Bond Case Briefs

Issue 108

Municipal Finance Law Since 1971

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- And finally, Charles Darwin, County Road Commissioner is brought to us this week by *Patterson v. Cowley County*, in which the kinfolk of two inebriated decedents sued the county for neglecting to mention that a local road abruptly dead-ended at a river. Although initially appearing to be a matter of simple negligence, could it be possible that this was in fact a genius plan to funnel the residents of the shallow end of the gene pool into, well, a literal pool? The perfect marriage of evolution and intelligent design.

WATER DISTRICTS - CALIFORNIA

Central San Joaquin Water Conservation District v. Stockton East Water District

Court of Appeal, Third District, California - December 27, 2016 - Cal.Rptr.3d - 7 Cal.App.5th 1041 - 2016 WL 7985787

Water conservation district that used another district's conveyance system brought action against the district that owned the conveyance system for declaratory judgment as to the proper calculation of the wheeling charges.

The Superior Court issued a preliminary injunction requiring the system owner to offer the prior wheeling rate.

System owner appealed, and the Court of Appeal affirmed. System owner filed a cross-complaint for declaratory relief and quantum meruit. The Superior Court concluded that two annual wheeling rates set by the system owner were not reasonable since they failed to consider incremental costs and other factors. System owner appealed.

The Court of Appeal held that Wheeling Statutes did not permit wheeling rates to include pro rata allocation of fixed costs in all cases.

Under the Wheeling Statutes, a water conservation district that owned a conveyance system was required to consider a share of capital, overhead, maintenance, and other fixed or ongoing costs in calculating a wheeling rate for another district's use of the conveyance system, but the district that owned the system could not simply total its costs and force a pro rata allocation in all cases, where the district that used the system was not a member of the district that owned the system.

Water conservation district could not complain on appeal that the trial court's determination that district's wheeling rates were "demonstrably unreasonable inasmuch as they run counter to any 'real-world' analysis of competitive pricing," in granting declaratory judgment that the rates were not reasonable, constituted a factual matter that was never tried, where the district had the opportunity throughout the litigation to present evidence in support of its rates.

IMMUNITY - CONNECTICUT

Ventura v. Town of East Haven

Appellate Court of Connecticut - January 31, 2017 - A.3d - 170 Conn.App. 388 - 2017 WL 380547

Pedestrian, who was struck by truck driven by motorist, brought personal-injury action against town, alleging that town police department's rules regarding towing of vehicles imposed clear ministerial duty on police officer to, after investigating an unrelated domestic-violence incident involving motorist, tow motorist's truck, because truck had invalid registration and improper plates.

Following jury trial, the Superior Court entered judgment in favor of pedestrian. Town appealed.

The Appellate Court held that:

- Question whether rules imposed ministerial duty on officer, and thus whether town enjoyed governmental immunity, should have been decided by trial court, and
- Rules did not impose clear ministerial duty on officer to tow motorist's truck, and pedestrian thus failed to show that town did not enjoy governmental immunity from pedestrian's claim.

Question whether town police department's rules regarding towing of vehicles imposed ministerial duty on police officer to tow motorist's truck following officer's investigation into unrelated domestic-violence incident involving motorist, and thus whether town enjoyed governmental immunity from pedestrian's claim that injuries he sustained when motorist subsequently struck him with truck resulted from violation of such duty, should have been decided by trial court, not jury, since it turned on interpretation of municipal ordinance or policy.

Town police department's rules regarding towing of vehicles did not impose clear ministerial duty on police officer to tow motorist's truck following officer's investigation into unrelated domestic-violence incident involving motorist, and pedestrian thus failed to show that town did not enjoy governmental immunity from pedestrian's claim that injuries he sustained when motorist resumed driving truck, and subsequently struck pedestrian with truck, resulted from violation of such duty, even though truck had invalid registration and improper plates, since, when read together, rules made sense only with understanding that the rules regulated tow truck operators, not police officers.

MUNICIPAL CORPORATIONS - FLORIDA

Town of Gulf Stream v. Palm Beach County

District Court of Appeal of Florida, Fourth District - December 21, 2016 - 206 So.3d 721

Municipalities that were subject to office of inspector general program as established by referendum and implemented by county ordinance, and that were required by the ordinance to contribute to the funding of this program, brought action for declaratory relief against county, seeking a judgment declaring that the municipalities were not required to pay the expenses of the program and that all expenses of the program would be paid for solely by county.

The Circuit Court entered final judgment in favor of county and denied municipalities' motion for rehearing. Municipalities appealed.

The District Court of Appeal held that:

- Sovereign immunity barred county from requiring municipalities to fund officer of inspector general program;
- Referendum establishing the program was a local law, not a general law, and thus did not waive the municipalities' sovereign immunity; and
- Referendum establishing the program did not give rise to a contract for funding between municipalities and county and, thus, did not waive the municipalities' sovereign immunity.

DRAINAGE DISTRICTS - IOWA

Board of Water Works Trustees of City of Des Moines v. Sac County Board of Supervisors

Supreme Court of Iowa - January 27, 2017 - N.W.2d - 2017 WL 382402

City board of water works trustees brought several claims in federal court against drainage districts, alleging that districts had allowed excessive levels of nitrates in river.

The United States District Court for the Northern District of Iowa certified questions.

The Supreme Court of Iowa held that:

- There exists no remedy against drainage districts other than mandamus;
- The broad immunity in favor of drainage districts does not violate equal protection;
- Districts did not unconstitutionally take board's property; and
- Board could not assert claims against districts under inalienable rights clause.

Even if city board of water works trustees were regarded as a private entity, drainage districts did not unconstitutionally take board's property by permitting nitrate concentrations in river to exceed standards for drinking water; board did not own water flowing in river, nor was it denied access to that water.

City board of water works trustees, which was a public entity, could not assert takings claim against drainage district, which was another political subdivision of state, based on excessive nitrate concentrations in river.

City board of water works trustees could not assert claims against drainage districts under inalienable rights clause based on excessive levels of nitrate concentrations in river; clause did not provide basis for one public entity to sue another over use of state-owned assets.

IMMUNITY - KANSAS

Patterson v. Cowley County

Court of Appeals of Kansas - January 27, 2017 - P.3d - 2017 WL 384023

Wife and mother of motorists filed wrongful death action against county, township, and Department of Wildlife, alleging their negligence caused motorists to drive vehicle off dead-end road and drown.

Defendants filed motions for summary judgment. The District Court granted summary judgment in part to the county, and in full to the township and Department. Wife and county filed application for interlocutory appeal, which was accepted.

The Court of Appeals held that:

- County was entitled to discretionary function immunity against claims of negligence for failing to place warning signs on its portion of county road;
- County was not entitled to recreational-use immunity against motorist's claims of negligence for failing to place warning signs on its portion of county road that dead-ended at banks of river in wildlife area; and
- Township did not have a duty to place warning signs on the road, as it lacked authority to place traffic control devices on its roads.

County was entitled to discretionary function immunity against motorist's claims of negligence for failing to place an advisory speed plaque, a dead end sign, and a no outlet sign on its portion of county road. There was no standard within the Manual on Uniform Traffic Control Devices (MUTCD) that required county to follow any specific course of action related to the placement of such signs and plaques, and county's decision to place, or not place, the warning signs at issue was consistent with, and the kind of function susceptible to, public policy analysis.

County was not entitled to recreational-use immunity against motorist's claims of negligence for failing to place warning signs on its portion of county road that dead-ended at banks of river in wildlife area. Road was not essential to the use of wildlife area as a recreational area, as road apparently existed for over 100 years before wildlife area was created, and road was not the only road from which area was accessible.

MUNICIPAL GOVERNANCE - MISSISSIPPI

McAdams v. Perkins

Supreme Court of Mississippi - December 8, 2016 - 204 So.3d 1257

Unsuccessful candidate in city's mayoral election filed bill of exceptions challenging city council's resolution to employ counsel, which was the same law firm employed by the city's mayor, to represent the city's interest in upholding the validity of the election.

The Circuit Court reversed, finding that the resolution was beyond council's scope or power and in violation of the Mississippi Constitution. Mayor appealed.

The Supreme Court of Mississippi held that:

- Mayor was not estopped from raising issues on appeal by virtue of her certification of bill of

exceptions;
- Resolution was permitted under statute allowing municipalities to employ legal counsel for defense of “any claim, demand, or action”;
- Resolution was permitted under “home rule” statute;
- Resolution did not authorize an unconstitutional donation of public funds to a private individual; and
- Mayor had authority to pursue appeal without specific authorization from council.

ZONING & LAND USE - NEW YORK

Expressview Development, Inc. v. Town of Gates Zoning Bd. of Appeals

Supreme Court, Appellate Division, Fourth Department, New York - February 3, 2017 - N.Y.S.3d - 2017 WL 460597 - 2017 N.Y. Slip Op. 00874

Owner of landlocked, undeveloped parcels of land and potential purchaser of parcels brought hybrid proceeding challenging, under article 78, denial by town zoning board of appeals of application for use and area variances to construct on parcels billboards that would be visible from highway, and seeking declaration that town code section prohibiting commercial signs not located on site of business for which they advertised was unconstitutional.

The Supreme Court, Monroe County, dismissed action. Owner and potential purchaser appealed.

The Supreme Court, Appellate Division, held that:

- Denial of application was not arbitrary and capricious for alleged failure to adhere to board precedent;
- Board’s determination that owner and potential purchaser failed to establish factors constituting unnecessary hardship required for issuance of use variances was not arbitrary and capricious;
- Substantial evidence supported board’s determination that billboards would have negative and adverse effect on character of neighborhood; and
- Owner and potential purchaser failed to state claim that board’s denial violated their equal protection rights.

PENSIONS - TENNESSEE

Dodd v. City of Chattanooga, Tennessee

United States Court of Appeals, Sixth Circuit - January 18, 2017 - 846 F.3d 180

Police officer brought action against city, which amended its ordinance governing fire and police pension fund to eliminate default death benefit, alleging that this change violated his rights under the Contract Clause, Due Process Clause, and Takings Clause.

The United States District Court granted city’s motion for summary judgment. Officer appealed.

The Court of Appeals held that:

- Officer did not have a contract right to default death benefit, and thus was not entitled to relief under the Contract Clause;
- Officer did not have a protected property interest in default death benefit, and thus was not entitled to relief under the Due Process Clause or the Takings Clause; and

- City validly amended its charter to permit ordinances to be passed after two readings, and thus, amendment of pension ordinance after only two readings was valid.

PUBLIC RECORDS - WASHINGTON

Fortgang v. Woodland Park Zoo

Supreme Court of Washington - January 12, 2017 - 387 P.3d 690

Requester brought action against private nonprofit organization that operated city zoo, alleging it violated the Public Records Act (PRA) by failing to disclose documents related to zoo's elephants.

The Superior Court granted summary judgment in favor of organization. Requester appealed. The Court of Appeals affirmed. Requester sought review, which was granted.

The Supreme Court of Washington, en banc, held that:

- Government function factor weighed against finding that organization was functional equivalent of government agency and, thus, subject to PRA disclosure requirements;
- Government funding factor was inconclusive as to whether organization was equivalent of government agency;
- Government control factor weighed against finding that organization was equivalent of government agency;
- Entity's origin factor weighed against finding that organization was equivalent of government agency; and
- Organization was not functional equivalent of government agency, and thus was not subject to disclosure requirements under PRA.

EMINENT DOMAIN - WYOMING

Bush Land Development Company v. Crook County Weed & Pest Control District

Supreme Court of Wyoming - February 3, 2017 - P.3d - 2017 WL 474103 - 2017 WY 12

Landowner brought action against weed and pest control district for inverse condemnation under the Eminent Domain Act, alleging that it was entitled to just compensation for the loss of trees on its property as a result of the district's improper application of herbicides.

The District Court dismissed action. Landowner appealed.

The Supreme Court of Wyoming held that landowner did not pursue statutory administrative remedy available to a landowner whose property was damaged as a result of a weed and pest district carrying out its requirements, and thus action was required to be dismissed for failure to exhaust administrative remedies.

SIFMA U.S. Municipal Credit Report, Fourth Quarter and Full Year 2016

According to Thomson Reuters, long-term public municipal issuance volume totaled $100.3 billion in

the fourth quarter of 2016, a decline of 7.5 percent from the prior quarter ($108.5 billion) but an increase of 31.1 percent year-over-year (y-o-y) ($76.5 billion). In-cluding private placements ($4.5 billion), long-term municipal issuance for 4Q'16 was $104.9 billion. Despite the fourth quarter decline, full year issuance was $423.8 billion, an increase of 12.2 percent from 2015 well above the 10-year average of $372.0 billion. In-cluding private placements, full year issuance was $$445.8 billion.

Tax-exempt issuance totaled $91.2 billion in 4Q'16, a decline of 7.3 percent q-o-q but an increase of 35.2 percent y-o-y. For the full year, tax-exempt issuance was $383.1 billion, an increase of 13.2 percent from the prior year. Taxable issuance totaled $7.3 billion in 4Q'16, a decline of 7.3 percent q-o-q but an increase of 40.0 percent y o y. For the full year, taxa-ble issuance was $28.5 billion, an increase of 2.2 percent from 2015. AMT issuance was $1.9 billion in 4Q'16, a decline of 18.4 percent q-o-q and 52.1 percent y-o-y. For the full year, AMT issuance was $12.2 billion, 8.1 percent above 2015 volumes.

By use of proceeds, general purpose led issuance totals in 4Q'16 ($22.7 billion), followed by primary & secondary education ($19.0 billion), and water & sewer ($10.7 billion). For the full year, general purpose led issuance totals ($103.7 billion), followed by primary & secondary education ($81.9 billion), and water & sewer ($44.1 billion).

Refunding volumes comprised 46.6 percent of issuance in 4Q'16, declining slightly from the prior quarter (52.3 percent) but was an increase year-over-year (43.5 percent). For the full year, refunding volumes comprised 50.7 percent of all issuance, down slightly from 2015 (51.8 percent).

View the full report.

SIFMA Releases 2017 U.S. Municipal Issuance Survey: Long-Term Issuance Likely to Taper.

Although total municipal bond issuance is expected to increase this year, a drop in refundings is likely to contribute to a decrease in long-term muni issuance from $423.8 billion in 2016 to $417.5 billion in 2017, based on SIFMA's survey released Wednesday. "Many bonds are issued with ten-year par calls so one of the driving factors for refunding volume is … the new money issuance volume ten years ago," says Michael Decker, managing director and co-head of munis.

View SIFMA Survey.

MSRB: Continuing Disclosure Timing Remains Stable.

Washington, DC — Audited financial statements of municipal bond issuers reach investors an approximate average of 200 days after the end of the issuer's fiscal year, based on an updated report from the Municipal Securities Rulemaking Board (MSRB). In the six years since the MSRB began analyzing data on the timeliness with which municipal securities issuers and other obligated persons make their audited financials available to the public, the typical timing has remained stable, averaging between 196 and 202 days after the end of the issuer's fiscal year.

The *Timing of Annual Financial Disclosures by Issuers of Municipal Securities* report analyzes

submissions of annual financial information and audited financial statements made by issuers and obligated persons to the MSRB's Electronic Municipal Market Access (EMMA®) website between January 2010 and December 2016. Consistent with previous years, the timing of audited financial statement disclosures made in 2016 averaged approximately 199 calendar days after the end of the applicable fiscal year. Annual financial information submissions averaged 189 calendar days after the end of the applicable fiscal year. These averages do not include what the MSRB's methodology assumes to be "catch-up" submissions made by issuers to correct a prior year's failure to make a timely submission.

When comparing timing by the bonds' source of repayment in 2016, revenue bond disclosures were typically filed the soonest, averaging 179 days after the end of the fiscal year for audited financial statements, compared to 201 days for general obligation bonds and 213 days for double barrel bonds. Similarly, revenue bonds offered the most timely disclosure of annual financial information compared to general obligation and double barrel bonds.

Issuers in the health and housing sectors typically filed their audited financial statements the most timely in 2016, averaging 138 and 146 days, respectively. That same year, issuers of improvement, tax revenue and various purpose bonds exceeded an average of 200 days before the audited financial statement was filed. The health and housing sectors also led with timeliness of their annual financial information submissions.

Issuers establish the deadline by which they commit to make their filings in a contract known as a continuing disclosure agreement. The MSRB's report finds that the majority of issuers had a commitment date of 180 days or 270 days from the end of the issuer's fiscal year. Over the last several years, the number of commitments of 180 days has generally decreased while there has been an upward trend in commitments of 270 days.

The MSRB does not regulate issuers of municipal securities or other obligated persons and therefore does not establish requirements or set recommended timeframes for the content or timing of disclosures. It does, however, operate the EMMA website as the official repository for municipal market disclosures, including issuers' annual financial information. As part of its mission to protect investors and enhance market transparency, the MSRB provides a set of guiding principles for timely and complete disclosure, as well as educational resources and free tools such as a financial disclosure email reminder service to assist submitters in making on-time disclosures.

The MSRB's market data publications like today's updated report ensure municipal market stakeholders have access to objective, factual information about disclosure practices, trade activity and other aspects of the market.

Date: February 14, 2017

Contact: Jennifer A. Galloway, Chief Communications Officer
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Moody's Seminars: Financial Analysis of Local Governments.

This seminar provides an in-depth workshop on the financial statements seen in U.S. public finance. With real-world case studies, delegates will learn where to find information in an audit, what the line items mean, and key ratios and trend analysis used by Moody's analysts. Download Brochure.

The $2.7 trillion public finance market has undergone unusual stress in the past year, as the weakened economy has impacted revenue streams securing public finance debt, the credit crisis has limited market access for some issuers, and the strength of most mono-line insurers has been diluted. As a result, investors have more reason than ever to keep abreast of their portfolios and analyze their holdings. This seminar is designed to provide attendees with the tools to analyze local government financial statements, with a focus on the unique accounting methods and credit concerns seen in public finance. The course makes use of real-world case studies and exercises to provide practical hands-on training.

Location	Date	Price
New York	Mar 17, 2017	USD 1,395
Chicago	Jun 27, 2017	USD 1,395
San Francisco	Jul 13, 2017	USD 1,395
New York	Aug 4, 2017	USD 1,395
Charlotte	Oct 26, 2017	USD 1,395
New York	Nov 1, 2017	USD 1,395

Click here to learn more and to register.

TAX - IOWA

Acciona Windpower North America, LLC v. City of West Branch, Iowa

United States Court of Appeals, Eighth Circuit - February 7, 2017 - F.3d - 2017 WL 490412

Wind turbine manufacturer brought action against city, alleging breach of tax increment financing (TIF) development agreement for urban renewal project.

After entry of partial summary judgment in manufacturer's favor, bench trial was held. The United States District Court entered judgment in manufacturer's favor, and city appealed.

The Court of Appeals held that:

- City was obligated by TIF development agreement to pay tax rebate to manufacturer once it paid its taxes for given fiscal year;
- Manufacturer did not make judicial admission that rebates were never appropriated;
- TIF agreement did not impermissibly limit city's ability to decline to pay rebates; and
- District court did not abuse its discretion in permitting manufacturer to change its damages calculation on eve of trial and declining to impose sanctions.

Under Iowa law, city was obligated by tax increment financing (TIF) development agreement to pay tax rebate to wind turbine manufacturer once it paid its taxes for given fiscal year, even though agreement provided that all rebate payments were "subject to annual appropriation of the City Council," where agreement specified that city was required to annually certify "amount obligated for appropriation for rebate," and that, if city decided to obligate rebate for appropriation, "rebate shall be paid to [manufacturer] within thirty days of receipt by the City of the incremental taxes paid."

In manufacturer's action against city for breach of tax increment financing (TIF) development agreement, manufacturer's statement in its summary judgment papers that it was undisputed that "City did not appropriate the $265,140 rebate" to be paid to it for fiscal year was best read as poorly worded effort to admit that it is undisputed that rebates were never paid, rather than as judicial admission that rebates were never appropriated, where manufacturer had always argued that rebate

was appropriated, just not paid.

Under Iowa law, tax increment financing (TIF) development agreement that required city to pay tax rebate to wind turbine manufacturer once it paid its taxes for given fiscal year did not impermissibly limit city's ability to decline to pay rebates. TIF agreements were clearly authorized by state law and were to be liberally construed.

District court did not abuse its discretion in permitting manufacturer to change its damages calculation on eve of trial and declining to impose sanctions in its action against city for breach of tax increment financing (TIF) development agreement, despite city's contention that manufacturer revealed too late that it would seek damages for two fiscal years, where manufacturer sought compensatory damages for multiple fiscal years from beginning of its lawsuit, its pretrial clarification that it would seek compensatory damages for both fiscal years was entirely consistent with theory of damages it articulated at outset of case, and damages calculation used by manufacturer appeared to have been based on information in parties' agreement and documents originally in city's control.

Why Some Bargain Municipal Bonds Aren't Tax Free.

When individuals invest in municipal bonds they expect 100% tax-free income. Right? Well, many may unknowingly be setting themselves up for a tax bill from the IRS. How can this be? After all, we're talking munis.

It's been many years since the municipal bond De Minimis rule was relevant. Here's how it works in plain English: Say you purchase a low coupon municipal bond for a 2%, 2.25%, 2.50%, or even 3% coupon at a discount from the face value in the secondary market. If that discount breaches the IRS De Minimis threshold, then a portion of that discount can be taxed as ordinary income.

It all depends on how deeply the bond price is discounted. The simple formula to compute the De Minimis threshold is:

De Minimis threshold = Lower of par or original issue discount – (.25% X the years to maturity)

The formula basically stipulates that if you purchase a bond at a discount and the discount is equal to or greater than a quarter of a point per year until maturity, then your gain at redemption is taxed at your ordinary income tax rate rather than the more favorable capital gains rate, which are as low as 15%.

If this sounds like IRS gobbledygook, you are right. The law was created to prevent taxpayers from converting ordinary income into capital gains. Remember the only IRS rule you should commit to memory is: Whatever is best for the government and worst for the taxpayer is the correct rule interpretation .

Here's an example: Assume you purchased 50 XYZ Unified School District municipals, 2.00% coupon maturing September 1, 2028 originally issued at par, 100. If you purchased the bonds in the secondary market today at 90.288 for a 3.00% yield-to-maturity because rates rose since issuance, you will owe $2,107.50 in tax on $50,000 face value of the bonds.

The market discount cutoff price was $97.25. Okay—paying $2,107.50 in tax on 50 munis isn't the end of the world. Still, it could blindside you if your weren't aware of the De Minimis rule.

Your rule of thumb for purchasing municipal bonds should now be: If you want all your return to be tax free then invest in higher coupon bonds at par or a slight premium.

Stay away from market discounted munis. If you're doing business with a retail broker ask them to run the analytics on Bloomberg. That will quickly compute your tax liability if purchasing at a discounted price.

One caution: If interest rates rise significantly, high coupon premium bonds can decline and breach the De Minimis threshold too.

The De Minimis rule also has a significant impact on your bond price. Should you decide to sell a bond subject to the De Minimis rule your sale of the bond will be at an even deeper discount. The buyer will demand compensation for that portion of their [now] taxable return.

The reason we have not been plagued until recently with the De Minimis rule is that issuers weren't issuing many 2%, 2.25%, 2.50%, or 3% municipal bonds until 2016 when yields touched such low levels. Then post-election muni yields rose and prices declined.

If you buy munis online and your platform does not supply a De Minimis calculator better get out your pencil and paper for hand computations. There are numerous articles online written by Piper Jaffray, Pimco, Schwab, RBC and others explaining the formulas and with grids showing allowable market discounts before treatment as ordinary income kicks in.

Let this column be a red flag warning: The De Minimis rule can bite the incautious. Oh…and if you think no one will notice the discounted price you paid, the 1099s issued by the brokerage industry are extremely accurate in their reporting to the IRS.

FORBES

by MARILYN COHEN

FEB 7, 2017 @ 11:48 AM

Marilyn Cohen is founder and CEO of Envision Capital Management, a Los Angeles fixed-income money manager.

[Bigger New York City bond Sale Finds Eager Buyers.]

The possibility New York City could lose some federal funding as a result of its status as a haven for undocumented immigrants did not deter investors who snapped up $900 million of the city's bonds on Tuesday.

Underwriters led by Citigroup repriced the AA-rated general obligation bonds, shaving yields by a basis point in a handful of maturities. Yields topped out at 3 percent for bonds due in 2029.

The city's so-called credit spread over Municipal Market Data's benchmark triple-A yield scale widened slightly to 22 basis points for five year bonds and 36 basis points for 10 year bonds from pre-sale secondary market trading levels. MMD attributed the spread widening to the size of the deal, which was increased from $800 million.

"It's too early to know how the market will treat the sanctuary cities," said Daniel Berger, a MMD

analyst.

Jack Sterne, a spokesman for the New York City Comptroller's Office, said the deal was increased to $900 million after more than $600 million of bonds were sold to individual investors during a presale period.

"We're pleased investors continue to recognize the city's financial strength and invest in our bonds," he said in a statement.

Ahead of the sale, New York tried to assure potential bond buyers that its status as a so-called "sanctuary city" that shields illegal immigrants should not result in a substantial loss in federal funding due to President Donald Trump's recent executive order.

The Republican president signed an order on Jan. 25 directing the U.S. attorney general and Homeland Security secretary to withhold federal money from cities where local law enforcement refuses to report undocumented immigrants they encounter to federal authorities. Trump's Homeland Security chief told a congressional panel on Tuesday that funding to cities that refuse to cooperate with immigration agents would only be cut on a case-by-case basis.

In the bond deal's preliminary official statement, New York said federal grants related directly to immigration enforcement comprise a small portion of its budget and that grants supporting law enforcement in general would be exempted from the order. The city also vowed to "mount a vigorous legal challenge" against a reduction in federal aid.

In addition to New York, other major cities offering some form of protection to illegal immigrants include Los Angeles, Chicago, Philadelphia, Boston, Denver, Washington, and Seattle. Another sanctuary city, San Francisco, filed a legal challenge to the order last week.

Reuters

Tue Feb 7, 2017 | 4:13pm EST

(Reporting By Karen Pierog; Editing by Tom Brown)

Reports Of Municipal Bonds' Demise Have Been Greatly Exaggerated.

Top earners have traditionally been attracted to municipal bonds for their tax-exempt status at the federal and often state and local levels. In the wake of President Donald Trump's stunning upset victory, however, muni investors were forced to readjust their expectations of fiscal policy going forward. Because Trump had campaigned on deep cuts to corporate and personal income taxes, equities soared while munis sold off, ending a near-record 54 weeks of net inflows. This appears to have been premature, for a couple of reasons.

Tax Reform Unlikely To Happen Anytime Soon

Trump and congressional Republicans are currently butting heads on how best to handle tax reform, with many lawmakers saying it's unlikely they'll get around to it during the new president's first 100 days, and possibly his first 200 days.

According to House Speaker Paul Ryan, Congress will focus instead on replacing the Affordable Care

Act (ACA) and funding Trump's $1 trillion infrastructure spending package before it worries about taxes. With an estimated 30 million Americans enrolled on Obamacare exchanges, finding a suitable replacement is of high importance and might take some time. The same goes with negotiating a costly infrastructure deal, which several fiscally conservative lawmakers are hesitant to support.

Besides, we all know how fast Congress operates, even on a good day. Former President Barack Obama took office in January 2009, and even with a Democratic majority in the House and Senate, his signature health care law didn't reach his desk until March the following year.

All of this is to say that it might be premature to start dumping your munis, or withhold an investment in munis, purely on the notion that income taxes are about to get a haircut. We're probably looking at many more months of Obama-era tax rates, including the 3.8 percent Obamacare surcharge on investment income. Other investors have realized this as well, which is why we're seeing positive net inflows back into muni bond funds.

If enacted as conceived, Trump's tax reform plan would indeed be the most significant in decades, simplifying the number of tax brackets from seven to three, lowering the top rate from 39.6 percent to 33 percent and eliminating personal exemptions and filing status options.

One of the unintended consequences of this is that income taxes could actually go up for certain middle-income filers. According to an analysis of Trump's proposal by the independent Tax Policy Center, as many as 8 million American families, including a majority of single-parent households and large families, could end up paying more than they do now (emphasis mine):

> Increasing the standard deduction would significantly reduce the number of filers who itemize. We estimate that 27 million (60 percent) of the 45 million filers who would otherwise itemize in 2017 would opt for the standard deduction. **Repealing personal exemptions and the head of household filing status, however, would cause many large families and single parents to face tax increases.**

But What About Rising Interest Rates?

In December, the Federal Reserve lifted interest rates for only the second time in nearly a decade, and many expect to see up to three additional increases this year. It's important to be aware that when rates rise, bond prices fall because if newly issued bonds carry a higher yield, the value of existing bonds with lower rates declines. This is why I believe investors should take advantage of short- and intermediate-term munis, which are less sensitive to rate increases than longer-term bonds, whose maturities are further out.

Forbes

Frank Holmes, Contributor

FEB 8, 2017 @ 01:26 PM

In Day of Action, More Than 35 State Municipal League Executive Directors and Officers Join NLC to Advocate for City Priorities on Capitol Hill.

WASHINGTON, Feb. 8, 2017 /PRNewswire-USNewswire/ — In a day of action on Capitol Hill, more than 35 executive directors and local leaders from more than 20 state municipal leagues have come to Capitol Hill to advocate for critical city priorities. In 42 meetings today with federal officials, city representatives will work to build local-federal partnerships and tell Congress why city priorities – including infrastructure and protecting municipal bonds – will help to move America forward. The fly in was coordinated by the National League of Cities (NLC), the nation's largest and most representative organization for cities and their leaders.

"With so many new faces on Capitol Hill, it's important that city leaders build relationships with federal officials and tell them why city priorities are critical to the success of our nation," said NLC President Matt Zone, a councilmember from Cleveland. "We're proud that our state league partners have come to Washington with a unified voice and a simple message: that the federal government needs to partner with cities to keep our economy growing and to build a national infrastructure that is the envy of the world."

The day of action included a briefing on Capitol Hill for senators, Members of Congress and their staffs. Rep. Drew Ferguson (GA-3), a former mayor of West Point, Georgia, spoke at the briefing about the need for stronger federal-local partnerships.

"This day of action shows our federal partners that cities need a seat at the table when debating policies that affect cities and our communities," added NLC CEO and Executive Director Clarence E. Anthony. "We're excited to build on this momentum leading up to the Congressional City Conference in March, when city officials will meet with more than 250 Senators and Members of Congress to build crucial federal partnerships and make them champions for cities."

In partnership with the 49 state municipal leagues, NLC represents more than 19,000 cities across America. More than 2,000 city leaders are coming to Washington March 11-15 for NLC's annual legislative conference, the Congressional City Conference.

The following state league leaders are in Washington today for the fly-in:

Arkansas

Mayor Harry Brown, Stephens, Ark., and president, Arkansas Municipal League
Ken Wasson, director of operations, Arkansas Municipal League

Colorado

Sam Mamet, executive director, Colorado Municipal League

Delaware

Mayor Jermaine Hatton, Dover, Del., and president, Delaware League of Local Governments
Carl Luft, executive director, Delaware League of Local Governments

Florida

Jeannie Garner, deputy executive director, Florida League of Cities
Commissioner Gil Ziffer, Tallahassee, Fla., and first vice president, Florida League of Cities

Georgia

Mayor Boyd Austin, Dallas, Ga., and president, Georgia Municipal Association

Lamar Norton, executive director, Georgia Municipal Association
Becky Taylor, director, Federal Relations & Research, Georgia Municipal Association

Illinois

Brad Cole, executive director, Illinois Municipal League

Iowa

Councilmember Kris Gulick, Cedar Rapids, Iowa, and past president, Iowa League of Cities

Maryland

Mayor Tracy Gant, Edmonston, Md., and president, Maryland Municipal League
Scott Hancock, executive director, Maryland Municipal League

Massachusetts

Geoff Beckwith, executive director & CEO, Massachusetts Municipal Association
Town Administrator Mel Kleckner, Brookline, Mass., and president, Massachusetts Municipal Association

Minnesota

Kevin Frazell, director of Member Services, League of Minnesota Cities
Mayor Rhonda Pownell, Northfield, Minn., and president, League of Minnesota Cities

Mississippi

Mayor Jimmy Clyde, Magee, Miss., and president, Mississippi Municipal League
Shari Veazey, executive director, Mississippi Municipal League

New Hampshire

Selectman Brent Lemire, Litchfield, N.H., and chair, New Hampshire Municipal Association

New York

Peter Baynes, executive director, New York State Conference of Mayors and Municipal Officials
Mayor Tom Roach, White Plains, N.Y., and president, New York State Conference of Mayors and Municipal Officials

North Carolina

Mayor Bob Matheny, Zebulon, N.C., and president, North Carolina League of Municipalities
Paul Meyer, executive director, North Carolina League of Municipalities

Oregon

Mayor Denny Doyle, Beaverton, Ore., and president, League of Oregon Cities

Pennsylvania

Mayor C. Kim Bracey, York, Pa., and first vice president, Pennsylvania Municipal League

Rick Schuettler, executive director, Pennsylvania Municipal League

Tennessee

Margaret Mahery, executive director, Tennessee Municipal League
Charles “Bones” Seivers, president & CEO, Tennessee Municipal League Bond Fund

Virginia

Mayor Robert Coiner, Gordonsville, Va., and president, Virginia Municipal League
Kimberly Winn, executive director, Virginia Municipal League

Washington

Peter King, CEO, Association of Washington Cities

Wisconsin

Jerry Deschane, executive director, League of Wisconsin Municipalities
Village Board President George Peterson, Rothschild, Wis., and president, League of Wisconsin Municipalities

About the National League of Cities
The National League of Cities (NLC) is dedicated to helping city leaders build better communities. NLC is a resource and advocate for 19,000 cities, towns and villages, representing more than 218 million Americans. www.nlc.org

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City of Riverside Recognized For Excellence in Budgeting by Peers Statewide.

RIVERSIDE, Calif. – For the first time, the City of Riverside has received the Excellence in Budgeting Award from the California Society of Municipal Finance Officers, a statewide organization devoted to promoting best practices among California municipal finance professionals.

The award recognizes the work of the City in preparing the 2016-2018 biennial budget, which was approved by the City Council in June. That budget document covers the next two fiscal years and guides the City’s financial decisions.

“Riverside is fortunate to have highly-qualified professionals providing detailed information to drive good decision-making,” Mayor Rusty Bailey said. “Our decisions as elected officials are only as good as the data that informs them, so precise budgeting is crucial to our City’s financial health.”

The 2016-18 budget that was recognized for excellence was the first in recent years to plan the City’s financial future for the next two years, instead of just one year, which is most common in local government. Riverside’s two-year budget, combined with a five-year financial plan, transformed the way the City of Riverside handles its financial planning.

“Our budgeting process has evolved in a very dramatic way during the past year,” Mayor Pro Tem Mike Gardner said. “We now have a much broader scope when looking at our options for utilizing the city’s funds in the most responsible way, and our budget is a big part of that.”

The California Society of Municipal Finance Officers (CSMFO) promotes excellence in financial

management through innovation, continuing education and the professional development of its members. The Excellence in Budgeting Award is the first such recognition the City has received from CSMFO.

"This is a significant accomplishment for the City," said Assistant City Manager Marianna Marysheva, who supervises the Finance Department. "Our staff showed great focus and determination in preparing a budget document that serves as an excellent planning, financial management and public education tool."

Riverside previously has received 13 budgeting awards from another organization, the Government Finance Officers Association (GFOA). The most recent award from the GFOA can be found here.

The Biennial Budget that was recently recognized by CSMFO also was submitted for the GFOA Award, the results of which are pending.

The budget document that was submitted for the award can be found here.

A list of recognitions received by the City's Finance Department can be found here.

inlandempire.us

By Staff – February 9, 2017

Toll Bridge Deals Lead U.S. Municipal Supply Next Week.

A pair of toll bridge deals will lead a U.S. municipal bond calendar next week that features around $5.85 billion in total sales.

California's Bay Area Toll Authority will issue the week's biggest deal, pricing on Tuesday $552 million in negotiated refinancing bonds to reduce borrowing costs.

The Delaware River Joint Toll Bridge Commission, a bi-state agency that operates seven toll bridges in Pennsylvania and New Jersey, will price a $438 million negotiated bond, to fund the bulk of a $512 million reconstruction of the Scudder Falls Bridge.

Both deals are scheduled to price on Tuesday and will be underwritten by Bank of America Merrill Lynch.

The Scudder Falls Bridge, which crosses the Delaware River along Interstate-95 and supports some 60,000 cars a day, will be demolished to address safety concerns, and rebuilt by the Trumbull Corporation, which was awarded the construction contract, according to a road show presentation from the toll bridge commission.

Tree cutting and installation of noise walls are underway, with full construction slated to begin in April and run through August 2021, according to the presentation.

Next week's total muni supply will include $5.575 billion of negotiated and competitive bonds, and another $271 million of notes.

The Long Beach, California, Unified School District will provide the biggest competitive bond deals, issuing $450 million in general obligation bonds, while Rochester, New York, will lead the way in

notes, with $72 million in a pair of bond anticipation offerings.

Ongoing political and economic uncertainty could make it difficult for the U.S. Federal Reserve to raise interest rates in the near term, and “lower Treasury rates will certainly help munis,” Barclays analysts said in a weekly note on Friday.

Barclays, which projects net negative issuance for February, said “healthy dealer inventories and positive fund flows should also support the market in the coming weeks.”

Barclays noted that tax policies of President Donald Trump could also move markets.

Trump on Thursday hinted at an upcoming announcement he said would be “phenomenal in terms of tax,” but offered no detail.

Reuters

By Nick Brown

Fri Feb 10, 2017 | 2:31pm EST

(Reporting by Nick Brown; Editing by Bernard Orr)

Policy Uncertainty Is Killing Muni Volume.

After a rough post-election period, municipal bonds are holding up just fine this year. But while index returns are up slightly, volume is way down.

That decline reflects caution among investors about where tax policy is headed. If tax cuts are put in place, munis could become less appealing.

Morgan Stanley muni strategist Michael Zezas writes Monday:

> The tale of the tape, in our view, shows an investor base lacking conviction. Consider, for example, the ratio of bid-wanteds relative to trade volume. While they have recently eased, levels since the beginning of the year are elevated on a combination of lower trade volume and larger bid lists. This suggests an investor base that is testing liquidity and playing it safe.

Zezas says that negative sentiment would normally be a sign to add munis to a portfolio. But in this case he thinks it is appropriate for investors to be cautious.

> We sympathize with the implied caution being expressed for two reasons: 1) policy risks, including existential tax risks, still loom large in the muni market; 2) valuations aren’t obviously reflecting that risk.

The benchmark-tracking **iShares National Muni Bond ETF** (MUB) is up 0.1% year to date at $108.34, but is down 3.2% in the past year.

Barron's

By Amey Stone

February 13, 2017, 1:45 P.M. ET

NABL: SLGS Window Likely to Close.

In a little over 4 weeks the federal debt ceiling will return and with it, almost certainly, the SLGS window will close. NABL members who have closings around March 15 should plan for an alternative to purchasing SLGS.

In November of 2015, then-Speaker John Boehner reached an agreement with President Obama that suspended the debt limit through March 15, 2017. This was one of Speaker Boehner's final acts before his resignation.

Absent action by the current Congress and President to increase or further suspend the debt limit before March 15, the Treasury Department can be expected to begin implementation of its "extraordinary measures" to delay the date on which the United States would begin to default on its obligations – not only payments on Treasury bonds but also the federal payroll, payments to contractors, and Social Security benefits, among other things. Generally the first of the extraordinary measures that is implemented is closing the SLGS window.

Continue reading.

What Makes a Bond "Green"?

Most people agree that a "bond" is a financial instrument pursuant to which a creditor (holder of the bond) lends money to a borrower (the issuer of the bond) over a specified period of time in exchange for a periodic interest payment. However, although I occasionally see headlines about green bonds being issued, it was not clear to me what made a bond "green". Since I like to drink clean water and breathe clean air, I thought it would be worth looking into.

Continue reading.

The Public Finance Tax Blog

By Cynthia Mog

February 10, 2017

Squire Patton Boggs

Cincinnati's Streetcar and a Downtown Revival.

By the time the first passengers boarded Cincinnati's streetcar in September, its advocates had already been on a wild 15-year ride that included surviving two ballot initiatives to derail the project.

With political battles now largely in its rearview mirror, the streetcar has arrived at a key time in Cincinnati, where a revival of the city center is already well underway. The streetcar logged its first 250,000 rides in just over two months, helped by curiosity over the streetcar and an ongoing real estate development boom in the neighborhoods along the 3.6-mile (5.8 km) route: the Banks, downtown, and Over-the-Rhine.

"They had the paddles out on the operating table," longtime streetcar advocate John Schneider says of its several near-death experiences. "It's been a long effort to bring rail here. The politics were ugly, but once the politics got out of it, the result was really good."

The Cincinnati Bell Connector—the streetcar's formal name, thanks to that company's ten-year, $3.4 million naming-rights deal signed in August—began clanging through Cincinnati's streets at a time when construction continues ramping up in the city center. There has already been about $1.5 billion in public and private investment along the figure-eight streetcar route in the past five years, says Harry Black, city manager.

"All of these things working together have propelled us to a point of critical mass," Black says of efforts to enliven the city center. "I believe we're just at the beginning of that critical mass. The streetcar is one of those major elements, but it's not the only element."

The $1.5 billion figure includes the $148 million streetcar project, about $45 million of which was funded by federal grants. Long before the city-owned streetcar was a sure thing, other efforts were underway to spruce up the city's core, starting with major investments in the Banks, an area along the Ohio River near the Cincinnati Reds' ballpark and the Bengals' football stadium. That area is on the southern tip of the streetcar line.

Perhaps most dramatic has been the gentrification of Over-the-Rhine, a one-time German enclave that in more recent years had become notorious as one of the nation's most dangerous neighborhoods. It is at the northern end of the streetcar route.

Cincinnati Center City Development Corp., a nonprofit real estate development and finance organization known to locals as 3CDC, has completed $1.1 billion in real estate projects in the past decade in Over-the-Rhine and downtown, says executive vice president Adam Gelter, who oversees all of 3CDC's real estate development. That includes the purchase and rehabilitation of more than 250 dilapidated buildings, many of them with Italianate architecture, as well as larger projects such as a $48 million overhaul of Washington Park.

Over-the-Rhine is now known for breweries, boutiques, Findlay Market, bars, and restaurants. 3CDC and others are focused on attracting a broader range of retail to the area, as well as rehabbing broad areas of Over-the-Rhine still in disrepair.

"The streetcar is a strong complement to efforts we've already been making to build up the retail in Over-the-Rhine," Gelter says. "Being able to get more people here is ultimately what's going to attract retailers."

Cincinnati had been without a streetcar since 1951, and in the decades since many residents moved to areas outside the city's core or to suburbs. Cincinnati became more and more driving-centric.

Schneider, known to many in Ohio's third-largest city as "Mr. Streetcar," has lived downtown for 40 years. He began pushing municipal officials to pursue a streetcar in 2001, and by 2007 the city

began formal planning.

Streetcar proponents fought back votes to kill off the idea in 2009 and 2011 and overcame several other obstacles—including Ohio Governor John Kasich pulling $52 million in state funding over doubts about the project's potential economic impact in 2011.

In the early going, the Cincinnati Bell Connector has encountered glitches including difficult-to-use ticket machines, and the initial ridership numbers have declined, particularly on weekdays and as the weather has gotten colder. Because traffic lights are timed for an east–west flow and the streetcar travels north and south, the streetcar also often becomes bogged down in traffic.

While solutions to those issues are examined, longer-term challenges also loom. Cost estimates and potential funding sources for potential expansions of the route have yet to be determined. Expansion likely would be targeted for uphill to the University of Cincinnati or across the river to Newport, Kentucky.

Despite early hiccups, the streetcar's usage rate has been a pleasant surprise, says Derek Bauman, southwest Ohio director and vice chair for statewide transportation advocacy group All Aboard Ohio.

"We've blown projections out of the water, especially on the weekends," says Bauman, who lives in Over-the-Rhine. "It's part of the revival of the city center. There's just a buzz, and people are out on the streets. There are families with strollers, which wasn't the case four or five years ago."

Anecdotally, streetcar riders are a diverse mix that includes young professionals, families, empty-nesters, and out-of-towners staying in nearby hotels, Schneider says.

"It's not all millennials," he says. "A friend told me he's seeing more hip replacements than hipsters on the streetcar."

It is too early to assess the long-term economic impact along the streetcar, but property values already appear to be on the rise, according to commercial real estate brokerage CBRE. In 2012, developers were paying an average of $17 per square foot ($183 per sq m) for adaptive-use buildings in Over-the-Rhine, says retail broker Chris Hodge, a CBRE senior vice president. By late 2015 and early 2016, the average had risen to $78 per square foot ($839 per sq m), he says.

"I think the biggest impact the streetcar has had is in Over-the-Rhine," Hodge says. "The development really started on the east side of Over-the-Rhine, and now it's moving west and north."

Rhinegeist Brewery, which opened in a former Christian Moerlein Brewing bottling plant on Elm Street in 2013, is one business likely cashing in on the streetcar. President and cofounder Bob Bonder says that revenue from visits to the brewery is up more than 30 percent in 2016 from last year.

"I couldn't tell you how much of that increase is due to the streetcar and how much is us being a new, fresh brand three years into existence," Bonder says. "But all you have to do is stand there and watch the streetcar to see that, wow, this is working. It seems like every time the streetcar stops by, it drops off 20 people and picks up ten."

The Urban Land Institute

By Ryan Ori

January 9, 2017

Ryan Ori covers commercial real estate for Crain's Chicago Business.

Heller, Nelson, Kelly and Blumenauer Re-Introduce Bipartisan Public-Private Partnership Bill.

(Washington, DC) – Today, U.S. Senators Dean Heller (R-NV), Bill Nelson (D-FL), Congressman Mike Kelly (R-PA), and Earl Blumenauer (D-OR) released the following statements after re-introducing the *"Public Buildings Renewal Act."* The bill enables communities to establish public-private partnerships (P3s) for needed public infrastructure improvements, such as in schools or public universities, by creating $5 billion in new private activity bonds for public buildings.

"In the past, P3 investment has produced enormous benefits across the nation in the form of transportation and infrastructure improvements. I want to see the same results right here in the Silver State, especially for Nevada's schools. Now is the time to use the success of P3s in the infrastructure industry as a financing model for Nevada's public buildings to repair cornerstones in our communities like public schools and libraries. This commonsense idea helps our public schools and universities do even more. By empowering the private sector to address these issues, innovation ensures these projects are completed in a more cost efficient manner," said Senator Dean Heller.

"This bill will help local governments build schools, libraries, fire stations and other public buildings that serve as the foundation of our communities," said Senator Bill Nelson.

"Our country's public buildings are in a historic state of disrepair and in need of a bold solution. That's where the Public Buildings Renewal Act can come to the rescue. This legislation became more urgent than ever for me after I visited several of our district's schools last year and saw the unacceptable damage up close. When public places like schools, hospitals, and court houses are allowed to crumble, the people they serve suffer, especially students. Our bill will channel a new stream of P3 financing into local communities for the ultimate goal of restoring public infrastructure from coast to cast. It will take advantage of private sector efficiency to create jobs and save taxpayer money by streamlining the delivery, design, and construction of these projects. I thank my colleagues in both chambers for supporting this commonsense solution and look forward to helping them advance it swiftly," said Congressman Mike Kelly

"Congress has failed to display the political courage necessary to adequately invest in infrastructure—from roads and light rail to schools and courthouses. Our nation is literally falling apart and falling behind. We need an 'all of the above' approach to infrastructure funding, and simple fixes to lower investment barriers are steps in the right direction," said Congressman Earl Blumenauer (OR-03)

Background:

These newly created private activity bonds mentioned above would provide much-needed financing to cash-strapped states to construct government-owned buildings such as public schools, state colleges, post offices, libraries, prisons and courthouses. Currently, the use of P3s to deliver public buildings is extremely limited because unlike the transportation sector, public buildings are not eligible for private activity bonds. This inhibits public building P3s from combining tax exempt financing with private financing, resulting in an increased cost of financing. Nearly every U.S. transportation P3 project that has moved forward has utilized federal financing, 75% of which have accessed Private Activity Bonds. Over $36 billion in transportation P3 projects have been undertaken

since 2010 with a cost savings of nearly 20 percent for each project.

This bill will catalyze the use of P3s in public buildings just as PABs have for transportation. By empowering the private sector to tackle these projects, the bill would make these projects more cost effective, stretching every public dollar further. Additionally, the bill is a fiscally conservative solution to overhauling these public projects with an estimated cost from JCT of less than $50 million over ten years.

The House companion bill is [HR 960](#).

Senator Heller was recently named Chairman of the Senate Committee on Finance's Subcommittee on Energy, Natural Resources, and Infrastructure. This role will give him the ability to promote infrastructure projects in Nevada like Interstate 11.

[Bills Would Allow States, Localities to Issue up to $5B of PABs for Public Buildings.](#)

WASHINGTON – House and Senate members have reintroduced companion bills that would allow state and local governments to issue up to $5 billion of private activity bonds to finance the repair or construction of schools and other public buildings under public-private partnership arrangements.

The "Public Buildings Renewal Act" was introduced in the House on Feb. 7 as H.R. 960 by Rep. Mike Kelly, R-Pa., and eight cosponsors, including six members of the House Ways and Means Committee such as Rep. Earl Blumenauer, D-Ore.

The measure in the Senate, which has not been assigned a number yet, is being introduced by Sens. Dean Heller, R-Nev., and Bill Nelson, D-Fla., both of whom sit on the Senate Finance Committee.

The bills they introduced last session were H.R. 5361 and S. 3177.

The legislation would create a new category of tax-exempt PABs that would allow states and localities to construct or renovate government-owned buildings such as public schools, state colleges, post offices, libraries, prisons and courthouses with private parties.

These kinds of projects cannot currently be financed with tax-exempt P3s because there is not a specific qualified PAB category for bonds for public buildings.

"Our country's public buildings are in a historic state of disrepair and in need of a bold solution," Kelly said. "That's where the Public Buildings Renewal Act can come to the rescue."

"Congress has failed to display the political courage to adequately invest in infrastructure – from roads to light rail to schools and courthouses," said Blumenauer. "Our nation is literally falling apart and falling behind. We need an 'all of the above' approach to infrastructure funding and simple fixes to lower investment barriers are steps in the right direction."

The Bond Buyer

By Lynn Hume

February 8, 2017

HFS Committee to Review Muni Regulators, Others.

WASHINGTON – The House Financial Services Committee intends to review municipal bond regulators and other aspects of the capital markets with an eye toward rolling back certain programs, according to an oversight plan from the committee.

The plan, which broadly lays out parameters for the session, “contains oversight initiatives that will be undertaken for the purpose of identifying cuts to or the elimination of programs that are inefficient, duplicative, outdated, or more appropriately administered by state and local government,” the committee said.

It specifically mentions the Securities and Exchange Commission the Municipal Securities Rulemaking Board and the Financial Industry Regulatory Authority among other agencies and programs.

The committee said the SEC received $1.605 billion in fiscal year 2016 appropriations even though its authorization lapsed in fiscal 2015. The SEC’s Office of Inspector General’s authorization lapsed after fiscal year 2011, though it was appropriated $11.3 million in fiscal 2016. The committee said it will perform the necessary oversight to support activities related to reauthorizing the SEC.

It also plans to “monitor all aspects of the [SEC’s] operations, activities, and initiatives to ensure that it fulfills its congressional mandate to protect investors, maintain fair, orderly, and efficient markets, and facilitate capital formation,” according to the committee document. The Municipal Securities Rulemaking Board will get similar treatment as the committee intends to review the self-regulator’s operations, initiatives, and activities.

Dealers and others have complained about the rising cost of compliance the muni market is now facing as a result of a slew of new rulemaking from the SEC and MSRB to implement the Dodd-Frank Act in recent years. Muni market groups have asked the regulators to better assess how their rules are impacting costs and burdens for market participants, especially smaller dealers and municipal advisor firms.

The Financial Services Committee plan includes a section that broadly outlines the reduction of regulatory burdens as a goal for the congressional session.

The committee has promised to explore financial regulators’ implementation of the Volcker Rule and how it has affected the strength and international competitiveness of U.S. capital markets. Muni groups, along with the MSRB, had raised concerns the rule would bifurcate the market by only exempting certain issuers’ bonds.

The committee’s oversight plan also includes an exploration of bank regulator standards developed in conjunction with the international Basel Committee on Banking Supervision. Muni market participants have complained about bank regulators’ liquidity rule, which mandates that banks hold enough high quality liquid assets (HQLA) to deal with periods of financial stress. Except for the Federal Reserve Board, the bank regulators’ definition of HQLA does not include any municipal bonds. Legislators introduced two bills last session to try to remedy the exclusion of munis but they never became law.

The committee’s oversight plan was released after recent executive orders from President Trump encouraged the SEC, among other agencies, to review the cost of Dodd-Frank mandated and other regulations.

Financial Services Committee chair Rep. Jeb Hensarling, R-Texas, applauded the president's order on Dodd-Frank last week, saying he was "very pleased" that Trump was following through on his promise to dismantle the legislation. Hensarling is reportedly planning to reintroduce his alternative to Dodd-Frank within the next few weeks. The legislation, called the Financial CHOICE Act, would address many of the areas of concern outlined in the Financial Services Committee's oversight plan.

The Bond Buyer

By Jack Casey

February 8, 2017

Senate Panel Told P3s Won't Work for Rural Areas, Tax-Exempts Are Key.

WASHINGTON – Municipal bonds are a "crucial component" of any infrastructure plan and their tax-exempt status must be preserved, a county official from Oklahoma representing the National Association of Counties told members of a Senate committee on Wednesday.

Transportation officials from rural states said during the hearing held by the Senate Environment and Public Works Committee that public-private partnerships won't work for them. The hearing was on "Modernizing our Nation's Infrastructure."

The comments were not exactly an endorsement of President Trump's $1 trillion infrastructure plan to bring in private investment to help finance the repair and development the nation's roads, bridges, and other infrastructure projects.

Cindy Bobbitt, a commissioner of Grant County, Okla., who was representing NACo, told committee members that, "Between 2003 and 2012, counties, states and other localities invested $3.2 trillion in infrastructure through long-term, tax-exempt municipal bonds, 2.5 times more than the federal investment."

Bobbitt, who noted that munis have low default rates and are often approved by both legislatures and the voters, said, "Simply stated, the tax exemption of municipal bond interest from the federal income tax represents one of the best examples of the federal-state-local partnership."

She pointed out that two thirds of the nation's 3,069 counties are considered rural with a combined population of 60 million and face challenges such as declining populations and a limited ability to raise revenue for capital projects.

Among her recommendations were that Congress should make federal highway dollars available for locally owned infrastructure. Local governments own 78% of the nation's road miles, including 43% of federal-aid highways and 50% of the National Bridge Inventory, she said.

Committee chairman Sen. John Barrasso, R-Wyo., asked Bill Panos, the director and CEO of the Wyoming Department of Transportation who also testified, whether rural or smaller states could use Build America Bonds for infrastructure, though they would have to be reauthorized.

"Wyoming has never borrowed for transportation" because its "high cost per capita … discourages borrowing," Panos said. But he later said the state has issued grant anticipation revenue vehicles, or Garvees.

Barrasso said data from the U.S. Treasury Department shows rural states issued a lot of BABs in 2009 and 2010 when they were authorized by the American Recovery and Reinvestment Act. BABs are taxable bonds for which Treasury makes subsidy payments to issuers equal to roughly 35% of their interest costs.

Panos, who was also speaking on behalf of the transportation departments in Idaho, Montana, North Dakota, and South Dakota, some of which issued BABs, told committee members that P3s and other approaches to infrastructure investment that depend on positive revenue streams from projects "are not a surface transportation infrastructure solution for rural states."

P3s would be unlikely to attract investors even with tax credits, he said. Part of the problem is that roads in rural states tend to have relatively low traffic volumes, he said.

Panos said Congress must strengthen the Highway Trust Fund, which will no longer be able to support surface transportation programs after 2020, when funding from the Fixing America's Surface Transportation Act (FAST) ends.

He also said certainty is important for transportation planners. He applauded the FAST Act's providing several years of transportation funding, but said Congress' track record of passing continuing resolutions, restricting funds to the previous years' levels, instead of annual appropriations bills, creates uncertainty.

Sen. Deb Fischer, R-Neb., a committee member, said she's proposed legislation (S. 271) to shore up the Highway Trust Fund and to provide states with more flexibility in how federal funding is spent on infrastructure projects. "I think it's really important to look at a federal revenue source without raising taxes," she said during the hearing. Her bill would transfer revenues from U.S. Customs and Border Protection to the HTF.

"If we have certainty we can make better plans" and that will lead to lower costs, said Shailen Bhatt, executive director of the Colorado Department of Transportation, who also testified.

Most of the witnesses agreed with the current funding formulas that divide federal funds between highway and transit programs and urged that they be continued.

While the committee paid particular attention to the needs of rural areas, Bobbitt pointed out that farms and businesses in agricultural-based rural areas need roads and bridges to deliver products to urban areas. "It's not rural vs. urban," she said, adding, "We're all in this together."

The Bond Buyer

By Lynn Hume

February 8, 2017

Outlook Dims for Trump Pledge on Infrastructure Funding.

DALLAS – President Trump's pledge of getting Congress to pass a major infrastructure program in his first 100 days is slipping away as lawmakers focus on health care as their top priority, leaving experts to wonder if the initiative will move forward at all this year.

Infrastructure has become tied to tax reform because of the revenues that would be needed to fund it. House Speaker Paul Ryan, R-Wis., said Thursday that Congress will not take up tax reform until it deals with the repeal and replacement of the Affordable Care Act.

Tax reform, ranging from a comprehensive overhaul of the tax code to attempts to repatriate trillions of dollars in overseas corporate profits, has been the preferred main source of additional infrastructure funding for many lawmakers. Trump's promise of a $1 trillion boost to infrastructure spending has buoyed the stock market since his inauguration.

"It's just the way the budget works that we won't be able to get the ability to write our tax reform bill until our spring budget passes, and then we write that through the summer," Ryan said during an interview on Fox News.

"We feel the need to rescue this system here and that's why we're going with health care first," Ryan said. "And then in the spring we're doing the second budget. That's where tax reform comes."

Trump favors a reduction in the corporate tax rate to 15% from the current 35%, while Ryan's proposal would lower the rate to 20%.

Ryan and Rep. Kevin Brady, R-Texas, chairman of the House Ways and Means Committee, have said that revenue resulting from corporate tax reform should be used for overall tax reforms rather than being dedicated solely to infrastructure.

Rep. Bill Shuster, R-Pa., chairman of the House Transportation and Infrastructure Committee, said last week that Trump's infrastructure program would likely be funded through an overhaul of the federal tax code that Democrats could support.

Infrastructure funding will probably be linked to tax reform, said Sen. John Thune, R-S.D., chairman of the Senate Commerce Committee and third-ranking Republican in the Senate.

"My guess is if that gets done, it probably hitches a ride on tax reform," Thune said last week at the Republican legislative retreat in Philadelphia.

"We've got a very focused agenda, things that we want to get done in the next 200 days," Thune said. "How infrastructure plays into that, we're not sure yet."

Delaying action on infrastructure funding to take care of other issues could mean farewell to hopes for an infrastructure program this year or next, said Norman Anderson, president of consulting firm CG/LA Infrastructure.

"President Trump's main promise during the campaign for action on infrastructure in his first 100 days is in danger of not being fulfilled," Anderson said. "It's a big mistake and a very, very bad idea, because if infrastructure is the second or third priority in Washington instead of the first, then nothing will get done."

History has shown that infrastructure programs are passed early in a new administration or not at all, Anderson said.

"It has to be done in the very beginning," he said. "Nobody's been able to do it after the first 200 days."

A bipartisan trio of lawmakers has proposed incentives for corporations to bring an estimated $2 trillion in overseas earnings into the U.S. to spur private sector reinvestment and growth.

Rep. John Delaney, D-Md., one of the sponsors of the Infrastructure 2.0 Act, proposed similar measures in 2014 and again in 2015 with significant bipartisan support, but neither gained traction in Congress.

A Senate bill filed Tuesday by Sen. Deb. Fischer, R-Neb., would provide five years of supplemental federal highway funding, not through tax reform but by diverting Customs and Border Patrol revenues.

Fischer's Build USA Infrastructure Act would move the first $21.4 billion of revenues collected per year from freight and passengers at international borders into the Highway Trust Fund for five years.

The Bond Buyer

By Jim Watts

February 2, 2017

The Week in Public Finance: Battling Over Retirement, Gorsuch on Online Sales Taxes and Fiscal Irresponsibility.

A roundup of money (and other) news governments can use.

GOVERNING.COM

BY LIZ FARMER | FEBRUARY 10, 2017

MSRB Enhances EMMA Alerts Tool.

Washington, DC – Investors and others who track municipal bonds with email alerts from the Electronic Municipal Market Access (EMMA®) website can now further customize their notifications and see more detail about the securities they follow.

As part of an ongoing effort to improve the usability of its EMMA website, the Municipal Securities Rulemaking Board (MSRB) has enhanced EMMA's automated email alerts so that users can specify the types of continuing disclosure filings to trigger a notification. For example, an investor can choose to receive email alerts only when new audited financial statements or notices of bond calls are posted. Previously, users could opt to receive alerts for every financial disclosure or all event filings for one or more securities but could not narrow their selection to specific documents or events.

EMMA's automated alerts have also been improved to include more useful details about the relevant bond and its associated trade activity or filing that triggered the alert.

"Thousands of investors and other EMMA users rely on the alerts feature to stay up to date with the latest available information on their securities," said MSRB Executive Director Lynnette Kelly. "These enhancements allow users to be more selective about the types of alerts they wish to receive and provide more descriptive information about the nature of the alert."

EMMA alerts are available for trade activity and when new disclosure documents are filed for one or more securities. Disclosure filings include annual financial information that provides an updated view of the issuer's financial health and notices of events that can have an impact on the bonds. To access EMMA alerts, create a free MyEMMA account on the EMMA website.

The MSRB is continuing to consider additional changes to the alerts function to support website performance and usability. For unlimited real-time access to trade data and disclosure filings, the MSRB offers paid subscription services.

The MSRB's EMMA website is the official source of data and disclosure documents on more than one million outstanding municipal securities. The MSRB operates the EMMA website in support of its mission to protect investors, state and local governments, and the public interest by promoting a fair and efficient municipal market.

Date: February 8, 2017

Contact: Jennifer A. Galloway, Chief Communications Officer
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Munis Could be Caught Up in Revised CHOICE Act's Mandated SEC Reviews.

WASHINGTON – House Financial Services Committee Republicans have floated a revised version of their Financial CHOICE Act that would require the Securities and Exchange Commission to review municipal market and other self-regulatory organizations' inefficiencies as well as reform its enforcement process.

The memo dated Feb. 6 from committee Republicans includes many Dodd-Frank Act and other changes that may be proposed in the new version of the Financial CHOICE Act, which is expected to soon be introduced.

Committee chair Rep. Jeb Hensarling, R-Texas, introduced a version of the CHOICE Act during the last session that was approved by the committee but not taken up by the full House. Democrats have made clear they intend to fight Republican reforms to Dodd-Frank during the session.

Rep. Maxine Waters, the top Democrat on the committee, said Hensarling is trying to destroy protections that stop Wall Street from "ripping off hardworking Americans" and that the changes indicated in the memo show a new Financial CHOICE Act that "is even worse than the original." The committee's Republican staff would not return calls to verify and expand upon the memo.

One proposal in the memo is to have the SEC chair "provide a report within one year on eliminating duplication and inefficiencies amongst the various self-regulatory organizations." Sources said that language could mean exploring possible opportunities to roll back regulations and streamline rulemakings between the Municipal Securities Rulemaking Board and the Financial Industry Regulatory Authority.

Executive orders from President Donald Trump have already directed the SEC to play a role in identifying how Dodd-Frank's implementation has not worked as well as how existing regulations could be streamlined.

Dealer groups have welcomed the attention to rulemaking and enforcement as they have consistently complained about the increasing costs and burdens of the many rules during the last few years that implemented Dodd-Frank provisions. The act subjected non-dealer municipal advisors to federal regulation for the first time and directed the MSRB to protect issuers as well as investors. The memo also proposes to prohibit the SEC from undertaking "rulemaking by enforcement."

One source said a large segment of the muni market saw the SEC's Municipalities Continuing Disclosure Cooperation initiative as rulemaking by enforcement because the commission had not directly spoken to issuers in recent years about their responsibilities under SEC Rule 15c2-12 on disclosure. MCDC promised underwriters and issuers that they would receive lenient settlement terms if they self-reported instances over the last five years where issuers falsely stated in offering documents that they were in compliance with their continuing disclosure agreements.

Another proposal would direct the SEC to establish a "Wells Committee 2.0 to reevaluate its enforcement program." Sources said the "Wells Committee 2.0" likely refers to a requirement to conduct similar analyses to what the SEC's Wells Committee did in the 1970s. That committee reviewed commission enforcement activity and recommended, among other things, that the SEC implement the practice of giving an individual or firm that may face a commission civil action an opportunity to explain why the action should not be brought. The notice given to the potential parties in the actions is called a Wells Notice.

There were several muni-related portions of the previously introduced CHOICE Act that are not mentioned in the memo, that sources said may still be in the bill when it is reintroduced.

One would move the SEC's Office of Municipal Securities back into the commission's trading and markets division, where it was before Dodd-Frank required it to be independent and report directly to the SEC chairman. Another would divert the funding the MSRB regularly receives from SEC and FINRA enforcement actions over muni rule violations to the Treasury for deficit reduction. Of the MSRB's roughly $35.4 million in revenue in its fiscal year 2016, $1.2 million came from fines for muni rule violations.

The original CHOICE Act also would have allowed the SEC to triple monetary fines in administrative and civil actions where penalties are tied to illegal profits as well as in enforcement cases dealing with repeat violators of laws and rules.

The Bond Buyer

By Jack Casey

February 10, 2017

How a Corporate `War' Over Covenants May Affect Munis.

PHOENIX – New language designed to protect investors appeared last month in the offering documents of a taxable hospital deal, as the ripple effect of a battle in the corporate bond arena spread to the municipal market.

The language, which appeared in offering documents for a $350 million taxable Children's Hospital Corporation (Mass.) issuance, makes clear that investors are due a premium in the event of a default. It specifies that investors are due an amount "equal to the make-whole redemption price."

Municipal finance pros said the language appears to have crossed over as a result of a dust-up over corporate bond covenants in late 2016 – though some expressed skepticism that such covenants would take hold in the municipal market.

Adam Cohen, a corporate finance attorney who founded and writes for a research firm called Covenant Review, said the issue arouse in October when corporate borrowers started including provisions in their offering documents that prevented buyers from collecting any kind of premium if the bonds were redeemed early. They started doing so as an effort to "opt out" of court rulings that ordered some corporate borrowers to pay make-whole redemptions after covenant breaches, a move that investors quickly began railing against.

That meant that issuers could voluntarily breach their covenants and only pay out par. An ugly "war" played out over this in the corporate market late last year, Cohen said, leading borrowers to drop their insistence on that provision. The language in the Children's Hospital Corporation deal is the "reverse" of what the corporate borrowers tried to do, Cohen said.

"It's a big deal because this war from corporate bonds leapt over to munis," Cohen said, adding that had personally spoken to some fund managers that said they would want this protective language in future muni deals they bought, but that the majority of the market appears unaware of the issue.

But despite the uproar the deal caused in the corporate world, muni market professionals seem skeptical that the issue is as big in the tax-exempt market. The hospital deal that included the make-whole provision was taxable, and so not representative of the most common type of muni bond issuances.

A bond lawyer who reviewed the offering documents at The Bond Buyer's request but requested anonymity to comment on the deal said he didn't believe that the provision would become commonplace in the muni market, and probably wasn't necessary. The attorney said that taxable deals are generally sold to corporate buyers, and as such reflect the expectations of the corporate market.

"Our clients don't have the same incentives to game the system like corporate players do," the lawyer said. "I'm surprised they had this whole kabuki dance."

Triet Nguyen, managing director and head of public finance credit at NewOak said that he had not seen the provision in a muni deal, and didn't see much utility in including it in a tax-exempt issuance.

"I think it will be hard to enforce in bankruptcy and does not have any direct impact on recovery," said Nguyen. "In a sense, all it does is inflate the bondholders' potential claim."

The Bond Buyer

By Kyle Glazier

February 7, 2017

The Timeline of Tax Reform and the Danger For Munis.

AUSTIN – Federal tax reform efforts will accelerate in just a few weeks, and municipal market

participants need to be pushing hard to protect the muni interest exemption right now, lawyers told attendees at a conference here Thursday.

Speaking at The Bond Buyer's Texas Public Finance Conference luncheon, Bracewell attorneys Curtis Beaulieu and Charles Almond warned that the exemption could be in danger very soon despite President Donald Trump's apparent support for leaving that part of the tax code unchanged. Republicans have been pushing to lower corporate and individual income tax rates, a goal that puts the muni exemption in danger of being limited or eliminated.

The momentum will pick up about six weeks from now, Beaulieu said, when House Ways and Means Committee chair Kevin Brady, R-Texas, releases the first draft of tax reform legislation. This draft, called the "chairman's mark," is crucial for the future of the muni exemption, said Almond. If the mark comes out and does not include a tax exemption for municipal bond interest, the lawyer warned, that means someone on the committee will then have to work to get it in.

"You really want things taken care of in the chairman's mark," Almond said, urging conference attendees to begin lobbying their representatives now if they hadn't already, warning them against waiting weeks to do so. Almond said that the "House blueprint" for tax reform that has already been publicly circulated could already be interpreted as limiting the tax exemption, and proposed eliminating "special-interest" deductions and credits.

A September estimate released by the Treasury pegs federal "tax expenditures" for tax-exempt bonds issued by state and local governments at about $565 billion over the 10-year period from 2017-2026. While that ranks only 15th on Treasury's list of tax expenditures, Almond said it still provides lawmakers with a potentially appealing way of helping to lower tax rates without adding to the deficit.

"To get those rates down, they're going to go searching for other places to raise revenues," said Almond.

Beaulieu said that even if the tax exemption is on the table, legislation would still be very unlikely to include a retroactive change to the status of outstanding tax-exempt bonds.

"Republicans typically do not support retroactive tax increases," Beaulieu said. "So there's probably no chance."

Almond downplayed the comfort that market participants can take in then President-Elect Trump's comments to the U.S. Conference of Mayors in December, during which Trump spoke about his proposed $1 trillion ten-year infrastructure plan and said that he plans to maintain the tax-exempt standing of municipal bonds.

"I don't think you can rely on anything until it's Tweeted," joked Almond.

Beaulieu said that Republicans can pass tax reform legislation on a partisan basis in the House, where they GOP maintains a sizeable majority. But when the discussion moves over to the Senate, he said, Republicans will likely need to abandon their partisan approach and get some Democrats on board. Republicans control 52 Senate seats, but the upper chamber's rules essentially require 60 votes to pass a bill because of the ability of Senators to filibuster and more easily amend bills they dislike.

"Everything slows down in the Senate," said Beaulieu.

The Bracewell lawyers' estimated timeline includes consideration of tax reform legislation by the full

House by August. The full Senate could consider it by the end of 2017, and a conference report could produce a joint product by spring 2018.

The Bond Buyer

By Kyle Glazier

February 9, 2017

States, Localities Could Issue $5B of PABs for Public Building P3s.

WASHINGTON – Companion bills introduced in the House and Senate would allow state and local governments to issue up to $5 billion of private activity bonds to finance the repair or construction of public buildings under public-private partnership arrangements.

The "Public Buildings Renewal Act" was introduced in the House on Feb. 7 as H.R. 960 by Rep. Mike Kelly, R-Pa., and eight cosponsors, five of whom besides Kelly are members of the House Ways and Means Committee.

The measure in the Senate, which has not been assigned a number yet, is being introduced by Sens. Dean Heller, R-Nev., and Bill Nelson, D-Fla., both of whom sit on the Senate Finance Committee.

The bills they introduced last session were H.R. 5361 and S. 3177.

The legislation would create a new category of tax-exempt PABs that would allow states and localities to partner with private parties to construct or renovate qualified government buildings, which would be governmentally owned.

These could include public buildings, schools, state colleges or universities, public libraries, and courthouses, according to the bills' text. They could also include government-owned hospital, health care, laboratory or research facilities and public safety facilities such as police stations or firehouses.

The bonds could not be issued to finance buildings or facilities for retail food and beverage services, private golf course or country clubs, or other sports or entertainment facilities, according to the text.

These kinds of projects cannot currently be financed with tax-exempt PABs because there is not a specific qualified PAB category for bonds for public buildings.

Jessica Giroux, Bond Dealers of America's general counsel and managing director, said the bills, "fit the administration's call for more infrastructure spending."

"There has been a fair degree of interest and a few transactions done as P3s for what is called social infrastructure" such as courthouses and government office buildings, Giroux said. "The downside is that it's hard to do these economically if you can't use tax-exempt bonds. So this sort of thing would be a fix for that."

Emily Brock, director of the Government Finance Officer's Association's federal liaison center, said the bills are in line with GFOA policy.

"The GFOA has a long-standing policy that encourages Congress and the Department of the

Treasury to consider easing private activity restrictions on public use facilities," she said. "We look forward to working with the bill sponsors to discuss how this concept can augment the financing toolkit for state and local governments, which also must include the full preservation of the municipal bond interest exemption.

Michael Decker, managing director at the Securities Industry and Financial Markets Association and co-head of its muni division, said, "Private activity bonds can provide an efficient mechanism for financing the debt portion of infrastructure projects. It's appropriate for governments who determine that public-private partnerships are the most efficient financing model to be able to tap the tax-exempt, private-activity bond market to finance the project. This principle should apply to public buildings, as Sens. Heller and Nelson and Congressman Kelly have proposed, and other infrastructure projects as well."

Rep. Kelly said in a release on the bill pending in the House, "Our country's public buildings are in a historic state of disrepair and in need of a bold solution. That's where the Public Buildings Renewal Act can come to the rescue."

Blumenauer added, "Congress has failed to display the political courage to adequately invest in infrastructure – from roads to light rail to schools and courthouses. Our nation is literally falling apart and falling behind. We need an 'all of the above' approach to infrastructure funding and simple fixes to lower investment barriers are steps in the right direction."

The other House and Ways and Means Committee members co-sponsoring the bill in the House are: Reps. Carlose Curbelo, R-Fla., Lynn Jenkins, R-Kan., James Renacci, R-Ohio, and Ron Kind, D-Wis. Reps. Lee Zeldin, R-N.Y., Will Hurd, R-Texas, and Scott Perry, R-Pa., are also co-sponsors.

The Bond Buyer

By Lynn Hume

February 9, 2017

House Resolutions Introduced to Undo State, City Secure Choice Rules.

Resolutions to block Department of Labor rules allowing states to set up private-sector retirement savings programs were introduced Wednesday by two members of the House Education and the Workforce Committee.

The Department of Labor issued final rules on Aug. 25 granting states a safe harbor to set up payroll deduction individual retirement accounts for private-sector workers who do not have access to workplace retirement savings programs. On Dec. 19, the DOL issued similar final rules for cities and other large political subdivisions. The rules remove concern over being pre-empted by federal regulators by clarifying that such programs would not be covered by ERISA.

H.J. Res. 66, introduced by Rep. Tim Walberg, R-Mich., who chairs the Subcommittee on Health, Employment, Labor and Pensions, would remove the safe harbor for states, and H.J. Res. 67, introduced by committee member Rep. Francis Rooney, R-Fla., would block the rules for cities.

Both measures, called resolutions of disapproval, take advantage of the Congressional Review Act, which allows Congress to legally prevent a federal agency from implementing a rule or issuing a

substantially similar rule without congressional authorization.

“Our nation faces difficult retirement challenges, but more government isn’t the solution,” Mr. Walberg said in a statement. Mr. Rooney, in the same statement, said the rules would force people into government-run plans with fewer protections and less control, and present employers with “a confusing patchwork of rules” that could result in fewer retirement plans being offered.

In a letter to House Speaker Paul Ryan, R-Wis., the ERISA Industry Committee, which represents large employers on benefits issues, said its members “are discouraged by recent proposals at the state and local level that unnecessarily disrupt active employer-sponsored retirement plans that are already in full compliance with federal law and regulations,” particularly those that operate across state lines.

“Rules that are too onerous or restrictive can chill an employer’s commitment to offer a retirement plan,” the ERIC letter said.

A vote on the joint resolutions has not been scheduled, but is expected to happen as early as next week.

PENSIONS & INVESTMENTS

BY HAZEL BRADFORD | FEBRUARY 8, 2017 3:19 PM | UPDATED 4:47 PM

— Contact Hazel Bradford at hbradford@pionline.com | @Bradford_PI

SIFMA Survey Projects Slip in Long-Term Muni Issuance this Year.

WASHINGTON – Long-term municipal bond issuance is expected to fall to $417.5 billion this year from $423.8 billion last year, according to a survey released by the Securities Industry and Financial Markets Association on Wednesday.

Total muni issuance is expected to rise to $461 billion in 2017, with increases in short-term munis, but a decline in refundings, the survey of six municipal market firms showed.

SIFMA conducted its 2017 Municipal Bond Issuance Survey between Nov. 14 and Feb. 3 based on the median values of figures submitted from: Bank of America-Merrill Lynch; Hilltop Securities; J.P. Morgan Chase & Co.; RBC Capital Markets; Stoever Glass; and Wells Fargo Securities.

The $461 billion of total muni issuance would be up from $459.4 billion in 2016. That increase is tied to an expected jump in short-term issuance to $43.5 billion from $35.6 billion in 2016, according to the survey results. The participating firms said long-term issuance would reach anywhere from $320 billion to $450 billion for 2017, the median of which is $417.5 billion. Long-term tax-exempt muni issuance is expected to reach $375 billion in 2017, a 2.1% drop from the $383.1 billion in 2016. The firms expect taxable issuances to rise to $30 billion in 2017 from $28.5 billion in 2016, a 5.2% increase. Alternative minimum tax issuance is also expected to rise to $12.5 billion in 2017 from $12.2 billion in 2016.

Of the total issuances, only 41% are expected to be refundings in 2017 compared to the 51% in 2016.

Michael Decker, managing director and co-head of munis for SIFMA, said the lower number of refundings is likely due to the expectations of further Federal Reserve Board rate increases and the fact that 2007 was a relatively weak year for issuance. "Many bonds are issued with ten-year par calls so one of the driving factors for refunding volume is … the new money issuance volume ten years ago," Decker said. "2007 was a relatively weak year so there will be relatively fewer issues that come up for refunding in 2017. That, compounded with the rate increase we saw toward the end of last year and maybe a smaller uptick in rates throughout this year, will together cause refunding volume to be lower than it has been."

The Fed's Federal Open Market Committee raised the federal funds target rate to 0.50% to 0.75% in December. The federal funds rate is expected to rise from 0.62% by the end of March 2017 to 0.94% by the end of December 2017, according to the survey. Most survey respondents said the largest sector of new munis would be general purpose for the next year. The balance will be evenly split between transportation, education, and public facilities, they said. General purpose has traditionally been the largest issuing sector by gross amount in past years.

The most likely event that would have the greatest effect on the muni market during the year is the possible curtailment of the tax exemption for municipal bond interest, the survey participants said. Muni groups have been actively lobbying legislators and federal government officials about the importance of maintaining the tax exemption for munis. Regulatory and compliance burdens dealers and others continue to experience will also have a large impact on the market in 2017, according to the surveyed firms.

The firms also said they expect the number of issuers that will default in 2017 to range from 20 to 25, comprising a par value that could range from $400 million to $26 billion. The survey defined default as the occurrence of a missed interest or principal payment or a bankruptcy filing.

The Bond Buyer

By Jack Casey

February 8, 2017

Trump Executive Order Encourages SEC to Review Cost of Regulations.

WASHINGTON – President Donald Trump's executive order to decrease regulations and the costs they impose encourages independent agencies like the Securities and Exchange Commission to review their rules, even though the order does not directly apply to them, according to guidance issued Monday.

Trump's order, signed on Jan. 30, mandates executive departments and agencies to repeal two rules for the adoption of every new rule that imposes costs. It requires the savings from the repealed rules to fully offset the costs of the new action, according to the guidance published by the Office of Management and Budget's Office of Information and Regulatory Affairs (OIRA).

OIRA makes clear in its guidance that independent agencies are not covered, but notes that "nevertheless, we encourage independent regulatory agencies to identify existing regulations that, if repealed or revised, would achieve cost savings that would fully offset the costs of new significant regulatory actions."

The Jan. 30 executive order is connected to another order Trump signed on Feb. 3 that directs the Treasury secretary to meet with major financial regulators, including the SEC, and report within 120 days on what Dodd-Frank Act provisions are working and not working.

Municipal market participants have consistently said they are concerned about the high cost of implementing and complying with the slew of regulations that the Municipal Securities Rulemaking Board and SEC have adopted over the last several years, many of which implemented Dodd-Frank provisions. The act put non-dealer municipal advisors under a federal regulatory regime for the first time and also made the MSRB responsible for protecting issuers as well as investors.

Bond Dealers of America welcomed the Feb. 3 order as a chance for a "critical reassessment" of Dodd-Frank regulations and the Securities Industry and Financial Markets Association commended the Trump administration for taking the action.

"It is imperative to ensure that our financial regulatory framework does not unnecessarily impede capital formation that drives job creation, economic growth and investor opportunity in this country," SIFMA president and CEO Ken Bentsen said in a release late last week.

The SEC is currently working with only two commissioners, but Trump has nominated Jay Clayton, a Wall Street lawyer, to succeed Mary Jo White as chair. Market participants see Clayton as someone who will work with the Trump administration to focus on deregulation where possible, suggesting he will likely follow the Jan. 30 executive order.

In announcing his nomination of Clayton as SEC chair in early January, Trump said the administration needs to "undo many regulations which have stifled investment in American businesses, and restore oversight of the financial industry in a way that does not harm American workers."

The Senate has yet to schedule a hearing for Clayton but several Senate Republicans have released statements and tweets about successful meetings with the nominee.

The Bond Buyer

By Jack Casey

February 6, 2017

S&P: For Illinois, Having A Plan Beats No Plan.

A bipartisan package of proposed budget legislation recently unveiled in the Illinois State Senate could mark a breakthrough in the state's nearly two-year-long budget impasse. The legislation, which includes appropriations for the remainder of fiscal 2017 and increased tax rates, offers the potential for the semblance, at least, of a shift toward fiscal stabilization.

Continue reading.

Feb. 6, 2017

S&P U.S. Public Finance Team Comments On Emerging Trends For 2017.

In January, S&P Global's U.S. Public Finance Ratings team published their 2017 sector outlooks. In this CreditMatters TV segment, Managing Director Robin Prunty provides us with an overview of the key themes, credit risks, and opportunities in the municipal finance sector this year.

Watch video.

Feb. 9, 2017

S&P: Although Risks Remain, Global Toll Road Operators Can Expect Credit Stability In 2017.

S&P Global Ratings' 2017 outlook for business conditions and credit quality for rated toll road facilities around the world is generally stable. The exception is the U.S., where the overall outlook is positive.

Continue Reading

Feb. 8, 2017

Rainy Day Funds Show States Are More Vulnerable to Next Downturn.

- Median reserves of expenses among states slipping in 2017
- Lack of budgetary cushion in past recession heightened woes

More states are failing to sock away cash for the next rainy day.

The number without budget reserves has doubled to four from last year, according to data from the National Association of State Budget Officers. And discipline in building up cushions has slipped, with the median balance 4.9 percent of expenditures in fiscal 2017, down from 5.1 percent, Bank of America Merrill Lynch analysts said in a note to clients.

The number of states with rainy day funds of less than 1 percent of expenses rose to five from three in fiscal 2017, while those with balances of up to 5 percent declined to 17 from 19, the budget officers' report showed.

Skimpier reserves risk exacerbating the effect of a national slowdown, as well as that from federal policies. President Donald Trump has pledged to repeal the Affordable Care Act, which would likely hit state budgets, and any overhaul that reduces taxes may curb demand for tax-free municipal bonds, which could make it more costly for localities to borrow.

Investors have punished states with low reserves. Of the four with none — Illinois, New Jersey, Nevada and North Dakota– Illinois and New Jersey must pay the highest premiums over benchmark debt among 20 states surveyed by Bloomberg. The two, which grapple with chronic budget deficits and elevated pension costs, are also the lowest-ranked U.S. states.

Other states have learned their lessons. California is enjoying its highest credit rating since the turn of the century, thanks partly to bolstering its rainy-day funds.

Lawmakers in California and in capitols across the country weren't prepared for the last recession. In 2009, when it ended, budget gaps totaled $117 billion, about twice the level of reserves, according to Pew Charitable Trusts.

Analysts don't expect a recession soon. The economy will probably expand through at least the first quarter of 2018, according to analysts surveyed by Bloomberg.

Even so, some state officials are girding for the eventual decline. Half of states expect to pad their reserves in fiscal 2017, according to the budget officers' group. That includes California, where Governor Jerry Brown wants to further lift the savings account to $7.9 billion in fiscal 2018 from $6.7 billion this year.

"Saving now would allow the state to spend from its rainy day fund later to soften the magnitude and length of any necessary cuts," California's budget said.

Bloomberg

by Romy Varghese

February 7, 2017, 2:01 AM PST

Universities Found Way to Keep Debt Off Books in Dorm Arms Race.

- Colleges tapping developers to finance, build dormitories
- Partnership with Kean University selling $43 million of bonds

New Jersey's Kean University is joining a growing number of colleges tapping outsiders to finance dorms, a step that holds down debt as they cope with declining state aid and pressure to limit tuition increases.

Kean, the fourth-largest public university in the Garden State, located about 20 miles (32 kilometers) southwest of Manhattan, is working with a Baton Rouge, Louisiana-based non-profit to finance a new 385-bed dorm on campus. Provident Group-Kean Properties LLC is planning to sell $43.3 million municipal bonds Wednesday to pay for the project.

Rendering of new Kean University dorm building.Source: Kean University
"We're able to, rather than tacking on more debt to the university directly, have this partner share in the burden," said Felice Vazquez, Kean's associate vice president for strategic initiatives.

Kean, the University of Massachusetts Boston, and Texas A&M are among universities that in the last year turned to separate non-profits to build dorms backed solely by revenue from the projects. That preserves universities' capacity to borrow for classrooms and labs while reducing the risks of constructing new housing facilities that are a selling point to prospective students.

"Some universities are choosing a strategy of sticking to their knitting and divesting itself of anything that's not purely academic," said Jessica Matsumori, an analyst with S&P Global Ratings. In addition, "developers are seeing quite a bit of opportunity in this space and they're getting much more aggressive in their marketing and pitching to universities."

While such deals don't officially add to a university's debt, Matsumori said the company considers them contingent liabilities, given that administrators may want to spare their schools the stigma of a default.

"We believe if the project were distressed, they would likely be compelled to step in and assist – as it would affect their students, possibly their campus, and potentially their reputation," Matsumori said.

Kean enrolled about 15,500 students for the current academic year, with about 2,000 living on campus. The university, which offers admission to about three-quarters of applicants, has adopted a strategic plan that calls for more rigorous academic programs and decreasing the share of students living off campus.

"When you're here, 7 days a week, 24 hours a day, you do better and you're more likely to graduate in four years," said Vazquez.

With about $340 million in outstanding debt carrying an A- rating, Kean isn't on the hook to pay debt service for the new dorm, which is replacing half-century-old residence halls and will include a 2,000 square foot bistro once it's finished in August 2018.

Kean will treat the new dorm as part of its student housing program and won't build and operate another unless there's demand enough to keep them filled, according to an S&P rating report. In addition, Kean, which is managing the residence hall, agreed to reduce the number of spaces elsewhere so the new project will have enough students to meet debt-service coverage requirements.

S&P rates the bonds BBB-, the lowest investment grade and three steps below the university's bonds.

Kean's partner, Provident Resources Group, was founded in 1999 by a former public finance lawyer. The non-profit owns student housing at Montclair State University in New Jersey, Towson University in Maryland, and North Carolina State University.

In October, Provident partnered with the UMass Boston to finance a 1,080-bed residence hall, the commuter school's first. Provident Commonwealth Education Resources, Inc. priced about $130 million of bonds rated BBB- for yields of as much as 3.74 percent on securities due in 32 years, or about 2 percentage points more than top-rated debt, according to data compiled by Bloomberg. With interest rates having risen since, the bonds traded for an average yield of about 4.4 percent this week.
Provident Commonwealth will own the dorm. Birmingham, Alabama-based Capstone Companies will develop and manage the facility. UMass Boston will get about $1 million per year in rent after bondholders are paid.

"We don't have any housing on the campus right now, so it just really makes sense to bring in a private operator," said Patricia Filippone, executive director of the University of Massachusetts Building Authority. She said the financing will help the university preserve debt capacity for projects that don't directly generate revenue.

The project is being done as a "design-build" in which design and construction are contracted to single entity. Advocates say better coordination allows problems to be solved faster. Governments benefit from contracting with a single entity responsible for guaranteeing price and schedule.

"This is just a more efficient delivery method," said Filippone.

Bloomberg

by Martin Z Braun

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Puerto Rico Collapse Casts Bond-Market Pall Over Pacific Island.

- Territory of Guam's bonds lose since Congress acted on crisis
- Guam still investment grade as other territories cut to junk

The bond-market gales that battered U.S. territories in the Caribbean are reaching a Pacific Ocean island more than 7,000 miles away.

As Puerto Rico stumbles through record-setting defaults and the U.S. Virgin Islands contends with a building fiscal crisis, Guam is being penalized by investors even though it's kept an investment-grade rating. The island's debt has lost 4.4 percent since the end of June, following the unprecedented U.S. rescue of Puerto Rico, compared with a 2.5 percent loss in the broader municipal market, according to S&P Dow Jones Indices.

"They are all struggling financially," said Dan Solender, head of municipals at Lord Abbett & Co., which hold about $100 million of Puerto Rico bonds and isn't buying territory debt. "As an investor, you don't know what your downside is anymore. You don't know if the terms you agreed to when you originally loaned them the money will be the terms that will be used to handle the situation if something goes wrong."

Investors' confidence in America's territories has been undermined by the U.S. effort to save Puerto Rico. That law, enacted in June, gave the government legal powers to cut its debts in bankruptcy-like proceedings, setting a precedent that Congress could extend to other cash-strapped territories.

The territories are wrestling with pension bills, heavy debt loads and economies dominated by a few key industries. The Virgin Islands since December has twice delayed a bond sale that it was counting on to help pay bills, and Monday its water and power company debt was downgraded to a few notches above securities already in default. Last month, Moody's Investors Service said it may cut American Samoa deeper into junk, in part because of the economic hit caused by the closing of a tuna-packing plan.

Star Territory

But Guam has avoided falling into junk-bond status. In July, S&P Global Ratings graded the island's bonds BBB+, the third-lowest investment grade, after deciding not to change its assessment in light of the Puerto Rico legislation. While Moody's Investors Service doesn't rate all of Guam's bonds, it grades the power authority's securities Baa2, two steps above junk.

Guam is the "shining star of the territories," said Ken Kurtz, an analyst with Moody's. "It's not on the edge of a cash crisis like the Virgin Islands is. Guam could deal with its issues if it chooses to."

Governor Eddie Calvo on Jan. 31 proposed a $722 million budget for the next fiscal year that he said balances after setting aside money for tax refunds and using $14.7 million to pay down the deficit. Guam, with about 170,000 residents, had about $2.6 billion of debt outstanding as of May — or

about $15,000 per capita, according to bond documents.

“The governor has always taken the stance that we don’t need federal assistance when it comes to our financial situation because we will pay our debts no matter what,” said Jay Rojas, administrator for the Guam Economic Development Authority. “It’s in the budget for us to be able to take care of all the debt service that’s required.”

The island’s reliance on military bases, which occupy one-third of its territory, could be bolstered by President Donald Trump’s promise of increased military spending. International tourism is another major industry. Rojas said the governor’s office is looking at opportunities to expand into the shipping industry or the high-tech space.

“Diversification is always good,” said Rojas. “Right now we have a two-legged stool. If we add a third leg — which would be, you know, the creation of a new economy or a new industry on the island — it would make us even more secure.”

Bloomberg Markets

by Jordyn Holman

February 9, 2017, 2:00 AM PST

Bloomberg Brief Weekly Video - 02/09

Taylor Riggs, a contributor to Bloomberg Briefs, talks with Editor Joe Mysak about this week’s municipal market news.

Watch video.

Bloomberg

February 9, 2017

Fitch: Alaska Power Pool Is Likely Credit Positive.

Fitch Ratings-New York-07 February 2017: Public power utilities in Alaska’s recently announced power pool should benefit from greater efficiencies, lower costs and a potential reduction in capex over the long term, Fitch Ratings says. To the extent that projected savings are used to build cash reserves, fund capital expenditures or reduce outstanding debt, credit quality among the participating utilities could improve. However, if the savings are passed back to the rate payers, creation of the power pool would likely be credit neutral.

The proposed power pooling and joint dispatch agreement between Chugach Electric Association, Inc., Anchorage Municipal Light and Power (ML&P), the Municipality of Anchorage, and Matanuska Electric Association was filed with the Regulatory Commission of Alaska (RCA) on Jan. 30. The proposed power pool expands on earlier efforts by Chugach and ML&P.

The pool will benefit the utilities by reducing the cost of power, increasing efficiencies and lowering

the use of natural gas and emissions of carbon dioxide. The pool's goal is to meet the combined needs of the systems at the lowest possible cost by dispatching the most efficient resource, regardless of ownership, to meet the combined need. This approach allows for the better utilization of existing resources serving the region and reduces the need to develop and construct redundant resources, lowering capital costs over the long term.

The expanded power pool would include significant hydroelectric resources; two recently built natural-gas-fired combined cycle baseload plants, and quick-start peaking resources. By dispatching the most efficient resources across the pool, the utilities project savings of $12 million to $16 million annually in fuel and operation and maintenance costs. The increased efficiency and reduction in natural gas use would also extend the life of current supplies and reduce carbon dioxide emissions by an estimated 90,000 to 120,000 tons per year.

The proposal is currently considered an informational regulatory filing, providing the general framework for the pool's operation and goals. The participating utilities are still working out details regarding the power pool's operation and settlement process. A final, long-term agreement is expected to be filed with the RCA in 2018.

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Fitch Downgrades Illinois Ratings to 'BBB'; Negative Rating Watch Maintained.

Fitch Ratings-New York-01 February 2017: Fitch Ratings has downgraded the following ratings of the state of Illinois:

–Issuer Default Rating (IDR) to 'BBB' from 'BBB+;
–$25.9 billion in outstanding general obligation (GO) bonds to 'BBB' from 'BBB+';
–$431 million Illinois Sports Facilities Authority sports facilities bonds (state tax supported) to 'BBB-'from 'BBB';
–$2.6 billion Metropolitan Pier and Exposition Authority McCormick Place expansion project bonds to 'BBB-' from 'BBB';
–$267.8 million city of Chicago motor fuel tax revenue bonds to 'BBB-' from 'BBB'.

The Rating Watch Negative is maintained.

SECURITY
GO bonds are general obligations, full faith and credit of the state of Illinois.
State statutory mechanisms include an irrevocable and continuing appropriation for all GO debt service, and continuing authority and direction to the state treasurer and comptroller to make all necessary transfers from any and all revenues and funds of the state. The state funds debt service in advance by setting aside 1/12 of principal and 1/6 of interest every month for payments due in the ensuing 12 months.

The Sports Facilities Authority, Metropolitan Pier and Exposition Authority, and motor fuel tax bonds require state appropriation for the payment of debt service, resulting in a rating one notch below the state's IDR.

KEY RATING DRIVERS

The downgrade of Illinois's IDR and related ratings reflects the unprecedented failure of the state to enact a full budget for two consecutive years and the financial implications of spending far in excess of available revenues, which has resulted in increased accumulated liabilities and reduced financial flexibility. Even if the current attempts at a resolution to the extended impasse prove successful, Fitch believes that the failure to act to date has fundamentally weakened the state's financial profile.

The Negative Watch reflects Fitch's expectation that the state's implementation of a solution, whether temporary or permanent, will be a challenge in the current political environment and that in the interim the state will continue to delay and defer payments in lieu of balancing the budget. While Fitch acknowledges that there is a plan being developed in the state Senate that contains elements that could ultimately resolve the impasse, its passage is uncertain and the timing of implementing solutions is unknown. Fitch expects to resolve the Rating Watch within the next six months based on an assessment of the state's fiscal trajectory as it starts fiscal 2018. If the state continues on the current path, a further downgrade would be warranted.

Illinois has failed to capitalize on the economic growth of recent years to bolster its financial position. Rather, the decision to allow temporary tax increases to expire and the subsequent failure to develop a budget that aligns revenues with expenditures have resulted in a marked deterioration in the state's finances during this time of recovery. Once again, the state has displayed an unwillingness to utilize its extensive control over revenues and spending to address numerous fiscal challenges.

The 'BBB' rating continues to reflect the strengths inherent in a state's independent ability to control its budget, which remain substantial in Illinois despite policy decisions over a long period that have reduced expenditure flexibility. The rating also incorporates the state's elevated but still moderate liability burden, even considering its accumulated budgetary liabilities. These factors are offset by a history of notable fiscal management weakness that manifests itself in weak operating performance throughout the economic cycle.

Economic Resource Base
The state benefits from a large, diverse economy centered on the Chicago metropolitan area, which is the nation's third largest and is a nationally important business and transportation center. Economic growth through the current expansion has lagged that of the U.S. as a whole.

Revenue Framework: 'aa' factor assessment
Illinois' broad revenue base, primarily income and sales taxes, captures the diversity in its economy and has shown modest growth since the end of the recession. Fitch expects revenue performance to continue to track slow economic growth. The state has unlimited legal ability to raise revenues.

Expenditure Framework: ‘a’ factor assessment
Illinois has adequate expenditure flexibility despite elevated carrying costs for debt service and retiree benefits, with much of the broad expense-cutting ability common to most U.S. states. However, it is unlikely that reductions in state spending alone would be sufficient to achieve budgetary balance given the magnitude of the current budget gap. Funding demands associated with retiree benefits will continue to be a pressure, as these benefits are constitutionally protected.

Long-Term Liability Burden: ‘a’ factor assessment
Liabilities are an elevated but still moderate burden on Illinois’ resource base, even when considering the large and growing accounts payable backlog that the state has accumulated. The state has very limited flexibility with regard to pension obligations following a May 2015 Illinois Supreme Court decision that found 2013 pension reform unconstitutional.

Operating Performance: ‘bbb’ factor assessment
Illinois’ operating performance, both during the great recession and in this subsequent period of economic growth, has been very weak. The failure to address a long-standing structural budget gap with permanent and comprehensive solutions, whether revenue or expenditure, has left the state with an gaping hole in its operating budget and increasing budgetary liabilities.

RATING SENSITIVITIES
BUDGET SOLUTIONS: Failure to enact a balanced budget for fiscal 2018 would result in a further downgrade. Successful implementation of measures to enact a structurally balanced budget and reduce accumulated budget liabilities would stabilize the credit.

LIQUIDITY: The rating is sensitive to a material reduction in the state’s ability to manage within available revenues through discretionary payment deferrals. Furthermore, failure of the state to make its statutorily required debt service transfers as scheduled, 12 months in advance on a rolling basis, would result in an immediate downgrade of the rating to below investment grade because it would suggest that the state’s liquidity pressures are presenting a risk to bondholder interests that has not been evidenced to date.

CREDIT PROFILE

Illinois is a large, wealthy state at the center of the Great Lakes region. It benefits from a diverse economy centered on the Chicago metropolitan area. Illinois’ economy has gradually shifted, similarly to the U.S. in general, away from manufacturing to professional business services. The remaining manufacturing sector does include more resilient non-durables, and is less concentrated in the auto sector than surrounding states, but remains vulnerable to cyclical downturn. By most measures the economy has grown slower than the nation for many years and population levels have been stagnant to declining.

Revenue Framework
Illinois has a reasonably diversified revenue base. It relies most heavily on personal income taxes (close to half of general fund revenues) and sales tax. The balance consists of corporate income tax, lottery and gaming revenues, and a variety of other smaller taxes and transfers. The state has a flat personal income tax rate of 3.75%, which was temporarily increased to 5% between 2011 and 2015 from the prior flat rate of 3% to close post-recession budget gaps and reduce accumulated liabilities.

Historical revenue growth, adjusted for the estimated impact of policy changes, has been slightly above inflation but has somewhat lagged national economic growth. With Illinois’ economic performance also lagging national growth, Fitch expects a continuation of this trend of flat-t-
-modest real revenue growth.

Illinois has no legal limitations on its ability to raise revenues through base broadenings, rate increases, or the assessment of new taxes or fees.

Expenditure Framework
As with most states, Illinois' spending is largely for social services and education, although its carrying costs for debt service and pension payments are comparatively high.

Spending growth, absent policy actions, is likely to be higher than revenue growth, driven mainly by increasing pension costs. Illinois has chronically underfunded its pension system based on a statutory formula that permitted a slow incremental build-up to higher pension funding and targeting only 90% of full actuarial funding. Pension costs are unusually large and continuing to grow, crowding out other spending. As with most states, other spending drivers include Medicaid and education.

The fiscal challenge of Medicaid is common to all U.S. states. Federal action to revise Medicaid's programmatic and financial structure appears likely, although the magnitude and timing of changes for state budgets remain unknown. Both the new presidential administration and congressional leadership support significant Medicaid policy shifts. As one of the largest parts of state budgets and by far the biggest source of federal funding to the states, federal decisions could have significant implications for states' ability to manage this key budget item.

Despite carrying costs that are among the highest of the states, Fitch believes that Illinois retains adequate expenditure flexibility that could be used in the budget process. Illinois funds a broad range of services for its citizens and did not significantly reduce spending during the recession. This leaves the state with ongoing capacity to make spending reductions. However, Illinois has no ability to unilaterally modify retiree benefits following the May 2015 Illinois Supreme Court decision that found 2013 pension reforms unconstitutional.

During the current budget impasse, almost 90% of spending continued to be funded in fiscal 2016 at the 2015 rate, based on continuing appropriations, consent decrees, and court orders, as well as the enacted education budget. A similar partial general funds budget was enacted for fiscal 2017, including full-year appropriations for K-12 education and other state and federal funds; however, the partial budget expired Jan. 1, 2017 and the state is again operating without a full budget in place. There is little flexibility to control spending outside of the budget process in part because the governor cannot unilaterally make many changes without legislative participation.

Long-Term Liability Burden
Illinois' long-term liabilities, particularly pension liabilities, are very high for a U.S. state. Illinois is the weakest of the states in terms of its ratio of debt and unfunded pension liabilities to personal income, at 23% as of 2016, well above the 5.1% median for states. The state's three largest pension systems, covering teachers, universities, and state employees, have low funded ratios driven by a history of weak contribution practices.

In addition to its long-term liabilities, the state has a sizeable accounts payable balance that has accumulated through multiple years of operating at a deficit. As of the end of fiscal 2016, the accounts payable balance totaled $7.6 billion and it has increased since with the ongoing budget impasse. If the senate proposal to issue bonds to reduce or eliminate this budgetary liability proceeds, Illinois' debt levels would be further elevated but would remain within the moderate range.

Short-term borrowing is allowed, subject to a limitation of 5% of appropriations for revenue anticipation purposes, which must be repaid by the close of the fiscal year, and 15% to meet revenue

failure, which must be repaid within one year. The state has no short-term borrowing currently outstanding or planned, although notes were issued during the downturn.

Operating Performance
Illinois is poorly positioned to address a future economic downturn. While it has substantial theoretical capacity to weather a downturn, in terms of both revenue-raising potential and spending flexibility, it has not demonstrated the political capacity to achieve a long-term solution to its chronic budget deficits. During the great recession, the state largely maintained spending but delayed payments to address lower revenues. It accrued, as a result, an accounts payable balance that at its peak, reached 20% of the operating budget. In the absence of a change in management's approach to state finances, it is Fitch's expectation that future deficits would also be addressed by deferring state payments and increasing accumulated liabilities, although this approach is made more challenging by the state's already significant and growing deferrals during this period of economic growth.

Illinois' budget management during the current period of expansion has been especially weak. Temporary increases in personal and corporate income tax rates in place for four years, from Jan. 1, 2011 through Dec. 31, 2014, closed or partially closed the budget gap across five fiscal years. However, with their expiration, and the failure to enact a spending plan within expected revenues, the budget gap has ballooned. As a result, the state finds itself with a current operating deficit, structural budget deficit, cash crunch, and accumulation of accounts payable that will surpass its highest level at the depth of the recession.

The governor and state legislature could not come to agreement on a realistic spending and revenue plan for either the fiscal year that ended June 30, 2016 or the current fiscal year. With spending that far exceeded available revenues in fiscal 2016, the state's accounts payable balance grew to an estimated $7.9 billion at year-end, a significant portion of which was for the state employee health insurance plan. Similarly unable to enact a full-year balanced budget for fiscal 2017, the governor proposed, and the legislature enacted, a partial budget to fund operations while continuing negotiations over the budget and the governor's proposed reform agenda, which addresses issues separate from the budget. The partial budget has now expired, and if spending continues in the current year without approval of new revenues or the enacting of severe budget reductions, which seem unlikely, the state is on course to once again run a sizeable deficit that would flow through to the accounts payable bottom line.

The state Senate has put forth a series of bills that have the potential to lead to a compromise that will resolve the impasse. The Senate bills include raising the state income tax and other revenue measures, debt issuance to reduce accumulated budgetary liabilities, pension reforms, aid to Chicago public schools, and non-budgetary reforms sought by the governor, including a freeze on property taxes, workers compensation reform, and some form of term limits. These proposals, if they proceed through the full legislature and are signed by the governor, have the potential to meet the requirements to stabilize the Illinois IDR and related ratings. However, their passage is uncertain as is the timing of the implementation of any solutions.

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Fitch: California School Downgrades Outpace Upgrades.

Fitch Ratings-San Francisco-07 February 2017: Most California school district ratings have been affirmed under Fitch Ratings' new criteria, though the bulk of rating changes have been downgrades, in contrast to the local government portfolio in general, which has seen significantly more upgrades than downgrades with the criteria change.

Fitch is currently conducting a portfolio review of California school districts under its revised U.S. tax-supported criteria, which was released in April 2016. Eighty percent have been affirmed to date.

CRITERIA HIGHLIGHT FINANCIAL RESILIENCE THROUGH THE CYCLE
Downgrades to date reflect certain common features of California school district credits that play a greater role in the rating analysis following the criteria revision. The revised criteria emphasize an issuer's revenue framework and financial resilience in light of an issuer's sensitivity in downturns. California school districts have little independent legal control over revenues, which are primarily driven by relative enrollment rather than the local economy, and comparatively high revenue volatility due to the state's funding framework. Expectations for elevated volatility increase the financial cushion necessary to offset future declines. This inherent volatility, when compounded by a trend of thinning reserves observed in some districts, weakens the assessment of financial resilience through the cycle.

ENROLLMENT DRIVES REVENUE GROWTH PROSPECTS
The revised criteria highlight the significance of average daily attendance (ADA) to growth prospects for California school district revenues, as total per-student revenue from state and local sources is set by the state's Local Control Funding Formula (LCFF). Most districts have experienced solid revenue growth in recent years due to LCFF's funding mechanism, which is also tied to the state's solid revenue performance. However, LCFF is near full implementation, and given the state's constitutional school funding formula, future district revenue growth is expected to be more closely tied to local ADA trends relative to overall state revenue and enrollment performance.

PROP 13 LIMITS REVENUE FLEXIBILITY
California school districts' ability to independently raise revenues is constrained by constitutional limitations under Prop 13. Districts may not raise the operating property tax rate under any

circumstance, and may only raise a parcel tax with a vote of the people. In districts with ADA declines, the confluence of limited revenue flexibility and weaker revenue growth prospects has been the central credit factor in many downgrades. This includes situations where the local tax base and economy are strong but enrollment is declining due to factors such as demographic changes and competition from charter schools.

VOLATILITY AND RESERVE DECLINES HINDER FINANCIAL RESILIENCE
Fitch's assessment of financial resilience, which considers financial reserves in the context of expected revenue volatility and budgetary flexibility in the event of a typical economic downturn, has also driven some downgrades. State school aid in California historically has been notably more volatile than typical municipal revenues because of the state's tax structure and funding framework. California's funding framework is governed by Prop 98, which ties school funding, in part, to year to year changes in state revenue (with a minimum guarantee of 40% of the state budget), thereby linking volatility in the state tax structure to local districts. While the state's tax structure remains more volatile than most (and can be exacerbated for a district by declining ADA), Fitch believes that the institutional reforms implemented during and coming out of the great recession may reduce school funding volatility somewhat going forward.

Higher expected volatility increases the level of reserves necessary to offset declines in Fitch's scenario analysis; however, the state's reforms moderate to a limited degree Fitch's expectation for districts' future volatility. Furthermore, many districts have been drawing down high fund balances to more historical levels in the improving state revenue environment, which Fitch believes reduces their financial flexibility in the event of an economic downturn.

California school districts benefit from a very strong financial oversight framework under AB 1200. For districts with limited gap-closing capacity, where financial operations could otherwise become distressed in the event of a revenue downturn in Fitch's scenario analysis, Fitch expects support by the state oversight mechanism to ensure that finances return to stable operations and recover financial flexibility. This strong oversight system supports an overall operating performance assessment that is slightly higher than the level suggested by Fitch's scenario analysis alone.

SPECIAL REVENUE ANALYSIS YIELDS STRONG RATINGS
Fitch continues to rate the general obligation securities of certain California school districts above the level of the issuer rating based on our assessment that bondholders are legally insulated from any operating risk of the district. (See 'California School Districts: Special Revenue Analysis Yields Strong Ratings' dated Sept 30, 2016.) In these cases, the general obligation bond rating is based on a dedicated tax analysis without regard to the district's financial operations because there is a reasonable basis for concluding that the tax revenues levied to repay the bonds would be considered pledged special revenues in the event of a district bankruptcy.

Fitch sets a high bar for considering local government tax-supported debt to be secured by special revenues, which provide security that survives the filing of a municipal bankruptcy (in preservation of the lien) and benefit from relief from the automatic stay provision of the bankruptcy code. Fitch gives credit to special revenue status only if, in its view, the overall legal framework renders remote a successful challenge to the status of the debt as secured by special revenues under Section 902 (2)(e) of the U.S. Bankruptcy Code. No such ratings have been affected by implementation of the revised criteria.

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[Connecticut Gov. Proposes School Funds Move from Wealthy Towns to Poor Ones.]

The plan is the governor's first attempt to address disparities in school funding after a court ruled that the current system is unconstitutional

Connecticut Gov. Dannel Malloy is seeking to redistribute funds for education from affluent towns like Greenwich and Groton to poor cities like Bridgeport and Hartford, as part of his $18 billion budget proposal revealed Wednesday.

Under Mr. Malloy's plan, education funding to municipalities, including for special education, would increase 8% to $2.19 billion for the fiscal year beginning July, but wealthier towns would get less money while poor cities would get more.

Under the new system, the state would reduce funding to the town of Groton for schools and special education by 33% to $16.8 million while the Hartford school system would receive an 11% increase to $221 million. School funding is largely derived from local property taxes.

The proposed changes are the governor's first attempt to address disparities in school funding after a Connecticut judge ruled in September that the current system is unconstitutional. The state Supreme Court is reviewing that order.

"I agree that we are not meeting our constitutional requirement of a fair and equitable public education system—one that guarantees every student the opportunity for success," Mr. Malloy, a Democrat, said during a budget address in Hartford.

The changes to education funding come as the governor tries to close a projected $1.7 billion budget deficit in the coming fiscal year. To deal with the shortfall, Mr. Malloy proposed $256 million in cuts to spending by state agencies for higher education, mental health and addiction services and other measures. It also increases tax revenue by $205 million by eliminating a property tax credit and raising levies on cigarettes.

The governor's budget also assumes $700 million in savings from unstated concessions from state employees. If the state and public-sector unions can't come to an agreement on concessions, up to 4,200 state employees could be laid off under the governor's plan.

Mr. Malloy also wants to shift about $408 million in teacher pension costs from the state to cities and towns.

The proposal, if approved, would result in 31 towns and cities receiving more funding in the coming fiscal year than the current one, according to the state budget office. The state's remaining 138 towns in the state would get funding cuts.

"That's a lot of municipalities that are losing under this budget," said Elizabeth Gara, executive director of the Connecticut Council of Small Towns. Local governments will be forced to raise property taxes to make up the shortfall in state funding, she said.

Benjamin Barnes, the state's budget chief, said the changes are being driven by the fact that many towns are in good financial shape while others have poor finances.

"We've tried to restack our municipal aid program to reflect that and to provide more concentrated relief to the communities that desperately need it," Mr. Barnes said.

Mr. Malloy's education funding proposal would change the metric used to determine poverty levels in schools from the number of children receiving free and reduced lunches to the number of students on Medicaid, which the governor says is a more accurate measure of poverty.

The change would also takes into account a school district's current enrollment levels as well as its financial strength.

Mark Waxenberg, executive director of the Connecticut Education Association, the state's largest teachers union, said the governor's proposal would hurt middle-class communities.

"You are basically creating a winners-and-losers system," Mr. Waxenberg said. "That's just not a good way to fund public education in Connecticut."

Mr. Waxenberg said the state should increase funding for education so that towns don't lose what they currently receive rather than reallocating money from affluent communities to low-income school districts. He said lawmakers should consider raising new tax revenue to make that possible.

Jennifer Alexander, chief executive of Connecticut Coalition for Achievement Now, an advocacy organization that supports charter schools, said it welcomed the governor's efforts to give more financial resources to students with greatest learning needs.

"I think that the governor's proposal reflects the harsh reality of Connecticut's budget—that there are no new dollars to add into the system," Ms. Alexander said.

But the funding cuts coupled with potentially new teacher pension obligations would put pressure on towns and school districts to trim expenses, said Patrice McCarthy, general counsel of the Connecticut Association of Boards of Education.

That could lead to increased class sizes, less investment in technology and fewer paraprofessionals to support teachers and students, she said.

THE WALL STREET JOURNAL

By JOSEPH DE AVILA

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Write to Joseph De Avila at joseph.deavila@wsj.com

Michigan Leads Effort to Shift Workers Away From Pensions.

LANSING, Mich. — Struggling under the weight of pension and health care obligations, Michigan lawmakers appear ready to take another whack at public employee benefits — a move that reflects renewed determination to shift workers to 401(k)-style retirement systems, even if it happens in baby steps.

Other states have made more modest changes, but the latest push shows that conservatives want to approve big reforms 20 years after Michigan became the first state to close pensions to future state workers. Republican Gov. Rick Snyder is pressing to address $14 billion in unfunded liabilities, mostly from retiree medical costs, spread across more than 330 communities.

“As a state, we cannot get ahead if too many of our local communities have problems,” he said.

The proposals could serve as a national blueprint, and they will provoke a pitched battle with public unions that are desperate to preserve traditional benefits.

Michigan is taking a leading role because of its size and the fact that GOP legislators and Snyder turned what was once a stronghold of organized labor into a right-to-work state. They also forced teachers and state employees to contribute a portion of their paychecks to avoid receiving smaller pensions in retirement.

After ending pensions for new state workers in the late 1990s, Republican legislators are now considering moving all newly hired teachers and local government workers to 401(k)-type plans and cutting municipal retiree health benefits. Just one other state, Alaska, has ended teacher pensions.

The governor, a former accountant and venture capitalist, has not outlined specific retirement proposals other than to be cool to shifting new teachers away from pensions because of the large upfront costs. But he warns that if nothing is done, retiree obligations — especially medical costs — will squeeze city budgets further and jeopardize basic services.

Influential conservatives point to Detroit, where thousands of people had their pensions cut by 4.5 percent in the bankruptcy. Annual cost-of-living increases were eliminated, and health coverage was replaced with a monthly stipend to buy insurance through the federal exchanges.

“If any more of the cities go bankrupt, their workers are not going to get what they were promised. That’s just not fair,” said John Kennedy, president and CEO of Autocam Medical in Grand Rapids, who led an informal task force that Snyder formed to study the issue. He is also a board member at the West Michigan Policy Forum, a group of business leaders and GOP donors that has listed unfunded retirement costs as its top priority.

Municipal officials are eager to see changes, too.

“This is essentially a mortgage crisis. We can’t afford our payments, and they’re ballooning,” said Port Huron City Manager James Freed, who worries that his town of 29,000 people an hour’s drive outside of Detroit will have to cut spending by up to 20 percent in coming years if nothing is done.

“We’ve already gone through 10 years of budget cuts,” Freed said. “At this point we’re not talking

about cutting services. We're talking about eliminating services."

Options that may be considered in the Legislature include prohibiting retiree health benefits from being a subject of collective bargaining, capping how much local governments pay toward retiree medical insurance and eliminating traditional coverage in retirement for new workers in favor of contributions toward tax-deferred accounts, which is already in effect for new teachers and state employees.

Critics say the state should not intervene in local labor contracts and describe the push as an attack on police and firefighters who risk their lives and typically must retire earlier than other workers.

"We thought what we had was bought and paid for," said 56-year-old Monty Nye, who retired from the Meridian Township Fire Department outside Lansing two years ago.

An officer in the statewide union, Nye said some new hires have already ceased to qualify for health care in retirement and will receive smaller pensions. Veteran firefighters agreed to smaller pay raises to keep intact the size of their pension, he said.

Nye said he pays $800 a month for his family's health insurance — half of the premium. He also challenged a contention by Republicans that millennial workers prefer 401(k) systems because the plans are portable from job to job.

"That might be people that are looking to move around in the corporate world," Nye said. "But the people that go to fire departments go there for the stability of the job."

A pension, he said, lets first responders retire no matter how the stock market is faring.

"You don't want some 65-year-old firefighter trying to drag your butt out of a burning house," he said.

Oklahoma and Alaska are the only other states besides Michigan where new state employees are in mandatory 401(k)-style plans, which have been common in the private sector for many years.

If Michigan were to shift all new local workers and teachers to 401(k)-style plans, "it would be the first large state that's taken that kind of action. People would certainly look closely at it," said Greg Mennis, who studies public-sector retirement systems for the Pew Charitable Trusts.

The drive comes as President Donald Trump's administration explores how to implement at the federal level parts of a Wisconsin law that all but eliminated collective bargaining for public-sector unions in that state, according to Gov. Scott Walker.

Michigan conservatives are determined to take action.

"At some point, the political resolve needs to be applied to this problem," said Sen. Phil Pavlov, a Republican from St. Clair, north of Detroit.

Democrats say they are willing to talk about easing long-term liabilities but not without also discussing cuts in state revenue that have contributed to local budget woes.

Senate Minority Leader Jim Ananich of Flint said it would be foolish to rush bills while there is so much uncertainty over the future of the federal health care law and Medicare in the GOP-controlled Congress.

"You can't talk about cutting benefits for teachers and firefighters … and expect the federal government to come in," he said. "After what their plans are, people are going to be more economically insecure."

By THE ASSOCIATED PRESS

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Iowa Lawmakers Champion Bill to Limit Public-Sector Unions.

(Reuters) – Iowa lawmakers considered legislation on Wednesday to limit the powers of public-sector unions to negotiate for state and local employees, restrictions similar to those enacted in Wisconsin and Michigan despite huge protests.

Republicans in Iowa have gained an important advantage in pushing for legislation to rein in public-sector salaries and benefits after gaining control of the state Senate in last November's election. Republicans also control the state House of Representatives.

Iowa Republican Governor Terry Branstad supports the legislation, which if approved, would see Iowa join Wisconsin and Michigan in imposing restrictions on public-sector unions in the past decade. Branstad said the measure was needed to save money for the state.

Many Southern states have long limited collective bargaining by public-sector workers.

Union members protested the measure at the state capitol on Tuesday, according to local media.

The American Federation of State, County and Municipal Employees has said the measure, supported by the billionaire Koch Brothers' political spending group Americans for Prosperity, would gut collective bargaining rights.

Ross Eisenbrey, a vice president at the left-leaning Economic Policy Institute, said the measure was in line with efforts by conservative lawmakers to overrule minimum-wage increases adopted by cities and push for lower wages for construction workers on state projects.

The Iowa measure would lift mandates that require the state and local governments to negotiate with public-sector unions on how much employees receive in health benefits, according to a text of the legislation.

Instead, mandated negotiations would center on wages. Public safety employees, including police and firefighters, would be exempted from those provisions.

The legislation also would make it easier to dismiss certain state and local employees, including teachers, who are deemed by their supervisors to be poor performers.

The measure was heard by House and Senate subcommittees on Wednesday, according to the legislature's website. It was not immediately clear when the state House and Senate might vote on the measure.

Branstad told a news conference on Tuesday that state employees covered by public-sector unions typically pay $20 a month for their health coverage, leaving taxpayers on the hook for over $22,000.

"This is wrong and it's certainly out of whack with what everybody else in the state has to pay," he said.

By REUTERS

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(Reporting by Alex Dobuzinskis in Los Angeles; Editing by Peter Cooney)

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