

VIEWPOINT

Legislative session boosted incentives

The Alabama Legislature adjourned last month after passing the two operating budgets and amendments to Alabama's controversial immigration law.

The House and Senate leadership also advocated numerous landmark proposals, supported by Gov. Robert Bentley, to expand the scope or improve the operation of our statutory tax incentives. But the cornerstone of the governor's incentives package – the Alabama Job Creation and Retention Act of 2012 – encountered opposition in the Senate and died. Clearly, though, many believe this may have been the most productive legislative session ever in terms of enacting targeted incentives legislation and giving our industrial recruiters, both at the state level and in the Birmingham region, some additional arrows in their quivers.

- Act 2012-210 encourages large data centers to locate in Alabama, by enhancing the current statutory sales, use and property tax abatements available to these capital intensive projects. Later-acquired computers, software, etc. can also be included in the tax abatement. The act also makes certain warehousing facilities eligible for Alabama's primary tax incentives, if the facility also provides logistics services related to the distribution of goods.

- Act 2012-436 makes Alabama's primary tax incentives available for a "tourism destination attraction" – a commercial enterprise designed to attract visitors from inside or outside the state, such as a convention hotel and conference center or a spectator venue or arena. However, the facility cannot be primarily devoted to the retail sale of goods.

- Act 2012-54 expands Alabama's primary tax incentives to projects engaged in the coal mining industry – a major boon to the Birmingham/Tuscaloosa area and the state docks. In addition to some percentage limitations applicable to the state tax portion, these incentives sunset on March 1, 2014, unless the Legislature votes to extend them.

- Act 2012-483 provides income, financial institution and insurance company tax credits to investors in community development entities that provide funding to businesses that locate in qualified low-income or impoverished communities, especially central business districts, in Alabama. The act parallels the federal New Markets Tax Credit, which sunset on December 31, 2011. We expect Congress to renew those credits soon.

- Act 2012-385 allows certain large projects (mini-



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mum capital investment of \$100 million and at least 100 new jobs) to carry forward unused capital income tax credits for a period of up to four years after the normal 20-year period, depending on the level of capital investment. Additionally, these qualifying projects can delay claiming the credit for up to three years after the date the project is placed in service if the company is suffering startup losses.

- Act 2012-391 allows qualified agricultural businesses to deduct the cost of certain irrigation equipment in the year of acquisition. These farming, timber, catfish, etc. businesses are also eligible for a state income tax credit of up to \$10,000, based on 20 percent of the cost of any qualified irrigation equipment or qualified reservoirs. This could be a major benefit to Alabama's struggling farming sector.

Other notable acts provided incentives to employers for hiring qualified military veterans, increased the annual cap for film incentives from \$10 million to \$15 million per year and provided a sales tax exemption for any of the parts, components or systems used in the conversion, reconfiguration or maintenance of a transport category airplane.

While Bentley and the Legislature will continue to grapple with systemic funding issues concerning the state's general fund, we expect the Legislature to revisit several incentive proposals next session, including an interesting bill advocated by Sen. Slade Blackwell and Rep. Jack Williams to grant a tax credit for qualified research and development projects in the state, with a "super credit" if the business hires a chartered university or the Southern Research Institute or HudsonAlpha Institute for Biotechnology to perform the research.

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