

Assembly Bill No. 1195

Passed the Assembly May 7, 2015

Chief Clerk of the Assembly

Passed the Senate August 20, 2015

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2015, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 8869.80, 8869.81, 8869.82, 8869.85, 8869.86, and 8869.93 of the Government Code, relating to bonds.

LEGISLATIVE COUNSEL'S DIGEST

AB 1195, Ridley-Thomas. California Debt Limit Allocation Committee: American Recovery and Reinvestment Act of 2009.

Existing law establishes the California Debt Limit Allocation Committee for the purpose of implementing the volume limit for the state on private activity bonds established pursuant to federal law. The committee's duties include annually determining a state ceiling on the aggregate amount of private activity bonds that may be issued, and allocating that amount among state and local agencies. Existing law defines the terms "private activity bond" and "state ceiling" for those purposes with regard to an amount specified in federal law.

This bill would revise the findings and declarations with regard to, and the purpose for, the provisions relating to the California Debt Limit Allocation Committee to reflect the American Recovery and Reinvestment Act of 2009. The bill would revise the definition of "private activity bond" and "state ceiling" to also include certain amounts reserved to the state for qualified educational facilities bonds and would make conforming changes with regard to those bonds.

The people of the State of California do enact as follows:

SECTION 1. Section 8869.80 of the Government Code is amended to read:

8869.80. The Legislature hereby finds and declares all of the following:

(a) The Tax Reform Act of 1986 (Public Law 99-514) establishes a volume ceiling on the aggregate amount of private activity bonds that can be issued in each state. The volume ceiling is the product of seventy-five dollars (\$75) multiplied by the state population in 1987 and fifty dollars (\$50) multiplied by the state population in each succeeding calendar year.

(b) Sections 1112 and 1401 of the American Recovery and Reinvestment Act of 2009 (26 U.S.C. Secs. 54a and 1400U-1) establish an aggregate amount of bond authority that can be issued in each state. Said amount may be determined from time to time by federal law, federal notice, or both federal law and notice.

(c) Section 142(k) of the Internal Revenue Code establishes a volume ceiling on the aggregate amount of qualified education facility bonds that can be issued in each state. The qualified educational facilities volume ceiling is the product of ten dollars (\$10) multiplied by the state population in each calendar year.

(d) The federal act requires each state to allocate its volume ceiling according to a specified formula unless a different procedure is established by Governor's proclamation or state legislation.

(e) Section 142(k)(5)(B)(i) of the Internal Revenue Code authorizes each state to allocate the qualified educational facilities volume ceiling in the manner the state determines appropriate.

(f) Therefore, it is necessary to designate a state agency and create an allocation system to administer the state volume ceiling.

(g) A substantial public benefit is served by promoting housing for lower income families and individuals.

(h) A substantial public benefit is served by preserving and rehabilitating existing governmental assisted housing for lower income families and individuals.

(i) A substantial public benefit is served by providing federal tax credits or reduced interest rate mortgages to assist teachers, principals, vice principals, assistant principals, and classified employees who are willing to serve in high priority schools to purchase a home.

(j) A substantial public benefit is served by constructing educational facilities for the state's children.

SEC. 2. Section 8869.81 of the Government Code is amended to read:

8869.81. This chapter is enacted to implement the state volume limit established in Section 1301 of the Federal Tax Reform Act of 1986 (Public Law 99-514), Sections 1112 and 1401 of the American Recovery and Reinvestment Act of 2009 (26 U.S.C. Secs. 54a and 1400U-1), and Sections 142(k) and 146 of the Internal Revenue Code.

SEC. 3. Section 8869.82 of the Government Code is amended to read:

8869.82. (a) As used in this chapter, unless the context otherwise requires, the terms defined in this section shall have the following meanings:

(1) “Committee” means the California Debt Limit Allocation Committee established pursuant to Section 8869.83.

(2) “Fund” means the California Debt Limit Allocation Committee Fund created pursuant to Section 8869.90.

(3) “Internal Revenue Code” means the Internal Revenue Code of 1986 (26 U.S.C. Sec. 1 et seq.), as amended from time to time.

(4) “Issuer” means any local agency or state agency authorized by the Constitution or laws of the state to issue private activity bonds.

(5) “Local agency” means any political subdivision of the state within the meaning of Section 103 of the Internal Revenue Code (26 U.S.C. Sec. 103), or any entity that has the power to issue private activity bonds on behalf of that political subdivision.

(6) “MBTCAC” means the California Tax Credit Allocation Committee created by Section 50199.8 of the Health and Safety Code.

(7) “Private activity bond” means a part or all of any bond, or other instrument, required to obtain a portion of the state’s volume cap pursuant to Sections 142(k) and 146 of the Internal Revenue Code (26 U.S.C. Secs. 142(k) and 146) in order to be tax-exempt, including, generally, all of the following, as those bonds are defined in the Internal Revenue Code:

(A) Exempt facility bonds, except bonds for airports, docks and wharves, and certain solid waste facilities.

(B) Qualified mortgage bonds.

(C) Qualified small issue bonds.

(D) Qualified student loan bonds.

(E) Qualified redevelopment bonds.

(F) The nonqualified amount of an issue of governmental bonds (including advance refunds) exceeding fifteen million dollars (\$15,000,000), as provided in Section 141(b)(5) of the Internal Revenue Code (26 U.S.C. Sec. 141(b)(5)).

(8) “Private activity bond limit” means any portion of the state ceiling allocated or transferred to a state agency or local agency pursuant to this chapter.

(9) “State” means the State of California.

(10) “State agency” means the state and all state entities, including joint powers authorities of which the state or agency or instrumentality thereof is a member, empowered to issue private activity bonds, the interest on which is exempt from income tax under Section 103(a) of the Internal Revenue Code (26 U.S.C. Sec. 103(a)), including nonprofit corporations described in Section 150(d) of the Internal Revenue Code (26 U.S.C. Sec. 150(d)), authorized to issue qualified scholarship funding bonds.

(11) “State ceiling” includes all of the following:

(A) The amount specified by Section 146(d) of the Internal Revenue Code (26 U.S.C. Sec. 146(d)) for each calendar year commencing in 1986.

(B) The amount reserved to the state pursuant to Sections 1112 and 1401 of the American Recovery and Reinvestment Act of 2009 (26 U.S.C. Secs. 54a and 1400U-1).

(C) The amount specified by Section 142(k) of the Internal Revenue Code (26 U.S.C. Sec. 42(k)).

(b) Pursuant to Section 146(e) of the Internal Revenue Code (26 U.S.C. Sec. 146(e)), this chapter governs the allocation of the state ceiling among the state agencies and local agencies in this state having authority to issue private activity bonds.

(c) Any portion of the state ceiling allocated or transferred by or under the authority of this chapter shall become the private activity bond limit for the issuer of which that portion is allocated or transferred for any private activity bonds issued by that issuer.

SEC. 4. Section 8869.85 of the Government Code is amended to read:

8869.85. (a) Each state agency shall apply to the committee for allocation of a portion of the state ceiling, supplying any information which the committee may require. The application may be for a specific project, or it may be for a designated dollar amount, to be utilized for projects or programs at the discretion of the state agency. No private activity bonds issued by any state agency shall be deemed to receive the benefit of any portion of the state ceiling unless the committee has allocated or permitted the transfer of a portion of the state ceiling to the state agency. The allocation may be on any terms and conditions as the committee may determine.

(b) Any local agency may apply to the committee for an allocation of a portion of the state ceiling, supplying any

information which the committee may require. Applications from local agencies may only be for specific projects or programs. No private activity bond issued by a local agency shall be deemed to receive the benefit of any portion of the state ceiling unless the committee has allocated or permitted the transfer of a portion of the state ceiling to the local agency. The allocation may be upon any terms and conditions as the committee may determine.

(c) Any allocation made pursuant to this section shall be irrevocable upon issuance of bonds pursuant thereto at least to the extent of the amount of the bonds so issued. No allocation shall permit the state agency or local agency which receives it to use all or any portion of the allocation for a carryforward pursuant to Section 146(f) or Section 142(k)(5)(B)(ii) of the Internal Revenue Code, unless the committee expressly allows use of the allocation for a carryforward.

(d) No allocation made to a state agency or a local agency pursuant to this section may be transferred by the initial recipient thereof to any other state agency or local agency unless the committee expressly permits the transfer. With the committee's permission, any state or local agency may, by resolution, transfer to any other local agency or to any state agency or back to the committee all or any portion of the agency's private activity bond limit. Any such transfer shall be made in writing and may be general or limited and subject to any terms and conditions as may be set forth in the resolution or under the committee's permission, as long as the transfer is irrevocable upon issuance of bonds pursuant to the transfer, at least to the extent of the amount of the bonds so issued. Each transferee shall maintain a written record of the transfer in its records for at least the term of all private activity bonds issued pursuant to the transfer. No transfer may be made pursuant to this section in return for any payment of cash, property, or other marketable thing of value.

SEC. 5. Section 8869.86 of the Government Code is amended to read:

8869.86. (a) Subject to any limitations on transferred private activity bond limit as may be provided in subdivision (d) of Section 8869.85, any state agency or local agency may utilize its private activity bond limit for any of the following:

- (1) The issuance of private activity bonds.

(2) If permitted by the committee, to make a carryforward election pursuant to Section 142(k) or Section 146(f) of the Internal Revenue Code.

(3) If permitted by the committee, to make a transfer to any state agency, local agency, or the committee.

(b) Prior to issuing any private activity bonds, the issuer shall, in the bond resolution or other similar action giving approval for the issuance of bonds, specifically designate to the bond issue a portion of the private activity bond limit available or expected to be available to that issuer. The designation shall be irrevocable upon the issuance of the bonds to the extent of the amount thereof.

(c) Each state agency and local agency shall notify the committee in writing, as directed by the committee, after any of the following:

(1) The issuance of any private activity bonds.

(2) Any action taken pursuant to subdivision (d) of Section 8869.85 to transfer any portion of its private activity bond limit.

(3) Any election to treat all or any portion of the state agency's or local agency's private activity bond limit as a carryforward pursuant to Section 142(k) or Section 146(f) of the Internal Revenue Code. The committee shall keep the notices in its records for a period no less than the term of all private activity bonds issued as described in the notices.

SEC. 6. Section 8869.93 of the Government Code is amended to read:

8869.93. The Treasurer, or his or her designee, is designated as the state official to certify that an issue of private activity bonds meets the requirements of Section 142(k) or Section 146 of the Internal Revenue Code of 1986, as amended, and to take any and all actions as may be necessary or appropriate in connection therewith.

Approved _____, 2015

Governor