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New Megaprojects Incentives in Ohio

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Among the new economic development programs created in Amended Substitute House Bill 110 (H.B. 110 or the Budget Bill) are enhanced potential incentives for megaprojects. Similar legislation was proposed in 2019 under Senate Bill 95 (S.B. 95), which was the subject of a previous Vorys *Client Alert*. The newly enacted megaproject provisions follow closely to the proposed S.B. 95 language.

To qualify as a “Megaproject” the new development project must meet the following requirements:

- the project requires unique sites, extremely robust utility service, and a technically skilled workforce;
- the taxpayer that undertakes and operates a Megaproject (Megaproject Operator) must compensate project employees at an average hourly wage of at least 300% of the federal minimum wage; and
- the Megaproject Operator makes at least \$1 billion in fixed-asset investments, or the Megaproject Operator creates and maintains at least \$75 million in Ohio employee payroll.

Similarly, any business that sells tangible personal property to a Megaproject Operator is a “Megaproject Supplier” if it (i) makes at least \$100 million in fixed-asset investments in Ohio, (ii) creates at least \$10 million in annual Ohio employee payroll, and (iii) maintains at least \$10 million in Ohio employee payroll over the term of its Job Creation Tax Credit (JCTC).

Both the qualifying Megaproject Operator and any qualifying Megaproject Suppliers are eligible for enhanced incentives that could materially increase the value of an incentives package. Megaproject Operators and Megaproject Suppliers may be awarded a JCTC with a term up to 30 years, double the maximum term for non-Megaprojects. Additionally, H.B. 110 extends the potential term of enterprise zone exemptions (EZ) from 15 years to 30 years for an owner of real property constituting the site of a Megaproject or Megaproject Supplier. Similarly, the potential term of a community reinvestment area

exemption (CRA) has been extended from 15 years to 30 years for commercial or industrial structures on the site of a Megaproject or on a site owned and occupied by a Megaproject Supplier. Finally, the new law creates a commercial activity tax (CAT) exclusion for gross receipts of a Megaproject Supplier from sales of tangible personal property to a Megaproject Operator.

These extensions of time from 15 to 30 years for the JCTC, EZ and CRA can add tremendous value to the incentives package and substantially impact the return on investment calculations for a large project. Together, these enhanced incentives provide more support for companies considering a major project in Ohio, and by incorporating incentives for Megaproject Suppliers, this program presents a new opportunity for enhanced cooperation between the Megaproject Operator and Megaproject Suppliers.

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, sjziance@vorys.com, Chris Knezevic, 614.464.5627, cjknezevic@vorys.com, Sean Byrne, 614.464.8247, spbyrne@vorys.com; or Jon Stock, 614.464.5647, jstock@vorys.com.