Ohio's Budget Bill Includes Economic Development Incentives Provisions

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On July 18, Ohio Governor Mike DeWine signed a two-year budget bill (HB 166), his first since taking office. Included in the budget bill are a variety of provisions that impact state law governing economic development incentives. Several of the most noteworthy provisions governing economic development incentives are highlighted below.

1. ***Job Retention Tax Credit (R.C. 122.171).*** The budget bill makes it easier to qualify for a Job Retention Tax Credit (JRTC). For administrative projects (e.g., large office projects) a project can now qualify for the JRTC if it: (i) is located in a foreign trade zone, (ii) has 500 employees, ***or*** (iii) has $35 million in payroll. The foreign trade zone is a new addition in the budget bill. If a company elects to locate an administrative project in a foreign trade zone, it can now qualify for the JRTC without having to satisfy any additional jobs requirements (500 employees or $35 million in payroll). The company would still need to satisfy the JRTC's threshold for capital investment for administrative projects (which remains at $20 million over three years). For manufacturing projects, a company is no longer required to have 500 employees or $35 million in payroll to qualify for the JRTC. Instead, to qualify for the tax credit, a company with a manufacturing project must make or cause to be made payments over three years for capital investment at the project site of $50 million or 5% of net book value of all tangible personal property used at the project site (measured at the last day of the three-year period). A more detailed summary of the changes for the JRTC can be found here.
2. ***Ohio Opportunity Zones (R.C. 122.84).*** Investors in opportunity zones can now receive a tax credit equal to 10 percent of the taxpayer's investment into an Ohio qualified opportunity fund. To be eligible for this tax credit, the fund must hold 100 percent of its invested assets in a qualified opportunity zone property located in

Ohio. This may encourage Ohio taxpayers to create Ohio-only funds to benefit from this incentive. Additional information on the Ohio opportunity zone tax credit can be found here.

3. ***Motion Picture Tax Credit (R.C. 122.85).*** The budget bill retained and amended the Motion Picture Tax Credit. The tax credit now covers not just motion pictures (which remains broadly defined) but also broadway theatrical productions. Eligible expenditures under the tax credit have been expanded to include "postproduction activities" or "advertising and promotion of the production." Production of the motion picture or broadway theatrical production must begin within 90 days of its certification as an eligible project unless the director of the Ohio Development Services Agency finds that the production company shows good cause for the delay. Also, the budget bill allows the tax credit to be claimed by both the production company (as in the past, when the production company was called the "motion picture company," although it is now required to be registered with the secretary of state) and each production contractor (*e.*, contractors registered with the secretary of state, under contract with the production company, and providing specific services related to the production).
4. ***Invest Ohio Tax Credit (R.C. 122.86).*** The budget bill increased a key requirement to qualify for the Invest Ohio Tax Credit and reduced the overall amount of the tax credit available. A small business enterprise eligible for the tax credit must now meet the employment threshold of at least one employee "at the time of the qualifying investment and for the two year period immediately preceding the qualifying investment." In addition, the budget bill reduced the total amount of tax credits available from $100 million to $50 million for any biennium after July 1, 2019.
5. ***Tax Increment Financing or TIF (R.C. 5709.40, 5709.41, 5709.51, 5709.73, and 5709.78).*** The statutes governing Tax Increment Financing (the TIF statutes) have been amended in the budget bill to permit the legislative authority of a municipal corporation, board of township trustees, or board of county commissioners to amend a project/parcel-based TIF resolution or ordinance or an urban redevelopment TIF ordinance to extend the term of the TIF exemption for an additional period "not to exceed thirty" years beyond the period of the original exemption. To permit such an extension, all of the following conditions must be met: (i) the service payments made by the owner(s) of the TIF parcels must exceed $1.5 million in the calendar year immediately preceding the adoption of the amendment; (ii) for any amendments adopted after January 1, 2021, the service payments made by the owner(s) of the TIF parcels may not have exceeded $1.5 million in any calendar year before the one immediately preceding the adoption of the amendment; and (iii) the amendment extending the exemption must provide compensation for the city, local, or exempted village school district in which the TIF parcel(s) are located equal in value to the amount of taxes that would have been payable to the school district if the improvements had not been exempted from taxation for the additional period.

Vorys encourages you to contact your Vorys attorney with any questions you may have. For questions regarding incentives, please contact: Scott Ziance, 614.464.8287, sjziance@vorys.com, or Jonathan Stock, 614.464.5647, jkstock@vorys.com.