COUNTY DEPARTMENT AGENDA REQUEST

Department:	Finance	Presenter(s):	Mary S. Holland / Ted Burgess
Meeting Date:	Thursday, August 12, 2010	Type of Request:	Old Business

Wording for the Agenda:

Consideration of staff's request to approve a waiver of the county's allocation of $1,117,449 for issuing Qualified Energy Conservation Bonds and authorization for the Chairman to execute said waiver and Resolution 2010-14 confirming the waiver.

Background/History/Details:

Qualified Energy Conservation Bonds (QECB's) are a category of bonds that were created by federal legislation. They are intended to provide low-costs loans to state and local governments for qualified energy-conservation projects. These include:

- Reducing energy consumption in publicly-owned buildings by at least 20%
- Implementing "green community programs"
- Rural facilities to generate electricity from certain renewable sources
- Research facilities or research grants
- Mass commuting facilities that reduce the consumption of energy
- Demonstration projects to promote commercialization of qualified (green) technologies
- Public education campaigns to promote energy efficiency

The Georgia Environmental Facilities Authority (GEFA) has set aside an allocation of $1,117,449 for Fayette County. GEFA has requested that each county re-confirm its intent to use the allocation, or approve a waiver and resolution to return it to the state for re-allocation to other local governments.

What action are you seeking from the Board of Commissioners?

Authorization for the Chairman to execute a resolution and waiver to rescind the county's allocation of $1,117,449 for Qualified Energy Conservation Bonds, thereby enabling GEFA to use the allocation elsewhere.

If this item requires funding, please describe:

Not Applicable.

Has this issue come before the Commissioners in the past?	Yes	If so, when?	Thursday, October 22, 2009
Do you need audio-visual for the presentation?	No	Back-up Material Submitted?	Yes

STAFF USE ONLY

Approved by Finance	Yes	Reviewed by Legal	Yes
Approved by Purchasing	Not Applicable	Approved by County Clerk	Yes
Administrator's Approval	Yes		

Staff Notes:

STATE OF GEORGIA
COUNTY OF FAYETTE

RESOLUTION NO. 2010 – 14

WAIVER AND REALLOCATION OF VOLUME CAP ALLOCATION

Whereas, the State of Georgia (the "State"), as required by Section 54D(e)(2)(A) of the Internal Revenue Code of 1986, as amended (the "Code"), has reallocated to the Board of Commissioners of Fayette County, Georgia, (Volume Cap Allocation Recipient) $1,117,449 of the national qualified energy conservation bond limitation that was allocated to the State pursuant to Section 54D(e)(1) of the Code; and

Whereas, as permitted by Section 54D(e)(2)(B) of the Code, the Volume Cap Allocation Recipient desires to reallocate to the State $1,117,449 of the national qualified energy conservation bond limitation that was reallocated to the Volume Cap Allocation Recipient by the State as described above;

Now, Therefore, Be it Resolved by the Fayette County Board of Commissioners of Fayette County, Georgia, (Volume Cap Allocation Recipient) that, as permitted by Section 54D(e)(2)(B) of the Code, the Volume Cap Allocation Recipient hereby reallocates to the State 1,117,449 of the national qualified energy conservation bond limitation that was reallocated to the Volume Cap Allocation Recipient by the State pursuant to Section 54D(e)(2)(A) of the Code.

Be it Further Resolved by the Board of Commissioners of Fayette County, Georgia, the governing body of the Volume Cap Allocation Recipient, that Volume Cap Allocation Recipient has not and shall not assign to another person the national qualified energy conservation bond limitation reallocated to the State pursuant to this resolution.

So resolved this 12th day of August, 2010 by the

BOARD OF COMMISSIONERS
FAYETTE COUNTY, GEORGIA

_____
Attest

_____
Jack R. Smith, Chairman

Fayette County GEORGIA

Where Quality Is A Lifestyle

To: Mary S. Holland

From: Ted L. Burgess

Date: August 2, 2010

Subject: Qualified Energy Conservation Bonds – Allocation of $1,117,449

Congress created Qualified Energy Conservation Bonds (QECB's) with the federal Energy Improvement and Extension Act of 2008, and provided a nation-wide allocation cap of $800 million. The American Recovery and Reinvestment Act of 2009 increased the cap to a total of $3.2 billion.

QECB's were designed as "tax credit" bonds. In theory, the issuer would not have to pay interest, because the investor would get a tax credit from the IRS. The tax credit would be equal to 70% of the average yields of outstanding bonds with investment-grade ratings between A and BBB, as calculated by the U.S. Treasury Department (known as the Qualified Tax Credit Bond Rate).

The federal Hiring Incentives to Restore Employment Act (the HIRE Act), was signed into law by the President on March 18, 2010. The HIRE Act added a "direct payment" option so a QECB issuer could structure the bonds so that, instead of the investor getting a 70% tax credit, the issuer would get cash payments from the federal government equal to the *lesser* of:

a) 100% of the interest payable on the bonds, *or*
b) 70% of the Qualified Tax Credit Bond Rate in effect on the date the bonds were sold.

A comparison of authorized bond structures is attached. The comparison uses interest rates that would provide approximately the same return on investment for the investor for the traditional tax-exempt municipal bond, the 3% interest Tax Credit QECB, and the new option "b" Direct Payment QECB. The return on investment, of course, would be the most important variable in the marketability of the bonds.

The Board of Commissioners adopted a "Qualified Energy Conservation Bond Notice of Intent to Issue" at the meeting of October 22, 2009. This document reserved the county's allocation of $1,117,449 while the benefit of using the allocation was being considered. The HIRE Act did not change the county's allocation. However, the Georgia Environmental Finance Authority (GEFA) is requiring that the county forward to them either a second notice of intent to use the allocation, or a waiver of the allocation and an executed Board resolution, by August 15, 2010.

County staff have now had time to consider the value of issuing QECB's, given the authorized uses of the proceeds. At this point, it is recommended that the county's allocation of $1,117,449 be waived and released for the state to use elsewhere.

Regulations allow the county to transfer its allocation to any municipal government within the county, or an eligible public entity such as the Fayette County Development Authority. Previously, Peachtree City was considering whether it could use some or all of it. They have decided that they do not wish to use any of the county's allocation.

As general background, the rules for use of the allocation remain the same:

1. The county can issue QECB's for financing for "qualified conservation purposes." Qualified purposes include expenditures for:

    a) Reducing energy consumption in publicly-owned buildings by at least 20%
    b) Implementing "green community programs"
    c) Rural facilities to generate electricity from certain renewable sources
    d) Research facilities or research grants
    e) Mass commuting facilities that reduce the consumption of energy
    f) Demonstration projects to promote commercialization of qualified (green) technologies
    g) Public education campaigns to promote energy efficiency

2. The state advises that QECB's will probably be treated as general obligation bonds. A bond referendum would therefore be needed unless they are sold through a development authority.

3. Federal Davis-Bacon wage and benefit requirements must be followed for any project using QECB funds. Simply stated, the Davis-Bacon Act requires, when applicable, that various classes of workers must be paid wages and fringe benefits that are no less than the locally prevailing wages and fringe benefits paid on projects of a similar character. The Act directs the Secretary of Labor to determine the local prevailing wage and benefit rates that will apply.

4. Up to 30% of proceeds from issued QECB's may be used for private activity. If private activity bonds are issued, the proceeds can only be used for capital expenditures, even for purposes such as public education campaigns.

Comparison of Bond Structures
Based on the Hiring Incentives to Restore Employment (HIRE) Act

	Tax-Exempt Municipal Bonds	QECB Authorized 2008		QECB Authorized 2010	
		No Interest (Tax Credit)	3% Interest[c] (Tax Credit)	New Option "a" (Direct Payment)[d]	New Option "b" (Direct Payment)[e]
Bond face value	$1,000.00	$1,000.00	$1,000.00	$1,000.00	$1,000.00
Assumed Bond Interest Rate[a]	*4.39%*	*0.00%*	*3.00%*	*3.75%*	*6.75%*
Qualified Tax Credit Bond Rate on 7/15/2010 [b]	*NA*	*5.36%*	*5.36%*	*5.36%*	*5.36%*
Interest Expense to the County:					
12 months' interest expense	43.90	0.00	30.00	37.50	67.50
Federal credit to county [f]	NA	NA	NA	(37.50)	(37.52)
Net annual cost to the county	$43.90	$0.00	$30.00	$0.00	$29.98
Income Value to Investor:					
12 months' interest income	43.90	0.00	30.00	37.50	67.50
Less: federal income tax (assume 35% tax bracket)	NA	-	(10.50)	(13.13)	(23.63)
Add:					
Federal credit (70% of Qualified Tax Credit Bond Rate)*	NA	37.52	37.52	NA	NA
Minus tax on credit "income" at 35% marginal tax rate	-	(13.13)	(13.13)	-	-
Net federal credit applied	-	24.39	24.39	-	-
Net interest income to investor after taxes	43.90	24.39	43.89	24.38	43.88

[a] The bond interest rates shown here were chosen to demonstrate the rates that would be "neutral" to the investor; that is, rates that would provide the same return on investment for the various types of bonds. Exceptions are the zero-interest Tax Credit QECB and option "a" for the Direct Payment QECB.

[b] The U.S. Treasury calculates the Qualified Tax Credit Bond Rate each morning. The tax credit rate is assigned to bonds based 70% of the rate in effect on the day the bonds are sold.

[c] Although the federal concept was to create non-interest bonds, in reality the Georgia State Financing and Investment Commission is advising that "a supplemental coupon in the 1% - 3% range is anticipated for QECB's."

(d) This is an example of when the Treasury Department would pay 100% of interest due. The interest rate of 3.75% was chosen for the example because the feds pay the lesser of 100% of interest due, or 70% of the Qualified Tax Credit Bond Rate (70% x 5.36% = 3.752%)

(e) This is an example of when the Treasury Department would pay 70% of the Qualified Tax Credit Bond Rate, because it is less than 100% of the interest payable.

(f) The federal credit given to the county would be:
For New Option "a": 100% of interest due ($37.50), since this is less than 70% of the Qualified Tax Credit Bond Rate ($37.52).
For New Option "b": 70% if the Qualifed Tax Credit Bond Rate ($37.52), since this is less than the full interest due ($76.50).

NOTE: The above does not include costs if issuance, original issuance discounts, or other costs related to bond issues.

EXTRACT OF MINUTES
RESOLUTION OF GOVERNING BODY

At a duly called meeting of the governing body of Fayette County (the "Volume Cap Allocation Recipient") held on the 12th day of August, 2010, the following resolution was introduced and adopted.

WHEREAS, the State of Georgia (the "State"), as required by Section 54D(e)(2)(A) of the Internal Revenue Code of 1986, as amended (the "Code"), has reallocated to the Volume Cap Allocation Recipient $1,117,449 of the national qualified energy conservation bond limitation that was allocated to the State pursuant to Section 54D(e)(1) of the Code; and

WHEREAS, as permitted by Section 54D(e)(2)(B) of the Code, the Volume Cap Allocation Recipient desires to reallocate to the State $1,117,449 of the national qualified energy conservation bond limitation that was reallocated to the Volume Cap Allocation Recipient by the State as described above;

NOW, THEREFORE, BE IT RESOLVED by the governing body of the Volume Cap Allocation Recipient that, as permitted by Section 54D(e)(2)(B) of the Code, the Volume Cap Allocation Recipient hereby reallocates to the State $1,117,449 of the national qualified energy conservation bond limitation that was reallocated to the Volume Cap Allocation Recipient by the State pursuant to Section 54D(e)(2)(A) of the Code.

BE IT FURTHER RESOLVED by the governing body of the Volume Cap Allocation Recipient that the Volume Cap Allocation Recipient has not and shall not assign to another person the national qualified energy conservation bond limitation reallocated to the State pursuant to this resolution.

The undersigned certifies that the above resolution has not been repealed or amended and remains in full force and effect.

Dated:_____ _____
Attesting Officer

(SEAL)

State of Georgia
Notice of Waiver of Qualified Energy Conservation Bond Allocation

Date: August 12, 2010

City or County: Fayette County

Address: 140 Stonewall Avenue West, Fayetteville, GA 30214

Telephone: 770-305-5400 Fax: 770-305-5210

Name of Chief Elected Official: Jack R. Smith

Name of Authorized Representative (if applicable):_____

Amount of Original Allocation of **Qualified Energy Conservation Bonds**:	$ 1,117,449
Amount of Qualified Energy Conservation Bonds Waived:	$ 1,117,449
Amount of Qualified Energy Conservation Bonds Issued to Date:	$ 0
Amount of Qualified Energy Conservation Bonds Previously Waived:	$ 0
Remaining Qualified Energy Conservation Bond Allocation:	$ 0

I hereby certify that the city/county of Fayette, as duly authorized by its governing body, has waived all or a portion of its qualified energy conservation bond allocation, as specified above. (Resolution of governing body waiving volume cap allocation must be attached.)

Signature_____ Date _____
Chief Elected Official or Authorized Representative

Submit original form to: Georgia Environmental Facilities Authority (GEFA)
Bond Allocation Manager
233 Peachtree Street NE
Harris Tower, Suite 900
Atlanta, GA 30303