

COUNCIL OF THE COUNTY OF MAUI
BUDGET AND FINANCE COMMITTEE

March 5, 2010

Committee
Report No. _____

Honorable Chair and Members
of the County Council
County of Maui
Wailuku, Maui, Hawaii

Chair and Members:

Your Budget and Finance Committee, having met on February 16, 2010, makes reference to County Communication No. 10-4, from the Director of Finance, transmitting a proposed resolution entitled "AUTHORIZING THE CREATION OF A RECOVERY ZONE UNDER THE PROVISIONS OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 FOR THE PURPOSE OF ISSUING RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS".

The purpose of the proposed resolution is to declare the entire County of Maui as a recovery zone under the American Recovery and Reinvestment Act of 2009 (ARRA), allowing the Department of Finance to sell Recovery Zone Economic Development Bonds (Recovery Zone Bonds). Bond proceeds would be used to finance expenditures for the purpose of promoting development or other economic activity in the recovery zone.

Your Committee notes that the ARRA is an economic stimulus package enacted by the 111th United States Congress in February 2009. The Act includes Federal tax cuts, expansion of social welfare provisions, and domestic spending in education, health care, and infrastructure.

The Director of Finance explained that the ARRA established a Recovery Zone Bond program to allow municipalities to sell taxable bonds, at a higher interest rate than the nontaxable general obligation bonds traditionally used by municipalities, and receive a 45 percent rebate on the interest payments from the Federal government. The County of Maui is allocated \$23,725,000 and is eligible to issue up to that amount in Recovery Zone Bonds. In order to sell these bonds, the County must establish a recovery zone. He stated that the County qualifies as a recovery zone due to increases in unemployment, foreclosures, and business closures.

The Director further explained that the County will sell bonds in 2010 and the Department of Finance will evaluate whether the Recovery Zone Bond program or the

COUNCIL OF THE COUNTY OF MAUI
BUDGET AND FINANCE COMMITTEE

March 5, 2010
Page 2

Committee
Report No. _____

traditional general obligation bond is more favorable to the County at that time. The Recovery Zone Bond program expires on December 31, 2010.

Your Committee voted 8-0 to recommend adoption of the proposed resolution and filing of the communication. Committee Chair Pontanilla, Vice-Chair Mateo, and members Baisa, Johnson, Kaho`ohalahala, Molina, Nishiki, and Victorino voted "aye". Committee member Medeiros was excused.

Your Committee is in receipt of a revised proposed resolution, approved as to form and legality by the Department of the Corporation Counsel, incorporating non-substantive revisions.

Your Budget and Finance Committee RECOMMENDS the following:

1. That Resolution No. _____, as revised herein and attached hereto, entitled "AUTHORIZING THE CREATION OF A RECOVERY ZONE UNDER THE PROVISIONS OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009 FOR THE PURPOSE OF ISSUING RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS", be ADOPTED; and
2. That County Communication No. 10-4 be FILED.

This report is submitted in accordance with Rule 7 of the Rules of the Council.



JOSEPH PONTANILLA, Chair

Resolution

No. _____

AUTHORIZING THE CREATION OF A RECOVERY ZONE UNDER
THE PROVISIONS OF THE AMERICAN RECOVERY AND
REINVESTMENT ACT OF 2009 FOR THE PURPOSE OF
ISSUING RECOVERY ZONE ECONOMIC DEVELOPMENT BONDS

WHEREAS, Section 1401 of Title I of Division B of the American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, 123 Stat. 115 (2009) ("ARRA"), added Section 1400U-1 through 1400U-3 to the Internal Revenue Code of 1986 ("Code"), authorizing state and local governments to issue recovery zone economic development bonds ("Recovery Zone Economic Development Bonds"); and

WHEREAS, under Section 1400U-2 of the Code, Recovery Zone Economic Development Bonds may be issued by any state, county or large municipality within each state before January 1, 2011 to finance certain "qualified economic development purposes" for use within designated "recovery zones", as described; and

WHEREAS, Section 1400U-1(b) of the Code defines the term "recovery zone" to mean: (1) any area designed by the issuer as having significant poverty, unemployment, rate of home foreclosures, or general distress; (2) any area designated by the issuer as economically distressed by reason of the closure or realignment of a military installation pursuant to the Defense Base Closure and Realignment Act of 1990; and (3) any area for which a designation as an empowerment zone or renewal community is in

Resolution No. _____

effect as of the effective date of ARRA, which effective date is February 17, 2009; and

WHEREAS, Section 1400U-2(c) of the Code defines the term "qualified economic development purpose" for purposes of Section 1400U-2 of the Code to mean any expenditures for purposes of promoting development or other economic activity in a recovery zone, including (1) capital expenditures paid or incurred with respect to property located in the recovery zone, (2) expenditures for public infrastructure and construction of public facilities, and (3) expenditures for job training and educational programs; and

WHEREAS, eligible issuers of Recovery Zone Economic Development Bonds include states and political subdivisions as defined for purposes of Section 103 of the Code; and

WHEREAS, Section 1400U-1(b) of the Code requires, in part, that issuers "designate" eligible recovery zones based on certain specified criteria; and

WHEREAS, Internal Revenue Service Notice 2009-50 ("Notice 2009-50") provides that for this purpose, any state, county, or large municipality that receives a volume cap allocation for Recovery Zone Economic Development Bonds may make these designations of recovery zones in any reasonable manner as it shall determine in good faith in its discretion; and

WHEREAS, due to a significant decline in tourism, the County of Maui ("County") has suffered significant general economic distress; and

Resolution No. _____

WHEREAS, Section 1400U-1(a)(I)(A) of the Code provides that, subject to Section 1400U-1(a)(I)(B) of the Code (relating to minimum allocations), generally, the Secretary of the Treasury ("Secretary") shall allocate the \$10 billion national volume cap for Recovery Zone Economic Development Bonds among the states in the proportion that each state's 2008 state employment decline bears to the aggregate of the 2008 state employment declines for all the states; and

WHEREAS, Section 1400U-1(a)(3)(A) of the Code provides generally that each state with respect to which an allocation is made under Section 1400U-1(a)(1) of the Code is required, without discretion, to reallocate such allocation among the counties and large municipalities in such state in the proportion that each county's or municipality's 2008 employment decline bears to the aggregate of the 2008 employment declines for all the counties and municipalities in such state ("Volume Cap"); and

WHEREAS, pursuant to Notice 2009-50, the Department of Treasury ("Treasury") and the Internal Revenue Service undertook to determine these required local allocations of Volume Cap; and

WHEREAS, pursuant to Notice 2009-50, the local allocation of volume cap determined by the Treasury to apply to the County is \$23,725,000; now, therefore,

BE IT RESOLVED by the Council of the County of Maui:

1. That the entire geographic area of the County is experiencing significant poverty, unemployment, rate of home

Resolution No. _____

foreclosures or general distress for purposes of Section 1400U-1(b) of the Code; and

2. That the entire geographic area of the County is hereby designated as a recovery zone for purposes of Section 1400U-1(b) of the Code; and

3. That the total local allocation of Volume Cap determined by the Treasury to apply to the County is \$23,725,000; and

4. That the proceeds of the Bonds will be used to finance expenditures for purposes of promoting development or other economic activity in the recovery zone, including capital expenditures paid or incurred with respect to property located in the recovery zone, expenditures for public infrastructure and construction of public facilities, and expenditures for job training and educational programs.

APPROVED AS TO FORM
AND LEGALITY:



TRACI FUJITA VILLAROSA
First Deputy Corporation Counsel

S:\CLERICAL\EK\RESO\FINANCE\recoveryzoneeconomicdeveopbonds.wpd