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## **TAX - WASHINGTON**

### [Wiklem v. City of Camas](#)

**Court of Appeals of Washington, Division 2 - July 9, 2024 - P.3d - 2024 WL 3335985**

Petitioner brought action against city and county, alleging that county's conclusion that petitions for referendum vote on city ordinance imposing a new utility tax lacked sufficient valid signatures, and seeking a writ of mandamus, a writ of review, and declaratory relief.

The Superior Court granted county's motion to dismiss for failure to state a claim, which was converted into one for summary judgment, and denied petitioner's motion for reconsideration. Petitioner appealed.

The Court of Appeals held that:

- Writ of mandamus was not warranted to order county to validate signatures which had already occurred;
- Process of verification of sufficiency of signatures involved discretionary acts for which a writ of mandamus was not appropriate;
- County was not exercising a judicial function in certifying signatures, thus precluding statutory writ of review.
- Declaration of elections director was sufficient for trial court to determine whether county's process in verifying signatures was performed illegally or in an arbitrary and capricious manner, at summary judgment stage, thus precluding constitutional writ of review; and
- Trial court did not abuse its discretion in denying motion for reconsideration.

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## **TAX - CALIFORNIA**

### [Loeber v. Lakeside Joint School District](#)

**Court of Appeal, Sixth District, California - June 24, 2024 - Cal.Rptr.3d - 2024 WL 3353457**

Petitioner, a trustor of an irrevocable trust that owned two undeveloped properties within school district but who did not live in school district or personally own any property within school district, petitioned for writ of mandate seeking a court order to mandate an election on proposed citizen's initiative petition, for which petitioner had secured enough qualifying signatures, to add a new parcel tax exemption for taxpayers who were owners of unimproved parcels and who were over the age of 65, and seeking declaratory relief.

The Superior Court, Santa Clara County, dismissed petition for lack of standing. Petitioner appealed.

The Court of Appeal held that:

- Petitioner did not have a beneficial interest in writ that was direct and substantial;
- Petitioner's role as drafter, sponsor, and official or authorized executive of successful initiative campaign did not establish that petitioner had a sufficient beneficial interest in writ;
- Petitioner articulated a sufficiently weighty public need and public duty to apply public interest exception to beneficial interest requirement to have standing to seek writ of mandate;
- Petitioner's delay in filing citizen's initiative petition until several days after deadline did not provide a persuasive basis to deny application of public interest exception;
- Cost to school district of calling a general or special election on citizen's initiative petition did not outweigh school district's duty to act on an arguably valid ballot petition; and
- Initiative fell outside constitutional authority for initiative power in matters to reduce or repeal local fees.

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## [The Election Could Have a 'Massive Impact' On the Municipal Bond Market, Analyst Says.](#)

### KEY POINTS

- The election outcome and future policy could impact the municipal bond market, experts say.
- A popular asset for higher earners, muni bonds generate interest that is federally tax-free and avoids state levies when investors live in the issuing state.
- However, there's uncertainty around interest rates, income taxes and public financing.

With interest rate cuts from the Federal Reserve likely on the horizon, municipal bonds could soon see higher demand, experts say. But there are several factors to watch, including the election outcomes of the presidential and congressional races, and future policies

[Continue reading.](#)

**cnbc.com**

Kate Dore, CFP®

THU, JUL 18 2024

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## [Muni Funds See Biggest Inflow Since May as Rate-Cut Bets Build.](#)

- **Investors add about \$900 million in latest week: LSEG Lipper**
- **First Eagle's Miller, BlackRock see scope for continued inflow**

Municipal bond funds are seeing the largest burst of demand in months as confidence builds that the Federal Reserve will start lowering interest rates as soon as September, bolstering the outlook for fixed-income more broadly.

Investors added about \$900 million to funds focused on US state and city debt in the past week, the most since May, according to LSEG Lipper Global Fund Flows data. It was the third straight week of additions, and followed the muni market's best month this year, which could help spur continued

improvement in investor appetite, according to BlackRock's municipal bond group.

[Continue reading.](#)

## **Bloomberg Markets**

By Maggie Eastland

July 19, 2024

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### **Muni Bond Sales Surge With Debt Met by Eager Investor Demand.**

- **Monthly visible supply for muni bonds stands at \$16.1 billion**
- **Market benchmark has returned about 0.22% so far this year**

Municipal bond sales are surging at the fastest clip in weeks as issuers focus on the prospect of lower borrowing costs amid growing expectations that the Federal Reserve will start cutting interest rates as soon as September.

US states and local governments are expected to sell \$16.1 billion of debt over the next 30 days, a number that represents a fraction of what may actually come to market because deals are typically announced with less than a month's notice. That figure, which sums the forward-looking calendar, shows the quickest pace of new offerings since early June and roughly 68% more than the 12-month average, according to data compiled by Bloomberg.

The supply uptick is a result of a slew of factors, including cities' need to finance new infrastructure and a higher cost of construction for projects, said Matthew Caggiano, co-head of municipal bond strategy at DWS Investment Management. Issuers have also been rushing to refinance Build America Bonds with tax-exempt debt, which has boosted new deals.

[Continue reading.](#)

## **Bloomberg Markets**

By Erin Hudson and Amanda Albright

July 16, 2024

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### **MSRB Announces Discussion Topics for Quarterly Board Meeting.**

Washington, DC - The Board of Directors of the Municipal Securities Rulemaking Board (MSRB) will meet on July 24-25, 2024, holding the final quarterly meeting of fiscal year 2024. The Board will discuss its priorities for the next fiscal year and approve the FY 2025 budget to advance its FY 2022-2025 Strategic Plan. The Board will also hold FY 2025 officer elections for MSRB Board Chair and Vice Chair. Additional highlights of the Board discussion will include:

## **Market Regulation**

The Board will discuss regulatory matters and receive updates on several ongoing initiatives including:

- [Rule G-12\(c\)](#): Potential codification of confirmation requirements for certain inter-dealer trades.
- [Rule D-15](#): Potential modifications to the definition of a sophisticated municipal market professional (SMMP).
- [Rule G-27](#): Industry feedback in connection with supervisory obligations in the post-pandemic workplace environment.
- Rate Card: Consider the publication of a request for information regarding potential modifications to the rate card model for assessing fees on regulated entities.

## **Market Transparency and Market Structure**

The Board will receive updates on the following areas related to market transparency and structure:

- The modernization of the Electronic Municipal Market Access (EMMA) website and related market transparency systems. This will include a demonstration of stakeholder-driven updates that will enhance EMMA's interface and user experience.
- A potential initiative to collect pre-trade municipal market data to enhance market transparency and whether to publish a concept release on the topic for industry feedback.
- An information session on blockchain and the emerging use of this technology in the municipal bond market.

Date: July 18, 2024

Contact: Aleis Stokes, Chief External Relations Officer  
202-838-1500  
astokes@msrb.org

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## **[WSJ: Some Investors Are Still Paying High Prices for Munis](#)**

Some muni market investors are paying far more than others for the same bond on the same day, even after a 2018 rule improved the situation somewhat.

That's the upshot of two recent analyses of trading in municipal bonds, debt issued by state and local governments. Wealthy U.S. households like munis because their interest is tax-exempt. But unlike with stocks, there is no publicly searchable daily price information. Wall Street bond dealers broker the trades, deciding what prices they are willing to pay sellers and how much to accept from buyers.

In 2018, the SEC mandated that after an investor buys a bond, the dealer must provide a disclosure giving them an idea of what others had recently paid for it. Trading costs subsequently fell on frequently traded bonds, according to a paper presented Wednesday at the Brookings Institution by a University of Nebraska-Lincoln graduate student.

But a survey of trading data collected during two three-day periods of relative market calm this year found that for about 20% of the debt traded multiple times during those stretches, the highest price paid for a specific bond was at least 1% more than the lowest price. For almost 4% of the debt, the difference was greater than 3%.

That analysis, by fixed income research and data firm Solve, found dealers benefitting from the gaps.

In one example, a dealer gave an investor \$28,495 for some New York Metropolitan Transportation Authority bonds, then within a few minutes turned around and sold them to another dealer for \$28,928, netting a profit of about \$433. On another morning, three dealers traded bonds from a private college in Pennsylvania among themselves before an investor finally bought the bonds for \$48,100 - or \$918 more than the highest price any dealer had paid.

The Solve analysis echoes [findings two years ago](#) by a trio of professors who found dealers mark up prices when investors are less likely to notice.

## **The Wall Street Journal**

By Heather Gillers

July 18, 2024

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### **[Trump's Rise Poses Threat to Tax Break That Underpins Muni Bonds.](#)**

- **Muni tax-exemption is defining feature of local debt market**
- **Policymakers expected to hunt for revenue to offset tax cuts**

The momentum behind Donald Trump's campaign for a second term as president is rekindling concerns that the long-cherished municipal bond tax-break may be scrapped to help pay for permanent tax cuts.

The Tax Cuts and Jobs Act — which lowered levies for corporations and individuals — marked a major Trump policy achievement during his first stint in the White House. Those breaks for individuals are set to expire in 2025. If elected this November, he's promised across-the-board tax cuts, likely raising deficits and pushing lawmakers to hunt for additional revenue. The muni tax-exemption — estimated to cost the US government roughly \$40 billion each year — has been mentioned as a target.

"The most extreme impact to the market would be if the tax exemption goes away, if there's massive deficits maybe that comes into play," Chad Farrington, co-head of municipal bond strategy at DWS Investment Management, said in an interview. "That would of course cause intense pushback from states and local governments."

Trump's policies have been thrust into even greater focus after an assassination attempt on the former president over the weekend at a campaign rally. The incident has further rallied the GOP party as it prepares to nominate him at the Republican National Convention in Wisconsin this week.

Established in 1913, the municipal-bond tax exemption is the defining feature of the \$4 trillion state and local government debt market where cities, towns, school districts, hospitals and other borrowers raise money to finance the bulk of US infrastructure. Investors in muni debt generally don't pay taxes on the interest they earn, allowing governments to borrow at lower rates.

Repealing that exemption was floated by a conservative think tank earlier this year as a way to keep the Trump tax cuts. Matt Fabian, a partner at Municipal Market Analytics, said that Democratic President Joe Biden's "poor" debate performance has raised the potential for Republican electoral victories in November, risking damage to the tax-exemption.

After the inauguration, next year will be focused on tax reform, Fabian said in an interview. “We worry that munis would be caught up in paying for that as collateral damage,” he said.

To be sure, a Trump presidency is not a foregone conclusion. In swing states, Trump led Biden by just 2 percentage points, 47% to 45%, according a Bloomberg News/Morning Consult poll conducted before the shooting. And regardless of who wins the election, investors at MacKay Shields said in a Monday research note that demand for state and local government debt should increase.

### **Tax-Exemption Rollback**

The muni tax exemption has been scaled back before. In 2017, during Trump’s first administration, lawmakers eliminated a key refinancing tactic that allowed governments to call back their bonds and replace it with tax-free debt before they were able to be repurchased. The policy initially reduced new issue sales.

An earlier iteration of that legislation also proposed ending the exemption for so-called private-activity bonds which allow companies to issue tax-free debt under certain circumstances like privately run infrastructure projects such as toll roads and airports. That provision was eventually scrapped.

In a red-wave scenario, where Republicans win the presidency and both chambers of Congress, lawmakers would likely focus on extending Trump’s tax-cut provisions, strategists at Barclays Plc led by Mikhail Foux and Clare Pickering wrote in a July 10 research note.

“Not only would the focus be on keeping top tax brackets low, but policymakers might also need to find additional pay-fors, and some parts of the tax-exempt muni market might be looked at for additional revenue,” the analysts said.

### **Bloomberg Markets**

By Skylar Woodhouse

July 15, 2024

— *With assistance from Nic Querolo*

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## **[Tax Hikes Seen No Matter Who’s President, Making Muni Bonds Attractive.](#)**

- **Muni bonds appeal grows from tax-exempt status: MacKay Shields**
- **Says even Republican sweep may not stop tax bills from growing**

No matter who wins November’s US presidential election, there’s a growing risk that Americans will be paying higher taxes next year, according to MacKay Shields LLC. That makes muni bonds an attractive shield.

Thanks to higher interest rates, savers that piled a record amount of cash into money market funds and grew their earnings will be facing steeper tax bills. On top of that, key individual tax cuts are due to expire just as the US’s swelling deficit may prompt lawmakers to consider raising taxes, according to a mid-year report by the fixed-income boutique firm published Monday.

Buying municipal bonds offers investors — especially those in higher tax brackets — a way to cut

their tax bill, since the income they generate is tax-exempt, according to the investment firm owned by New York Life Insurance Co.

[Continue reading.](#)

## **Bloomberg Markets**

By Nic Querolo

July 15, 2024

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### **[Oklahoma Water Resources Board \(OK\): Fitch New Issue Report](#)**

Key Rating Drivers Portfolio Credit Risk Approximately 62% of OWRB's loan pool consists of borrowers exhibiting investment-grade ratings. This translates to an implied pool quality, measured by aggregate rating and loan term, of 'BBB-'. The pool consists of 163 obligors, with the top 10 obligors comprising about 66.8% of the loan portfolio. Obligor security is solid, with nearly all of the pool backed by water or sewer revenue pledges. Financial Structure The program's cash flows are adequate with projected minimum annual DSC of about 1.4x. Fitch's cash flow modeling demonstrates that program resources are sufficient to withstand hypothetical pool defaults in excess of Fitch's 'AAA' liability rating stress hurdle, as derived using the PSM, without causing an interruption in bond payments. Program Management Management has demonstrated strength and capability in its underwriting and monitoring processes, as evidenced by the fact that the program has never experienced a pledged loan default.

[ACCESS REPORT](#)

Wed 17 Jul, 2024

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### **[Texas Children's Hospital and Affiliated Entities: Fitch New Issue Report](#)**

The downgrade to 'AA-' reflects Texas Children's material underperformance in profitability driven by multiple factors, including weaker than expected volumes in the Houston market, a delayed opening of the new Austin inpatient facility and operating headwinds faced by the health plan. These factors contributed to the operating income loss of approximately \$198.1 million (negative 6.4% operating margin and negative 3.1% operating EBITDA margin) through the first six months of FY24. Fitch Ratings does not expect Texas Children's to meet its obligated group debt service coverage covenant at FYE24.

[ACCESS REPORT](#)

Wed 17 Jul, 2024

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### **[Baltimore County \(MD\): Fitch New Issue Report](#)**

The rating incorporates the county's 'aaa' financial resilience, which is based on its high midrange budgetary flexibility and an expectation for available reserves to be maintained equal to at least 10% of spending, compared to the current level of 27%. The economic and demographic strength composite, which incorporates the county's unemployment rate relative to the nation, educational attainment and median household income (MHI) as a percentage of the portfolio median, is 'Strong' but offset by a 'Weak' population trend metric. Population size and economic diversification are neutral to the rating. The rating also incorporates the county's 'Midrange' long-term liability burden composite. The rating additionally reflects the application of one positive analytical factor that recognizes the county's role as the center of an important and growing MSA that contributes significantly to the national economy.

[ACCESS REPORT](#)

Thu 18 Jul, 2024

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**[South Carolina Public Service Authority \(Santee Cooper\) \(SC\): Fitch New Issue Report](#)**

The 'A-' rating reflects South Carolina Public Service Authority's (Santee Cooper or the authority) financial profile and leverage ratio, measured as net adjusted debt to adjusted funds available for debt service (FADS), which improved to 10.4x in 2023, but remains elevated. The Outlook revision to Stable reflects Fitch Rating's expectation that Santee Cooper's financial flexibility and revenue defensibility will improve following the expiration of its agreement to lock rates through January 16, 2025. The agreement was reached as part of a legal settlement to resolve significant litigation challenging the authority's ability to recover costs related to the V.C. Summer nuclear project (the Cook Settlement). The improved flexibility should allow the authority to support higher leverage. Moreover, with the expiration of the rate lock approaching, the effect of previously deferred costs appears to be manageable, even if these costs cannot be recovered in the future.

[ACCESS REPORT](#)

Fri 19 Jul, 2024

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**[13th Annual Brookings Municipal Finance Conference: Day One Morning Session](#)**

The annual Municipal Finance Conference brings together academics, practitioners, issuers, and regulators to discuss recent research on municipal capital markets and state and local fiscal issues. The conference is a joint venture of the Hutchins Center on Fiscal and Monetary Policy at Brookings, the Rosenberg Institute of Global Finance at the Brandeis International Business School, the Mitchell E. Daniels Jr. School of Business at Purdue University, and the Harris School of Public Policy at the University of Chicago. The 2024 conference will be held primarily in person - there will be livestream options for remote viewers - on July 17 and 18 at Brookings Institution.

[Watch video.](#)

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## [\*\*A's Exec Tells Las Vegas Officials the Club Plans to Leave \\$30 million in Public Money on the Table.\*\*](#)

LAS VEGAS — Oakland Athletics executive Sandy Dean told the Las Vegas Stadium Authority on Thursday that the club does not expect to spend the entire \$380 million in public money allocated to build a new stadium in Las Vegas.

Dean said the A's plan to spend \$350 million of those funds, leaving \$30 million on the table. He also told the authority that the club plans to finance \$300 million of the stadium cost, but no lenders have been secured.

"We've had strong interest from a number of companies that want to participate in that portion of the project," Dean said.

The other \$850 million needed to build the \$1.5 billion stadium would come from private equity.

[Continue reading.](#)

**By Associated Press**

Published July 18, 202

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## [\*\*A's Offer Initial Vegas Stadium Funding Plans; Won't Use Entire \\$380M in Public Funding.\*\*](#)

**The Stadium Authority is told the team is "in good shape" for private financing and expects to have agreements in place by the fall.**

A representative of the Oakland Athletics said Thursday the team is in "good shape" on securing financing for its future \$1.5 billion stadium on the Strip, but didn't offer specific details on how the franchise will fund its expected \$1.2 billion share of the stadium construction costs.

During a Las Vegas Stadium Authority meeting, a partner with the Fisher family and team owner John Fisher said the A's plan to use only \$350 million of the legislatively approved \$380 million in public financing, and never planned to use the full amount of financing provided by state lawmakers last year.

Sandy Dean said the team will offset a portion of the public money through debt financing.

[Continue reading.](#)

**The Nevada Independent**

by Howard Stutz

July 18th, 2024

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## [Oakland Counts on Coliseum Sale to Close \\$117 Million Budget Gap.](#)

- **City faces a \$117 million budget shortfall this year**
- **Development group plans to build on old stadium site**

Oakland, California, risks having to slash spending and stall capital projects if officials are unable to close the sale of the city's soon-to-be defunct pro-sports arena in the next six weeks.

The Bay-Area city is facing a \$117 million budget gap this fiscal year and a \$175 million shortfall for the next. It's relying on cash from the sale of the Oakland-Alameda County Coliseum, where Major League Baseball's Athletics are playing their final season. Yet that deal is far from finalized.

To avoid cuts to city services, Oakland needs cash from the sale to come through by Sept. 1. There isn't a written purchase and sale agreement and the African American Sports and Entertainment Group — which plans to buy the facility — hasn't given the city a good faith deposit, according to city council member Janani Ramachandran, who voted against the plan to adjust Oakland's budget with those funds.

[Continue reading.](#)

### **Bloomberg Economics**

By Maxwell Adler

July 17, 2024

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- [Your 2024 Election Guide - Separate Issue Election and/or Multipurpose Issue Allocation \(an Election of Sorts\)? - Squire Patton Boggs](#)
  - [SEC Approves Amendments to Rule G-47 to Add Three New Time of Trade Disclosure Scenarios, Codify and Consolidate Existing Guidance, Delete Certain Guidance, and Make Technical Amendments.](#)
  - [GFOA's Best Practices Forum Begins July 29.](#)
  - [Wall Street's Portfolio-Trade Fad Hooks Illiquid Muni Market.](#)
  - [Assured Guaranty to Combine Its Two U.S. Financial Guaranty Insurers; Assured Guaranty Municipal Corp. to Merge into Assured Guaranty Inc.](#)
  - [States Take a More Measured Approach to ESG Mandates.](#)
  - And Finally, [I Know This Word. I Do Not Think It Means What You Think It Means, \(Part Whatever\).](#) is brought to us this week by [Guy v. Housing Authority of City of Augusta](#), in which, "Appellant Christina Guy alleges that she was shot in the leg when several unknown assailants attempted to rob her on the front porch of her apartment." We all know that "alleged" is routinely used in our grubby little profession to mean something like, "asserted to be true as described" or something. We're less than certain that this usage applies in circumstances in which that which is asserted can readily be ascertained by the existence/non-existence of A FREAKIN' BULLET HOLE IN YOUR LEG. Just poke around in their with your finger and let us know if Ms. Guy allegedly starts screaming. That should do it.

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## **SHORT TERM RENTALS - CONNECTICUT**

### **[9 Pettipaug, LLC v. Planning and Zoning Commission](#)**

**Supreme Court of Connecticut - June 18, 2024 - A.3d - 349 Conn. 268 - 2024 WL 2982704**

Homeowners sought review of decision of borough planning and zoning commission to approve a zoning amendment regulating short-term rentals of homes in borough that was a very small, largely seasonal community.

The Superior Court granted homeowners' motion for summary judgment after denying commission's motion to dismiss for lack of subject matter jurisdiction. Commission petitioned for certification to appeal, which was granted. The Appellate Court affirmed. Commission appealed.

The Supreme Court held that:

- Newspaper in which borough published notice of zoning changes satisfied the "substantial circulation" component of statutory notice requirement, and
- Borough's compliance with statutory notice requirement required dismissal of untimely zoning appeal.

Newspaper in which borough published notice of zoning amendment concerning short-term rentals of homes in borough was a newspaper having a substantial circulation in borough, under the "substantial circulation" component of statutory notice requirement for changes in zoning regulations, even though none of borough's 14 year-round households subscribed to newspaper and newspaper was not sold anywhere in borough, where newspaper focused on news items of general interest to borough residents, newspaper was readily available for purchase in commercial area of town in which borough was located, content of newspaper was readily accessible online, newspaper's website allowed free access to legal notices, and borough planning and zoning commission had a long history of using newspaper for its legal notices.

Borough's compliance with statutory publication requirement for notice of zoning amendment concerning short-term rentals of homes in borough required dismissal of homeowners' zoning appeal, which was untimely because it was commenced more than 15 days from the date that notice of the decision was published, without the benefit of the statutory savings provision.

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## **IMMUNITY - GEORGIA**

### **[Guy v. Housing Authority of City of Augusta](#)**

**Court of Appeals of Georgia - July 2, 2024 - S.E.2d - 2024 WL 3268630**

Tenant in low-income apartment complex owned by city housing authority, who was allegedly shot in the leg on the front porch of her apartment, brought premises-liability action against authority, alleging that authority was negligent in failing to provide property security or take measures to keep property safe, or both.

The trial court granted authority's motion for summary judgment. Tenant appealed.

The Court of Appeals held that housing authority was an instrumentality of the city entitled to sovereign immunity.

City housing authority was a public corporation using public funds to perform for the city what the General Assembly had deemed to be an essential public and governmental purpose, and thus authority was an instrumentality of the city entitled to sovereign immunity, in premises-liability action brought against it by tenant who was allegedly shot on the front porch of her apartment in low-income apartment complex owned by the authority; authority was statutorily defined as a public body corporate and politic, legislation creating the authority provided that it exercised public and essential governmental functions, and General Assembly authorized authority's creation in order to address shortage of safe and sanitary dwelling accommodations that were affordable for persons of low income.

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## **CHARTER AMENDMENTS - MAINE**

### **[Good v. Town of Bar Harbor](#)**

**Supreme Judicial Court of Maine - July 2, 2024 - A.3d - 2024 WL 3262053 - 2024 ME 48**

Residents brought action against town, seeking a declaratory judgment that voter-adopted modifications to the town's charter were null and void.

The Superior Court granted residents' motion for summary judgment and denied town's motion for summary judgment. Town moved to alter or amend the judgment, and the Superior Court denied the motion. Town appealed.

The Supreme Judicial Court held that:

- Charter commission's proposed changes to town's charter were modifications that could be presented to voters in separate questions, and
- Any procedural irregularities did not have a material and substantial adverse effect on the outcome sufficient to justify invalidating the vote of charter amendments.

Charter commission's proposed changes to town's charter were modifications under the Home Rule Act that could be presented to voters in separate questions rather than revisions which required a single question; the commission's discrete proposals reflected limited changes in 19 areas within the town's current charter structure rather than a major, integrated revision of the charter in its entirety.

The appellate record did not support a finding that any procedural flaw under the Home Rule Act in the election of voters to town's charter commission materially and substantially affected the ultimate vote on the commission's recommendation for charter amendments sufficient to justify invalidating the vote; residents challenging the results of the vote did not submit a copy of the charter in effect at the relevant time to support their argument that the commission members were not properly elected.

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## **ZONING & PLANNING - MICHIGAN**

### **[Jostock v. Mayfield Township](#)**

**Supreme Court of Michigan - July 1, 2024 - N.W.3d - 2024 WL 3261121**

Objector brought declaratory judgment action against township board and property owner, alleging board's decision to rezone property to general commercial district, and to allow use of property for

drag racing, was unlawful.

The Circuit Court entered declaratory judgment in favor of objector. Property owner appealed. The Court of Appeals affirmed. Leave to appeal was granted.

The Supreme Court held that for a proposed use to be valid under provision of Michigan Zoning Enabling Act (MZEA) allowing conditional rezoning in which an owner of land voluntarily offers certain use and development of the land as a condition to a rezoning of the land or an amendment to a zoning map, the proposed use must be a permitted use within the proposed zoning district, either by right or after special approval.

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## **EMINENT DOMAIN - MISSISSIPPI**

### **[Fly v. Yalobusha County, Miss.](#)**

**United States District Court, N.D. Mississippi, Western Division - June 11, 2009 - Not Reported in F.Supp.2d - 2009 WL 1658096**

A county's alleged taking of road by including it in an official road plan was for a public use and, thus, did not constitute an illegal taking for private use. The road was open to all members of the community and it provided access to the property of at least three other property owners. The road was also used for the connection of utilities to multiple residences.

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## **EMINENT DOMAIN - VIRGINIA**

### **[School Board of Stafford County v. Sumner Falls Run, LLC](#)**

**Supreme Court of Virginia - July 3, 2024 - S.E.2d - 2024 WL 3281914**

Owner of property near sites where county planned to build schools filed petition against county school board and Virginia Department of Transportation (VDOT) seeking declarations that school board could access site through private easement or county-owned road, that property owner had vested right to maintain existing intersection, that existing entrance of intersecting roads was exempt from VDOT's Access Management regulations, and that any taking of property beyond extending current easement would violate doctrine of necessity and Virginia Takings Clause.

The Stafford Circuit Court denied respondents' plea of sovereign immunity. Respondents filed interlocutory appeal.

The Supreme Court held that:

- Declaratory Judgment Act, by itself, is not an across-the-board waiver of sovereign immunity, and
- Property owner's claim for declaratory judgment that any taking of property beyond extension of easement would violate Takings Clause was not ripe for adjudication.

Property owner's claim against county school board, which was building schools nearby such property, for declaratory judgment that any taking of property beyond extension of existing easement would violate Virginia Takings Clause was not ripe for adjudication, where no taking had yet occurred, property owner did not allege that Commonwealth of Virginia or school board was on the cusp of damaging its property within the intendment of Takings Clause, and property owner did not dispute that any such taking would be for public purpose, as necessary to comport with Takings

Clause.

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## **MUNICIPAL ORDINANCE - WASHINGTON**

### **[Potter v. City of Lacey](#)**

**Supreme Court of Washington, En Banc - July 3, 2024 - P.3d - 2024 WL 3282452**

Owner of travel trailer, a vehicle-sheltered individual who was allegedly issued citation and threatened with impoundment of trailer, filed § 1983 suit against city and police chief, challenging constitutionality of municipal parking ordinance barring parking such large vehicles and trailers on public lots and streets for more than four hours per day as violating his federal and state constitutional rights of freedom of travel and association, freedom from cruel and unusual punishment, and freedom from unreasonable searches and seizures.

After removal, the United States District Court for the Western District of Washington granted city's motion for summary judgment as to claims against city and police chief. Owner appealed. The United States Court of Appeals for the Ninth Circuit certified questions.

The Supreme Court held that parking ordinance of general applicability did not violate right to interstate travel as applied to owner, who sought to protect preferred method of residing in city.

City's ordinance barring parking of recreational vehicles, trailers, campers, and similar vehicles on public lots and streets for more than four hours per day did not violate state constitutional right to intrastate travel as-applied to owner of travel trailer, who was vehicle-sheltered individual who asserted that he had right not to intrastate travel, that is, right to reside in 23-foot trailer hitched to his truck on public streets and lots for indefinite period of time; city had right to enact health and safety law of general applicability, even if it limited owner's preferred method of residing in city.

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## **[Fitch: Policy Outcomes of U.S. Election Could Matter for Credit](#)**

Fitch Ratings-New York-08 July 2024: The outcome of November's U.S. elections could mark a significant pivot point for federal policy with implications for credit, Fitch Ratings says in a new report.

A status quo outcome where incumbent President Joe Biden returns to office with a split Congress would likely mean a broad continuation of major policies. A victory by presumptive Republican nominee and former President Donald Trump would likely mean changes to key policy areas, especially should the Republicans take control of the Senate while retaining or growing their majority in the House of Representatives.

In the event of a change in administration, we believe there are seven key policy themes that could have the biggest impact to credit. These are trade protectionism, persistent fiscal pressures, geopolitical positioning & foreign policy, a climate policy rollback, financial deregulation, social policy reform and restrictive immigration. Trade protectionism and fiscal pressures have been bipartisan trends, where we would expect a Trump administration to mark an amplification in policies. The other policy areas would likely experience sharper pivots.

There would likely be credit positives and negatives from a major policy shift. In the short term,

there would not likely be broad-based direct ratings effects, barring the passage of certain policies that would require legislation and have a low probability of occurring. However, over the medium and longer terms, indirect feedthroughs could prove more meaningful to certain sectors.

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## **[U.S. Presidential Election: Key Cross-Sector Themes - Fitch](#)**

The outcome of November's 2024 U.S. elections could be profound for the trajectory of federal policy with implications for credit. Fitch Ratings believes a victory for incumbent President Joe Biden and a split Congress - a status quo outcome - would mean a continuation of key policies, including for the budget, foreign policy and trade, the regulatory environment, social policies and climate. By contrast, a victory by presumptive Republican nominee and former President Donald Trump would likely mean changes to key policy areas. This could include departures from long-held bipartisan consensus, such as in foreign policy, even under a divided government scenario. The probabilities of rapid and profound policy changes would rise significantly should Republicans also take control of the Senate while retaining or increasing their majority in the House of Representatives

### **[ACCESS REPORT](#)**

Mon 08 Jul, 2024

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## **[Wall Street's Portfolio-Trade Fad Hooks Illiquid Muni Market.](#)**

- **Technique made up 10% of June's corporate-bond trading volume**
- **AllianceBernstein, Vanguard embrace it for liquidity benefits**

The boom in portfolio trading is starting to creep into the market for state and local government debt.

The tactic, which allows investors to buy or sell bundles of bonds at once, has become popular in the US corporate bond market over the past six years. Now municipal bond managers are starting to catch on, too.

Portfolio trading holds the promise of injecting more liquidity into the buy-and-hold market, where debt sold by small towns and school districts may not trade for months or even years. That makes it difficult for investors to determine the value of a particular bond and has contributed to higher trading fees — a problem that may be eased if more rarely traded bonds are included in lots sold by portfolio trades.

**[Continue reading.](#)**

### **Bloomberg Markets**

By Amanda Albright

July 11, 2024

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## **Assured Guaranty to Combine Its Two U.S. Financial Guaranty Insurers; Assured Guaranty Municipal Corp. to Merge into Assured Guaranty Inc.**

HAMILTON, Bermuda, July 08, 2024-(BUSINESS WIRE)-Assured Guaranty Ltd. (NYSE: AGO) (together with its subsidiaries, Assured Guaranty) announced today that Assured Guaranty Municipal Corp. (AGM) will merge into Assured Guaranty Inc. (AG), which was named Assured Guaranty Corp. until May 24, 2024. The effective date of the merger is expected to be August 1, 2024.

“We see this merger as beneficial for all our stakeholders,” said Dominic Frederico, President and CEO. “It will result in more efficient utilization of the combined capital of the two companies, and it will simplify the administration and eliminate duplicative expenses of Assured Guaranty’s U.S. financial guaranty operations. Over its nearly 40 years in the financial guaranty business, Assured Guaranty has continually evolved, constantly looking for ways to better serve our customers and grow our business. This merger further positions us to achieve those goals.”

By aggregating AGM and AG into a single insurance company, the merger enlarges the pool of capital available to support each insurance policy and results in a further diversification of the insured portfolio’s credit profile. The merger is also expected to strengthen Assured Guaranty’s ability to continue successfully executing its strategies to achieve its business objectives. The new AG, compared with either AG or AGM before the merger, will have:

- a larger, more highly diversified insured portfolio
- a larger investment portfolio and a larger capital base, creating a more efficient capital structure, and
- greater claims-paying resources.

The merger combines two companies that have identical ratings from S&P Global Ratings, Kroll Bond Rating Agency and Moody’s Ratings and should have no impact on Assured Guaranty’s strong and stable financial strength ratings.

In recent years, AGM has served as Assured Guaranty’s flagship financial guaranty insurance company, offering guarantees on U.S. and non-U.S. public and infrastructure finance obligations, while AG has provided risk and capital management solutions for insurance, pension and banking institutions, offered guarantees on structured financings, and served as the acquirer or reinsurer of insured portfolios of non-affiliated financial guaranty insurers in runoff. Both companies’ insured portfolios contain public and infrastructure finance exposures and structured finance exposures.

“Assured Guaranty has been growing and broadening the financial guaranty products it provides and the markets it serves, extending a long tradition of innovation,” said Robert Bailenson, Chief Operating Officer. “This transaction will eliminate an unnecessary distinction between the companies and allow us to even more effectively lead the bond insurance industry.”

AG will continue to be domiciled in Maryland, and the Maryland Insurance Administration (MIA) will be its primary regulator, as it has been since December 31, 1987. Upon effectiveness of the merger, by operation of law, AGM-insured securities will become guaranteed obligations of AG, a larger combined company. AGM’s subsidiaries Assured Guaranty UK Limited and Assured Guaranty (Europe) SA will become subsidiaries of AG and will continue to operate as they did previously.

In connection with the merger of AGM into AG, the MIA approved a \$300 million stock redemption

(sometimes described as a “special dividend”) by the combined company, which is expected to be effectuated shortly following the merger.

Additional information on the merger can be found in a Presentation and a Q&A document on the Assured Guaranty website.

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## **[States Take a More Measured Approach to ESG Mandates.](#)**

**There’s great recognition—on both sides of the issue—that strict pro- and anti-environmental, social and governance investing strategies can lead to unintended costs and administrative challenges.**

State policymakers across the political spectrum have increasingly created rules and mandates targeting environmental, social and governance investment strategies in recent years. In 2024 alone, more than two dozen ESG bills have been introduced—some favorable to the concept but most oppositional—and six so far are now law.

ESG investment strategies have traditionally focused on the long-term impacts of investing in industries that could be economically, environmentally, or politically undesirable—with the bottom-line goal of limiting financial exposure to potential risks. In contrast, some state policymaker efforts around ESG have conflated this traditional use with what is known as impact investing, a strategy that aims to achieve certain social or environmental outcomes.

This year, for example, Idaho lawmakers joined those in more than a dozen other states, including Texas and Florida, in prohibiting government entities from doing business with certain companies that use ESG considerations in their investing approach. On the other end of the spectrum, Oregon’s pension fund is planning to divest from coal after lawmakers enacted legislation as part of an effort to have a net-zero pension portfolio by 2050.

[Continue reading.](#)

### **Route Fifty**

By Fatima Yousofi, Liz Farmer and Stephanie Connolly

JULY 10, 2024

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## **[University of California: Fitch New Issue Report](#)**

The ‘AA’ Issuer Default Rating (IDR) reflects the University of California (UC) system’s growing enrollment and very strong student demand characteristics, solid international reputation, steady operating performance inclusive of a sizable and accretive health system, generally steady support from the State of California (IDR AA/Stable) and expectations of flexibility and manageable leverage through a sizable capital improvement program. The ‘AA’ rating on the general revenue bonds (GRBs) reflects the support of UC’s broad revenue pledge of unencumbered system revenues.

[ACCESS REPORT](#)

Tue 09 Jul, 2024

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## **[San Francisco To Sell \\$1.15 Billion In Bonds To Help Fund Sewer Projects.](#)**

San Francisco is planning to sell \$1.15 billion in municipal bonds to help pay for improvements to its sewer system.

The Public Utilities Commission of the City and County of San Francisco will issue \$432.3 million 2024 Series A bonds, \$85.8 million 2024 Series B bonds, \$547.8 million 2024 Series C bonds and \$86.3 million 2024 Series D bonds to help finance capital projects benefiting wastewater treatment including its Sewer System Improvement Program, as well as retiring tax-exempt commercial paper notes and other purposes.

The 2024A and 2024C bonds have been designated as green bonds, meeting the Water Climate Bond Standard. The 2024A and 2024B notes are federally taxable, according to a document posted Monday on MuniOS.

Officials say the sewer program is aimed at helping maximize system flexibility, improving operational and seismic reliability, as well as promoting current and future regulatory compliance. San Francisco's combined sewage and stormwater system handles an average of about 40 billion gallons a year.

The interest rate and yield on the debt have yet to be determined. The bonds are expected to price on July 17 and 18 and the transaction has a preliminary closing date of July 31.

The bonds are secured by a pledge of net revenues from the Wastewater Enterprise under the utilities commission.

Moody's Ratings assigned Aa2 to all of the bonds. S&P Global Ratings assigned AA to the 2024B, 2024C and 2024D bonds but hasn't assigned a rating to the 2024A note.

BofA Securities and Morgan Stanley are the lead underwriters.

### **Provided by Dow Jones**

By Patrick Sheridan

Jul 10, 2024 2:55pm

Write to Patrick Sheridan at [patrick.sheridan@wsj.com](mailto:patrick.sheridan@wsj.com)

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## **[Baltimore County to Sell \\$386.9 Million of Municipal Bonds.](#)**

Maryland's Baltimore County plans to sell \$386.9 million of general obligation bonds, including \$160 million of construction bonds and \$227 million of refunding bonds, according to a preliminary offering statement posted Monday on MuniOS.

The county will sell \$115 million of Baltimore County Consolidated Public Improvement Bonds, and

\$45 million of Baltimore Country Metropolitan District Bonds. The refunding bonds consist of \$124.2 million of Baltimore County Consolidated Public Improvement Bonds and \$102.6 million of Baltimore County Metropolitan District Bonds.

The securities will be sold in a competitive bidding process on Tuesday. Public Resources Advisory Group is advising on the sale.

Money to repay buyers of the public improvement bonds will come from the general revenues of the county, including property and income taxes. The primary source of repayment for the metropolitan district bonds are special assessments and charges levied against property in the area.

Money raised from the sale of the improvement bonds will be used for public works, land preservation, and education. Proceeds from the construction bonds will be used for designing, building and acquiring water supply, sewerage and drainage systems for the county.

Moody's Ratings has rated the bonds Aaa. S&P Global Ratings and Fitch Ratings have rated the securities at AAA.

### **Provided by Dow Jones**

Jul 8, 2024 1:39pm

By Stephen Nakrosis

Write to Stephen Nakrosis at [stephen.nakrosis@wsj.com](mailto:stephen.nakrosis@wsj.com)

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## **[Jerry Brown's Elite High School to Sell \\$132 Million of Bonds for Campus Upgrade.](#)**

- **Bond proceeds will help build student space with ocean views**
- **Students pay \$32,950 to attend former governor's alma mater**

The elite Catholic high school that educated former California Governor Jerry Brown plans to tap the municipal bond market to raise \$132 million to spruce up its 11-acre San Francisco campus.

St. Ignatius College Preparatory, a private high school just blocks from the Pacific Ocean has plans to build a new 165,000 square-foot learning complex complete with classrooms, gardens, cafes and the campus chapel. The so-called New Learning Commons will cost an estimated \$185 million, most of it funded by municipal bonds, in a deal slated to price on July 17. The remaining financing will come from donations and its endowment, among other funds, according to preliminary bond documents.

"Our existing facility was built in 1969, and it's time for something new," said Ken Stupi, the school's vice president of finance and administration in an interview. "We need the space."

[Continue reading.](#)

### **Bloomberg Markets**

By Maggie Eastland

July 11, 2024

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## **State of Connecticut: Fitch New Issue Report**

Absent tax policy changes, Fitch expects Connecticut's underlying revenues to grow only modestly over time, consistent with the state's wealthy and diverse, but slow-growing, economic profile. Connecticut's natural pace of spending growth is expected to marginally outpace revenue growth despite recently extending robust budget controls for the next decade. The state has consistently demonstrated the ability to cover its comparatively high fixed costs with more than a decade of full actuarial contributions to pensions supplemented by statutory additional pension payments from excess revenues. The state's long-term liability burden is elevated and among the highest for U.S. states but still moderate relative to personal income. Connecticut's robust fiscal resilience is bolstered by statutory mechanisms supporting accumulation of reserves, including setting aside in the budget reserve fund volatile revenue collections over specific thresholds and a required excess margin of revenues over budgeted spending.

### **ACCESS REPORT**

Fri 12 Jul, 2024

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## **Fitch to Take Actions on Triborough Bridge and Tunnel Auth, NY Series 2003B-2 General Rev VR Bonds.**

Fitch Ratings-New York-11 July 2024: On the effective date of July 18, 2024, Fitch Ratings will revise the long-term rating to 'AA+' from 'AA-' and assign a short-term 'F1+' rating to the Triborough Bridge and Tunnel Authority, NY's general revenue variable rate bonds subseries 2003B-2. The Rating Outlook will be Stable for the long-term rating.

The rating action will be in connection with (1) the mandatory tender of the subseries 2003B-2 bonds, (2) the addition of an irrevocable direct-pay letter of credit (LOC) to be issued by TD Bank, N.A. (TD Bank, rated AA-/F1+/Negative), which will provide support for the subseries 2003B-2 bonds; (3) the remarketing of the subseries 2003B-2 bonds as VRDBs in the daily rate mode; and (4) the amendment and restatement of the certificate of determination for the bonds, which will take place on July 18, 2024.

### **KEY RATING DRIVERS**

The long-term 'AA+' rating will be determined using Fitch's dual-party pay criteria and will be based jointly on the underlying long-term rating assigned to the subseries 2003B-2 bonds by Fitch (AA-/Stable), and the long-term rating assigned by Fitch to TD Bank (AA-/Negative), which will provide a LOC to support the subseries 2003B-2 bonds. The short-term 'F1+' rating will be based solely on the short-term rating of the bank providing the LOC. For information about the underlying credit rating see Fitch's rating action commentary dated Jan. 31, 2024 at 'www.fitchratings.com'.

Fitch's dual-party pay criteria considers the likelihood of the failure of both a rated obligor and a bank LOC provider. The methodology results in a long-term rating that is up to two notches higher than the stronger of the two credits if the following conditions are met: (1) both entities have a rating of 'A' or higher; (2) the transaction is structured such that payments from both the municipal

issuer and the bank are in the flow of funds and both entities would have to fail to perform before the bonds defaulted; and (3) the interest rate modes to be covered by Fitch's rating provide for either a mandatory purchase at the end of each interest rate period, or a purchase demand option. A one- or two-notch uplift will apply to the long-term rating depending on the frequency of the purchase demand option or the duration of the interest rate period which concludes with a mandatory tender.

The bonds will provide holders with a same day tender option while in the daily rate mode and an option to tender bonds upon seven-days notice while the bonds bear interest in the weekly interest rate mode; both daily and weekly modes will be rated by Fitch. Fitch will apply a two-notch uplift, which will result in a long-term rating of 'AA+' for the bonds.

TD Bank will be obligated to make regularly scheduled payments of principal and interest on the bonds in addition to payments upon maturity, acceleration and redemption, as well as purchase price for tendered bonds. The LOC will have a stated expiration date of July 18, 2029, unless extended or earlier terminated, and will provide full and sufficient coverage of principal plus an amount equal to 53 days of interest at a maximum rate of 9% based on a year of 365 days and purchase price for tendered bonds, while in the daily and weekly rate modes. TD Securities (USA) LLC will be the remarketing agent for the bonds.

The subseries 2003B-2 bonds will initially bear interest at a daily rate but may be converted to a weekly, commercial paper, term or fixed interest rate. While the bonds are in the daily or weekly rate modes interest payments will be on the first business day of each month starting on Aug. 1, 2024. The trustee will be obligated to make timely draws on the LOC to pay principal, interest, and purchase price. Funds drawn under the LOC are held uninvested, and are free from any lien prior to that of the bondholders.

Holders may tender their bonds on any business day, provided the tender agent and remarketing agent are given the requisite prior notice of the purchase. The bonds are subject to mandatory tender: (1) upon conversion of the interest rate; (2) upon expiration, substitution or termination of the LOC; (3) following receipt of written notice from the bank of an event of default under the letter of credit and reimbursement agreement, and (4) following receipt of notice from the bank that the interest component will not be reinstated and directing such mandatory tender. Optional and mandatory redemption provisions also apply to the bonds.

## RATING SENSITIVITIES

### Factors That Could, Individually or Collectively, Lead to Negative Rating Action/Downgrade

The Long-Term rating will be tied to the underlying long-term rating assigned to the bonds and the long-term rating that Fitch maintains on the bank providing the LOC. Changes to one or both of these ratings may affect the long-term rating assigned to the bonds. Additionally, if either the underlying bond rating or the bank rating were downgraded to 'A-' or lower, the dual-party pay criteria could no longer be applied, and the Long-Term rating assigned to the bonds would then be adjusted to the higher of the bank rating and the underlying bond rating.

The short-term rating to be assigned to the bonds will be adjusted downward in conjunction with the short-term rating of the bank providing the LOC.

### Factors That Could, Individually or Collectively, Lead to Positive Rating Action/Upgrade

The long-term rating will be tied to the underlying long-term rating assigned to the bonds and the long-term rating that Fitch maintains on the bank providing the LOC. Changes to one or both of these ratings may affect the long-term rating assigned to the bonds.

The short-term rating to be assigned to the bonds is at the highest rating level and cannot be upgraded.

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## **[States, Cities Consider 'Mansion Taxes' to Fund Affordable Housing.](#)**

**From sales taxes to real estate transfer taxes, governments are desperately trying to identify dedicated funding tracts for homelessness and housing initiatives.**

States and cities have been throwing darts at the wall, trying to find dedicated funding to tackle affordable housing needs.

Nationwide, tens of millions of families are struggling amid a housing shortage with rent and housing costs. Home prices are up about 60% over the past decade, adjusted for inflation. And about a quarter of renters—some 12 million households—spend more than half their income on housing, which is far above the recommended 30%.

To support affordable housing development and other initiatives in the rapidly growing Denver area, Mayor Mike Johnston on Monday unveiled a proposed new tax that would add 0.5% atop Denver's current effective 8.81% sales tax rate. The tax is estimated to bring in \$100 million a year in proceeds for the efforts.

[Continue reading.](#)

### **Route Fifty**

By Elizabeth Daigneau,  
Executive Editor, Route Fifty

JULY 12, 2024

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## **[Active Bond ETFs Continue to See Record Inflows This Year.](#)**

More inflows into active bond ETFs during the month of June is following the overall trend of higher inflows since the start of the year. That said, it's an ideal time to get core exposure with the added flexibility of active management with a pair of Vanguard ETFs.

"Investors are shovelling cash into exchange traded funds that invest in a handpicked array of bonds, with record inflows since January that are pushing the industry towards its first \$1tn annual haul," the Financial Times reported. "Actively managed fixed-income ETFs took in \$7bn in June and have garnered \$41bn over the first half of 2024, surpassing 2023's record of \$33bn for the entire year, according to data from State Street Global Advisors, the third-largest US ETF issuer."

Yield is certainly a prime catalyst for the increased demand for bonds as investors are clamoring to lock in yields now before central banks start to cut interest rates. Additionally, active funds have been more competitive in terms of pricing compared to their passive counterparts.

[Continue reading.](#)

## **[BlackRock Counts on Jocular Ex-Trader to Boost Muni Business.](#)**

- **Pat Haskell needs to undo outflows in active muni mutual funds**
- **Ex-Morgan Stanley executive is known for market savvy, pranks**

Not long after Pat Haskell took over Morgan Stanley's municipal-bond department in 2013, he handed out rubber bracelets with the letters "EFD." He wanted his team to bring their best every f—ing day.

And it worked — during his tenure, the business rose in client rankings and found new ways to deliver revenue.

Today, Haskell is trying to fire up another group, this time as BlackRock Inc.'s head of municipal bonds. A key challenge facing the 52-year-old executive is how to reverse severe outflows from actively managed mutual funds after bouts of underperformance.

Investors have pulled roughly \$13.7 billion from those BlackRock muni funds on a net basis since 2020 and its market share has dropped, according to Morningstar Direct data. Although performance has improved in recent months, the outflows have continued.

[Continue reading.](#)

### **Bloomberg Markets**

By Martin Z Braun

July 10, 2024

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## **[Your 2024 Election Guide - Separate Issue Election and/or Multipurpose Issue Allocation \(an Election of Sorts\)? - Squire Patton Boggs](#)**

While probably not the most consequential election in 2024, a bond issuer might need to decide whether to make a separate issue election under Reg. §1.150-1(c)(3) and/or a multipurpose issue allocation under Reg. §§1.148-9(h) and 1.141-13(d).[1] To ensure that issuers (and conduit borrowers)[2] are a fully informed electorate, this 2024 Election Guide will explain the who, what and why of each type of election or allocation (but not necessarily in that order).

### **Separate Issue Election**

*Who qualifies?* An issuer issuing tax-exempt bonds that have more than one purpose (e.g., new money and refunding) – but only if the proceeds, investments and bonds of the aggregate issue are allocated between each of the separate purposes using a reasonable, consistently applied method. It should be noted, however, that if a refunding is one of the separate purposes, certain multipurpose issue allocation criteria (discussed below) must also be met.

*Why make a separate issue election?* An issuer will frequently make the separate issue election when governmental use bonds and tax-exempt qualified private activity bonds would otherwise be part of a single issue for federal income tax purposes (because the governmental use bonds and qualified private activity bonds will be payable from the same source of funds and will be sold at substantially the same time (i.e., within 14 days of each other) pursuant to the same plan of financing). For example, a state university may be selling governmental use bonds and qualified 501(c)(3) bonds at substantially the same time pursuant to the same plan of financing, and these bonds are payable from the same source of funds. Also, some airport financings involve both governmental use bonds and exempt facility bonds. Both qualified 501(c)(3) bonds and exempt facility bonds are subject to more stringent rules than governmental use bonds. Thus, it is often beneficial for the issuer to separate the governmental use bonds from the other more highly regulated qualified private activity bonds.

[Continue reading.](#)

## **The Public Finance Tax Blog**

**By Cynthia Mog on July 10, 2024**

**Squire Patton Boggs**

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### **[Soon Gas Taxes Won't Pay for Roads. But Amazon Deliveries Might.](#)**

**As cars become more fuel efficient and EVs become more prominent, states will not be able to rely on gas taxes for much longer. But some states are considering fees on Amazon deliveries as part of their road-funding solution.**

For decades, states have relied on gas taxes to provide much of the money to maintain roads and bridges. But as cars become more fuel efficient, and some Americans switch to electric vehicles, state leaders say the gas tax won't pay the bills for much longer.

At the same time, many cities have seen their streets crowded with delivery trucks from Amazon and other companies, as consumers increasingly opt to have products delivered to their homes. In a few states, lawmakers think fees on those deliveries could be part of their road-funding solution.

"If you're going to be creating wear and tear on our roads, you should help pay to maintain them," said Colorado state Rep. Cathy Kipp, a Democrat who chairs the Energy and Environment Committee.

[Continue reading.](#)

**governing.com**

July 11, 2024 • Alex Brown, Stateline.org, TNS

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### **[Muni Market Faces Early Credit Problems as Covid Aid Sunsets.](#)**

- **Analysts see revenue pressure slowing recent flow of upgrades**

- **Health care, higher-education sectors will face most stress**

Credit quality in the \$4 trillion municipal bond market is showing early signs of pressure as federal pandemic aid winds down, spurring expectations that the rapid pace of rating upgrades over downgrades in recent years will ease.

Revenue growth is slowing, and in states such as California tax and fee collections are dropping. Rainy day funds are forecast to show declines after reaching record levels from strong economies and US stimulus money.

“Going into fiscal 2024, we were coming into all-time highs of reserve funds, and the economy had proven to be resilient,” Lisa Washburn, a managing director of Municipal Market Analytics, said in an interview. “If you look into fiscal 2025, you have draw down of reserves and softening of revenue growth.”

[Continue reading.](#)

## **Bloomberg Markets**

By Shruti Singh

July 10, 2024

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## **[Tax-Exempt Asset Demand 'Insatiable': Thornburg's Lando](#)**

Eve Lando, Thornburg Investment Management portfolio manager, discusses the state of the municipal bond underwriting business. Speaking on “Bloomberg The Close,” Lando says she sees “insatiable interest in anything tax-exempt.”

[Watch video.](#)

## **Bloomberg Markets**

July 11, 2024

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## **[Short-Dated Municipal Bonds Soar on Weak Inflation, Rate Cut Expectations.](#)**

- **Yields dropped as much as 8 basis points on Thursday**
- **Strong performance may help boost flows into municipal funds**

Short-dated municipal bonds posted their best day in five months after signs of slowing inflation fueled speculation the Federal Reserve will be able to cut rates as soon as September.

Shorter-dated securities extended a rally on Friday afternoon after state and local government bond yields dropped as much as 8 basis points on Thursday, further boosting prices. The biggest gains came at the front of the yield curve with top-rated benchmark bonds maturing in one and two years posting their best daily gains since early February.

“We’ve gone through several false starts in the first and second quarter, hence the market was going in a little cautious,” said James Pruskowski, chief investment officer at 16Rock Asset Management, referencing inflation data that had been stubborn until recently. “I think this seals the fate as the Fed is laying the groundwork for a pivot.”

[Continue reading.](#)

## **Bloomberg Markets**

By Maggie Eastland and Danielle Moran

July 12, 2024

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### **[GFOA's Best Practices Forum Begins July 29.](#)**

Did you know that GFOA has approved over 200 best practice statements that serve as the foundation for financial management practices for all governments to implement? Join us virtually, July 29–August 2, as presenters highlight over 20 individual best practices and provide the latest information on current trends, implementation considerations, and essential practices for all governments.

[Click here](#) to learn more and to register.

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### **[SEC Approves Amendments to Rule G-47 to Add Three New Time of Trade Disclosure Scenarios, Codify and Consolidate Existing Guidance, Delete Certain Guidance, and Make Technical Amendments.](#)**

[View the MSRB Notice.](#)

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### **[New York State Authority to Sell \\$1.29 Billion of Municipal Bonds.](#)**

The Dormitory Authority of the State of New York plans to sell almost \$1.29 billion of municipal bonds backed by money collected from the state’s sales tax.

The Series 2024A bonds will be available in three separate tranches as part of a competitive sale scheduled for Wednesday, according to a preliminary offering statement posted on MuniOS. Public Resources Advisory Group is acting as an advisor on the sale.

Bonds being sold in Bidding Group 1 and Bidding Group 2 total about \$430.3 million and \$437.8 million, respectively, and pay an interest rate of 5%. The securities being offered in Bidding Group 3 total about \$419 million and will be offered at a minimum interest rate of 5% and a maximum rate of 5.25%.

Proceeds from the sale will be used to finance, refinance and reimburse some or all of the costs related to certain capital projects. That includes work done as part of the Consolidated Local Street and Highway Improvement Program, and projects for the Metropolitan Transportation Authority.

The Dormitory Authority is one of three entities authorized to issue state sales tax revenue bonds. The state estimates it will collect about \$19.1 billion in sales tax receipts during the 2024-2025 fiscal year. That is up from about \$16.5 billion in the 2021-2022 fiscal year.

Moody's Ratings assigned the bonds a rating of Aa1.

### **Provided by Dow Jones**

Jul 9, 2024 9:45am

By Adam L. Cataldo

Write to Adam L. Cataldo at [adam.cataldo@wsj.com](mailto:adam.cataldo@wsj.com).

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## **[Active Management Will Drive Muni Returns in 2024](#)**

### **Municipal June update**

- Municipal bonds posted their strongest June performance since 2019.
- The asset class outperformed amid improving seasonal supply-and-demand dynamics.
- Looking ahead, July has historically been the strongest performing month of the year.

[Continue reading.](#)

by Patrick Haskell, James Schwartz, Sean Carney of BlackRock, 7/11/24

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## **[These Bonds Offer Good Yields and Low Risk for Those Who Qualify.](#)**

Like chocolate and peanut butter, a dovish Fed and narrower credit spreads are two great tastes that go great together in high-quality municipal bonds, where investors in the highest tax brackets can earn impressive income without sweating credit risk.

Muni bonds aren't for everyone. But for high-income investors, they provide sizable yields with lower risk than they could get elsewhere thanks to the magic of "tax equivalency." Muni bonds usually have lower yields than Treasuries, but because they are generally free from federal taxes, the yield has to be adjusted for the amount saved on taxes. The actual tax-equivalent yield of a muni bond can depend on an investor's tax bracket and state residence.

These days, the tax-equivalent yields for many muni bonds across the maturity spectrum are pushing 6%. That's better than investors can do not only in equivalent Treasury bonds, but in corporates and money-market funds as well.

[Continue reading.](#)

## **Barron's**

By Al Root

July 12, 2024,

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### **[New York State Authority Sells \\$1.22 Billion in Bonds for Transportation Programs.](#)**

The Dormitory Authority of the State of New York sold \$1.22 billion of municipal bonds to cover the costs of transportation programs and other projects.

The authority issued three groups of tax-exempt Series 2024A bonds maturing between 2026 and 2056, all with a 5% interest rate. The 10-year bonds carry a 2.98% yield, according to a statement published Thursday on MuniOs.

DASNY initially planned to raise nearly \$1.29 billion with the sale.

The proceeds are meant to finance, refinance or reimburse the costs of certain capital projects, including work done as part of the Consolidated Local Street and Highway Improvement Program and projects for the Metropolitan Transportation Authority.

The bonds were sold in competitive bidding on Wednesday. Morgan Stanley bought the first tranche of bonds, which mature between 2026 and 2041. J.P. Morgan Securities bought the second group, maturing between 2042 and 2050, and BofA Securities bought the third tranche, maturing between 2051 and 2056.

The bonds are backed by money collected from the state's sales tax. The state estimated it would collect about \$19.07 billion in sales tax receipts during the 2024-2025 fiscal year.

Interest is payable on each March 15 and Sept. 15, starting in March 2025.

Moody's Ratings has assigned the bonds an Aa1 rating and Kroll Bond Rating Agency rated them AAA.

### **Provided by Dow Jones**

By Paulo Trevisani

Jul 12, 2024 10:35am

Write to Paulo Trevisani at paulo.trevisani@wsj.com

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- [SEC, MSRB, FINRA to Hold Hybrid Compliance Outreach Program.](#)
  - [SIFMA: Life in the \(Fixed Income\) Fast Lane](#)
  - [Munis Present \\$1.6 Billion Opportunity for E-Trading, BofA Says.](#)
  - [Forbes Special Report: Economic Drivers Of AI And The Municipal Bond Market](#)

- [How IRA Elective Pay is Helping Cities Meet Climate Action Plans](#)
- And Finally, I'll See Your Blonde Girl And Raise You A Blonde Boy is brought to us this week by [Cajune v. Independent School District 194](#), in which a group of parents petitioned the school district for permission to hang Black Lives Matter posters in the school, while a very different group of parents welcomed the move with equanimity, grace, and dignity... Ha! (As a side note, has there ever been a better time to be a high school principal? Wait, we meant to say Taco Bell Assistant Manager.) The one thing we can all agree on is that the nation is calling out for the opinion of an uninformed middle-age white man, so here I go... Ha! The opinion did include a gloriously bewildering sentence, "In one final poster, the District revised a draft version to replace a blonde girl with a blonde boy." Well there's something we can all agree on?

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## **PUBLIC EMPLOYMENT - CALIFORNIA**

### **[Los Angeles County Employees Retirement Association v. County of Los Angeles](#)**

**Court of Appeal, Second District, Division 7, California - June 24, 2024 - Cal.Rptr.3d - 2024 WL 3100166**

County employee retirement association brought action against county, seeking declaratory relief and a writ of mandate requiring county board of supervisors to include the employment classifications and salaries for association employees in the county's employment classifications and salary ordinance.

The Superior Court denied association's request for declaratory relief and its petition for a writ of mandate.

Association appealed.

The Court of Appeal held that:

- County employee retirement board had the authority to hire the personnel it deemed necessary to fulfill the board's fiduciary responsibility for administration of the system, including the number and type of personnel and their compensation;
- Constitutional provision giving county employee retirement board plenary authority over the county retirement system did not conflict with county's home rule authority; and
- County board of supervisors had a mandatory statutory duty to include in county classifications and salary ordinance the employment classes and compensation adopted by retirement association board for their employees.

County employee retirement board had the authority to hire the personnel the board deemed necessary or appropriate to fulfill the board's fiduciary responsibility for investment of moneys and administration of the system; that authority included determining the number and type of personnel required to do the job, as well as their compensation, and could not be overruled by the county board of supervisors.

Constitutional provision giving county employee retirement board plenary authority and fiduciary responsibility over the county retirement system did not conflict with county's home rule authority; the county employee retirement board provision was more recently enacted, more specific, and applied "notwithstanding any other provisions of law or this Constitution to the contrary," and thus county employee retirement board's authority carved out an exception to county's authority to establish classifications and fix compensation for county employees.

County board of supervisors had a mandatory statutory duty to include in county classifications and salary ordinance the employment classes and compensation adopted by the county employee retirement association board for their employees; retirement association board had the exclusive authority to appoint staff as required to accomplish the necessary work of the board, to determine job responsibilities, reporting relationships, and salaries for its employees, to create their own budgets, and to charge administrative expenses against their earnings, and the board of supervisors had no knowledge of or supervisory authority over the necessary work of the retirement board, and no control over retirement board's budget.

Statute stating that county employee retirement board appointments "shall be county employees" does not give county board of supervisors authority to classify and establish salaries for retirement system employees; retirement system employees are made county employees by statute for the limited purpose of participating in the retirement system and receiving county fringe benefits unless other benefits are established by the retirement system board.

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## **EMINENT DOMAIN - MICHIGAN**

### **[Bruneau v. Michigan Department of Environment](#)**

**United States Court of Appeals, Sixth Circuit - June 20, 2024 - F.4th - 2024 WL 3063766**

Property owners, whose properties were flooded after dam collapsed after several days of rain due to static liquefaction, brought putative class action against counties in which dam was located, alleging gross negligence under Michigan law and violations of both Fifth Amendment's Takings Clause under § 1983 and Takings Clause of Michigan's constitution.

The United States District Court for the Eastern District of Michigan granted the counties' motion for summary judgment, and property owners appealed.

The Court of Appeals held that:

- Counties did not take the properties through petitioning efforts to maintain existing water levels behind dam, and
- Counties did not cause dam to collapse, and thus property owners lacked any inverse condemnation claim against counties under the Michigan Constitution.

Under the federal constitution, counties did not take landowners' properties, which were flooded after dam collapsed after several days of rain due to static liquefaction, through petitioning efforts to maintain existing water levels behind dam; petitions merely preserved the lake depth at the same level that had existed for roughly a century, counties played no part in regulating or controlling the dam's infrastructure, and lake levels had little to do with the dam's collapse, which was caused by soil vulnerabilities in place since the dam's construction.

Counties' action in petitioning to keep water levels behind dam at their historical level did not cause dam to collapse, and thus owners of properties flooded by the collapse lacked any inverse condemnation claim against counties under the Michigan Constitution; dam collapse was caused by heavy rains and static liquefaction, neither of which were caused by the county, and the Federal Energy Regulatory Commission's independent forensic team found that lowering the lake level would not necessarily have stopped the dam's eventual failure from static liquefaction.

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## **EDUCATION - MINNESOTA**

### **[Cajune v. Independent School District 194](#)**

**United States Court of Appeals, Eighth Circuit - June 26, 2024 - F.4th - 2024 WL 3169925**

Plaintiffs, including municipal taxpayers, parent of children in public school district, and unincorporated association of district residents and taxpayers, brought § 1983 action against district and its superintendent, asserting that district violated First Amendment Free Speech Clause by rejecting “All Lives Matter” and “Blue Lives Matter” posters and shirts while permitting the display of an inclusive poster series featuring two posters with the phrase “Black Lives Matter.”

Defendants moved to dismiss amended complaint, and unnamed plaintiffs moved to proceed using pseudonyms. United States District Court for the District of Minnesota granted defendants’ motion and denied unnamed plaintiffs’ motion. Plaintiffs appealed.

The Court of Appeals held that:

- Fear of reprisal from political activists was insufficient to support allowing unnamed plaintiffs to proceed pseudonymously;
- Plaintiffs pled sufficient facts to support plausible inference that display of posters was private, not government, speech;
- District created a limited public forum, thereby opening school walls to discussion of similar topics under Free Speech Clause, when it allowed private persons to display posters with phrase “Black Lives Matter” on school walls; and
- Allegations were sufficient to state claim that district violated Free Speech Clause.

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## **POLITICAL SUBDIVISIONS - MISSOURI**

### **[Salamun v. Camden County Clerk](#)**

**Supreme Court of Missouri, en banc - June 25, 2024 - S.W.3d - 2024 WL 3161573**

Owners of property management companies along with their businesses brought separate actions against respective counties, business districts, and various county officials seeking a declaration that statutes creating advisory board and mandating that area business districts transfer tax public money to advisory board, a private nonprofit entity, facially violated section of Missouri Constitution which prohibits a political subdivision from granting public money to a private entity.

Following bench trials, the Circuit Court declared statutes unconstitutional and modified statutes by striking phrase “which shall be a nonprofit entity.” Challengers filed separate appeals and briefs in the Supreme Court.

The Supreme Court held that:

- Statutes, on their faces, violated Missouri Constitution, and
- Valid statutory sections were so inseparably connected with and dependent upon void unconstitutional sections thereby precluding severance.

Members of advisory board were not publicly elected nor appointed by public authority, and thus advisory board was a private entity and could not be delegated to disburse public tax money, such that statutes, on their faces, requiring area business districts to grant lodging tax, which was public

money, to advisory board, which was a private entity, violated section of Missouri Constitution prohibiting a political subdivision from granting public money to a private entity, even though composition of advisory board was prescribed by statute, and even though advisory board was tasked with spending tax revenue for public purposes.

Valid statutes creating and dissolving lake area business districts were so inseparably connected with and dependent upon void statutes creating a governing body and its ability to impose and use lodging tax, which violated section of Missouri Constitution prohibiting a political subdivision from granting public money to a private entity, that Supreme Court could not presume the legislature would have enacted remaining statutes without void statutes, thereby precluding severance of unconstitutional statutes so that the entire statutory scheme was required to be stricken; without advisory board, there could be no lodging tax or an entity to spend lodging tax, and without the lodging tax to be used to promote tourism in the lake area business districts there was no purpose for creating the lake area business districts and no need for a method to dissolve them.

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## **COLLECTIVE BARGAINING - TEXAS**

### **[Borgelt v. Austin Firefighters Association, IAFF Local 975](#)**

**Supreme Court of Texas - June 28, 2024 - S.W.3d - 2024 WL 3210046**

Taxpayers brought action against firefighters' union and city, asserting claims including that provision of collective bargaining agreement between city and union which provided a shared bank of paid leave for city firefighters to use for union activities, subject to contractual requirements and restrictions on its use, violated state constitution's Gift Clauses.

State intervened in support of taxpayers' challenge. The 419th District Court granted union's motion to dismiss and for attorney fees and sanctions under Texas Citizens Participation Act (TCPA), granted partial summary judgment to city and union, and, after bench trial, entered judgment in favor of city and union. Taxpayer and State appealed. The Austin Court of Appeals affirmed. Petition for review was granted.

The Supreme Court held that:

- Agreement as a whole provided public benefit as consideration for public funds;
- Grant of "association business leave" was supported by consideration;
- Grant of leave had predominantly public purpose;
- Any past misuses of leave did not establish agreement's text violated Gift Clause;
- City's retention of control over leave was sufficient to comport with Gift Clause; but
- Taxpayers satisfied their rebuttal burden in opposition to TCPA motion.

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## **UBI - TEXAS**

### **[In re State](#)**

**Supreme Court of Texas - June 14, 2024 - S.W.3d - 2024 WL 2983176 - 67 Tex. Sup. Ct. J. 1107**

State sued county, alleging that a proposed program to provide no-strings-attached monthly cash payments to 1,928 county residents with income below 200% of the federal poverty line violated the Texas Constitution, and seeking an injunction blocking implementation of the proposed program.

The 165th District Court denied state's motion for a temporary injunction. State appealed, and the Houston Court of Appeals, Fourteenth District, denied state's request for a temporary order staying payments under the program while its appeal proceeded.

State petitioned for a writ of mandamus and filed a motion for temporary relief. The Supreme Court administratively stayed the payments pending consideration of state's motion for temporary relief.

The Supreme Court held that state was entitled to temporary injunctive relief preventing implementation of county's program pending its appeal of trial court's denial of its motion for a temporary injunction.

In original mandamus proceeding before the Supreme Court, state was entitled to temporary relief preventing implementation of county's payments to individuals under a poverty-relief program pending its appeal of trial court order denying its motion for a temporary injunction; state demonstrated the likelihood of success on the merits by raising serious doubt about the constitutionality of county's no-strings-attached program, the potential violation of the Texas Constitution's provisions prohibiting counties from granting public money to individuals without retaining public control could not be remedied or undone if payments were to commence while the underlying appeal proceeded, and the county and the public would not be harmed by a stay pending determination of the constitutionality of the county's program.

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## **EMINENT DOMAIN - WISCONSIN**

### **[Sojenhomer LLC v. Village of Egg Harbor](#)**

**Supreme Court of Wisconsin - June 19, 2024 - 2024 WI 25 - 7 N.W.3d 455**

Property owner filed an action to enjoin village from acquiring the property through condemnation in order to build a sidewalk.

The Circuit Court granted village summary judgment. Property owner appealed. The Court of Appeals reversed and remanded. Village petitioned for review.

The Supreme Court held that sidewalks are not "pedestrian ways" as that term is defined in statutes that prohibit condemnation, including condemnation by villages, to acquire property to establish or extend pedestrian way.

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## **[SIFMA US Municipal Bonds Statistics.](#)**

SIFMA Research tracks issuance, trading, and outstanding data for the U.S. municipal bond market. Issuance data is broken out by bond type, bid type, capital type, tax type, coupon type and callable status and includes average maturity. Trading volume data shows total and average daily volume and has customer bought/customer sold/dealer trade breakouts. Outstanding data includes holders' statistics. Data is downloadable by monthly, quarterly and annual statistics including trend analysis.

YTD statistics include:

- Issuance (as of June) \$241.5 billion, +31.9% Y/Y
- Trading (as of June) \$13.0 billion ADV, +2.9% Y/Y

- Outstanding (as of 1Q24) \$4.1 trillion, +1.0% Y/Y

[Access the SIFMA report.](#)

July 1, 2024

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## **[NASBO: States Finalize Fiscal 2025 Budgets](#)**

As of July 3, 47 states have enacted a full-year budget for fiscal 2025. State fiscal conditions are continuing to return to a more normal budget environment in which new money is limited and revenue collections more closely align with expectations. According to [NASBO's Spring 2024 Fiscal Survey of States](#), state general fund spending in fiscal 2025 is expected to slow following three consecutive years of robust increases, which were driven in part by sizable one-time expenditures of surplus funds. States are projecting modest revenue gains in fiscal 2025 following two consecutive years of essentially flat revenue growth, and tax collections for fiscal 2024 are performing close to states' [revenue forecasts](#). While expenditure and revenue growth is expected to slow, a majority of governors are recommending further increases to rainy day funds. As states begin fiscal 2025, overall fiscal conditions remain strong as states invest in priorities, experience stable revenue outlooks, and maintain rainy day funds at or near all-time highs.

Thirty-four states, the territories, and the District of Columbia are enacting a new budget for fiscal 2025 (Kentucky, Virginia, and Wyoming are enacting a biennial budget for both fiscal 2025 and fiscal 2026). Last year, 16 states enacted biennial budgets covering both fiscal 2024 and fiscal 2025; in seven of those states, the governor released a supplemental or revised budget recommendation for fiscal 2025. Forty-six states begin their fiscal year on July 1 (New York begins its fiscal year on April 1, Texas on September 1, and Alabama and Michigan on October 1). Puerto Rico begins its fiscal year on July 1, while the District of Columbia, Guam, and the U.S. Virgin Islands begin their fiscal year on October 1.

Below is additional information on states that have yet to enact a full-year budget for fiscal 2025. Additionally, Table 12 of NASBO's [Budget Processes in the States](#) has information on procedures if no budget is enacted by the start of the fiscal year.

- **Massachusetts** - The legislature has yet to pass a budget for the full fiscal year; the governor signed a temporary budget for the month of July.
- **Michigan** - The legislature finalized the budget on June 27 and the governor is currently reviewing the budget bills. Michigan's fiscal year does not begin until October 1.
- **Pennsylvania** - The legislature has yet to reach a budget agreement.

Please [click here](#) for links to proposed and enacted budgets, as well as prior budget summaries.

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## **[Munis Present \\$1.6 Billion Opportunity for E-Trading, BofA Says.](#)**

- **Only 14% of muni turnover is handled electronically, bank says**
- **It's about 60% for Treasuries, almost 40% for US IG bonds**

The municipal-bond market has been one of the slowest areas of the fixed-income universe to shift to electronic trading. But as Bank of America Corp. sees it, there's plenty of scope for that to change.

Electronic platforms have the potential to triple the share of turnover they handle in US state and city debt — from an estimated 14% now — reaping \$1.6 billion in annual revenue, analysts at Bank of America said in a report this month that assessed the prospects of e-trading in various bond categories.

## **Trading Velocity Increases Post-Electronication**

### **Bank of America sees at least a three-fold increase upon hitting inflection**

There are [substantial hurdles](#) to electronication in the \$4 trillion muni market, which encompasses about 50,000 borrowing entities nationwide. There are also roughly a million outstanding muni securities, compared with 40,000 for US corporate bonds, according to the bank. There are substantial hurdles to electronication in the \$4 trillion muni market, which encompasses about 50,000 borrowing entities nationwide. There are also roughly a million outstanding muni securities, compared with 40,000 for US corporate bonds, according to the bank.

[Continue reading.](#)

## **Bloomberg Markets**

By Isabelle Lee

June 27, 2024

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## **[Forbes Special Report: Economic Drivers Of AI And The Municipal Bond Market](#)**

Presenting on the "AI and the Municipal Bond Market" panel for the [Council of Development Finance Agencies/BNY Mellon webcast series](#), I was asked why the market's adoption of technology is now coming at such a blistering speed. After all, for years if not decades, the market had been resistant to technology or any sort of change, enjoying its status as boring, stodgy, clubby, and dull. Now the pace of technological change is stunning—with no signs of abating. If anything, it's increasing.

Certainly there are many reasons for this remarkable pivot. Technology across the board is better and faster. Advances in AI, faster chips, more code, better connectivity, data science breakthroughs, market professionals who grew up with laptops and cell phones—each building on the other. The market is experiencing a variant of Moore's Law on steroids. To add fuel to the fire, there is FOMO: fear of missing out. If your competitor has bigger, faster, better technology than you do, you risk falling hopelessly behind.

All valid and reasonable explanations, but not really getting to the core of answering the question.

[Continue reading.](#)

## **Forbes**

by Barnet Sherman, *Contributor*

July 2, 2024

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### **Orrick: Henry Ford Health Closes First-of-its-Kind Central Energy Hub Transaction**

Henry Ford Health plans to build a \$235 million Central Energy Hub as part of a broader \$2.2 billion Detroit hospital campus expansion known as Destination: Grand.

Orrick represented the underwriters and served as special tax counsel in design, construction, financing, operations and maintenance deal for the Central Energy Hub, which will provide electric heating and cooling to several new hospital buildings.

Innovating in the energy as a service market, the deal achieved meaningful delivery and operational risk transfer of the Central Energy Hub to Provident Resources Group and Kiewit Development Company. That enables Henry Ford Health to focus on its core mission of providing world-class healthcare to its community.

The deal also involved tax-exempt financing that lowered the cost of capital and maximized the scope for the project.

In an interview with *IJGlobal*, Orrick's [Matthew Neuringer](#) discussed the nuances of the solution the Orrick team helped design and implement.

"This is a novel application of this particular type of not-for-profit tax-exempt financing solution through a project-developer-led approach for the energy as a service space," Neuringer said.

Plans for the Central Energy Hub are part of a major construction project that includes a new state-of-the-art patient tower with all private rooms, a 1,500-space parking deck and a physical rehabilitation institute through a partnership with Shirley Ryan AbilityLab.

#### **THE COMPANIES**

Henry Ford Health is a leading integrated and academic healthcare system based in Detroit, serving southeast and central Michigan.

In March of 2023, Henry Ford Health began looking for a private partner to design, build, finance, operate and maintain the Central Energy Hub. HFH selected Henry Ford Health Energy Partners (e.g. Kiewit, Veolia and Provident) as the preferred bidder.

Kiewit HFH Investors is the sole member of Henry Ford Health Energy Partners and a 100% equity sponsor.

Henry Ford Health Energy Partners has contracted with Kiewit Development Company for long-term management services.

“The project enables Henry Ford to focus on its core mission of transformational healthcare services and expanding those services while partnering with a world class provider of DBFOM services and energy development to focus on the non-core mission of the hospital development,” Neuringer said in the interview.

Henry Ford Health said in a [statement](#) that the Central Energy Hub “will feature a hot and chilled water pump system that will provide electric heating and cooling to the new hospital facilities, allowing the system to limit and eventually fully avoid natural gas usage in those facilities. That means those buildings, including the CEH itself, will produce zero fossil fuels or emissions by our target dates in 2050.”

#### THE TEAM

Orrick’s [Matthew Neuringer](#) led the team as underwriters counsel. The team also included [Robyn Helmlinger](#), [Charles Cardall](#), [Young Lee](#), [Joseph Lodico](#), [Ladan Mohaddes](#), [Joshua Bonney](#), [Ian Busche](#), [Eric Newman](#) & Henry McKenzie.

#### LEARN MORE

- [Henry Ford Health](#)
- [Henry Ford Health news release on Central Energy Hub](#)
- [Kiewit Development Company](#)
- [Provident Resources Group announcement](#)
- [Read the IJGlobal article](#) (requires subscription)
- [Read More Orrick Client Results](#)

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### **[Fitch Ratings Updates U.S. Public Finance Prepaid Energy Transaction Rating Criteria.](#)**

Fitch Ratings-New York/Austin-01 July 2024: Fitch Ratings has published the following report: “U.S. Public Finance Prepaid Energy Transaction Rating Criteria.” This report updates and replaces the prior report published on June 13, 2023.

The primary revision to the criteria is a scope clarification to enable Fitch to assign and maintain ratings on underlying component obligations of prepaid energy transactions, including those related to the funding agreement. Fitch also clarified its definitions of payment force majeure, grace periods, and qualified investments.

The key criteria elements remain consistent with those of the prior report, and there is no impact on outstanding ratings. The previous version of the criteria has been retired.

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## [San Diego, California: Fitch New Issue Report](#)

The upgrade of the city's IDR and GO rating to 'AA+' from 'AA' reflects implementation of Fitch's new "U.S. Public Finance Local Government Rating Criteria". The 'AA+' rating incorporates the city's 'aa' financial resilience assessment, which reflects a limited budgetary flexibility and an expectation that available reserves will be maintained between 17.5% and 25% of spending (compared to the current 19%). The rating also reflects the city's midrange long-term liability burden (42nd percentile of the Fitch local government rating portfolio), midrange population trend (42nd percentile) and strong demographic and economic level, the composite of which is at the 64th percentile of Fitch's local government portfolio. The rating further reflects the application of positive additional analytical factor notches that recognize the city's role as the center of an important and large MSA with a vital role in the national economy. The 'AA' rating for the lease revenue bonds and commercial paper notes reflects the slightly higher optionality associated with the requirement to budget and appropriate for their debt service.

### [ACCESS REPORT](#)

Fri 05 Jul, 2024 - 3:24 PM ET

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## [Voters to Decide if California Can Borrow \\$20B for Climate and Education.](#)

**State lawmakers will likely place two bonds, one for climate change impacts and one for school repairs - each worth \$10 billion - on the November ballot. The bonds will require a two-thirds approval from both chambers to reach the ballot.**

California voters will likely decide whether to let the state borrow \$20 billion to fight climate change and support schools, issues that advocates say are in need of a cash influx in light of recent budget cuts.

State lawmakers said Sunday that they reached agreements to place both a \$10 billion bond to pay for climate change impacts and another \$10 billion bond for school repairs.

Voter approval of borrowing is never a sure thing, even in a presidential election when turnout is high and the electorate skews more progressive. In 2020, for example, voters rejected a \$15 billion schools facilities bond.

[Continue reading.](#)

**[governing.com](http://governing.com)**

## [Bay Area Residents To Vote on \\$20 Billion Housing Bond.](#)

### **Localities Seek Regional Solution As State Cuts Funding Resources**

Voters in San Francisco and eight adjoining counties will decide in the November election whether to support spending up to \$20 billion to build or preserve affordable housing.

The ballot referendum could make enough funding available through municipal bonds to develop or preserve about 70,000 houses priced for households with low and moderate incomes. Its chances of passing depend on whether voters' concerns about the housing crisis outweigh their fears of the higher property taxes needed to pay for the bonds.

The matter is headed for the ballot after the Bay Area Housing Finance Authority, the writer of the measure, voted to support it at a meeting this week. The California state legislature created the agency in 2019 to address the region's spiraling housing costs.

[Continue reading.](#)

### **CoStar News**

By David Holtzman

June 26, 2024

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## [Los Angeles, California: Fitch New Issue Report](#)

The Issuer Default Rating (IDR) upgrade to 'AA+' reflects the implementation of Fitch Ratings' new "U.S. Public Finance Local Government Rating Criteria". The 'AA+' IDR also reflects the city's 'aaa' financial resilience assessment and moderate long-term liability burden, balanced against weak demographic and economic trends and level metrics, including flat population growth, elevated unemployment, and below-average median household income (MHI).

[ACCESS REPORT](#)

Wed 26 Jun, 2024

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## [Stable but Slowing: State Revenues Start to Squeeze Policy Ambitions](#)

**After years of rapid growth, states are starting to see revenue declines. Tax cuts red states enacted could become more costly in future years, while some blue states are debating tax increases.**

**In Brief:**

- Total state revenues are stagnating, with overall declines in sales tax collections.
- The factors that fueled growth in recent years, notably federal aid, are no longer boosting treasuries.
- Given healthy reserves, the picture is not dire but policymakers have entered an age of tough choices if not austerity.

California has been facing a massive budget shortfall — estimates vary, but in the \$50 billion range — so it was not at all surprising that the spending package passed last month included serious cuts. The state will reduce its spending by about \$16 billion, including an 8 percent reduction in funding for almost all departments.

[Continue reading.](#)

governing.com

July 5, 2024 • Alan Greenblatt

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## **[Texas Biomed Taps Muni Market for Next Pandemic Battle.](#)**

[Watch video.](#)

### **Bloomberg Markets: The Close - Muni Moment**

July 2nd, 2024, 2:19 PM PDT

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## **[Houston to Sell \\$589.4 Million of Bonds as Part of Settlement With Firefighters.](#)**

Houston plans to sell a total of \$720.4 million of municipal bonds to payoff outstanding legal obligations and existing debt.

The city will sell Series 2024A bonds totalling \$589.4 million to cover expenses related to the settlement of a legal dispute between the Houston Professional Fire Fighters’s Association, according to a document posted on MuniOs. The Series 2024B securities, for \$131 million, are bonds that will go to refund debt maturing in in 2025 and 2026.

Preliminary pricing information on the interest rate and yield on the debt wasn’t provided. Investors will be paid back by money raised from city taxes on property.

Moody’s Investors Service has rated the bonds Aa3.

Ramirez & Co. is lead underwriter on the deal.

Provided by Dow Jones

Jul 1, 2024 12:08pm

By Paulo Trevisani

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## **S&P U.S. Charter Schools Sector Fiscal 2023 Medians: Healthy Financial Metrics Amid Looming Fiscal Cliff**

### **Key Takeaways**

- U.S. charter schools' median financial performance remained healthy in fiscal 2023, with stable-to-improving metrics across most measures relative to fiscal 2022.
- Median enrollment surged 7% to 1,175 from 1,098 in fiscal 2022, the largest annual growth rate our charter school universe has experienced in the past decade.
- California still leads the pack by number of rated schools, adding the most new ratings over the past year, followed by Florida.
- Elementary and Secondary School Emergency Relief (ESSER) funding, which is available to be spent through September 2024, continues to support solid financial performance, lease-adjusted MADS coverage, and liquidity levels.

[Continue reading.](#)

25 Jun, 2024

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## **Fitch: Tuition Growth Not Enough to Preserve Margins for U.S. Private Colleges**

Fitch Ratings-New York/Chicago-02 July 2024: The uphill battle continues for U.S. private colleges and universities despite an uptick in net tuition revenue growth with medians likely under intensifying pressure in the coming months, according to Fitch Ratings in its latest annual medians report for the sector.

Private U.S. colleges saw a return to net tuition revenue growth in fiscal 2023. "Looking ahead, additional operating pressure is expected through with many institutions grappling with elevated costs and a fractured enrollment environment," said Senior Director Emily Wadhwani. This will likely result in more pressure on medians with adjusted operating margins falling to their lowest point in over a decade despite relatively steady investment returns and endowment support. "Cash flows and coverage are likely to face continued pressure, particularly emerging from an admission cycle fraught with FAFSA issues this spring casting concerns over fall enrollment expectations," Wadhwani continued.

Working in the sector's favor to help balance out negative stresses are still-strong balance sheets. Colleges are playing defense in controlling expenses where possible, evaluating sales or monetization of non-core assets, weighing partnerships versus ownership, and deferring maintenance. As a result, Fitch-calculated available fund levels held steady in fiscal 2023 against expenses and adjusted debt.

Leverage and liquidity medians returned to slightly better than pre-pandemic levels, a favorable development which will in time be tempered by still-narrow operating margins and hampered operating flexibility. "Limited increases in tuition will be insufficient to mitigate still-elevated operating costs, which over time will further widen the credit gap between larger, more selective institutions versus their smaller, less selective and more tuition-dependent counterparts," affirms Wadhwani.

Fitch's Fiscal 2023 Median Ratios for U.S. Not-for-Profit Private Colleges and Universities report is available at [www.fitchratings.com](http://www.fitchratings.com).

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## **[A More Measured Approach as States Navigate 'Environmental, Social, and Governance' Mandates.](#)**

### **Unexpected costs and implementation challenges for the investment policies prompt a 2024 shift**

State policymakers across the political spectrum have increasingly created rules and mandates targeting environmental, social, and governance (ESG) investment strategies in recent years. In 2024 alone, more than two dozen ESG bills have been introduced—some favorable to the concept but most oppositional—and six so far are now law.

ESG investment strategies have traditionally focused on the long-term impacts of investing in industries that could be economically, environmentally, or politically undesirable—with the bottom-line goal of limiting financial exposure to potential risks. In contrast, some state policymaker efforts around ESG have conflated this traditional use with what is known as impact investing, a strategy that aims to achieve certain social or environmental outcomes.

This year, for example, Idaho lawmakers joined those in more than a dozen other states, including Texas and Florida, in prohibiting government entities from doing business with certain companies that use ESG considerations in their investing approach. On the other end of the spectrum, Oregon's pension fund is planning to divest from coal after lawmakers enacted legislation as part of an effort to have a net-zero pension portfolio by 2050.

[Continue reading.](#)

### **The Pew Charitable Trusts**

By: Fatima Yousofi, Liz Farmer & Stephanie Connolly

June 27, 2024

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## **[Is It Time to Dig Into Rainy Day Funds?](#)**

**Despite reserves bulging and revenue receding, state legislators and governors are reluctant to spend savings.**

After years of strong revenue growth, states nationwide have greatly increased their savings—rainy day fund balances are at record levels relative to state spending in 22 states. But revenues are declining and legislators and governors in several states are asking whether this is the right time to withdraw money from their rainy day funds.

These funds are reserve accounts in which states save money in good years to help balance their budgets in bad ones. Budget experts, including credit rating agencies, recommend using the reserves to limit painful service cuts or tax increases when states face budget shortfalls caused by temporary events such as recessions or natural disasters. But rainy day funds are not well suited for helping states close shortfalls caused by structural imbalances in which ongoing spending chronically exceeds ongoing revenue.

Although this maxim is easy to understand in theory—use the rainy day fund for temporary shortfalls, not structural ones—applying it can be more difficult. It’s not always obvious where and when temporary problems end and structural problems begin. Furthermore, rainy day funds have grown so much that some policymakers have begun to wonder whether their savings are larger than necessary. Some states continue to increase savings by raising caps on reserve funds or appropriating dollars to emergency funds, but others have started to discuss spending down rainy day funds even in the absence of a shortfall.

[Continue reading.](#)

## **Route Fifty**

By Josh Goodman, John Hamman and Sariah Toze

JUNE 26, 2024

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## **[Why Muni Mega-Deals Are Smashing Records.](#)**

Dan Close, Nuveen’s head of municipals, says borrowing costs, infrastructure demand and the US presidential election are driving mega-deals in the municipal bond market. Speaking on “Bloomberg The Close,” Close also comments on the anticipated demand for MTA muni bonds.

[Watch video.](#)

## **Bloomberg Television**

Jun 26, 2024

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## **[Nashville to Sell \\$350 Million of Bonds for Vanderbilt University.](#)**

Nashville plans to issue \$350 million in municipal bonds to pay for upgrades at Vanderbilt University.

Proceeds from the sale will be used to finance the cost of acquiring, constructing and installing certain capital improvements to the educational and educational support facilities at the university, according to a document posted on MuniOS.

The bonds will be sold on Vanderbilt's behalf by the Health and Educational Facilities Board of the Metropolitan Government of Nashville and Davidson County.

The interest rate and yield on the debt have yet to be determined, according to a document posted on MuniOS. The bonds are expected to price July 10 and the transaction has a preliminary closing date of Aug. 1.

Bond holders will be repaid with funds from the school's endowment, tuition, fees and other charges to students and revenue from the university's medical center.

Founded in 1873, Vanderbilt is located on a 330-acre campus in Nashville, Tenn., and has about 13,500 undergraduate, post-graduate and professional students. The university operates what it describes as 10 different academic units including schools of nursing, medicine, law and engineering.

Moody's Investors Service and S&P Global Ratings have assigned ratings of Aa1 and AAA, respectively, to the bonds.

RBC Capital Markets and BofA Securities are lead underwriters on the deal.

Write to Patrick Sheridan at [patrick.sheridan@wsj.com](mailto:patrick.sheridan@wsj.com)

Provided by Dow Jones

Jul 1, 2024 11:21am

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## **[Measuring Economic Impact Is a Win-Win for Developers and Municipalities.](#)**

Introduction: At a time when financing for hospitality development projects is challenging for developers, it can often mean that some projects won't ever come to fruition. At the same time, municipalities would like to increase their hotel or resort offerings to attract travelers to their destinations while remaining fiscally responsible. When developers seek government assistance for development projects, state and local authorities must balance the needs of developers in the community with the financial realities of the project. Commissioning an economic impact study will provide important data for stakeholders to understand the economic benefits of a project and assess its desirability and its overall economic impact on the local or regional economy. The case study presented in this report shows the occupancy impact that Kalahari Resorts has caused in the markets where they have been developed in Ohio, Pennsylvania, and Texas over the past 20 years. The statistical data shows strong positive growth in market occupancy levels caused by the addition of these themed resorts with high room counts and multiple attractions. An economic impact study can similarly provide developers and government representatives with financial information to forecast the economic impact of a proposed development.

### **PURPOSE OF ECONOMIC IMPACT STUDY**

An economic impact study estimates the total benefits of a project, including tax revenues, employment changes, additional spending impacts during the construction and operational phases, revenues from increased commercial activity and tourism, and other changes in the community. It will also measure the impact on other local businesses in the area that may benefit from a new hospitality property. The results of this study are often used to calculate financial incentives that municipalities are willing to offer a development project based on the projected impact on the local

economy. In addition, the study can also be used to demonstrate benefits that may persuade communities to support a project.

Resources: H&LA utilizes the following resources when preparing economic impact studies:

[Continue reading.](#)

## **hospitality.net**

By David J. Sangree

*MAI, CPA, ISHC, is President of Hotel & Leisure Advisors*

3 July 2024

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## **[The Biggest Challenge in Public Finance May Not Be Money.](#)**

**Workforce shortages are affecting many areas of government, but public finance is particularly hard hit. Shortages of accountants are a severe problem, with too few candidates replacing aging employees.**

### **In Brief:**

- The public finance workforce is still below pre-pandemic numbers. A third of the existing workforce is eyeing retirement.
- Recruitment is a challenge, with college students deterred by barriers to entry including lengthy licensing requirements and subpar pay.
- Possible solutions include more financial aid and a streamlined hiring process.

By now, problems with workforce shortages are pretty familiar, but here's a specialized area you might not have thought about: The nation is in the middle of a shortage of accountants that's only going to get worse.

[Continue reading.](#)

## **governing.com**

July 3, 2024 • Zina Hutton

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## **TAX - FLORIDA**

### **[Pinellas County v. Joiner](#)**

**Supreme Court of Florida - June 27, 2024 - So.3d - 2024 WL 3190642**

First county, which owned property in second county, brought action against second county's appraiser for a judgment declaring that its property was immune from ad valorem taxes and an injunction prohibiting future assessment and collection of such taxes.

After both sides moved for summary judgment, the Circuit Court entered summary judgment for first county. Second county's appraiser appealed. The District Court of Appeal reversed but certified a

question as being of great public importance. First county sought discretionary review based on the certified question.

The Supreme Court held that common-law principles of sovereign immunity do not protect county-owned property from ad valorem taxation when that property is located outside the county's jurisdictional boundaries.

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## **[Florida's Miami-Dade to Sell \\$923.5 Million in Bonds to Refund Debt Sold for Miami International Airport.](#)**

Florida's Miami-Dade County plans to issue \$923.5 million in municipal bonds to refund debt sold in connection with capital improvements at Miami International Airport.

Proceeds will be used to refund aviation bonds series 2014, 2014A and 2014B.

Miami-Dade County is issuing \$782.4 million Aviation Revenue Refunding Bonds Series 2024A subject to the alternative minimum tax and \$141.1 million Aviation Revenue Refunding Bonds Series 2024B, which is non-AMT.

The interest rate and yield on the debt have yet to be determined, according to a document posted Tuesday on MuniOS. The bonds are expected to price July 16 and the transaction has a preliminary closing date of Aug. 1.

Bondholders will be repaid with funds from the terminals, grounds, runways and taxiways of the Miami International Airport and three other general aviation airports.

The airport is American Airlines' largest international hub operation, including providing most of the carrier's capacity from the U.S. to the Caribbean and Latin America.

S&P Global Ratings and Fitch Ratings have each assigned A+ to the Series 2024 bonds.

Barclays is the lead underwriter.

Provided by Dow Jones

Jul 3, 2024

By Patrick Sheridan

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## **[Muni Sales Surge to Record \\$236 Billion in Pre-Election Rush.](#)**

- **Municipalities sold \$236 billion of bonds since January**
- **The deal growth has led some banks to upsize their forecasts**

A surge in borrowing pushed municipal deal flow to the fastest start to the year on record after states and cities seized on more stable interest rates to flood the market.

Municipalities sold \$236 billion of debt since January, the highest for the first half ever, according to

data compiled by Bloomberg which dates back decades. The surge represents roughly 38% more than the same period last year.

Chris Brigati, director of strategic planning at SWBC, pointed to three drivers of supply in the first half: pent-up demand from lighter issuance last year, a bevy of infrastructure borrowing needs as stimulus funding wanes, and a rush by issuers to come to market before the US presidential election in November.

[Continue reading.](#)

## **Bloomberg Markets**

By Maggie Eastland and Nic Querolo

July 1, 2024

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### **Munis Poised to Outpace Treasuries in Best Month Since December.**

- **June gain of 1.5% for munis compares with 1.4% for Treasuries**
- **State, city debt pares 2024 loss amid strong seasonal period**

The municipal-bond market is on track to slightly outpace Treasuries this month, benefiting from a broad fixed-income rally and a period that is typically strong for US state and city debt.

Munis are up 1.5% in June as of Thursday's close, compared with 1.4% for US government debt, according to Bloomberg index data. Bonds have rallied this month as signs of cooling inflation supported bets that the Federal Reserve will lower interest rates this year. Both munis and Treasuries are still down a bit more than 0.4% in 2024.

For munis, it's set to be the best June since 2016. This month is often the beginning of a mid-year stretch where demand outstrips supply as investors recycle cash from calls and redemptions back into munis while issuers tend to sell less debt.

[Continue reading.](#)

## **Bloomberg Markets**

By Maggie Eastland and Maxwell Adler

June 28, 2024

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### **Bittersweet Farewell Joe Mysak: Masters of the Muniverse**

A lot has changed in the world of munis over the past 40 years, but don't take our word for it. Joining hosts Eric Kazatsky and Karen Altamirano on the June edition of Masters of the Muniverse is Joe Mysak from Bloomberg News, retiring this month after 40-plus years of covering public finance. In this month's episode, we discuss Joe's storied career at Bloomberg, how the muni market has changed and what to expect for the second half of the year. To help us bid him farewell, we are also

joined by a few special guests.

[Listen to audio.](#)

## **Bloomberg Intelligence**

Jun 28, 2024

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### **[Tallahassee \(FL\): Fitch New Issue Report](#)**

Key Rating Drivers Revenue Defensibility - 'aa' Favorable Service Area, Affordable Rates for a Significant Majority of the Population: The city retains the legal authority to adjust rates as needed without external oversight. Fitch considers the monthly residential water and sewer bill affordable for about 77% of the service area population based on standard monthly usage of 7,500 gallons for water and 6,000 gallons for sewer. The favorable service area is supported by the city's role as a regional economic center and state capital, that is characterized by a moderate unemployment rate relative to the nation, yet below-average income levels. The customer count contracted in fiscal 2023 with the implementation of a new billing system, but in prior years was growing less than 1% annually; modest growth around this level is expected to continue. Income levels are about 30% lower than the national median as of 2022. The unemployment rate has decreased to 3% since 2020. However, it was 6% less than the national average in 2023.

#### **[ACCESS REPORT](#)**

Fri 05 Jul, 2024 - 10:19 AM ET

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## **TAX - CALIFORNIA**

### **[Legislature of the State of California v. Weber](#)**

#### **Supreme Court of California - June 20, 2024 - P.3d - 2024 WL 3059632**

State Legislature, Governor, and former Senate President Pro Tempore filed an original proceeding to petition for a writ of mandate or prohibition to bar the Secretary of State from placing an initiative measure on the general election ballot.

The Supreme Court held that:

- Preelection review was appropriate for ballot initiative;
- Ballot initiative which sought to require voter approval of tax increases by state or local governmental entities would substantially transform the process for enacting new statewide tax legislation;
- Ballot initiative which sought to require that every nontax government fee or charge be subject to referendum would effect a significant change in how the state government raised revenue;
- Ballot initiative which sought to reassign local fee-setting from administrative to legislative processes and subject such fees to referendum would substantially alter the processes by which local governments raised revenue; and
- Ballot initiative exceeded the scope of the power to amend the California Constitution via citizen initiative.

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**TAX - TEXAS****[Oncor Electric Delivery Company NTU, LLC v. Wilbarger County Appraisal District](#)****Supreme Court of Texas - June 21, 2024 - S.W.3d - 2024 WL 3075706 - 67 Tex. Sup. Ct. J. 1196**

Taxpayer, an electricity transmission delivery service provider, sought judicial review in separate county district courts in connection with appraisal districts' and appraisal review boards' (ARB) refusal to correct appraisal roll, claiming that a clerical error overstated value of transmission lines.

The 35th District Court granted appraisal district's plea to the jurisdiction, but did not expressly address ARB's plea. Taxpayer filed interlocutory appeal. The Austin Court of Appeals, sitting by assignment, reversed in part and remanded. Meanwhile, the 46th District Court denied taxing authorities' joint plea to the jurisdiction, and their motion for partial summary judgment. Taxing authorities filed interlocutory appeal. The Amarillo Court of Appeals reversed and rendered judgment granting taxing authorities' plea. Taxing authorities and taxpayer filed petitions for review in the Supreme Court, which were granted.

The Supreme Court held that:

- Assertion of a preclusion defense based on a statutory agreement between a property owner and a chief appraiser is not jurisdictional;
- Trial court's order granting county appraisal district's plea to the jurisdiction was not a final judgment, so that ARB was not a proper party to taxpayer's interlocutory appeal of trial court's order; and
- Record contained no ruling from the trial court on county ARB's plea to the jurisdiction or the extent to which the Tax Code waived its governmental immunity, thereby precluding an interlocutory appeal of issue.

Although the assertion of a preclusion defense based on a statutory agreement between a property owner and a chief appraiser may narrow the trial court's scope of review, this limitation is not jurisdictional; rather, much as the scope of the taxpayer's protest limits the grounds a county appraisal district may assert on appeal, the limitation is procedural.

Trial court's order granting county appraisal district's plea to the jurisdiction, construed as a whole, did not actually dispose of taxpayer's cause of action against county appraisal review board (ARB) in connection with refusal to correct appraisal roll, claiming that a clerical error overstated value of taxpayer's transmission lines, and therefore trial court's order did not actually dispose of every pending claim and party, and did not do so clearly and unequivocally, such that trial court's order was not a final judgment, so that ARB was not a proper party to taxpayer's interlocutory appeal of trial court's order; taxpayer's claim against ARB was still pending in the trial court.

Record contained no ruling from the trial court on county appraisal review board's (ARB) plea to the jurisdiction or the extent to which the Tax Code waived its governmental immunity, thereby precluding an interlocutory appeal of issue.

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**TAX - NEW HAMPSHIRE**

## [New London Hospital Association, Inc. v. Town of Newport](#)

Supreme Court of New Hampshire - June 26, 2024 - A.3d - 2024 N.H. 33 - 2024 WL 3167414

Property owner, a nonprofit corporation exempt from federal income taxation and a regulated charitable trust registered with the New Hampshire Department of Justice Charitable Trusts Unit, sought judicial review of town's decision denying owner's applications for charitable property tax exemptions for property on which owner operated a rural health clinic.

Appeals were consolidated, and following a bench trial, the Superior Court dismissed appeals, but found that owner had proved two factors supporting exemption. Parties cross-appealed.

The Supreme Court held that:

- Statement of purpose in owner's articles of incorporation sufficiently obligated owner to perform its charitable purpose;
- Owner established that the land it owned was occupied by owner and used directly for a stated charitable purpose;
- Owner's practice of referring patients to its sole member did not impermissibly confer on sole member a pecuniary benefit;
- Owner received services that furthered owner's charitable purposes in exchange for monies it paid to independent contractors; and
- Owner was not required to rule out possibility that rule that owner's officers or members may not derive any pecuniary profit or benefit was not satisfied.

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## [The Demise of Chevron: End of an Era or More of the Same? - Quarles & Brady](#)

In a pair of 6-3 decisions issued Friday and Monday, the U.S. Supreme Court dealt back-to-back blows to the administrative state. First, it ruled on Friday in *Loper Bright* that federal courts can no longer defer to federal agencies' interpretations of statutes, overruling forty years of precedent under the "*Chevron* doctrine."<sup>1</sup> Second, it ruled on Monday in *Corner Post* that the six-year statute of limitations on claims challenging final agency action under the Administrative Procedure Act (APA) does not begin to run until the plaintiff is injured by the agency's action.<sup>2</sup>

Taken together, these rulings make it easier to challenge federal agency action in federal courts: now, even agency actions from more than six years ago can be challenged upon a showing of more recent injury (*Corner Post*), and once in court there will be no thumb on the scale for the federal agency when it comes to interpreting statutes (*Loper Bright*). But how much these changes in the law will alter agency litigation in practice remains to be seen.

*Loper Bright* marks the end of what Justice Gorsuch called the Supreme Court's "forty-year misadventure" under *Chevron*, a 1984 decision holding that when a federal statute is ambiguous, the interpretive tie goes to the agency, whose interpretation will be sustained as long as it is reasonable.<sup>3</sup> No more, said Chief Justice Roberts, writing for the majority. Now, "[c]ourts must exercise their independent judgment in deciding whether an agency has acted within its statutory authority," and "courts need not and under the APA may not defer to an agency interpretation of the law simply because a statute is ambiguous."<sup>4</sup>

[Continue reading.](#)

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7/2/24

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## **Washington, State of (WA): Fitch New Issue Report**

Key Rating Drivers Revenue Framework - 'aaa' Revenue performance over time has exceeded U.S. GDP growth, and Fitch expects this to continue to support strong growth prospects. The state has complete independent control over taxation, with an unlimited legal ability to raise operating revenues as needed. Expenditure Framework - 'aa' Washington possesses ample expenditure flexibility, with statutory commitments, broad responsibility for education and infrastructure spending offset by low carrying costs. Washington also benefits from the broad expense-cutting authority common to most U.S. states. Washington's spending growth, absent policy actions, will likely be marginally above its solid revenue growth, requiring regular budget management to ensure ongoing balance. Long-Term Liability Burden - 'aaa' The combined burden of debt and net pension liabilities is low as a percentage of personal income but above the median for U.S. states. Debt ratios incorporate the funding of substantial capital needs, particularly for transportation, but are offset by a moderate net pension liability and an expanding economic resource base.

[ACCESS REPORT](#)

Wed 26 Jun, 2024 - 3:00 PM ET

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## **District of Columbia Water & Sewer Authority: Fitch New Issue Report**

The 'AA' Issuer Default Rating (IDR) and subordinate lien bond rating reflect the authority's very strong financial profile in the context of its very strong revenue defensibility and operating risk profile, both assessed at 'aa'. The strength of the revenue defensibility is rooted in the authority's independent ability to increase user charges for both retail and wholesale customers without external oversight as well as its location within a robust economic area. The operating risk profile reflects a very low operating cost burden and moderate life cycle ratio.

[ACCESS REPORT](#)

Thu 27 Jun, 2024

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## **SEC, MSRB, FINRA to Hold Hybrid Compliance Outreach Program.**

WASHINGTON, July 01, 2024-(BUSINESS WIRE)-The Securities and Exchange Commission (SEC), Municipal Securities Rulemaking Board (MSRB) and FINRA announced today that registration is now open for both in-person and virtual attendance of their Compliance Outreach Program for municipal market professionals. The event is open to the public and will take place on Wednesday, Nov. 20, and Thursday, Nov. 21, 2024, in Denver, Colorado.

The program will provide municipal market participants an opportunity to hear from SEC, MSRB and FINRA staff on timely regulatory and compliance matters for municipal advisors and dealers. Panel topics will include compliance pain points for municipal advisors and broker-dealers, exam and enforcement priorities, a regulatory outlook, net capital requirements, federal fiduciary duty, post-trade monitoring and other municipal market key topics.

“The SEC looks forward to co-hosting this meaningful Compliance Outreach Program for municipal market participants,” said SEC Director of the Office of Municipal Securities Dave Sanchez. “These panel discussions address important regulatory and guidance information—much of which includes novel ideas and perspective—that municipal market participants will find valuable both in their roles and as industry leaders.”

“We are pleased to continue coordinating with the SEC and FINRA to continue an open dialogue with municipal advisors and dealers to address their top concerns and interests,” said MSRB Chief Regulatory and Policy Officer Ernesto Lanza. “This year’s program devotes time to both municipal advisors and dealers in the form of breakout sessions that will address unique issues and needs for all types of municipal market professionals, including small firms.”

“The Compliance Outreach Program is a great opportunity to engage in dialogue that fosters effective regulation, improves compliance and strengthens everyone’s understanding of the industry,” said Michael Solomon, Executive Vice President, Examinations and Membership Application Program at FINRA. “We are pleased to partner with the SEC and MSRB to offer a forum where municipal market participants not only hear from their regulators but also work with them.”

Registration is being administered by FINRA. The program is free and open to the public. For those unable to attend in-person or via the livestream, a recording of the program will be archived on the SEC’s webpage following the event.

To submit questions and topics of interest in advance of the event, please email: [gergana.sellers@finra.org](mailto:gergana.sellers@finra.org).

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## **[Calling All Water Finance Professionals in Georgia, Carolinas, Southeast U.S.](#)**

**The 2024 Water Finance Conference, a two-day educational seminar for water utility finance executives, is coming to The Water Tower Global Innovation Hub Aug. 6-7, 2024 in Buford, Georgia.**

The [Water Finance Conference](#) convenes executive-level utility professionals, including directors, general managers, CEOs, CFOs and city finance managers along with consultants, financial advisors, legal professionals and service providers involved in financing municipal water, wastewater and stormwater systems. Since 2015, the event has been hosted annually by the journal [Water Finance & Management](#), published by Benjamin Media, Inc., in partnership with the [National Association of Clean Water Agencies \(NACWA\)](#).

The conference is tailored to finance professionals. Leading topics covered include rate studies and water pricing; low-income affordability/customer affordability programs; consolidation/regionalization; Bipartisan Infrastructure Law fund implementation; applying federal funding locally; leveraging Clean/Drinking Water SRFs; and regulatory issues affecting utilities, etc. [Check out the 2024 agenda.](#)

[The Water Tower](#), a first-of-its-kind nonprofit water innovation hub born out of Gwinnett County Department of Water Resources, celebrated its grand opening in April 2022. The \$33.7 million campus is a global hub for water utilities, researchers, companies and other water-related organizations to collaboratively solve critical, real-world water and environmental challenges. The campus features multiple laboratories, a field training center and water technology demonstration areas.

Day 1 on Aug. 6 will conclude with a tour of The Water Tower campus and training centers, followed by an evening reception for attendees sponsored by Kamstrup and USG Water Solutions.

[Click here to register](#). Registration fees increase \$100 after July 19. Members of these supporting organizations can receive \$200 off via discount code.

The 2024 conference is presented by Main Event Sponsors NACWA, Stantec & Synario, along with sponsors Sustainability Partners, Kamstrup, SmartCover, Wade Trim, Raftelis, MentorAPM and USG Water Solutions.

JULY 2, 2024

BY WFM STAFF

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## [How IRA Elective Pay is Helping Cities Meet Climate Action Plans](#)

The Inflation Reduction Act (IRA) of 2022 continues existing and creating numerous new tax incentives for clean energy today. The most notable change for municipal governments has been the option for [elective pay](#), in which local governments can take advantage of rebates as a non-taxable entity. Through elective pay, cities large and [small](#) can receive rebates for projects in clean energy and electric vehicles.

Understanding which projects are eligible for direct pay and how to file with the IRS is important for city staff as due dates are approaching, plus filing depends on how your jurisdiction elects to calculate their tax year (e.g., calendar year or fiscal year). For first-time filers and municipalities electing a calendar tax year — which are likely most local governments — filings for projects that were put into service in 2023 are due November 15, which includes an automatic six-month extension for first-time filers. In subsequent years, for local governments that choose a calendar year calculation, filings would be due on May 15.

Each project must preregister and receive a number before filing. Due to wait times for registration numbers from the IRS lasting upwards of several months, local leaders should act now to be ready by the filing deadline. It is also worth noting that coordination across multiple city departments is likely needed, including legal, financial and sustainability teams and others.

[Continue reading.](#)

### **National League of Cities**

by Kelly Aves

JULY 2, 2024

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## **How Can Investors Benefit from Recent Muni Trends?**

June's declining yields have pushed investment-grade munis into positive territory for the year, with the yield curve showing signs of normalization. Despite rich valuations relative to Treasuries, high-quality long-duration bonds remain attractive, especially for investors in high-tax states.

### **June gains brings muni returns into positive territory**

On a year-to-date (YTD) basis, IG munis are now posting a gain of 0.1%, helped by declining yields in June. Over the past month the 2s10s on AAA muni curve has continued to steepen while the 10s30s flattened some more. The shape of the curve continues to normalize, although the 2s10s portion remains inverted. Despite softening yields, the long end still looks attractive to us given our lower rate outlook by year-end. Valuation continues to skew rich with the 10-year muni, as the Treasury ratio is now at 66%, compared to its three-year average of 72%. However, taxequivalent yields on high-quality bonds, particularly in high tax states such as New York and California, remain attractive from a long-term investment perspective.

### **Outlook**

Lower inflation and favorable summer technicals, powered by heavy bond redemptions, should help near-term performance, albeit tempered by strong supply and still rich valuations relative to Treasuries. The municipal credit outlook remains stable given our expectation of a soft landing. A and BBB spreads remain tight relative to historical levels. We continue to favor long duration high-quality bonds.

As the Presidential election draws near and the politics of fiscal deficits and national debt assume more prominence, we expect more headlines about the federal tax exemption on municipal bonds being at risk of elimination. However, despite the heightened focus, we believe the municipal tax exemption will remain, albeit with some potential limited modifications. Finally, hurricane season is upon us. Given the rising frequency and cost of weather-related events, we encourage investors to consider physical climate risk factors when building a balanced and diversified municipal bond portfolio by state and sector, avoiding home state bias.

### **RECOMMENDATIONS AND PREFERENCES**

- Take advantage ahead of the redemption season and increased supply: In the near term, we continue to see an opportunity to place assets into the muni market ahead of a heavy wave of seasonal bond redemptions expected this summer. Robust supply might temper performance but also helps investors with a wider choice of bonds in which to invest.
- Lock-in high taxable equivalent yields (TEYs):TEYs on longer-dated munis of around 7.5% for investors in top tax brackets in New York and California are particularly attractive.
- Curve positioning: We favor longer-dated high-quality bonds for a more durable source of income with capital gains potential. Investors could also consider some smaller allocations to the short end to create barbell portfolios and the intermediate portion of the curve to take advantage of recent steepening of the 2s10s.
- Credit quality and sectors: Given relatively tight spreads on lower-rated bonds we see better value in higher-quality issuers.

**by UBS Editorial Team**

02 Jul 2024

Main contributor: Sudip Mukherjee

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## **Ohio Sells \$250 Million of Municipal Bonds to Finance Clean Water Projects.**

The Ohio Water Development Authority has sold \$250 million of revenue bonds to fund clean water projects across the state.

Money from the sale will go to the authority's Drinking Water Assistance Fund, which lends money to government agencies to help them pay for public water projects.

Securities maturing in 2034 will pay investors an interest rate of 5% and yield of 2.9%, according to a document posted Tuesday on MuniOS.

The bonds are backed by various sources of revenue, including all interest payments made on loans by the fund, along with all payments made on already existing and future loans that the fund makes.

The fund was established in 1997 following passage of the Safe Drinking Water Act Amendments of 1996, which was meant to help states finance infrastructure repairs so they could maintain compliance with federal clean water requirements and protect public health.

The bonds were rated by Moody's Ratings Aaa, and by S&P Global Ratings AAA.

Stifel Nicolaus & Company and Ramirez & Co. were lead underwriters on the deal.

Provided by Dow Jones

Jul 3, 2024 4:04pm

By Stephen Nakrosis

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## **SEC, MSRB, FINRA to Hold Hybrid Compliance Outreach Program.**

Washington D.C. – The Securities and Exchange Commission, Municipal Securities Rulemaking Board (MSRB), and Financial Industry Regulatory Authority (FINRA) today announced that registration is now open for both in-person and virtual attendance for their Compliance Outreach Program for municipal market professionals. The event is open to the public and will take place on Wednesday, Nov. 20, and Thursday, Nov. 21, 2024, in Denver, Colorado.

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and as industry leaders.”

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To submit questions and topics of interest in advance of the event, please email: [gergana.sellers@finra.org](mailto:gergana.sellers@finra.org).

[Register for the program.](#)

Date: July 01, 2024

Contact: Aleis Stokes, Chief External Relations Officer  
202-838-1500  
[astokes@msrb.org](mailto:astokes@msrb.org)

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## **[Chicago Pension Debt Rises to \\$37 Billion as City Hunts for Cash.](#)**

- **Net liability rose 5% in 2023, according to annual report**
- **Mayor says city still faces long-term structural challenges**

Chicago’s pension burden climbed again last year as new laws and accounting measures added to costs, and first-term Mayor Brandon Johnson looks for new revenue.

The net pension liability across the city’s four retirement funds rose about 5% to \$37.2 billion as of Dec. 31, up from \$35.4 billion a year earlier, according to Chicago’s latest annual financial report.

The amount the city owes to its four pensions that pay benefits to retired firefighters, police officers, municipal workers and laborers increased because of changes in pension assumptions and legislation, according to the report. The increase in costs was partly offset by investment income.

[Continue reading.](#)

### **Bloomberg Markets**

By Shruti Singh

July 1, 2024

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## [SIFMA: Life in the \(Fixed Income\) Fast Lane](#)

### **A Cautionary Tale About Recent Proposals to Shorten Fixed Income Post-Trade Reporting Timelines**

In a speech regarding fixed income markets in early 2022, SEC Chair Gary Gensler noted that current FINRA and MSRB rules require that (most) fixed income trades must be reported as soon as practicable but no later than within 15 minutes of the time of execution and wondered “why couldn’t the outer bound be shortened to no later than, for example, 1 minute?”

Later that year FINRA and the MSRB published requests for comment on instituting an across-the-board requirement that most fixed income trades (including most corporate bond, ABS, and municipal securities transactions) be reported in one minute. Welcome to life in the fast lane - but instead of Walsh, Frey and Henley, we’re running with the SEC, FINRA and the MSRB.

SIFMA and its Asset Management Group filed a joint response to FINRA and MSRB strongly objecting to a one-minute requirement, noting that “moving directly to a significantly shortened trade reporting timeframe...is destined to be rife with problems...and we strongly oppose the Proposals outlined by the SROs for this reason.”

Probably most significantly, such a requirement would destroy the so-called voice markets, which involve transacting by phone, chat, or other non-automated methods, which are very important for fixed income generally, and particularly so for smaller participants in the fixed income markets. It is not practical that these kinds of trades be consistently reported in one minute, especially considering that multiple bonds are commonly traded at the same time, that hedges are put on simultaneously with trades, and other reasons. Firms would either have to stop transacting in voice markets, or severely slow down their activity to ensure that regulatory reporting requirements are met.

FINRA and the MSRB saw the stop signs thrown up by the responses from SIFMA ([and many others](#)) to their request for comment, and things didn’t take a turn for the worse (at least yet). In 2023, rules were proposed by [each regulator](#) that would implement a one-minute reporting requirement, but these new proposals included two exemptions - one for trades with a manual component (e.g., voice trades) and one for firms with low transaction volumes. SIFMA and SIFMA AMG also [responded to this proposal](#). These proposals, and the [comments](#) submitted in response, currently await final action from the SEC.

#### SIFMA’s View

While this 2023 proposal is an improvement, it is not a cure for the ills that plagued the original proposal, and the warning lights are still turning red.

SIFMA and its AMG support improvements to post-trade transparency that balance costs and benefits. We believe the existing transparency framework balances timely reporting, benefits to market participants, and burdens related to liquidity and cost. Given that FINRA-member broker-dealers are required to report trades as soon as is practicable, and given that there is no history of widespread violation of this provision of the rules, one should conclude that broker-dealers are currently reporting trades as soon as is practicable, in other words, as quickly as they can.

We do not believe the transition to one-minute reporting has been adequately examined or justified, nor do we believe that the proposed one-minute reporting rule can be adopted without exposing the

broker-dealer community to significant regulatory risk and their clients to diminished liquidity and service.

The over-the-counter fixed income markets, including the municipal securities market, are fundamentally different than the centralized and exchange-based equity market. Significant amounts of trading and post-execution processing in the fixed income markets rely on manual or only partially automated processes such as phone calls or chat, or other processes that require human intervention. Full automation of these processes to enable consistent reporting in one minute in some cases is impossible, and in other cases is prohibitively expensive, particularly for smaller firms.

Notwithstanding this, if the Commission intends to move forward with a reduction in trade reporting timelines in the fixed-income markets, the SROs' Proposals to create a manual trade exception and a de minimis exception to protect smaller broker-dealers are a bare minimum component to allowing broker-dealers to achieve a reasonable chance of compliance. However, a mandatory one-minute requirement remains unworkable even for certain fully-electronic trades, and the application of any final rules should reflect this.

As we discussed in our letter to FINRA and the MSRB, they should reconsider if a one-minute trade reporting requirement is appropriate for fixed income markets in the first place, but if a decision is made to proceed with this proposal, then FINRA and the MSRB should:

- Implement a broad exception for manual trades;
- Examine impacts to liquidity, depth, concentration, and transparency prior to decreasing reporting times to shorter intervals to ensure markets are not harmed;
- Provide relief for certain electronic trades where system processing limitations prevent one-minute reporting, including allocation trades; and
- Implement the proposed de-minimis exception for smaller-volume dealers.

With apologies to the Eagles, we should not be so "eager for action and hot for the game" that we hurt the markets that serve U.S. businesses, state and local governments, and consumers in an effort to nominally improve transparency.

Authors

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July 2, 2024

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## **[New Jersey College Asks Bondholders to Borrow Against Mortgage.](#)**

- **School would be able to borrow more if Princeton campus sells**
- **Effort shows struggle of small schools facing enrollment pinch**

Rider University, a small college outside of Trenton, New Jersey, is trying to raise additional funds to help an ongoing liquidity crunch.

College officials asked bondholders for permission to borrow against the mortgage on the school's main campus in Lawrenceville, New Jersey, according to a bond filing dated Friday. If approved, the move would free up much-needed cash for Rider in the short-term.

“In the spirit of good partnership with our current bondholders, we have been in discussion with them regarding this, and we understand that a majority of them are willing to consent to the amendment,” said Kristine Brown, a spokesperson for the school.

The proposal shows the mounting challenges for small schools to make ends meet as they contend with declining enrollments and rising costs. Those pressures have driven colleges across the US to close or merge, while pushing others into new lines of business like online education, adult learning and monetizing real estate.

[Continue reading.](#)

## **Bloomberg Markets**

By Nic Querolo

July 2, 2024

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## **[California Supreme Court Removes Anti-Tax Measure From November 2024 Ballot: Kutak Rock](#)**

On June 20, 2024, a unanimous California Supreme Court ordered the removal of the self-styled “Taxpayer Protection and Government Accountability Act,” an initiative measure backed by business and taxpayer rights groups, from California’s November 2024 ballot.

The Court took the rare step of striking the initiative before it appeared on the ballot on the grounds that it would have brought about a fundamental revision of California’s Constitution rather than merely amending tax-related provisions within the State’s existing Constitutional framework. The Court held that such fundamental changes could only be submitted to voters if approved by two-thirds majorities in both houses of the State Legislature or through a Constitutional convention.

The initiative would have required virtually any tax imposed by any State or local agency to be submitted to voters (with retroactive effect to January 1, 2022), and it would have narrowed the definition of “exempt charges” to fees which do not exceed the actual (as opposed to reasonable) costs to the local government of providing a service or product to taxpayers. Moreover, the initiative would have shifted the burden to the State and local governments to demonstrate by clear and convincing evidence—a very high legal standard—that an exempt charge met the actual costs standard.

[Continue reading.](#)

## **Kutak Rock LLP**

by Cyrus Torabi

26 JUNE 2024

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• **Ed. Note:** Now hear this. We will be off next week, returning with ye olde double dose o’ drivel

July 9. That is all.

- [Markup or Markdown: National Underwriters' Exit and the Changing Landscape of Municipal Finance](#)
- [Citigroup, UBS Exit Munis After Market's Profits Plummet by 50%](#).
- [Reminder: 13th Annual Brookings Municipal Finance Conference](#)
- And Finally, [Have Fun Storming The Castle!](#) is brought to us this week by [Hayes v. Penkoski](#), in which the Supreme Court of Oklahoma gifted us with this immortal, absurdist sentence: "Penkoski allegedly stood on the street corner and yelled into a bullhorn for several hours, shouting slurs across the street toward the children's bouncy house." Firstly, I'm not sure that the "allegedly" is strictly necessary under these circumstances. You yell at a bouncy house via bullhorn, yelling slurs for several hours, or you don't. Not a terribly nuanced display to which (un)reasonable minds might disagree. Secondly, there's no such thing as a split-level bouncy house. It's a castle, dummkopfs.

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## REFERENDA - ARKANSAS

### [Reynolds v. Thurston](#)

**Supreme Court of Arkansas - May 30, 2024 - S.W.3d - 2024 Ark. 97 - 2024 WL 2755297**

Petitioners, who had submitted two proposed measures to amend state constitution which were both rejected by state Attorney General, brought original-action complaint against Secretary of State and Board of Election Commissioners, seeking to have Supreme Court independently certify the legal sufficiency of the measures' ballot titles and popular names and order them placed on upcoming ballot and to declare unconstitutional certain statutes governing proposed measures.

Secretary and Board moved to dismiss for lack of original jurisdiction and for failure to state claim.

The Supreme Court held that:

- Supreme Court can exercise original jurisdiction over the sufficiency of petitions for referendum or initiative only after the Secretary of State has made a sufficiency determination in the first instance, and
- In a concurring opinion for a majority of the court, Kemp, C.J., further held Court lacked original jurisdiction over claims for declaratory judgment challenging constitutionality of statutes.

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## ANNEXATION. - UTAH

### [Summit County v. Town of Hideout](#)

**Supreme Court of Utah - June 13, 2024 - P.3d - 2024 WL 2967609 - 2024 UT 16**

County brought declaratory judgment action against town challenging town's annexation of unincorporated area in county without an annexation petition and without county's consent, alleging violations of annexation code, Municipal Land Use, Development, and Management Act (LUDMA), and Open and Public Meetings Act (OPMA).

The Fourth District Court denied town's motion for summary judgment based on standing, granted county's summary judgment motion on a merits issue, and denied reconsideration. Town appealed.

The Supreme Court held that:

- Annexation code did not provide county with a legally protectible interest as a basis for standing;
  - County Land Use, Development, and Management Act (CLUDMA) did not provide basis for standing;
  - Statutes concerning a county's general enforcement authority did not provide basis for standing;
  - OPMA section giving county attorneys authority to enforce OPMA did not provide basis for standing;
  - LUDMA sections concerning judicial review of land-use regulations did not provide basis for standing; and
  - County could not use public interest standing to overcome its lack of statutory standing.
- 

## **STANDING - OKLAHOMA**

### **[Hayes v. Penkoski](#)**

**Supreme Court of Oklahoma - June 11, 2024 - P.3d - 2024 WL 2933086 - 2024 OK 49**

Same sex couple, who were officers of an equal rights advocacy group, brought action for a protection order pursuant to the Protection from Domestic Abuse Act against pastor who created social media posts about advocacy group and the couple's church and who protested at a pride event.

The District Court issued a permanent order of protection. Pastor appealed.

The Supreme Court held that:

- Pastor and couple lacked the requisite personal relationship for pastor's conduct to be "harassment" under Act, an
  - Pastor's alleged acts of stalking under Act were not directed at any individual person.
- 

## **EMINENT DOMAIN - FEDERAL**

### **[Confederated Tribes and Bands of Yakama Nation v. United States](#)**

**United States Court of Federal Claims - June 3, 2024 - Fed.Cl. - 2024 WL 2821840**

Confederated Tribes and Bands of the Yakama Nation and tribal corporation brought action against the United States alleging that United States breached its trust with the Tribe and a takings claim related to damages from wildfire.

The United States moved to dismiss.

The Court of Federal Claims held that:

- Yakama Nation plausibly pled that Government had conventional trust relationship and conventional fiduciary relationship, for purposes of establishing jurisdiction under Indian Tucker Act for claim of breach of trust;
- Yakama Nation plausibly alleged claim of breach of trust against United States;
- Yakama Nation's allegation that United States' authorized government action in failing to adequately address fire hazard was sufficient to allege that wildfire was direct, natural, or probable result of United States' action, as required to establish causation for takings claim;
- Yakama Nation's allegations of United States' general forest mismanagement and reallocation of firefighting resources were insufficient to state takings claim based on inverse condemnation;

- Yakama Nation plausibly alleged that United States preempted their right to enjoy their property for an extended period of time, as required to state takings claim based on inverse condemnation;
- Continuing claims doctrine applied to statute of limitations for Yakama Nation's claims; and
- Yakama Nation waived damages for harms or violations occurring before date of settlement agreement with United States.

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## **PUBLIC RECORDS - IOWA**

### **[Teig v. Chavez](#)**

**Supreme Court of Iowa - June 7, 2024 - N.W.3d - 2024 WL 2869282**

Citizen filed suit against city, seeking production of records he had requested under the Open Records Act, statutory damages, and declaratory and injunctive relief.

The District Court granted city's motion for summary judgment and denied citizen's motion for additional discovery. Citizen appealed.

The Supreme Court held that:

- Citizen was not entitled to additional discovery after city had responded to more than 30 interrogatories;
- Applications from external job candidates were exempt from disclosure, but not applications submitted by then-current employees of the city;
- Legal opinion about whether the city council could review applications in a closed session was protected by attorney-client privilege and not subject to disclosure;
- City could recover the expense of searching and retrieving documents requested by citizen;
- City did not unreasonably delay responding to citizen's requests for documents related to requests by candidates to "close the interviews," city attorney job posting, or communications from city attorney to employees regarding citizen's litigation;
- Citizen was entitled to seek relief for city's 90-day delay in responding to his request for production of legal invoices;
- Citizen was entitled to costs and attorney fees related to his request for job applications from internal candidates, but not for damages for city's failure to produce the requested records or injunctive relief; and
- City was responsible for paying citizen's costs and reasonable attorney fees.

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## **LIABILITY - NEW JERSEY**

### **[Padilla v. Young II An](#)**

**Supreme Court of New Jersey - June 13, 2024 - A.3d - 2024 WL 2967043**

Pedestrian brought negligence action against owners of vacant commercial lot, alleging injury from tripping and falling while walking on the public sidewalk abutting lot.

The Superior Court, Law Division, granted summary judgment to owners. Pedestrian appealed. The Superior Court, Appellate Division, affirmed. Pedestrian filed petition for certification, which was granted.

The Supreme Court held that all commercial landowners, including owners of vacant commercial lots, must maintain public sidewalks abutting their property in reasonably good condition and can be held liable to pedestrians injured as result of their negligent failure to do so; overruling *Abraham v. Gupta*, 281 N.J. Super. 81, 656 A.2d 850.

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## **PUBLIC UTILITIES - RHODE ISLAND**

### **[North Farm Home Owners Association, Inc. v. Bristol County Water Authority](#) Supreme Court of Rhode Island - June 14, 2024 - A.3d - 2024 WL 2983640**

Condominium owners association brought action against county water authority, alleging breach of contract and seeking restitution damages, injunctive relief, and other damages after water authority refused to repair water pipe unless condominium reverted to an individual meter system or took title to the water systems from county.

Water authority filed motion for summary judgment on claims for injunctive relief and remedies. The Superior Court granted the motion, and condominium association filed interlocutory appeal.

The Supreme Court held that:

- No binding contract existed for the permanent conversion of condominium property from an individual meter system to a master meter system or establishing that water authority had a contractual obligation to maintain a master meter system in perpetuity;
  - Water authority rules and regulations did not imply any obligation on the part of water authority and association's to agree on the type of water meter at condominium property;
  - Allegation that pass-through water metering rate for condominium property was "discriminatory and unlawful" was insufficient to put water authority on notice of the type of claim that owners association was asserting; and
  - Association's catch-all demand for "such other relief as may be available by law or equity" did not entitle it to any monetary or injunctive relief.
- 

## **ZONING & PLANNING - WEST VIRGINIA**

### **[Fleming v. Carmichael](#)**

#### **West Virginia Intermediate Court of Appeals - May 13, 2024 - S.E.2d - 2024 WL 2126810**

Residents of town which included area designated as tourism development district (TDD) under Tourism Development District Act brought action against Secretary of Department of Commerce and Director of Department of Economic Development in their official capacities, seeking to have Act declared void and to obtain injunction prohibiting Act's enforcement based on alleged constitutional violations.

The Circuit Court granted Secretary and Director's motion to dismiss and found that Act was constitutional. Residents appealed.

The Intermediate Court of Appeals held that:

- Act was "general law," and not constitutionally void "special legislation";
- Act was rationally related to achieve proper governmental purpose, and thus, was constitutional on

- equal protection grounds;
  - Act did not impermissibly infringe upon constitutional rights of residents to regulate and control their town; and
  - Act did nothing which would contravene anyone's constitutional right to vote in municipal elections.
- 

## **[Markup or Markdown: National Underwriters' Exit and the Changing Landscape of Municipal Finance](#)**

### **Abstract**

Both the increased transparency and the institutionalization of the municipal bond market have led to dramatic declines in the profits of underwriters, especially so for those whose underwriting activity is national in scope. Using comprehensive data on all trades, all bonds, and all underwriting spreads available between 2005 and 2023, we show that underwriters facing increasingly informed investors in the primary market are unable to capture high markups from investors but are also unable to raise costs to issuers. Using a structural model to examine trading, we document underwriters are half as likely over the time span of our sample to encounter an uninformed retail investor when selling an issue, and the markups they can charge these dwindling investors have fallen by a third. Increased transparency has not benefited issuers but has led to a decline in profitability for the largest municipal underwriters, several of whom have announced their departure from the market.

[Read the Paper.](#)

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## **[Citigroup, UBS Exit Munis After Market's Profits Plummet by 50%.](#)**

- **New research shows underwriter profit drop from 2005 to 2023**
- **Underwriters less able to raise investor markups, issuer costs**

Making money in the \$4 trillion municipal bond market is harder than ever after a two-decade long drop in underwriting markups pinched bottom lines, contributing to pullback by major Wall Street firms such as Citigroup Inc. and UBS Group AG.

Profits for municipal underwriters fell by 30% to 50% from 2005 to 2023, according to a [report](#) to be presented next month at the [Brookings Institution's municipal finance conference](#).

Researchers analyzed more than 2 million state and local bonds and markups on 12.4 million new issue trades. They found a wider pool of institutional investors and improvements in disclosure have compressed underwriting spreads, or the profit banks make marketing bonds to buyers. They also found that the squeeze was more acute for national underwriters.

[Continue reading.](#)

### **Bloomberg Markets**

By Shruti Singh and Skylar Woodhouse

June 21, 2024

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## **Fitch-Rated U.S. Water and Sewer Utilities Resilient to Cyber Risks.**

Fitch Ratings-New York/Austin-18 June 2024: Cyber risk looms large for the water and sewer utility sector as a whole, but may not be as consequential for our rated portfolio, which is composed mostly of larger, highly-rated utilities that are well positioned with robust financial profiles and experienced management to address the risks and regulatory requirements, says Fitch Ratings. The median rating for our rated portfolio is 'AA+', with about 89% of the portfolio on Stable Rating Outlook and around 7% on Positive.

Water and sewer utilities are vulnerable to cyber breaches given their use of a number of complex and diverse operating and technology systems that make it challenging to guard against attacks. This risk is particularly acute for small systems with thin margins and limited staff. To date, however, none of the water and sewer systems rated by Fitch have been subject to negative rating action as a result of a cyber breach.

Fitch's criteria consider event risks such as cyber-attacks as asymmetric additive risks, where the focus is on the robustness of governance systems and protocols to counteract or mitigate the threat, and the utility management's reaction if an attack occurs.

Fitch may take negative rating action if a utility's financial profile is deemed to be materially impaired in the aftermath of a breach. Expenses associated with a cyber breach, including remediation and enhanced security measures, along with increased cybersecurity insurance premiums, legal costs and staffing and regulatory compliance expenses, could add to a utility's operating costs, erode liquidity and decrease funds available for debt service. Unexpected borrowing to bolster cybersecurity infrastructure, including updating compromised hardware and software systems, may further weaken leverage metrics.

A cyberattack that affects a utility's ability to provide service and/or hinders customer billing could temporarily reduce revenue generation for the system. Depending on the extent of the disruption, Fitch's assessment of the utility's revenue defensibility could be lowered.

A cyber breach could compound expense pressures for water utilities already facing greater demands on their budgets from inflation, aging infrastructure and EPA mandates to replace lead service lines and remove/reduce per- and polyfluoroalkyl substances from drinking water. To address increased expenses, utilities often raise rates, which, if further increased to recover cyber costs, could erode rate affordability.

The level of cyber risk among water utilities varies significantly against a backdrop of little federal or state regulation relative to the public power sector. Water and wastewater utilities would be obligated to report cyber incidents and ransomware payments to the Cybersecurity and Infrastructure Security Agency according to proposed rules issued on April 4, 2024. Public comment for these rules ends on July 3. In addition, a bill introduced in the House in April would create a Water Risk and Resiliency Organization to develop and enforce cyber risk and resiliency requirements for water treatment and wastewater systems.

The trend towards smart infrastructure and the Internet of Things means that more water utility components are connected to the internet. This connectivity increases efficiency but also expands the attack surface. The use of homogenous operational technology (OT) across processes/systems

also increases risk. Once hackers can exploit vulnerabilities in a certain system, they can often apply those techniques to other systems with the same OT.

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## **[Fitch: Healthy Tailwinds for U.S. Transportation Going Into Summer Travel Season](#)**

Fitch Ratings-New York-17 June 2024: A firmer-than-expected macro environment is set to anchor positive performance for U.S. transportation segments headed into 2H24, Fitch Ratings says in a new report, although there are still pockets of underperformance.

‘Resilient activity performance is providing healthy tailwinds for airports, toll roads and ports,’ said Senior Director Seth Lehman. ‘Early indicators across all modes of transportation should keep fiscal positions stable through the end of 2024.’ That said, not all segments will see quite the same trajectory.

The broadest disparity seems to be emanating from U.S. airports. Passenger traffic overall is up over 6% year-over-year with travel demand looking robust headed into the summer. However, several west coast large market airports are still struggling to get back to pre-pandemic activity.

Overall port volumes have risen 14%. U.S. west coast ports are realizing sizable throughput increases while ports in the east and gulf coasts are seeing improved performance. Amid ports’ continued stable financial performance lie some risks that warrant caution, among them an elevated cost environment that could pressure operating, capital, and financing costs.

Toll roads appear to be on the most stable ground overall. Vehicle miles traveled increased by 1% year-over-year in January-April with low-single-digit traffic growth likely for the rest of the year. Toll roads in southern U.S. states continue to benefit from higher population growth than in the northeast.

‘North American Transportation Infrastructure Mid-Year Outlook 2024’ is available at [www.fitchratings.com](http://www.fitchratings.com)

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**[S&P U.S. Transportation Infrastructure Airport Update: Air Travel Rides The](#)**

## [Jetstream, For Now](#)

### Key Takeaways

- Our sector view for airports remains stable.
- Revenue growth remains balanced against increased operations and maintenance expenses, particularly labor and materials costs, as well as renewed capital spending for expanding capacity or modernizing facilities against a backdrop of higher financing costs.
- Our economic outlook projects a transition to slower growth in 2025 and beyond, which could translate into softening airline travel for business and leisure passengers but we expect would have a benign impact on airport credit.

### **Most U.S. Airports' Credit Quality Comparable With Or Better Than Pre-Pandemic Level**

Following a very turbulent period in aviation history during 2020-2021, U.S. air travel demand has fully recovered for most airport operators—and performance has even exceeded pre-pandemic levels for some—allowing management to return its focus to the future. This recovery and other factors have contributed to issuer upgrades for approximately 27% of S&P Global Ratings' airport ratings. For 2024, inflation-related expense growth, a ramp-up in annual capital improvement spending, or weaker-than-forecast U.S. economic growth could lead to weaker financial results—including debt service coverage (DSC)—but likely not enough to affect airport credit quality. Any potential drag on air travel demand caused by inflation and economic weakness will be relatively benign and short-lived, in our view, as remaining federal operating assistance is exhausted and management teams navigate through any slowing demand with improved balance sheets, cost recovery arrangements, and activity-based revenue performance. Median DSC in 2023 and 2024 could dip below the 1.5x that we observed in 2022, with rising annual debt service.

[Continue reading.](#)

18 Jun, 2024

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## [When \\$20 Billion Isn't Enough: Water Infrastructure](#)

**States are spending about \$20 billion of the flexible funding from the American Rescue Plan Act on water infrastructure. Demand is expected to grow in coming years.**

### In Brief:

- States are spending \$20 billion of the State and Local Fiscal Recovery Funds included in the American Rescue Plan Act on water infrastructure.
- Overall federal funding for clean drinking water systems has shrunk dramatically, from 63 percent of capital improvements in 1977 to 9 percent 40 years later.
- States in the West and the Southeast are spending the most ARPA money on water, anticipating population growth and climate change, while seeking to address inequities.

[Continue reading.](#)

**governing.com**

June 19, 2024 • Jared Brey

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## **[New DOJ Accessibility Rule for Gov. Websites and Apps, Third-Party Providers of Online Services: Hogan Lovells](#)**

On June 24, 2024, a new DOJ rule will go into effect requiring state and local entities and their private contractors to comply with WCAG 2.1 AA digital accessibility standards for web content and mobile apps made available to the public.

The Americans with Disabilities Act (“ADA”) provides that no individual may be barred from accessing the services, programs, or activities of a public entity due to the individual’s disability. As local governments increasingly rely on Internet-based content and apps to disseminate information and provide services to the public, the Department of Justice (“DOJ”) published a new rule establishing specific requirements for state and local governments to make their web content and mobile apps accessible for individuals with disabilities. Despite previously issuing general guidance on digital accessibility, this rule will be the first binding regulation issued by the DOJ to address state and local government regarding website accessibility since the statute was passed in 1990.

The rule applies to any web content or mobile apps used by a public entity to provide services, programs, and activities. For the purposes of the new rule, “web content” refers to “any information and sensory experience” on the web communicated through a web browser, media player, plug-in, or other software that helps a user interact with online content. This includes text, images, sounds, videos, controls, animations, and conventional electronic documents, regardless of whether the content is viewed on a desktop computer, smartphone, or other medium. A “mobile app” is defined as software that is downloadable and designed to be used on mobile devices such as smartphones and tablets.

[Continue reading.](#)

**Hogan Lovells** – Mark Brennan, Katy Milner and Warren Alexander Kessler

June 18 2024

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## **[State Bond Banks, the Best Kept Secret in Infrastructure Finance, Need a Bigger Role in Rebuilding America.](#)**

It’s been a historic few years for federal investment in American infrastructure and the built environment. The combined heft of the Infrastructure Investment and Jobs Act (IIJA), Inflation Reduction Act (IRA), and the capital-eligible parts of the American Rescue Plan Act (ARPA) will commit well over a trillion dollars in federal government contributions to the physical reconstruction and modernization of America.

Yet, with all the big news out of federal Washington, it’s easy to lose sight of who does most of the investing in American infrastructure and other fixed assets owned by the public: states and localities. The IIJA, for example, is likely to average about \$170 billion in spending per year across all its programs. This compares with \$300 billion in new infrastructure spending financed by the \$4 trillion municipal bond market in 2023 alone.

Since the bulk of the IIJA and IRA move through either established state formula programs or private industry, both laws also fail to reach every community or qualify many of their non-

traditional infrastructure assets for investment, such as renovated schools and recreation facilities. Even after ARPA's local investment programs—of which most of the dollars are now committed—the unmet needs are still substantial. Aging schools alone are estimated to need \$85 billion of investment annually.

[Continue reading.](#)

## **The Brookings Institution**

Michael Gaughan and Adie Tomer

June 20, 2024

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### **[The Multibillion-Dollar Implications of EVs for State Budgets.](#)**

**It's not just the decline in fuel tax revenues and its impact on highway construction and maintenance. Real estate will also be affected, and sales taxes are likely to take a hit. States need to begin developing strategies.**

America's transition to electric vehicles promises clear benefits for the environment and human health. And with an aggressive ramp-up of EV car and truck manufacturing and its associated domestic supply chain, the nation has the opportunity to remain economically competitive with China and the European Union.

This is great news, of course, but states must quickly develop new transportation funding strategies to make up for declining fuel tax revenue or we will face a significant national challenge.

Federal and state fuel taxes are the main source of highway and road funding, and the Congressional Budget Office projects that balances in both the highway and transit accounts of the federal Highway Trust Fund will be exhausted by 2028. The decline of fuel-tax revenues resulting from EVs never needing to visit a gas pump will further diminish state and local governments' ability to maintain our deteriorating network of roads, highways and bridges. At the same time, governments will be faced with increased expenditures due to aging road infrastructure that is threatened by extreme weather events.

[Continue reading.](#)

GOVERNING.COM

June 20, 2024 • Jay Golden, Syracuse University

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### **[City of Phoenix, Arizona: Fitch New Issue Report](#)**

The 'AA+' excise tax bond rating reflects solid post-pandemic growth prospects for the city's pledged revenues, as well as its robust financial resilience. Additional leveraging of the pledged revenues is not expected to materially reduce the current healthy debt service cushion, given the application of surplus pledged revenues to support general fund operations.

## [ACCESS REPORT](#)

Tue 18 Jun, 2024

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### **[State of Michigan: Fitch New Issue Report](#)**

Michigan's 'AA+' Issuer Default Rating (IDR) reflects the state's robust financial resilience bolstered by ample reserves, low long-term liability burden consisting of debt and net pension liabilities, and moderate fixed costs. Michigan's cash, governmental reserves and rainy-day fund balance, combined, exceed previous highs due to conservative revenue forecasting and a disciplined approach to budgeting, reflecting the state's demonstrated commitment to directing nonrecurring revenues to one-time uses.

## [ACCESS REPORT](#)

Tue 18 Jun, 2024

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### **[Massachusetts Bay Transportation Authority: Fitch New Issue Report](#)**

The 'AAA' rating on the Massachusetts Bay Transportation Authority's (MBTA) senior dedicated sales tax bonds reflects the strong standalone credit quality of the dedicated portion of the commonwealth's sales tax allocated to the MBTA. The rating incorporates leverage limitations that provide structural resilience, in light of a sizable ongoing borrowing program and relatively strong revenue growth. The bonds are insulated from both the operations of the MBTA and the commonwealth, allowing for a rating distinct from MBTA operations and linked to, but not capped by, the commonwealth's 'AA+' Issuer Default Rating (IDR).

## [ACCESS REPORT](#)

Thu 20 Jun, 2024

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### **[Metropolitan Transportation Authority, New York: Fitch New Issue Report](#)**

Expectations for pledged payroll taxes and certain transportation fees reflect the large, diverse and wealthy economic base of the Metropolitan Commuter Transportation District (MCTD). The payroll component constituted an estimated 89% of receipts in 2023 and will constitute a larger share following the July 2023 rate increase. Pledged receipts are economically sensitive, particularly the component levied on regional payrolls, but the bonds' structure supports resilience against revenue volatility at a level consistent with a 'aaa' assessment. A statutory prohibition against a Metropolitan Transportation Authority (MTA) bankruptcy filing, the allocation of dedicated revenues to the MTA without appropriation and the state legislature's ability to change the taxable base eliminates MTA operating exposure and caps it at the state's Issuer Default Rating.

## [ACCESS REPORT](#)

Fri 21 Jun, 2024

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## **Unlocking Equity-Like Returns with Municipal Bonds.**

Thanks to the Fed's tightening and subsequent pause, there are a lot of good places for investors to find income within the bond market these days. From junk to Treasury bonds, yields are on par with numbers not seen since the Great Recession. But very few places in the fixed income landscape can provide equity-like returns without the same level of risk.

One of them happens to be municipal bonds.

Ever since the Fed's rate hikes, munis have provided very strong after-tax yields. And now those yields are almost equity-like in terms of returns. For investors, it's just another reason to add municipal bonds to their fixed income sleeves.

[Continue reading.](#)

**dividend.com**

by Aaron Levitt

Jun 19, 2024

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## **Defined Maturity ETFs: A Robust Solution For Fixed-Income Investors**

One of the most aggressive interest rate hiking cycles in U.S. history has a way of getting people's attention.

From March 2022 to July 2023, the Federal Open Market Committee aggressively lifted the federal funds target rate by a whopping 5.25%. Combating inflation was and continues to be the focus. However, many conservative fixed-income investors instantly became unintended collateral damage.

Many broadly diversified index ETFs such the Vanguard Total Bond Market ETF (BND) fell by a staggering amount for conservative bond investors accustomed to an era of low volatility. In case you forgot, BND fell more than 16% and has yet to recapture its 2022 level.

What went wrong?

BND, like many plain vanilla index ETFs, is drenched with duration risk. And when interest rates are skyrocketing, these types of seemingly conservative bond ETFs are going to behave in a not so conservative manner by falling sharply, as history has proven.

As such, the ETF industry's solution to the problem is something called "defined maturity" bond funds.

The benefit of this approach is that advisors can execute bond laddering in an ETF wrapper. Defined maturity bond ETFs hold a portfolio of bonds that all mature in the same year, which is known as the fund's "target maturity year."

One of the oldest iterations of this hyper-focused maturity bond ETF are the BulletShares lineup from Invesco. The company offers target maturity funds for corporate and municipal bonds covering 2024 to 2033. BlackRock also offers its version of defined maturity bond funds within its iShares lineup.

With under \$35 billion in assets, defined maturity bond ETFs are still tiny compared to other ETF categories.

Unlike traditional bond funds that continuously buy and sell bonds to maintain a diversified portfolio indefinitely, single-year bond ETFs have a fixed termination date. The bonds held inside the ETF are held until they mature, according to a specific year. When the bonds finally hit maturity, the fund will liquidate and return the principal to the shareholders.

Defined maturity ETFs are arguably a better, easier way to manage interest rate risk because the impact of fluctuating rates has muted impact on bonds nearing redemption. This can help make an investor's bond portfolio less volatile.

Diversification is another big advantage.

Laddering bonds from single corporations or municipalities might help to navigate rate risk, but it unfortunately concentrates a bond investor's credit risk with single issuers. An unexpected credit event or default could quickly cause unwanted damage.

In contrast, a defined maturity bond ETF typically invests in a diversified basket of bonds, which might include corporate, municipal or government bonds, all with maturities aligning with the fund's target year. This provides broader, diversified bond exposure in a single fund, while still maintaining a specific maturity date.

How might advisors deploy these types of ETFs?

One potential solution is they can be used as part of a bond laddering strategy. This is accomplished by investing in several different ETFs with staggered maturity dates to provide regular income over several years. Another solution is to use them for targeting specific financial goals that align with the fund's maturity date, like a planned retirement or paying for college education.

In the end, single-year bond ETFs offer a unique combination of predictable maturities, regular income and a robust fixed income strategy less credit and interest rate risk.

FA-MAG.COM

JUNE 18, 2024 • RON DELEGGE

*Ron DeLegge II is the founder of ETFguide.com and author of several books, including Habits of the Investing Greats and Portfolio Architecture: A Handbook for Investors.*

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## **[Active Management Could Be Beneficial in Muni Bond Rebound.](#)**

As measured by the widely followed ICE AMT-Free US National Municipal Index, muni bonds are sporting modest losses over the past month and on a year-to-date basis.

However, it's not all bad news when it comes to municipal debt. Yields remain elevated on asset

classes typically not known for big yields though prized by risk-averse income investors. Economic conditions are supportive of this corner of the bond market and defaults are low.

Add to that, there signs active management could serve investors well in this fixed income segment. For example, the ALPS Intermediate Municipal Bond ETF (MNBD) traded slightly higher over the past month and has noticeably outpaced the ICE AMT-Free US National Municipal Index since the start of 2024. Those aren't guarantees MNBD will outperform from here. But those encouraging traits could provide the foundation for leadership when munis rebound.

#### Mind MNBD for Muni Bonds Exposure

One potential advantage offered by active management when it comes to municipal debt is that active managers can more readily identify value in this bond segment. For advisors and investors considering MNBD, that's a pertinent trait because some experts believe that following recent retrenchment in the broader muni bond arena, there is value to be had.

"The sell-off has started to restore value to the asset class, but there are several reasons why patience is still warranted. First, while much improved, valuations are still below their longer-term averages," according to BlackRock research.

MNBD, which turned two years old in May, could benefit from other tailwinds. Those include expectations that muni supply will increase as Election Day approaches and the point that in preparation of volatility that could hit risk assets on the back of election results, some asset allocators may lean into more conservative asset classes.

"We think issuance will remain elevated ahead of the election and negate some of the tailwind typically provided by seasonal net negative supply during the summer," added BlackRock. "Finally, we expect demand to remain subdued until the path of monetary policy becomes clearer and interest rates stabilize. Given this backdrop, we have started to selectively add duration, taking advantage of concessions in the new issue market."

The asset manager also noted a preference for, among other traits, munis issued in states that are more reliant on consumption taxes. That's applicable to MNBD because many of the bonds held by the ETF hail from states or cities in states with low or no income taxes.

ETFTRENDS.COM

by TODD SHRIBER

JUNE 18, 2024

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## **[Reminder: 13th Annual Brookings Municipal Finance Conference](#)**

**Wednesday, July 17 - Thursday, July 18, 2024**

Brookings Institution  
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## **[Los Angeles Is Borrowing \\$150 Million to House Thousands of Its Homeless.](#)**

- **City plans to raise funds by selling municipal debt on June 24**
- **Unhoused population is up 63% since 2016 vote to tackle crisis**

Los Angeles plans to issue \$150 million of municipal debt next week to raise money for housing construction as it moves to ease a mounting homelessness crisis in the second-most populous US city.

The sale is part of a \$1.2 billion city bond measure — Proposition HHH — that voters approved in 2016. It was designed to develop permanent, rent-stabilized housing for some of the city's residents most in need. Proceeds of this month's borrowing will finance the construction of 2,574 units, bond documents show. Ultimately, the financing earmarked through HHH is expected to provide residences for as many as 16,000 people.

The city of 3.8 million has been pouring money into addressing a growing homelessness emergency that's been magnified by soaring rents and stagnant incomes in the wake of the pandemic. Some 46,260 people in Los Angeles were unhoused in 2023, up almost a third from before the pandemic and 63% from eight years ago when the measure passed, the Los Angeles Homeless Services Authority estimates. Combining the city and county, Los Angeles trails only New York City in terms of the size of its homeless population, federal data show.

[Continue reading.](#)

### **Bloomberg Markets**

By Maxwell Adler and Ali Juell

June 18, 2024

- 
- [Credit Rating and Geography: Examining the Timeliness of Municipal Bond Audits](#)
  - [SIFMA State Disclosure Review Highlights.](#)
  - [Lies and Half-Truths and Omissions, Oh My! Considering Rule 10b-5\(b\) after Macquarie Infrastructure Corp. v. Moab Partners L.P. from a Public Finance Perspective - Bowditch](#)
  - [From Harvard to Wisconsin, Muni Issuers Jump on Buyback Wave.](#)
  - [Kutak Rock Attorneys to Present Tax Credits and Direct Pay for Clean Energy Webinar. \[\*\*This Thursday!\*\*\]](#)
  - [Trial Over Austin's Project Connect Financing Model Halted by Appeal from Texas AG.](#)
  - [WSJ: Puerto Rico Bondholders Win Back Rights to Electricity Revenues](#)
  - [In re Financial Oversight and Management Board for Puerto Rico](#) - Court of Appeal holds that, under Puerto Rico law, preamble to trust agreement under which Puerto Rico Electric Power Authority (PREPA) issued revenue bonds was not merely a non-binding prefatory clause but, instead, was an operative lien-granting clause and that trust agreement granted bondholders a lien on PREPA's net revenues. [There's quite a bit going on here, so you bankruptcy sickos should take

a closer look. You know who you are.]

- And Finally, Come For The Sanitation, Stay For The Sinkholes! is brought to us this week by [Garcia v. City of Omaha](#), in which Salvador Garcia was driving his garbage truck in the ordinary course of sanitation when, “the road collapsed beneath Garcia’s truck, the truck fell into a sinkhole.” Perhaps not the greatest look for the City of Omaha and the structural integrity of its infrastructure. But what if Salvador offended the Almighty, who rose up and smote (smited? smoted?) him. “As soon as he finished saying all this, the ground under them split apart, and the earth opened its mouth and swallowed them, with their households and all Korah’s men and all their possessions.” Numbers 16:31. Or maybe he just offended the God of Waste Management, who also knows that whole earth-splitting/swallowing trick.

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## **MUNICIPAL GOVERNANCE - ARKANSAS**

### **[City of Helena-West Helena v. Williams](#)**

**Supreme Court of Arkansas - June 6, 2024 - S.W.3d - 2024 Ark. 102 - 2024 WL 2855378**

City resident filed a complaint against city and mayor, seeking a declaratory judgment that the previous mayor’s veto of two city ordinances was proper and could not be rescinded by subsequent mayor.

Following a bench trial, the Circuit Court entered declaratory judgment for resident, finding that the veto had been proper and the ordinances were null and void. City and mayor appealed.

The Supreme Court held that:

- Previous mayor complied with statutory requirements to effectively veto ordinances passed by city council, and
- Previous mayor was not required to present his written statement of reasons for the veto to the council at its next meeting.

Previous mayor complied with statutory requirements to effectively veto ordinances passed by city council, where mayor timely filed a written statement of his reasons for the veto by leaving a letter on the city clerk’s desk on a Saturday at 11 p.m., and there was no evidence to refute mayor’s testimony that he placed the letter on the clerk’s desk before his term ended at midnight that day.

To effectively veto an action by the city council, mayor was not required to personally present his written statement of reasons for the veto to the council at its next meeting; by statute, the veto was effective unless over-ridden by a vote of two-thirds of the council after the written statement was laid before it.

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## **LABOR - CALIFORNIA**

### **[People ex rel. International Association of Firefighters , Local 1319, AFL-CIO v. City of Palo Alto](#)**

**Court of Appeal, Sixth District, California - June 3, 2024 - Cal.Rptr.3d - 2024 WL 2813174**

City petitioned for writ of extraordinary relief annulling decision by Public Employment Relations Board (PERB) ordering city to rescind resolution referring measure to voters to alter provision of city charter requiring submission of certain labor disputes with public safety unions to binding

interest arbitration.

The Court of Appeals determined that city violated provision of Meyers-Milias-Brown Act (MMBA) requiring city to consult with public safety unions in good faith prior to adopting resolution, declined to order city to rescind resolution based on separation of powers principles, and remanded with instructions. After PERB vacated its prior decision and ordered city to restore its charter to preamendment status, public safety union sought leave from Attorney General to file quo warranto action, and leave was granted.

The Superior Court determined that city violated MMBA but entered judgment declining to invalidate provision in public interest. Union appealed.

The Court of Appeal held that trial court abused its discretion in declining to invalidate new charter provision, after determining that city violated MMBA by failing to consult with public safety union prior to adopting resolution referring measure to voters.

Even if trial court had authority to issue remedy other than exclusion, after determining that city, by failing to consult with public safety union, violated meet-and-confer procedures of Meyers-Milias-Brown Act (MMBA) in adopting resolution referring measure to voters to alter provision of city charter requiring submission of certain labor disputes to binding interest arbitration, trial court abused its discretion in declining to invalidate new charter provision, in quo warranto proceeding brought by the People on behalf of public safety union; Public Employment Relations Board (PERB) had ordered return to status quo and that determination was entitled to some deference, trial court's order did not effectively restore status quo or invalidate provision, order did not provide sufficient deference to Attorney General's explanation for authorizing suit which was to promote compliance with MMBA procedures, and trial court decision rested on factors inconsistent with prior findings by PERB.

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## **ZONING & PLANNING - CONNECTICUT**

### **[9 Pettipaug, LLC v. Planning and Zoning Commission](#)**

**Supreme Court of Connecticut - June 18, 2024 - A.3d - 2024 WL 2982704**

Homeowners sought review of decision of borough planning and zoning commission to approve a zoning amendment regulating short-term rentals of homes in borough that was a very small, largely seasonal community.

The Superior Court granted homeowners' motion for summary judgment after denying commission's motion to dismiss for lack of subject matter jurisdiction. Commission petitioned for certification to appeal, which was granted. The Appellate Court affirmed. Commission appealed.

The Supreme Court held that:

- Newspaper in which borough published notice of zoning changes satisfied the "substantial circulation" component of statutory notice requirement, and
- Borough's compliance with statutory notice requirement required dismissal of untimely zoning appeal.

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## **MUNICIPAL ORDINANCE - MICHIGAN**

## **[Oakland Tactical Supply, LLC v. Howell Township, Michigan](#)**

**United States Court of Appeals, Sixth Circuit - May 31, 2024 - F.4th - 2024 WL 2795571**

Potential customers of shooting range, who wished to practice long-distance target shooting in their local area should an appropriate shooting range be built, brought action against township, alleging that township's zoning ordinance violated the Second Amendment and seeking damages and declaratory and injunctive relief.

The United States District Court for the Eastern District of Michigan granted township's motion for judgment on the pleadings. Potential customers appealed. The Court of Appeals vacated and remanded for reconsideration in light of intervening precedent. On remand, the District Court again granted judgment for township. Potential customers appealed.

The Court of Appeals held that:

- Ordinance did not facially violate Second Amendment as an effective ban on shooting ranges in township;
- Proposed course of conduct of engaging in commercial firearms training in a particular part of the township was not protected by plain text of Second Amendment; and
- Proposed course of conduct of engaging in long-distance firearms training within the township was not protected by plain text of Second Amendment.

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## **POLITICAL SUBDIVISIONS - MONTANA**

### **[City of Great Falls v. Board of Commissioners of Cascade County](#)**

**Supreme Court of Montana - June 4, 2024 - P.3d - 2024 WL 2828039 - 2024 MT 118**

City filed petition seeking declaratory judgment that, pursuant to interlocal agreement that created consolidated city-county public health board, the consolidated board, as opposed to county board of commissioners, was the "local governing body" or "governing body" referenced in statutes providing such bodies with certain means of direct control and oversight over local health boards and that city mayor remained full voting member of consolidated board.

The District Court granted summary judgment in city's favor. County board of commissioners appealed.

The Supreme Court held that:

- City's claims were justiciable;
- Consolidated board was "governing body" referenced in statutes governing local health boards;
- City mayor or another designated commissioner was full voting member of consolidated board; and
- Intervening amendment of statute redefining term "local governing body" or "governing body" did not render appeal moot.

City's claims, seeking declaratory judgment that, pursuant to interlocal agreement forming consolidated city-county public health board, the consolidated board, not county board of commissioners, was "governing body" referenced in amended statutes providing local governing body or governing body with certain means of direct control and oversight over local health boards and that city mayor remained full voting member of consolidated board, were justiciable, not non-justiciable political questions; statutes did not invalidate, limit, or supersede terms of interlocal agreement, and issues did not involve determinations of local government policy, but effect of

governing statutory law on contractual agreement the parties made in exercise of their respective legal and policy discretion.

Pursuant to interlocal agreement forming consolidated city-county public health board, the consolidated board, not county board of commissioners, was “governing body” referenced in amended statutes providing such body with certain means of direct control and oversight over local health boards, even though interlocal agreement made no reference to a governing body; legislature had long authorized counties and cities to create consolidated boards by mutual agreement, previous statutory scheme long required coequal representation of participating city and county governing bodies, and amended statutes did not manifest any express or implied legislative intent to alter such coequal representation or preclude consolidated board from being the “governing body.”

City mayor or another designated commissioner was full voting member of consolidated city-county public health board; comprehensive statutory scheme specifically granted participating cities legal authority to participate, through consolidated city-county health boards, in the approval and enforcement of local health and safety regulations affecting entire county without regard for city and county jurisdictional limits, and such authority did not disenfranchise county residents living outside jurisdictional limits of city, as consolidated board was created upon mutual agreement of elected city and county governing bodies, and pursuant to interlocal agreement, consolidated board consisted of members coequally appointed by city and county governing bodies.

Intervening amendment of statute redefining term “local governing body” or “governing body,” as referenced in statutes governing powers and duties of local boards of public health, local health officers, and local health regulations, did not render moot appeal by county board of commissioners from declaratory judgment that pursuant to interlocal agreement that created consolidated city-county public health board, the consolidated board, as opposed to county board of commissioners, was the “local governing body” or “governing body”; amendments continued to allow participating counties and cities to delegate all local public health regulatory authority to a consolidated board as the “local governing body” or “governing body.”

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## **IMMUNITY - NEBRASKA**

### **[Garcia v. City of Omaha](#)**

**Supreme Court of Nebraska - June 7, 2024 - N.W.3d - 316 Neb. 817 - 2024 WL 2869406**

Driver of garbage truck brought negligence action against city under the Political Subdivisions Tort Claims Act (PSTCA), seeking to recover for injuries that he received when his truck fell into a sinkhole on city street.

The District Court denied city’s motion for summary judgment based on sovereign immunity. City filed an interlocutory appeal.

The Supreme Court held that:

- Order denying summary judgment based on immunity was a final appealable order, and
- Factual issues as to whether city received notice of sinkhole and reasonable time to repair precluded summary judgment.

Order denying city’s motion for summary judgment based on sovereign immunity was a final appealable order, in negligence action against city under the Political Subdivisions Tort Claims Act (PSTCA) arising from a garbage truck falling into a sinkhole on city street, where city asserted in its

motion that it had PSTCA immunity from liability claims relating to spot or localized defects in roadways, and trial court denied the motion.

Genuine issues of material fact existed as to whether city had actual or constructive notice of sinkhole in city street and a reasonable time to repair it at the time that garbage truck fell into sinkhole, thus precluding summary judgment based on sovereign immunity in truck driver's negligence action against city under the Political Subdivisions Tort Claims Act (PSTCA) seeking to recover for his personal injuries.

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## **BANKRUPTCY - PUERTO RICO**

### **[In re Financial Oversight and Management Board for Puerto Rico](#)**

**United States Court of Appeals, First Circuit - June 12, 2024 - F.4th - 2024 WL 2952154**

Financial Oversight and Management Board for Puerto Rico filed adversary complaint seeking, inter alia, disallowance of proof of claim filed by parties holding certain revenue bonds that had been issued by the Puerto Rico Electric Power Authority (PREPA) before it entered reorganization proceedings under Title III of the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA).

Bondholders counterclaimed for declaratory judgment. Numerous entities were allowed to intervene. The United States District Court for the District of Puerto Rico granted in part and denied in part the parties' cross-motions for summary judgment and subsequently granted Board's motion to dismiss remaining counts of bondholders' counterclaim complaint. Bondholders appealed, Board and associated entities cross-appealed, and appeals were consolidated.

The Court of Appeals held that:

- Under Puerto Rico law, preamble of trust agreement under which revenue bonds were issued was not merely prefatory but, instead, was a granting clause;
- Trust agreement granted bondholders a lien on PREPA's "net revenues," not on its gross revenues;
- Bondholders' lien on PREPA's net revenues applied to future net revenues;
- Bondholders' lien was perfected with respect to net revenues that PREPA had acquired, and so lien could not be avoided by the Board using its powers as hypothetical judgment lien creditor;
- Proper amount of bondholders' allowed claim was face value of revenue bonds, that is, principal plus matured interest, or roughly \$8.5 billion;
- Bondholders were nonrecourse creditors and, thus, if their collateral only satisfied part of their claim, they could not file deficiency claim for the remainder;
- PREPA was not itself a trustee with respect to all moneys received and, thus, the Title III court properly dismissed bondholders' breach-of-trust claim; but
- Bondholders properly pled a claim for an equitable accounting.

Under Puerto Rico law, preamble to trust agreement under which Puerto Rico Electric Power Authority (PREPA) issued revenue bonds was not merely a non-binding prefatory clause but, instead, was an operative lien-granting clause; although agreement began with table-setting "whereas" clauses, subsequent "Now, Therefore" clause stated that, in order to secure payment of revenue bonds, PREPA "[did] hereby pledge" to trustee the revenues of its system and other specified moneys, that language reflected a promise, not merely an aspiration or a description of background facts, and evinced an intent to create a security interest, and Commonwealth's Authority Act, which authorized PREPA to grant liens in its revenues, used same phrasing as preamble and thus expressly

contemplated that “pledge” to “secure payment” of bond could create security interest.

Under Puerto Rico law, trust agreement under which Puerto Rico Electric Power Authority (PREPA) issued revenue bonds granted bondholders a lien on PREPA’s net revenues, not on its gross revenues; although agreement did not define “revenues of the System” at issue, its “opinion of counsel” clause, which parties drafted to direct future counsel on how to describe collateral securing revenue bonds in connection with issuance and delivery of any such bonds, stated that agreement “create[d] a legally valid and effective pledge of the Net Revenues” and of “moneys, securities, and funds held or set aside” under agreement as security for bonds, nowhere did agreement state that bondholders’ lien was secured by all of PREPA’s revenues, and so agreement, read as a whole, clearly provided that “revenues of the System” meant “Net Revenues,” that is, gross revenues minus current expenses.

Under Puerto Rico law, trust agreement under which Puerto Rico Electric Power Authority (PREPA) issued revenue bonds granted bondholders a lien on PREPA’s net revenues, even if they were not placed in specified funds created by agreement; agreement’s preamble stated in relevant part that PREPA pledged to trustee “the revenues of the System . . . and other moneys to the extent provided in [the] Agreement . . . as follows,” and although more specific grants within agreement expressly provided for liens in certain “sinking” and “subordinate” funds, agreement’s “opinion of counsel” clause drew clear grammatical distinction between PREPA’s pledge of “Net Revenues” and its pledge of “moneys, securities, and funds held or set aside” under agreement, such that preamble’s modifying phrase “to the extent provided” applied only to “other moneys,” not to “revenues of the System,” and agreement’s pledge of net revenues was not limited to those deposited in sinking and subordinate funds.

Under Puerto Rico law, trust agreement under which Puerto Rico Electric Power Authority (PREPA) issued revenue bonds, which granted bondholders a lien on PREPA’s net revenues, also granted a lien on the utility’s future net revenues; Commonwealth law permitted bondholders to hold a security interest in yet-to-be-acquired net revenues, and the Bankruptcy Code, as incorporated by the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA), which governed PREPA’s Title III restructuring proceeding, made clear that a lien on “special revenues” like those at issue in the case continued to attach to revenues acquired postpetition.

Under Puerto Rico law, even though floating lien in future net revenues granted to bondholders by trust agreement under which Puerto Rico Electric Power Authority (PREPA) issued revenue bonds did not permit bondholders to demand present payment of net revenues that PREPA would receive in five years, that did not mean that PREPA could not convey an initial overarching interest in any net revenues that would come through the door in five years.

Under Puerto Rico law, lien held by parties holding certain revenue bonds issued by Puerto Rico Electric Power Authority (PREPA) before it entered reorganization proceedings under Title III of the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA) was perfected with respect to net revenues that PREPA had acquired by providing electricity, and so lien could not be avoided by Financial Oversight and Management Board for Puerto Rico using its powers as hypothetical judgment lien creditor; bondholders’ security interest was in an “account,” that is, a right to payment of a monetary obligation for energy provided or to be provided, not in “money” or “deposit accounts,” bondholders had filed a timely financing statement as required to perfect their interest, and there was no contention that financing statement insufficiently described bondholders’ collateral or suffered from any other flaw that would have rendered the net revenue lien unperfected.

Under any plausible conception of Puerto Rico law, lien held by parties holding certain revenue

bonds issued by Puerto Rico Electric Power Authority (PREPA) before it entered reorganization proceedings under Title III of the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA), with respect to PREPA's future net revenues, was not avoidable by Financial Oversight and Management Board for Puerto Rico using its powers as hypothetical judgment lien creditor, whether under sweeping "stream" theory urged by bondholders, whereby their perfection of lien in net revenue "stream" meant they already held perfected interest in future-acquired net revenues, under modified "stream" theory whereby bondholders' lien would attach to future net revenues when PREPA acquired them, or under no "stream" theory at all, whereby perfection would occur as soon as PREPA acquired any future net revenues.

Upon determining, on appeal from Title III court's decision in adversary proceeding in which Financial Oversight and Management Board for Puerto Rico sought disallowance of proof of claim filed by parties holding revenue bonds issued by Puerto Rico Electric Power Authority (PREPA) before it entered reorganization proceedings under Title III of the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA), that bondholders' lien covered PREPA's present and future net revenues, and that lien was not avoidable with respect to net revenues already acquired, the Court of Appeals would decline to address how Title III court should account for bondholders' lien in PREPA's restructuring; there was no insight from Title III court, which, having held that no net revenue lien existed, had no occasion to discuss how to account for such lien during PREPA's restructuring, and there was no focused appellate briefing on issue from the parties.

Proper amount of allowed claim held by parties holding revenue bonds issued by Puerto Rico Electric Power Authority (PREPA) before it entered reorganization proceedings under Title III of the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA) was face value of bonds, that is, principal plus matured interest, or roughly \$8.5 billion; bondholders had legal "right to payment" rooted in covenants outlined in governing trust agreement, to which Commonwealth's Authority Act applied, trust agreement clearly required PREPA to pay bonds in full and expressly permitted bondholders to proceed at law to challenge any breach of agreement's covenants, there was thus no need to estimate their "right to payment" under section of Bankruptcy Code governing allowance of claims or interests, and because bondholders' legal right to payment arose from debt instrument, proper amount of claim was full face amount of instrument.

Parties holding revenue bonds issued by Puerto Rico Electric Power Authority (PREPA) before it entered reorganization proceedings under Title III of the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA) were nonrecourse creditors and, thus, if their collateral only satisfied part of their claim, they could not file deficiency claim for the remainder; governing trust agreement expressly stated that revenue bonds were not general obligations of the Commonwealth of Puerto Rico, bondholders' secured claim was thus payable "solely" from special revenues, such that section of the Bankruptcy Code governing limitation on recourse against Chapter 9 debtors applied and bondholders' recourse was limited to their collateral, and nothing in the trust agreement said otherwise.

Under Puerto Rico law, Puerto Rico Electric Power Authority (PREPA) was not a trustee with respect to revenues and other moneys received, for purposes of breach-of-trust claim asserted by parties holding revenue bonds issued by PREPA before it entered reorganization proceedings under Title III of the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA); governing trust agreement clearly identified a third-party financial institution and its successors, not PREPA, as trustee, particular section of agreement was properly read as requiring PREPA to deposit moneys with "depositories," which then held the moneys in trust and applied them in accordance with agreement, and did not make PREPA itself a trustee, and Commonwealth's Authority Act required PREPA to account "as if" it were the trustee of an express trust, which language would have been

unnecessary if PREPA were already a trustee with respect to all moneys received.

Parties holding revenue bonds issued by Puerto Rico Electric Power Authority (PREPA) before it entered reorganization proceedings under Title III of the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA) properly pled claim for equitable “accounting” against PREPA under Puerto Rico law; bondholders alleged that PREPA wrongfully diverted net revenues from debt service by spending them on unreasonable current expenses, thereby starving certain funds created by governing trust agreement of cash and slowing debt payments to bondholders, Commonwealth’s Authority Act required PREPA to “account as if [it] were the trustee of an express trust,” and parties’ agreement did not limit that authority.

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## **MUNICIPAL CORPORATIONS - VIRGINIA**

### **[City of Emporia v. County of Greenville](#)**

**Court of Appeals of Virginia, Richmond - June 11, 2024 - S.E.2d - 2024 WL 2925292**

County brought action against city, seeking a declaratory judgment that the city was required to pay its share of the county sheriff’s entire budget.

The Greenville Circuit Court denied city’s motion craving oyer, granted the county’s motion for partial summary judgment, and ordered city to pay \$676,924.94 to the county. City appealed.

The Court of Appeals held that:

- City was statutorily required to pay its proportional share of the salary of the county sheriff but was not required to pay a proportionate share of the county sheriff’s entire budget, and
- City’s motion craving oyer was properly denied as seeking attachment of documents not essential to the county’s claim.

Following its transition from a town to a city, city was statutorily required to pay its proportional share of the salary of the county sheriff, as well as its share of jointly used county buildings, but was not required to pay a proportionate share of the county sheriff’s entire budget; statute providing for apportioning county costs and expenses required the costs and expenses of the circuit court to be apportioned, but only required apportionment of the salaries of county constitutional officers such as the sheriff, and statute itemized circuit court costs and expenses to be apportioned but did not mention costs or expenses of sheriff’s office.

City’s motion craving oyer, seeking to attach mutual aid document and other agreements between city and county in action by county for payment of city’s proportional share of sheriff’s expenses, was properly denied; the documents were not essential to county’s claim which was based solely on statutory interpretation and not for breach or enforcement of the parties’ agreements, and the court was not asked to interpret or rule on any of the documents at issue in the motion craving oyer.

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## **[Municipal CUSIP Request Volumes Rise in May.](#)**

NORWALK, Conn., June 13, 2024 (GLOBE NEWSWIRE) — CUSIP Global Services (CGS) today

announced the release of its CUSIP Issuance Trends Report for May 2024. The report, which tracks the issuance of new security identifiers as an early indicator of debt and capital markets activity over the next quarter, found a fourth-consecutive monthly increase in request volume for new municipal identifiers, while corporate volumes were steady overall.

North American corporate requests totaled 7,362 in May, which is down 3.2% on a monthly basis. On a year-over-year basis, North American corporate requests closed the month up 10.2%. The monthly volume decline was driven by a decrease in issuance volume for medium term notes. Other key asset classes, such as U.S. corporate equity (13.5%), U.S. corporate debt (17.8%) and Canadian corporate securities (17.9%) all saw monthly request volume increases.

The aggregate total of identifier requests for new municipal securities - including municipal bonds, long-term and short-term notes, and commercial paper - rose 51.5% versus April totals. On a year-over-year basis, overall municipal volumes are up 8.4%. Texas led state-level municipal request volume with a total of 143 new CUSIP requests in May, followed by New York (102) and California (90).

“New issuance activity in the municipals space has been consistently high for the past four months, but we saw a major surge in the May data,” said Gerard Faulkner, Director of Operations for CGS. “Similarly in the corporate asset classes, we see pockets of high volume in U.S. corporate debt and equity, Canadian corporates and certificates of deposit, all of which points to issuers finding opportunity to bring new securities to market in the current economic cycle.”

Requests for international equity CUSIPs rose 5.1% in May and international debt CUSIP requests rose 19.0%. On an annualized basis, international equity CUSIP requests are down 4.4% and international debt CUSIP requests are up 106.5%.

To view the full CUSIP Issuance Trends report for May, please [click here](#).

## **CUSIP Global Services**

Thu, Jun 13, 2024

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### **[From Harvard to Wisconsin, Muni Issuers Jump on Buyback Wave.](#)**

- **Refinancing tactic thrives after high rates, tax law shift**
- **Chicago, Wisconsin are users of common corporate strategy**

When Harvard University offered to buy back more than \$400 million of its debt in a tender offer in March, it signaled again just how much the strategy is gaining acceptance among municipal-bon-market borrowers looking for ways to reduce debt costs.

The school on March 22 invited holders of certain 2016 debt to redeem them as part of a bigger sale via the Massachusetts Development Finance Agency, some of which was used to pay for the buyback. Almost \$335 million in debt was retired at above-market prices, according to a securities filing.

“Unique market conditions this spring created a window of opportunity to refinance Harvard’s existing debt through a tender offer,” Jason Newton, the school’s director of media relations, said in an email. “These cost savings directly benefit the University’s teaching and research mission.”

States, cities and other issuers offered to repurchase about \$30 billion in muni bonds last year, and are on track for a similar amount in 2024, according to an assessment from Barclays PLC. While the bank estimates that less than half that was successfully repurchased, market participants expect such buybacks to rise amid higher interest rates and changes to tax law that eliminated other refinancing moves.

“Tenders are another tool in a debt manager’s toolbox,” said Aaron Heintz, capital finance director for the state of Wisconsin, which has offered tenders every year since 2022. “We have been able to generate significant debt service savings.”

In a tender, an issuer offers to purchase bonds at a specific price on a certain date. The price is usually above the current market value but still low enough that the issuer can realize savings in retiring the debt.

Companies often employ tenders to buy back high-cost debt or as a defense against a takeover by repurchasing shares. Their occasional use in the \$4 trillion muni market increased when the 2017 Tax Cuts and Jobs Act pulled the tax breaks from bond sales used in another type of refinancing, known as an advanced refunding.

But the municipal tender offers really took off when the Federal Reserve started raising rates two years ago, erasing any advantage of using advanced refundings even for taxable bonds.

In 2023, state and local issuers marketed roughly three dozen tender offers, according to Globic Advisors, the agent for many of the deals. That was more than double the number from a year earlier, based on deals represented by Globic.

Muni investors this year already have received at least two dozen such buyback offers, Globic President Robert Stevens said. The Texas Transportation Commission was among those who extended them, while the city of Chicago had a tender in 2023.

### **Wisconsin Savings**

Holdings of Wisconsin bonds in the last three years tendered from 13% to a high of 84% of the debt in an individual offer. Among the debt the state sought to buy back was several taxable advance refunding bonds issued from 2020 through 2022, Heintz said.

“Who would have thought that you’d be able to generate savings on taxable bonds that have coupons less than 3%,” he said.

Investors and underwriters say they anticipate more muni tender offers, barring an unanticipated sharp decline in interest rates.

“Everyone is asking about tenders,” said Samantha Costanzo, senior managing director and head of public finance at Huntington National Bank.

“The volume increases for tax exempt tenders are largely being driven by an issuer’s desire for cost savings, combined with the markets becoming more comfortable with the process over the last few years,” said James D’Arcy, senior portfolio manager at Vanguard Group. “The decision to tender is primarily based upon how much of a premium relative to current market prices the issuer is willing to pay the investor, as well as the reinvestment opportunities in the market.”

Thornburg Investment Management, which holds about \$6 billion in muni assets, has received about 20 tender offers since the beginning of 2023, said Eve Lando, a portfolio manager and managing

director. Thornburg has sold back bonds at higher prices than those available in the secondary market, she said.

Credit concerns or the need to get out of an “illiquid name” could also drive future decisions, Lando said.

## **Bloomberg Markets**

By Shruti Singh

June 13, 2024

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### **[S&P U.S. Public Finance Annual Reviews Processed.](#)**

**This publication does not constitute a rating action.**

S&P Global Ratings has performed annual reviews of the credit ratings of the issuers/issues listed below.

In an annual review, S&P Global Ratings reviews current credit ratings against the latest issuers/issues performance data as well as any recent market developments. Annual reviews may, depending on their outcome, result in a referral of a credit rating for a committee review, which may result in a credit rating action. The below list is not an indication of whether or not a credit rating action is likely in the near future.

The key elements underlying the credit rating can be found in the issuer’s latest related publication, which can be accessed by clicking on links below. Additionally, for each issuers/issues listed below, S&P Global Rating’s regulatory disclosures (PCRs) can be accessed on the relevant page on [www.spglobal.com/ratings](http://www.spglobal.com/ratings) by clicking on Regulatory Disclosures underneath the current credit ratings.

[Continue reading.](#)

14-Jun-2024 | 07:00 EDT

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### **[S&P: Rating Changes Of 25 Major U.S. Cities Since 2000](#)**

[View the Rating Changes.](#)

6 Jun, 2024

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### **[WSJ: Puerto Rico Bondholders Win Back Rights to Electricity Revenues](#)**

**An appellate court restored bondholders’ lien on electric-utility revenues**

A federal appeals court said Puerto Rico bondholders have collateral rights over revenue generated

by its bankrupt public power utility, a ruling that could delay and possibly upend a planned \$10 billion debt restructuring.

The U.S. Court of Appeals for the First Circuit in Boston restored bondholders' lien over past and future electricity revenues in Puerto Rico and reversed a lower-court ruling that had [sharply limited](#) their rights to repayment.

Wednesday's decision marks a win for GoldenTree Asset Management and other bondholders seeking repayment from the Puerto Rico Electric Power Authority, the government-owned power utility. Prepa has been in bankruptcy since 2017, when the U.S. territory stopped paying its debts and triggered the largest-ever default by a U.S. municipality.

Officials have reached settlement deals in recent years with holders of most of Puerto Rico's municipal bonds, leaving Prepa as the last public agency still under court protection. It proposed a restructuring plan last year to slash nearly \$8.5 billion owed to its municipal bondholders—its largest single debt—by nearly \$7 billion.

Prepa's plan will be re-evaluated in response to Wednesday's ruling, which found bondholders have a lien over the utility's future net revenues—its surplus income left over after its operating costs.

The appeals court left it up to Judge Laura Taylor Swain, the lower-court judge who has overseen Puerto Rico's bankruptcy process, to determine the "economic value" of the bondholders' security interest.

The oversight board that supervises Puerto Rico's finances said Wednesday that it was evaluating the ruling and that "Prepa does not generate any net revenues unless and until electricity rates are increased." Under bankruptcy law, bondholders' collateral must be valued when a restructuring plan is confirmed, "prior to any rate increase," the oversight board said.

Bondholders have argued that Prepa is required to raise rates enough to pay their claims in full. Wednesday's decision also said bondholders have a claim for the full face amount of their holdings, nearly \$8.5 billion, rather than the reduced \$2.4 billion that Judge Swain had estimated.

The restructuring plan, which would also cover Prepa's bank loans and vendor debts, would pay GoldenTree as little as 3.5 cents on the dollar, court records show. Some other bondholders, including BlackRock Financial Management, had supported the restructuring in return for an exclusive right to buy new, discounted bonds from Prepa.

Prepa has tested the municipal bond market's expectation of how its electric revenue bonds—a common type of tax-exempt debt secured by a pledge of special revenues—would fare in a bankruptcy.

GoldenTree and bond guarantor Assured Guaranty said in a joint statement Thursday that the ruling "restores the municipal market's understanding of the proper functioning of special revenue bonds." They said they hoped to reach a consensual resolution with the oversight board and elected officials in Puerto Rico.

## **The Wall Street Journal**

By Andrew Scurria

Updated June 13, 2024

Write to Andrew Scurria at [Andrew.Scurria@wsj.com](mailto:Andrew.Scurria@wsj.com)

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## **[Fitch: Healthy Tailwinds for U.S. Transportation Going Into Summer Travel Season](#)**

Fitch Ratings-New York-17 June 2024: A firmer-than-expected macro environment is set to anchor positive performance for U.S. transportation segments headed into 2H24, Fitch Ratings says in a new report, although there are still pockets of underperformance.

'Resilient activity performance is providing healthy tailwinds for airports, toll roads and ports,' said Senior Director Seth Lehman. 'Early indicators across all modes of transportation should keep fiscal positions stable through the end of 2024.' That said, not all segments will see quite the same trajectory.

The broadest disparity seems to be emanating from U.S. airports. Passenger traffic overall is up over 6% year-over-year with travel demand looking robust headed into the summer. However, several west coast large market airports are still struggling to get back to pre-pandemic activity.

Overall port volumes have risen 14%. U.S. west coast ports are realizing sizable throughput increases while ports in the east and gulf coasts are seeing improved performance. Amid ports' continued stable financial performance lie some risks that warrant caution, among them an elevated cost environment that could pressure operating, capital, and financing costs.

Toll roads appear to be on the most stable ground overall. Vehicle miles traveled increased by 1% year-over-year in January-April with low-single-digit traffic growth likely for the rest of the year. Toll roads in southern U.S. states continue to benefit from higher population growth than in the northeast.

'North American Transportation Infrastructure Mid-Year Outlook 2024' is available at [www.fitchratings.com](http://www.fitchratings.com).

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Additional information is available on [www.fitchratings.com](http://www.fitchratings.com)

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**[S&P U.S And Canadian Airport And Special Facility Ratings And Outlooks: Current List And Year-To-Date Actions](#)**

[View the S&P Ratings & Outlooks.](#)

14 Jun, 2024

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## **[Trial Over Austin's Project Connect Financing Model Halted by Appeal from Texas AG.](#)**

Lawyers in the Texas attorney general's office filed an appeal in a Travis County courtroom Monday, halting the trial to determine whether the funding model for Austin's planned multibillion-dollar light rail is allowed under state law.

Project Connect, which was approved by voters in 2020 with an increase of more than 20% in the city's maintenance and operations property tax rate, originally was to include several transit projects and miles of light rail — the centerpiece of the proposition, which supporters lauded as a generational investment in Austin's transit infrastructure.

Plans for the light rail portion of the project have since been scaled down to under 10 miles, and construction is estimated to cost more, city and Austin Transit Partnership leaders have said. The Austin Transit Partnership is a local government corporation established by the city and Capital Metro to plan and build the light-rail system.

[Continue reading.](#)

### **Austin American-Statesman**

by Ella McCarthy

June 17, 2024

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## **[3D Visualization Predicts Hurricane Damage Before it Happens.](#)**

**By applying this technology to coastal communities or community buildings, such as schools and stores, researchers can help residents and officials create a plan for hurricane season.**

Researchers have implemented 3D visualization technology to identify the potential outcomes of hurricane flooding before it occurs.

Beginning annually on June 1, hurricane season poses a major threat to Texas coastal communities, causing both physical and financial damage to the areas they hit.

This damage can be staggering; when Hurricane Harvey hit in 2017, it cost Galveston \$132.73 billion in damages.

Severe weather has been increasing over the last several years due to global climate change, according to the researchers. If severe storms and flooding continue to increase in the future, implementing 3D visualization based on real-time weather forecasts could result in improved safety and less damage-inflicted costs.

[Continue reading.](#)

## Route Fifty

By Alyson Chapman,  
Futurity

JUNE 17, 2024

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### **[S&P 2024 Atlantic Hurricane Season : U.S. Federal Disaster Relief Funding Will Be Stressed To Withstand An Intense Season](#)**

**Despite the size and frequency of major storms in recent years, the damage has had limited impact on U.S. local governments' credit quality to date.** However, with projections for another record-breaking Atlantic hurricane season in 2024, a dwindling federal Disaster Relief Fund (DRF), which is the Federal Emergency Management Agency's (FEMA's) primary funding source, could compound fiscal risks for the places most vulnerable to storms and push up their costs to rebuild.

[Continue reading.](#)

11 Jun, 2024

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### **[Communities Step Up their Resilience and Climate Planning.](#)**

**COMMENTARY | A county in Florida is leveraging federal funding to reduce carbon emissions, improve energy efficiency in public buildings and invest in renewable energy infrastructure.**

Even before the start of what is expected to be a busier than normal Atlantic hurricane season, widespread rain and flooding have already begun to soak the South, putting millions at risk for flood damage and power outages among other threats. In fact, in the first five months of 2024, the U.S. has already been hit by disasters costing \$7 billion, including storms, heavy snow and hotter than average temperatures.

Communities and their infrastructure find themselves at the mercy of more extreme weather events, and they must take some immediate steps to adapt to the changing climate and mitigate damage. Fortunately, many cities and localities are tackling the challenge head-on by implementing policies and programs that help their communities improve quality of life and build more resilient communities.

Sarasota County, Florida, for example, is working to strengthen its resilience to increased flooding.

[Continue reading.](#)

## Route Fifty

By Hilari Varnadore,  
U.S. Green Building Council

June 17, 2024

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## [For US Cities in Infrastructure Need, Grant Writers Wanted.](#)

**With billions in federal funds at stake, smaller cities are racing to compete for new clean energy and climate projects. That means filling out a lot of forms.**

It's a big windfall of federal investment. Together, bills like the Inflation Reduction Act, the Bipartisan Infrastructure Law, and the CHIPS Act present a substantial shift in how the US government funds local economic development, clean energy and environmental justice efforts, potentially giving cities and towns a huge boost.

That is, if the nation's 90,000-plus municipalities and tribal governments can finish filling out all the paperwork.

The trillion-dollar trifecta of Biden administration legislation from 2022 underscores just how important grant writing has become. In many ways, the ability of cities to enact new policies and tap federal resources rests on the desks of the staffers or contract workers who research, write and submit applications for funding. Uncle Sam will cheerfully write a check for cities to install solar panels via Clean Electricity Investment and Production Tax Credits, for example, or provide tax credits for buying electric vehicles. But first, you have to ask.

[Continue reading.](#)

### **Bloomberg Markets**

By Patrick Sisson

June 14, 2024

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## [S&P on California Groundwater: Tulare Lake Subbasin's Probation May Herald More Restrictions, Rating Changes](#)

**A California groundwater subbasin's probation placement could pressure the revenue and pricing power of 40 San Joaquin Valley municipal water, sewer, and utility districts.** S&P Global Ratings also believes it could influence agricultural output, depress land value, raise water production costs, and ultimately force land out of agricultural use and raise household bills.

[Continue reading.](#)

13 Jun, 2024

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## [S&P Pension Spotlight: Massachusetts](#)

**Key Takeaways**

- Massachusetts' largest commonwealth and regional pension systems are comparably poorly funded, and the commonwealth has mandated that government pension plans be fully funded by 2040.
- Pension plan funding schedules include large annual contribution increases and elevated discount rate assumptions. We believe that contribution costs will continue to outpace local governments' budgetary growth, pressuring many municipal budgets, especially those with limited tax base growth or little revenue raising flexibility under Proposition 2 ½ limits.
- Many local governments do not plan to fund their other postemployment benefits (OPEBs) until their pension system is fully funded, resulting in liabilities that rise in tandem with budgetary and funding risk.
- We will evaluate, on a case-by-case basis, the influence rising pension contributions within municipal and state budgets have on our ratings.

[Continue reading.](#)

17 Jun, 2024

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### **[Fitch: U.S. States' Credit Not Affected by Weak April Tax Collections](#)**

Fitch Ratings-New York-12 June 2024: Weak overall tax collection growth through April 2024 should not result in negative credit implications for U.S. states, given ample reserves and broad budgetary flexibility, Fitch Ratings says.

State reserves remain robust due to large surpluses accumulated in 2021 and 2022, with state rainy day funds averaging 13.8% of prior-year revenues in fiscal 2023 compared with 7.9% in fiscal 2019. However, states that have made large tax cuts and/or may implement additional cuts are more vulnerable to credit pressure if lower revenue growth or revenue declines weaken financial resilience. Recent tax cuts have not yet been tested by a cyclical downturn, which could have a more pronounced effect on collections.

April collections were generally in line with states' expectations. Average state tax collections for fiscal 2024 are on track to be roughly flat over 2023 and close to state forecasts.

[Continue reading.](#)

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### **[MSRB Adds Tradeweb AAA Muni Curve to Municipal Market Yield Curves on EMMA.](#)**

Washington, DC- The Municipal Securities Rulemaking Board (MSRB) today expanded the availability of yield curves and indices on its free Electronic Municipal Market Access (EMMA®) website with the addition of the Tradeweb AAA Municipal Curve.

"Offering the Tradeweb AAA Municipal Curve for free on EMMA is an important enhancement to market transparency," MSRB Chief Market Structure Officer John Bagley said. "MSRB is proud to provide another source of hourly municipal yield information that can help investors, issuers and other market participants make more informed and timely decisions."

The Tradeweb AAA Municipal Curve, which is the foundation for its Ai-Price model for municipal bonds, is constructed by selecting AAA-rated general obligation and revenue bonds that meet certain criteria metrics. It is updated hourly by combining public MSRB data with data from Tradeweb's electronic municipal bond trading platform, while leveraging proprietary machine learning and data science to adjust the curves intra-day.

MSRB offers many yield curves and indices of third-party providers on EMMA, which are accessible from [EMMA's Tools and Resources tab](#) . These market indicators and tools help investors to evaluate bond prices and yields, measure market direction and performance, and determine pricing on new bond issues. [Learn more about yield curves and indices on EMMA.](#)

Date: June 17, 2024

Contact: Aleis Stokes, Chief External Relations Officer  
202-838-1500  
astokes@msrb.org

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## **[The Great Salt Lake City Tax Tradeoff.](#)**

**In a few weeks, the city council will be voting on a 0.5% sales tax to support economic development downtown. But it's not the money that is drawing all the attention, it's what the city is giving up.**

On June 11, the Salt Lake City Council held the latest in a series of public hearings about a proposed 0.5% sales tax increase within the boundaries of the city. The proceeds are intended to raise about \$54 million a year to subsidize the financing of a major reconfiguring of the Delta Center. Currently home to the NBA's Utah Jazz, the center needs substantive updates to accommodate a new hockey team next year. The NHL approved the sale of the Arizona Coyotes to the owner of the Jazz and tech billionaire Ryan Smith in early April. The money will also be used to help build housing, restaurants and other amenities in the area. A final vote will take place this summer.

Despite decades of research that show pro sports franchises often don't boost local economies as much as promised, proponents of the deal still argue it will be a boon to downtown Salt Lake City, particularly in revitalizing several distressed neighborhoods.

But what makes this deal different from all the other stadium financing deals passed this year and in years past is that about 75% of the new revenues would go directly into the hands of a private sector entity, the Smith Entertainment Group.

[Continue reading.](#)

### **Route Fifty**

By Katherine Barrett & Richard Greene

JUNE 17, 2024

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## **[Kutak Rock Attorneys to Present Tax Credits and Direct Pay for Clean Energy Webinar.](#)**

On **Thursday, June 20**, Kutak Rock attorneys Fred Marienthal, Matthias Edrich and Allyssa Wall will present their “Tax Credits and Direct Pay for Clean Energy” as a part of the Colorado Housing Finance Authority’s chfareach webinar series.

In this presentation, Fred, Matthias and Allyssa will inform participants about the Inflation Reduction Act and its clean energy credits. Nonprofits, states, tribal governments, local governments and others can take advantage of tax credits through either direct pay or a transfer of credit. Participants will learn about eligibility for these credits, the potential value and the process for claiming the Investment Tax Credit or Production Tax Credit for their projects.

[Click here](#) for more information and to register for the “Tax Credits and Direct Pay for Clean Energy” webinar. The webinar will open at 8:55 am mountain time, and begin at 9 am MT.

[Fred](#) has participated in over 1,000 financings aggregating \$32 billion and focuses his practice on higher education facility financings, P3 financings, conduit private activity bonds, nonprofit facility financings and multifamily housing revenue bonds. He routinely serves as bond, disclosure and underwriter’s counsel on tax-exempt bond financings for public and nonprofit colleges and universities, charter and independent schools, charitable organizations and housing authorities.

[Matthias](#) advises clients on tax structuring of municipal and corporate debt transactions and financing-related section 501(c)(3) exemption matters. He has represented bank lenders and capital markets underwriters, government and corporate issuers, student loan lenders, large hospital systems, housing developers, energy and solid waste recycling companies, manufacturers and various types of section 501(c)(3) nonprofits.

[Allyssa](#) joined the firm after serving as a Term Law Clerk in the Eighth Circuit U.S. Courts of Appeals (2019-2020) and as a Judicial Law Clerk in the North Dakota Supreme Court (2018-2019). Her practice focuses on the equity and debt aspects of complex real estate transactions involving low-income housing tax credits, renewable energy tax credits and numerous other related state and federal financing products including tax-exempt bond financing.

June 17, 2024

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## **[Active Management Will Drive Muni Returns in 2024.](#)**

### **Value being restored in municipals**

- Municipal bonds deviated from U.S. fixed income assets and posted negative performance in May.
- Issuance remained robust and increasingly pressured the market late in the month.
- We have started to selectively add duration but see several reasons to remain patient.

[Continue reading.](#)

**advisorperspectives.com**

by Patrick Haskell, Sean Carney of BlackRock, 6/16/24

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## **Credit Rating and Geography: Examining the Timeliness of Municipal Bond Audits**

### **Abstract**

*Credit Rating and Geography: Examining the Timeliness of Municipal Bond Audits* overviews audit time trends since 2011. Then, it recognizes the timeliest audits for the 2022 fiscal year, grouped by municipal credit sector, from more than 11,000 municipal bond audits in the Merritt Research Services database found in CreditScope. In addition, the report conducts correlational analysis to examine the potential connection between credit rating and audit timeliness, as well as provides a geographical illustration of median audit times across the U.S. states for governmental bond issuers.

Read the full report [here](#).

### **University of Illinois Chicago**

Government Finance Research Center

Published: May 15, 2024.

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## **Fitch: Securing Funds Key to MTA Credit in Wake of NYC Congestion Pricing Pause**

Fitch Ratings-New York-11 June 2024: Fitch Ratings does not anticipate taking near-term negative rating action on the Metropolitan Transportation Authority's (MTA) 'AA'/Stable Issuer Default Rating (IDR) in response to New York State Governor Hochul's decision to pause the MTA's New York City congestion pricing plan. The governor and state legislative leaders have emphasized the state's strong commitment to support and find alternative revenue sources for the MTA. This aligns with Fitch's view that the MTA has a close fiscal relationship with the state (AA+/Stable), as assessed under our Government-Related Entities (GRE) Rating Criteria, which explicitly recognizes the likelihood of support.

The MTA's operating outlook remains stable, reflecting an improved fiscal outlook largely driven by the state's increase of the maximum rate of the Payroll Mobility Tax (PMT) last year. However, the indefinite suspension of congestion pricing creates significant uncertainty for the MTA capital program only months after the agency announced it was halting all new construction contracts due to lawsuits against congestion pricing. Extended delays in replacing the lost revenue from the congestion plan could weaken Fitch's assessment of the state's support of the MTA under the GRE criteria and negatively affect the MTA's Standalone Credit Profile and IDR.

Congestion pricing, which was to begin on June 30, 2024, was expected to raise \$1 billion in annual revenue to support \$15 billion in borrowing capacity, or approximately half of the approximately \$30 billion of remaining project costs under the MTA's current \$51.5 billion 2020-2024 capital plan. Congestion pricing as a bond financing vehicle was itself not without uncertainty, lacking a proven revenue history for a first-of-its-kind system in the U.S. Nevertheless, the delay will postpone various projects including signal upgrades and replacement, the purchase of new railcars and electric buses, and ADA accessibility projects.

Fitch does not view the loss of proceeds from congestion pricing as a near-term liquidity challenge for the MTA. Per Fitch's GRE criteria, the MTA's IDR reflects an 'extremely likely' score assessment that the state would support the MTA in case of need. However, extended delays by the state in establishing a long-term revenue solution threatens the MTA's ability to effectively execute its 2020-2024 capital program. This could have long-term ramifications for system performance and ridership, which is still only at about 70% of pre-pandemic levels on most weekdays. An extended delay could also lead Fitch to reassess the state's propensity to provide support in the future, which would result in a negative rating action on the MTA's IDR.

Long-term replacements for congestion pricing project revenues could include new or expanded state or regional taxes and fees or a limited draw on state resources. The state legislature adjourned this weekend without deciding on an alternative long-term funding source with the next regular session starting in January 2025. However, the governor can convene an extraordinary session before then.

The MTA, through its Triborough Bridge and Tunnel Authority (TBTA), has a \$544 million contract with Transcore to design, build, operate and maintain the tolling program. Congestion pricing infrastructure, including gantries and license plate readers, is already in place, supported with \$193 million in TBTA bond anticipation notes (A+/Stable). Although TBTA intended to take out the bond anticipation notes with debt backed by congestion toll revenues, Fitch's rating conservatively assumes the bonds will be rolled over to long-term TBTA revenue bonds (outstanding senior and subordinate bonds rated 'AA-'/'A+' Stable).

The MTA's CEO recently stated the authority intends to continue pursuing congestion pricing, including challenging outstanding lawsuits. The governor's decision may face litigation alleging violations of the 2019 Traffic Mobility Act, which mandated that the MTA create the congestion pricing program but without an explicit deadline. The MTA board, which is scheduled to meet on June 26, has stated it cannot proceed with congestion pricing without the consent of the state under applicable federal law and regulation. This appears to address questions related to the MTA board's legal standing to suspend congestion pricing.

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## **[S&P Bulletin: Postponement Of Congestion Pricing Could Strain Revenue Sources For Metropolitan Transportation Authority, NY](#)**

NEW YORK (S&P Global Ratings) June 7, 2024-S&P Global Ratings said today that the likely indefinite postponement of the Metropolitan Transportation Authority, N.Y.'s (MTA) central business district tolling program (CBDTP) increases uncertainty regarding funding sources for MTA's current and next multiyear capital plan. At the same time, the postponement could eliminate the risk of lower traffic on MTA's bridges and tunnels.

As a result of these two developments, we don't anticipate revising the MTA's transportation revenue bonds (TRB) rating or outlook (A-/Positive) at this time. However, we are expecting MTA's upcoming July and November financial plans to provide clarity on this funding shortfall. We also anticipate the MTA will release the cost and funding plan for its next multiyear capital program this fall.

We also do not expect to change our rating on MTA's payroll mobility tax bonds (AA+/Stable), given that the pledge of revenues consists mainly of employer mobility tax collected from private- and public-sector employers within the Metropolitan Commuter Transportation District and is not

dependent on MTA's operation or ridership levels.

[Continue reading.](#)

7 Jun, 2024

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## **New York's MTA Braces for Higher Borrowing Costs With Toll Halt.**

- **Debt service may increase by \$300 million without new funding**
- **MTA may need to sell farebox bonds sooner than anticipated**

While delaying New York City's congestion pricing initiative blew a \$15 billion hole in the Metropolitan Transportation Authority's capital program, it also may strain the transit agency's operating budget.

The MTA, which runs the city's subways, buses and commuter rail lines, was counting on \$1 billion of new revenue each year from motorists paying a new toll to drive into Manhattan's central business district. The MTA would then issue new congestion pricing bonds to provide \$15 billion to modernize the more than 100-year-old system.

Selling the congestion pricing bonds would have allowed the MTA to postpone issuing debt that's repaid from its operating budget, giving that spending plan some breathing room as it works to increase ridership before taking on more debt. But without congestion pricing bonds or an alternative revenue source, the MTA says it will need to sell such debt earlier than planned. That means debt-service costs would increase sooner than anticipated by as much as \$300 million a year, the MTA has warned.

[Continue reading.](#)

### **Bloomberg Markets**

By Michelle Kaske

June 12, 2024

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## **Palm Beach Seeks \$95 Million Bond to Help House Service Workers**

- **Wealthy transplants mean housing costs have nearly doubled**
- **An income up to \$137,620 can qualify for subsidized housing**

Florida's Palm Beach has lured some of the world's wealthiest and most powerful people with its palatial, oceanfront estates home to presidential hopefuls, hedge-fund titans and real-estate tycoons.

Now, one of the nation's richest counties is asking investors for \$95 million to make sure teachers, firefighters and garbage men have a place to live there too.

Palm Beach County is expected to offer property-tax backed municipal bonds to finance low-interest loans for developers building affordable and workforce housing. The deal, slated to price on Tuesday, is part of a larger \$200 million package voters approved in 2022 to respond to one of the

most acute housing crises in the US.

[Continue reading.](#)

## **Bloomberg Markets**

By Maggie Eastland

June 17, 2024

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### **[SIFMA State Disclosure Review Highlights.](#)**

SIFMA has conducted a thorough, 50-state review of laws and regulations that govern local government disclosure, issuance and audit practices in an effort to better understand the financial reporting and municipal bond disclosure laws in place. In its review SIFMA looked at questions like whether states require the submission of and make public official statements (OSs) when bonds are issued, audited annual financial statements and other information relevant to investors.

[View Study](#)

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### **[GFOA2025 Call for Topics is Open.](#)**

Has your government implemented a best practice? Please consider sharing your case study at the GFOA's 119th Annual Conference, June 29-July 2, in Washington, D.C. Almost all GFOA speaking panels include practitioners who can discuss current trends, best practices, and issues at the state or local government level.

[Submit Ideas](#)

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### **[MarketAxess Announces First Portfolio Trade for Tax-Exempt Municipal Bonds.](#)**

**New tool brings e-trading efficiency and certainty of execution to muni baskets of up to 1,500 CUSIPs**

NEW YORK, June 13, 2024--(BUSINESS WIRE)--MarketAxess Holdings Inc. (Nasdaq: MKTX), the operator of a leading electronic trading platform for fixed-income securities, today announced the platform's first ever portfolio trade for tax-exempt municipal bonds. The portfolio trade was executed earlier this month between a large bank and a large asset manager.

The new Portfolio Trading for Tax-Exempt Munis tool allows clients to send lists to multiple counterparties or a single dealer, negotiating price improvements and trading discreetly on a diversified basket of Tax-Exempt Munis in one singular point of transaction. Clients can load portfolio trades manually or utilize straight-through-processing via their OMS. Once loaded, clients can see instantly the changes in portfolio metrics, any impact on the portfolio's overall market value and utilize

MarketAxess' technology to make split-second decisions on portfolio composition and pricing. During the portfolio negotiation process, clients also have the option to counter or remove individual line items for optimal execution.

Daniel Kelly, Head of Municipal Securities at MarketAxess, commented, "The portfolio trading tool was among the most requested enhancements to our Municipal bond franchise. Now muni traders can finally experience the same efficiency their counterparts in the corporate bond market have enjoyed for years—the flexibility to negotiate on individual line items without sacrificing certainty of execution for up to 1,500 unique CUSIPs in a single transaction.

With the launch of our automated execution suite of tools for munis last year and now, portfolio trading—we are proud to be delivering the innovation municipal market participants have asked for, and needed, to effectively scale their businesses," he continued.

MarketAxess is one of the fastest growing electronic marketplaces for muni bonds. Last month, MarketAxess accounted for 8.1% estimated market share of municipal bonds—up from 5.6% the year prior—and representing \$577 million in average daily volumes.

For more information on MarketAxess muni solutions, visit:  
<https://www.marketaxess.com/trade/municipal-bonds>

Thu, Jun 13, 2024

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## **[Lies and Half-Truths and Omissions, Oh My! Considering Rule 10b-5\(b\) after Macquarie Infrastructure Corp. v. Moab Partners L.P. from a Public Finance Perspective - Bowditch](#)**

SEC Rule 10b-5(b) makes it unlawful, in connection with the offer and sale of securities, for any person to make any untrue statement of material fact or omit to state a material fact when the omission renders any statements made misleading. In *Macquarie Infrastructure Corp. v. Moab Partners L.P.*, No. 22-1165, 601 U.S. \_\_\_, slip op. at 2 (Apr. 12, 2024), Moab Partners sued Macquarie Infrastructure Corporation, alleging that Macquarie violated Rule 10b-5(b) in failing to disclose certain information under Item 303 of SEC Regulation S-K. Item 303 requires companies to disclose known trends or uncertainties that are reasonably likely to have a materially positive or negative financial impact on operations. Moab Partners claimed that Macquarie's omission negatively affected Macquarie's stock price.

In April of 2024, a unanimous United States Supreme Court issued a decision in *Macquarie*, holding that a "pure omission" does not support a private cause of action under Rule 10b-5(b), settling a long-standing federal circuit split in the process. Although the background of the case deals with the SEC filings submitted by a public company, the decision offers a window into the Court's thinking relative to Rule 10b-5(b) generally. This is significant, as the statements made by municipal issuers, if those statements are likely to be heard and relied upon by the securities market, are also subject to regulation by the SEC under Rule 10b-5. As such, *Macquarie* can serve as a useful practice pointer for municipal issuers and their attorneys in preparing offering documents and making public statements in connection with the offer and sale of municipal securities.

SUPREME COURT'S DECISION

In issuing its decision, the Court focused on the narrow issue of whether the failure to disclose information required by Item 303 is actionable under Rule 10b-5(b). The Court stated that the Rule only requires disclosure of information when it is necessary to ensure that statements already made are clear and complete. Therefore, a claim of a “pure omission” of information, absent a showing that the omission rendered any affirmative statements to be materially misleading, is not actionable under Rule 10b-5(b).

## RULE 10B-5

Rule 10b-5 is designed to combat fraud in the offer or sale of securities. Specifically, Rule 10b-5(b) provides a private cause of action for investors by making it unlawful for a public company or governmental issuer to either: (i) make an untrue statement of a material fact or (ii) omit to state a material fact that is necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading. As determined by the Court in *Stoneridge Inv. Partners v. Sci-Atlanta, Inc.*, the six elements necessary to claim a Rule 10b-5 violation are: (1) a material misrepresentation or omission by the defendant; (2) scienter; (3) a connection between the misrepresentation or omission and the purchase or sale of a security; (4) reliance upon the misrepresentation or omission; (5) economic loss; and (6) loss causation.

Regarding the first element, although Rule 10b-5(b) expressly prohibits the making of material misrepresentations (i.e., an untrue statement of a material fact), its prohibition on omissions of material facts has caused confusion and mixed results in the lower courts. Where there is no material misrepresentation but rather an omission at issue, the Court in *Macquarie* held that the omission cannot exist in a vacuum. Rather, the omission must be tied to an affirmative statement that was already made by the defendant. Thus, in bringing forth a Rule 10b-5 claim on an omission theory, the plaintiff must identify at least one underlying statement that was made misleading by the omission.

## PURE OMISSIONS VS. HALF-TRUTHS

In its decision, the Court distinguished between “pure omissions,” which are not actionable under the Rule, and “half-truths,” which are actionable under the Rule. A pure omission occurs when a speaker says nothing and, under the circumstances, the silence itself is not particularly meaningful. In other words, the failure to disclose information (i.e., the “silence”) does not otherwise render any underlying affirmative statements materially misleading. In contrast, a half-truth states the truth but omits critical qualifying information, rendering the statement, although technically true, to be also substantively misleading. Justice Sotomayor, writing for the Court, distinguished the two concepts as follows: “...the difference between a pure omission and a half-truth is the difference between a child not telling his parents he ate a whole cake [a pure omission] and telling them he had dessert [a half truth].” In contrast to the first statement (the pure omission), the second statement (the half truth) requires disclosure of additional information necessary to ensure that the statement that was already made is clear and complete.

Therefore, to bring a successful cause of action for a violation of Rule 10b-5(b), the plaintiff must first identify the defendant’s affirmative statements (the “statements made” component of the Rule) and then show how other facts were omitted that rendered the statements materially misleading. In *Macquarie*, the defendant’s silence in omitting certain information from its Item 303 filing, without an underlying affirmative statement rendered misleading by that silence, was therefore not actionable under Rule 10b-5(b).

As noted above, the Court’s decision was narrowly focused, leaving open to lower courts related questions regarding what constitutes “statements made,” when a statement is misleading as a half-

truth, or whether a pure omission is actionable under Rules 10b-5(a) and 10b-5(c) (i.e., “scheme liability”).

## TAKEAWAYS FOR MUNICIPAL ISSUERS AND PUBLIC FINANCE PROFESSIONALS

Although addressing the SEC filings of a public company, the *Macquarie* decision can serve as a useful tool for municipal issuers and public finance professionals. First, any statements (whether included in an issuer’s offering document, available in investor presentations or on an investor website, or otherwise released publicly) that are reasonably expected to reach investors can potentially expose an issuer to liability under Rule 10b-5, regardless of the intended audience or delivery method. Second, in evaluating the accuracy or completeness of such statements, the omission of certain information, without a causal link to those statements, would not necessarily lead to a Rule 10b-5 violation. Nevertheless, in light of *Macquarie*, prior to making any such statements, issuers, in consultation with their attorneys, should carefully consider the possibility for half-truths and identify any qualifying facts that could cause the statements being made to be materially misleading. Such increased scrutiny will only improve the issuer’s disclosures in any event.

BY NEAL R. PANDOZZI • JUNE 13, 2024

BOWDITCH & DEWEY

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- [GASB Publishes Post-Implementation Review Report on Pension Standards.](#)
  - [Why GFOA is Rethinking Financial Reporting.](#)
  - [Conning Releases 2024 State of the States Municipal Credit Report, Outlook Shifts to “Stable” in Anticipation of Return to Pre-Pandemic Fiscal Conditions](#)
  - [Bond Dealers of America National Fixed Income Conference.](#)
  - [The Escalating Cybersecurity Crisis: Countering Threats to U.S. Healthcare - Orrick / Bond Buyer Webinar](#)
  - [Louisiana Gun Bill Risks Roiling Wall Street’s Muni Business.](#)
  - And Finally, Profoundly, Flammably Unclear On The Concept is brought to us this week by [Yazoo City v. Hampton](#), in which the Supreme Court of Mississippi began its opinion as follows: “On November 18, 2020, a fire broke out at Young’s property in Yazoo City. The Yazoo City Fire Department responded, but extinguishing the fire proved difficult for two reasons: (1) a lack of tank water in the fire department’s truck and (2) an inability to connect to a nearby fire hydrant.” As reasons go, those are two. We do think that the court missed an opportunity to expand the scope of the “Coming to the Nuisance” defense by adding a “Coming to the Yazoo” corollary. How could you not know that the Yazoo City Fire Department will be staffed by clowns/ buckets of confetti?

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## INVERSE CONDEMNATION - CALIFORNIA

### [Simple Avo Paradise Ranch, LLC v. Southern California Edison Company](#)

**Court of Appeal, Second District, Division 7, California - May 23, 2024 - Cal.Rptr.3d - 2024 WL 2347470**

Avocado farm brought action, by filing a short-form complaint that adopted and incorporated a master complaint that other plaintiffs had previously filed in related, consolidated proceedings,

against privately owned public utility and its parent company, alleging claim for inverse condemnation and seeking damages arising from a major fire allegedly caused by utility's unsafe electrical infrastructure.

Avocado farm and defendants settled, and a stipulated final judgment was entered by the Superior Court, under which farm was awarded \$1.75 million in damages on its inverse-condemnation claim, but which stated that the judgment was without prejudice to utility's right to appeal both the judgment and a prior order, entered before farm filed its complaint, of the Superior Court denying utility's demurrer to the master complaint. Utility appealed.

The Court of Appeal held that:

- Appeal was not rendered moot by fact that judgment's award of \$1.75 million was contingent on appeal's outcome;
- Stipulated judgment was appealable, despite appellate court's serious reservations about whether it should be;
- Farm's complaint sufficiently alleged that utility was a public entity, as required to state an inverse-condemnation claim;
- Farm's complaint sufficiently alleged that its damages were substantially caused by utility, as required to state an inverse-condemnation claim;
- Farm's complaint sufficiently alleged that its damages resulted from an inherent risk associated with utility's infrastructure, as required to state an inverse-condemnation claim; and
- Farm's complaint sufficiently alleged that utility's infrastructure was for the public use, as required to state an inverse-condemnation claim.

Appeal by privately owned public utility of stipulated judgment against it awarding, contingent on appeal's outcome, \$1.75 million in damages to avocado farm on farm's inverse-condemnation claim against utility for damages from fire allegedly caused by utility's unsafe electrical infrastructure was not rendered moot by the potential that, if utility did not prevail on appeal, utility would have to pay the stipulated damages to farm, but appellate court discouraged what amounted to a side bet on the outcome of an appeal.

Stipulated judgment against privately owned public utility awarding, contingent on appeal's outcome, \$1.75 million in damages to avocado farm on farm's inverse-condemnation claim against utility for damages from fire allegedly caused by utility's unsafe electrical infrastructure was appealable, despite general rule that a stipulated judgment is not appealable and despite appellate court's serious reservations about applying the exception to that rule for a stipulated judgment agreed on merely to facilitate an appeal following an adverse determination of a critical issue, where the trial court had previously denied public utility's demurrer to similar claims in related consolidated cases, and the parties clearly intended to seek appellate review.

Allegations in avocado farm's complaint against privately owned public utility for inverse condemnation arising from damages to farm from fire allegedly caused by utility's unsafe electrical infrastructure were sufficient to allege that utility was a public entity, as required for farm to state an inverse-condemnation claim against it, where farm alleged that the utility enjoyed a state-protected monopoly or quasi-monopoly derived from its exclusive franchise provided by California, that its monopoly was guaranteed by the California Public Utilities Commission (CPUC), and that amounts the utility might have to pay in inverse condemnation could, under CPUC regulations, be included in rates and spread among ratepayers.

Allegations in avocado farm's complaint against privately owned public utility for inverse condemnation arising from damages to farm from fire allegedly caused by utility's unsafe electrical

infrastructure were sufficient to allege that farm's damages were substantially caused by utility, as required for farm to state an inverse-condemnation claim against utility, where farm alleged that utility knew that its infrastructure was old and was improperly maintained for safety, but it failed to properly assess and remediate known risks of fire, including by failing to power down its infrastructure, despite warnings of high winds and hazardous conditions, before a major fire allegedly caused by electrical arcs in utility's distribution system.

Allegations in avocado farm's complaint against privately owned public utility for inverse condemnation arising from damages to farm from fire allegedly caused by utility's unsafe electrical infrastructure were sufficient to allege that farm's damages resulted from an inherent risk associated with the infrastructure, as required for farm to state an inverse-condemnation claim against utility, where farm alleged that utility deliberately chose to forgo regular monitoring and repair of its aging infrastructure, it did not meet its own target metrics for inspecting, assessing, and remediating electrical poles that did not meet modern safety standards, and it instead modified its monitoring software to recalculate safety factors and reduce the number of poles requiring remediation.

Allegations in avocado farm's complaint against privately owned public utility for inverse condemnation arising from damages to farm from fire allegedly caused by utility's unsafe electrical infrastructure were sufficient to allege that utility's infrastructure was for the public use, as required for farm to state an inverse-condemnation claim against utility, where farm alleged that the power lines that ignited the fire were part of an electrical distribution system that served thousands of acres in Central, Coastal, and Southern California.

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## **JURISDICTION - CALIFORNIA**

### **[Eagle Fire and Water Restoration, Inc. v. City of Dinuba](#)**

**Court of Appeal, Fifth District, California - May 30, 2024 - Cal.Rptr.3d - 2024 WL 2762495**

Construction company brought action against city and city engineer, alleging breach of construction contract, negligence, and negligent misrepresentation in connection with construction project to reroof city's police station and courthouse building.

City filed cross-complaint alleging company did not perform the job in a workmanlike manner, failed to adequately cover roof with protective sheeting, failed to ensure roof drains were not clogged, and failed to procure proper insurance coverage.

Engineer also filed a cross-complaint against company, alleging breach of contract and indemnity.

The Superior Court granted engineer's motion for summary judgment on claims against engineer, granted city's motion to enforce parties' oral settlement agreement, and filed a judgment dismissing complaint and cross-complaint with prejudice. Company appealed, engineer voluntarily dismissed his cross-complaint against company without prejudice, and city moved to dismiss appeal as frivolous.

The Court of Appeal held that:

- Trial court had authority to enter judgment, and was therefore not required to expressly retain jurisdiction to enforce agreement;
- Company's appearance as a cross-defendant gave the court personal jurisdiction over company to enforce settlement agreement which was made while court maintained jurisdiction over the matter and the parties;
- Trial court had subject matter jurisdiction to enter judgment enforcing terms of settlement agreement;
- Personal jurisdiction over city engineer was not necessary for trial court to have authority to enforce company's covenant in settlement agreement with city to dismiss its appeal against engineer;
- Company was estopped from arguing that reporter's transcript of settlement proceedings omitted things said at pre-trial hearing;
- Statements made by city's lawyer on the record constituted substantial evidence supporting trial court's implied finding of materiality with respect to broad settlement term that agreement barred all claims that arose out of incident that formed the basis of complaint and cross-complaint; and
- Substantial evidence supported reasonable inference that trial judge resolved ambiguity, if any, in reporter's transcript of cross-talk.

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## **EMINENT DOMAIN - FEDERAL**

### **[Collective Edge, LLC Ferg's Sports Bar & Grill, Inc.](#)**

**United States Court of Federal Claims - May 16, 2024 - Fed.Cl. - 2024 WL 2227724**

Landowners adjacent to and underlying railroad easement brought separate inverse condemnation actions against the United States after Surface Transportation Board (STB) issued notice of interim trail use or abandonment (NITU) that resulted in railbanking and an easement for interim trail use, and the cases were consolidated.

After the government conceded liability, landowners sought damages for the diminished value of their land attributable to the new recreational trail use easement which trumped their prospective fee simple ownership upon the extinguishment of the historical railway easement. The United States thereafter filed a motion for reconsideration with respect to the nature and extent of the alleged Fifth Amendment taking, the parties filed cross-motions for partial summary judgment related to the size of one parcel of land vis-à-vis the railway easement, and a trial was held on damages.

The Court of Federal Claims held that:

- Execution of trail use agreement and transfer of ownership of railway easement through a duly-recorded quitclaim deed during the pendency of NITU constituted a taking, even if STB years later decided to reopen the matter years afterward and rescind its authorization post hoc;
- Court would discount first property owner's appraisal of parcel in the "before" condition by 15%, while accepting proffered property valuation in the "after" condition;
- Court would discount second property owner's appraisal of restaurant parcel in the "before" condition by 10%, while accepting proffered property valuation in the "after" condition;
- Court would adopt second landowner's appraiser's opinion as to parking lot property's "before" and "after" value and award \$1.361 million;
- Third landowners failed to establish ownership of easement area;
- Highest and best use of third landowners' property was consistent with permissible "grandfathered" uses at sites zoned industrial traditional; and
- Court would value third landowners' property by taking the Government's appraisal, multiplying it

by 300% to arrive at the “before” figure, and then using the Government’s concession as to the value of the remainder property.

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## **PUBLIC UTILITIES - INDIANA**

### **[Duke Energy Indiana, LLC v. City of Noblesville](#)**

**Supreme Court of Indiana - May 30, 2024 - N.E.3d - 2024 WL 2761911**

City brought action against electric utility, seeking declaratory and injunctive relief to enforce its ordinance requiring a demolition permit and either an improvement-location or building permit associated with utility’s plan to build facility in city.

The Superior Court found for city, ordered utility to comply with ordinances and obtain permits, fined utility \$150,000 for starting demolition without permits, and awarded city \$115,679.10 in attorney fees, expert fees, and costs.

Utility appealed. The Court of Appeals affirmed and remanded for determination of whether to award appellate attorney fees. Transfer was granted.

The Supreme Court held that:

- Trial court had discretion to give Utility Regulatory Commission primary jurisdiction over city’s claim against electric utility;
- Commission had primary jurisdiction to decide utility’s counterclaim; and
- Trial court could not rule on city’s claim on remand.

Trial court had discretion to give Utility Regulatory Commission primary jurisdiction over city’s claim against electric utility, which sought declaratory and injunctive relief to enforce its ordinance requiring demolition and building permits for utility to build facility in city, or to retain jurisdiction over city’s action, as either the trial court or the Commission could decide a claim seeking to enforce an ordinance against a public utility.

Resolution of electric utility’s counterclaim against city, challenging city’s authority to enforce ordinance requiring demolition and building permits before utility could build facility in city, required a determination that was placed within the special competence of the Utility Regulatory Commission by the utility code, which gave Commission expansive authority to decide whether a local ordinance improperly impeded a public utility’s service, and thus Commission had primary jurisdiction to decide counterclaim; utility’s garage and office projects were necessary to maintaining its transmission lines, which in turn were critical to providing reliable utility service to customers, and demolition of existing structure was an essential precursor to construction of new substation.

Trial court could not rule on city’s request to enforce its ordinance requiring demolition and building permits before electric utility could proceed with building facility in city, on remand of city’s action against utility seeking declaratory and injunctive relief to enforce its ordinance, as Utility Regulatory Commission had primary jurisdiction over utility’s counterclaim challenging city’s authority to enforce its ordinance against utility, which would dictate whether to grant city’s request to enforce its ordinance.

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## **IMMUNITY - MISSISSIPPI**

### **[Yazoo City v. Hampton](#)**

**Supreme Court of Mississippi - May 30, 2024 - So.3d - 2024 WL 2760711**

Following destruction of two properties by fire, the properties' respective owners brought action against city, alleging that fire department negligently failed to provide the knowledge and equipment to fight fires, to properly train and supervise firefighters, and to adequately maintain its fire hydrant system, and asserting claims for property damage, with one owner also asserting a personal injury claim seeking to recover for cardiac event and stroke allegedly caused by stress from the property damage.

Raising the Mississippi Tort Claims Act (MTCA) as a defense, city filed motion for summary judgment. The Circuit Court denied city's motion. City appealed.

The Supreme Court held that:

- City was immune under the MTCA from liability for property damage, and
- City was immune under the MTCA from liability on personal injury claim.

Absent any allegation that city fire department's actions were in reckless disregard of the safety and wellbeing of any person, city was immune under the Mississippi Tort Claims Act (MTCA) from liability for property damage allegedly caused by fire department's failure to effectively fight fire, in negligence action brought by property owners, based on lack of tank water in firetruck and delay in connecting to a fire hydrant; although property owners alleged that city showed reckless disregard by failing to provide the requisite knowledge and equipment to fight fires, property damage claims focused solely on criticizing how fire was fought, and thus claims arose directly from acts or omissions of municipal employees engaged in the performance of their duties relating to fire protection.

City fire department's ineffective fighting of fire, resulting in destruction of property, did not come within the exception to immunity under the Mississippi Tort Claims Act (MTCA) for actions in disregard of the safety and wellbeing of a person, and thus city was immune under the MTCA from liability on property owner's personal injury claim, seeking to recover for cardiac event and stroke allegedly resulting from the stress caused by destruction of his property in fire, notwithstanding that property owner argued that the fire department acted in reckless disregard of his property, and linked such disregard to his injury.

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## **POLITICAL SUBDIVISIONS - NEW JERSEY**

### **[In re Protest of Contract for Retail Pharmacy Design](#)**

**Supreme Court of New Jersey - May 23, 2024 - A.3d - 2024 WL 2335151**

Disappointed bidder on University Hospital's request for proposals (RFP) regarding contract to design, construct, and operate pharmacy filed notices of appeal with the Superior Court, Appellate Division, after Hospital's hearing officer denied disappointed bidder's post-award bid protest and its protest of Hospital's post-award change in location of proposed pharmacy.

Successful bidder's motion to intervene was granted.

The Superior Court, Appellate Division, dismissed appeals, holding that University Hospital was not “state administrative agency” within meaning of court rule allowing appeals to be taken as of right to Appellate Division to review decisions or actions of such agencies. Disappointed bidder’s petitions for certification and motion to consolidate appeals were granted.

The Supreme Court held that University Hospital was not “state administrative agency.”

University Hospital was not “state administrative agency” within meaning of court rule governing appeals from final decisions of such agencies, and thus, disappointed bidder was not entitled to file appeals from University Hospital’s denial of post-award bid protests in Appellate Division, even though legislature designated Hospital “body corporate and politic” and “instrumentality of the State”; legislature did not place Hospital in an executive department or declare it to be “in but not of” such a department, as constitutionally necessary for Hospital to constitute “state administrative agency,” legislature gave Hospital operational independence and unique power to offer itself for sale, and legislature did not charge Hospital with implementing or administrating healthcare policies.

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## **BALLOT INITIATIVES - TEXAS**

### **[In re Rogers](#)**

#### **Supreme Court of Texas - May 24, 2024 - S.W.3d - 2024 WL 2490520**

Relators, who were signatories of petition to have local board of an emergency services district place on the ballot a proposition to alter sales tax rates within the district, sought in district court a writ of mandamus compelling the board to determine whether the petition contained the statutorily required number of signatures or, alternatively, ordering the board to call an election on the petition.

During discovery, relators filed a petition for writ of mandamus in the Austin Court of Appeals, which denied relief without substantive opinion. Thereafter, relators filed their mandamus petition in the Supreme Court and then nonsuited their claims in the district court.

The Supreme Court held that:

- The Court had jurisdiction to grant mandamus relief against board;
- As long as the petition had the statutorily required number of signatures, the board had a ministerial, nondiscretionary duty to call an election; and
- Mandamus relief was an appropriate remedy.

The Supreme Court had jurisdiction to grant mandamus relief against the local board of an emergency services district in dispute in which relators, who were signatories of petition to have the board place on the ballot a proposition to alter sales tax rates within the district, were seeking a writ of mandamus compelling the board to determine whether the petition contained the statutorily required number of signatures or, alternatively, ordering the board to call an election on the petition; the Election Code waived any claim to immunity from mandamus relief by authorizing the Supreme Court, or a court of appeals, to compel the performance of a duty in connection with an election, and relators sought to compel performance of such a duty that the Health and Safety Code expressly assigned to the board of an emergency services district.

As a political subdivision of the State, an emergency services district is entitled to governmental immunity, which operates like sovereign immunity, and the district’s board, as the governing entity,

also retains immunity.

As long as petition had the statutorily required number of signatures, local board of an emergency services district had a ministerial, nondiscretionary duty to call an election on petition's proposition to alter sales tax rates within the district, despite argument that petition was legally defective as to the amount of the proposed change in the tax rate and as to the petition's alleged failure to match the mandatory ballot language to be used in an election to abolish the tax, which the proposition would arguably do in part; there was a strong preference in favor of holding elections on qualified ballot measures even where there was some question about whether the measure, if passed, would be subject to valid legal challenge, and board lacked discretion to conduct its own unauthorized legal analysis to keep an otherwise qualified petition off the ballot entirely.

Mandamus relief was an appropriate remedy for refusal of local board of an emergency services district to perform its ministerial, nondiscretionary duty to call an election on petition's proposition to alter sales tax rates within the district; the only factual question that could possibly be in dispute was the validity of the signatures, but the board had never challenged the qualifications or validity of any of the signatures, and the Election Code authorized appellate courts to grant mandamus relief to compel the performance of an election-related duty.

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## **[SIFMA Municipal Bonds Statistics.](#)**

SIFMA Research tracks issuance, trading, and outstanding data for the U.S. municipal bond market. Issuance data is broken out by bond type, bid type, capital type, tax type, coupon type and callable status and includes average maturity. Trading volume data shows total and average daily volume and has customer bought/customer sold/dealer trade breakouts. Outstanding data includes holders' statistics. Data is downloadable by monthly, quarterly and annual statistics including trend analysis.

YTD statistics include:

- Issuance (as of May) \$193.7 billion, +35.1% Y/Y
- Trading (as of May) \$12.8 billion ADV, +19.7% Y/Y
- Outstanding (as of 4Q23) \$4.1 trillion, +0.5% Y/Y

[Download xls](#)

June 3, 2024

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## **[Conning Releases 2024 State of the States Municipal Credit Report, Outlook Shifts to "Stable" in Anticipation of Return to Pre-Pandemic Fiscal Conditions](#)**

***As Costs Rise, States Should Prioritize Essential Spending in Coming Budget Cycle***

**Interactive Exhibits Enable Deeper Understanding of Metrics**

- Outlook for state credit quality upgraded to "Stable" versus 2023 outlook of "Declining."
- State rainy-day funds remain at near-record levels but rising costs are pressuring state budgets.
- Northeast, Great Plains and Great Lakes regions benefited from a slowing of pandemic migration

patterns to the west and south.

- Interactive graphics enable a closer look at the report's 13 economic, socioeconomic and financial metrics by state and region.

[Continue reading.](#)

Tue, Jun 4, 2024

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## **Fitch: Revenue Ramifications Emerge with US States Winding Down Large Tax Cuts**

Fitch Ratings-New York-06 June 2024: The period of sizeable state tax cuts that began in early 2021 and peaked in 2022 is drawing to a close, with revenue implications for states becoming clearer, Fitch Ratings says. In some cases, actual revenue losses exceed state estimates, although credit quality remains stable as states have ample reserves and broad budgetary flexibility.

State legislatures have proposed or enacted an estimated \$6.3 billion of new tax reductions in their 2024 legislative sessions, meaningfully less than the \$26.1 billion and \$40.2 billion of tax cuts, rebates and credits adopted in 2023 and 2022, respectively.

Ohio and Arizona are among the states with the largest shortfalls between forecasted and actual revenues so far in fiscal 2024. Ohio's fiscal 2024 tax collections were tracking \$445 million (1.9%) below forecast through April 30, which the governor ascribes to the cumulative effects of personal income tax (PIT) rate cuts and bracket compressions in the last two biennial budgets. In Arizona, the state's Joint Legislative Budget Committee primarily attributed a \$900 million downward revision in its fiscal 2024 revenue forecast in January to previously enacted income tax cuts.

Tax reductions over the past few years included a broad mix of both one-time and recurring tax policy actions. California enacted \$10 billion of tax rebates in 2022 paid largely from surplus revenues, while Nebraska enacted nearly \$1.4 billion of permanent PIT rate cuts and property tax credits. This will equal roughly 15% of fiscal 2021-2022 biennial revenues once the cuts are fully phased in by 2027.

Like Nebraska, other states including Georgia, Kentucky, Pennsylvania and West Virginia are phasing in previously enacted tax changes over multiple years. In some cases the associated revenue losses will not be fully realized, or even clear, until the early 2030s. The revenue effects of prior cuts through fiscal 2024 have so far been within these states' expectations.

Modest revenue underperformance compared to forecasts is unlikely to have a negative credit effect given that state rainy day funds and other counter-cyclical fiscal cushions have been greatly augmented since the pandemic. State rainy day funds averaged 13.8% of prior year revenues in fiscal 2023 compared with 7.9% in fiscal 2019 and only 5% prior to the 2008 Global Financial Crisis. However, the effects of recent years' tax cuts on revenues have not been tested by a cyclical downturn, which could have a more pronounced effect on collections.

Policymakers are reticent to enact further large, permanent tax cuts. In Oklahoma, the state senate recently resisted a gubernatorial proposal for an income tax rate cut even as the state eliminated its sales tax on groceries. In Virginia, the legislature rejected the governor's proposal for a broad tax restructuring that also included a sizeable PIT rate cut.

States are likely to forego substantial new tax reductions in the near term, and instead focus on making more marginal changes. These include expanding or revising existing tax credit programs such as the state earned income tax credit (EITC) and childcare tax credit. Additionally, we anticipate efforts to expand tax bases will include more services and digital goods, as well as broaden transportation fees and levies to compensate for declining fuel taxes.

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## **[NASBO: Summaries of FY25 Enacted Budgets](#)**

### **Overview**

Over the course of the coming months, 33 states, the territories, and the District of Columbia will enact a budget for fiscal 2025 (Kentucky, Virginia, and Wyoming will enact a biennial budget for both fiscal 2025 and fiscal 2026). Last year, 17 states enacted biennial budgets covering both fiscal 2024 and fiscal 2025; in seven of those states, the governor released a supplemental or revised budget recommendation for fiscal 2025. Forty-six states begin their fiscal year on July 1 (New York begins its fiscal year on April 1, Texas on September 1, and Alabama and Michigan on October 1). Puerto Rico begins its fiscal year on July 1, while the District of Columbia, Guam, and the U.S. Virgin Islands begin their fiscal year on October 1.

[Continue reading.](#)

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## **[What Prevents Local Governments From Managing Their Finances More Effectively?](#)**

American voters can be forgiven for thinking that their local governments are in a constant state of fiscal crisis. New York City continues to struggle with an influx of migrants that has jeopardized its ability to maintain services and led the mayor to appeal for greater state and federal support. Chicago grapples with a massive pension shortfall and debt burden amidst persistent difficulty in finding common ground, as illustrated by the recent failure of a mayor-led initiative to reform the real estate transfer tax. Los Angeles faces a growing budget shortfall that imperils its efforts to

confront a homelessness crisis. American cities are struggling to adjust to a post-pandemic world of empty office towers and shifting commuting patterns.

Yet, many of the fiscal problems that governments face predate the pandemic. In fact, one can't help but wonder whether there has ever been a time that local governments have managed their finances prudently, when cities did not face impending budget cuts and threats of drastic service reductions. The answer is: they haven't. And the reason why is the same reason why so many governance challenges persist: the institutional structure and the incentives that it gives rise to. Too often, municipal leaders simply are not incentivized to engage in prudent fiscal management.

To explain why, it helps to start with one of the most basic features of local government budgets: the balanced budget requirement. Unlike the federal government, city and state governments in the United States cannot engage in deficit spending. And while the details of these requirements vary from place to place, the overarching picture is the same: governments must balance their operating budgets on a cash (or near-cash) basis.

[Continue reading.](#)

PROMARKET.ORG

BY TRAVIS ST. CLAIR

June 3, 2024

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## [Auditing Reimagined: Looking Beyond the Public Dollar](#)

**COMMENTARY | Today's auditors don't just account for finances, they also account for outcomes. Local government leaders should look to them as key allies.**

Having dedicated most of my public service career to elevating the profession of performance auditing, I was gratified to see recently that it had progressed from a nice idea to a top priority for the current generation of local government auditors.

This focus on "auditing for impact" is a healthy progression toward a more inclusive and results-oriented approach, promoted by an activist brand of practitioners who, in the words of one scholar of the field, "regard the public as their 'ultimate client.'"

It's a positive change that has been cultivated, in part, by the Association of Local Government Auditors, or ALGA. And I saw it on display in Seattle last month at the group's annual conference, especially on the all-female panel I moderated featuring leading auditors from diverse backgrounds, a metamorphosis that is clearly invigorating the profession.

[Continue reading.](#)

### **Route Fifty**

By Mark Funkhouser

JUNE 6, 2024

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## [How Finance Officers Can Shake Things Up.](#)

**Local government finance officers can employ revenue, procurement and other tactics that disrupt the status quo to finance important initiatives.**

I recently watched *Rustin*, the biopic about nearly forgotten civil rights leader Bayard Rustin, who was the chief organizer of the 1963 March on Washington for Jobs and Freedom. In 1948, the year of Mahatma Gandhi's assassination, Rustin traveled to India to learn the techniques of nonviolent civil resistance, which he later taught to Dr. Martin Luther King Jr.

Not long after his India trip, Rustin wrote, "We need, in every community, a group of angelic troublemakers." These words were echoed by another civil rights icon, John Lewis, who famously said, "When you see something that is not right, not fair, not just, say something. Do something. Get in trouble. Good trouble."

Local government finance officers might be the last people you would think of as troublemakers of any kind. Their job, after all, is to keep cities and counties out of trouble by ensuring that tax dollars are managed responsibly. The truth is that finance officers are people too, not human calculators. Many of them care deeply about making their communities better — in a fiscally prudent way, of course.

[Continue reading.](#)

**governing.com**

OPINION | June 6, 2024 • Andrew Kleine

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## [New Issue Brief: Time to Fix Underfunding of Public-Sector Pensions - Manhattan Institute](#)

**The current high-interest rate environment presents a unique opportunity to correct accounting practices and to set public-sector pensions on a more sustainable path**

NEW YORK, NY — Public-sector pensions are facing a significant underfunding crisis that has only worsened over the past 25 years despite periods of high-asset returns. This growing burden threatens the financial stability of municipal and state finances, potentially leading to higher taxes or severe cuts to retirees' benefits and essential services if not addressed promptly. In a new Manhattan Institute [issue brief](#), senior fellow Allison Schragger argues the current high-interest rate environment presents a unique opportunity to set public-sector pensions on a more sustainable path.

Improper pension accounting standards set by the Governmental Accounting Standards Board (GASB) are at fault for masking the true extent of underfunding. The GASB allows states and municipalities to underprice risk and the cost of their obligations—a practice that is at odds with basic finance and different from how pension liabilities are measured in the private sector. Current accounting effectively incentivizes riskier investments and overly optimistic return assumptions.

State and local pension plans use accounting standards suggested by GASB to measure their funding status in their Annual Comprehensive Financial Report (ACFR). While the ACFR does not necessarily

have any direct impact on the contributions that states and cities pay to fund their pensions, it enables further underfunding because it suggests that risk is costless and that providing pension benefits is cheaper than it is.

The gap between expected returns and interest rates is narrower in the current high-rate environment, making it politically and economically feasible to adopt more defensible standards. States and municipalities should use the opportunity to adopt better and more uniform standards for how liabilities are measured and for how contributions are calculated and paid. By requiring sponsors to account for risk and the cost of guarantees, the focus would shift from returns to risk management, promoting long-term fiscal sustainability. Such accounting would ensure that regardless of rising or falling rates in the future, pensions would be properly funded.

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## **[Bad Accounting Can't Make the Public Pension Funding Shortfall Crisis Add Up: Manhattan Institute](#)**

### **Introduction**

Public-sector pensions are underfunded, and the problem is getting only worse. Despite many years of high asset returns, municipal and state finances face a slow-moving crisis as the bill comes due on their pension obligations. The burden will either fall on taxpayers or lead to cuts in benefits on retirees and essential services on the entire tax base. The time to fix an underfunded pension plan is always yesterday, but the current high-interest-rate environment offers an opportunity to put public-sector pensions on a more sustainable path. This will require changes at the state, local, and federal levels.

The core of the problem is pension accounting. The extent of underfunding is obfuscated by the current accounting standards that enable states and municipalities to underprice risk and the cost of their obligations. State and local pension plans use accounting standards suggested by the Governmental Accounting Standards Board (GASB), a nonprofit body, in order to measure their funding status in their Annual Comprehensive Financial Report (ACFR). These guidelines often influence the contributions that fund the plans.

GASB's accounting standards are at odds with basic finance and are different from how pension liabilities are measured in the private sector. The current standards not only obscure the extent of underfunding; they create an incentive to invest in riskier assets and provide overly optimistic return assumptions. Research shows that overly optimistic return assumptions are a big driver of the increase in underfunded liabilities.[1]

For decades, critics have called for public pensions to adopt more defensible and commonly used accounting standards.[2] This would involve using market-based discount rates (the rate of return used to calculate future cash flow), particularly low-risk government interest rates. Lower and more defensible rates would reveal the extent of the underfunding based on current market rates, which is correct. But if states and cities realize the truth, it could result in dire financial consequences for

some municipalities because it could mean higher contributions or higher municipal interest rates.

True, the underfunding reported in an ACFR does not necessarily have any direct impact on the contributions that states and cities pay to fund their pensions. But it enables further underfunding because it suggests that risk is costless and that providing pension benefits is cheaper than it is. The underfunding is also important because the funding level is observed by municipal bond buyers, highly motivated voters, and anyone with an interest in the health of the pension, such as unions. There is evidence that pensions do respond to what is in ACFRs. For instance, states and cities raised contributions when discount rates were lowered after the guidance was changed in 2012 because the local governments feared pressure from their stakeholders.[3]

While informing these stakeholders on the true extent of pension funding is desirable from an economical and long-term fiscal sustainability perspective, a drastic change could be self-defeating. States and municipalities are required to use GASB accounting in their ACFRs, but they are not required to make the necessary contributions estimated by GASB to cover the underfunding or even to use the same method to estimate their contributions. If the standards are seen as completely unreasonable or unrealistic, they will have less influence, which could worsen transparency and lead to more irresponsible investing.

Although the 2012 move faced resistance, it was, at best, a half-measure that sent mixed messages. Thus, even a few years ago, when rates were near-zero, moving to a more defensible standard would have been politically untenable. Our higher-interest environment changes this situation because the difference in expected return and interest rates is no longer so large. (In fact, in the last higher-rate environment, the 1990s, many pensions were overfunded.)

The current high-rate environment is an opportunity for states and municipalities to get on the right track by adopting better and more uniform standards for how liabilities are measured and for how contributions are calculated and paid. Ideally, this reform would encourage states and municipalities to start managing interest-rate risk, so that if rates fall or rise in the future, pensions would still be properly funded.

It is expensive to guarantee funding for pensions, but it can be managed using simple interest-rate hedging strategies. When the expected return is the discount rate, there is no incentive to use these strategies because the plan sponsor is fixated on returns rather than risk management. Requiring the sponsor to account for risk and the cost of a guarantee, which this issue brief explores, changes the focus for states and cities and makes the benefits of risk management more apparent.

[Continue reading.](#)

June 6th, 2024

Issue Brief by Allison Schragger

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## **[Louisiana Gun Bill Risks Roiling Wall Street's Muni Business.](#)**

- **Proposal would limit work with banks with gun restrictions**
- **Bill sent to state's Republican governor for signature**

Louisiana could soon bar banks that “discriminate” against firearm entities from working on government contracts, after lawmakers advanced legislation that’s similar to a Texas statute that

has whipsawed Wall Street firms' public-finance work.

State lawmakers passed Senate Bill 234 last week and sent the legislation to Republican Governor Jeff Landry's office for signature. Under the [legislation](#), any company into entering a public contract of \$100,000 or more must provide a written verification that they do not have a "practice, policy, guidance, or directive" that would "discriminate" against firearm entities or trade groups.

If passed, it would add to the pressure campaign from GOP states against Wall Street. Texas enacted a [similar law](#) in 2021 targeting Corporate America's firearm policies, and it has [hurt](#) some large banks' public-finance business in the state.

[Continue reading.](#)

## **Bloomberg Markets**

By Amanda Albright

June 4, 2024

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## **[Airports Across US With \\$151 Billion in Needs Set to Storm Bond Market.](#)**

- **Projects from terminal expansion to upgrades are on tap**
- **Issuance in 2024 may reach \$21 billion, near pre-pandemic peak**

US airports are set to storm the municipal-bond market in the weeks and months ahead to raise billions of dollars for upgrades and fixes they can no longer put off as travel surges to new highs.

At the urging of airlines, facilities across the US are increasing not only runway capacity but also amenities at new or renovated terminals, with plans for shopping areas and lounges as traffic reaches records. That's on top of basic infrastructure maintenance.

Already this year, operators of airports in cities from San Francisco to St. Louis have come to market with \$3.5 billion of debt, according to a June 3 report by Ramirez & Co. Heavy volume through September and another wave in December will push the total for the year to \$21 billion, close to the pre-pandemic peak, the municipal underwriter forecast in a report released this week.

[Continue reading.](#)

## **Bloomberg Markets**

By Skylar Woodhouse and Shruti Singh

June 5, 2024 at 8:43 AM PDT

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## **[US Colleges Are Stuck Between Decline and More Debt.](#)**

**University of the Arts in Philadelphia just shut down as institutions take on debt to lure new students**

## Debt-or-Die

Smaller US colleges facing rising costs are opting to merge or shut down entirely while university debt sales are rising as schools vie for an increasingly tinier pool of students.

Last week, University of the Arts in Philadelphia abruptly announced that it would close on June 7. The school has around \$50 million of outstanding municipal bond debt, whose rating was slashed four notches to C by Fitch this week.

That's the latest in a string of college casualties, a consequence of universities across the country contending with shrinking demand partly due to demographics — birth rates began falling in the aftermath of the financial crisis, and students born then are now approaching their college years.

[Continue reading.](#)

## Bloomberg Newsletter

By Aashna Shah

June 8, 2024

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## **S&P: U.S. Transportation GARVEEs Are Stable, Much Like Sector Funding**

### Key Takeaways

- S&P Global Ratings views the U.S. federal-grant-secured transportation sector as stable given expected reliable funding and continued strong support for transportation infrastructure investment across all levels of government, and thus most grant anticipation revenue vehicles (GARVEEs) are rated in the 'AA' category.
- Funding from the Infrastructure Investment and Jobs Act (IIJA; also known as the Bipartisan Infrastructure Law, or BIL) in federal fiscal 2023 totaled \$59.5 billion for the Federal-Aid Highway Program and \$13.6 billion for transit formula grant programs sourced from the Highway Trust Fund. Based on estimates of outlays, the fund is projected to be exhausted in 2026.
- Inflated construction project costs, labor shortages, and other hurdles continue to erode the anticipated benefits of BIL/IIJA funding.
- Our AA+/Stable/A-1+ U.S. sovereign credit rating is linked to both stand-alone GARVEE ratings and backstopped GARVEE ratings that benefit from an additional pledged security such as state gas taxes.
- Our analysis of key financial metrics for fiscal 2023 shows that GARVEE programs continue to demonstrate very strong maximum annual debt service coverage that we do not expect will materially erode as states and regional transportation agencies potentially issue more debt to maintain and expand investment in roads and transit.

[Continue reading.](#)

6 Jun, 2024

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## **Stadium Bond Sales Revive as Minor League Baseball Shuffles Deck.**

- **Spartanburg, South Bend borrows to build, refurbish stadiums**
- **Spartanburg sees Fifth Third Park opening for 2025 season**

The new look of US minor-league baseball took a curtain-call last week as Spartanburg, South Carolina, sold bonds to build a stadium for the Hub City Spartanburgers, a Low-A level affiliate of the Texas Rangers.

Spartanburg, a city of 38,732 in the upstate region of South Carolina, sold \$63.8 million in revenue bonds to build the 5,000-seat Fifth Third Park stadium, which is slated to cost \$100 million and open in time for the 2025 season. The bonds are backed by a mix of rent, fees and taxes. The city and county are contributing another \$59.4 million to the project.

Minor league baseball is still recovering from the lost year of 2020, when the pandemic shut down the season and Major League Baseball cut the size of the minor leagues by more than 40 teams to 120, and then told the rest to replace or upgrade their stadiums. In 2023, sales of municipal bonds for sports facilities tripled, to \$1.8 billion, according to data compiled by Bloomberg.

[Continue reading.](#)

### **Bloomberg Industries**

By Joseph Mysak Jr

June 4, 2024

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## **FCC Approves Pilot to Boost Cybersecurity in Schools.**

**Amid a rapid increase in ransomware attacks on k-12 schools, the commission is allocating \$200 million over three years to strengthen cyber protections.**

Parents of students in Center Line, Michigan, an inner ring suburb of Detroit, got a text late Monday night last week canceling school the next day. School officials had been forced to shut down the district's entire computer system to [stop a ransomware attack](#). Since schools run through technology, whether it's food service, cameras, phones or educational software, there were few other options.

The closure ultimately lasted only one day. But parents and students have been asked to be patient as the district works "through other tech challenges" likely to surface as the breach is investigated.

Ransomware attacks like the one on Center Line Public Schools are [becoming all too familiar](#). School districts depend more than ever on technology, and as a result, their systems and the personal data they store are increasingly targets of hackers. In 2022, according to an [analysis](#) by the cybersecurity firm Emsisoft, 45 districts reported breaches. In 2023, that number more than doubled, to 108.

[Continue reading.](#)

### **Route Fifty**

By Elizabeth Daigneau,

JUNE 6, 2024

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## **[GASB Publishes Post-Implementation Review Report on Pension Standards.](#)**

Norwalk, CT, June 3, 2024 — The Governmental Accounting Standards Board (GASB) today published a Post-Implementation Review (PIR) report on the Board’s pension standards.

The [report](#) focuses on GASB Statement No. 67, *Financial Reporting for Pension Plans*, and GASB Statement No. 68, *Accounting and Financial Reporting for Pensions*.

The report, issued by GASB staff, concludes that Statements 67 and 68 met the three PIR objectives:

- The standards accomplish their stated purpose,
- Costs and benefits are in line with expectations, and
- The Board followed its standard-setting process.

Furthermore, the report concludes that GASB Statements 67 and 68 significantly enhanced the accounting and financial reporting for pensions by pension plans and governmental employers with key provisions including the recognition of the net pension liability on the face of the government-wide statement of net position and the measurement of the liability using a blended discount rate.

After the issuance of each GASB standard, the GASB provides educational support, responds to technical inquiries, and often issues questions and answers about the standard through implementation guidance. More complex standards—like Statements 67 and 68—are eligible to undergo more extensive PIR procedures culminating in a final report.

More information about the PIR process, including other projects for which the GASB is currently conducting PIR activities, is available by visiting the [GASB PIR web portal](#).

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## **[The Escalating Cybersecurity Crisis: Countering Threats to U.S. Healthcare - Orrick / Bond Buyer Webinar](#)**

**Webinar | June.13.2024 | 11am - 12pm (Pacific Standard Time)**

The medical industry is currently grappling with a surge of cyber threats and security incidents that are putting sensitive patient information and essential services at risk. In the United States, the healthcare field has been particularly shaken by a series of recent ransomware attacks targeting prominent healthcare providers. These represent a troubling trend of “havoc-based attacks” with the potential to undermine key components of the nation’s infrastructure.

Join our upcoming webinar where Thora Johnson, Jenna Magan and Devon Ackerman, Global Head of Incident Response at Kroll will examine the challenges posed by these high-profile cyber incidents, the legal landscape, the role of cyber insurance, and other practical strategies to defend your institution against future attacks.

[Register](#)

## [Why GFOA is Rethinking Financial Reporting.](#)

In a time of decreasing trust in government, we should ask if lengthy, technical financial reports published many months in arrears are the most effective way to build trust with government's most important constituency: citizens. In a time of declining resources, we should ask if the finance officer's time is well spent producing these reports.

This report presents GFOA's vision for updating financial reporting. It critiques the current approach for not meeting the needs of its audiences, highlighting issues such as complexity and the time required to prepare the reports. The report also discusses the opportunity costs of financial reporting and outlines strategies to make financial reports more user-friendly, streamlined, and better aligned with users' needs.

[Read New Research.](#)

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## [MSRB Request for Comment on Gathering and Display of Bank Dealer Associated Persons' Registration and Qualification Information.](#)

[Read the MSRB Request for Comment.](#)

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## [Bond Dealers of America National Fixed Income Conference.](#)

**December 5-6, 2024 | Nashville, Tennessee**

Registration Coming Soon

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## [Troubled Pennsylvania Hospital Chain Preps \\$1 Billion Debt Swap.](#)

- **Proceeds of new debt sale will be used for working capital**
- **Tower Health expects to reach profitability this year**

Struggling Pennsylvania hospital chain Tower Health plans to exchange current debt and raise additional funds as it pursues a turnaround.

The system, trustee and bondholders of about \$992 million in debt are supporting an exchange of "substantially all" existing bonds, according to a May 31 agreement that Tower Health disclosed in a [filing](#) Monday. The system also plans on selling \$142.5 million of new municipal bonds for working capital. The finalized agreement will close in August, according to a spokesperson for Tower Health.

"This agreement secures substantial liquidity support and provides a longer-term window to advance our continued financial turnaround efforts," Tower Health said in an emailed statement.

[Continue reading.](#)

## **Bloomberg Markets**

By Lauren Coleman-Lochner

June 3, 2024

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## **[Midyear Outlook: Corporate Bonds and Muni Bonds - Charles Schwab Podcast](#)**

[Listen to the podcast.](#)

by Liz Ann Sonders & Kathy Jones

June 7, 2024

## **Charles Schwab**

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- [MSRB Publication: Timing of Annual Financial Disclosures by Issuers of Municipal Securities](#)
- [GASB Issues Guidance to Improve Key Components of Government Financial Reports.](#)
- [MSRB Amends Rule G-27 to Allow Dealers to Conduct Remote Inspections, Consistent With Recent FINRA Amendments.](#)
- [GASB 100 "Ghost Columns"](#)
- [S&P: U.S. Not-For-Profit Health Care Governmental Entities Are Converting To Private 501c3s To Maximize Operating Flexibility](#)
- [Municipal Bonds: Planning for the TCJA Sunset](#)
- And Finally, When You Pry My Cold Dead Fingers Out Of It is brought to us this week by [Alaska Trappers Association, Inc. v. City of Valdez](#), in which an advocacy group confronted the effrontery of a municipal ordinance suggesting that – just perhaps – bear traps are ill-advised in certain areas of town, such as parks and schools. Seriously. Not sure if you've glanced at a map lately, but AK ain't exactly running short on trappable terrain. It's the principle? The principal? How did all our crazies end up in the extreme southeast and northwest of this great land of ours? Regardless, let's just continue to keep 'em widely separated. Can you imagine the spawn? If they escaped we'd have to go crawling back to those trappers.

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## **MUNICIPAL ORDINANCE - ALASKA**

### **[Alaska Trappers Association, Inc. v. City of Valdez](#)**

**Supreme Court of Alaska - May 10, 2024 - P.3d - 2024 WL 2098108**

State and national fur trappers associations brought action challenging city ordinance that limited trapping in certain areas, alleging that ordinance was invalid and unconstitutional, and preempted by state law.

The District Court granted summary judgment to city and denied associations' motion for summary judgment. Associations appealed.

The Supreme Court held that:

- Ordinance did not implicate area of pervasive state authority, and
- Ordinance was not impliedly prohibited by state law.

Municipal ordinance limiting trapping within certain areas in city limits did not implicate area of pervasive state authority so as to be impliedly prohibited by state law; while state's Constitution, statutes and regulations provided state with authority to regulate natural resources, ordinance was explicitly enacted pursuant to two powers granted to home rule municipalities, public safety and land use, not to exercise control over natural resource management.

Municipal ordinance of home rule city limiting trapping in certain city areas for public safety purposes was not substantially irreconcilable with state's authority to adopt hunting and trapping regulations for purposes of conservation and development and was thus not impliedly prohibited by state law; ordinance did not directly manage taking of furbearers, create open and closed seasons, limit number, size, or sex of animals taken, and though it may have had incidental effect on number of furbearers taken, it did not have substantial effect on either the wildlife resource itself or Alaskans' use of that resource that was tantamount to wildlife resource regulation.

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## **EMINENT DOMAIN - ARKANSAS**

### **[Watkins v. Lawrence County, Arkansas](#)**

**United States Court of Appeals, Eighth Circuit - May 28, 2024 - F.4th - 2024 WL 2716422**

Landowners brought action for damages and injunctive relief against county and county officials, alleging that the culvert bridge the county built over a slough to replace a wooden bridge acted as a dam and caused their farms to flood, resulting in an unlawful taking of their properties without providing just compensation, in violation of the United States Constitution and the Arkansas Constitution.

After the jury returned verdict for landowners, which awarded them less than they had requested, the United States District Court for the Eastern District of Arkansas denied the defendants' renewed motion for judgment as a matter of law and denied landowners' request for permanent injunctive relief ordering the county to remove the culvert bridge. The parties appealed.

The Court of Appeals held that:

- Whether fair and reasonable approximation of damages could be made, based on evidence of average daily rental value of landowners' farms and number of days they were flooded, was issue for jury;
- Issue of whether flooding that occurred on landowners' farms after a crop was gathered and sold could play into amount of damages was for the jury;
- Issue of whether \$20,000 in repairs landowner made to his property were caused by additional flooding caused by the culvert bridge was for the jury;
- Evidence was sufficient for jury to conclude that the culvert bridge caused six tracts to flood even though they were outside reach of landowners' expert's model; and
- Trial court's heavy reliance on law of standing in denying permanent injunction made it unclear whether irrelevant considerations materially affected court's equitable discretion.

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## **SCHOOLS - CALIFORNIA**

### **[Cajon Valley Union School District v. Drager](#)**

**Court of Appeal, Third District, California - April 24, 2024 - Cal.Rptr.3d - 2024 WL 2207068**

Public school districts brought action seeking a writ of mandate to compel county auditor-controller to make statutorily defined pass-through payments to them after the caps in their respective pass-through agreements with former redevelopment agency were reached.

The Superior Court denied the requested relief, and districts appealed.

The Court of Appeal held that statute did not require statutory payments in light of agreements between agency and districts.

Redevelopment agency statute, which provided that an agency shall pay “either” the amount required to be paid by a pass-through agreement if an agreement exists, or statutory pass-through amounts if an agreement does not exist, did not obligate county auditor-controller to make statutorily defined pass-through payments to school district after the caps in their respective pass-through agreements with former redevelopment agency were reached, as districts had agreements with the agency.

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## **SCHOOLS - COLORADO**

### **[Education reEnvisioned BOCES v. Colorado Springs School District 11](#)**

**Supreme Court of Colorado - May 20, 2024 - P.3d - 2024 WL 2264341 - 2024 CO 29**

School district cooperative brought declaratory judgment action against nonmember school district, seeking to continue to operate a contract school within school district’s boundaries without school district’s consent, and school district filed counterclaim and third-party claim against school’s operator also seeking a declaratory judgment.

The District Court denied school district’s motion for partial summary judgment and granted cooperative and operator’s motion for summary judgment. School district appealed. The Court of Appeals reversed and remanded. Cooperative and operator petitioned for certiorari review, which was granted.

The Supreme Court held that:

- School district’s approval of charter school application for school did not moot the appeal;
- Case involved issue of great public importance as an exception to any mootness; and
- Cooperative lacked statutory authority to locate a contract school within a nonmember school district without that district’s consent.

School district’s approval, during pendency of proceedings, of charter school application for school district cooperative’s contract school that served students with reading challenges did not moot appeal of grant of summary judgment for cooperative and school operator on claim seeking declaratory judgment that cooperative had statutory authority to locate a contract school within a nonmember school district’s boundaries without that district’s permission, where a charter contract had not yet been executed, and school continued to operate as a contract school within school district’s boundaries and without school district’s consent.

Whether school district cooperative had statutory authority to locate a contract school like its academy for students with reading challenges within a nonmember school district's boundaries without that district's consent was a matter of great public importance, as exception to mootness doctrine, on appeal of grant of summary judgment for cooperative and academy operator on claim seeking declaratory judgment on the issue, especially since cooperative planned to continue opening more schools like academy in the future.

Statute allowing a school district cooperative to construct, purchase, or lease sites, buildings, and equipment to provide facilities necessary for operation of cooperative service program at "any appropriate location" does not give a cooperative authority to locate a contract school within a nonmember school district's boundaries without that district's consent.