term does 20
not include a foreign nation. 21

(C) "Governmental agency" means a department, division, or 22
other unit of state government of this state or a municipal 23
corporation, county, township, port authority, transportation 24
improvement district, water or sewer district, solid waste 25
management district, school district or other public school, 26
health district, park district, soil and water conservation 27
district, water conservancy district, regional transit 28
authority, airport authority, or other political subdivision or 29
public corporation, district, agency, authority, or commission 30
created pursuant to the laws of this state or pursuant to an 31
interstate compact or agreement authorized under the laws of 32
this state. 33

Sec. 9.581. (A) A foreign entity shall not directly or 34
indirectly provide financing for an eligible project, through 35
bonded indebtedness or otherwise, unless the foreign entity does 36
both of the following: 37

(1) Within two business days after the foreign entity 38
initially contacts or is contacted by the person or governmental 39
agency proposing the project, the foreign entity notifies either 40
of the following, as applicable, of its interest in the project: 41

(a) If the project will be located within the territory of 42
a port authority, the port authority; 43

(b) If the project will not be located within the 44
territory of a port authority, the county within which the 45
project will be located. 46

(2) Upon entering into a financing agreement, the foreign entity provides written confirmation to the port authority or county, as applicable, that an agreement has been reached and that all of the following conditions are met: 47
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(a) The interest or interest equivalent payable on the financing is intended to be excluded from gross income for federal income tax purposes. 51
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(b) The financing for the project does not require public approval under section 147(f) of Title 26 of the United States Code and is not a current refunding of a project that required such public approval. 54
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(c) The laws of the foreign entity do not prohibit this state or a political subdivision or governmental entity created by, or pursuant to the laws of, this state from providing similar financing for a capital improvement project located in that foreign entity or place more onerous conditions or restrictions on providing that financing than those set forth in division (A) of this section. 58
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(B) Division (A) of this section does not apply if, in addition to financing the project in this state, the foreign entity is currently financing a similar project for the same person in another state. 65
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Sec. 9.582. A governmental agency shall not directly or indirectly utilize a foreign entity to provide financing for an eligible project, through the issuance of bonded indebtedness or otherwise, unless the foreign entity complies with section 9.581 of the Revised Code. 69
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Sec. 9.583. If a foreign entity provides financing for an eligible project without complying with section 9.581 of the 74
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Revised Code, the foreign entity shall pay to the appropriate 76
port authority or county an amount equal to seventy-five per 77
cent of all fees charged by the foreign entity to provide the 78
financing, as and when those fees accrue, or, if greater in the 79
aggregate, an amount equal to all fees the port authority or 80
county would have charged to provide the financing based on a 81
predetermined fee schedule, as and when those fees would become 82
due under that schedule. 83

Sec. 9.584. If a foreign entity provides financing for an 84
eligible project without complying with section 9.581 of the 85
Revised Code, the director of development services or the 86
appropriate port authority or county may bring an action for 87
injunctive relief pursuant to Chapter 2727. of the Revised Code 88
against the foreign entity. Upon proof by clear and convincing 89
evidence of a failure to comply with section 9.581 of the 90
Revised Code, the director, port authority, or county shall be 91
entitled to such injunctive relief. Any injunction granted 92
pursuant to this section shall have statewide effect. 93