

As Introduced

**130th General Assembly
Regular Session
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S. B. No. 134

Senators LaRose, Sawyer

Cosponsors: Senators Uecker, Gardner

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A B I L L

To enact sections 9.58, 9.581, 9.582, 9.583, 9.584, 1
9.585, 9.586, and 9.587 of the Revised Code 2
relative to the financing of capital improvement 3
projects in this state by another state or a 4
political 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, 9.584, 6
9.585, 9.586, and 9.587 of the Revised Code be enacted to read as 7
follows: 8

Sec. 9.58. (A) As used in sections 9.58 to 9.587 of the 9
Revised Code: 10

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

(2) "Foreign entity" means a state other than this state, or 17
a political subdivision or governmental entity created by, or 18
pursuant to the laws of, a state other than this state. 19

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

(B) A foreign entity shall not directly or indirectly provide financing for an eligible project, through bonded indebtedness or otherwise, unless it first obtains approval of the financing in accordance with sections 9.581 and 9.582 of the Revised Code.

Sec. 9.581. (A) A foreign entity that intends to provide financing for an eligible project shall apply for approval of the proposed financing by submitting an application to one of the following entities, as appropriate:

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

(2) If the project will not be located within the territory of a port authority, but will be located within a municipal corporation, the municipal corporation;

(3) If the project will not be located within the territory of a port authority or a municipal corporation, the county within which the project will be located.

(B) The application submitted by a foreign entity shall provide the location of the project, a general description of the purpose and use of the project, and the name, address, and contact

information of the project owner and the foreign entity. The 50
application shall be accompanied by a letter of commitment 51
executed by the foreign entity that describes the proposed 52
financing terms for the project. 53

Sec. 9.582. (A) The port authority, municipal corporation, or 54
county shall approve an application received under section 9.581 55
of the Revised Code if both of the following apply: 56

(1) The proposed project is an eligible project. 57

(2) The port authority, municipal corporation, or county 58
determines that it cannot or will not provide financing for the 59
project on terms similar to or better than those described in the 60
foreign entity's letter of commitment. 61

(B) Within forty-five days after receiving an application, 62
the port authority, municipal corporation, or county shall provide 63
notice to the foreign entity of its decision to approve or deny 64
the application. If the port authority, municipal corporation, or 65
county fails to notify the foreign entity of its approval or 66
denial within that forty-five-day period, the application shall be 67
considered approved. 68

(C) If an application is denied, the foreign entity may 69
submit its application to the director of development services. 70
The director may approve the financing notwithstanding a prior 71
denial by the port authority, municipal corporation, or county. 72

Sec. 9.583. The approval of an application under section 73
9.582 of the Revised Code shall not be considered an endorsement 74
of the validity, sufficiency, or legality of the proposed 75
financing. The port authority, municipal corporation, or county 76
that approves an application or, in the case of an approval by the 77
director of development services, the state, shall not incur any 78
liability or continuing obligation for the proposed financing, and 79

the financing shall not constitute a general obligation or debt, 80
or a pledge of the general credit, of the port authority, 81
municipal corporation, county, or state. 82

Sec. 9.584. (A) The approval of an application under section 83
9.582 of the Revised Code is in addition to, and a condition of, 84
any other public approval requirement related to the financing of 85
an eligible project, including any approval authorized or 86
contemplated by section 9.97 of the Revised Code. 87

(B) If an application for the financing of an eligible 88
project has not been approved under section 9.582 of the Revised 89
Code, any public approval authorized or contemplated by section 90
9.97 of the Revised Code for the financing of the project shall 91
not be given. Any public approval given in violation of division 92
(B) of this section is void. 93

Sec. 9.585. A governmental agency shall not directly or 94
indirectly utilize a foreign entity to provide financing for an 95
eligible project, through the issuance of bonded indebtedness or 96
otherwise, unless such financing of the project is approved under 97
section 9.582 of the Revised Code. Any financing agreement entered 98
into in violation of this section is void. 99

Sec. 9.586. (A) If a foreign entity provides financing for an 100
eligible project without applying to the appropriate port 101
authority, municipal corporation, or county for approval as 102
required by section 9.581 of the Revised Code, the foreign entity 103
shall pay to the port authority, municipal corporation, or county 104
an amount equal to seventy-five per cent of all fees charged by 105
the foreign entity to provide the financing, as and when those 106
fees accrue, or, if greater in the aggregate, an amount equal to 107
all fees the port authority, municipal corporation, or county 108

would have charged to provide the financing based on a 109
predetermined fee schedule, as and when those fees would become 110
due under that schedule. Any governmental agency or other person 111
benefited by or participating in the financing provided by the 112
foreign entity shall be jointly and severally liable with the 113
foreign entity to the port authority, municipal corporation, or 114
county for the fees. 115

(B) If a foreign entity provides financing for an eligible 116
project despite its application being denied under section 9.582 117
of the Revised Code, the foreign entity shall pay to the 118
appropriate port authority, municipal corporation, or county an 119
amount equal to seventy-five per cent of all fees charged by the 120
foreign entity to provide the financing, as and when those fees 121
accrue, or, if greater in the aggregate, an amount equal to all 122
fees the port authority, municipal corporation, or county would 123
have charged to provide the financing based on a predetermined fee 124
schedule, as and when those fees would become due under that 125
schedule. Any governmental agency or other person benefited by or 126
participating in the financing provided by the foreign entity 127
shall be jointly and severally liable with the foreign entity to 128
the port authority, municipal corporation, or county for the fees. 129

Sec. 9.587. If a foreign entity provides financing for an 130
eligible project without applying to the appropriate port 131
authority, municipal corporation, or county as required by section 132
9.581 of the Revised Code, or if a foreign entity provides 133
financing for an eligible project despite its application being 134
denied under section 9.582 of the Revised Code, the director of 135
development services or the appropriate port authority, municipal 136
corporation, or county may bring an action for injunctive relief 137
pursuant to Chapter 2727. of the Revised Code against the foreign 138
entity. Upon proof by clear and convincing evidence of a violation 139

of section 9.58 of the Revised Code, the port authority, municipal 140
corporation, or county shall be entitled to such injunctive 141
relief. Any injunction granted pursuant to this section shall have 142
statewide effect. 143