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Tom Heywood serves as Chair of Business Development at Bowles Rice and is the firm's immediate past Managing Partner, a position he held from 2008 to 2022. Heywood has significant experience in health care, banking, and corporate/commercial law, and is frequently called upon by clients and community leaders for advice on business matters related to acquisitions, divestitures, and other transactional matters. As a former Chief of Staff to the Honorable Gaston Caperton, Governor of West Virginia, Tom has extensive experience working with government officials at the federal, state, and local levels, and is an active member of the Bowles Rice Government Relations team.

West Virginia Legislature Invests Heavily in Infrastructure

These are remarkable times in West Virginia. Record amounts of federal infrastructure monies are flowing into the state under the American Rescue Plan Act (“ARPA”) and the Coronavirus Aid Relief and Economic Security Act (“CARES”). Some \$6 billion in federal infrastructure monies are earmarked for the state and will be spent on a wide range of infrastructure projects over the next several years.

West Virginia also has an extremely well-funded Rainy Day Fund, which now exceeds \$1 billion and equals approximately 23 percent of West Virginia’s general revenue budget of roughly \$4.5 billion. The rating agencies on Wall Street generally recommend that states maintain a budget surplus of between 15 and 20

What to do With All This Money?

To their great credit, Governor Justice and legislative leaders recognize that these record sums of money are likely to never materialize again, and “should not be spent on a big fireworks show” (to quote House Speaker Roger Hanshaw). Rather, the Governor and Legislature are committed to investing these monies in infrastructure and other meaningful, long-term initiatives. Accordingly, the focus of West Virginia’s budget and legislation in 2022 was on infrastructure and economic development.

Among the several infrastructure and investment bills passed by the Legislature and signed into law by Governor Justice this year are the following:

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percent of budget. Accordingly, West Virginia lawmakers have temporarily suspended further contributions to the state’s Rainy Day Fund at this time, choosing, instead, to devote excess revenues to investments in our future.

Finally, West Virginia is enjoying a record budget surplus in the fiscal year ending June 30, 2022. Through May 31, 2022, 11 months into West Virginia’s fiscal year, the state’s budget surplus is \$1.107 billion. West Virginia is expected to finish the fiscal year with an even larger surplus.

BUILD WV Act (HB 4502). The BUILD WV Act creates tax exemptions for developers if they build residential areas in certain regions of West Virginia. Two big factors constraining West Virginia’s ability to grow faster are (1) lack of workforce, and (2) lack of housing. The BUILD WV Act is designed to address both issues. The goal of the bill is to incentivize contractors to build residential properties in areas with growing tourism/economic development needs by creating housing for employees of growing and incoming businesses.

The BUILD WV Act targets the construction of “reasonably priced residential housing for graduate, post-graduate and professional job holders, technical workers, and entrepreneurs for targeted businesses in key geographical regions of this state.” Tax exemptions available under the act include a potential municipal business tax exemption; a property value adjustment refundable tax credit for ten (10) years; and a sales tax exemption for building materials. Up to twelve (12) certified districts will be created in West Virginia under the BUILD WV Act. The minimum qualifying investment is \$3 million, and at least six residential units or houses must be built within the project. Districts will be designated, based on housing and employment needs; local support efforts within the district; and the projected economic impact of the housing project.

Apprenticeship Training Tax Credit (HB 4465). West Virginia has provided a tax incentive to apprentices in the trades for several years. HB 4465 extends the credit to all apprenticeship programs.

Employer Sponsored Child Care Facilities (SB 656). Yet another tax credit program enacted by the Legislature in 2022 is a tax credit for employer-sponsored childcare facilities.

A big reason that there is a worker shortage in West Virginia is that many women have left the workforce to take care of children, in the face of the reality that there are very few childcare options available. As a measure designed to incent the creation of childcare facilities, the West Virginia Chamber of Commerce advocated for – and the Legislature passed – a tax credit of up to 50 percent for employers who either establish and operate, alone or combining with other employers, childcare facilities for their employees. The tax credit is taken over five years. There are clawback provisions for any such childcare facility that does not operate for 14 years. Employers around the State of West Virginia are studying this pioneering legislation to determine whether it makes sense for them to own and operate childcare facilities for their employees.



Certified Sites and Development Readiness Program (HB 4002). HB 4002 provides funds and various other incentives to create development-ready sites across West Virginia. For the past 50 years or longer, the number one reason that West Virginia loses economic development opportunities and projects is the lack of available flat land with water, sewer, and electric infrastructure. HB 4002 is designed to address this challenge by creating a series of incentives to develop available sites and have them “shovel ready” when job prospects and opportunities come to town.

The act creates a Certified Sites and Development Readiness Fund and sets criteria for a program to be administered by the West Virginia Department of Economic Development. The Department is required to develop evaluation criteria; establish an application process for the program; provide for site review and reporting to applicants of the site’s readiness; or improvements to site for readiness. The Department is empowered to select sites and provide applicants up to a 50 percent matching funds grant to develop the site and to choose recipients for available micro-grants to fund improvements to the site.

Hats off to Governor Justice and the West Virginia Legislature for their responsible approach to long-term economic development and for adding many new tools to West Virginia’s economic development toolbox in 2022. As a result of their efforts, developers and businesses across the state, region and nation are now in a much better position to spur sustainable growth and economic development in the Mountain State for years to come. ▼