Bond Case Briefs

Municipal Finance Law Since 1971

A Study In Issuer Abuse - The Wisconsin Public Finance Authority.

One of the best institutions ever created for providing public financing to state and local governments is the municipal bond market. It provides an easy and competitive source of funding for governments, both for their own needs as well as for local projects that create jobs and further investments. Its attraction is that it puts investment decisions affecting local economic well being at the local level, not Washington DC, where such decisions can be best made. Sure there is a lot of inefficiency and abuse, but there are also buyers, the SEC, the IRS and state securities authorities to exercise enough constraints to keep abuses in check.

While one could write a book on abuses of taxpayers caused by the reckless use of municipal debt by local officials, I will focus here on the abuses we run across regularly by private purpose users of the municipal market. The vast majority of defaults are in private purpose municipal bonds. It has been a problem for decades but escaped notice because most such bond issues are small so the losses draw little public notice or comment. In years past we have called out abusive players or practices to alert those in power to correct a problem area. We did this for retirement bond issues and Texas MUDs in the 1980s, staged defaults in the 1990s and then Florida CDDs in the 2000s.

The Wisconsin Public Finance Authority represents a new type of issuer abuse where the consequences are just beginning to appear. The abuse here is that they are authorizing bond issues in which the state of Wisconsin has absolutely no economic interest or need. A superficial look at their authorized issues shows them approving bond issues for 10 different states running in size up to $800 million for the recent American Dream Mall in East Rutherford New Jersey. The only legitimate purpose we can see in these actions is that they are fee driven, but they raise concerns of baser motives. One can also assume that bond underwriters are drawn to this issuer because the approval process is easier. We leave it to others to investigate since the practice undermines the integrity of the entire market.

Questions arise as to how do these bond issues figure in the Federal quota on the volume of bonds a state can issue as tax exempt. Also, how misleading is this for bond buyers and how do they figure in single state bond funds. As for state oversight of bonds issued for projects in that state, does this not undermine their credibility and authority? I don’t have answers but I know the burden of proof is on Wisconsin to justify their infringement on the economic development of another state. For example, Texas and Florida have both tightened up on rules for community development projects caused by massive overbuilding. Do we let those developers now go to Wisconsin if local or state authorities are hesitant? The same questions exists for retirement facilities and charter schools. Let’s keep municipal financing at home.

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