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N.J. Wins Ruling to Issue Up to \$9.9 Billion Debt for Crisis.

- **Virus is 'emergency' giving governor power to sell the bonds**
- **Court does limit debt to size of budget gap as sale approaches**

Governor Phil Murphy can sell as much as \$9.9 billion in debt to plug a revenue hole from the coronavirus, New Jersey's highest court ruled amid a looming budget deadline and as states across the country grapple with their finances.

The decision by the New Jersey Supreme Court allows one of the most financially strapped U.S. states to increase bonded debt — long-term debt with payments made over decades — by 22%. New Jersey Republicans had challenged the bond sale, saying it violated the state's constitution by bypassing voters, while Murphy said the pandemic was a crisis that gave him the power to act.

"The pandemic has caused a health emergency, a broad-based economic one that has devastated many individuals and families, and a fiscal crisis for the state," Chief Justice Stuart Rabner wrote for the seven judges in Wednesday's unanimous decision. "The present 'emergency caused by disaster' extends to all three areas."

The court did limit the size of the offering to the budget gap, requiring New Jersey to certify its revenue projections and the size of the shortfall before the sale. Should the hole be \$7 billion, the state would be allowed to borrow only that amount. If it goes in the other direction, however, \$9.9 billion — the projected revenue shortfall the state treasurer reported in May — is still the limit.

The ruling comes as states across the U.S. are racing to figure out budget plans rendered useless when the pandemic forced an economic halt. The National Conference of State Legislators was tracking revenue declines due to the virus in at least 34 states as of last month, with some projections exceeding 20%. A fight over whether to send federal aid to states is among the issues that have stymied a broader stimulus bill in Congress.

"Our schools can be funded, our residents and communities can be protected and our state can move forward," Murphy said at a news conference in Trenton. But New Jersey still will "need the federal government to step up and provide direct assistance to us and our fellow states," he said.

New Jersey Republican Chairman Douglas Steinhardt tweeted out a different perspective.

One concern from an investor's perspective is that New Jersey was already on a shaky budget footing before the pandemic upended its finances, said Howard Cure, head of municipal research at Evercore Wealth Management.

"The state doesn't really have reserve funds, their pension is very underfunded, they were slow to get out of the last recession as well," he said. "It's a bad debt practice and budgeting practice to create a long-term liability to take care of a yearly operating expenditure."

Still, Cure said, the debt will probably be well received by investors clamoring for yield.

“Rates are so low, for a little extra yield there could be some pretty strong demand for this,” he said.

Murphy, a first-term Democrat and retired Goldman Sachs Group Inc. senior director, has estimated a \$10.1 billion revenue shortfall in New Jersey through June 2021. He said that without the borrowing, state and local governments would have to dismiss at least half of their 400,000 public employees, including teachers and first responders.

If he can’t find enough revenue to pay off the bonds, Murphy said, he would raise sales and property taxes for homeowners, who already shoulder the nation’s highest such levies, averaging \$8,953 last year.

Murphy, who took office in January 2018, campaigned on a return to fiscal health for New Jersey, whose credit rating is second-worst among U.S. states, behind Illinois. New Jersey bonded debt was \$44.4 billion as of June 30, 2019, but the state since has added at least \$2.2 billion in borrowing. Non-bonded debt, including what’s owed for public pensions, amounts to at least \$200 billion, making the state among the country’s most indebted.

The New Jersey Republican State Committee, which brought the lawsuit, argued that under the state constitution, voters must approve such spending, and Murphy’s plan bypassed them. The committee cited a 2004 state Supreme Court decision that found then-Governor Jim McGreevey, a Democrat, had violated the constitution’s appropriations and debt-limitations clauses when he borrowed \$2 billion to balance a budget without going to voters.

Murphy argued that in this instance, voter approval wasn’t needed because the constitution gave him emergency borrowing power. In addition to issuing debt, Murphy has been counting on billions of dollars in far-from-certain federal grants toward budget aid while the state continues to reel from the economic and health effects of the pandemic. Almost 16,000 New Jersey deaths have a lab-confirmed or probable link to Covid-19.

Murphy must present a fiscal 2021 budget to lawmakers by Aug. 25. The state lengthened the current fiscal year by three months, to Sept. 30, and shortened the next by three months to weather budget uncertainty as a result of the pandemic.

The case is New Jersey State Republican Committee et al v. Philip D. Murphy, Supreme Court of New Jersey, Docket M-1291, September Term 2019, 08471.

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