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*Concentrating on public finance, governmental
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LEGISLATIVE UPDATE



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RECOVERY ZONE BONDS

On June 23, 2010, Governor Mark Sanford signed into law Rat. 351 (H.4478), the “South Carolina Economic Development Competitiveness Act of 2010”(the “Act”), which, among other matters, establishes a procedure for reallocating unused volume cap for Recovery Zone Bonds originally allocated to counties and large municipalities(Columbia and Charleston) (collectively “Local Governments”) under the American Recovery and Reinvestment Act of 2009 (the “Stimulus Act”).

RECOVERY ZONE BONDS OVERVIEW

The Stimulus Act created a new category of bonds called Recovery Zone Bonds, which are broken into two types: (1) recovery zone economic development bonds (“RZEDBs”), and (2) recovery zone facility bonds (“RZFBs”). The Recovery Zone Bonds are intended to stimulate economic recovery in “recovery zones” – areas that have been designated as having significant poverty, unemployment, high rates of home foreclosures or general distress.

The Stimulus Act allocates the principal amount of \$115,041,000 for RZEDBs in South Carolina. RZEDBs are designed to lower a governmental issuer’s borrowing cost through the use of a federal subsidy paid to the issuer equal to 45% of the issuer’s interest cost. The Stimulus Act also allocates the principal amount of \$172,562,000 for RZFBs in South Carolina. Unlike RZEDBs, the goal of RZFBs is not to lower the borrowing cost to the governmental issuer but to broaden the type of private projects that may be financed with tax exempt bond proceeds.

Local Governments may use their volume cap themselves or may allocate their volume cap to other eligible issuers within their boundaries. The State of South Carolina is charged with reallocating any unused volume cap.

The deadline for issuing Recovery Zone Bonds is December 31, 2010.

REALLOCATION OF VOLUME CAP

Pursuant to the Act, the State Budget and Control Board (the “Board”) will provide notice to Local Governments of their allocations of volume cap for Recovery Zone Bonds. On or before August 7, 2010, Local Governments which have used or intend to use any part of their volume cap allocation must notify the Board of their intent by completing a form provided by the Board entitled “Notice of Intent to Use Volume Cap Allocations of Recovery Zone Bonds or Qualified Energy Conservation Bonds.” This form must be returned to the Board with evidence showing the volume cap will in fact be used.

Any Local Government that does not respond to the Board by August 7, 2010 will be deemed to have waived its allocation. Any Local Government that does not intend to use its volume cap allocation may waive its allocation by completing the Board’s form entitled “Waiver of a Portion or all of the Volume Cap Allocation for Recovery Zone Bonds Pursuant to 26 U.S.C. § 1400U-1(a)(3)(A) or a Portion or all of the Volume Cap Allocation for Qualified Energy Conservation Bonds Pursuant to 26 U.S.C. § 54D(e)(2)(B)” and returning it to the Board.

Any Local Government that has not used its allocation by November 1, 2010 will be deemed to have waived its allocation unless the Board grants an extension.

Any eligible issuer may apply to the Board for reallocation of waived volume cap by submitting a form entitled “Application for Recovery Zone Bond or Qualified Energy Conservation Bond Volume Cap Reallocation.” This form may be obtained through the Board or any Local Government. You may also obtain this form by contacting Pope Zeigler, LLC.

ACCOMMODATIONS AND HOSPITALITY FEES

On June 28, 2010, Rat. 340 (S.304) became law and established a procedure for cities and counties to pledge locally imposed accommodations and hospitality fees in order to finance capital projects that promote tourism. Prior to S. 304, there was no statutory authorization for issuing revenue bonds supported by such fees. Through S.304, the General Assembly has supplied the missing authority. Under this act, local accommodations taxes and hospitality taxes are now denominated as fees and may be pledged to secure the payment of revenue bonds issued to support specified tourism promotion purposes.

HOSPITAL REVENUE BONDS-MORTGAGES

Effective June 1, 2010, Act 199 of 2010 (Rat. 224) provides new authority for special purpose districts and municipalities operating hospitals to secure certain federal or federally guaranteed debt obligations. Under Act 199, any special purpose district or municipality providing hospital, nursing home, or care facilities are authorized to mortgage any real or personal property of the hospital facility to secure payment on any indebtedness purchased or guaranteed by a federal agency.

In addition, Act 199 provides that any hospital district created by the General Assembly has the authority to own, lease, maintain, convey, sell, or otherwise dispose of hospital facilities. “Hospital facilities” under this act is defined broadly under S.C. Code Ann. § 44-7-1430(f). In addition, hospital facilities owned by a hospital district are authorized to be located outside of the territorial boundaries of the hospital district in any county adjacent to the district.

If you have questions regarding these or other issues, please contact Margaret Pope, Joe Lucas, Lawrence Flynn, or Margaret McGee at the telephone numbers or email addresses provided in this bulletin.