
Municipal Finance Tools are Getting Extensive Consideration by Congress.

The extensive consideration that municipal finance tools are getting as Congress considers infrastructure legislation is producing growing optimism among public finance and local government groups.

Lawmakers have voiced bipartisan and bicameral support for a revival of direct-pay Build America Bonds, reinstating tax-exempt advance refundings and raising the limit on tax-exempt bank-qualified debt to $30 million for nonprofit borrowers.

The Biden administration is scheduled to weigh in on May 28 with its detailed tax proposals as part of its 2022 budget.

“My interpretation is that if they didn’t have a pay-for problem, then they would have bipartisan agreement,” said Charles Samuels of Mintz Levin, counsel to the National Association of Health & Educational Facilities Finance Authorities.

Brett Bolton, spokesman for the Bond Dealers of America and Municipal Bonds for America, said both groups remain optimistic Congress can take robust action on infrastructure.

“We hope that Congress and the administration are able to work through the gridlock and find a pay-for solution,” Bolton said. “We will continue to work with our partners on the Hill, in the administration and within the issuer community.”

The municipal finance tools such as reinstatement of tax-exempt advance refunding represent small costs next to the trillions that have been spent on COVID relief and other emergency spending since last year.

“Relative to these mega packages that have been passed in the last couple of years, all of a sudden something like advance refundings don’t look that big,” said Samuels. “It all becomes sort of relative.”

Reinstatement of tax-exempt advance refunding of bonds appears to have the broadest support among lawmakers because of its nearly universal impact on state and local issuers as well as nonprofits.

“The talks are continuing in a bipartisan fashion which, of course, is positive,” said Eryn Hurley, associate legislative director for the National Association of Counties. “There is some momentum. And the Biden administration did put forward a plan to pay for it.”

Hurley said NACo has seen “a lot of great provisions” on the spending side of the so-called skinny budget outline released earlier by the administration and remains optimistic about the full budget and tax proposals that will be released next week.

Among some of the provisions in the skinny budget NACo has highlighted to its members are:

A $20 billion increase in Department of Education Title I grants to high poverty schools; a $2.5 billion increase in special education funding through the Individuals with Disabilities in Education Act (IDEA), a $1.6 billion increase in the Community Mental Health Services Block Grant; a $1.5 billion increase in the Child Care and Development Block Grant; and a $65 million increase for the Reconnect Program which provides a down payment for grants and a $500 million increase for the Home Investment Partnerships (HOME) program.

But the Biden administration has not yet officially weighed in on the tax provisions that could spur infrastructure investments such as increasing the $15 billion limit on transportation-related private activity bonds.

Transportation Secretary Peter Buttigieg referred to that cap Thursday while testifying before the Senate Banking Committee.

“We do think there’s a lot more potential here and would welcome opportunities to work with you on building that out,” Buttigieg said in response to a question from Sen. Bill Hagerty, R-Tenn.

Republican Rep. Devin Nunes of California also suggested raising the $15 billion cap during a House Ways and Means Committee hearing a day earlier.

National Association of Bond Lawyers President Teri Guarnaccia, a partner at Ballard Spahr, said NABL has been “encouraged by the level of attention given to municipal market tools at both the House and Senate hearings.”

?With additional assistance from the administration and Congress, these tools would be an integral part of the infrastructure package under development by Congress,? Guarnaccia said.

Guarnaccia, Samuels and NACo’s spokeswoman said that if the Biden administration also advocates for enactment of these municipal finance tools, it will cement the likelihood of them becoming part of any infrastructure legislation that is enacted.

By Brian Tumulty

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