[Bond Case Briefs](#)

Issue 380

Municipal Finance Law Since 1971

- GASB Issues Enhanced Concepts for Notes to Financial Statements.
- GASB Requests Input on Proposal to Require Disclosures About Certain Governmental Risks.
- MSRB Notice 2022-03 – Amendments to Certain Fees for Dealers and Municipal Advisors and Proposing an Annual Rate Card Process: SIFMA Comment Letter
- Climate Change, Hurricanes, and Their Toll on Municipal Credit.
- High-Tech Weathermen Forecast Climate Risks for Bond Investors.
- U.S. Supreme Court Decision in Carson v. Makin Reconfirms Availability of Municipal Bond Financing for Religious Organizations: Orrick
- Single Family Mortgage Prepayment Recycling – A Rising Bond Rate Alternative: Kutak Rock
- And finally, Ah, Crap is brought to us this week by *Wittman v. City of Billings*, in which "calamity struck when a grease clog in the City's sewer main caused 1,000 gallons of raw sewage to back up into the Wittmans' basement, an event known in official vernacular as a Sanitary Sewer Overflow (SSO)." We consider it a virtual certainty that the Wittmans' reflexively resorted to the official vernacular upon encountering this particular calamity. The opinion does reassure that the odds of a Billings resident experiencing a similar event is 0.04687%. This is, a) an oddly specific number, and b) doubtless a source of great consolation for the Wittmans. This does, however, present an opportunity for the Billings Chamber of Commerce to update its motto to: "Billings! Come for the mountain air, stay for the 0.04687% chance of a calamitous sewage backup!"

AIRPORT FEES - CALIFORNIA

Turo Inc. v. Superior Court of City and County of San Francisco

Court of Appeal, First District, Division 2, California - June 28, 2022 - Cal.Rptr.3d - 2022 WL 2314801

Operator of online platform that allowed car owners to rent their cars to other platform users petitioned for writ of mandate directing Superior Court to vacate order granting state's and city's motion for summary adjudication of his cause of action for declaratory judgment that it was not in the business of renting vehicles to the public for purposes of statute authorizing municipal airports to require rental companies to collect a fee from customers on behalf of the airports.

The Court of Appeal held that operator was neither a "renal car company" nor a "rental company" subject to the airport permit and fee collection requirements.

Operator of online platform that allowed car owners to rent their cars to other platform users was neither a "rental car company" nor a "rental company" within meaning of state law, and thus, it was not required to comply with statute authorizing the municipal airport to require a rental car company permit and the collection of fees from rental customers on behalf of the airport, since operator itself did not own, possess, or control the vehicles listed on its platform; under relevant statutes, the act of renting a vehicle required ownership or control of the vehicle.

INVERSE CONDEMNATION - MONTANA

Wittman v. City of Billings

Supreme Court of Montana. - July 5, 2022 - P.3d - 2022 WL 2437885 - 2022 MT 129

Homeowners brought inverse condemnation action against city arising from a single-event backup of raw sewage into their basement caused by a grease clog in city's sewer main.

The District Court granted summary judgment for city. Homeowners appealed.

The Supreme Court held that sewage backup was not a constitutional damaging of homeowners' property for public use.

A single-event backup of raw sewage into homeowners' basement caused by grease clog in city's sewer main was not a constitutional damaging of homeowners' property for public use under the law of inverse condemnation, where city did not deliberately plan and build its sewer system in such a way that made damaging homeowners' property foreseeable, and backup was caused by misuse of system by people discharging grease into system.

Statistical possibility that homeowners could sustain damage from a backup of raw sewage into their basement from city's sewer system could not be used to establish an inverse condemnation claim against city arising from such a backup arising from a grease clog in the sewer main; fact that 0.04687 percent of sewer users across city experienced some form of a sanitary sewer overflow in a given year, from all causes, did not render homeowners' single-event backup foreseeable, and damage sustained from backup was properly considered an incidental or inadvertent consequence of operation of system.

EMINENT DOMAIN - OKLAHOMA

Snow v. Town of Calumet

Supreme Court of Oklahoma - June 21, 2022 - P.3d - 2022 WL 2204860 - 2022 OK 63

Landowners brought action against town for trespass and inverse condemnation, alleging that after expiration of two temporary easements that had been granted by their predecessors in interest, for town's installation and maintenance of two municipal sewer lines across the property, town continued to maintain the sewer lines, and town counterclaimed to quiet title based on easements by prescription.

The District Court granted summary judgment to town on owners' claims and granted summary judgment to owners on town's counterclaim. Owners appealed as to inverse condemnation claim, and the Supreme Court retained the appeal.

The Supreme Court held that inverse condemnation claim did not accrue until temporary easements expired, and thus, landowners had standing to sue.

Inverse condemnation claim did not accrue until two temporary easements granted by prior owners of land, for town's installation and maintenance of two municipal sewer lines across the property, expired, which expiration occurred after prior owners had sold the property to current owners, and thus, current owners had standing to bring inverse condemnation action against town, alleging town's maintenance of the sewer lines after expiration of the temporary easements.

EMINENT DOMAIN - TEXAS

Miles v. Texas Central Railroad & Infrastructure, Inc.

Supreme Court of Texas - June 24, 2022 - S.W.3d - 2022 WL 2282641 - 65 Tex. Sup. Ct. J. 1599

Owner of real property along proposed high-speed rail route brought action that sought, among other things, a declaratory judgment that the corporations that wished to survey the property lacked eminent-domain authority.

The District Court entered summary judgment in favor of property owner, awarded him attorney fees, and dismissed corporations' counterclaims with prejudice. Corporations appealed. The Corpus Christi-Edinburg Court of Appeals reversed, rendered judgment, and remanded. Property owner petitioned for review.

The Supreme Court held that the corporations qualified as "interurban electric railway companies" under the Transportation Code.

Corporations conducting surveys for a high-speed rail route qualified as "interurban electric railway companies" under the Transportation Code's provision granting eminent-domain powers to corporations chartered for the purpose of constructing, acquiring, maintaining, or operating lines of electric railway between municipalities in Texas for the transportation of freight, passengers, or both, and thus corporations had eminent-domain powers under that statute; even though high-speed rail was unimaginable when the statute was enacted, rail project was an electric railway between municipalities in Texas, corporations were actually chartered for the statutorily authorized purpose of constructing, acquiring, maintaining, or operating lines of electric railway between municipalities in Texas for the transportation of freight, passengers, or both, and corporations were engaged in activities in furtherance of that purpose.

That corporation's proposed railway would connect to the interstate rail system, and thus be subject to the Surface Transportation Board's jurisdiction, did not mean that the railway could not be an "interurban railway," as relevant to determining if corporation had eminent-domain powers under the Transportation Code for being an interurban electric railway company.

Corporations conducting surveys for high-speed rail route did not have to show that there was a reasonable probability of completing the route in order for them to have eminent-domain powers under Transportation Code's provision that granted such powers to corporations chartered for the purpose of constructing, acquiring, maintaining, or operating lines of electric railway between municipalities in Texas for the transportation of freight, passengers, or both.

Statute that required companies with eminent-domain powers to submit by a certain date a letter to the comptroller containing information about such powers did not apply to corporation that qualified as an interurban electric railway company such that it had eminent-domain powers under the Transportation Code, and thus corporation's failure to send such a letter did not extinguish its eminent-domain powers; it was not until after the deadline listed in that statute that corporation amended its charter to state that corporation's purpose was to operate an interurban electric railway company, which was a necessary component of its acquisition of eminent-domain authority under the Transportation Code provision at issue.

EMINENT DOMAIN - TEXAS

In re Breviloba, LLC

Supreme Court of Texas - June 24, 2022 - S.W.3d - 2022 WL 2282598 - 65 Tex. Sup. Ct. J. 1679

Following proceeding in which landowner filed petition for writ of mandamus seeking to compel the County Court at Law to set aside order denying landowner's plea to the jurisdiction and motion to transfer proceedings to district court in action in which pipeline builder sought to condemn portion of landowner's property and landowner asserted counterclaims, in which the Waco Court of Appeals granted the petition, pipeline builder petitioned for writ of mandamus in which it argued county court at law had jurisdiction over counterclaims and therefore entire case.
Holding:

The Supreme Court held that county court at law had jurisdiction over pipeline builder's action seeking to condemn portion of landowner's property and landowner's asserted counterclaims.

County court at law had jurisdiction over pipeline builder's action seeking to condemn portion of landowner's property and landowner's asserted counterclaims totaling over $13 million, though counterclaims exceeded court's statutory jurisdictional limit; counterclaims were part of eminent domain case as gravamen of landowner's counterclaims was challenge to pipeline builder's eminent domain authority, and concurrent jurisdiction statute granted court jurisdiction over eminent domain cases which was not subject to an amount-in-controversy limitation.

ZONING & PLANNING - UTAH

Salt Lake City Corporation v. Utah Inland Port Authority

Supreme Court of Utah - June 29, 2022 - P.3d - 2022 WL 2337654 - 2022 UT 27

City brought action to challenge Utah Inland Port Authority Act, which required that certain municipalities adopt specific zoning regulations and permissions favorable to developing an inland port and directed certain taxes to the project.

The District Court granted Utah Inland Port Authority's motions for summary judgment, and city appealed.

The Supreme Court held that:

- Act's disparate treatment of three cities was rationally related to a legitimate legislative purpose and thus did not violate the Uniform Operation of Laws Clause of the Utah Constitution;
- Court would decline to reach merits of issue of whether the Act violated the Uniform Operation of Laws Clause by redirecting property taxes, as legislature had amended the Act;
- Act's requirement that three cities "allow an inland port," and prohibition against them outlawing the "transporting, unloading, loading, transfer, or temporary storage of natural resources" on authority jurisdictional land, did not violate the Utah Constitution; and
- Court would decline to reach merits of issue of whether the Act violated the Utah Constitution through the redirection of tax revenue to an outside group or entity.

Utah Inland Port Authority Act's disparate treatment of three cities, by requiring them to have certain zoning regulations permitting port area and prohibiting certain regulations of port area activity, was rationally related to a legitimate legislative purpose and thus did not violate the Uniform Operation of Laws Clause of the Utah Constitution; Act's statewide public purpose was to maximize the long-term economic and other benefit for the state, studies projected that an inland port could create thousands of jobs, develop natural resource extraction industries, and make Utah a bigger player in the global economy, and classification cleared the way for the port by requiring the three cities to "allow an inland port" and preventing them from prohibiting activities necessary to operate it.

Utah Inland Port Authority Act's requirement that three cities "allow an inland port," and prohibition against them outlawing the "transporting, unloading, loading, transfer, or temporary storage of natural resources" on authority jurisdictional land, did not violate the Ripper Clause of the Utah Constitution, which prohibited delegation of authority to an outside group or entity; rather, Act's legislative mandates were aimed at certain municipalities.

Supreme Court would decline to reach merits of issue of whether Utah Inland Port Authority Act violated the Ripper Clause of the Utah Constitution through the redirection of tax revenue to an outside group or entity, as legislature had amended the Act to make substantive changes to the funding provisions; instead, Court would order the parties to submit supplemental briefing on whether the tax challenges to the Act were moot and should be dismissed.

IMMUNITY - WASHINGTON

Estate of McCartney by and through McCartney v. Pierce County

Court of Appeals of Washington, Division 2 - June 28, 2022 - P.3d - 2022 WL 2311855

Estate of deceased sheriff's deputy, by and through its personal representative, and members of deputy's family filed wrongful death action against county, alleging that county's failure to properly staff and train sheriff's department resulted in deputy's death in the line of duty, and sought a writ of mandamus ordering county to provide department with sufficient staffing.

The Superior Court granted county's motion for judgment on the pleadings. Plaintiffs appealed.

The Court of Appeals held that:

- Trial court could take judicial notice of county records regarding county's decisions on sheriff's department funding;
- Governmental discretionary immunity applied to county's decisions on funding for staffing of sheriff's department and sheriff's deputy allocation;
- Professional rescuer doctrine barred recovery by estate and family; and
- Workplace safety laws did not prescribe and define county's duty regarding sheriff's department staffing with such precision as to leave nothing to the exercise of discretion or judgment.

PUBLIC RECORDS - WISCONSIN

Friends of Frame Park, U.A. v. City of Waukesha

Supreme Court of Wisconsin - July 6, 2022 - N.W.2d - 2022 WL 2444511 - 2022 WI 57

Requester of a draft contract between city and private entity concerning terms under which entity's baseball team would play in stadium to be constructed in city park brought mandamus action seeking access to the contract.

After releasing the requested record, city moved for summary judgment. The Circuit Court entered summary judgment for city, denied requester's motion for attorney fees, and dismissed action in its entirety. Requester appealed. The Court of Appeals reversed and remanded with directions. City petitioned for review.

The Supreme Court held that:

- As a matter of apparent first impression, to "prevail in whole or in substantial part," as that phrase is used in statute allowing requester of public records to recover attorney fees if requester prevails in whole or part in action for release of records, means requester must obtain judicially sanctioned change in parties' legal relationship; abrogating *Racine Education Ass'n v. Board of Education for Racine Unified School District*, 129 Wis.2d 319, 385 N.W.2d 510; State ex rel. Vaughan v. Faust, 143 Wis.2d 868, 422 N.W.2d 898; *Merco Distrib. Corp. v. Com. Police Alarm Co.*, 84 Wis.2d 455, 267 N.W.2d 652; and *WTMJ, Inc. v. Sullivan*, 204 Wis.2d 452, 555 N.W.2d 140, and
- Public interest warranted city's withholding of draft contract until consultation with common council.

SIFMA US Municipal Bonds Statistics.

SIFMA Research tracks issuance, trading, and outstanding data for the U.S. municipal bond market. Issuance data is broken out by bond type, bid type, capital type, tax type, coupon type and callable status and includes average maturity. Trading volume data shows total and average daily volume and has customer bought/customer sold/dealer trade breakouts. Outstanding data includes holders' statistics. Data is downloadable by monthly, quarterly and annual statistics including trend analysis.

YTD statistics include:

- Issuance (as of June) $208.2 billion, -11.7% Y/Y
- Trading (as of June) $14.0 billion ADV, +78.3% Y/Y
- Outstanding (as of 1Q22) $4.0 trillion, +0.7% Y/Y

View xls

July 5, 2022

Economic Outlook of U.S. Public Sector for Fiscal Year 2023.

Given the nature of recent global events, like the Russia-Ukraine conflict or coronavirus re-emergence, it is evident that national, state, and regional economies aren't as financially insulated as originally thought.

The inflationary pressures—combined with the rising cost of capital, employee retention, and continued supply chain issues—are all contributing to the assessment of local governments' fiscal health. However, with the federal government's COVID-19 response and the recent infrastructure push, many public finance government sectors are experiencing a sense of stability, including airports, transportation infrastructure, utilities, higher education, and more. But recession fears are looming for the U.S. and world economy in general, which will likely have adverse impacts on local and state government finances.

In this article, we will take a closer look at some economic indicators and how they are shaping the economic outlook for public finance sectors of the economy.

Continue reading.

municipalbonds.com

by Jayden Sangha

Jul 07, 2022

S&P: Increase In U.S. State Debt Levels In 2021 Was Likely A Blip

Key Takeaways

- U.S. state total tax-supported debt increased 4% in 2021; however debt levels may begin to slow down again as states grapple with higher interest rates.
- Federal aid received during the COVID-19 pandemic may provide additional options for capital spending and affect new debt issuance through 2023.
- Overall, debt levels remain sustainable with few exceptions.

Continue reading.

S&P: As Budget Deadlines Approach, U.S. States Look To Manage Revenue Windfalls Without Creating Shortfalls

Key Takeaways

- With exceptional current-year tax revenue growth and extraordinary federal assistance, U.S. states have abundant resources on which to build their fiscal 2023 budgets. However, intensifying downside economic risks and the sustainability of future revenue growth could complicate budget decisions for some.
- Three states with fiscal years that end on June 30 have yet to enact their 2023 budgets; however, two are on track to cross the finish line before the start of the new fiscal year. This is below the 13 states that had not yet adopted a fiscal 2022 budget on June 30, 2021.
- Sharper focus on sustaining reserves in anticipation of stiffening economic headwinds and emphasizing structural balance will remain essential to minimize potentially significant out-year revenue cliffs and fiscal gaps.

Continue reading.

30 Jun, 2022

How Fed's Inflation Fight May Impact State, Local Debt.

Chris Brigati, Valley Bank managing director of municipal investments, takes a look at how Federal Reserve policy will impact the municipal bond market. He speaks with Bloomberg's Taylor Riggs on "Bloomberg Markets. The Close."

Watch video.

Bloomberg Markets: The Close

July 6th, 2022

US State Debt Levels Rose in 2021 at Fastest Pace in Five Years.

- **State tax-supported debt increased 4% last year, S&P says**
- **Uptick in debt levels likely a fleeting 'blip' as market turns**

US state debt loads jumped last year as historically low interest rates and a bounty of investor demand led to record sales in the $4 trillion municipal bond market.

State tax-supported debt increased 4% in fiscal year 2021, the fastest in five years and a departure from recent years' declining trends as the market favored issuers with low borrowing costs for much of the year, according to an analysis published on Wednesday by S&P Global Ratings.

About two-thirds of states upped their tax-supported debt loads in 2021, though the bond payments remain manageable, the company said. The median debt-per-capita increased 4.6% to $984, still below the peak level of $1,036 in 2012.

"States have benefited over the past year from an economic environment boosted by federal stimulus injections, low bond interest rates, and strong revenue growth," wrote the analysts at S&P led by Ladunni Okolo.

States and municipalities flooded the municipal bond market last calendar year, selling around $460 billion of bonds spurred by low borrowing costs and unprecedented demand from investors. That environment has shifted in 2022 as the Federal Reserve hikes interest rates to combat inflation, leading municipal bonds and other fixed-income markets to slump and investors to sell their holdings.

The about-face in market sentiment means last year's rise in state debt levels was likely a "blip," S&P said.

"Debt levels will begin to slow down again as the states grapple with economic contraction and cut back on debt issuance either as a result of unfavorable costs of borrowing or a weaker outlook," the group at S&P wrote.

Most states have reasonable debt-service payments which are small compared to other fixed costs like retirement payments and Medicaid, S&P said. However, for some, like Connecticut, New Jersey and Hawaii, debt service expenditures are "near or at high levels and could be a source of budgetary stress in the future."

"While states that lack the flexibility to adjust capital or operating expenditure may have little choice but to increase debt issuance in the face of worsening economic conditions, we expect that for most states, the unfavorable cocktail of headwinds could dampen debt issuance in the short term," the group said.

Bloomberg Markets

By Danielle Moran

July 7, 2022

[What the Revival of 'Build Back Better' Could Mean for State and Local Funding.]

Senate Democrats appear to be moving forward with a slimmed down version of the social and environmental spending package following a failed push last year.

Optimism is growing that Senate Democrats could try again to pass President Biden's Build Back Better plan. While environmental advocates expect the previous $1.75 trillion proposal to be significantly scaled back, hundreds of billions of dollars in climate funding could still be headed to states and local governments.

"The chatter on the Hill is very hopeful. The bill could be very significant and game-changing for climate and communities," John Reuter, the League of Conservation Voters' vice president for state and local strategies, told *Route Fifty* in an interview.

Since the House version of the plan was blocked in the Senate by moderate West Virginia Democratic Sen. Joe Manchin last year, he and Senate Majority Leader Chuck Schumer of New York have been negotiating behind the scenes on a new, smaller proposal.

Continue reading.

Route Fifty

By Kery Murakami,
Senior Reporter

JULY 7, 2022

[The Simmering GOP Criticism of State and Local ARPA Spending.]

Republican lawmakers in the House and Senate have been bashing projects paid for with American Rescue Plan Act dollars that they see as wasteful. It could be a sign of further scrutiny to come if they take back one or both chambers of Congress.

From hiring social media influencers to tout the tastiness of Alaskan fish, to making it easier to park or access bathrooms at South Carolina beaches, or trying to bring World Cup soccer to New Jersey, decisions by cities and states on how to use American Rescue Plan Act dollars are providing congressional Republicans with fodder to portray the coronavirus rescue law as an inflationary and reckless use of taxpayer money by the Biden administration.

"We have cataloged numerous examples of ridiculous waste of federal tax dollars from the American Rescue Plan," Rep. Jason Smith of Missouri, the House Budget Committee's top Republican, said during a hearing last month.

Spokespeople for Smith and Senate Republicans, who have also charged that ARPA dollars are being spent for things that are not absolutely essential to deal with the pandemic, are silent on what Republicans would do should they win control of Congress next year.

Continue reading.

Route Fifty

By Kery Murakami,
Senior Reporter

JULY 8, 2022

Fitch: US Federal Gas Tax Holiday Would Accelerate HTF Shortfall Timeline

Fitch Ratings-San Francisco/Austin/New York-29 June 2022: President Biden's proposal to suspend the federal gas and diesel fuel taxes of 18.3 and 24.4 cents per gallon, respectively, through the end of September would likely move up the timeline for the Highway Trust Fund's (HTF) expected shortfall, Fitch Ratings says. Infrastructure Investment and Jobs Act (IIJA) funds would cover lost revenues in the short term, but the proposed gas tax holiday underscores the lack of stable revenues for the HTF, which is a key source of ongoing federal funding for transportation infrastructure. The proposal is meant to provide consumers relief from high gas prices, but faces significant political opposition in Congress.

Continued reliable and sufficient HTF funding underpins the ratings on standalone Grant Anticipation Revenue Vehicles (GARVEE) bonds, which are backed by future federal receipts from the HTF. HTF expenditures have outpaced revenues for decades, leaving it dependent on general fund transfers to remain solvent. HTF revenues come primarily from federal gas taxes, which have not been raised since 1993. A gas tax increase to address HTF deficits seems increasingly unlikely given high energy prices and expectations for slowing economic growth. Greater vehicle fuel efficiency has contributed to declining gas tax revenues, which also saw a material reduction at the height of the 2020 pandemic. The gas tax revenue recovery has been further hampered by reduced commuting due to work-from-home arrangements.

The latest Congressional Budget Office projections as of May 2022 indicate that HTF revenues will not meet the fund's obligations by the federal FYE 2027. The HTF is expected to have a huge positive net balance in 2022 given the $118 billion in committed funding from the IIJA (effectively a transfer from the general fund), which could help offset a temporary fuel tax holiday in the short term. Nevertheless, the suspension could bring forward the projected HTF shortfall given the magnitude of its deficit, unless funds were made available to offset the revenue reduction. HTF spending outpaced revenues by approximately 20% in 2021.

Fitch's rating case stress assumes a 37% average annual reduction in HTF outlays starting in fiscal

2028 in order to align with projected incoming gas tax revenues. The credit profile of outstanding GARVEEs reflects the assumption of the ongoing levy of the federal gas tax to cover obligations.

Biden has asked Congress to allocate other revenues to the HTF to compensate for the temporary loss of revenue, which the White House estimates to be $10 billion. A short-term fuel tax holiday is not viewed as a structural change to the underlying drivers of the GARVEE ratings, as long as the government continues to support transfers to the HTF. The GARVEE program would have a different risk profile if the fuel tax is paused for a longer period and the primary revenues backing GARVEE bond payments shift to other federal government revenue sources, which could affect standalone GARVEE bond ratings.

Contacts:

Tori Babcock
Associate Director, Infrastructure and Project Finance
+1 646 582-4608
Fitch Ratings, Inc.
Hearst Tower
300 W. 57th Street
New York, NY 10019

Scott Monroe
Senior Director, Infrastructure and Project Finance
+1 415 732-5618

Ben Munguia
Director, Infrastructure and Project Finance
+1 512 215-3732

Seth Lehman
Senior Director, Infrastructure and Project Finance
+1 212 908-0755

Sarah Repucci
Senior Director, Fitch Wire
Credit Policy – Research
+1 212 908-0726

Media Relations: Sandro Scenga, New York, Tel: +1 212 908 0278, Email: sandro.scenga@thefitchgroup.com

The above article originally appeared as a post on the Fitch Wire credit market commentary page. The original article can be accessed at www.fitchratings.com. All opinions expressed are those of Fitch Ratings.

Climate Change, Hurricanes, and Their Toll on Municipal Credit.

Analysts expect climate change, combined with the political realities of either addressing the effects of it or not, will have increasing impacts on municipal credit in the coming years.

Droughts, fires, flooding, changed temperature patterns, reduced snow cover, and higher sea levels may all come from climate change and all have the potential to impact municipal credit. At least for the near-term, hurricanes are climate change's most expensive impact on municipal governments and their communities.

Scientists say that global warming and climate change are expected to increase the number of hurricanes and how many are categorized as intense.

And hurricanes are also chiefly of interest because of their potential impact on municipal creditworthiness and bondholder protections, particularly for issuers already in difficult financial situations.

:Risks to municipal bonds include damage to key government or utility facilities, changing migration patterns, relocation of key employers, and rising insurance costs,: said John Ceffalio, senior analyst for CreditSights. "Increased vulnerability can also raise capital costs, both for resiliency ahead of disasters and rebuilding after disasters."

The National Oceanic and Atmospheric Administration's initial 2022 outlook forecasts another above-normal season. This would make it the seventh straight above-average hurricane season.

"Hurricane risk is nothing new in the Caribbean, but climate change is making those hurricanes more frequent and more severe, and raising sea levels," Ceffalio said.

Just this year, NOAA is predicting 14 to 21 named storms with six to 10 hurricanes and three to six of those will be classified as major storms.

Additionally, NOAA expects global warming will lead to more Category 4 and 5 hurricanes, the most devastating varieties, in the coming years. Climate change will add precipitation to hurricanes, potentially leading to more flood losses.

"Hurricanes account for over half of the estimated $1.7 trillion in total economic losses from severe weather events recorded since 1980," Moody's Investors Service said in a June 2019 report.

Climate change's intensification of hurricanes may already be taking place. Four out of the five costliest hurricanes in U.S. history took place in the last decade, Moody's said.

Intertwined with this impact is climate change's increase in sea levels. NOAA believes that sea levels in the U.S. rose 10 to 12 inches from 1920 to 2020 and will increase by a similar amount by 2050. According to NOAA and others this is certain to increase the impact of hurricanes and their flooding.

The lingering effects
Hurricanes are not just potential problems for public finance. Their threat of these events lowers real estate values and economic activity. In January, McKinsey Global Institute wrote regarding hurricanes and sea level rise, "In Florida, for example, estimates based on past trends suggest that losses from flooding could devalue exposed homes by $30 billion to $80 billion, or about 15% to 35%, by 2050, all else being equal."

Some environmentalists and observers think sea level rise will force the abandonment of Miami and perhaps New Orleans, along with some less prominent cities, by 2100. Concern about sea level impacts is already having a profound impact on Miami. Real estate prices in the Little Haiti neighborhood are climbing quickly because it sits on elevated land. An academic study showed that land near Miami's coast is valued less than it would otherwise be.

Populations can shrink after hurricanes and, as in the case with New Orleans and Hurricane Katrina, they sometimes never fully return. Government and public utility revenues can decline. Infrastructure expenses from damaged capital stock frequently soar.

The general operating environment can be marred for months, years, or even decades due to the general destruction of public infrastructure. After Hurricanes Irma and Maria devastated Puerto Rico in 2017, service was not fully restored until nearly a year later.

Ratings and creditworthiness

In a separate piece released in June 2019, Moody's Investors Service outlined how it sees hurricanes affecting credit. In most cases hurricanes have not resulted in ratings changes, it said. However, after Hurricane Katrina in 2005, the agency downgraded more than 30 public finance issuers. Hurricane Sandy led it to downgrade fewer than 10 issuers on the East Coast. Hurricane Harvey in 2017 led to five downgrades.

The impacts on municipal bonds have already gone beyond downgrades. Entergy New Orleans (ENO), a provider of gas and electricity to New Orleans, was in financial straits before Katrina but the hurricane pushed it into bankruptcy.

In 2019 after its power lines triggered wildfires in what may have been a climate change influenced drought in California, the state's largest utility, Pacific Gas & Electric, filed for bankruptcy. Albeit not related to hurricanes, The Wall Street Journal called it the "first climate change bankruptcy." The utility had over $900 million of municipal bonds outstanding at the time.

How hurricanes may affect the Caribbean territories' credit is hard to lay out, as Moody's and S&P Global Ratings no longer rate essentially any Puerto Rico municipal bonds. S&P rates Housing Finance Authority bonds but these are federally supported.

Fitch Ratings only rates the Puerto Rico Aqueduct and Sewer Authority. In a November 2020 report, it gave the authority an ESG Relevance score of 4 for "exposure to extreme weather events," indicating moderate importance.

When Puerto Rico's Fiscal Agency and Financial Advisory Authority was asked how Puerto Rico's government and its authorities were preparing for hurricanes, it responded that current plans are to deposit $130 million annually into an Emergency Reserve Fund until it reaches $1.3 billion. In cases of a disastrous hurricane, Revolving Loan Funds supported by the Federal Emergency Management Agency and other federal departments could provide liquidity.

"Finally, in the case of a federally declared natural disaster, the government can issue additional disaster recovery debt to support recovery efforts and it would not be considered as part of the debt limit threshold as set forth in the Plan of Adjustment," FAFAA said.

In October 2021 Moody's said "high exposure to physical climate risks" was one of five key credit challenges facing the U.S. Virgin Islands and its matching fund bonds, whose senior lien the agency rates Caa2. Exposure to environmental impact is also a significant factor in its rating of the islands' Water and Power Authority bonds at Caa2.

Bondholder protections

For a particular borrower's hypothetical exposure to climate change to become an actual indicator of default or distress, "the physical (and related policy) perils with which their location is threatened need to actually occur and the borrowe'?s security has to be vulnerable to those perils," noted Matt Fabian, partner at Municipal Market Analytics in a June report. "So the better and more resilient the pledged bondholder security, the more severe things will need to be on the ground for a default or impairment to follow."

In other words, strictly geographic climate risk scores and similar "need to be re-expressed or recalculated pursuant to each separate municipal security type within that area," the report said. And because every geographic region in the U.S. contains a range of municipal bond credit types, the local transformation of long-term climate change risk into an imminent credit risk is as a cascade, from the least well-secured borrowers to the best, as conditions worsen.

"It's thus useful for even high-grade, governmental lenders to consider the climate-related impairment trends occurring, or likely to occur, in the states where they specialize," Fabian wrote.

MMA found in its database 11 borrowers that entered the default and impairment database "because of (or had a pre-existing impairment worsened by) a natural disaster that itself may well have been caused or exacerbated by climate change."

"These situations highlight how: 1) competitive enterprises, single-site facilities, and growth-dependent financings are all more exposed to single or multiple environmental events; and 2) inadequate insurance coverage or a weak state policy frameworks are highly detrimental details."

Federal response

Over the last few decades federal policy has been to cover most but not all reconstruction costs after hurricanes. For major hurricanes the Congressional Budget Office estimated that federal disaster assistance between 2005 and 2015 covered 62% of the costs.

In March 2021 the Brookings Institution released "Inviting Danger." "Most [federal] policies have focused on 'building back the same,'" wrote Sadie Frank, Eric Gesick, and David Victor. "While that might have been tolerable in an era of modest impacts from natural disasters, that era is ending. An urgent national priority is creating the right incentives so that private and public sector investments reduce the future damages from climate change and make the country more resilient."

"Many government policies create incentives for people to make economically detrimental decisions, including settling and building on land exposed to hurricanes, floods, and wildfires," they wrote. "These policies already cost taxpayers tens of billions of dollars."

The Federal Emergency Management Agency is starting to try to buy out properties suffering from repeated losses, they wrote, but this approach has been quite limited.

Studies show resilience funding is much more cost effective in the long-term, said Ari Sillman in "A New Approach to Disaster Relief Funding," a paper done for a branch of Harvard Law School, and much more of the funding should be headed this way.

The Brookings study "made the point that when it comes to these [hurricane] events we should be discussing recovery versus resilience," said John Hallacy, president of John Hallacy Consulting. "I cannot agree more. However, spending on projects that will probably reap some benefits in the future is less immediate than clearing debris and rebuilding in the aftermath of an event. At a minimum, the rebuilding should be done to a higher building code standard."

Ceffalio said, "Generous federal disaster aid has protected bondholders from hurricanes and other natural disaster risks, but there are increasing demands on federal disaster dollars. There is no guarantee federal aid will continue to be so generous. Territories are particularly vulnerable since they have no congressional representation."

It is possible that, “federal dollars could be increasingly used to relocate residents away from disaster-prone areas,” Ceffalio said. “This would remove property from the tax rolls and reduce tax revenues. My understanding is that Canada is increasingly taking this approach.”

Private flood and hurricane insurance is also becoming much more costly in areas prone to hurricanes. This may also encourage people to leave the areas, affecting the financial health of the governments and public utilities that serve them.

Less federal support to recover from natural disasters “is the direction where we are headed,” said Andrew Teras, Breckinridge Capital Advisors director of municipal bond research.

In 2018 the federal government adopted the Disaster Recovery Reform Act. It set asides more federal money for pre-disaster mitigation, adjusts the post-disaster cleanup to include resilience, and gives localities the authority to build to the latest building codes.

In coming years hurricanes will have the most effect on municipalities and public issuers that are already in financial distress, Teras said.

Increasingly, the federal government may focus its natural disaster resources on centers of economic activity, Teras said. This means that smaller communities may get less aid.

By Robert Slavin

BY SOURCEMEDIA | MUNICIPAL | 07/01/22 04:44 PM EDT

S&P U.S. Municipal Water And Sewer Utilities Rating Actions, Second Quarter 2022.

Overview

S&P Global Ratings took 24 rating actions, 25 outlook revisions, and 10 CreditWatch actions within the U.S. municipal water and sewer utilities sector in the second quarter of 2022. In addition, 61 ratings were maintained with no outlook revisions. We removed three ratings from CreditWatch, but we placed seven ratings on CreditWatch with negative implications.

Positive rating actions outweighed negative, with nine upgrades compared with three downgrades in the second quarter. Favorable outlook revisions outpaced unfavorable, although the vast majority of outlook revisions returned to stable from negative. Three ratings were assigned negative outlooks, outpacing the one positive outlook.

Bond issuance remained stable against the first quarter in 2022, but it is trending significantly lower than the same period last year. Year-over-year, new ratings declined by more than half. Rating movement also cooled, declining by three rating changes in the second quarter relative to the same period in 2021.

Continue reading.

30 Jun, 2022

[As Federal Climate-Fighting Tools Are Taken Away, Cities and States Step Up.]

Across the country, local governments are accelerating their efforts to cut greenhouse gas emissions, in some cases bridging partisan divides. Their role will become increasingly important.

Legislators in Colorado, historically a major coal state, have passed more than 50 climate-related laws since 2019. The liquor store in the farming town of Morris, Minn., cools its beer with solar power. Voters in Athens, Ohio, imposed a carbon fee on themselves. Citizens in Fairfax County, Va., teamed up for a year and a half to produce a 214-page climate action plan.

Across the country, communities and states are accelerating their efforts to fight climate change as action stalls on the national level. This week, the Supreme Court curtailed the Environmental Protection Agency's authority to limit greenhouse gas emissions from power plants, one of the biggest sources of planet-warming pollution — the latest example of how the Biden administration's climate tools are getting chipped away.

During the Trump administration, which aggressively weakened environmental and climate protections, local efforts gained importance. Now, experts say, local action is even more critical for the United States — which is second only to China in emissions — to have a chance at helping the world avert the worst effects of global warming.

Continue reading.

The New York Times

By Maggie Astor

July 7, 2022

After Supreme Court Ruling, Cities 'Left Holding the Bag' on Climate Change.

The decision to curb federal authority on emissions puts even even more pressure on local governments, which have attempted to fill the gaps in climate policy.

The US Supreme Court severely limited the Environmental Protection Agency's authority to regulate greenhouse gas emissions under the Clean Air Act on Thursday, ruling 6-3 that it does not have broad authority to shift power generation from fossil fuels to renewable energy sources. The decision deals a major blow to the Biden administration's climate agenda of halving carbon emissions by 2030 and creating a carbon-free electric grid by 2035.

Scientists have already warned that the US is not on track to meet its emissions target, and the decision now renders the goal nearly impossible unless Congress acts to pass new legislation. That puts even even more pressure on local governments, which have attempted to fill the gaps in climate policy, particularly during the Trump administration. But the ruling could become a double whammy, severely hampering those local efforts, too.

"Cities are going to be left holding the bag, dealing with adverse health outcomes of the dirty air and dirty water, while our federal agencies that have the expertise and resources to promote and enforce standards are having to basically play 'mother, may I' with a Congress that is already deeply gridlocked on so many issues," says Kate Wright, executive director of Climate Mayors, a bipartisan network of more than 470 US city leaders focused on climate change.

While the decision doesn't explicitly affect cities' ability to set their own energy policies, local leaders warn that federal regulations are crucial to their effectiveness. Cities can tackle the demand side of the emissions challenge within their borders — by investing in wind and solar energy, for example, or mandating sustainable buildings — but they rely on the federal government to set broader and wider-reaching regulations.

An amicus briefing filed on behalf of city leaders in January by Columbia University's Sabin Center for Climate Change Law emphasized this point: "Local governments have little ability to regulate the circumstances imposed on them by the wider world, and greenhouse gas emissions from sources beyond municipal borders will still impact people, infrastructure, and resources inside them."

To achieve the very ambitious US climate goals, "we need the support of every level of government and the private sector, and we have very limited time and a massive challenge on our hands," Wright says. "Any restriction in the support that [cities] are getting from the federal government is going to have an impact."

The Supreme Court case centers around the Obama-era Clean Power Plan, which never actually went into effect. It was repealed under the Trump administration, and President Joe Biden has not reinstated it. But its premise — to set the first-ever limits on carbon pollution from US power plants, and in effect, push the industry to shift to renewable energy sources — was enough to prompt Republican leaders and the coal industry to seek a preemptive block of such regulation.

The majority of the justices sided with plaintiffs who argued that the EPA overstepped its authority in setting rules that can reshape the country's electricity grids, and that such actions from the executive branch were not explicitly authorized by Congress under the Clean Air Act. The dissenting justices vehemently disagreed. "The limits the majority now puts on EPA's authority fly in the face of the statute Congress wrote," Justice Elena Kagan wrote.

"It's deeply disappointing to be working so hard on this issue and to have SCOTUS come in, yet again — they didn't have to to take this case — with a panel of activist judges who are actively trying to change the law," says Mayor Satya Rhodes-Conway of Madison, Wisconsin. She says her city is working on decarbonizing its buildings and electrifying its fleets, but reducing citywide emissions will be more difficult without federal support.

The decision derails a core piece of Biden's climate agenda, which is to create a 100% electric grid by 2035. That complicates efforts to procure renewable energy sources, though experts say some tools are available to local leaders — depending on state law — including purchasing power agreements, community choice aggregation and community solar projects.

"But for the most part, we really need the federal government and states to help us get to a place where all of the power in our electricity grid is green," says Amy Turner, a senior fellow at the Sabin Center. "Cities really can't do that on their own because they don't have as much control or authority over the amount of renewable energy that they have in their electricity grid."

Despite these concerns, experts stopped short of saying that cities' hands were tied by the ruling. In fact, when faced with setbacks on combating climate change in the past, they've largely responded by doubling down on their commitment.

"It's been more than a decade that cities, and to some extent states, had to be the ones to lead the way on climate and develop some of the more ambitious policies in a legal environment that is unfriendly to those kinds of policies," says Turner.

When former President Donald Trump pulled the US out of the Paris Agreement in 2017, for example, city and state leaders vowed to continue honoring the climate pact and reaffirmed their commitment to reducing emissions. Membership in the Climate Mayors grew exponentially in the aftermath, according to Wright, "because so many cities recognized the need to continue having national leadership, even if it means a group of cities working together."

The US also saw a spike in clean energy purchases made by local governments in the years following Trump's withdrawal. According to the World Resource Institute, renewable transactions at the local level totaled nearly 2,300 megawatts in 2018 and more than 2,600 megawatts in 2019 — more than three times the figure in 2017.

Going forward, cities are likely to continue pursuing — or scale up — policies to curb emissions within their municipal borders, as well as collaborate with neighboring municipalities and local environmental groups, says Kate Johnson, the head of US federal affairs at C40 Cities coalition.

They will have to also strengthen efforts to leverage federal funding, including from Biden's infrastructure law. "It could become even more essential that federal investment continue to allow cities to make that down payment on the transformational change that they need to deliver on their climate action plan," she says.

Wright adds that cities will need to put more pressure on federal lawmakers. "The pivot will be that we need to up the urgency of Congress acting," she says. "It becomes very important for us to weigh in related to [budget] reconciliation," which would allow climate investments to pass with a simple majority of 50 votes.

"Cities are on the front line of the climate crisis, and they are also at the forefront when it comes to solutions," Johnson adds. "This decision is not going to change that."

Bloomberg CityLab

By Linda Poon

June 30, 2022

Fitch: SCOTUS EPA Ruling Will Not Stop Public Power Decarbonization Plans

Fitch Ratings-New York-08 July 2022: The recent Supreme Court of the United States (SCOTUS) ruling that limits the Environmental Protection Agency's (EPA) authority to cap greenhouse gas emissions will not materially affect public power utilities' credit quality or the move away from fossil fuels, Fitch Ratings says. The ruling is mildly favorable for those public power utilities that own and operate coal- and gas-fired units, as they will have more time to develop transition strategies and amortize investments in coal and gas plants. However, any benefits should be short lived. Moreover, the decision may slow decarbonization trajectory but will not reverse its course, as state and local government directives, investor preferences, and increased affordability continue to drive the transition toward renewable energy and lower carbon-emitting strategies.

Decarbonization strategies have largely been driven by states that have set their own clean energy standards, filling the void left by the absence of federal legislation. According to the National Conference of State Legislatures, 23 states and territories adopted renewable energy standards or goals that apply to public power and/or cooperative utilities. The transition could accelerate for these issuers if states with no standards or expired standards adopt new or expanded rules.

Continue reading.

High-Tech Weathermen Forecast Climate Risks for Bond Investors.

Startups use satellite imaging, public databases and algorithms to map out threats of natural disasters for specific towns—and even buildings—that back bonds

For centuries, bond investing has boiled down to forecasting two things: which way interest rates are going to move and how likely a borrower is to repay its debts. A handful of startups are betting that to predict repayments in the future, bond analysts will need better data on something they've long overlooked—climate risk.

The new firms are competing to design algorithms that can predict the likelihood of natural disasters hitting specific towns, industrial parks, even individual buildings, and how much damage they will do. That could become more relevant as wildfires, floods, storms and drought strike more frequently, creating potential losses for holders of municipal, corporate and mortgage-backed debt.

One company marketing such geospatial data to Wall Street is risQ, a Boston-based firm launched in 2016 by a handful of academics. The firm created a digital grid that divides the U.S. into 100-meter by 100-meter patches of dirt, forecasts the probability of climate events in each square and assigns associated risk scores to the bonds that would be affected.

Continue reading.

THE WALL STREET JOURNAL

by MATT WIRZ

JULY 10, 2022

U.S. Supreme Court Decision in Carson v. Makin Reconfirms Availability of Municipal Bond Financing for Religious Organizations: Orrick

Historically, the ability of a governmental conduit issuer to issue bonds to facilitate a financing for a religious organization or a religiously affiliated school, university, senior housing facility or other nonprofit institution, raised concerns that such a financing might run afoul of the required compliance with the Establishment of Religion Clause (the "Establishment Clause") of the First Amendment (the "First Amendment") of the United States Constitution, which generally prohibits the government from advancing religion or becoming entangled with religious activity. Certain financings also raised concerns about whether relevant state's laws, regulations and policies ("State Religious Aid Restrictions") were violated, some of which are more restrictive than the requirements of the Establishment Clause relating to governmental aid toward religious organizations. The concern was elevated when a borrower was "pervasively sectarian" – meaning an institution in which religion is so pervasive that a substantial portion of its functions are subsumed in the religious mission – given certain Supreme Court case law on this matter.

More recently, the United States Supreme Court (the "Court") has been finding that the disqualification of religious organizations from governmental aid programs (that was believed to be necessary to satisfy the Establishment Clause) violates the Free Exercise of Religion Clause (the "Free Exercise Clause") of the First Amendment, which generally protects against indirect coercion or penalties on the free exercise of religion. On June 21, 2022, the Court rendered its decision in Carson v. Makin ("*Carson*"): the latest case involving the tensions between the Establishment Clause and the Free Exercise Clause. This client alert expands on and updates our previous alerts, titled " U.S. Supreme Court Decision in Espinoza v. Montana Department of Revenue Confirms Availability of Municipal Bond Financing for Religious Organizations" ("*Espinoza*") and " Public Finance Implications of the Trinity Lutheran Case" ("*Trinity Lutheran*") published July 2020 and August 2017, respectively. *Carson*, together with *Espinoza* (involving a scholarship program) and *Trinity Lutheran* (involving playground resurfacing grants), reaffirm that the Free Exercise Clause prevents the application of State Religious Aid Restrictions to a generally available public benefit program based on an organization's religious status (and as *Carson* made clear, religious use), absent meeting strict scrutiny by advancing a compelling state interest and by narrow tailoring of such restrictions.

The facts of *Carson* are simple. Maine enacted a tuition assistance program for parents who live in school districts that neither operate a secondary school of their own nor contract with a particular school in another district. Under that program, parents designate the secondary school they would like their child to attend, and the school district transmits payments to that school to help defray the costs of tuition. Sectarian institutions were excluded from the program based on an opinion by the Maine attorney general that public funding of private religious schools violated the Establishment Clause. Petitioners sued the commissioner of the Maine Department of Education alleging that the "nonsectarian" requirement violated the Free Exercise Clause, the Establishment Clause and the Equal Protection Clause of the Fourteenth Amendment. The Court held that if a State chooses to subsidize private education, it cannot disqualify some private schools solely because they are religious. Hence, Maine's "nonsectarian" requirement for otherwise generally available tuition assistance payments violated the Free Exercise Clause.

Additionally, *Carson* expands on *Espinoza* through the elimination of any distinction between religious use-based discrimination (how the money will be used) and religious status-based discrimination (recipient's affiliation with or control by a religious organization). The Court in *Carson* explained that *Trinity Lutheran* and *Espinoza* held that the Free Exercise Clause forbids discrimination based on religious status, but those decisions never suggested that use-based discrimination is any less offensive to the Free Exercise Clause. Because the schools being excluded from this program were inherently sectarian, the Court acknowledges that the education provided by these schools involved indoctrination of students in their faith. The Court concludes that the prohibition on status-based discrimination under the Free Exercise Clause is not a permission to engage in use-based discrimination.

The Court in *Carson* also confirmed its holding in Locke v. Davey ("*Locke*"), a case also discussed in *Espinoza*, which highlights a restriction on a governmental aid program that satisfied strict scrutiny. *Locke* involved a Washington scholarship fund to assist academically gifted students with postsecondary education expenses that could be used for theology degrees but excluded vocational religious degrees (the "essentially religious endeavor" of pursuing a degree that trains a minister to lead a congregation). The Court confirmed the holding in *Locke* that there was a "historic and substantial state interest" against using "taxpayer funds to support church leaders" and that the program was narrowly focused to exclude vocational religious degrees. The Court in *Carson* concluded that *Locke* cannot be read to generally authorize the State to exclude religious persons from the enjoyment of public benefits, for "it is clear that there is no 'historic and substantial' tradition against aiding [private religious] schools." The discussion in *Carson* may provide support for narrowly tailored exclusions in conduit financing programs such as prohibitions on bond financing vocational religious schools or facilities based on *Locke*.

In our view, *Carson* makes clear that a generally available conduit financing program cannot exclude religious borrowers no matter how pervasively sectarian and no matter how closely tied to church, synagogue or mosque.

by Marc Bauer, Jenna Magan & Stephen Spitz

July 7, 2022

Orrick, Herrington & Sutcliffe LLP

[Single Family Mortgage Prepayment Recycling - A Rising Bond Rate Alternative: Kutak Rock]

As prevailing interest rates rise dramatically, funding costs for new debt are similarly increasing. For housing finance agencies (HFAs), this can put upward pressure on the mortgage rates they are able to offer borrowers. Accordingly, some HFAs are looking at the possibility of utilizing an alternate source of lower-cost funding of new loans — recycling repayments/prepayments from existing seasoned loans associated with outstanding lower-rate tax-exempt single-family mortgage bonds. Some background and considerations when employing recycling strategies:

- Single-family bond resolutions and indentures typically permit recycling of loan collections into new loans, subject to the need to pay current debt service including scheduled maturities, required redemptions and PAC bond requirements.
- Federal tax law generally permits recycling for only the first 10 years from the issue date of the related new money mortgage bonds that first financed a given loan. (Financial advisors and quantitative consultants generally track the portion of each bond issue (or loan) for which this 10 year period has elapsed, as refundings and the tendency to combine refundings with additional new money bonds can complicate the necessary math.)
- Some fixed rate bond issues utilize "closed" tax plans, in which the bond yield and mortgage yield are calculated at closing or after a relatively brief loan origination period, using prepayment assumptions authorized by applicable tax regulations. [Note – this is not available if any of the bonds are variable rate bonds.] Absent subsequent changes, these yield calculations are then used to demonstrate compliance with applicable arbitrage restrictions on the portfolio of financed loans (such as the 1.125% maximum positive spread permitted to an issuer) for the life of the bond issue. Such calculations generally are not required to be updated to reflect actual bond or loan repayment activity. However, when loan collections are used for recycling, it becomes necessary to recalculate the bond yield and loan yield to reflect both actual repayment experience to date and actual repayment experience for as long as recycling continues (unless the loans financed by the recycled collections have the same or lower yields than the initial new money loans). Once recycling ends, a final calculation of bond yield and loan yield can be made based on repayment experience to date and future prepayment assumptions authorized by applicable regulations.

- As suggested above, some analysis and calculation will be necessary to determine which of an HFA's existing bond issues is suitable for recycling, and at what rates. It is possible, for example, that recycling could cause the HFA's positive spread on the mortgages financed by a given bond issue to exceed the 1.125% arbitrage spread limit. Technical corrective action for excess yield, such as rebating interest to mortgagors or making a yield reduction payment to the U.S. Treasury, are available, but very rarely used; rather, HFAs recycle collections into new lower rate loans (or lower yield participations thereof).
- The common method of dealing with excess arbitrage spread on mortgage portfolios is to utilize a combination of recycled funds from an existing bond issue and sale proceeds of newly issued bonds to jointly finance a pool of loans. Recycled funds from a variety of bond issues could also be aggregated to make recycling economical. Subject to certain limitations, federal tax rules permit the yield on such jointly financed mortgage pools to be disproportionately allocated to the respective bond issues, enabling HFAs to allocate mortgage portfolio yield between bond issues to meet the federal arbitrage limitations. HFAs pursuing such a strategy should plan to consult with counsel to confirm that both tax law compliance and logistic bases are covered.

If you have any questions about this, please feel free to contact one of the attorneys in Kutak Rock's Housing Finance Agency Practice Group.

Client Alert | June 28, 2022

S&P: U.S. Not-For-Profit Acute Health Care Midyear 2022 Update: Providers Face Mounting Pressures From Inflation And Labor Costs

Key Takeaways

- The toughest performance quarter (first-quarter 2022) on record for U.S. not-for-profit hospitals and health systems highlights widespread inflationary pressures across the sector.
- High labor expenses likely will cause sustained operating hurdles through the remainder of 2022 and into 2023.
- Demands on cash flow and weaker investment market returns could reduce financial flexibility through the remainder of the year.
- The regulatory environment is becoming tougher and eliminating mergers and acquisitions (M&A) as an option for many providers.

Continue reading.

27 Jun, 2022

S&P Request for Comment: Request For Comment: Global Not-For-Profit Education Providers

View the S&P Request for Comment.

29 Jun, 2022

S&P 'AAA' Rated U.S. School Districts: Current List

View the Current List.

5 Jul, 2022

Fitch: Inflation, Slowing Economy Intensify Headwinds for Airports

Fitch Ratings-Singapore/S?o Paulo/London/Austin/New York-06 July 2022: A healthy summer travel season should buy airports around the world some reprieve before inflationary fallout takes firmer hold as the seasons change, according to Fitch Ratings in its latest Global Airport Traffic Tracker report.

Optimism is high for the summer travel season, with pent-up demand supporting both domestic and international traffic. Post summer is when more risks could impede the recovery trajectory for airports.

“Global inflation and fuel price pressures are intensifying which, along with additional cuts to world GDP growth forecasts, could impede air travel, particularly as we head into the autumn,” said Senior Director Seth Lehman. “The Russian-Ukraine war impact has only seen nominal direct changes to global aviation to-date, though supply-chain disruptions and consumer confidence risks are advancing concerns.”

The aforementioned factors could translate to further delays in a full return to pre-pandemic air traffic recovery for airports in some regions, perhaps most notably China. Fitch moved China’s estimated recovery date back to 4Q23 from 1Q23 with zero COVID policies weighing down air traffic. Full traffic recovery estimates still range from late-2023 (Brazil, Colombia and China) to 2026 (Italy). European markets such as the U.K and Spain have seen considerable improvements in volume activities.

U.S. travel has seen a slight improvement so far this year with demand set to improve notably heading into the summer. Canada is experiencing benefits from the easing of government restrictions with Q2 traffic likely to show further improvement, especially in cross-border travel. Latin American markets have benefitted from domestic driven demand coupled with border opening policies. Several leading airports in Colombia and Mexico are already exceeding 90% of the 2019 levels, while average recovery in Brazil is closer to 80%.

“Global Airport Traffic Tracker: 1Q22 Update” is available at www.fitchratings.com.

Contact:

Seth Lehman (U.S.)
Senior Director
+1 212 908-0755 Fitch Ratings
300 W57th St, New York, NY 10019

Media Relations: Sandro Scenga, New York, Tel: +1 212 908 0278, Email:
sandro.scenga@thefitchgroup.com

Additional information is available on www.fitchratings.com

Pension Funds Plunge Into Riskier Bets - Just as Markets Are Struggling.

More public pension plans than ever are using leverage, investing borrowed money in an effort to earn higher returns and close big funding gaps

U.S. public pension funds don't have nearly enough money to pay for all their obligations to future retirees. A growing number are adopting a risky solution: investing borrowed money.

As both stock and bond markets struggle, it's a precarious gamble.

More than 100 state, city, county and other governments borrowed for their pension funds last year, twice the highest number that did so in any prior year, according to a Municipal Market Analytics analysis of Bloomberg data. Nearly $13 billion of these pension obligation bonds were sold last year, which is more than in the prior five years combined.

Continue reading.

The Wall Street Journal

By Dion Rabouin and Heather Gillers

June 26, 2022

NASBO FY2023 Enacted Budget Status (Updated 7/1)

Overview

Over the course of the past several months, governors in 33 states have released their fiscal 2023 budget proposals. Last year, 17 states enacted budgets covering both fiscal 2022 and fiscal 2023; in eight of those states, governors released a supplemental or revised budget recommendation for fiscal 2023. The remaining nine states did not release a new or revised budget proposal for fiscal 2023. 46 states begin their fiscal year on July 1 (New York begins its fiscal year on April 1, Texas on September 1, and Alabama and Michigan on October 1).

As of July 1, three states have yet to finalize their budget for fiscal 2023:

- Massachusetts – The legislature has yet to finalize the budget; the governor filed an interim budget funding the state through July 31.
- Michigan – The legislature approved the budget and the governor is currently reviewing the budget bills. The state's fiscal year does not begin until October 1.
- Pennsylvania – The legislature has yet to finalize the budget; most functions of state government continue to operate.

Continue reading.

More Funds Are Holding Municipal Bonds Rather Than Individual Investors.

For the well-to-do, municipal bonds offer a way to access tax-free income while also getting debt exposure of high quality. However, it's been funds that have been fans of munis lately versus individual investors.

As noted, individual investors of high net worth have been the typical demographic when it comes to flocking toward municipal bonds. The interest and appeal of munis may not have changed, but it's how they are held in a portfolio that might be changing.

"One factor aggravating volatility in munis this year: Asset managers' increasing share of a $4 trillion market once dominated by buy-and-hold individual investors," a Wall Street Journal report said.

"The share of outstanding municipal bonds held by U.S. households fell to 40% in the first three months of the year from 46% in 2020," according to a Municipal Securities Rulemaking Board report scheduled for release Wednesday. The report added further, "the board, a self-regulatory body overseeing the muni market, analyzed Federal Reserve data and determined that the market is shifting from direct ownership of bonds to investment through funds."

Continue reading.

ETF TRENDS

by BEN HERNANDEZ

JUNE 30, 2022

MSRB Compliance Corner.

Read the latest Compliance Corner newsletter to learn why compliance professionals should check out the MSRB's updated Investor's Guide to 529 Plans and much more.

GASB Requests Input on Proposal to Require Disclosures About Certain Governmental Risks.

Norwalk, CT, June 30, 2022 — The Governmental Accounting Standards Board (GASB) issued a proposal today that would require governments to disclose information about certain risks they face that could affect the level of services they are able to provide or their ability to meet obligations as they come due.

Although governments are required to disclose information about their exposure to some risks, essential information about certain other risks that are prevalent among state and local governments is not routinely disclosed because it is not explicitly required. The proposed Statement would provide financial statement users with an early warning that governments are susceptible to the financial effects of those risks.

The Exposure Draft (ED), *Certain Risk Disclosures*, would require governments to disclose essential information about risks related to a government's current vulnerabilities due to:

1. Certain concentrations, and
2. Certain constraints common in the governmental environment.

The proposed Statement defines a *concentration* as a lack of sufficient diversity related to an aspect of a significant revenue source or expense—for example, a small number of companies that represent a majority of employment in a government's jurisdiction, or a government that relies on one revenue source for most of its revenue. It defines a constraint as a limitation imposed on a government by an external party or by formal action of the government's highest level of decision-making authority—such as a voter-approved property tax cap or a state-imposed debt limit. Concentrations and constraints may limit a government's ability to acquire resources or control spending.

Disclosure Criteria

This proposal would require a government to disclose information about a concentration or constraint if all of the following criteria are met:

1. It is known to the government prior to issuing the financial statements
2. An associated event either has occurred or is *more likely than not* to occur or begin to occur within 12 months of the financial statement date or shortly thereafter, and
3. It is *at least reasonably possible* that within three years of the financial statement date the event will cause a *substantial effect* on the government's ability to (1) continue to provide services at the level provided in the current reporting period or (2) to meet its obligations as they come due.

Note Disclosures

If a government determines that those criteria have been met, it would disclose information in notes to financial statements in sufficient detail to allow users of financial statements to understand the general nature of the circumstances disclosed and their potential effect on the government's ability to provide services or meet its obligations.

Stakeholders are asked to review the proposal and provide input to the Board by September 30, 2022. Comments may either be submitted in writing or through an electronic input form.

More information about commenting on the ED can be found in the document, which is available on the GASB website, www.gasb.org.

GASB Issues Enhanced Concepts for Notes to Financial Statements.

Norwalk, CT, July 7, 2022 — The Governmental Accounting Standards Board (GASB) today issued a Concepts Statement to guide the Board when establishing note disclosure requirements for state and local governments. The document is part of the GASB's response to the results of its research reexamining existing note disclosure requirements.

The concepts contained in the document are primarily intended to provide the GASB with criteria to consistently evaluate future requirements for notes to financial statements in the standards-setting process. They also may help stakeholders to understand the fundamental concepts underlying note disclosure requirements contained in future GASB pronouncements.

Concepts Statement No. 7, *Communication Methods in General Purpose External Financial Reports That Contain Basic Financial Statements: Notes to Financial Statements*, details concepts including:

- The purpose of notes to financial statements
- The intended users of note disclosures
- The types of information that should be disclosed in notes>
- The types of information that are not appropriate for note disclosures, and
- The degree of importance that information disclosed in notes to financial statements should possess.

A key element of the Concepts Statement is the concept of essentiality. The document establishes that notes to financial statements are essential to making economic, social, or political decisions or assessing accountability. The Concepts Statement also identifies the characteristics of essential information:

- The information has or is expected to have a meaningful effect on users' analyses for making decisions or assessing accountability.
- A breadth or depth of users utilize or are expected to utilize the information in their analyses for making decisions or assessing accountability.

The concepts included in Concepts Statement 7 establish that information disclosed in notes to financial statements should correspond to the reporting units presented in the financial statements.

The GASB issued an Exposure Draft (ED) on this topic in early 2020. The Board issued a Revised Exposure Draft in July 2021 to incorporate feedback received from stakeholders on the previous ED and to seek feedback on the resulting proposed revisions.

Concepts Statement No. 7 is available for download at no charge on the GASB website, www.gasb.org.

Judge Narrows San Diego, Baltimore Bond Collusion Cases Against Big Banks.

NEW YORK, June 28 (Reuters) – A federal judge on Tuesday narrowed claims by San Diego and Baltimore in antitrust litigation seeking to hold eight banks liable for driving up interest rates that state and local governments must pay on a popular tax-exempt municipal bond.

U.S. District Judge Jesse Furman in Manhattan dismissed San Diego's breach of fiduciary claims against affiliates of Barclays Plc (BARC.L), Citigroup Inc (C.N), Goldman Sachs Group Inc (GS.N) and JPMorgan Chase & Co (JPM.N), citing the city's lack of an "agency" relationship with the banks. He dismissed Baltimore's similar claim against JPMorgan.

The judge also said it was premature to find that San Diego, which sued last June, waited too long to pursue fraudulent concealment claims, despite its alleged notice of a suspected conspiracy among the banks from a 2014 whistleblower lawsuit.

Lawyers for San Diego and Baltimore did not immediately respond to requests for comment. Other defendants include affiliates of Bank of America Corp (BAC.N), Morgan Stanley (MS.N), Royal Bank of Canada (RY.TO) and Wells Fargo & Co (WFC.N).

San Diego and Baltimore, as well as Philadelphia, have been suing over alleged collusion to raise rates on variable-rate demand obligations (VRDOs), once a more than $400 billion market, between 2008 to 2016.

VRDOs are long-term bonds with short-term rates that typically reset weekly. Banks must remarket VRDOs that investors redeem to other investors at the lowest possible rates.

Cities have accused the banks of sharing proprietary information about bond inventories and planned rate changes, dissuading redemptions and enabling the banks to collect remarketing and service fees for little or no work.

The cities have said the collusion reduced available funding for essential municipal services such as hospitals, power and water supplies, schools and transportation.

The case is *Philadelphia et al v Bank of America Corp et al,* U.S. District Court, Southern District of New York, No. 19-01608.

Reuters

June 28, 2022

[California Attorney General Clarifies Use of Premium From Sale of School District General Obligation Bonds.]

Premium Must Be Used for Debt Service Repayment

Until recently, there has been uncertainty surrounding premium generated from new money school district general obligation bonds – can the premium be used to pay certain costs of issuing such bonds? The answer is "no" according to the California attorney general's newly issued Opinion No. 14-202, which comes in response to a request for clarity on the matter. Instead, premium generated on new money school district general obligation bonds must be deposited into an interest and sinking fund.

Background
When general obligation municipal bonds are offered for sale, it is possible they may generate original issue premium, which means they are sold at a price above the par value. When premium is generated on the sale of new money California school district general obligation bonds, the California Education Code requires that such premium be deposited into an interest and sinking fund to be used for debt service repayment. (Ed. Code §15146(g).)

Education Code Section 15146
As evidenced by the need for the request for clarity itself, the practice in California of using premium generated on school district general obligation bonds for costs of issuing those bonds has become more common. According to the statute in question, Education Code Section 15146, "any premium received" for new money school district general obligation bonds must be deposited into an interest and sinking fund. Some bond counsel and other financing professionals have interpreted that language to also allow for the use of premium to pay for certain costs of issuance of school

district general obligation bonds. The theory has been that, in the case of certain costs of issuance, the school district issuer never technically "received" the premium, therefore the need to deposit it into an interest and sinking fund is alleviated. Such practice, however, has now been rejected by the California attorney general.

Bond Issuers, Take Note
Accordingly, California school district issuers of municipal bonds should take note of this opinion when issuing new money general obligation bonds. Although courts are not bound by opinions of the California attorney general, they are given great weight. Thus, California school districts should work closely with their bond counsel, municipal advisor and other financing professionals during the issuance of general obligation bonds to ensure they understand the risks involved with the use of premium and to ensure the proceeds received from the sale of such bonds, including any premium generated, are properly utilized.

It should also be noted that the issuance of general obligation refunding bonds falls under a separate authority. And although the attorney general opinion was not entirely clear on this matter, the limitation has not been applied to refunding bonds and this opinion does not seem to imply otherwise.

Key Takeaways

- There are risks involved with using premium generated on new money California school district general obligation bonds for any reason other than deposit into an interest and sinking fund for debt service repayment.
- Per the California attorney general, premium generated on new money California school district general obligation bonds cannot be used to pay for costs of issuing those bonds.
- It is important for California school districts to work closely with bond counsel, municipal advisors and other financing professionals to ensure they understand the type of bond proceeds received and the proper uses thereof.

by Jennifer Bradlee

June 30, 2022

Best Best & Krieger LLP

[MSRB: Trends in Municipal Securities Ownership]()

MSRB research found a continuous decline in individual investor direct ownership of municipal securities while ownership through funds has steadily risen since 2004.

[Read the latest paper for more on municipal securities ownership.]()

[MSRB Notice 2022-03 – Amendments to Certain Fees for Dealers and Municipal Advisors and Proposing an Annual Rate Card Process: SIFMA Comment Letter]()

SUMMARY

SIFMA provided comments to the U.S. Securities and Exchange Commission (SEC) on the Municipal Securities Rulemaking Board's Notice 2022-03 and its Filing of a Proposed Rule Change to Amend Certain Rates of Assessment for Rate Card Fees Under MSRB Rules A-11 and A-13, Institute an Annual Rate Card Process for Future Rate Amendments, and Provide for Certain Technical Amendments to MSRB Rules A-11, A-12, and A-13.

View the SIFMA Comment Letter.

SIFMA, BDA and NAMA on MSRB Proposed Changes to its Fee Setting Process.

SUMMARY

SIFMA, BDA and NAMA provided comments to the U.S. Securities and Exchange Commission (SEC) on the Municipal Securities Rulemaking Board's (MSRB) Proposed Changes to its Fee Setting Process.

View the Comment Letter.

MSRB Fee Proposal Causes Backlash Among Market Participants.

The Municipal Securities Rulemaking Board's proposed fee amendments submitted to the Securities and Exchange Commission are catching backlash from muni industry leaders over a perceived failure to address the discrepancy between fees collected from dealers and municipal advisors, in addition to a lack of transparency over the budgeting process.

That's according to letters submitted to the SEC by representatives from the Bond Dealers of America, National Association of Municipal Advisors and the Securities Industry and Financial Markets Association, urging the Commission to reject the proposal.

"Dealers pay 90-plus percent of the industry-derived revenue that the MSRB collects and that's consistent over many years since the MSRB has been regulating MAs post-Dodd-Frank," said Michael Decker, senior vice president for public policy at the Bond Dealers of America. "That's just unfair and inequitable and inappropriate and this project of reviewing and revising their fee structure should have provided an opportunity for the board to consider and address that issue and find a way to adjust the lopsided burden that applies to broker-dealers relative to municipal advisors."

"Because they didn't address this issue, we were not supportive of the proposal," he added.

The MSRB started looking at relative contributions between MAs and broker-dealers in 2014, and has made some moves to address the financial burden imposed on dealers by temporarily reducing underwriting, transaction and technology fees and increasing the professional fee for MAs to $1,000 from $500 in Sept. 2019.

MSRB estimated that broker-dealers accounted for around 80% of its fees in 2019 and hoped to continue to bring that down as a step in the direction of fairness and equity. But now, BDA estimates that they make up 92% of fees, a proportion that places too much of the burden on that side of the market.

The board's proposed Annual Rate Card Process will determine the fees the board charges based on the total amount of revenue each fee was expected to contribute, expected volume of activity of each fee, in addition to the amount of revenue generated from the fee in the previous fiscal year compared with its corresponding budget.

But the proposed measures haven't done much to quell the concerns of both MAs and broker-dealers, who both feel the fee arrangement doesn't work well for their segment of the market.

"Neither the narrative nor the amendment language includes the proportionate ratio amounts, the Annual Rate Card Process, or the updated Funding Policy," the NAMA letter said.

In addition to the details of the Annual Rate Card Process and Updated Funding Policy not included in the SEC filing, NAMA feels that the caps thresholds could cause significant fee increases over time.

"NAMA is troubled by the significance of the word 'generally' in the discussion about the Rate Card Process and in the Amendment language to Rule A-11," the NAMA letter said. "It begs the question – are these caps actually in place as stated or are they to be 'generally' observed (which we read as meaning the caps could change and still be consistent with the filing)," NAMA added. "The compounding of these increases would create an undue burden on small MA firms."

From conversations with the MSRB, NAMA said that the MA portion of fees is 8% of the total fees it collects but provides no rationale for how those proportions are derived.

"Without specific ratios, or a detailed, clear process for how those ratios are calculated, the filing offers us no specificity as to fees," the NAMA letter said.

Others joined NAMA in condemning the lack of transparency the board continues to exhibit in its budgeting process.

"The members of our organizations have expressed ongoing concern that some of the MSRB's funded initiatives are not germane to its statutory authority," the joint letter from BDA, NAMA and SIFMA said. "We continue to request that the MSRB provide greater transparency regarding expenditures, especially with regard to expenses that do not support the important and necessary work the MSRB is authorized to execute."

The concerns over individual fees and the inability of the board to provide a rationale for why they need a certain amount of operating money gets to the heart of many concerns that the MSRB is overstepping its Congressional mandate, whether on ESG or other technology projects.

"In recent years, the MSRB has undertaken projects that many of our members think are at best on the fringes of their core mission," Decker said. "The MSRB's mission is to regulate the industry for the benefit of issuers and investors and some of the technology projects that they've undertaken seem a few steps away from that."

But the muni market leaders do agree on some aspects of the proposal. SIFMA agrees that an annual rate setting process can be beneficial to the board's efforts in managing reserve levels, BDA agrees with the board on amending the process based on the MSRB's anticipated budget and projections for market activity, and NAMA had hoped to support the amendments that would establish a new framework for assessing fees on regulated entities.

By Connor Hussey

BY SOURCEMEDIA | MUNICIPAL | 07/07/22

SEC Issues Proposed Rule Amendments Regarding Fund Naming Conventions: Dechert

Overview

The U.S. Securities and Exchange Commission, by a vote of three-to-one, proposed for public comment on May 25, 2022, amendments to the rule governing naming conventions of funds1 subject to the U.S. Investment Company Act of 1940. The "names rule" generally requires a fund to invest, under normal circumstances, at least 80% of its assets in the investments suggested by its name. The proposed amendments would (among other items):

- expand the scope of funds subject to Rule 35d-1 under the Investment Company Act (Names Rule); address certain funds that use environmental, social and/or governance (ESG) investment practices and
  ESG and related terms in their names;
- limit the circumstances under which a fund may temporarily depart from its 80% investment policy and
  include time frames for returning to compliance with its 80% investment policy; and
- include certain form changes and new disclosure requirements.2

As further discussed below, these proposed amendments have the potential to meaningfully impact fund names,
strategies, management and operations.

Continue reading.

by Johnson, Mark Perlow, Corey Rose, Anthony Zacharski, Nicholas DiLorenzo, Matthew Barsamian, Claire Hinshaw and
Tyler Payne

July 6, 2022

Dechert LLP

Nuveen Defeats Preston Hollow Defamation Suit Over Trash Talk.

- **Market 'chatter' didn't prove reputational damage, judge finds**
- **Preston Hollow appeals; Nuveen still faces its antitrust suit**

A campaign by US municipal bond powerhouse Nuveen LLC to disparage Preston Hollow Capital LLC on Wall Street didn't harm the reputation of the smaller competitor, a Delaware judge ruled.

Superior Court Judge Mary Johnston found that Dallas-based Preston Hollow didn't lose business in the market for high-yield municipal debt as a result of allegations by Nuveen's head of municipal investments, John Miller, that Preston Hollow participated in illegal deals and charged borrowers excessive rates.

"The court finds that the record evidence does not include the testimony of any witnesses that their opinions were changed as a result of defendant's statements," Johnston wrote in an opinion unsealed Monday. "Speculation and amorphous industry 'chatter' is not sufficient to create a reasonable inference that plaintiff's reputation was grievously fractured in the community."

Preston Hollow filed a notice of appeal to Delaware Supreme Court on Wednesday.

Dozens of Depositions

None of the 35 Wall Street traders, bankers and salespeople deposed by Nuveen testified that their firms stopped doing business with Preston Hollow or that their personal or companies' opinion of Preston Hollow changed as a result of Nuveen's statements, New York-based Nuveen asserted.

"We appreciate how the legal process played out and is an affirmation of our belief all along which is that PHC's claims were meritless," Nuveen said in a statement.

Preston Hollow was seeking as much as $628 million in damages from Nuveen to compensate for lost business.

"Preston Hollow Capital respectfully disagrees with the Delaware Superior Court's order concerning its defamation claim against Nuveen," the firm said in a statement. "PHC will pursue an appeal that, we believe, will lead to a reversal, a full trial on the merits of PHC's defamation claim, and a complete accounting of the harm it suffered as the result of Nuveen's conduct."

Preston Hollow Win

A Delaware Chancery Court judge earlier found for Preston Hollow but couldn't award damages, so the firm sued in Delaware Superior Court.

Nuveen, a unit of teachers investment group TIAA that oversees more than $200 billion in municipal bonds, still faces allegations by Preston Hollow in federal court that it used its market power as one of the biggest buyers of state and local government bonds to freeze out the smaller firm.

Preston Hollow is seeking at least $100 million for alleged illegal anticompetitive conduct in blocking its access to deals in the high-yield municipal bond market.

Nuveen denies the claims and is fighting the suit.

The state case is Preston Hollow Capital LLC v. Nuveen LLC, N19C-10-107, Delaware Superior Court (Wilmington).

Bloomberg

By Martin Z Braun

June 29, 2022

Revenue Policies: GFOA Webinar

July 18-20 2022 | 1-3:45 p.m. ET

When we talk about developing a budget that supports a thriving community, we often spend most of our time and energy thinking about the expenditure side of the equation: what are the local government's priorities and goals and how much is it going to spend to achieve those goals? The revenue side of the equation is just as important to building a strong financial foundation that supports a thriving community, though. In this course, learn how to evaluate your local government's revenue portfolio using the five pillars of the Financial Foundations Framework.

Please note that this course is ***not*** focused on the technical aspects of forecasting revenue.

Learning Objectives:

- Identify the five pillars of the Financial Foundations Framework
- Understand how developing and implementing fair revenue policies contributes to a thriving community and better trust in government
- Learn how to build a more resilient and more diverse revenue portfolio
- Learn the essential components of effective revenue policies
- Learn how to evaluate your revenue sources
- Learn innovative approaches to enhancing existing sources of revenue and developing new sources of revenue

Member Price: $315.00
Non-member Price: $630.00

REGISTER

Municipal Bonds Increasingly Held by Funds Instead of Individuals.

Share of munis held by individuals falls to 40% in the first three months of the year from 46% in 2020, study finds

One factor aggravating volatility in munis this year: Asset managers' increasing share of a $4 trillion market once dominated by buy-and-hold individual investors.

The share of outstanding municipal bonds held by U.S. households fell to 40% in the first three months of the year from 46% in 2020, according to a Municipal Securities Rulemaking Board report scheduled for release Wednesday. The board, a self-regulatory body overseeing the muni market, analyzed Federal Reserve data and determined that the market is shifting from direct ownership of bonds to investment through funds.

The true amount held outright by buy-and-hold retail investors through individual brokerage accounts is likely closer to 20%, because the Fed includes some Wall Street-managed accounts in its household category. So-called separately managed accounts are run by an asset manager on behalf of a single investor. Those hold about 18% of munis, according to Citigroup.

Mutual and exchange-traded funds controlled 24% of munis in the first quarter of 2022, up from

20% in 2020, according to Federal Reserve data.

Wealthier investors are attracted to debt issued by state and local governments because the interest is typically exempt from federal, and often state, taxes. Prices have slid for muni debt and across bond markets this year following aggressive moves by the Fed to curb inflation. The Bloomberg municipal bond index returned minus 9.31% through Friday, counting price changes and interest payments, its worst year-to-date performance on record.

Asset managers' increasing control over the market is part of a dynamic aggravating that price drop, analysts said. Investors in mutual and exchange-traded funds can watch their prices fall in real time and cash out easily. Buy-and-hold investors, in contrast, tend to own bonds until maturity, clipping coupons for income.

"I think they probably trade less frequently than financial professionals, whether they be [separately managed accounts] or mutual funds," said John Bagley, the Municipal Securities Rulemaking Board's chief market structure officer and an author on the report.

Investors have pulled more than $80 billion from muni mutual and exchange-traded funds this year though mid-June, more than in any full calendar year going back to 1992, the 30 years tracked by Refinitiv Lipper. That can force fund managers to sell bonds at unappealing prices to drum up cash for investors.

Mutual funds, exchange-traded funds and separately managed accounts appeal to investors because the oversight of a professional manager makes them more comfortable holding riskier bonds. Those bonds have relatively higher yields, which held particular appeal in the low-yield environment of the past decade.

Some investors also prefer to hold a small share of debt from a diverse pool of borrowers to guard against defaults. Some like the flexibility with which they can get in and out of mutual and exchange-traded funds.

Vanguard Group, Nuveen LLC, Franklin Templeton and BlackRock Inc. were the managers with the largest dollar amount of municipal bonds under management in 2021, according to Refinitiv Lipper.

The market continues to be dominated by individual investors, even if more of them are investing through accounts controlled by Wall Street money managers. In contrast, only 3% of Treasurys and 1% of corporate bonds are held by U.S. households, the Municipal Securities Rulemaking Board found.

"Even though individual investors are going down, it is still an individual investor market unlike any other market," Mr. Bagley said. "They have a lot of ways to access it: mutual funds, ETFs, SMAs, individual brokerage accounts. The components that make it up have changed but the overall number has been pretty consistent."

The Wall Street Journal

By Heather Gillers

June 28, 2022

[McKinsey Clients Won Puerto Rico Contracts as Firm Advised Government.]

The consulting firm has helped the territory's oversight board review contracts with companies that are also its clients

McKinsey & Co. has been a top government consultant since 2016 in Puerto Rico, helping the U.S. territory's financial overseers manage its spending. In that time, corporate clients of the consulting firm have won tens of billions of dollars of government business, new disclosures show.

Since McKinsey began its work for Puerto Rico's financial-oversight board, the firm has helped the board review and evaluate contracts with companies that are also McKinsey's consulting clients, according to disclosures it filed in federal court last month and other public documents. McKinsey clients include some of the largest fuel suppliers to Puerto Rico, an infrastructure company with a major role in operating the territory's electrical grid and contractors that support its public-health system.

A McKinsey spokesman said that the firm served these clients on unrelated matters and that its work for them hasn't conflicted with its work for the oversight board.

[Continue reading.]

The Wall Street Journal

By Alexander Gladstone

June 27, 2022

[New Jersey Hasn't Cleared American Dream Mall Grant as Debt Payment Looms.]

- **State grants back $290 million of American Dream muni bonds**
- **Mall has $9.3 million payment due Aug. 1, but $820 in reserve**

Three weeks before the American Dream super-mall is due to pay debt backed by New Jersey economic development grants, the state hasn't approved a key document needed to release the cash, raising the risk bondholders won't get their money.

The 3.5 million-square-foot shopping and entertainment complex in the Meadowlands has about $820 left in a reserve account, and is scheduled to make a $9.3 million payment on the bonds due Aug. 1, according to a bond filing. The $290 million of municipal-bond obligations are backed by state economic development grants based on sales-tax collections.

However, before American Dream can get any aid to make debt payments, the state's Economic Development Authority must approve documents certifying project expenditures by the developer, Triple Five Group. EDA hasn't yet approved the cost statement, according to Virginia Pellerin, an agency spokeswoman. The countdown to the debt payment comes about six months after American Dream drew criticism from the bond servicer, which said in January that the mall had yet to file the paperwork.

New Jersey's $50.6 billion budget for the fiscal year that began July 1 allocated about $87 million for the Economic Redevelopment and Growth Grant program. Pellerin didn't say why American Dream's cost statement hadn't received approval, or whether any of the grant money appropriated in the budget was earmarked for the mall.

Melissa Howard, a spokeswoman for American Dream, declined to comment. Nuveen LLC, the biggest holder of the bonds, with about $108 million as of April 30, didn't respond to a request for comment.

American Dream, which features an indoor ski slope, amusement park and water park, qualified for the grants because its location is designated as an economic redevelopment area. The grants, for as much as 75% of incremental sales-tax revenue collected each year, are capped at $390 million over a 20-year period.

Failure to make a payment on the so-called grant revenue bonds doesn't constitute a default nor require the borrower to pay back the loan immediately, according to bond documents. Bonds maturing in 2027 traded at about 91 cents on the dollar June 30, while debt maturing in 2031 traded at about 82.4 cents.

The mall, whose opening was delayed by the pandemic, reported about $90 million in gross sales for the first quarter and $305 million for 2021. Most clothing and footwear isn't taxable in New Jersey. American Dream hasn't reported the amount of sales tax collected at the mall, which features luxury stores including Saks Fifth Avenue and Hermes.

Bondholders have criticized American Dream for not filing the project-cost paperwork with the state sooner. American Dream hired an auditor to complete the cost statement in March 2021, but as of January hadn't submitted it to the state, according to a letter from bond servicer Trimont Real Estate Advisors.

"While everyone appreciates the difficulties posed by the pandemic, and the likelihood that grant revenue received now may not be sufficient to fully pay the bonds, that does not relieve the Developer from responsibility to comply with its obligations under the various agreements," Trimont said in the letter.

Remedies for the breach "range from specific performance to a special redemption of all the bonds," the letter said.

American Dream also has $800 million of municipal bonds backed by fees that the mall's owner makes to bondholders instead of paying property taxes, known as payments in lieu of taxes. Last month, the trustee for the bonds had to draw on reserves to make a June 1 payment on the debt because American Dream failed to deposit money required to pay debtholders. Triple Five made the deposit two weeks later.

The mall also has $1.7 billion in construction debt. Triple Five is seeking a four-year extension to repay the obligation, Bloomberg News reported in February.

Bloomberg Markets

By Martin Z Braun

July 7, 2022

[Messy Politics Won't Keep Goldman Sachs Out of Texas.]

Housing costs, tax breaks, labor pool more than make up for hardline red state policies.

In about five years, a gleaming new $500 million campus in central Dallas, a stone's throw from the home of the Mavericks' basketball arena, will house thousands of Goldman Sachs Group Inc. staff. The bank, synonymous with Wall Street and New York, is not alone in expanding in southern US states at a time when social conservatives are unleashing a spate of restrictive laws on abortion and education, while knocking down barriers to gun control or using fossil fuels.

Charles Schwab Corp. last year left San Francisco for a new headquarters in Westlake, a Dallas suburb, while Vanguard Group is spending millions to establish an office in the area for financial advisers and technology staff. The hedge fund giant Citadel is shifting its home base from Chicago to Miami.

These two cities are starting to become increasingly significant financial hubs in the wake of the Covid pandemic. The question for banks and money managers being pulled south by tax benefits and lower costs, is whether a deeply conservative climate will make it harder to attract and retain the highly educated, younger workers they need. For now, the signs are that money talks louder than politics. Texas has more Fortune 500 corporate headquarters than any other state even after it passed the most restrictive laws on abortion in the country more than a year ago, a Bloomberg News piece noted this week. A local academic quoted in the article warned that the laws will ultimately hurt the diversity of thought and innovation in the state.

But there's an alternative view for corporate America: People will keep moving South, graduates from the highly rated universities in Texas will build lives there and economic growth will spur more wealth creation. Ultimately, the demographic facts on the ground will govern the political weather. In the near term, the battles between conservative politicians and some corporations whose staff skew more socially liberal will likely get worse before they get better.

States have so far used their municipal-bond programs to wage their fights. Wells Fargo & Co. has warned it faces a de facto ban from Texas bond deals as lawmakers look to stop business going to institutions it deems hostile to energy companies. Another Texas law on gun policies last year shut some banks out of the market, with several other states bringing copycat laws. Politicians have already threatened to make abortion the next bond-market battleground.

It is still unclear what anti-abortion lawmakers can or will do if they want to punish companies that support staff seeking the treatment out of state – but it seems unlikely the answer will be nothing. Some banks like Goldman Sachs have committed to back employees. Others, including Citadel, haven't commented publicly. But according to a person with knowledge of the firm's policies who didn't want to be named, it has always ensured its staff can get the medical care they need.

For Goldman Sachs, though, there are no second thoughts about its ambitious Dallas development plan. The process for planning and building major new offices happens over many years and is not just about the tax breaks: The bank is committed to local hiring in Texas, which is a rich area for technology and engineering recruitment among graduates from Texan universities. These moves are also in response to demographic changes long underway. Dallas is no backwater, and Texas has been one of the fastest growing state economies over the past 20 years.

More widely, there has been a steady trend for more and more workers to head south and west for warmer winters and away from colder, northern cities since 2000, according to Dietrich Vollrath, professor and chair of economics at the University of Houston. In his 2020 book, "Fully Grown," he says this may have been a drag on the US economy for much of this time because the workers were often heading to cities that had less productive industries than their northern counterparts. But as populations grow and density increases, cities like Dallas, Miami and many others could start to make productivity gains.

Vollrath also looks at the role of housing. In a city like San Francisco, development rules are strict and there is no virgin space on which to build. The more people try to move there, the more rapidly housing costs increase, which is a barrier to entry and to growth. Dallas is the opposite: It has few restrictions on what people can build and no limit on surrounding space to build it. That's another big economic reason for companies to keep establishing offices there.

Many in politics and business believe that companies have no business getting involved in cultural and political debates but should stick to creating value for shareholders. But very large employers unavoidably contain the social mores of their employees: The younger, more educated and affluent those people are, the less socially conservative their views might well be. Cities offer tax breaks to encourage economic development. Success on that front could mean political change, too.

Bloomberg Opinion

By Paul J. Davies

July 8, 2022

[Salt Lake City Confronts a Future Without a Lake.]

Utah's Great Salt Lake is disappearing as a "megadrought" persists across the Southwest, forcing the fast-growing city nearby to curb its water use.

From the southern rim of the Great Salt Lake, the largest saltwater lake in the Western Hemisphere, barely any of the pinkish, saline waters that used to engulf the million-acre basin are visible.

"For years the lake lapped right here," says Ella Sorensen, motioning at the gritty dried lake bed underfoot. "But I have watched it disappear over time."

Sorensen is the manager of Audubon's Gillmor Sanctuary, a 3,597-acre wetland preserve along the lake's southern border, about 10 miles from downtown Salt Lake City. Utah's iconic body of water has been beating a retreat from the state's capital: In July 2021, the Great Salt Lake reached its lowest level since measurements began in 1875. The lake's surface area has shrunk to about 950 square miles, according to the US Geological Survey, less than a third of the 3,300 recorded in 1987. This week, the record was broken again.

As the lake has dried, the complex web of life that these brackish waters support has been imperiled, including hundreds of bird species that rely on the insects and shrimp that breed here. "This is a key stop on the migration route," Sorenson says. "But it's mind-bogglingly dry these days.

Blame has fallen on the unprecedented "megadrought" gripping the US Southwest — the region's driest 22-year period in at least 12 centuries, a slow-motion environmental disaster exacerbated by human-caused climate change. According to the US Drought Monitor, 99.9% of Utah is currently in either "severe" or "extreme" drought levels. But the crisis also reflects the growing water demands of an increasingly developed region.

A vanishing lake could spell big trouble for Salt Lake City. The Great Salt Lake is the largest water body in the US after the Great Lakes, and a crucial cog in a fragile regional ecosystem linked to drinking water (not directly, but via evaporation), air quality, biodiversity, and tourism in the city and across the Wasatch Front, a chain of towns and cities containing more than 2.5 million people along the Wasatch Mountain Range.

The lake's value is hard to overstate, says Laura Vernon, the Great Salt Lake coordinator with the Utah Department of Natural Resources (a role created in 2020). Beyond the critical role it plays for millions of migratory birds, brine shrimp farming and mineral extraction bring in hundreds of millions of dollars. And the region's ski industry relies on "lake-effect snow" fed by the lake's moisture. "For too long the lake's value has been overlooked and underappreciated," says Vernon.

The changes are impossible to miss. Antelope Island hasn't been surrounded by water since 2001; "Spiral Jetty," a coil of rocks arranged along the shoreline by sculptor Robert Smithson in 1970, is now a mile from the lake's edge.

"The lake is in big trouble," says Jeremy Shaw, manager of the Antelope Island State Park since 2011. "It's drying up more and faster every year."

Vernon says that equilibrium is being "knocked out of balance." Declining water levels mean salinity is increasing, threatening the brine shrimp. The snowpack that recharges the lake is reducing: Research shows that snow cover in the mountains around the lake melts at least a week earlier than it did 20 years ago. As the bottom of the lake is exposed, winds carry clouds of toxic dust — laced with arsenic and other heavy metals that accumulated both naturally and through man-made pollution — over populated areas nearby.

"Once or twice a month the sky is filled," says Hugh Ferguson, a Salt Lake City resident and keen birder who been seeing more frequent dust storms recently. "You can see it coming from a long way off across the valley. The snow turns brown and it melts quicker because of it."

This confluence of ill effects stands to take a toll on the local economy: A 2019 report commissioned by the Great Salt Lake Advisory Council found low lake levels could result in losses of up to $2.17 billion per year, through lost mineral extraction, the decline in the shrimp and tourism industries, and health costs to area residents, among other reasons.

Perhaps most alarmingly, Salt Lake City will soon not have enough water to support its population: Demand is set to exceed supply in 2040. Utah is the fastest-growing state in the US, and the capital region's population is projected to increase almost 50% by 2060, adding another 2.2 million people. The contraction of the Great Salt Lake, which provides up to 8% of the precipitation on the surrounding mountain ranges that feed into the area's rivers, will cut water supply further.

Part of the problem, critics say, is the city's profligate thirst, and the policies behind it. A state audit in 2015 found that Utah has the highest water use in the US, at 248 gallons per capita, and Salt Lake City charges less for water than all but one of the 30 major US cities surveyed, including desert cities such as Phoenix (which charges 30% more), Las Vegas (36% more), and Santa Fe (82% more). Some local regulations encouraged heavy water consumption, like the city ordinance that required 50% of yards to be covered with "turf, perennial or low growing shrub vegetation" — a figure that has since been reduced to 33%.

On top of that, often the level of residential water consumption simply isn't known: As Salt Lake City has developed, older agricultural systems in households have been updated to urban, pressurized systems without water meters. The audit found that data submitted to the Division of Water Rights contains “significant inaccuracies.”

“These policies have been flawed, to say the least,” says Newsha Ajami, a hydrologist and chief development officer for research at Berkeley Lab’s Earth and Environmental Sciences Area. “There has to be a complete and total mindset shift. Otherwise one day we’ll turn on the faucet and nothing will come out.”

More broadly, the approach to water rights across Utah, where agriculture makes up to 80% of water use, has also come under question. Until this year, under Utah water law, those who own a right or a share had to use their entire annual allocation or it could go to someone else. Such “use it or lose it” clauses in local regulations were once common in the Southwest. A new state regulation, H.B. 33, means farmers can leave some water in streams without losing their allotted amount. But critics say much policy remains outdated. “These past water rights were established in the 1800s in a pre-climate-changed environment,” says Joanna Endter-Wada, a professor of natural resource policy and social science at Utah State University. “They should be modernized.”

Reducing water use would allow more snowmelt reach the parched lake. And the city is belatedly responding with a more conservation-oriented set of policies and practices, according to Laura Briefer, director of Salt Lake City’s public utilities department. Municipal water prices will rise by 10 to 15% per year until 2028. A project with the company Proseeds is providing at-cost drought resistant grass seed to residents, which requires 30% less water than the popular Kentucky bluegrass. “Water maps” are being developed to identify locations with the greatest capacity to conserve water. Greater emphasis, too, will go into reusing wastewater across homes and businesses, and the city has introduced a moratorium on permits for businesses that use significant water, such as data centers. “We are making sure water is an important part of policy,” says Briefer. “In the past that has been very disconnected.”

At the state level, Utah legislators passed a bill in February that will create a $40 million water trust to increase or maintain the water flowing into the Great Salt Lake and sustain its wetlands. In an effort to boost residential water conservation, during this year’s session, Utah also became the first in the US to implement a statewide turf buyback program, setting aside $5 million for cities to compensate residents for removing water-hungry lawns and pay for conservation classes. Another bill, meanwhile, requires water suppliers to meter new and existing pressurized secondary water connections.

But Ajami says that further regulations are needed to prevent the region’s galloping development from draining the lake. “We are building future cities today; we can’t use the model from 100 years ago,” she says.

She points to San Francisco, which has an ordinance requiring buildings over 100,000 square feet to have onsite reuse systems to treat some graywater and reuse it to flush toilets and irrigate plants. “It’s clear that 20th-century infrastructure is not suitable for the 21st-century challenges we are facing,” says Ajami. “And with climate change, there’s less water and less certain supply sources. We need to pay close attention to water governance.”

The confluence of the region’s booming growth trajectory and its deepening water crisis has brought some pleas from residents and lawmakers to limit or halt development. But Utah’s Republican governor, Spencer J. Cox, has resisted calls for measures such as a construction moratorium. “We’ve always been in a dry state, and we’ve had very positive economic development,” Cox said at a press conference in May. “We are in a drought cycle right now. I don’t anticipate that the drought cycle will last forever. I don't know if it will last one more year or five more years or 10 more years."

The issue goes beyond Utah: The Colorado River, a water source for 40 million people across the US Southwest, is also facing record lows and shortages, even as the population of Sun Belt metro areas continues to grow. And globally, climate change is increasing the frequency, severity and duration of droughts, a United Nations report in 2021 concluded, bringing new water crises to growing cities around the world.

"There's a collision between climate change, fast growth and a shrinking Great Salt Lake," says Briefer. "It's a very visual indicator of the risk we face."

Bloomberg CityLab

by Peter Yeung

July 8, 2022

Municipal Bonds In The Second Half Of 2022 (Bloomberg Radio)

Joe Mysak, Editor of the Bloomberg Brief: Municipal Markets, discusses the latest news from the municipal bond market. Hosted by Paul Sweeney and Matt Miller.

Listen to audio.

Bloomberg Radio

Jul 01, 2022

Wall Street Says the Worst Is Over for Municipal Bonds in 2022.

- **Barclays, Schwab expect munis to pare losses in second half**
- **Yields likely won't rise much more and muni credit is strong**

Things can only get better for the $4 trillion muni market in the second half of the year, according to Wall Street strategists.

With the rise in bond yields mostly priced in, the market is on track to pare its 9.25% year-to-date loss, they say. State and local government finances are also looking healthy, which adds to the rosy sentiment.

Large money managers including BlackRock Inc. to Nuveen LLC have become positive on municipal debt recently. Many say munis have suffered from an overreaction by investors, who pulled out a record $87 billion from muni funds, spooked by inflation and aggressive action by the Federal Reserve to contain prices by raising interest rates.

The market posted a record loss for the first six months of the year, with 10-year and 30-year AAA municipal bond yields rising about 170 basis points. Munis could finish the year down 6.25% to 7.25%, according to Barclays Plc and Charles Schwab strategists.

“We’re not going to be able climb our way out of this hole, but we’re setting ourselves up for a pretty good Q4 and 2023”, said Mikhail Foux, head of municipal strategy at Barclays. “The focus is clearly shifting away from inflation to possible recession or at least slower growth. That should put some kind of cap on how high rates will go.”

Investors have bolted from munis even though state coffers are filled with federal stimulus cash as well as personal and corporate income tax receipts. State tax revenue is 25% above its pre-pandemic peak, according to Nuveen, and state rainy day funds are at historic highs, S&P Global Ratings Inc. says.

“The story is that credit quality is very strong,” said Cooper Howard, muni fixed income strategist at Charles Schwab.

A looming recession doesn’t dampen the view. State and local governments have historically performed relatively well during the early parts of recession, even though it has taken them much longer to eventually recover from one, according to Barclays. Some 37 states are already planning to maintain or increase their rainy day fund balances next year to brace for a slowdown, the latest quarterly fiscal survey from the National Association of State Budget Officers, shows.

With recession risk rising, Charles Schwab’s Howard recommends higher-rated AA and AAA bonds. The yield premium on AA bonds has widened to 17 basis points from seven basis points since the beginning of the year, according to Bloomberg indexes.

Investors should also consider longer-duration bonds because the yield premium is higher, Howard said. The difference in yield between 10-year AAA rated debt and 2-year bonds is 80 basis points.

“Now that we believe that the peak in yields is likely behind us, it makes sense to extend duration,” he said.

But investors should still brace for a “choppy” summer in the short term, Barclays’ Foux said. June’s inflation reading and the Fed’s July meeting, along with the end of its bond-buying program, could result in higher yields and make munis cheaper than Treasuries, he said.

“There’s a lot of near-term technicals that could put pressure on rates and make them volatile,” Foux said.

Bloomberg Markets

By Martin Z Braun

June 30, 2022

[Munis Look Solid Amid Rate Volatility: Truist's Hughey]

Chip Hughey, Truist Advisory Services managing director of fixed income, discusses the state of the municipal bond market amid rising interest rates with Taylor Riggs on “Bloomberg Markets: The Close.”

[Watch video.]

Bloomberg Markets: The Close

June 29th, 2022

[Houston Is Barreling Toward ‘Fiscal Cliff’ When Stimulus Runs Out, Watchdog Warns.]

Even if the US avoids recession, fourth-largest city’s financial position in ‘unsustainable,’ controller says

Houston’s budget watchdog is warning that America’s fourth-biggest city is headed toward a “fiscal cliff” once federal stimulus money runs out.

That could trigger City Hall layoffs and perhaps even privatization of some municipal services to balance annual budgets, Chris Brown, the city’s elected controller, said during an interview with Bloomberg News on Thursday. The former equity trader’s gloomy outlook stands in stark contrast to Mayor Sylvester Turner’s recent assessment that the oil capital of the Western Hemisphere is in “pretty good shape” financially.

Brown said that although Houston is in robust fiscal health right now, the threat lurking just below the surface is “irrational exuberance” brought on by hefty injections of federal dollars intended to keep US municipalities and the broader economy afloat amid the worst ravages of the Covid-19 pandemic. Rather than using the stimulus windfall to make upgrades to municipal assets that would lower operating costs over the long term, the city has plowed those dollars into things like pay raises, he said.

“The challenge is when you use one-time financing sources to fund recurring revenues, you make that problem worse in the future,” said Brown, 46, who occupies the city’s second-highest elected office. “It’s not sustainable.”

In the wake of the global pandemic, the Biden administration funneled $350 billion to cities, counties and state governments to stabilize their finances via the American Rescue Plan. Houston used a lot of its allocation to plug a roughly $150 million shortfall that, left unfilled, would have imperiled thousands of municipal jobs, Brown said.

With stimulus funds scheduled to run out at the end of 2024, the city of Houston will find itself with financial obligations far in excess of revenues, most of which emanate from property and sales taxes, Brown warned. By 2025, Houston could be facing a $300 million annual shortfall, he said.

For his part, Turner dismissed Brown’s dire outlook during a separate interview last week. In his seven years as mayor, Houston has never resorted to layoffs, he said.

Houston’s options for raising more revenue are limited but could involve selling real estate; past administrations have taken such steps, selling assets such as the Compaq Center pro basketball arena, Brown noted. But there may be no avoiding job cuts and inviting the private sector to take charge of some city services, he said.

“It’s not something that I like talking about, but you need that alternative perspective,” said Brown. “Yeah, things are good now because we have this surprlus of cash, but structurally we’ve actually made the problem worse.”

Bloomberg Markets

By David Wethe and Danielle Moran

June 30, 2022, 1:07 PM PDT

Alabama Sells Munis for Prisons After Deal Cut by $216 Million.

- **Issue was reduced to about $509 million after tepid demand**
- **Activists have been critical of the proposal for new prisons**

Alabama wrapped up a $509 million sale of municipal bonds on Wednesday to finance new correctional facilities in the state, completing the transaction despite weak demand that caused underwriters to shrink the offering by more than $200 million.

The deal was originally supposed to total $725 million, and was slashed as it struggled to lure buyers, according to people familiar with the matter. The reduction came mainly in longer-dated segments, where the 30-year maturity was cut to roughly $71 million from the $199 million originally offered.

Some municipal-bond managers chose not to participate because the deal would finance prisons, and some socially responsible investment firms had criticized the transaction. Other investors said the yields on the bonds weren't high enough to draw their interest.

Proceeds of the offering, for which the lead underwriters are Stephens Inc. and Frazer Lanier Company Inc., will be used to finance the construction of two men's correctional facilities, each designed to house about 4,000 people who are incarcerated.

The construction of new prisons has been controversial in Alabama, where activists say the projects will perpetuate mass incarceration. The state has one of the nation's highest incarceration rates, according to a 2021 report from the Prison Policy Initiative, a research group.

Bruised Market

The deal came to market amid a challenging environment for municipal borrowing. With the fixed-income universe slumping as the Federal Reserve boosts interest rates to combat inflation, investors have been yanking money from muni-bond funds for months, making it tougher for underwriters to place new issues.

The muni market has lost more than 9% this year, but the longest-maturity debt has absorbed the biggest hit, with bonds due in more than 22 years sinking 15%, Bloomberg index data show.

On Tuesday, underwriters were short around $200 million of orders on the deal, even after raising yields on some segments, according to people familiar with the transaction. Demand was weak for the 30-year maturity in particular, the people said.

Also Tuesday, the issuer said it was facing litigation from incarcerated people who say Alabama should use funds to improve conditions in its existing penitentiaries before it pays interest on debt.

Lawyer Frank Ozment said in an interview that he filed a complaint in intervention so the court can clarify that the state should spend money to comply with a December court injunction before it makes bond payments.

In a filing, the state said it has already agreed to prioritize following court orders and consent decrees before paying bondholders, and therefore it doesn't believe the complaint will have any impact on its bonds. It also said it's appealing the December ruling.

A spokesperson for Alabama's finance department didn't have an immediate comment. A representative for Stephens, which is based in Little Rock, Arkansas, declined to comment, while a call to Frazer Lanier's office in Montgomery, Alabama, wasn't returned.

Bloomberg Markets

By Danielle Moran and Amanda Albright

June 29, 2022

Atlanta Has More Going for It Than Any US Metropolis.

While municipal finances deteriorated across the country during the pandemic, the city was able to achieve the strongest measure of credit quality based on 10 economic criteria.

Atlanta is emerging from Covid-19 with impeccable credit, the world's busiest airport and an economy delivering two-thirds of Georgia's gross domestic product. It's home to 13 companies in the S&P 500 Index, including Delta Airlines Inc. and Home Depot Inc., whose sales and market valuations make them No. 1 in the world in their respective industries. At 2.4%, Atlanta's unemployment rate is at a record low and below the 3.6% national average, according to data compiled by Bloomberg.

"Wakanda" and "Silicon Peach" are the city's newest nicknames because so much of the blockbuster movie hit Black Panther was made where so many "techstars" are rising. Diversity underlines every business in the second-largest majority black metro area with one of the highest LGBTQ populations per capita anywhere in the US. Unlike its economic peers, Atlanta has been managed by a black Democrat since 1974 and is the main reason why the state in 2020 backed the first Democrat in almost 30 years for president.

When Maynard Jackson became the first Black mayor of any major city in the South in 1974, garnering 60% of the vote, his two biggest initiatives would stand the test of time: Making Atlanta's Black citizens essential participants in the economy, which required massive changes in corporate culture and public works, including the upgrade of what was then called the William B. Hartsfield Atlanta International Airport and the expansion of the Metropolitan Atlanta Rapid Transit Authority (MARTA) rail-line system. Jackson was so effective at transforming Atlanta into a global transportation hub that as the longest serving mayor of the city after William B. Hartsfield, his legacy is the renamed Hartsfield-Jackson Atlanta International Airport.

Andre Dickens, the 47-year-old former city council member who was elected Atlanta's 61st mayor by winning 64% of the vote in November, inherits all the problems of big city mayors, especially a paucity of affordable housing and rising homicides. He's familiar with Jackson's agenda and is determined to see bank lending increase to marginalized borrowers and persuade companies to ensure that at least 30% of their workforces are made up of local residents.

When Microsoft Corp. recently opened new Midtown offices for 2,500 employees and purchased land for an additional 10,000, Dickens said he told the software company's president, Brad Smith, that "if you import all this talent from Redmond (Washington) or San Francisco or the coast because they can live off $150,000 and you plop them down in Atlanta, where you got people making less than $15 an hour, you're going to upset our ecosystem."

Housing is his biggest challenge. "We put together $65 million in this year's budget just for affordable housing," Dickens said in an interview with reporters and editors at Bloomberg News's Atlanta bureau earlier this month. "Some of that is rent stabilization, to help people that raise their hand and say, `My rent went up by $250 and I just don't have it.' So we're going to be helping those folks just directly staying in their house." The federal Community Reinvestment Act "was there to protect the existing homeowners," Dickens said, "by making sure that we get reinvestment." "This could be some 2.0 or some next level version" of the CRA "just to allow for communities to not be overrun by bank investors," he said.

Fortunately for Dickens, the city of 510,000 residents outperforms larger cities with bigger urban populations, such as Los Angeles, Houston and New York, as well as similar-sized Miami, Milwaukee and Sacramento, with a coveted superlative: exceptional creditworthiness. While municipal finances deteriorated across the country during the pandemic, data compiled by Bloomberg show Atlanta achieved the strongest measure of credit quality based on 10 economic criteria: total assets, building permits, total liabilities, house price index, excess revenue over expenditures, other funds, property tax revenue, median income, non-farm employment and unemployment.

The combination of falling liabilities, rising tax revenue and median income are proving unbeatable, giving Atlanta Bloomberg's highest investment-grade rating of IGI 1, superior to distressed Chicago (DS1), Philadelphia (IG4), New York, Milwaukee, Miami (IG3), Houston, Kansas City, Los Angeles and Sacramento (IG2). Only Phoenix, with a population almost three-and-a-half times Atlanta's, can match its credit quality, according to data compiled by Bloomberg.

No American city comes close to matching the success of the Hartfield-Jackson Atlanta International Airport, the world's perennial No. 1 and whose passenger traffic increased 76.4% from the depths of the pandemic in 2020 to 75.7 million in 2021, according to Airports Council International. In the US, Dallas/Fort Worth, Texas is an also-ran at No. 2, with 62.5 million. "Our airport is immensely helpful" because people want to have the ability to fly anywhere in the US, which Atlanta makes easier than its competitors, said Dickens.

The other ingredient of Atlanta exceptionalism is the diversity of the city's business community, said Dickens, pointing to the Women Entrepreneurship Initiative, which bills itself as the only city-funded program of its kind in the nation. "No place in the nation do you have this depth and breadth of black talent, let alone black women talent," he said. "If you support black women business owners, you're basically supporting the family in the community, and I love that logic model."

That's another reason why Atlanta has more going for it than any American metropolis.

Bloomberg Opinion

By Matthew A. Winkler

June 27, 2022

Alabama's Prison Bonds Hit Snag Amid Weak Demand, Litigation.

- **State plans to sell $725 million of muni bonds this week**
- **Orders for the securities are falling about $200 million short**

Alabama is struggling to line up buyers for a $725 million bond sale to fund its two prisons.

Underwriters were short around $200 million of orders on the bond deal as of Tuesday, according to people familiar with the matter. Demand was weak for the 30-year maturity in particular, the people say.

Earlier on Tuesday, underwriters for the bonds raised the yields offered by about 5 basis points on some maturities compared with what was offered the previous day during the pre-marketing period, according to pricing wires viewed by Bloomberg.

A spokesperson for Alabama’s finance department declined to comment. A spokesperson for Stephens, a senior underwriter for the bonds, didn’t have an immediate comment.

Tepid demand for the bonds is the latest in a series of obstacles for this sale. Earlier on Tuesday, the issuer said it was facing litigation from incarcerated people who say the state should use funds to improve conditions in its existing penitentiaries before it pays interest on debt.

Lawyer Frank Ozment said in an interview that he filed a complaint in intervention so the court can clarify that the state should spend money to comply with a December 2021 court injunction before it makes bond payments.

“To say, we’re going to take this money to pay the bondholders before we use it to comply with the injunction is wrong,” Ozment said.

Prison Safety

In a filing on Tuesday, the state said that it has already agreed to prioritize following court orders and consent decrees before paying bondholders, and therefore it doesn’t believe the complaint will have any impact on its bonds. It also said it’s appealing the Dec. 2021 ruling.

The sale had run into difficulty even before then. In April 2021, Barclays Plc pulled out of its role as lead underwriter for the offering, and KeyBanc Capital Markets, another manager, said it was also resigning from the sale.

Alabama has faced litigation over the safety of its prisons for years. People who were incarcerated filed a class action suit against the state in 2014, alleging, among other complaints, that the prisons were failing to provide adequate medical care to people in custody. In December 2021, a US judge found that there were “many deeply serious problems” with the state’s mental health care for prisoners and ordered sweeping fixes.

In 2020, the US Department of Justice sued the state and its corrections department for failing to protect male prisoners from violence, sexual assault, and other unsafe conditions.

Alabama had the second-highest prison mortality rate among US states in 2019, according to Bureau of Justice Statistics data. It also has one of the highest incarceration rates in the country, according to a 2021 report from the Prison Policy Initiative, a think tank. As of 2017, Black people accounted for about 54% of the state’s prison population but only 28% of state residents, according to the Vera Institute of Justice.

Tough Market

Selling tax-free bonds has generally grown more difficult this year, as the Federal Reserve has tried to tame inflation by lifting rates. Municipal bonds have lost 9.3% of value this year, according to Bloomberg index data, accounting for both prices changes and interest payments. Investors have yanked money from municipal bond funds for 18 of the last 19 weeks, including pulling $1.6 billion last week, according to Refinitiv Lipper US Fund Flows data.

Prison reform activists and money managers that focus on socially responsible investing are encouraging investors not to buy these bonds.

“We strongly urge banks and investors to refuse to purchase securities that will be offered on June 28th whose purpose is to perpetuate mass incarceration and continued control over Black and Brown bodies,” wrote the group led by Justice Capital’s Christina Hollenback and Eric Glass said in a Monday statement.

State Governor Kay Ivey said in 2020 that building new facilities will make the system better, saying in a statement, “we must rebuild Alabama’s correctional system from the ground up to improve safety for our state’s correctional staff and inmate population, and we must do it immediately.”

Bloomberg Markets

By Amanda Albright and Danielle Moran

June 28, 2022

[Is an End in Sight for A Historic Bond Market Decline?]

Nowhere to run to baby, nowhere to hide
I got nowhere to run to baby, nowhere to hide
Song by Martha & the Vandellas, 1965

The first couple lines of the iconic 1960s song “Nowhere to Run” best describes the difficult atmosphere of the bond markets in the first half of this year. Indeed, as illustrated below, the market beatdown affected every major sector of the bond market and brought returns across the board to historic lows for this year and the last several years. The primary reason for the historic drawdown was the Federal Open Market Committee’s (FOMC) adoption of a significantly tighter monetary policy in response to raging domestic inflation, which signaled multiple short-term rate increases.

Continue reading.

etfdb.com

By Bob Smith, Sage Advisory President

Jul 08, 2022

Con

With Low Prices and High Yields, Municipal Bonds Are Alluring.

The bad news is that 2022's first half was dreadful for stocks and bonds. The good news isn't just that it's over, but that the massive markdowns present opportunities. That's especially true for municipal bonds, where the plunge in prices has lifted yields to levels competitive with equities'—with much lower risk.

In round terms, yields have roughly doubled on munis, along with those on Treasuries, since the beginning of the year. Moreover, top-grade tax-free long-term munis now yield more than comparable Treasury long bonds. Since the end of 2021, triple-A-rated munis' yields have increased by 177 basis points—each basis point is equal to 1/100th of a percentage point—to 3.26% Thursday, surpassing the 3.12% yield on the 30-year Treasury. That means the long muni was generating 104.5% of the Treasury bond's yield, compared with 78% at the end of 2021. (Yields fell later in the week.)

And among munis just below the top credit tier, spreads—the extra yield premium to compensate for risk—have widened, albeit somewhat less than for corporate bonds. Good-quality munis, rated double-A or single-A, yield close to their corporate counterparts. That makes munis' after-tax yields substantially higher in taxable accounts (that is, other than tax-deferred retirement ones).

To be sure, the price adjustment has been painful for municipal bond investors. The iShares National Muni Bond exchange-traded fund (ticker: MUB) returned a negative 8.20% from the beginning of the year through June 29, according to Morningstar. It's only a small consolation that the iShares Core U.S. Aggregate Bond ETF (AGG), which tracks the U.S. taxable investment-grade bond market, fared worse—it lost 10.56% in the same stretch. Or that stocks suffered much more, with the SPDR S&P 500 ETF (SPY) returning a negative 19.33%.

But the price drops have made munis' valuations compelling. That's especially true for investors in high-tax states, who haven't been able to deduct state and local taxes from their federal tax returns in recent years, observes John Mousseau, chief executive and director of fixed income at Cumberland Advisors, which manages separate accounts using munis.

For investors without state and local income levies, munis yielding 4.25% are the equivalent of taxable bonds yielding about 7%, he says. But for those in high-tax states facing total marginal rates over 50% (including the 3.8% extra levy on investment income mandated under the Affordable Care Act for certain high-income investors), the yield is comparable to about a 9% taxable return. That is competitive with equities when adjusted for munis' lower risk, he adds.

Munis' repricing reflects both the jump in Treasury yields and factors peculiar to the sector, observes John Miller, head of municipals at Nuveen, a major manager of state and local bond funds. That was exacerbated by huge outflows from muni mutual funds, which are approaching $85 billion this year, already topping the previous full-year outflow of about $72 million in 2013, he says. Ironically, this is occurring despite the fundamental improvement in state and local finances resulting from the big jump in tax revenue with the economy's recovery from Covid-driven weakness in 2020.

To illustrate the current opportunities, Miller cites bonds issued to finance the renovation of New York's LaGuardia Airport. When Joe Biden was vice president in 2014, he called LGA a third-world facility, which locals said was unfair to emerging nations' airports. Now, after a multibillion-dollar renovation, the once-despised airport has returned to the top tier (although getting there remains a nightmare).

Uninsured New York State Transportation Development Corporation LaGuardia Airport Terminal B Redevelopment Project Series A bonds (rated at the lower end of the investment-grade bond scale) with a 5.25% coupon were priced to yield 4% if called in 2024 or 5.10% at maturity in 2050. To a New York City resident in the top bracket, the latter is equivalent to a fully taxable 11.49%. (The top 55.6% tax rate on Big Apple denizens making over $25 million annually, along with rising crime, helps explain the exodus to lower-tax locales.) Insured bonds, which get a double-A rating, have a 4% coupon and were priced at 88.75% of face value, for a yield of 4.72% at maturity in 2051.

Another attractive credit also hails from the New York metro area. Mousseau cites the general obligation bonds from Long Beach, a Long Island city that has beaches similar to those in the Hamptons, without the hype. With insurance that provides a double-A rating, he likes its 5.25% bonds, priced at a premium to yield 4.73% at maturity in 2042 and 4.25% if called in eight years. That's equivalent to nearly 9% for the highest-taxed New Yorkers, he notes.

For the more speculative-minded, leveraged closed-end funds offer higher yields but with increased risk.

In addition to the Nuveen Municipal Credit Income Fund (NZF), Miller also points to Nuveen Municipal Credit Opportunities (NMCO), which trades at a small discount to its net asset value, while paying a current tax-free yield of 6.11%.

One calendar wrinkle to consider: Beginning July 1, muni investors receive a wave of cash payments from interest coupons, called bonds, or holdings hitting maturity. That cash must go somewhere and, given the parlous state of the equity market, Mousseau expects most of it to be reinvested in municipals. At the same time, both he and Miller suggest that investors swap depreciated bonds for similar securities to book tax losses, in order to offset gains on other holdings.

With stocks in a bear market, munis look like a good place to ride out the storm.

Barron's

By Randall W. Forsyth

July 1, 2022

TAX - NEW YORK

DCH Auto v. Town of Mamaroneck

Court of Appeals of New York - June 16, 2022 - N.E.3d - 2022 WL 2162629 - 2022 N.Y. Slip Op. 03929

Net lessee, which was contractually obligated to pay real estate taxes on the leased parcel of real property on which it operated its car dealership, challenged tax assessments by town and village by filing grievance complaints with local board of assessment review and, after the board reviewed and denied the challenges, filed petitions for judicial review.

Town and village jointly moved to dismiss. The Supreme Court, Westchester County, dismissed petitions, and net lessee appealed. The Supreme Court, Appellate Division, affirmed. Leave to appeal was granted.

The Court of Appeal held that a net lessee who is contractually obligated to pay real estate taxes on the subject property is a “person whose property is assessed” within meaning of the Real Property Tax Law (RPTL) provision setting forth the requirements for initiating administrative review of a tax assessment, and so an initial administrative complaint filed with the assessor or board of assessment review by a net lessee satisfies the provision, such that the net lessee may properly commence a proceeding for judicial review upon rejection of its grievance, abrogating *Circulo Housing Development Fund Corp. v. Assessor of City of Long Beach*, 96 A.D.3d 1053, 947 N.Y.S.2d 559.

TAX - COLORADO

Chronos Builders, LLC v. Department of Labor and Employment, Division of Family and Medical Leave Insurance

Supreme Court of Colorado - June 21, 2022 - P.3d - 2022 WL 2207478 - 2022 CO 29

Employer brought action challenging the constitutionality of collection of premiums from employers to fund the Paid Family and Medical Leave Insurance Act.

The District Court dismissed the action. Employer appealed. On parties’ joint petition, certiorari review was granted.

The Supreme Court held that as matter of apparent first impression, premiums collected to fund paid leave under Paid Family and Medical Leave Insurance Act did not amount to “added tax or surcharge” pertaining to income tax law.

Premiums collected from employers and employees to fund paid leave from employment under the Paid Family and Medical Leave Insurance Act did not amount to “added tax or surcharge” pertaining to income tax law that would be prohibited under State Constitution’s Taxpayer’s Bill of Rights (TABOR); unlike taxes, which were designed to raise revenues to defray general governmental expenses, the premiums were fees used “to defray the cost” of providing paid family and medical leave to employees.

TAX - MAINE

State Tax Assessor v. TracFone Wireless, Inc.

Supreme Judicial Court of Maine - June 23, 2022 - A.3d - 2022 WL 2252165 - 2022 ME 36

Tax Assessor and taxpayer, a provider of telecommunications services, both petitioned for review of decision of Board of Tax Appeals as to assessment of prepaid wireless fee and service-provider tax.

The Business and Consumer Court denied taxpayer’s motion to compel release of information in discovery and granted summary judgment to Assessor. Taxpayer appealed.

The Supreme Judicial Court held that:

- Particular service offered by provider was not “paid for in advance” and thus was not a prepaid wireless telecommunications service that would be subject to prepaid wireless fee;
- Process by which provider operated such service was a “sale” that would trigger telecommunications service-provider tax; and
- Statute requiring Tax Assessor to publish notice of significant change in bureau policy or practice within 60 days of such change provides neither any defense for those who have been affected by

the Assessor's actions, or lack thereof, nor any consequence for the Assessor should it fail to comply.

Service operated by telecommunications provider pursuant to Federal Communications Commission (FCC) program, through which low-income consumers received set number of telephone minutes each month for an amount which did not exceed subsidy received by provider from government, was not "paid for in advance" and thus was not a prepaid wireless telecommunications service that would be subject to prepaid wireless fee, even though service did not have monthly billing relationship with consumers, where there was no consistent practice of payment by government to provider in advance of provider's rendering the service.

Process by which telecommunications provider operated service under which low-income consumers received set number of telephone minutes per month was a "sale" that would trigger telecommunications service-provider tax, even if consumers themselves did not pay provider; process amounted to a consumer signing up for service and receiving minutes from provider, following which provider received payment from government.

Statute requiring Tax Assessor to publish notice of significant change in bureau policy or practice within 60 days of such change provides neither any defense for those who have been affected by the Assessor's actions, or lack thereof, nor any consequence for the Assessor should it fail to comply.

[The Growing Trend of Anti-Boycott Laws and the Effect on Public Finance – Is Arkansas Next?]

In a nation seemingly becoming more polarized along political lines every day, not even the normally quiet and steady world of public finance remains untouched. Recently proposed and adopted anti-boycott type legislative initiatives in several states, and the emergence of environmental, social and governance (ESG) issues in the securities world, have begun to lead partisan political battles into the world of public finance. Arkansas has largely avoided these issues so far, but how long that status will last remains to be seen.

The trend of state-level legislation seeking to address hot-button political issues generally began several years ago with the promotion and adoption of legislation in numerous states which restricted the ability of states and political subdivisions to enter into contracts with companies (and in some cases, individuals) with policies deemed to be anti-Israel (known as the boycott, divestment and sanctions (BDS) movement). Arkansas is one of thirty-four (34) states which has enacted laws targeting the BDS movement (Ark. Code Ann. § 25-1-501, *et seq*.)1.

While anti-BDS laws did not seem to have much effect on the public finance markets, the conceptual framework underlying anti-BDS laws is beginning to. Over the past year, several states have begun employing the anti-BDS model to address other hot-button political issues. In particular, the energy (fossil fuel) and firearms/ammunition industries have become a focus of these efforts.

For example, in the past year, Texas has passed legislation prohibiting contracts with companies that boycott or discriminate against the firearm and ammunition industries (Tex. Gov't Code Ann. § 2274.001 *et seq*) and certain energy companies (Tex. Gov't Code Ann. § 2274.001 *et seq*). These statutes have similar requirements and apply to contracts between governmental entities and companies with ten or more full-time employees. The legislation applies to contracts with a value of $100,000 or more which are paid, in whole or in part, from public funds. Both statutes require that the companies seeking to enter contracts with the governmental entities provide written certifications regarding the companies' compliance with the statutes.

The Texas legislation has had real effects in the Texas public finance arena – particularly with respect to bond underwriters. Large national underwriting firms such as Morgan Stanley, Wells Fargo, JPMorgan Chase & Co., Bank of America Corp. and Goldman Sachs Group, Inc. have either been removed, withdrawn from, or forced to reduce (or in some cases, eliminate) their participation in Texas municipal bond transactions.

Texas is not the only state that has applied the anti-boycott model to various politically sensitive industries or issues. Alaska, Arizona, Idaho, Indiana, Kansas, Kentucky, Louisiana, Minnesota, Missouri, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Utah, West Virginia and Wisconsin, have all introduced similar legislation addressing contentious issues. These proposals are at various different stages of the process in these states.

The imposition of anti-boycott type legislation will likely not be without cost in the public finance markets. By limiting potential underwriting (or direct purchaser) options, bond issuers may see increased borrowing costs. While this potential effect may be somewhat muted in a state like Texas, which boasts the second-largest public finance market in the country, due to the sheer number of market participants in the state, smaller states with smaller public finance markets and fewer participants (such as Arkansas) could see bigger effects.

There are no pending anti-boycott type legislation proposals in Arkansas at this point. However, given the political landscape and the growing trend of such legislation around the country, it is not unreasonable to anticipate that similar proposals will be coming. Because of Arkansas's relatively small public finance market and the makeup and nature of the primary underwriter and banking firms active in the state, it is unclear exactly what effect any anti-boycott legislation will have. However, it is an important emerging national trend and is worth monitoring going forward.

1The Arkansas anti-BDS law was challenged in federal court in the case of *Arkansas Times vs. Waldrip, et. al.* A federal district court ruled Arkansas's anti-BDS law violated the First Amendment to the U.S. Constitution. This decision was originally upheld by a three-judge panel of the United States Court of Appeals for the Eighth Circuit, but later overturned by the full Eighth Circuit in a decision handed down on June 22, 2022. The Arkansas Times has indicated that it intends to appeal the Eighth Circuit's decision to the U.S. Supreme Court.

---

1 The Arkansas anti-BDS law was challenged in federal court in the case of *Arkansas Times vs. Waldrip, et. al.* A federal district
court ruled Arkansas's anti-BDS law violated the First Amendment to the U.S. Constitution. This decision was originally upheld
by a three-judge panel of the United States Court of Appeals for the Eighth Circuit, but later overturned by the full Eighth
Circuit in a decision handed down on June 22, 2022. The Arkansas Times has indicated that it intends to appeal the Eighth
Circuit's decision to the U.S. Supreme Court.

---

by John Bryant

June 30, 2022

Mitchell, Williams, Selig, Gates & Woodyard, P.L.L.C.

[Michigan Emergency Services Authorities Authorized to Incur Debt for Capital Projects and Equipment: Miller, Canfield]

On June 15, 2022, Michigan Governor Gretchen Whitmer signed legislation amending Act 57, Public Acts of Michigan, 1988 ("Act 57″), to authorize an emergency services authority, established under Act 57 by municipalities to provide emergency services, to incur debt for the purposes of purchasing real or personal property or financing the costs of buildings and facilities. The legislation cures an omission that had limited Act 57 authorities from efficiently financing needed emergency response capital assets.

Specifically, Act 102, Public Acts of Michigan, 2022 ("Act 102"), authorizes an authority to enter into a contract or agreement for the purchase of real or personal property to be financed over a period not-to-exceed 15 years. This installment purchase method of financing is similar to that authorized for cities, townships and villages under Act 99, Public Acts of Michigan, 1933, as amended, although Act 102 authorizes the emergency services authority to pledge the real or personal property acquired as collateral in support of the contract.

In addition, Act 102 authorizes an emergency services authority to issue its bonds or notes to finance the costs of acquiring, constructing, furnishing and equipping buildings and facilities, including the acquisition of property.

Bonds issued by an emergency services authority may be limited tax bonds or unlimited tax bonds. Limited tax bonds are bonds that are payable from existing revenues of the authority and may be issued without a vote of electors. Unlimited tax bonds must be submitted to a vote of the electors of the authority. If approved by the electors, unlimited tax bonds are then payable from a special debt millage levied annually by the authority for the duration of the bond issue.

Bonds or notes issued by an authority are a debt of the authority only, and do not constitute debt of any of the incorporating municipalities. However, if an incorporating municipality withdraws from an authority, the municipality shall be liable for its proportion of the debts and liabilities of an authority incurred while the municipality was part of an authority. Taxes levied or imposed for the payment of unlimited tax bonds approved by electors before adoption of the resolution to withdraw must continue to be levied within the municipality as if the municipality did not withdraw from the authority until such bonds are paid in full.

An authority is limited to borrowing money or issuing its bonds or notes in a sum that, together with the total outstanding bonded indebtedness of the authority, does not exceed 5% of the state equalized value of all of the taxable property within the jurisdictional limits of the authority.

Tuesday, June 28, 2022

[BondLink Makes Key Hires to Strengthen Future of Investor Transparency for Municipal Governments.]

Industry-leading investor relations (IR) platform hires four public finance veterans to meet the needs of evolving municipal bond market

BOSTON, MA / ACCESSWIRE / June 28, 2022 / BondLink, the cloud-based investor relations and debt management platform for the municipal bond market, today announced it has added four new members to its team to further expand its investor transparency initiatives.

“Our growing team of public finance experts are uniquely qualified to help municipal issuers become more transparent and find new ways to stand out in today’s competitive market,” said Colin MacNaught, CEO and co-founder of BondLink. “I’m thrilled to have Ted Damutz, Robert Smith, Emina Masic, and Alex Palazzolo on the BondLink team. They bring an incredible breadth of knowledge and experience and already are providing new perspectives on how we can leverage our capabilities to better serve our clients.”

BondLink made key investments in its industry-leading team by hiring:

- **Ted Damutz** as regional director of Issuer Solutions. Damutz previously spent three years as the treasury manager for the City of Raleigh. Prior to that, he served as a team leader and senior credit officer at Moody’s for more than 20 years. Additionally, Ted is a member of the National Federation of Municipal Analysts Board of Governors, a position he has held for a total of 10 years throughout his career.
- **Robert Smith** as regional director of Issuer Solutions. Smith has over 40 years of municipal experience, previously spending seven years as a senior vice president of relationship management at Moody’s. Earlier, he served as an executive vice president at HRF Associates and a managing director at ACA Financial Guaranty Corporation.
- **Emina Masic** as regional director. Before joining BondLink, Masic worked as a public finance investment banker at Truist Securities, Huntington, and Siebert Williams Shank. She started her career as a graduate intern for the City of Philadelphia Treasurer’s office.
- **Alex Palazzolo** as regional director of issuer solutions, largely serving Texas-based entities. Palazzolo previously served as a vice president at Stifel Financial Corp., in public finance roles at Wells Fargo Securities and Moody’s, and as a managing director at Stonebriar Commercial Finance.

“I’m looking forward to partnering with municipal issuers around the country to help them more effectively communicate their public finance initiatives, manage their debt profiles and highlight their strengths,” said Ted Damutz. “I know, from first hand experience, how many municipalities have been under-staffed the past few years and how urgently enhanced transparency is needed for the buy-side. I’m excited to be part of BondLink and help issuers stand out in the muni-bond market by promoting their strengths beyond SEC-required disclosures.”

“It’s been amazing to see how well BondLink collaborates with different members of the financing team,” said Emina Masic. “I’ve already witnessed how much issuers and their advisors can benefit from the robust data and efficiencies our platform provides. So, I’m particularly excited to continue demonstrating that.”

For more information about open positions at BondLink, please visit www.BondLink.com or email careers@bondlink.com.

About BondLink

BondLink, a cloud-based investor relations and debt management platform for the municipal bond market, helps issuers engage more bond investors through transparency and actionable insights. Founded by CEO Colin MacNaught, who spent seven years issuing nearly $25 billion in bonds on behalf of the Commonwealth of Massachusetts, and CTO Carl Query, BondLink went live in 2016. BondLink clients issued more than $50 billion in bonds in 2021. BondLink provides its issuer clients with tools to manage their capital financing programs more efficiently while providing investors with the interim financial reports and data they need to close information gaps and make informed decisions through a single platform. The company is backed by top investors within the municipal bond market, including Intercontinental Exchange and Franklin Templeton. Headquartered in Boston, BondLink recently was named to the 2022 GovTech 100, marking its fourth consecutive appearance on the annual list. For more information, visit www.bondlink.com, and connect on LinkedIn and Twitter.

This ‘Unfamiliar’ Type of Bond Fund May Offer Opportunities for Fixed-Income Investors.

KEY POINTS

- As muni bonds are exempt from federal tax and many states’ taxes, effective after-tax yields of some muni closed-end funds are as high as 7%.
- A recent sell-off has tamped down share prices on municipal bond funds, creating a historically wide price discount from net asset value.
- Historically substantial CEF discounts come at a time of generally improved credit ratings in the muni market.

Continue reading.

cnbc.com

David Sheaff Gilreath, *partner/CIO of Sheaff Brock Investment Advisors and institutional asset manager Innovative Portfolios*

JUL 1 2022

How To Find Bargains In Municipal Bond Funds.

Tax-exempt bonds have gotten a lot cheaper. Here’s a guide to finding the best deals.

Rates up, prices down. The bond market crash has not spared municipal-bond funds. In the first half of the year they have managed to lose as much as 30% of their investors’ money.

Look on the bright side. If you’re one of the losers, take a capital loss and immediately reinvest in a similar (but not identical) fund. If you are new to tax-exempt investing, relish the fact that you’ll get a much better deal now than you would have just a few months ago.

For this guide I picked through three different kinds of muni funds—mutual, exchange-traded and closed-end—looking for good deals. Here, “good” means having an annual net cost no higher than 0.2%, or $200 a year per $100,000 invested.

Continue reading.

Forbes

William Baldwin

Jul 1, 2022
