



# WASHOE COUNTY

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CM/ACM	<u>      </u>
Budget	<u>  ✓  </u>
DA	<u>  ✓  </u>
Comptroller	<u>  ✓  </u>
HR	<u>NA</u>
Other	<u>NA</u>

## STAFF REPORT BOARD MEETING DATE: November 29, 2016

**DATE:** October 26, 2016

**TO:** Board of County Commissioners

**FROM:** Mark Mathers, Budget Manager  
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**THROUGH:** Al Rogers, Director of Management Services  
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**SUBJECT:** Recommendation to approve the attached resolution authorizing the waiver of Washoe County's unused portion of available volume cap for the issuance of Qualified Energy Conservation Bonds and affirming the transfer of this waived volume cap to the State of Nevada, Department of Business and Industry [no fiscal impact]. (All Commission Districts)

### SUMMARY

In 2008, the federal government created the Qualified Energy Conservation Bond (QECB) program. Washoe County's allocation of QECB credits, based on its population in 2009, was determined by the State to be \$2,012,271. Due to both this relatively small allocation of QECB credits and restrictions on the program, which make it problematic to issue debt efficiently, Washoe County has not used its allocation to issue any QECB debt. The State has requested that the County consider waiving its allocation of available volume cap and transfer the allocation to the State for potential QECB-eligible projects.

Washoe County Strategic Objective supported by this item: Stewardship of our Community

### PREVIOUS ACTION

None.

### BACKGROUND

Congress authorized the QECB program pursuant to the 2008 Energy Improvement and Extension Act, and then the program was expanded by the American Recovery and Reinvestment Act of 2009 (ARRA). The legislation required that each state sub-allocate a portion of its allocation to large local governments, defined as those with a population of 100,000 or more. The legislation allowed such counties, municipalities, or tribes to issue bonds up to the amount of their respective sub-allocations or waive their sub-allocations and return them to the states. The impetus of the program was partly to assist governments access the capital markets during the peak of the Great Recession, similar to the Build America Bonds (BABs) program. Washoe County's allocation of QECB credits, based on its population in

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2009, was determined by the State in 2009 to be \$2,012,271. This is an allocation of volume cap that allows the County to issue up to that amount in QECB debt, rather than an actual allocation of hard dollars for energy projects.

Like Build America Bonds, QECBs are taxable bonds, which therefore carry a higher interest rate than tax-exempt debt that the County normally issues. To offset the higher interest cost, the federal government provides a subsidy either to the issuer (Washoe County) or to the bond investor as a tax credit, depending on the mode selected by the issuer. The taxable status of QECBs, like BABs, was done to help make local government bonds more attractive to the taxable market, out of fears at the time that state and local governments might be frozen out of the tax-exempt market during the Great Recession.

QECBs may only be issued for qualified conservation purposes as defined in Section 54D of the U.S. Internal Revenue Code including capital expenditures to support:

- To reduce energy consumption in publicly owned buildings by at least 20%
- To implement green community programs (including the use of grants, loans, or other repayment mechanisms to implement such programs)
- For certain renewable energy facilities (such as wind, solar, and biomass)
- For certain mass commuting projects

Unfortunately, there are many features of the QECB program that make it problematic to efficiently use the program. Some of the facets of the program that have negated their use by many local governments include:

- The federal government can and has modified the subsidy amount on the bonds to governmental issuers. This makes it difficult to determine the level of savings, if any, resulting from the use of the bonds. The federal government could effectively eliminate the subsidy at any time, as part of a solution to a debt ceiling crisis, federal tax reform or budgetary cutbacks.
- There are ongoing reporting requirements to the federal government for the life of the bonds.
- The small allocations to governments, including Washoe County's \$2 million allocation, make it difficult to efficiently sell bonds after factoring in the normal costs of issuance and administrative costs involved in a debt issuance. Normally, the County would not consider an issuance as small as \$2 million.

For these reasons, many local governments and even the State of Nevada have not used their QECB allocations to this point. Also, despite the fears during the Great Recession, state and local governments have had no difficulty in issuing tax-exempt debt; moreover, tax-exempt rates are still close to all-time lows. Washoe County has initiated and completed many energy conservation projects over this time but has chosen to cash-fund those projects in the County's Capital Improvement Program (CIP) and out of its operating budget; in addition, as mentioned above, the County can include energy conservation projects in future tax-exempt debt issuances.

During the last several years, the State has worked to accumulate unused QECB volume cap from local governments in Nevada in order to efficiently size a QECB bond sale for State facilities, some of which are located in Washoe County. Due to the problems inherent with local

governments' use of QECEBs, staff recommends approval of the attached resolution, which would transfer Washoe County's allocation of QECEB's totaling \$2,012,271 to the State's Department of Building and Industry.

**FISCAL IMPACT**

There is no fiscal impact associated with this item. The transfer of the County's QECEB volume cap to the State does not affect the County's ability to finance energy conservation projects through the tax-exempt bond market in the future nor does it result in any loss of funds.

**RECOMMENDATION**

It is recommended that the Board of County Commissioners approve the attached resolution authorizing the waiver of Washoe County's unused portion of available volume cap for the issuance of Qualified Energy Conservation Bonds and affirming the transfer of this waived volume cap to the State of Nevada, Department of Business and Industry.

**POSSIBLE MOTION**

Should the Board agree with staff's recommendation, a possible motion would be: Move to approve the attached resolution authorizing the waiver of Washoe County's unused portion of available volume cap for the issuance of Qualified Energy Conservation Bonds and affirming the transfer of this waived volume cap to the State of Nevada, Department of Business and Industry.

A RESOLUTION AUTHORIZING WASHOE COUNTY'S WAIVER OF ITS UNUSED PORTION OF AVAILABLE VOLUME CAP FOR THE ISSUANCE OF QUALIFIED ENERGY CONSERVATION BONDS, AS PROVIDED FOR BY SECTION 54(D) OF THE INTERNAL REVENUE CODE OF 1986, AS AMENDED, IRS NOTICE 2009-29, AND EXECUTIVE ORDER OF THE GOVERNOR OF THE STATE OF NEVADA, DATED SEPTEMBER 10, 2009; AND AFFIRMING THE TRANSFER OF THIS WAIVED VOLUME CAP BACK TO THE STATE OF NEVADA DEPARTMENT OF BUSINESS AND INDUSTRY FOR SUBSEQUENT ALLOCATION TO QUALIFIED ENERGY CONSERVATION PROJECTS ELSEWHERE IN THE STATE.

WHEREAS, the U.S. Secretary of the Treasury allocated to the State of Nevada a portion of the national volume cap for qualified energy conservation bonds ("QECBs") under Section 54(D) of the Internal Revenue Code of 1986, as amended, and IRS Notice 2009-29; and

WHEREAS, the State, in turn, distributed this volume cap allocation to large local governments and Native American Tribes (collectively, "Issuing Authorities") in a manner required by federal law and regulations, and as more fully described in Executive Order of the Nevada Governor, dated September 10, 2009; and

WHEREAS, as the result of these efforts, Washoe County was allocated volume cap in the amount of \$2,012,271 for use on qualified energy conservation projects; and

WHEREAS, Washoe County has not used any of this volume cap to date; and

WHEREAS, there are pending qualified energy conservation projects elsewhere in the state that would benefit from access to QECB financing; and

WHEREAS, the Nevada Department of Business and Industry works regularly with local governments such as Washoe County on matters involving private activity bonds, transfer of associated volume caps, and similar financing issues; and

WHEREAS, the Department oversees the State's default allocation of QECB volume cap and is well positioned to leverage any unused allocations of QECB volume cap for the benefit of the state as a whole;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF WASHOE COUNTY:

Section 1. This resolution is hereby designated by the short title "Waiver of Unused Volume Cap for Qualified Energy Conservation Bonds."

Section 2. The Board of County Commissioners of Washoe County hereby finds and determines that the waiving of its unused QECB volume cap to the State of Nevada Department of Business and Industry is in the best interest of Washoe County and the State of Nevada.

Section 3. The facts upon which the finding stated in Section 2 above is based are:

- a. The promotion and implementation of energy efficiency and energy conservation projects is a major policy objective of government at the local, state and federal levels.
- b. There is a need to finance qualified energy conservation projects within the State of Nevada.
- c. The Nevada Department of Business and Industry has requested access to the unused QECB volume cap of Washoe County for use on such qualified energy conservation projects.
- d. Washoe County has no immediate or planned project on which its unused QECB volume cap will be used.
- e. An affirmative waiver of Washoe County's unused volume cap back to the State for use on other qualified energy conservation projects is consistent with the goals of the original federal QECB authorization, existing laws and regulations, and past practices between Washoe County and the State in the transfer of private activity bond volume cap and related financing authority.

Section 4. The County Clerk is hereby authorized and directed to notify the Director of the Nevada Department of Business and Industry of the passage of the Resolution, if approved; and to submit to said Director a copy of the Resolution with any associated agenda and meeting minutes for his or her records.

Section 5. This resolution shall become effective upon passage and approval.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Chair, Washoe County Commission

(SEAL)

Attest:

\_\_\_\_\_  
County Clerk