

# **Bond Case Briefs**

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## **Congressman Tom Reed: A Former Mayor and Muni Supporter.**

WASHINGTON — As Mayor of Corning, N.Y., Tom Reed saw how capital could be raised for road, water and sewer improvements through the issuance of tax-exempt bonds.

Now, as a congressman and member of the powerful House Ways and Means Committee, Reed has made tax-exempts one of his priorities, introducing legislation on bank-qualified bonds and disaster relief.

Some opponents of tax exemption for municipal bonds think that governments can pay for projects through one year's tax levy or by saving up money over time. However, many communities do not have access to a large tax base, said Reed, a Republican whose district includes parts of upstate New York.

"When you're talking millions of dollars that are necessary for a small community to put in a roadway, to put in a sewer line or water line or wastewater treatment facility, you need the leverage of bonding in order to get that done," he said in a recent interview for The Bond Buyer, part of a series of profiles of members of Congress.

Reed, 43, was first elected to Congress in a special election in 2010.

Reed, who served as mayor of Corning, a city of about 11,000, in 2008 and 2009, said his time in the post greatly affected how he views issues in Congress. Also, it's a "natural fit" for him to work with Democrats in Congress who are also former mayors, he said.

"As mayors, you get a different sense of the needs of local communities because you've been on the front line" he said. "And as we deal with municipal financing, making sure that the front line voices of our local officials are listened to, is something that I think naturally brings us together in bipartisan ways."

Chuck Samuels, a partner at Mintz Levin and counsel to the National Association of Health and Educational Facilities Finance Authorities, said Reed has been a leading supporter of bonds in Congress in part because of his connections to his district.

While some people come to Congress and forget their roots, Reed is "absolutely not that person," he said.

### **Bank-Qualified Bond Bill**

Reed introduced a bill on bank-qualified bonds last month. It is similar to measures he sponsored in prior years.

Bank-qualified bonds are bonds that small issuers can sell to banks, who can then deduct 80% the interest expense they incur from purchasing or carrying the bonds.

Currently, bonds can only be bank-qualified if the issuer reasonably expects to issue no more than \$10 million a year. The \$10 million limit was temporarily increased to \$30 million under the American Recovery and Reinvestment Act, but that expired at the end of 2010. Outside of that temporary increase, the bank-qualified limit has never been raised or indexed to inflation.

Reed's bill, H.R. 2229, would raise the bank-qualified bond limit to \$30 million from \$10 million and index the limit to inflation. It would also apply the limit at the borrower level in conduit transactions involving 501(c)(3) nonprofit bonds. As a result, bonds issued for nonprofits that borrow no more than \$30 million in bond proceeds in a year could be bank-qualified even if the issuer sells more than that amount of bonds annually.

Bank-qualified bonds are most often privately placed with banks. Since there is only one purchaser of the bonds and the issues tend to be small, issuers of the bonds don't have to pay as much in costs for bond counsel, bankers and advisors, Samuels said.

"Some of these communities that can benefit from the bank-qualified bonds are smaller communities, they don't necessarily need to have the bond counsel cost and the time that's necessary to go through a normal bonding process," Reed said.

Also, the banks that buy bank-qualified bonds tend to be local banks. "Who best knows their community than your local representatives, your local bankers who are living and breathing in the community day in and day out?" Reed asked.

The Municipal Bond Market Support Act was last introduced in the Senate in 2011 by former Sen. Jeff Bingaman, D-N.M., who has since retired. Reed said he is trying to identify Senators to take the lead on this issue in that chamber and is particularly looking at members of the Senate Finance Committee, which has jurisdiction over tax issues.

Reed said he hopes the legislation could pass as a stand-alone bill, but "realistically it's probably going to have to ride along with some other reforms" such as package of tax reforms or legislation relating to expired tax provisions known as "extenders."

Samuels said that Reed recognizes the connection between what appears to be an esoteric issue and facilities in his district that provide services to his constituents. In October 2014, Reed explained his bank-qualified bill to students at Jamestown High School in his district.

Muni market groups back Reed's bill and hope to see it enacted.

"The BDA has worked hard for an increase in bank-qualified bond issuance for years and we greatly appreciate Congressman Reed's continued leadership and his support in promoting the benefits of tax-exempt bonds to local communities," said Mike Nicholas, chief executive officer of the Bond Dealers of America.

"We support his bill to expand bank-qualified bonds and we urge Congress to act on it quickly," said Michael Decker, managing director and co-head of municipal securities for the Securities Industry and Financial Markets Association.

### **Disaster-Relief Bill**

Reed also introduced a bill last year called the National Disaster Tax Relief Act, which included some bond provisions and had 41 cosponsors but was not brought to a vote. The legislation would create qualified disaster area recovery bonds, which would be exempt facility bonds that could be used to finance certain types of projects states or other political subdivisions that are in areas affected by

federally-declared disasters that occurred in 2012 through 2014. It would also allow certain mortgage revenue bond requirements to be relaxed if they serve people whose homes were destroyed or damaged during disasters occurring in those years.

The bill came about in the wake of Hurricane Sandy, which hurt Reed's home state, and the congressman said he was in a good position to introduce the legislation because he's on the Ways and Means Committee. Communities recover from disasters faster when they have easy access to capital, he added.

"I envision we'll probably carry that water again and go forth," he said. "Just God forbid hopefully we don't have another disaster like Sandy in the state of New York."

Reed has been on the House Ways and Means Committee since 2011 and is a member of the select revenue measures subcommittee, which deals with taxes.

"As the sole representative for New York State sitting in the majority on the Ways & Means Committee, Rep. Reed has played an important role advocating for industries like ours that are critical to the state's economy," said Payson Peabody, SIFMA managing director and tax counsel.

When asked about the timing of tax reform, Reed said that he supports both individual and corporate tax reform, but the Obama administration is focusing only on the latter.

"I'm the eternal optimist and the administration is giving some indication that it recognizes the code needs to be reformed, and we're going to push the ball as far as possible and whatever we can get done, we'll get done," he said. However, there may not be the presidential leadership needed to get comprehensive tax reform enacted until after President Obama leaves office, he added.

The House has been passing legislation that would make permanent some expired tax provisions known as "extenders," such as the state and local sales tax deduction. However, the Senate has not followed suit and President Obama has threatened to veto these bills. Reed said he thinks that if extenders can be made permanent, "I think that will lead to bigger victories like international potential reform. Like overall business and individual corporate reform."

The Obama administration has proposed using transition revenue from business tax reform produced by taxing the foreign earnings U.S. companies to provide revenue for the Highway Trust Fund, which reimburses states for surface transportation projects. A number of members of Congress have endorsed the idea.

Reed said he would support this as well as alternative ideas, such as using revenue from leasing the mineral rights of federal land with oil and gas reserves. He also said he supports developing infrastructure through public-private partnerships and generally would be supportive of expanding the types of projects that can be financed with tax-exempt private-activity bonds.

However, he would not support raising the gasoline tax, which has traditionally been the primary source of funding for the HTF.

Congress recently passed a two-month extension of authority for funding surface transportation programs which expires at the end of July. While Reed would like there to be long-term legislation, "the two-month bill was a necessary evil to continue to have the conversation [to] come up with a long-term bill," he said.

Reed said it would be a "realistic goal" for Congress in July to pass an extension that goes to the end of the year, and that it is more likely that a four-to-six-year bill would be passed next year.

## Reed's Background

In addition to previously serving as mayor of Corning, Reed also had a municipal law practice, a property-development firm and a real-estate business. One of the things he did as a lawyer was advise small towns in upstate New York on their statutory installment bonds, he said.

These are a simpler form of bond that localities in New York usually sell to local banks that hold them. Statutory installment bonds can also be bank-qualified bonds, said Tom Myers, a partner at Orrick, Herrington and Sutcliffe in New York.

"We would actually be the legal opinion on some of the smaller issues, certifying that the process was done right ... the statutory installment bonds were in compliance with state and federal law, filling out tax forms necessary to get them registered appropriately," Reed said.

Being involved in the bonding process as a lawyer, he saw how municipalities needed financing for projects like highways and town halls. "People lose sight of ... where it's going to," he said.

Reed grew up in Corning and has a bachelor's degree from Alfred University and a law degree from Ohio Northern University.

The son of a career military man, Reed and his 11 older brothers and sisters were raised with the mindset that commitment and service to the United States is important.

"I always thought in the back of my mind, the way - cause I didn't go into the military - the way I could honor that commitment is to do public service" and run for office, he said.

Orrick's Myers, who first met Reed when he was working as a lawyer and who also worked on some Corning bonds while Reed was Mayor, called the congressman "a very likeable guy."

"Tom is a very smart guy and entrepreneurial as well," Myers said.

THE BOND BUYER

BY NAOMI JAGODA

JUN 3, 2015 1:19pm ET