



REVIEW OF FEDERAL LEGISLATION AFFECTING MUNICIPAL FINANCE

The California Debt and Investment Advisory Commission (CDIAC) recently has reported on state legislation affecting municipal debt issuance and investment. Federal laws and regulations, particularly those addressing the taxable status of debt, are relevant to California debt issuers and investors as well. As a result, CDIAC commits a portion of this edition of *DEBT LINE* to proposed federal legislation.

Private Activity Bonds

Senate Bill 1917 (S. 1917), introduced November 21, 2003, would amend the Internal Revenue Code of 1986 (IRC) to permit the issuance of tax-exempt bonds for certain air and water pollution control facilities, and to provide that the volume cap for private activity bonds will not apply to bonds for facilities for the furnishing of water, sewage facilities, and air or water pollution control facilities.

The Clean Air Act requires the Environmental Protection Agency to set air quality standards and establishes deadlines for State and local governments to achieve those levels. More than 90 communities across the country are out of compliance with the Clean Air Act. These so-called "non-attainment" areas are threatened with regulatory sanctions, such as loss of federal highway funding, if they do not meet mandated ozone levels by 2007.

Currently, tax-exempt bonds cannot be used to finance air and water pollution control facilities. Even if they could, they would be limited by a cap which sets the total amount of tax-exempt private activity bonds issued by a state. Given the demands of other projects, such as housing, relatively few of the air and water pollution projects would have an opportunity to access this financing option.

This bill will allow federal tax-exempt bonds to be used by private firms for air and water pollution control projects. For example, this bill would allow tax-exempt debt to be used to finance private water systems and to install air pollution facilities on electric utility plants. Passage of the bill would provide states and communities with an important new tool for addressing air and water pollution control needs.

House of Representatives Bill 3410 (H.R. 3410) would amend the Paragraph 3 of Section 146(g) of the IRC to exempt water and

sewage facility bonds from the volume cap on private activity bonds. Only those bonds issued after the effective date of the amendment, should it be enacted, would be affected. The bill was introduced November 30, 2003 and was referred to the House Committee on Ways and Means, where it still resides.

Infrastructure and Transportation Bonds

S. 1009, introduced May 22, 2003, would amend the IRC to allow an income tax credit to a taxpayer holding bonds authorized under this act. The Build America Bonds Act of 2003, as the bill is known, would define a Build America bond as any bond issued by the Build America Corporation as part of an issue if 95 percent or more of the proceeds from the sale of such issue are to be used for expenditures incurred for any qualified project or for deposit in the Build America Trust Account for repayment of Build America bonds at maturity.

S. 1109 defines a qualified project as the financing of capital improvements for any transportation infrastructure project of any governmental unit or other person, including highways, transit systems, railroads, airports, ports, and inland waterways, proposed by a State and approved by the Build America Corporation. Furthermore, it establishes the non-profit Build America Corporation to: (1) issue Build America bonds for the financing of qualified projects; (2) establish and operate the Build America Trust Account; and (3) perform any other function the sole purpose of which is to carry out the financing of qualified projects through Build America bonds.

The bill was referred to the Senate Committee on Finance where it has been read twice. No action has been taken on the bill since its referral.

Electric Generation and Transmission Facilities

S. 1290 and H.R. 2313 would amend the IRC to permit one additional advance refunding of certain tax-exempt bonds, of which the net proceeds are used to finance the costs of electric generation, transmission, or distribution assets owned by the issuer or by a consortium of state or local governments which includes the issuer. The bill sets certain conditions that the bonds must meet to qualify for the advance refunding. The bill was referred to the House Committee on Ways and Means on June 3, 2003.

Qualified Zone Academy Bonds

S. 1500 would amend the IRC to include construction as a “qualified purpose” for the spending of a “qualified zone academy bond” (95 percent of such bond proceeds must be spent on a “qualified purpose”). It would allow the credit retained by a regulated investment company for its holding of a zone academy bond to be distributed to the company’s shareholders and permits that such credits be stripped away from the bond. The bill was referred to the Senate Finance Committee on July 30, 2003 where it still resides.

For more information on these and other bills affecting municipal finance, go to the Library of Congress website at www.thomas.loc.gov.

This Offprint was previously published in DEBT LINE, a monthly publication of the California Debt and Investment Advisory Commission (CDIAC). CDIAC was created in 1981 to provide information, education, and technical assistance on public debt and investment to state and local public officials and public finance officers. DEBT LINE serves as a vehicle to reach CDIAC’s constituents, providing news and information pertaining to the California municipal finance market. In addition to topical articles, DEBT LINE contains a listing of the proposed and final sales of public debt provided to CDIAC pursuant to Section 8855(g) of the California Government Code. Questions concerning the Commission should be directed to CDIAC at (916) 653-3269 or, by e-mail, at cdiac@treasurer.ca.gov. For a full listing of CDIAC publications, please visit our website at <http://www.treasurer.ca.gov/cdiac>.

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