THE BOND BUYER

New category of tax-exempt PABs could help with disaster recovery, lawmakers say

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WASHINGTON -- Three House Democrats are proposing the permanent creation of a new category of tax-exempt private-activity bonds to be used to finance the reconstruction and rehabilitation of property following natural disasters.

Their proposal for qualified disaster recovery bonds is part of a larger bill they introduced late Wednesday that would provide a broad array of tax breaks and incentives for disasters dating back to 2012 through this year and beyond.

Other natural disaster provisions important to the municipal bond market included in the bill range from a waiver for certain rules for mortgage revenue bonds to the allowance for an advance refunding of certain tax exempt bonds and an increase on low-income tax credits that are often paired with PABs to finance projects.

The bill, dubbed "Give a Hand Act" for "Give Assistance and Help to Americans Impacted by Natural Disasters Act" (H.R. 4172), also has provisions targeted to the victims of the recent hurricanes that have struck the Southeast and U.S. Caribbean territories as well as victims of the wildfires in California.

Hurricane Sandy victims and others affected by natural disasters that occurred between 2012 and 2015 would be covered in a section of temporary measures similar to the permanent provisions.

Sponsors Reps. Richard Neal of Massachusetts, Bill Pascrell of New Jersey and Mike Thompson of California are all members of the House Ways and Means Committee, which is expected to begin voting on tax reform legislation as soon as next week.

The Trump administration separately has said it will submit a request for a new round of disaster aid by the middle of this month to assist with rebuilding from the hurricanes and wildfires.

Neal, the ranking Democrat on the committee, last week released a set of tax principles Democrats have agreed to.

The Democrats said last week they support making the Build America Bonds program permanent and generally maintaining and expanding tax-exempt bond financing. They also called for leveraging private investment to create public-private partnerships for infrastructure.

Some of those principles -- making the New Markets Tax Credit program permanent and enhancing the low-income housing tax credit – are included in the legislation introduced Tuesday.

The new bill comes in response to a request last month by the Council of Development Finance Agencies for Congress to create a new permanent category of federally tax-exempt bonds for disaster rebuilding.

CDFA asked for Congress to create the permanent program by using the lessons learned from several temporary bond programs lawmakers created in the wake of other recent natural disasters and the terrorist attack of Sept. 11, 2001 in New York City.

Following the destruction of the World Trade Center by terrorists, Congress authorized the issuance of $8 billion in tax-exempt Liberty Bonds for use in Manhattan.

And after Hurricane Katrina flooded and devastated New Orleans and other parts of the Gulf Coast in 2005, Congress enacted the Gulf Zone Opportunity Act of 2005. That legislation authorized $14.9 billion in tax-exempt private activity bonds for Louisiana, Alabama and Mississippi. It also authorizes an additional $7.9 billion in advance refunding bonds.

In addition, Congress has authorized Hurricane Ike Bonds and Midwestern Disaster Area Bonds for disaster rebuilding in recent years.

The nonpartisan Congressional Research Service reviewed those temporary bond programs. “Both the Gulf Opportunity Zone Act of 2005 and the Heartland Disaster Tax Relief Act of 2008 allowed affected states to issue tax-exempt bonds to finance qualified activities involving residential rental projects, nonresidential real property, and public utility property located in the disaster area and below market rate mortgages for low- and moderate-income home buyers,’’ CRS said.

“There was not, however, a comparable package of tax benefits provided following tropical storm Irene in 2011 or Hurricane Sandy in 2012,’’ the CRS report said. “Some general disaster provisions were available for all disasters declared in 2008 and 2009.’’

Congressional lawmakers from the Northeast have not given up in their effort to create disaster recovery bonds for rebuilding in the wake of Superstorm Sandy in 2012.

In September, Pascrell and Rep. Tom Reed, R-N.Y., another member of the Ways and Means Committee, introduced a bipartisan bill (H.R. 3679) proposing $10 billion in qualified disaster recovery bonds for disasters between 2012 and 2015.

The Pascrell-Reed bill had 41 bipartisan cosponsors in the House and 12 in the Senate during the last Congress, according to Pascrell’s spokesman.