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Client Alert: Ohio Senate Unanimously Passes Legislation to Create Enhanced Economic Development Incentives for Megaprojects

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On June 12, 2019, the Senate unanimously approved Senate Bill 95. The bill, sponsored by State Senators Bob Peterson and Stephanie Kunze, has been sent to the House for further consideration. If enacted, megaproject operators and megaproject suppliers would be eligible for a number of enhanced economic development incentives.

A megaproject is defined as a development project that: (1) requires unique sites, extremely robust utility service, and a technically skilled workforce; (2) has a megaproject operator that makes at least \$1 billion in fixed-asset investments, or creates at least \$75 million in Ohio employee payroll; and, (3) has a megaproject operator that compensates project employees at an average hourly wage of 300% of federal minimum wage. Moreover, if the megaproject qualifies under the \$75 million in Ohio employee payroll requirement, the megaproject operator must maintain that payroll level until the last year for which it qualifies for the Job Creation Tax Credit (JCTC). A megaproject operator is defined as a taxpayer that undertakes and operates a megaproject. A megaproject supplier is any supplier in Ohio that sells tangible personal property to a megaproject operator and: (1) makes at least \$100 million in fixed-asset investments in Ohio, (2) creates at least \$10 million in annual Ohio employee payroll, and (3) maintains at least \$10 million in annual Ohio employee payroll until the last year for which the megaproject supplier qualifies for the JCTC.

If passed in its current form, the bill would double the maximum potential term of the JCTC from 15 years to 30 years for megaproject operators and megaproject suppliers, and it would enable all or a portion of a megaproject supplier's JCTC to be claimed by the applicable megaproject operator. The bill would also double the maximum potential term for community reinvestment area or enterprise zone property tax exemptions from 15 to 30 years for megaproject operators and megaproject suppliers. Finally, the bill would create a commercial activity tax (CAT) exclusion for gross receipts of a megaproject supplier from sales of tangible personal property to a megaproject operator.

Vorys encourages you to contact your Vorys attorney with any questions you may have. For questions on incentives matters, please contact: Scott Ziance, 614.464.8287, sziance@vorys.com, or Chris Knezevic, 614.464.5627, cjknezevic@vorys.com.