

## **Memo on the Michigan QECB Waiver Process**

Several County and City Governments have asked if a Board or Council Resolution is necessary to waive a QECB sub allocation or is a letter sufficient. Following is the response from Michigan Treasury:

“There are only two options available for a local unit to waive a QECB sub allocation. While they are not necessarily rooted in federal law, they are accepted methods used by various states based on applicable state law with deference to local control. Further, they are the methods by which bond counsel can comfortably render an opinion when bonds are issued utilizing waived allocations.

- (1) **Affirmative Waiver:** A large local government must affirmatively waive its sub-allocation by an act such as a resolution or motion of the county board or city council.
  
- (2) **Constructive Waiver:** The state requests each sub-recipient to notify the state by a date certain of its intent to utilize the sub-allocation with failure to notify being treated as a waiver.

Through our research in consultation with the Attorney General’s office and bond counsel, in order to implement a constructive waiver in Michigan, authorization to do so must be explicitly provided through legislation. While legislation was passed in 2010 (PA 153) which, among other things, gave the State Treasurer authority to deem waived a portion of bond allocations for Qualified School Construction Bonds, Recovery Zone Economic Development Bonds and Recovery Zone Facility Bonds, the legislation specifically excluded Qualified Energy Conservation Bonds from the deemed waived (Constructive Waiver) process. In order to validly re-allocate the waived QECB’s, the waiver must be accompanied by a local authorizing resolution.” [John Barton, Michigan Treasury, October 15, 2015]