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Treasury's Letter to Arizona May Impact Muni Issuance Disclosures.

The Department of the Treasury's Friday letter detailing its intentions to clawback some of Arizona's COVID-19 relief aid if the state doesn't redesign two of its pandemic-related programs may impact the disclosure of any state facing the prospect of a fight over those funds.

The American Rescue Plan Act's final rule on how its State and Local Fiscal Recovery Fund Program may be used included a provision which would deem programs, including using the stimulus funds to offset tax cuts, as "ineligible uses". The letter to Arizona Gov. Doug Ducey indicated that two programs, one being the \$163 million grant program for schools that follow state laws banning public school mask mandates, would fall in that category.

"This is a unique situation since the letter was addressed to the state," said Eryn Hurley, deputy director of government affairs at the National Association of Counties. "Under ARPA, the state was allocated a portion of the funds and the counties were given their own allocations."

The American Rescue Plan Act allocated \$65.1 billion to counties, which is separate from the state allocation and dispersed directly from the Treasury to the counties. Since the letter is addressing actions at the state level, its impact will largely stay at the state level and won't bleed into counties, Hurley said.

According to Dave Erdman, capital finance director for the State of Wisconsin, the Treasury's move to reign in Arizona shows they're willing to enforce the exact language on ARPA and SLFRF.

"From a municipal bond issuance perspective, it's clear that the Treasury will threaten and use these programs that came out of the ARPA," Erdman said. "But the biggest question is in regards to disclosure."

"How does a clawback of such need to be disclosed?" he added. "If the State of Arizona was going to do a public offering, or any state threatened with clawback, how do you get this information to investors, because it could be material."

A clawback at the state level could then affect future bond offerings, Erdman said, if a state was preparing an offering then gets hit with a clawback from Treasury.

"Treasury has to be careful when making those kinds of statements because it could scare investors and have an impact on the pricing of a transaction," Erdman said.

The Treasury letter gives the State of Arizona 60 days to remedy its two related programs, which from Ducey's Twitter response, doesn't seem likely.

"When it comes to education, President Biden wants to continue focusing on masks," he wrote. "In Arizona, we're going to focus on math and getting kids caught up after a year of learning loss."

“We will respond to this letter and we will continue to focus on things that matter to Arizonans,” he added.

By Connor Hussey

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