THE BOND BUYER
Thursday, July 23, 2015 | as of 11:53 AM ET

Taxation

Senate Panel Passes Tax Extenders Bill with Bond, P.R. Provisions

by Naomi Jagoda and Lynn Hume
JUL 21, 2015 3:13pm ET

WASHINGTON — The Senate Finance Committee on Tuesday approved a bipartisan, modified two-year tax extenders bill that includes several provisions relating to bonds and Puerto Rico.

The modified bill, which the Senate's Joint Committee on Taxation estimated would result in $95.62 billion of lost revenues, was passed by a vote of 23 to 3 and is being referred to the full Senate.

Committee members proposed more than 100 amendments, but most of them were withdrawn for not being germane or after members said they would bring them up before the Senate.

The vote came as several committee members complained a number of the tax provisions should be made permanent rather than extended.

"My goal is to see many of these provisions made permanent," said committee chairman Sen. Orrin Hatch, R-Utah, who explained that he postponed this issue "for the sake of making this markup less contentious." Sen. Ron Wyden, D-Ore., the panel's top Democrat, noted that the bill will extend the tax provisions "past the next election."

The modified bill "expresses the sense of the Senate that Congress should pursue comprehensive tax reform that eliminates temporary provisions from the tax code, thus making permanent those provisions that merit such treatment and allowing others to expire, and that a major focus of tax reform should be fostering economic growth and lowering tax rates by broadening the tax base."

Ahead of the vote, Hatch modified the bill to, among other things, ease restrictions on qualified zone academy bonds and enterprise zone facility bonds.

The bill would provide a $400 million national volume limitation for qualified zone academy bonds for each of 2015 and 2016. These bonds are tax-credit bonds whose proceeds can be used to finance renovations, equipment, course materials and teacher training at public schools or in academic programs that meet certain requirements. The volume cap is allocated to states, which can carry forward unused capacity under the limitation for up to two years.

Under current law, issuers have to certify that private entities will contribute property or services to the school with a value of at least 10% of the QZAB proceeds, but the bill was modified to lower that amount to 5%.

The modified QZAB provision in the bill is estimated to lead to revenue losses of $258 million over 10 years, according to the JCT.

The $400 million volume cap would be the same as the caps for each year from 2011 to 2014 and less than the caps of $1.4 billion for each of 2009 and 2010. As is the case with QZABs from allocations of the caps for 2011 and later, the QZABs from allocations of the 2015 and 2016 caps could not be issued as direct-pay bonds.

The legislation also would extend empowerment zone designations through the end of 2016. By extending the designations, certain distressed communities would remain eligible for tax incentives. The incentives include enterprise zone facility bonds, though issuers would only be able to issue the bonds in empowerment zones if the zones have remaining volume cap. Additionally, public schools in empowerment zones could be eligible to have projects financed with QZAB proceeds.

The modified bill would ease a requirement for enterprise zone facility bonds. Under current law, after three years businesses that benefit from the proceeds of the bonds must have 35% of their employees as residents of the empowerment zone or enterprise community where the business is located. Under the bill, this requirement can be met if 35% of the employees are from an empowerment zone, enterprise community or qualified low-income community within the locality where the empowerment zone is located.

The JCT estimated that the modified empowerment zone provision would cost the federal government $647 million over ten years.

The bill would allow taxpayers in their 2015 and 2016 tax years to deduct state and local general sales taxes instead of state and local income taxes. This is particularly beneficial for taxpayers in states without income taxes for individuals, including Texas, Florida and Washington.

The JCT estimated that extending the sales tax deduction for two years would cost about $6.7 billion from fiscal years 2016 to 2025.

Sen. Dean Heller, R-Nev., introduced an amendment he sponsored along with Sens. Maria Cantwell, D-Wash., John Thune, R-S.D. and John Cornyn, R-Texas, that would make the deduction permanent. But he withdrew it.

Cantwell said this provision had been in the tax code for years before it was repealed and then reinstated on a temporary basis. She said Congress should make the provision permanent. The House earlier this year passed a bill to make the deduction permanent.

In addition, the extenders bill would extend through the end of 2016 two Puerto Rico-related tax provisions.

One provision would temporarily increase the limit on the amount of excise taxes on rum that are covered over to Puerto Rico and the U.S. Virgin Islands. Under the bill, the territories would be able to receive $13.25 rather than $10.50 per proof gallon. The JCT estimated that extending this provision would lead to federal outlays of $336 million over ten years.

The other provision would allow a domestic production activities deduction to be applied to activities in Puerto Rico. Under current law, special domestic production activities rules for the commonwealth apply for the first nine years of a taxpayer beginning after Dec. 31, 2005 and before Jan. 1, 2015. Under the bill, the rules would apply for the first eleven years of a taxpayer beginning after Dec. 31, 2005 and before Jan. 1, 2017.

Extending this provision would cost $234 million over ten years, the JCT estimated.

Several other bond-related amendments were offered but not discussed during the committee meeting. One by Sens. Robert Menendez, D-N.J. and Michael Crapo, D-Idaho, that would exempt water and sewer private-activity bonds from state volume caps. Another By Sen. Chuck Schumer, D-N.Y., and four colleagues, would provide disaster relief, including by reinstating and extending several provisions enacted in previous years including disaster-specific bond authority.
