

JobsOhio and Other Recent Economic Development Updates

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The purpose of this Alert is to provide an update on several recent economic development incentives events. Specifically, this Alert will provide information on the JobsOhio bill, the proposed nonrefundable tax credit for companies that occupy certain vacant facilities, the proposed refundable tax credit for remediation activities and the public-private partnerships that would be authorized in the State transportation budget bill.

JobsOhio Bill

On February 18, 2011, Governor Kasich signed Sub. House Bill 1 (“H.B. 1”), which requires the Governor to establish a nonprofit corporation to be named “JobsOhio.” H.B. 1 is not subject to referendum, and thus is immediately effective. The stated purpose of JobsOhio is to promote economic development, job creation, job retention, job training and the recruitment of business to Ohio. JobsOhio will work in cooperation with the Ohio Department of Development (“ODOD”) in the State’s economic development efforts. The most significant provisions of H.B. 1 are as follows:

- Governor Kasich is responsible for selecting the board of directors of JobsOhio, which will consist of eight board members, at least six of whom must be Ohio residents.
- The Director of ODOD is required to execute a contract with JobsOhio for JobsOhio to assist ODOD with providing services and otherwise carrying out the functions or duties of ODOD, including the operation and management of programs, offices, divisions or boards.
- ODOD remains responsible for approving incentives awards, and all incentives contracts will be between ODOD and the recipient of the

incentives. JobsOhio has no authority to execute contracts binding the State.

- The Director of ODOD is required to consult with the Governor to evaluate all powers, functions and duties of ODOD and submit a report to the General Assembly recommending statutory changes within six months after the effective date of H.B. 1. Some have speculated that this effort will likely involve the reorganization of ODOD into a smaller, renamed agency focused on community development.
 - Many current public entity laws and regulations do not apply to JobsOhio, but H.B. 1 includes alternative requirements that address a number of issues:
 - Current public officials ethics laws do not apply to JobsOhio, but H.B. 1 contains alternative ethics requirements, including provisions related to financial disclosure and conflicts of interest.
 - Current open meetings laws do not apply to JobsOhio, but H.B. 1 contains similar rules for the JobsOhio board’s “in-person” meetings at which a quorum is required to be present.
 - Current public records laws do not apply to JobsOhio, but the contract between ODOD and JobsOhio must include provisions making certain items (e.g., federal income tax return, travel reports, annual compensation, financial audits, incentives proposals, meeting minutes) public records.
 - Current lobbying registration and reporting laws apply to JobsOhio.
- It remains to be seen what statutory changes the Director of ODOD will recommend to the General Assembly. We will continue to monitor the progress of H.B. 1 and provide updates as necessary.

New Tax Credit for Expanding Into a Vacant Facility

House Bill 18 (“H.B. 18”) was introduced in early 2011, and would provide for a nonrefundable tax credit against the commercial activity tax (“CAT”) or the income tax for entities that increase payroll and expand into vacant facilities. To qualify under H.B. 18, the facility at issue must have been vacant for six months and the taxpayer must employ at least 50% of its Ohio employees at the facility. Like the job creation and job retention tax credit, this new credit would be adjusted for assumed annual inflation.

New Tax Credit for Voluntary Remediation Actions

House Bill 10 (“H.B. 10”) was introduced in early 2011, and would provide for a refundable tax credit against the CAT or the income tax for a person who completes a voluntary action to remediate a contaminated site and receives a covenant not to sue. An additional refundable credit is available if the person returns the property to productive use. H.B. 10 also would

exempt any such person from fees and penalties associated with environmental protection laws for a period of one year.

Public-Private Transportation Projects

Sub. House Bill 114 (“H.B. 114”), the transportation budget bill, was introduced in February 2011. Among other provisions, H.B. 114 includes provisions allowing the Ohio Department of Transportation (“ODOT”) to enter into public-private partnerships based on solicited and unsolicited proposals received from private entities relating to the development, construction or operation of transportation facilities. Once a proposal is selected, ODOT would enter into an agreement for the transportation facility with the private entity. H.B. 118 provides that financing for these projects can be obtained through some combination of State Infrastructure Bank obligations, federal, State and local grants or loans, gifts and private funding.

Vorys will continue to closely monitor the progress of JobsOhio, H.B. 18, H.B. 10 and H.B. 114 to determine how these important legislative changes might affect your business or your community.

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