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California's Two Debt Entities: What's the Difference?

Assisting all state and local government units in the planning, preparation, marketing, and sale of debt issues

California has two debt-related entities: California Debt Limit Allocation Committee and California Debt and Investment Advisory Commission. What's the difference?

California Debt Limit Allocation Committee

Government Code Title 2, Division 1, Chapter 11.8 sets forth the California Debt Limit Allocation Committee in Sections 8869.80 to 8869.94. Section 8869.80 makes a number of legislative findings and declarations regarding the volume ceiling on the aggregate amount of private activity bonds that can be issued in each state. The stated purpose of the Committee is "to designate a state agency and create an allocation system to administer the state volume ceiling."

Moreover, there is "a substantial public benefit by promoting housing for lower income families and individuals. A substantial public benefit is served by preserving and rehabilitating existing governmental assisted housing for lower income families and individuals. 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. A substantial public benefit is served by constructing educational facilities for the state's children."

As a result, Chapter 11.8 was enacted to implement the state volume limit established by the Federal Tax Reform Act of 1986 and other federal acts and provisions of the Internal Revenue Code. Section 8869.83 establishes in state government the California Debt Limit Allocation Committee which consists of the following six members:

- The Treasurer, or his or her designee.
- The Controller, or his or her designee.
- The Governor, or his or her designee.
- The Director of Housing and Community Development, who is a nonvoting member.
- The Executive Director of the California Housing Finance Agency, who is a nonvoting member.
- A representative from local government who is a nonvoting member, selected by two voting members of the committee.

The Treasurer serves as chairperson of the Committee and the office of the Treasurer must provide an executive director and any administrative assistance and support staff that is needed for the Committee to operate. The Committee members do not receive compensation and two voting members of the Committee constitute a quorum. The affirmative vote of two voting members of the Committee is necessary for any action taken by the committee.

Under Section 8869.85, each state agency must 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 is 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.

Pursuant to Section 8869.90, the Committee may charge fees to the lead underwriter, the bond purchaser, or the bond issuer to cover the Committee's costs in carrying out the duties and responsibilities set forth in the law. Under Section 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 the Internal Revenue Code.

According to the California Debt Limit Allocation Committee (CDLAC), it is a three-member body that was created in 1985 by a gubernatorial proclamation in response to the 1984 Tax Reform Act, which imposed an annual limit on the dollar amount of tax-exempt private activity bonds that may be issued in a state. Private activity bonds included student loan bonds and industrial development bonds (including exempt facility bonds, small-issue industrial development bonds, and bonds for industrial parks).

In 1987, the California Legislature statutorily established CDLAC and the 1998 Omnibus Budget Act raised the volume cap on private activity bonds to \$75 per capita or a minimum of \$225 million. The purpose of CDLAC is to implement Section 1301 of the Federal Tax Reform Act of 1986 and Section 146 of the Internal Revenue Code which impose a limit on the amount of tax-exempt private activity bonds which a state may issue in a calendar year. According to CDLAC, its programs have resulted in the allocation of more than \$65 billion of private activity, tax-exempt bonds to over 220 municipal, state, and joint powers authority issuers.

California Debt and Investment Advisory Commission

Government Code Title 2, Division 1, Chapter 11.5 sets forth the California Debt and Investment Advisory Commission in Sections 8855 to 8859. Section 8855 creates the California Debt and Investment Advisory Commission, which consists of nine members, selected as follows:

- The Treasurer, or his or her designee.
- The Governor or the Director of Finance.
- The Controller, or his or her designee.
- Two local government finance officers appointed by the Treasurer, one each from among persons employed by a county and by a city or a city and county of this state, experienced in the issuance and sale of municipal bonds and nominated by associations affiliated with these agencies.
- Two Members of the Assembly appointed by the Speaker of the Assembly.
- Two Members of the Senate appointed by the Senate Committee on Rules.

The term of office of each appointed member is four years, but appointed members serve at the pleasure of the appointing power. In addition, any legislators appointed to the Commission meet with and participate in the activities of the Commission to the extent that the participation is not incompatible with their respective positions as Members of the Legislature.

The Treasurer serves as chairperson of the Commission and presides at meetings of the Commission. The Commissioners do not receive a salary but are entitled to receive per diem allowance for attending meetings. The office of the Treasurer furnishes all administrative assistance required by the Commission.

The Commission is charged with numerous duties, including assisting all state and local government

units in the planning, preparation, marketing, and sale of debt issues to reduce cost and to assist in protecting the issuer's credit; maintain contact with state and municipal bond issuers, underwriters, credit rating agencies, investors, and others to improve the market for state and local government debt issues; and, publishing a monthly newsletter describing and evaluating the operations of the Commission during the preceding month.

According to the California Debt and Investment Advisory Commission (CDIAC), it improves the practice of public finance in California by providing responsive and reliable information, education, and guidance to state and local public agencies and other public finance professionals. The Commission was created in 1981 as the State's clearinghouse for public debt issuance information and required it to assist state and local agencies with the monitoring, issuance and management of public debt.

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