

Date of Hearing: April 29, 2021

ASSEMBLY COMMITTEE ON BANKING AND FINANCE
Timothy Grayson, Chair
AB 49 (Petrie-Norris) – As Amended March 18, 2021

SUBJECT: California Debt Limit Allocation Committee: elimination and allocation of duties

SUMMARY: Consolidates the California Debt Limit Allocation Committee (DLAC) into the California Tax Credit Allocation Committee (TCAC) by eliminating the DLAC and transferring its powers and staff over to the TCAC. Specifically, this bill:

- 1) Specifies in Government Code sections that establish the DLAC that on or after January 1, 2021, a reference to the DLAC is deemed to refer to the CTCAC.
- 2) Repeals provisions establishing membership of the DLAC.
- 3) Specifies that the CTCAC is the DLAC's successor and is vested with all the duties, powers and responsibilities, of DLAC
- 4) Transfers employees, funds, property, and liabilities of the CDLAC to the CTCAC.
- 5) Requires that the regulations of the CDLAC remain in effect until the CTCAC amends, repeals, or adopts regulations.

EXISTING LAW:

- 1) Establishes the DLAC consisting of the following six members: the Treasurer or his or designee, the Controller, the Governor or his or her designee, the Director of Housing and Community Development, the Executive Director of the California Housing Finance Agency, and a representative from local government (Government Code Section 8869.83).
- 2) Requires the CDLAC to annually determine the state ceiling for the calendar year, and authorizes allocations to state and local agencies (Government Code Section 8869.84).

FISCAL EFFECT: Unknown. This bill is keyed fiscal by Legislative Counsel.

COMMENTS:

1) PURPOSE

According to the author:

In a November 2020 audit regarding affordable housing, the California State Auditor (CSA) determined that the California Debt Limit Allocation Committee (CDLAC) which sets and allocates how much the state can borrow for affordable housing and other specified types of projects with public benefits, let approximately \$2.7 billion in bond resources expire from 2015 through 2017. A lack of a comprehensive and coordinated plan allowed CDLAC to mismanage and ultimately to lose \$2.7 billion in bond opportunities.

The CSA concluded that there are redundancies in the affordable housing work of the CDLAC and another agency, The California Tax Credit Allocation Committee (CTCAC). CTCAC administers federal and state low-income housing tax credit programs. Both committees are under the authority of the California State Treasurer and approve funds for affordable housing programs. The CSA audit determined that misaligned and inconsistent requirements between these programs results in an unnecessarily cumbersome process for awarding their financial resources. To improve efficiency and harmonize requirements and goals, the two committees should be consolidated.

AB 49 takes the auditor's recommendation and would eliminate CDLAC and shift its authority, including the setting of the state's debt limit, to CTCAC. Such a shift will lead to the more efficient approval of affordable housing financing. It will reduce an administrative hurdle and eliminate the need for coordination with two committees when one can provide appropriate review.

2) PRIVATE ACTIVITY BONDS AND DLAC.

Private-activity bonds (PABs) are tax-exempt revenue bonds that state and local governments issue for activities generally classified as being private because most of the benefits from the activities appear to be enjoyed by private individuals and businesses. The private activities that can be financed with tax-exempt bonds are called "qualified private activities."¹

Federal law caps the annual amount PAB financing that can be issued in each state. DLAC was created to set and allocate California's annual debt ceiling, and administer the state's tax-exempt bond program to issue the debt. DLAC operates a number of PAB programs related to waste facilities, mortgage revenue bonds, and educational facility bonds.

One of the state's PAB programs is the Qualified Residential Rental Project (QRRP) Program, which aims to support affordable housing production by providing developers tax-exempt bonds to allow them to also apply for housing tax credits administered by TCAC, discussed in Comment #3 below.

3) LOW-INCOME HOUSING TAX CREDITS AND TCAC

TCAC administers the federal and state Low-Income Housing Tax Credit (LIHTC) programs. The LIHTC is an indirect federal subsidy developed in 1986 to incentivize the private development of affordable rental housing for low-income households. The federal LIHTC program replaced traditional housing tax incentives, such as accelerated depreciation, with a tax credit that enables low-income housing sponsors and developers to raise project equity through the allocation of tax benefits to investors.

Two types of federal tax credits are available: the 9% credit and 4% credit. These terms refer to the approximate percentage of a project's "qualified basis" a taxpayer may deduct from their annual federal tax liability in each of 10 years. For projects not financed with a federal

¹ For additional detail about PABs and the types of activities that can be funded, see <https://www.everycrsreport.com/reports/RL31457.html>

subsidy, the applicable rate is 9%. For federally subsidized projects (including projects financed with more than 50% in tax-exempt bonds), the applicable rate is 4%.

In 1987, the Legislature authorized a state LIHTC program to augment the federal program. While the state LIHTC program is patterned after the federal program, there are several differences, including a provision allowing investors to claim the state LIHTC over a four-year, rather than the federal 10-year, allocation period. Furthermore, unlike the federal LIHTC program, the California law requires project developers or housing sponsors to agree to a minimum of 55 years of rent and income restrictions.

4) CALIFORNIA STATE AUDITOR REPORT.

As noted above, tax-exempt financing and LIHTCs are closely linked because an affordable housing project may qualify for both a LIHTC and PAB financing. While DLAC and CTAC should in theory work closely together in this effort, the California State Auditor (CSA) released an evaluation of California's housing agencies and found significant mismanagement and redundancies.² As part of this report, the CSA highlighted DLAC's mismanagement that led to the expiration of \$2.7 billion in bond resource that could have been used to help finance affordable housing. According to the CSA, these bond resources could have potentially made an additional \$1 billion in federal LIHTCs available. Moreover, the CSA report found that even though both committees approve financing for the same project, the differences in their program requirements resulted in unnecessary administrative burdens for applicants.

The CSA concludes that the DLAC and CTAC should be consolidated into one entity. Their main argument:

The process wherein two agencies review applications for the same housing projects and separately determine eligibility when the financing is integrally linked is, in several respects, redundant and thus may contribute to inefficiencies. The two committees make awards to most of the same projects because the majority of affordable housing tax credits are paired with bond allocations. Additionally, the Tax Committee and the Debt Limit Committee have similar membership, such as the State Treasurer and representatives from HCD, CalHFA, and the State Controller's Office. These committee members often discuss the same projects in consecutive meetings in what amounts to a duplication of effort.

Further, the two committees' redundant application approval processes do not add value, and their review of applications varied in thoroughness. The Tax Committee and the Debt Limit Committee review the same general project information and require similar, if not identical, documentation—such as market studies—from applicants for the majority of project application components. While the Tax Committee's current review processes are generally more thorough, those of the Debt Limit Committee are not. For example, the Tax Committee generally conducts two levels of review of competitive applications and consistently tracks appeals from applicants. In contrast, the Debt Limit

² <https://www.auditor.ca.gov/reports/2020-108/index.html>

Committee's review of applications was not well documented. In fact, according to a program manager at the Debt Limit Committee, the committee performed two levels of review in the past but has lacked staff to continue this practice. In the end, we found no need for two separate committees to review the same project applications and approve or reject that financing. Therefore, the Legislature should consolidate these committees into one by eliminating the Debt Limit Committee and delegating its authority for allocating bonds to the Tax Committee. The two committees have the same executive director, and she agreed that there should be only one committee.

5) RELATED LEGISLATION

AB 1135 (Grayson), of the 2020-21 Legislative Session, enacts the State of California Housing Allocation Act to require the Business, Consumer Services, and Housing Agency, HCD, CalHFA, and TCAC to jointly establish and operate a single, centralized housing funding allocation committee, which would be within the Business, Consumer Services, and Housing Agency and comprised of representatives of those entities.

REGISTERED SUPPORT / OPPOSITION:

Support

None on file

Opposition

None on file

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