

## AGENDA ITEM 7 (INFORMATION ITEM) DEFINING PUBLIC DEBT

### Defining Public Debt June 10, 2014

#### STAFF REPORT

Government Code Section 8855(h)(3) charges CDIAC with the responsibility to “(C)ollect, maintain, and provide comprehensive information on all state and all local debt authorization and issuance, and serve as a statistical clearinghouse for all state and local debt issues.” CDIAC codes, however, do not define the term debt.

At the time CDIAC was created in 1981 state and local agencies seldom issued debt in any other form than a long-term bond. Since that time, however, the market has changed. Public entities now issue debt in a variety of short- and long-term structures, including notes, certificates of participation, and commercial paper. In recent years, more and more local agencies have begun to engage in alternative financings that are more akin to loans than municipal securities. These financings include direct loans, direct purchase bonds, and privately placed loans.

The recent emergence of alternative financings is, in part, tied to decisions made during the financial crisis by liquidity providers, commonly banks, to not renew letters of credit or stand-by purchase agreements. The international bank reforms imposed by the Basel III accord have also incited banks to structure and, hold as assets, loans to public entities. Estimates of the volume of debt issued in recent years by public entities as alternative financings range from 4 percent to 40 percent. CDIAC is undertaking its own analysis of this market and estimates the volume to be in excess of 10 percent.

Although the term debt is not defined in CDIAC’s statutes, the term bonds is defined in other sections of code to include other types of indebtedness. Government Code Section 5902 (a), for example, defines bonds to mean “*bonds, notes, warrants, bond anticipation notes, commercial paper, or other evidences of indebtedness, or lease, installment purchase, or other agreements or certificates of participation therein.*”

CDIAC's authorizing statutes do not include legislative intent language. However, CDIAC has historically interpreted Section 8855(h) (3) to mean that it collect, maintain, and provide comprehensive information on ALL state and local debt authorization and issuance, including any forms of alternative financing that constitute a DEBT of the public entity.

To clarify this understanding, CDIAC has asked Assemblymember Richard Gordon to sponsor legislation amending Section 8855. Assembly Bill 2274, introduced on February 21, 2014, would better align CDIAC's debt information collection process with current municipal financing practices. Specifically, AB 2274 removes language that could be interpreted by issuers to mean that they are required to submit notices of issuance and sale on traditional long-term debt exclusively.

If chaptered in its present form, AB 2274 will allow CDIAC to more specifically define the types of debt issuers are required to report. To capture the current and future financing structures that public entities may employ, debt will be defined to include: bonds, notes, warrants, commercial paper, loans or other evidence of indebtedness, or lease, installment purchase, or other agreements or certificates of participation therein whether it is new indebtedness or used to refund, refinance, or retire existing indebtedness. This definition will be used for the purposes of collecting and reporting on all debt issued by state and local agencies in California. Furthermore, CDIAC will establish and administer regulations specifying, among other things, the types of debt issuers must reports, how these reports must be made, and the information that issuers must provide to CDIAC on proposed and issued debt.