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Industry Groups Come Out Swinging to Save Tax-Exempt PABs.

WASHINGTON – Muni market supporters of tax-exempt private activity bonds were marshalling forces Friday to fight the House Republicans attempt to do away with them in their tax reform bill.

Representatives of several organizations said they were blindsided Thursday to learn that the tax-exemption for private activity bonds would be terminated as one of the revenue raisers to pay for tax reform.

"We don't have a lot of time," Tim Fisher, legislative and federal affairs coordinator of the Council of Development Finance Agencies, said Friday. "The fact they did not highlight this in advance gives me reason to think they planned to sneak this covertly through."

Loss of the tax exemption would mean issuers would have to go to the taxable bond market, driving up costs "in the neighborhood of 25% to 30%," Fisher said.

The House Ways and Means Committee is to begin deliberations on the 429-page tax reform bill at noon Monday. Chairman Kevin Brady, R-Texas, expects to finish the voting Thursday, sending the bill to the floor of the House for a vote the following week.

Consternation about this turn of events is deepest among transportation infrastructure groups that expected a president with a background in real estate development to roll out a tax plan emphasizing public-private partnerships financed with private activity bonds.

The Trump administration's FY 2018 budget proposal "took a very different approach to this issue, recommending lifting the cap on PABs and expanding their eligibility," said Dave Bauer, senior vice president of government relations for the American Road & Transportation Builders Association.

Eliminating PABs "would take a step in the opposite direction," said Adam Snider, spokesman for the American Association of Airport Executives.

"Instead of making it more costly for airports to finance critical infrastructure projects, lawmakers should help airports by improving their bond options, increasing federal Airport Improvement Program funding, and eliminating the outdated federal cap on local passenger facility charges," Snider said.

The American Public Transportation Association also pointed out the inconsistency. "Preemptively removing PABs as a financing tool for infrastructure projects would undermine Congress' stated goal of leveraging a $1 trillion investment in our nation's infrastructure," APTA said. "Instead, this provision would have a chilling effect on private sector investments in infrastructure projects."

Terminating the tax exemption of PABs after Dec. 31 of this year would raise $38.9 billion over 10 years, according to the congressional Joint Committee on Taxation. Another $17.3 billion would come from ending the advance refunding of bonds after the same date. Repeal of tax credit bonds,

on the other hand, would reduce revenues by $500 million because they are taxable bonds.

Ending the tax exemption for bonds for professional sports stadiums and arenas would be effective Nov. 2 and would raise $200 million in revenues. That provision may be broader than realized. Richard Chirls, a partner at Orrick Herrington & Sutcliffe, pointed out on Friday, that a state university could not issue tax-exempt governmental bonds for a stadium if that stadium was used for a professional sports exhibition, training, or games for more than five days in any calendar year.

Democrats favor an expansion of the use of municipal bonds as part of their infrastructure strategy, including making permanent Build America Bonds.

The 24 Republicans on the House Ways and Means Committee who agreed to the bill can thwart any proposed changes offered by Democrats, who are in the minority and hold only 16 seats on the committee.

Five or more Republicans on the committee would have to break rank from their party and vote with the Democrats to restore the tax exemption for PABs.

“We are working like crazy to make noise on this and get any Republican we can to offer an amendment that would strike the provision in the bill,” Fisher of CDFA said.

The Municipal Bonds for America Coalition drafted a letter on Friday to emphasize the broad support for PABs and was seeking groups to sign it.

Fisher said the lobbing focus is on committee Republicans who have supported PABs in the past.

Nine of the Republicans on the committee are, in fact, cosponsors of a bill that would expand the use of PABs to public buildings.

A spokesman for the lead sponsor, Rep. Mike Kelly, R-Pa., said on Oct. 27 that the congressman planned to propose inserting the Public Building Renewal Act, which authorizes the issuance of $5 billion in new PABs, into the tax reform legislation.

Kelly’s spokesman did not immediately respond Friday to a request for an update on the congressman’s plan.

Likewise, 14 Republicans on the committee are sponsors of a bill to strengthen the low-income housing tax credit which is often linked with PABs in financing affordable multifamily housing projects.

Barbara Thompson, executive director of the National Council of State Housing Agencies, said her group is reaching out to those Republicans to highlight how the low-income tax credit would become ineffective without PABs.

“The program is structured so the only way you can get the credit is if its bond financed,” Thompson said. “You might as well be eliminating the credit. Our concern is that members don’t realize the linkage.”

Thompson said terminating tax-exempt PABs “would decimate rental housing production.”

The Bond Buyer

By Brian Tumulty

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