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Midwest – Law Firms

What's Happening In The Heartland: Business And Law In The Midwest

The Editor interviews Andrew P. Pillsbury, Corporate Partner in the Chicago office of Kelley Drye & Warren LLP. Mr. Pillsbury has experience in start-up structurings, securities offerings, investment fund formation, mergers & acquisitions, financing and general compliance and governance issues.

Editor: What key factors have contributed to the nine percent growth in manufacturing and overall job growth in the Midwest? Do you expect this growth to be sustained over the long term?

Pillsbury: The job market in the Midwest appears to be benefiting from continuing improvements in the manufacturing sector and other areas. It is difficult to pinpoint any particular factor that may be driving this growth, but several seem to be at play, including government support and economic development initiatives, the weakening value of the U.S. dollar and legacy industry expertise and its related highly trained workforce in the region.

Government support, economic development policies and legislative mandates have enabled many companies to take advantage of developing industries, including medical technology and “green” initiatives, such as clean fuel efforts. An interesting recent example combining many of these factors is the FutureGen Alliance, a consortium of power producers and utilities, leading a \$1.3 billion project to develop a near-zero emission power plant in Illinois. The project is backed by \$1 billion in federal funding from the American Recovery and Reinvestment Act and \$300 million in pri-

ivate investment. However, beyond the direct federal funding, another driver in this project is the Illinois legislative mandate for “clean coal.” Under Illinois law, five percent of the state’s electricity must come from “clean coal” facilities, which capture greenhouse emissions. We follow this project with great interest as our client, the Illinois Power Agency, may ultimately play a key role in the project’s financing and success through a possible long-term energy purchase agreement.

As the dollar has declined in value, U.S. exports have become more attractive globally as foreign purchasing power has increased on a relative basis. Much of the recent regional growth was driven by machinery export demand. Locally, companies such as John Deere and Caterpillar, Illinois-based equipment manufacturers, have seen strong sales growth, presumably driven both by local demand, aided by strengthening commodities markets, and by the declining dollar aiding their respective efforts to sell into overseas markets. The declining dollar may also be attracting more foreign investment, as U.S. assets have become “cheaper” and make for more attractive investment targets, particularly for foreign enterprises serving and promoting sales in the U.S. market.

The Midwest also benefits from its strong skilled labor force and infrastructure and manufacturing experience, offering turnkey opportunities for growth.



**Andrew P.
Pillsbury**

While many opportunities have arisen in more traditional automotive and related industries, technological advancements and developments in the medical technology specialties have been key to overall employment and job growth. Biomedical research centers and parks open at many of the state’s university-affiliated hospitals in Illinois have helped provide many in-state residents and newcomers job opportunities in a rapidly emerging field – which is further spurred by the increase in private venture capital being invested into these healthcare-centered initiatives. For example, the University of Illinois Research Park has over 90 companies that employ over 1,300 people in high-tech jobs. This high-tech growth needs to be fueled so that Illinois can maintain and build upon its reputation of being a state in which expanding high-tech industry can invest.

Editor: What changes have been introduced by these states that provide incentives for new businesses to move or existing businesses to innovate?

Pillsbury: This has certainly recently been making front-page news. In Illinois, a variety of incentives and programs are designed to attract new businesses. The state’s principle tax incentive program, Economic Development for a Growing Economy, also known as EDGE, this year so far has pledged in excess of \$230 million to 27 Illinois-based companies. For example, Libertyville-based Motorola Mobility, one of the two independent companies formed as a result of the recent Motorola restructuring, was given over \$117 million by the state to keep its head-

Please email the interviewee at apillsbury@kelleydrye.com with questions about this interview.

quarters in the area. As a result of the EDGE grant, Motorola has pledged to spend over \$500 million on R&D centered in Illinois. Also, the EDGE tax credit program has galvanized companies such as Warrenville-based Navistar to expand in Illinois, which has helped create thousands of new jobs and is providing a boost to both state and local economies.

The incentives, or at least requests for incentives, show no signs of slowing. Recently other corporate icons of Illinois, including Sears and Caterpillar, have come forward with similar announcements of possible relocations possibly driven to test the incentives available. This may ultimately be a zero-sum game within the region, but it illustrates how competitive these public packages have become. Neighboring states, such as Illinois and Wisconsin, are competing against one another to lure corporations and industries to establish themselves in each respective state. Wisconsin Governor Scott Walker has told Illinois companies who have to deal with the state's higher corporate tax rate, "You are welcome here."

That said, according to a recent study, Illinois, Ohio and Wisconsin are among the top five states with the lowest effective tax rates on new investments. Continued progress on economic policies like these will be key in ensuring that new businesses continue to gravitate toward the Midwest. These policies free up corporate funds to be reinvested in innovative R&D departments and other growth initiatives, which will hopefully continue to develop the technology that will contribute to both regional and national growth.

Editor: What efforts are taking place in various industries to promote workforce development and technical education?

Pillsbury: In Illinois, as recently as May, we can see new programs being introduced that are hopefully leading to a better trained and educated workforce. The Illinois Innovation Council is aiding in the development of new and innovative start-up companies. The council itself is chaired by the founder and CEO of Chicago-based Groupon – a company whose cutting-edge e-commerce business has helped create thousands of new jobs in the region. People are hopeful that this

kind of entrepreneurial nurturing will help expand the Illinois economic landscape.

Here we also have a longstanding program in the Illinois Workforce Development System. This program partners with local community colleges and the State Board of Education to aid many previously unskilled or minimally skilled workers in their educational development. Programs such as these are key in demonstrating to potential investors that Illinois is willing to invest its resources to expand the pool of highly skilled and talented workers ready for the next opportunity.

Regionally, the Michigan Economic Development Corporation, a public agency, has been working with both state residents and private corporate entities to help revive the state's economy and workforce. The agency works specifically with other programs centered in areas like Detroit to promote the benefits of living and working in Michigan to bring recent college graduates into, or in many cases, back into, the state. Looking at Michigan, where some of the greatest recent job growth has occurred, the technological advancements that have come in the auto industry illustrate the growing opportunities. Job fairs to attract engineers and other professionals to the region are an interesting contrast to more recent negative headlines.

Editor: What difference has a state's right-to-work law made in terms of attracting business?

Pillsbury: The right to work is certainly a hot button issue. The highly publicized debates and protests in Wisconsin may signal the start of a national debate on this polarizing issue. In Wisconsin, supporters of enacting right-to-work legislation are advocating that such legislation would benefit the state's economy, be a tool to attract business and industry, and create a larger pool of skilled workers in the state. That said, numerous opponents of the proposed right-to-work laws in Wisconsin believe the laws would severely limit or eliminate union members' collective bargaining rights and would be adverse to working-class families. It will be interesting to see the end result of these legislative pushes and what effect it will have on Midwestern economies.

Editor: Have you seen foreign companies entering the Midwestern markets? What concessions or inducements by

states are being used to encourage them to establish their operations in the U.S.?

Pillsbury: Illinois recently ranked first in the Midwest for having a favorable climate for foreign direct investment. Much of foreign capital invested in the Midwest is allocated into the manufacturing sector. The automakers, the most prevalent foreign manufacturers in the Midwest, provide good examples. Mitsubishi just committed to produce some of its most popular vehicles in Normal, Illinois. Similar efforts are underway elsewhere. Toyota, Honda and Subaru have manufacturing plants in the Midwest that are located in Ohio and Indiana. States are certainly continuing their efforts to try to induce these companies to set up shop within their boundaries. Recently, the securing of a Subaru plant in Indiana illustrates this point well, as over \$98 million in tax incentives were distributed upon the plant's opening.

The investments obviously extend beyond the automotive industry. In nearby Northwest Indiana, BP is in the process of investing over \$3 billion in petroleum refining to modernize and expand existing facilities. Beyond the direct investment, initiatives like this flow through to many levels, such as corresponding investment in related infrastructure to support the company itself and growth of related suppliers and vendors. Correspondingly, the area has had a recent spike in related commercial real estate development.

Editor: How can law firms help their clients take advantage of local government subsidies or tax abatements and stay abreast of opportunities for their future growth?

Pillsbury: Good question and certainly top of mind for service providers. We need to inform clients of their existing opportunities and to keep ahead of the curve for what subsidies and abatements may be coming in the future. We also have to prepare to advise clients when they are in a positive bargaining position to pursue such incentives. It has proven particularly beneficial for us to work together with our lobbying/government relations divisions to better promote our clients' interests in this area. Kelley Drye also has a strong government relations practice in our D.C. office, which we try to utilize as much as possible when dealing with these kinds of client matters.