Climate Battle Opens New Front; Another Update on Airport Parking Issues; Ballot Initiative Proposed for Minnesota Roads.

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Climate Battle's New Front

It is not a coincidence that the oil industry has asked the Securities and Exchange Commission (SEC) to investigate whether cities that have filed suit against it have themselves committed disclosure violations in their prospectuses related to the potential impact of climate change on their ultimate creditworthiness. Exxon has filed answers to suits filed by several municipalities which seek to flip disclosure responsibilities back onto issuing entities in their efforts to have the municipal suits dismissed. The municipalities seek records to investigate whether the oil and gas giant knew about the role fossil fuels played in climate change. Last week, the highest court in Massachusetts ruled against Exxon Mobil in the company's bid to block the state's attorney general from obtaining records to investigate whether Exxon knew about the role fossil fuels played in climate change.

The court concluded that the state attorney general had jurisdiction to investigate the climate-related offenses by Exxon, which included probing whether the company violated the state's consumer protection law when it marketed or sold its products. In 2015 internal communications, they appeared to show the company knew of the significant role burning fossil fuels played in climate change.

The request from Exxon to the SEC is seen as an effort to intimidate the municipalities from pursuing their lawsuits. The Massachusetts ruling would seem to support continued pursuit of the cities' litigation goals, although it must be noted that the Massachusetts circumstances were favorable to the Commonwealth's arguments. The cities hope to achieve something along the lines of the Master Settlement Agreement reached with the tobacco industry.

Should such an outcome arise, a pool of funding would result on an ongoing basis for settling plaintiffs. When the tobacco settlement was reached, the hope was that the revenues would be used primarily to address healthcare funding. It is likely that many would hope that any revenues resulting from these climate-related legal actions might be applied to efforts to fund resilience projects or other climate change mitigation efforts. In truth, the likelihood is that any revenues would be used for general budget purposes as states and municipalities remain squeezed to meet current expense demands.

Another Update on Airport Parking Issues

We have been talking about the pressures we see on the airport parking component of the airport revenue credit stream. The potential impact of ridesharing and other transportation technologies on these revenue streams has significant potential effects on this credit structure. So we view with interest any expressions of views on these credits as events warrant.

This week we see Standard & Poor’s announcing that it has changed its outlook on BWI Airport Parking Revenue Bonds from positive to stable. S&P notes that there has been strong demand at BWI because enplanements increased to 12.9 million in fiscal 2017, a record for the airport. Given that origination and destination traffic represents about 70% of enplanements, there is robust demand for the about 25,000 parking spaces available.

S&P sees the airport as having pricing power in the face of this demand and that it charges the same or lower rates than nearby off-airport parking facilities. There is limited parking nearby, because the MAA captures 78% of the market share, but also faces competition from rail and transit networking companies. It did not discuss any impact from ridesharing but it also noted that the operation generates excess revenues available, after meeting the project’s required funding requirements, are transferred to the transportation trust fund at the Maryland Department of Transportation (MDOT). So there are consequences besides the bonds if revenues should come under pressure.

In Rhode Island, ridesharing has moved front and center at Providence’s T.F. Green Airport. Uber announced it will be moving its passenger pickup operations off T. F. Green Airport property after failing to reach an agreement on the fee the airport charges its drivers. Uber claims that the move was driven by the airport corporation’s move last summer to double, from $3 to $6, the fee it charges Uber drivers waiting to pick up arriving passengers. Uber said it is the highest fee among U.S. airports. In contrast, taxis pay $1.50.

Both sides blamed the other for the standoff. The airport points out that it only charges for dropping off passengers whereas other airports charge for both drop offs and pickups. The RI Airport Commission cited their view that this is a tactic Uber is employing at every major airport in the country and considers the approach by Uber to be heavy handed. It is likely that this could be a process we see at airports across the country as the impact of ridesharing becomes clearer. Uber is not used to seeing its aggressive tactics cause them to lose out. In the end however, the will of the consumer will win the day so it is not clear as to whether this is the beginning of a trend or the last gasp of an existing business model.

Ballot Initiative Proposed for Minnesota Roads

A proposal to amend Minnesota’s constitution has been introduced that would dedicate funding for transportation projects. If voters approve, more than $250 million collected annually from existing auto parts, leases and rental sales taxes would be used exclusively to bolster the state’s transportation network. The plan would require legislative approval before it went to the voters. The American Society of Civil Engineers said in a 2017 study that about 6% of the state’s bridges are structurally deficient, and 15% of its roads are in poor condition.

Supporters say 0.6% of the general fund — the state’s operating budget — would be prioritized for transportation infrastructure upgrades. Of the $250 million collected from the sales tax on auto parts, $145 million is slated to be dedicated for roads and bridges by fiscal 2020. The taxes are not new — the amendment would make the dedication permanent.

The Governor said the transfer would “undermine the structural surpluses in future bienniums,” and other opponents cite the dedication only to road and bridge projects but not to mass transit. Others fear shifting the money exclusively to roads and bridges would come at the expense of education and health and human services. Even though the amendment deals with existing taxes, there is ideological opposition to making them permanent.

The debate is symptomatic of the larger tax debate. Even in the face of clearly defined needs whether they be transit, health, education, or pensions, the starve the beast ideology is powerful and remains a real roadblock to state credits regaining their fiscal strength at pre-recession levels.

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