

THE CALIFORNIA DEBT LIMIT ALLOCATION COMMITTEE

July 22, 2009

**DISTRIBUTION OF THE AMERICAN RECOVERY AND REINVESTMENT ACT
(ARRA) RECOVERY ZONE BOND ALLOCATION AND CONSIDERATION OF AND
APPROVAL TO DISSEMINATE RELATED PROPOSED REVISIONS TO CDLAC
PROCEDURES FOR A 30-DAY PUBLIC COMMENT PERIOD**

(Agenda Item No. 6)

ACTION ITEM: Approve the allocation of ARRA Recovery Zone Bond Allocation and the distribution of proposed Recovery Zone Facility Bond Procedures and Recovery Zone Economic Bond Procedures for a 30-day public comment period.

BACKGROUND:

The American Recovery and Reinvestment Act of 2009 is a combination of spending and tax provisions to provide not only a short term impact on the economy but also provide long term investments in the hope of dampening the negative impacts of the economic downturn. The investment priorities for the recovery zone stimulus package include the development of public facilities; infrastructure modernization; helping Americans and businesses hurt by the economy by creating jobs; and supporting education and job training.

On February 17, 2009 H.R. 1, The American Recovery and Reinvestment Act of 2009 was enacted. Recovery Zone Bonds provide tax incentives and lower borrowing costs for local governments and private entities to promote job creation and economic recovery in areas particularly affected by employment declines. The Recovery Zone Bonds are allocated by the Department of Treasury to the states based on the proportion of each state's 2008 employment decline bears to the national 2008 employment decline. The allocation has been further suballocated **by the Department of Treasury** among counties and large municipalities (populations of more than 100,000) as published on the IRS website and attached as Exhibit A. The states allocation and federal program requirements are outlined below:

1) Recovery Zone Facility Bonds (RZFB): The total California allocation is \$1,209,338,000. The ARRA legislation authorizes \$15.0 billion in Recovery Zone Facility Bonds (RZFB) nation wide. These are a new category of bonds they will be treated as tax exempt private activity bonds for issuance in 2009 and 2010.

2) Recovery Zone Economic Development Bonds (RZEDB): The total California allocation is \$806,225,000. The ARRA legislation authorizes \$10 billion in tax credit bonds for Recovery Zone Economic Development Bonds (RZEDB) nation wide; these are taxable tax credit bonds for issuance in 2009 and 2010.

1. Recovery Zone Facility Bonds (RZFB)

- a. A Recovery Zone is defined as: An area designated because of significant poverty, unemployment, rate of home foreclosures or general distress, or economically distressed because of a military base closure or realignment, or any area which a designation as an empowerment zone or renewal community is already in effect.

- b. The following cities did not meet the ARRA unemployment criteria: Bakersfield, Chula Vista, Daly City, Escondido, Fresno, Oceanside, Salinas, San Diego, San Francisco, San Jose, Santa Clara, Sunnyvale, and Visalia. The following counties did not meet the ARRA unemployment criteria: Alpine, Colusa, Del Norte, Fresno, Imperial, Inyo, Kern, Lassen, Madera, Marin, Mariposa, Merced, Modoc, Monterey, Napa, San Benito, San Diego, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Sierra, Sutter, Tehama, Tulare, Tuolumne, and Yuba.
- c. The Local government must designate a Recovery Zone area prior to the issuance of tax-exempt bonds.
- d. An RZFB is treated as an exempt facility bond under federal code section 142, the interest would be tax-exempt. At least 95% of the net proceeds must be used for recovery zone property. RZFBs are private activity bonds in that an allocation is made by the Department of Treasury to the local issuer for use by a private entity.
- e. Recovery Zone Property is defined as: It must be depreciable property if; (1) such property was constructed, reconstructed, renovated, or acquired by purchase by the taxpayer after the date on which the designation of the recovery zone took effect; (2) the original use of such property commences with the taxpayer; and (3) substantially all of the use of such property is in the recovery zone and is in the active conduct of a qualified business by the taxpayer in such zone. A qualified business means any trade or business except : rental of residential property and any private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, racetrack or other facility used for gambling, or any store the principal business of which is the sale of alcoholic beverages. [The requirements and limitations of Code Section 147 apply to RZFBs except the limitation on the acquisition of existing property].

2. Recovery Zone Economic Development Bonds (RZEDB)

- a. A Recovery Zone is defined as; an area designated because of significant poverty, unemployment, rate of home foreclosures or general distress, or economically distressed because of a military base closure or realignment, or any area which a designation as an empowerment zone or renewal community is already in effect.
- b. The Local government must designate a Recovery Zone area to issue RZEDBs.
- c. RZEDB is a taxable tax credit bond. The Issuer shall receive a credit from the federal government equal to 45% of the interest payable by the issuer on the interest payment date.
- d. 100% of the available project proceeds (i.e. sale proceeds, less cost of issuance not to exceed 2%, plus investment earnings thereon) of a RZEDB, less the amount funding a reasonably required reserve fund, must be used for one or more qualified economic development purposes of promoting development or other economic activity in a recovery zone including capital expenditures paid or incurred with respect to property in the zone, expenditures for public infrastructure and construction of public facilities and expenditures for job training and educational programs.

- e. Authorized projects include; capital expenditures for property located in recovery zone; expenditures for public infrastructure and construction of public facilities, and expenditures for job training and educational programs.

REALLOCATION OF RECOVERY ZONE BONDS:

CDLAC will have no immediate role in the administering of the Recovery Zone Bond allocation to counties and large municipalities. However, pursuant to the proposed CDLAC Procedures the following shall apply:

1. CDLAC will require a Report of Action form be submitted to CDLAC upon the issuance of bonds not more than three days following the issuance of RZFBs and RZEDBs. This report should include the date and amount of the issuance and the designated recovery zone in which proceeds will be used.
2. CDLAC will develop a process for distribution of an allocation that has been waived by localities. CDLAC will re-allocate this waived allocation in a manner that will maximize public benefits for the State of California.
3. CDLAC will return to the Committee to present the Reallocation Procedures and application at a later date.
4. Counties and large municipalities receiving RZFB and RZEDB allocation must provide CDLAC with a Plan of Issuance no later than January 31, 2010. The Plan should include a recovery zone bond resolution and a description of the projects to be funded. In addition counties and municipalities are encouraged to include a project issuance timeline as part of the Plan of Issuance.
5. Allocations that after July 1, 2010, have not been issued or included in a notice of intent to issue are automatically deemed waived and returned to CDLAC for reallocation.

RECOMMENDATION: Approve the allocation of ARRA Recovery Zone Bond Allocation and approve the distribution of proposed Recovery Zone Facility Bond Procedures and Recovery Zone Economic Bond Procedures for a 30-day public comment period.

Prepared by Crystal Alvarez.

Exhibit A

Area	Recovery Zone		
	Residual	Economic Development Bond	Recovery Zone Facility Bond
California		806,225,000	1,209,338,000
Anaheim city, CA		6,573,000	9,859,000
Bakersfield city, CA		0	0
Berkeley city, CA		1,558,000	2,337,000
Burbank city, CA		5,832,000	8,748,000
Chula Vista city, CA		0	0
Concord city, CA		1,831,000	2,746,000
Corona city, CA		7,482,000	11,223,000
Costa Mesa city, CA		2,572,000	3,857,000
Daly City city, CA		0	0
Downey city, CA		5,210,000	7,815,000
Elk Grove city, CA		1,372,000	2,059,000
El Monte city, CA		4,791,000	7,187,000
Escondido city, CA		0	0
Fairfield city, CA		934,000	1,401,000
Fontana city, CA		5,421,000	8,131,000
Fremont city, CA		2,970,000	4,456,000
Fresno city, CA		0	0
Fullerton city, CA		2,705,000	4,058,000
Garden Grove city, CA		3,196,000	4,794,000
Glendale city, CA		10,043,000	15,085,000
Hayward city, CA		1,833,000	2,750,000
Huntington Beach city, CA		4,752,000	7,128,000
Inglewood city, CA		4,992,000	7,488,000
Irvine city, CA		3,268,000	4,902,000
Lancaster city, CA		5,076,000	7,614,000
Long Beach city, CA		22,235,000	33,353,000
Los Angeles city, CA		179,460,000	269,191,000
Modesto city, CA		904,000	1,356,000
Moreno Valley city, CA		7,360,000	11,041,000
Norwalk city, CA		4,630,000	6,945,000
Oakland city, CA		5,054,000	7,581,000
Oceanside city, CA		0	0
Ontario city, CA		7,113,000	10,669,000
Orange city, CA		2,817,000	4,225,000
Oxnard city, CA		2,713,000	4,069,000
Palmdale city, CA		5,136,000	7,704,000
Pasadena city, CA		7,410,000	11,115,000
Pomona city, CA		6,233,000	9,350,000
Rancho Cucamonga city, CA		7,048,000	10,572,000
Richmond city, CA		1,316,000	1,973,000
Riverside city, CA		13,774,000	20,662,000
Roseville city, CA		2,091,000	3,136,000
Sacramento city, CA		8,042,000	12,063,000
Salinas city, CA		0	0
San Bernardino city, CA		7,068,000	10,602,000
San Buenaventura (Ventura) city, CA		1,925,000	2,887,000
San Diego city, CA		0	0
San Francisco County/city, CA		0	0
San Jose city, CA		0	0
Santa Ana city, CA		5,872,000	8,807,000
Santa Clara city, CA		0	0

Area	Recovery Zone		
	Residual	Economic Development Bond	Recovery Zone Facility Bond
Santa Clarita city, CA		8,847,000	13,270,000
Santa Rosa city, CA		2,985,000	4,448,000
Simi Valley city, CA		2,207,000	3,311,000
Stockton city, CA		3,508,000	5,262,000
Sunnyvale city, CA		0	0
Thousand Oaks city, CA		2,264,000	3,397,000
Torrance city, CA		7,980,000	11,970,000
Vallejo city, CA		1,221,000	1,832,000
Victorville city, CA		2,552,000	3,828,000
Visalia city, CA		0	0
West Covina city, CA		5,309,000	7,964,000
Alameda County, CA	Residual	8,644,000	12,966,000
Alpine County, CA		0	0
Amador County, CA		1,021,000	1,531,000
Butte County, CA		1,685,000	2,527,000
Calaveras County, CA		1,016,000	1,524,000
Colusa County, CA		0	0
Contra Costa County, CA	Residual	10,700,000	16,050,000
Del Norte County, CA		0	0
El Dorado County, CA		3,471,000	5,206,000
Fresno County, CA	Residual	0	0
Glenn County, CA		285,000	427,000
Humboldt County, CA		82,000	123,000
Imperial County, CA		0	0
Inyo County, CA		0	0
Kern County, CA	Residual	0	0
Kings County, CA		2,951,000	4,426,000
Lake County, CA		64,000	97,000
Lassen County, CA		0	0
Los Angeles County, CA	Residual	180,989,000	271,484,000
Madera County, CA		0	0
Marin County, CA		0	0
Mariposa County, CA		0	0
Mendocino County, CA		443,000	665,000
Merced County, CA		0	0
Modoc County, CA		0	0
Mono County, CA		329,000	494,000
Monterey County, CA	Residual	0	0
Napa County, CA		0	0
Nevada County, CA		3,357,000	5,035,000
Orange County, CA	Residual	29,732,000	44,598,000
Placer County, CA	Residual	4,561,000	6,841,000
Plumas County, CA		337,000	505,000
Riverside County, CA	Residual	49,801,000	74,702,000
Sacramento County, CA	Residual	16,467,000	24,701,000
San Benito County, CA		0	0
San Bernardino County, CA	Residual	46,093,000	69,139,000
San Diego County, CA	Residual	0	0
San Joaquin County, CA	Residual	5,121,000	7,681,000
San Luis Obispo County, CA		0	0
San Mateo County, CA	Residual	0	0
Santa Barbara County, CA		0	0

Area	Residual	Recovery Zone	
		Economic Development Bond	Recovery Zone Facility Bond
Santa Clara County, CA	Residual	0	0
Santa Cruz County, CA		0	0
Shasta County, CA		3,890,000	5,834,000
Sierra County, CA		0	0
Siskiyou County, CA		139,000	208,000
Solano County, CA	Residual	1,950,000	2,925,000
Sonoma County, CA	Residual	6,369,000	9,554,000
Stanislaus County, CA	Residual	1,154,000	1,732,000
Sutter County, CA		0	0
Tehama County, CA		0	0
Trinity County, CA		59,000	89,000
Tulare County, CA	Residual	0	0
Tuolumne County, CA		0	0
Ventura County, CA	Residual	4,326,000	6,488,000
Yolo County, CA		3,724,000	5,585,000
Yuba County, CA		0	0

PROPOSED RECOVERY ZONE FACILITY BONDS (RZFB) PROCEDURES

DEFINITIONS:

“Recovery Zone Facility Bonds”- The American Recovery and Reinvestment Act (AARA) of 2009 created a new category of bonds that will be treated as exempt facility bonds for the purpose of code section 142, these bonds are limited to issuance in 2009 and 2010

“Local Issuer” – Eligible counties and municipalities (populations greater than 100,000) with predetermined awards based on population

“Recovery Zone” – An area designated by the local issuing entity per section 1400U-1(b) defined as meeting one of the following criteria:

- 1) Significant poverty, unemployment, rate of home foreclosures or general distress
- 2) Economically distressed because of military base closure or realignment
- 3) An area which has been designation as an empowerment zone or a renewal community

“Allocation Waiver” – An affirmative election by a county or municipality to return all, or a portion of its allocation to CDLAC for reallocation. The waiver may be made at anytime, however, a county or municipality planning to waive its allocation is encouraged to do so at the earliest possible time to allow reallocation of the RZFBs. In addition, CDLAC strongly urges counties and municipalities to include waivers in their Plans of Issuance for any allocation not covered by the plan.

“Plan of Issuance” – A report due to CDLAC not later than January 31, 2010 from a county or municipality receiving allocation including a recovery zone resolution or proposed resolution and a description of the projects to be funded within the recovery zone. In addition, counties and municipalities are encouraged to include a project issuance timeline as part of the Plan of Issuance.

“Notice of Intent to Issue” – A report due to CDLAC not later than July 1, 2010 from a county or municipality receiving allocation, including a recovery zone resolution or proposed resolution, a description of the project to be funded within the recovery zone and project issuance timeline. Any allocation received by a county or municipality not included in the notice of intent to issue will be deemed waived.

“Deemed Waiver” – Allocation that after July 1, 2010 has not been issued or included in a notice of intent to issue is automatically deemed returned to CDLAC for reallocation. Allocation included in a Notice of Intent to Issue may be deemed waived if not issued by September 30, 2010, or other date set forth in the timeline included in the Notice of Intent to Issue. In determining whether allocation included in a Notice of Intent to Issue is deemed waived, the Executive Director will look to the progress the county or municipality has made toward issuance, and the demand for waived allocation.

“Report of Action Taken” – A report due to CDLAC from any county or municipality not more than three days following the issuance of RZFBs providing notice of the date and amount the issuance and the designated recovery zone in which the proceeds will be used.

“Recovery Zone Property” – Depreciable property subject to code section 168 or section 179:

Recovery zone property must be depreciable property if:

- a) The property was constructed, reconstructed, renovated or acquired by purchase (as defined in section 179 (d)(2)) by the taxpayer after the date on which the “recovery zone” took effect.
- b) The original use of which in the recovery zone commences with the taxpayer; and
- c) Substantially all of the use of the property is in the recovery zone and is in the active conduct of a “qualified business” by the taxpayer

“Net Proceeds” - A minimum of 95% of net proceeds (as defined in section 150(a) (3)) are to be used for “recovery zone property” per section 1400-U-3(b)(1)(A). ARRA Bonds can not be used to purchase land.

“Qualified Business”- any trade or business except as defined in section 168 (e)(2) and section 144(c)(6)(B):

- a) The rental to others of real property located in a recovery zone shall be treated as a qualified business only if the property is not a residential rental property (as defined in section 168 (e)(2))
- b) such term shall not include any trade or business consisting of the operation of any facility described in section 144(c)(6)(B)

“Sunset Date” –All bonds must be issued by January 1, 2011

PROGRAM REQUIREMENTS:

CDLAC will have no immediate role in the administering of the Recovery Zone Bond allocation to counties and large municipalities. Interested parties should contact localities directly for program assistance.

An entity utilizing Recovery Zone Facility Bond Program (RZFB) must meet the following requirements:

1. A. The local issuing entity must be a county or municipality (population of more than 100,000) with a significant decline of employment from 2007 to 2008. Counties and municipalities that have been excluded by The American Recovery and Reinvestments Act of 2009 are: Alpine, Colusa, Del Norte, Fresno, Imperial Inyo, Kern, Lassen, Madera, Marin, Mariposa, Merced, Modoc, Monterey, Napa, San Benito, San Diego, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Sierra, Sutter, Tehama, Tulare, Tuolumne, and Yuba. *The following cities have been excluded:* Bakersfield, Chula Vista, Daly City, Escondido, Fresno, Oceanside, Salinas, San Diego, San Francisco, San Jose, Santa Clara, Sunnyvale, and Visalia.
- B. The local issuing entity must designate the area that bonds will be utilized in, as a Recovery Zone to include the basis for the designation per ARRA section 1400-1 (b).

REPORTING REQUIREMENTS

1. CDLAC will require a Report of Action form be submitted to CDLAC upon the issuance of bonds not more than three days following the issuance of RZFBs and RZEDBs. This report should include the date and amount of the issuance and the designated recovery zone in which proceeds will be used.
2. Counties and large municipalities receiving RZFB allocation must provide CDLAC with a Plan of Issuance no later than January 31, 2010. The Plan should include a recovery zone bond resolution and a description of the projects to be funded. In addition counties and municipalities are encouraged to include a project issuance timeline as part of the Plan of Issuance.

Allocations that after July 1, 2010, have not been issued or included in a notice of intent to issue are automatically deemed waived and returned to CDLAC for reallocation.

PROPOSED RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS (RZEDB) PROCEDURES

DEFINITIONS:

“Recovery Zone Economic Development Bonds”- Is a Build America Bond issued before January 1, 2011 the Issuer shall receive a credit from the Treasury Department equal to 45% of the interest payment.

“Qualified Economic Development Purpose” – Expenditures for purposes of promoting development or other economic activity in a recovery zone: including public infrastructure and construction of public facilities, and expenditures for job training and educational programs.

“Local Issuers” – Eligible counties and municipalities (populations greater than 100,000), with predetermined awards based on population.

“Recovery Zone” – An area designated by the local issuing entity per section 1400U-1(b) defined as meeting one of the following criteria:

- 1) Significant poverty, unemployment, rate of home foreclosures or general distress
- 2) Economically distressed because of military base closure or realignment
- 3) An area which has been designation as an empowerment zone or a renewal community

“Allocation Waiver” – An affirmative election by a county or municipality to return all, or a portion of its allocation to CDLAC for reallocation. The waiver may be made at anytime, however, a county or municipality planning to waive its allocation is encouraged to do so at the earliest possible time to allow reallocation of the RZEDBs. In addition, CDLAC strongly urges counties and municipalities to include waivers in their Plans of Issuance for any allocation not covered by the plan.

“Plan of Issuance” – A report due to CDLAC not later than January 31, 2010 from a county or municipality receiving allocation including a recovery zone resolution or proposed resolution and a description of the projects to be funded within the recovery zone. In addition, counties and municipalities are encouraged to include a project issuance timeline as part of the Plan of Issuance.

“Notice of Intent to Issue” – A report due to CDLAC not later than July 1, 2010 from a county or municipality receiving allocation, including a recovery zone resolution or proposed resolution, a description of the project to be funded within the recovery zone and project issuance timeline. Any allocation received by a county or municipality not included in the notice of intent to issue will be deemed waived.

“Deemed Waiver” – Allocation that after July 1, 2010 has not been issued or included in a notice of intent to issue and is automatically deemed returned to CDLAC for reallocation. Allocation included in a Notice of Intent to Issue may be deemed waived if not issued by September 30, 2010, or other date set forth in the timeline included in the Notice of Intent to Issue. In determining whether allocation included in a Notice of Intent

to Issue is deemed waived, the Executive Director will look to the progress the county or municipality has made toward issuance, and the demand for waived allocation.

“Report of Action Taken” – A report due to CDLAC from any county or municipality not more than three days following the issuance of RZEDBs providing notice of the date and amount the issuance and the designated recovery zone in which the proceeds will be used.

“Sunset Date” – All bonds must be issued by January 1, 2011.

PROGRAM REQUIREMENTS:

CDLAC will have no immediate role in the administering of the Recovery Zone Bond allocation to counties and large municipalities. Interested parties should contact localities directly for program assistance.

An entity utilizing Recovery Zone Economic Development Bond Program (RZEDB) must meet the following requirements:

1. A. The local issuing entity must be a county or municipality (population of more than 100,000) with a significant decline of employment from 2007 to 2008. Counties and municipalities that have been excluded by The American Recovery and Reinvestments Act of 2009 are: Alpine, Colusa, Del Norte, Fresno, Imperial Inyo, Kern, Lassen, Madera, Marin, Mariposa, Merced, Modoc, Monterey, Napa, San Benito, San Diego, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Sierra, Sutter, Tehama, Tulare, Tuolumne, and Yuba. *The following cities have been excluded: Bakersfield, Chula Vista, Daly City, Escondido, Fresno, Oceanside, Salinas, San Diego, San Francisco, San Jose, Santa Clara, Sunnyvale, and Visalia.*

B. The local issuing entity must designate the area that bonds will be utilized in, as a Recovery Zone to include the bases for the designation per ARRA section 1400-1 (b).
2. The maximum face amount of bonds which may be designated by an issuer shall not exceed the amount of the recovery zone economic development bond limitation awarded to such issuer under section 1400U-1.
3. The proposed use of bond proceeds must meet the following requirements per section 1400U-2 (b)(1):
 - 1) 100% percent of the available project proceeds (i.e. sale proceeds, less cost of issuance not to exceed 2%, plus investment earnings), less the amount funding a reasonable reserve fund, must be used for one of more following qualified economic development:
 - a) Capital expenditures paid with respect to property located in such zone,
 - b) Expenditures for public infrastructure and construction of public facilities, and
 - c) Expenditures for job training and education programs

REPORTING REQUIREMENTS

1. CDLAC will require a Report of Action form be submitted to CDLAC upon the issuance of bonds not more than three days following the issuance of RZEDBs. This report should include the date and amount of the issuance and the designated recovery zone in which proceeds will be used.
2. Counties and large municipalities receiving RZFB and RZEDB allocation must provide CDLAC with a Plan of Issuance no later than January 31, 2010. The Plan should include a recovery zone bond resolution and a description of the projects to be funded. In addition counties and municipalities are encouraged to include a project issuance timeline as part of the Plan of Issuance.

Allocations that after July 1, 2010, have not been issued or included in a notice of intent to issue are automatically deemed waived and returned to CDLAC for reallocation.