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Private vs. Public Infrastructure Funding Debate Continues.

Speculation continued this week in Washington, D.C. on infrastructure funding plans, with municipal bonds being discussed during a panel at the National Association of State Treasurers 2017 Legislative Conference, according to The Bond Buyer. While, it will likely take tax reform for bonds to remain a viable resource, the expectation is that there will not be any changes to municipal bond rules until next year.

In the meantime, a local agency's ability to borrow funds for public capital improvements is the most cost-efficient way to finance public infrastructure. Tax-exempt rates remain at historic lows and will always beat the rates provided by public-private partnerships and private equity investment.

However, there is uncertainty whether the current administration and Congress will keep tax-exemption of municipal debt at its current level. Previous administrations have proposed placing limits on the benefits of tax-exemption for those individuals who pay taxes at the highest rates. Additionally, Congress provided rebates to issuers under the Build America Bonds program in 2010, under which rebates were reduced significantly as a result of the federal government's budget crisis in 2011.

Among the many questions being asked in regard to what a federal infrastructure funding plan will look like is whether public-private partnerships or private equity investments will benefit rural areas. The current administration has many members that are pro-public-private partnerships. Last week, at the Senate Environment and Public Works Committee, discussion focused on the need for federal funding when there is no enticement for private involvement. "Funding solutions that involve public-private partnerships, as have been discussed by administration officials, may be innovative solutions for crumbling inner cities, but do not work for rural areas," said Sen. John Barrasso, (R-Wyoming), who chairs the Committee, according to the Albuquerque Journal. Private partners are interested in potential for generating returns, and rural areas often lack the revenue-generating project capacity to be truly enticing to a private partner.

We have no indication at this time whether there will be renewed attempts to reduce the benefits of tax-exemption. Nevertheless, tax-exempt bonds, if left unchanged, will allow local agencies to control their costs of borrowing and they will not have the interference of private parties on the use and operations of the financed facilities.

by Kimberly Byrens | Best Best & Krieger LLP

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