THE BOND BUYER

California officials seek opportunities in Opportunity Zones

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LOS ANGELES — Ten months after the federal government created opportunity zones to encourage business creation in low-income areas, California officials are trying to figure out how best to use the new tool.

The program was created in the federal tax bill approved by Congress in December. It's supposed to direct money to spur development in impoverished areas, in order to encourage businesses to create jobs.

The states were given 90 days after December's federal tax bill passed to designate census tracts as Opportunity Zones where investors can plow capital gains into projects and receive a tax break.

Part of the confusion for muni professionals stems from how states will marry their own tax policies with what the federal government has proposed.

"Is the state of California going to conform to the capital gains treatment in the federal legislation? Or, are you going to have to pay capital gains tax in the state?" said Fred Silva, a senior policy advisor with California Forward, a nonprofit organization aimed at reforming policies regarding fiscal and government accountability.

In California, Silva said, capital gains are treated as regular income and corporations have capital gains that tend to fall on the high-tax part of the tax ladder.

"The State of New York conforms, but what is California going to do?" Silva said. "California's tax incentives have been kind of buggy."

The state has a plethora of tax incentives, but they are activity-based, not place-based, as opportunity zones are structured, he said.

Since the bill passed, 8,700 opportunity zones have been created in all 50 states, U.S. territories and in Washington D.C., said Katie Kramer, vice president of the Council of Development Finance Agencies.

Kramer moderated a series of panels Tuesday organized by CDFA in partnership with the California Association for Local Economic Development at audit, tax and consulting firm Grant Thornton's downtown Los Angeles office to discuss opportunity zones and other development finance opportunities.

In March, California's Department of Finance proposed 798 census tracts as Opportunity Zones and ultimately, after public hearings, designated 879 designated census tracts that were later qualified by the U.S. Department of the Treasury.

The state has 8,057 census tracts, and the selection process for Opportunity Zones created some head-scratchers for policy experts.

Some of the Opportunity Zone tracts are vast, like one in the Inland Empire near the border with Nevada, and some of the areas designated in San Francisco's Bay Area and Los Angeles don't appear to be areas with the greatest need for redevelopment money.

In California, the tracts were prioritized under three categories: those considered the poorest areas of the state under federal poverty guidelines; areas with at least 30 businesses to differentiate from primarily residential tracts; and geographic diversity, or tracts necessary for each county to have at least two designations.

During the process, some tracts were eliminated to include only those with a median income below $100,000. The state also accepted recommendations of local cities and counties to swap out some preliminary designations for those that local officials considered more appropriate.

The tax bill generally outlined how the investments would work and what the potential tax breaks are, but more guidance is anticipated from the Department of the Treasury in two to three weeks, Kramer said.

A group of investment funds and attorneys called the Opportunity Zone Coalition wrote a letter to Treasury and the Internal Revenue Service in June asking for clarification.

"Most states don't typically cooperate at the community level," Kramer said. "They feel the opportunity zones are private sector and they don't have a role at the local level. California is not in that camp."

California has been more proactive than other states in designating the zones, Kramer said. "Half of the states don't have people working on opportunity zones," she said.

Since the legislation didn't provide money to create funded positions for municipalities to work with private industry, some states that don't have existing redevelopment programs are trying to figure out how they can "mobilize around this," Kramer said.

California Treasurer John Chiang and four big-city leaders held a press conference Sept. 14 announcing they were launching an Opportunity Zone partnership. Los Angeles Mayor Eric Garcetti, San Francisco Board of Supervisors President Malia Cohen, Oakland Mayor Libby Schaaf and San Jose Mayor Sam Liccardo were participants.

“There is a lot to not like in the tax bill handed down from Washington, but we owe it to our communities to master any benefit to be found in it, just like corporate America does,” Garcetti said in a statement. “The California Opportunity Zone Partnership is about cities helping themselves, and each other, by helping bring investments and jobs into neighborhoods that need them most.”

The partnership was organized by Accelerator for America, a nationwide partnership of local elected officials, chaired by Garcetti.

In Phase 1 of the partnership, grants will be given to three small-to-medium-sized California cities to help them attract inclusive investments into their Opportunity Zones. Experts from San Francisco, Oakland, San Jose and Los Angeles will provide support to the cities award the grants. During Phase 2, lessons learned in the first phase will be used to create legislation to improve the program and avoid the negative impacts of gentrification and displacement of existing residents that can occur with economic redevelopment.

“Pooling the resources of Accelerator for America, private investors, and my office, we can build new ladders of opportunity that grow the middle-class and ensure a golden future for all Californians.” Chiang said

California Gov. Jerry Brown signed Senate Bill 635, a bill that designated the Governor’s Office of Business and Economic Development to administer opportunity zone programs, said Maral Farsi, deputy director of legislative and intergovernmental affairs for GO-BIZ.

The state’s department of food and agriculture has been working with developers interested in agriculture and the state's high-speed rail agency is also working on some physical map overlays to understand how the cap and trade programs have synergy with opportunity zones, Farsi said.

Corrected September 21, 2018 at 2:19PM: Grant Thornton is an an audit, tax and consulting firm. It was misidentified as a law firm in the original version of the story.