
TAX - RHODE ISLAND

City of Pawtucket v. Rhode Island Department of Revenue

Supreme Court of Rhode Island - May 2, 2024 - A.3d - 2024 WL 1917355

City appealed decision of Department of Revenue (DOR) denying PILOT funds for properties owned by hospital.

The Superior Court granted judgment for DOR. City filed petition for writ of certiorari.

The Supreme Court held that:

- City's appeal was timely, but
- Hospital did not meet PILOT Act's explicit definition of "nonprofit hospital facility."

City received final, formal notice of decision of Department of Revenue (DOR) to deny city's request for PILOT funds for properties owned by hospital, and appeal period began to run, when Director of DOR formally notified city in letter that properties did not qualify for inclusion in grant program, rather than when there were various communications and actions indicating that eligibility of properties for PILOT funds was in question.

Hospital did not meet PILOT Act's explicit definition of "nonprofit hospital facility," and thus properties owned by hospital were not eligible for receipt of PILOT Act funding, even though medical care and treatment services were being provided at properties through licenses held by other hospitals, where hospital-owner was not a licensed nonprofit hospital facility at relevant time.

New CA Bills Aim to Protect Water Rates, Charges from Prop. 218 Litigation: Brownstein

Lawmakers introduce tools to ease pressure from SGMA and infrastructure demands on public agency revenue powers

Adopted in 1996, Proposition 218 (and later Proposition 26 in 2010) amended the California Constitution to create limits, including voter approval requirements, around local and regional government revenue powers (taxes, assessments and fees). While the intent of these laws is clear, ensuring proper compliance is far more convoluted. The California State Legislature introduced three bills this session in an apparent effort to reduce the vulnerability of public agencies' revenue streams to legal attack.

Why now?

One major factor is the significant pending costs of infrastructure and service improvements that agencies are planning to implement to meet future water supply and reliability needs in the face of climate change and implementation of the Sustainable Groundwater Management Act (SGMA).

Along with the increased need to raise revenue, there are significant questions as to who should pay and how much. Using SGMA implementation as an example: how should costs for projects to mitigate subsidence, shrinking groundwater storage, seawater intrusion, declining groundwater levels, poor water quality and depleted interconnected surface water be allocated? Most would probably answer, "fairly." But what fair means is not always clear, even assuming there is sufficient data to determine the cause of these undesirable results. For example, how should project costs be allocated between:

Continue reading.

by Jena Shoaf Acos, Baltazar Cornejo and Laura K. Yraceburu

May 16 2024

Brownstein Hyatt Farber Schreck LLP

Southern California Public Power Authority (CA): Fitch New Issue Report

The 'AA-' rating on Southern California Public Power Authority's (SCPPA) project bonds reflects the credit quality of the Los Angeles Department of Water and Power (LADWP; AA-/Stable), the sole project participant in the Apex Power Project. The rating is largely driven by the project's unconditional, take-or-pay contract terms in the power sales agreement (PSA) between the SCPPA and LADWP. Given the contract terms, the credit quality of LADWP is the most important rating driver, informed by the project's operational value to LADWP.

ACCESS REPORT

Thu 16 May, 2024

Great Lakes Water Authority (Sewer) - Fitch New Issue Report

The 'AA-' and 'A+' sewer revenue bond rating, along with the 'a+' Standalone Credit Profile, reflect the system's very strong financial profile in the context of its very strong revenue defensibility and very strong operating risk profile, both assessed at 'aa'. The system's leverage, measured as net-adjusted debt to adjusted funds available for debt service (FADS), was very low at 9.2x in fiscal 2023. Leverage is projected to peak at 9.7x in fiscal 2024 in Fitch's Analytical Stress Test (FAST) rating case, supporting the Positive Outlook. The revenue defensibility assessment considers Great Lakes Water Authority's (GLWA, or the authority) ability to reallocate any shortfalls from a non-performing customer to its performing customers via a rate increase and the overall strength of such customers. While Fitch Ratings considers the credit quality of Detroit Water and Sewerage Department's (DWSD) sewer system midrange, the authority's other large wholesale customers have

stronger credit profiles, resulting in a strong aggregate purchaser credit quality (PCQ). The operating risk profile considers the system's very low operating cost burden, coupled with its favorable life cycle ratio, while recognizing continued robust capital plans.

ACCESS REPORT

Thu 16 May, 2024 – 4:47 PM ET

Great Lakes Water Authority, Michigan: Fitch New Issue Report

Great Lakes Water Authority (GLWA) has contract provisions that allow for full cost recovery and the unlimited reallocation of costs across users. Under the water and sewer services agreements in place with wholesale customers, the authority has the exclusive right to establish rates for the water service it provides. The authority has delegated to the city of Detroit its right to establish rates with respect to services provided to city of Detroit customers. In fiscal 2023, the system's operating cost burden was considered very low at $2,568 per million gallons (mg), consistent with the operating risk assessment. The life cycle ratio was very low at 35% in fiscal 2023. The system had moderate leverage of 10.2x as of fiscal 2023, which is in line with historical performance of between 9.7x and 10.2x since fiscal 2019. GLWA provides wholesale water services to a population of approximately 3.8 million, or 38% of the state's population.

ACCESS REPORT

Fri 17 May, 2024

Exploring the Merits of Municipal Bonds.

While many bond options struggled in April, short-term municipal bonds (munis) emerged relatively unscathed.

BondBloxx analysis found that short-term munis saw total return drop by 0.1% in April. While the lack of gains is not ideal, the relative stability of short-term munis outclassed a wide number of bond options for the month, including intermediate-duration munis.

In addition, BondBloxx noted that the municipal yield curve is inverted, much like the U.S. Treasury yield curve. This causes yields for shorter maturities to jump. "Investors may now receive enhanced income in shorter-dated municipals relative to longer-dated bonds, but with lower expected risk," BondBloxx added.

Demand for munis is mounting. The BondBloxx data added that tax-exempt municipal issuance reached roughly $41 billion in April, outclassing April 2023's numbers by 21%. This could be a signal that investor interest in munis is mounting.

"For tax-sensitive investors, we believe that municipals offer compelling value relative to broad-based corporates in shorter-dated maturities, and have uncovered opportunities in several subsectors, including housing, healthcare, and higher education," BondBloxx noted.

Tax-Aware Options

The BondBloxx IR+M Tax-Aware Short Duration ETF (TAXX) can allow investors to harness the potential of short-duration munis. As of May 13th, 2024, nearly 62% of the fund's holdings are within municipal bonds. The fund pledges to keep at least half of its assets allocated to U.S. dollar-denominated municipal bonds.

TAXX seeks after-tax income by investing in short-duration municipal and taxable short-duration bonds. The fund utilizes an actively managed strategy to adjust holdings and best capitalize on the current U.S. economy. Regarding credit rating, the majority of bonds held by the fund are rated single A or higher.

This strategy is already resonating with investors, despite being a relatively new fund. Since the fund's launch in March, TAXX has seen net flows of over $47 million.

ETF TRENDS

by NICK WODESHICK

MAY 15, 2024

NJ's American Dream Mall Gets Boost as First-Quarter Sales Soar.

- **Quarterly sales jumped 27% compared to a year earlier**
- **They remain off pace from 2017 performance projections**

Sales at New Jersey's American Dream mega mall soared in the first quarter as consumers demonstrated continued demand following the busy holiday shopping period.

Gross sales for the mall's retail, attractions, entertainment, dining and parking rose 27% to just under $148 million in the first quarter compared to the same period a year earlier, according to a municipal bond filing.

Triple Five Group, the mall's owner, borrowed about $1.1 billion in the municipal bond market to help finance the $5 billion project. About $300 million of the securities, backed by New Jersey economic development grants sold to investors to fund the development, didn't make their February interest payment, according to a filing that same month, the fourth straight time that the semi-annual interest payment was missed.

Continue reading.

Bloomberg Markets

By Neil Callanan and Martin Z Braun

May 14, 2024

Pharrell Williams-Backed Surf-Park Project Gets Virginia Beach Funding.

- **Bonds sold by city's development authority on Thursday**
- **Project includes surf park, entertainment venue and retail**

Virginia Beach tapped the municipal bond market to help fund a surf-park development backed by multi-Grammy award winning artist Pharrell Williams.

The Virginia Beach Development Authority sold about $189 million of debt on Thursday with some of the bond proceeds financing the construction of a 3,500-person entertainment venue, parking facilities and land acquisitions, as well as other projects associated with the development.

The city had pledged some of its own cash to help build the $350 million enterprise called Atlantic Park, which will be anchored by the surf park and includes a multi-purpose event venue, residences, offices, retail space and restaurants. The project's developer — Venture Realty Group — had tapped muni investors for unrated, high-yield bonds early last year.

Continue reading.

Bloomberg Markets

By Nataly Pak

May 16, 2024

SEC Instituting Proceedings on FINRA and the MRSB's Proposals to Shorten Trade Reporting Timelines in Fixed-Income Markets: SIFMA Comment Letter

SIFMA and SIFMA AMG provided further comments to the U.S. Securities and Exchange Commission (SEC) in light of the SEC's instituting proceedings on FINRA and the MRSB's (together, the "SROs") proposals to shorten trade reporting timelines in fixed-income markets.

See related: Proposed Rule Change to Amend MSRB Rule G–14 and FINRA Rule 6730 (SIFMA and SIFMA AMG)

Read the SIFMA Comment Letter.

- MSRB Amends Rule G-27 to Harmonize with FINRA and Adopt the Residential Supervisory Location Classification.
- GFOA: GASB 102 and More Disclosure for You
- Proposed Rule Change To Amend MSRB Rule G-47, on Time of Trade Disclosure, To Codify and Retire Certain Existing Interpretive Guidance and New Time of Trade Disclosure Scenarios: SIFMA Comment Letter
- Flood of Property Assessment Appeals Could Wallop U.S. Cities. – [**Ed. Note:** Potential Risk Factor.]
- What the Hazardous Substance Designation of PFAS Chemicals Means for Local Governments. – [**Ed. Note:** Potential Risk Factor.]
- Coming Up: NFMA Advanced Seminar on Higher Education
- *Securities and Exchange Commission v. City of Rochester, New York* – In fee-splitting case, U.S. District Court holds – as matters of apparent first impression, that: a) MSRB rule required advisor to disclose all contingency fee arrangements based on size or closing of a transaction; and b) negligence standard governed statutory and regulatory claims of a municipal advisor's breach of

fiduciary duty to a municipal client.
- *City of San José v. Howard Jarvis Taxpayers Association* – Court of Appeal holds that unfunded liabilities incurred by city's employee retirement funds qualified as "other evidence of indebtedness" under statutory definition of "revenue bonds," for purposes of statute authorizing city to issue bonds for the purpose of refunding any of city's revenue bonds, and thus city had authority under the statute to issue pension obligation bonds as refunding bonds to refund the unfunded liability as "revenue bonds."
- And Finally, We Put The Ordnance In Municipal Ordinance! is brought to us this week by *Barris v. Stroud Township*, in which, "The question we face in this appeal is this: Does the discharge ordinance, when considered alongside the zoning ordinances limiting shooting ranges to two non-residential districts in the township, violate the Second Amendment on its face?" Oh! Guns. In Your Editors experience, the word "discharge" has always been accompanied by the word "penicillin." We were genuinely concerned about the prospect of adding "ordinance" to that list.

BOND VALIDATION - CALIFORNIA

City of San José v. Howard Jarvis Taxpayers Association

Court of Appeal, Sixth District, California - April 29, 2024 - Cal.Rptr.3d - 2024 WL 1855412

Charter city filed a complaint for validation of the issuance of pension obligation bonds and related agreements that were aimed to address unfunded liabilities in city's retirement plans.

Taxpayer advocacy groups filed an answer to the complaint for validation, alleging that the city lacked authority to issue the bonds and seeking a declaration that the resolution approving the bonds and the proposed issuance of the bonds were invalid.

The Superior Court entered judgment validating the resolution, the issuance and sale of the bonds, and related agreements. Advocacy groups appealed.

The Court of Appeal held that:

- Resolution allowing for the issuance of pension obligation bonds did not incur any new indebtedness that required voter approval under the California Constitution, and
- City had statutory authority to issue pension obligation bonds as refunding bonds to refund unfunded pension liabilities.

A municipal bond is not an "indebtedness or liability" within meaning of state constitutional debt limitation applicable to cities—it is only the evidence or representative of an indebtedness, and a mere change in the form of the evidence of indebtedness is not the creation of a new indebtedness within meaning of constitutional debt limitation.

The constitutional debt limitation was enacted for the purpose of curtailing "municipal extravagance" in the form of unchecked capital investments that resulted in large, long-term debt; in contrast to disfavored "municipal extravagance," public policy in California encourages pension plans as a means by which governments may induce and reward long-term public service to a municipality's citizens.

Under California law there is a strong preference for construing governmental pension laws as creating contractual rights for the payment of benefits, and when feasible to do so such laws should be construed as guaranteeing full payment to those entitled to its benefits with the provision of adequate funds for that purpose; actuarial soundness of the pension system is necessarily implied in

the total contractual commitment, because a contrary conclusion would lead to express impairment of employees' pension rights.

The phrase "other evidence of indebtedness" in statute defining revenue bonds may include unfunded liability, such as a city's deferred obligation to pay its employees.

The refunding of an unfunded municipal liability using the proceeds from the issuing of refunding bonds converts the debt represented by the unfunded liability into debt in the form of bonds; such refunding does not create new debt for purposes of the constitutional debt limitation applicable to cities.

PUBLIC UTILITIES - CALIFORNIA

Sacramento Municipal Utility District v. Kwan

Court of Appeal, Third District, California - April 30, 2024 - Cal.Rptr.3d - 2024 WL 1874962

Municipal electric utility brought action against customer, asserting claims for power theft, conversion, and account stated, based on allegations that power was diverted for cannabis grow operation.

Following court trial, the Superior Court, Sacramento County found customer liable for aiding and abetting utility diversion and awarded $82,661.13 as treble damages plus $82,000 as costs and attorney fees. Customer appealed.

The Court of Appeal held that:

- Substantial evidence supported finding that customer aided and abetted power diversion;
- Utility established fact of proximately caused injury from date of account creation with reasonable certainty; and
- Trial court acted within its discretion in awarding treble damages and attorney fees.

IMMUNITY - IOWA

Randolph v. Aidan, LLC

Supreme Court of Iowa - May 3, 2024 - N.W.3d - 2024 WL 1944714

User of stairs at rental property brought personal injury action against rental property owner arising from fall on stairs, and owner filed third-party claim against city for negligent hiring, retaining, or supervising of an allegedly unqualified city employee who inspected the property.

The District Court denied city's motion to dismiss the third-party claim. User and owner both sought interlocutory review, which was granted.

The Supreme Court held that city had statutory immunity from the negligent hiring claim.

ZONING & PLANNING - MICHIGAN

Long Lake Township v. Maxon

Supreme Court of Michigan - May 3, 2024 - N.W.3d - 2024 WL 1960615

Township filed action against homeowners for violating zoning ordinance, creating nuisance, and breaching previous settlement agreement.

The Circuit Court denied owners' motion to suppress aerial photographs taken using drone, and owners appealed. The Court of Appeals reversed. Township filed application for leave to appeal. In lieu of granting leave to appeal, the Supreme Court vacated and remanded. On remand, the Court of Appeals affirmed, and owners appealed.

The Supreme Court held that exclusionary rule did not apply to preclude township from introducing aerial photographs of property taken using drone without warrant or owners' consent.

Exclusionary rule did not apply to preclude township from introducing aerial photographs of property taken using drone without warrant or owners' consent in township's action alleging violation of its zoning ordinance, nuisance, and breach of settlement agreement; very little of property was visible from public vantage-point, without drone's photographs and video, township did not seek any criminal or monetary penalties, and applying exclusionary rule would prevent township from effectuating its nuisance and zoning ordinances and would do so for little benefit, given that exclusion of photographs and video would not deter future misconduct by law enforcement officers or their adjuncts, proxies, or agents.

ZONING & PLANNING - MISSOURI

Sachtleben v. Alliant National Title Insurance Co.

Supreme Court of Missouri, en banc - April 30, 2024 - S.W.3d - 2024 WL 1904591

Insured purchasers of real property brought action against title insurer, alleging breach of contract based on insurer's refusal to defend insureds against city's pre-existing lawsuit against vendors regarding alleged local zoning ordinance violations related to barn built by vendors.

The Circuit Court granted partial summary judgment in favor of insurer. Insureds appealed.

On transfer from the Court of Appeals, the Supreme Court held that:

- Trial court did not abuse its discretion in finding that partial summary judgment in favor of insurer was final for purposes of appeal;
- Insurer's actual notice of city's lawsuit did not trigger coverage under policy section providing coverage if notice was recorded in public records setting forth violation or intention to enforce building or zoning law, ordinance, permit, or governmental regulation;
- City's lawsuit did not constitute "public record" within meaning of same coverage provision; and
- Policy exclusion for loss from any ordinance restricting, regulating, prohibiting, or relating to land use or character, dimensions, or location of any improvement on land unless claim met requirements of same coverage provision applied.

IMMUNITY - NEBRASKA

Joshua M. v. State

Supreme Court of Nebraska - May 3, 2024 - N.W.3d - 316 Neb. 446 - 2024 WL 1946196

Foster siblings brought action against Department of Health and Human Services (DHHS) for alleged negligent acts or omissions of DHHS employees in failing to protect siblings from being physically and sexually abused by foster parent and by their biological father upon their placement with him.

The District Court denied DHHS's motion for directed verdict and, after bench trial, entered judgment for DHHS. Siblings appealed.

The Supreme Court held that:

- Assault or battery exemption to waiver of sovereign immunity under STCA and the Political Subdivisions Tort Claims Act (PSTCA) can apply to a claim framed as negligent failure to protect against assault or battery; overruling *Koepf v. County of York*, 198 Neb. 67, 251 N.W.2d 866, and
- Assault or battery exemption under STCA applied to bar siblings' claims.

EMINENT DOMAIN - NEW YORK

HBC Victor LLC v. Town of Victor

Supreme Court, Appellate Division, Fourth Department, New York - March 22, 2024 - N.Y.S.3d - 225 A.D.3d 1254 - 2024 WL 1227054 - 2024 N.Y. Slip Op. 01625

Following annulment of town's prior determination authorizing condemnation of vacant commercial real property, owner of property brought action against town under Eminent Domain Procedure Law (EDPL) to annul town's determination authorizing the condemnation of the property.

The Supreme Court, Appellate Division, held that:

- Town established legitimate qualifying public purpose or use of property, and
- Public purposes articulated by town's comprehensive plan were not merely incidental to private benefits arising from condemnation and were sufficient to support condemnation action.

Town established legitimate qualifying public purpose or use of owner's vacant commercial real property, as supported condemnation of property; one of town's stated public purposes was to facilitate economic redevelopment project that would permit vacant and underutilized property to be turned into space appropriate for lease to international department store and grocer, both of which had expressed interest in becoming tenants, and town's proposed use of a portion of the building for an 11,000-square-foot community and recreation space was a viable public purpose.

Public purposes articulated by town's comprehensive plan were not merely incidental to private benefits arising from condemnation and were sufficient to support town's condemnation action against owner of vacant commercial real property; despite property owner's contention that public use proposed for part of property to be leased by town was illusory, town initially stated at public hearing that it had not yet determined what it would do with that portion of the property, town subsequently narrowed its public use in its determination and findings to a community and recreation center space to provide for and enhance town's public services as part of creating a vibrant, sought-after retail, community and recreation destination on the property.

MUNICIPAL ADVISORS - NEW YORK

Securities and Exchange Commission v. City of Rochester, New York

United States District Court, W.D. New York - April 15, 2024 - F.Supp.3d - 2024 WL 1621541

Securities and Exchange Commission (SEC) brought action against city's municipal advisor, its principals, and others for, among other things, failure to comply with Municipal Securities Rulemaking Board (MSRB) rules requiring municipal advisors to disclose material conflicts of interest and to establish, implement, and maintain written supervisory procedures, as well as breach of fiduciary duty and violation of Securities Exchange Act provision prohibiting municipal advisors from contravening MSRB rules.

SEC, advisor, and principals cross-moved for summary judgment as to liability on claims arising under MSRB rules.

The District Court held that:

- As a matter of apparent first impression, MSRB rule required advisor to disclose all contingency fee arrangements based on size or closing of a transaction;
- MSRB was authorized to depart from general securities-law definition of "materiality" in its disclosure rule;
- Disclosure rule was subject to rational review under First Amendment;
- Disclosure rule was reasonably related to legitimate government interest in regulating municipal securities market;
- As a matter of apparent first impression, negligence standard governed statutory and regulatory claims of a municipal advisor's breach of fiduciary duty to a municipal client;
- Advisor's email to clients inadequately disclosed conflicts of interest arising from contingency fee arrangements; and
- Failure to disclose conflicts of interest arising from contingency fee arrangements breached advisor's fiduciary duty of loyalty.

The unambiguous meaning of the Municipal Securities Rulemaking Board (MSRB) rule requiring a municipal advisor, "prior to or upon engaging in municipal advisory activities," to "provide to the municipal entity or obligated person client full and fair disclosure in writing of…all material conflicts of interest, including…any conflicts of interest arising from compensation for municipal advisory activities to be performed that is contingent on the size or closing of any transaction as to which the municipal advisor is providing advice" is that conflicts of interest arising from contingency-fee arrangements based on the size or closing of the transaction are material conflicts of interest subject to mandatory disclosure.

The Municipal Securities Rulemaking Board (MSRB) rule requiring a municipal advisor, "prior to or upon engaging in municipal advisory activities," to "provide to the municipal entity or obligated person client full and fair disclosure in writing of…all material conflicts of interest, including…any conflicts of interest arising from compensation for municipal advisory activities to be performed that is contingent on the size or closing of any transaction as to which the municipal advisor is providing advice" does not vest the municipal advisor with discretion to determine whether a contingency arrangement based on the size or closing of a transaction creates a material conflict of interest.

When fulfilling its congressional mandate to "provide professional standards" for municipal advisors and prescribe "means reasonably designed to prevent acts, practices, and courses of business"

inconsistent with their fiduciary duties, Municipal Securities Rulemaking Board (MSRB) had authority to deem certain fee arrangements as presenting material conflicts of interest as a matter of law in its rule requiring municipal advisors to disclose all material conflicts of interest, even though federal securities laws generally treated materiality as mixed question of law and fact; deeming certain conflicts "material" was consistent with MSRB's mandate, and nothing in Exchange Act required MSRB to adopt general securities-law definition of materiality. Securities Exchange Act of 1934 § 15B.

The materiality of a municipal advisor's contingent fee arrangement, for purposes of the Municipal Securities Rulemaking Board (MSRB) rule requiring advisors to disclose all material conflicts of interest including "any conflicts of interest arising from compensation for municipal advisory activities to be performed that is contingent on the size or closing of any transaction as to which the municipal advisor is providing advice," is not measured by whether a fee is material to the municipal advisor; rather, materiality is evaluated through the viewpoint of the municipal clients, whom the rule is meant to protect.

In imposing a fiduciary duty on investment advisers through the Investment Advisers Act of 1940, Congress created both an affirmative obligation to employ reasonable care to avoid misleading clients and an affirmative duty of utmost good faith; thus, investment advisers must tell their clients about all conflicts of interest which might incline an investment adviser, consciously or unconsciously, to render advice which is not disinterested. Investment Advisers Act of 1940 § 206.

Municipal Securities Rulemaking Board (MSRB) rule requiring municipal advisors to disclose all material conflicts of interest including "any conflicts of interest arising from compensation for municipal advisory activities to be performed that is contingent on the size or closing of any transaction as to which the municipal advisor is providing advice" was informational disclosure rule, and thus, district court would apply rational review to determine whether rule comported with First Amendment; rule only required disclosure of factual, uncontroversial information about an advisor's own products and services, and rule did not limit what advisors could say in defense of contingency fee arrangements or prevent them from offering their opinions concerning any potential conflicts.

Municipal Securities Rulemaking Board (MSRB) rule requiring municipal advisors to disclose all material conflicts of interest including "any conflicts of interest arising from compensation for municipal advisory activities to be performed that is contingent on the size or closing of any transaction as to which the municipal advisor is providing advice" was reasonably related to legitimate government interest in regulating municipal securities market, as necessary for such information disclosure rule to comport with First Amendment free speech principles; MSRB determined that mandatory disclosure of conflicts of interest inherent in contingency fee arrangements would protect municipal entity clients by allowing them to better evaluate advisors' advice and whether such advice might be colored by conflicts.

Municipal Securities Rulemaking Board (MSRB) rule requiring municipal advisors to disclose all material conflicts of interest including "any conflicts of interest arising from compensation for municipal advisory activities to be performed that is contingent on the size or closing of any transaction as to which the municipal advisor is providing advice," which was intended to protect municipal entity and obligated person clients, did not unduly burden speech, and thus, such information disclosure rule comported with First Amendment free speech principles; advisors were free to make clear that information disclosed represented MSRB's views and to tell clients why, in their view, contingency nature of fee arrangements would not impact advice given or otherwise harm their clients.

Municipal Securities Rulemaking Board (MSRB) rule requiring municipal advisors to disclose all

material conflicts of interest including "any conflicts of interest arising from compensation for municipal advisory activities to be performed that is contingent on the size or closing of any transaction as to which the municipal advisor is providing advice" provided a person of ordinary intelligence a reasonable opportunity to know what conduct was required, and thus, rule comported with due process; rule unambiguously required disclosure of all material conflicts of interest and defined certain contingency agreements as posing material conflicts of interest as matter of law, and Securities and Exchange Commission (SEC) issued guidance on contingency-fee-related conflicts subject to disclosure.

Where the Securities and Exchange Commission (SEC) has, through its regulations, written guidance, litigation, or other actions, provided a reasonable person operating within the defendant's industry fair notice that their conduct may prompt an enforcement action by the SEC, it has satisfied its obligations against vagueness under the Due Process Clause.

Written supervisory procedures that municipal advisor implemented during specified time period were not reasonably designed to ensure that municipal advisory activities of advisor and its associated persons were in compliance with Municipal Securities Rulemaking Board (MSRB) rule requiring municipal advisors to disclose all material conflicts of interest, and thus, such procedures violated MSRB rule requiring municipal advisors to establish, implement, and maintain written supervisory procedures that were reasonably designed to ensure such conduct was in compliance with applicable MSRB rules, even if advisor monitored employees' outside business activities for conflicts; documents did not address conflicts of interest at all, and monitoring did not constitute written supervisory procedure.

The standard for determining whether a municipal advisor has breached a fiduciary duty owed to a municipal client under the Exchange Act and the Municipal Securities Rulemaking Board (MSRB) rule governing the fiduciary relationship between municipal advisors and their clients is the same negligence standard applied under the Investment Advisers Act. Securities Exchange Act of 1934 § 15B, 15 U.S.C.A. § 78o-4(c)(1); Investment Advisers Act of 1940 § 201, 15 U.S.C.A. § 80b-1 et seq.

Email that municipal advisor sent clients, which stated advisor "may have conflicts of interest arising from compensation for municipal activities to be performed that are contingent on the size or closing of such transaction…if [advisor] should fail to get paid for its work on a transaction in the event that the transaction does not close," did not satisfy Municipal Securities Rulemaking Board (MSRB) rule requiring advisor to disclose, before or upon engaging in municipal advisory activities, any conflicts of interest arising from contingency fee arrangements based on size or closing of a transaction; single email over six-year period was not sent at beginning of activities and suggested that only potential conflict was if advisor ultimately was not paid for its work, without disclosing conflicts were inherent to such arrangements.

Municipal advisor's failure to inform each municipal client, prior to or upon engaging in municipal advisory activities, each actual or potential conflict of interest that was inherently created by its contingent fee arrangements based on size or closing of transactions, which failed to satisfy Municipal Securities Rulemaking Board (MSRB) rule requiring disclosure of any material conflict of interest including any such fee arrangement, breached advisor's fiduciary duty of loyalty under Exchange Act and MSRB rules, even if advisor disclosed all forms of compensation it received in connection with any sales of debt securities and even if neither advisor nor its employees received any financial benefit from any other person. Securities Exchange Act of 1934 § 15B, 15 U.S.C.A. § 78o-4(c)(1).

MUNICIPAL ORDINANCE - PENNSYLVANIA

Barris v. Stroud Township

Supreme Court of Pennsylvania - February 21, 2024 - 310 A.3d 175

Landowner filed complaint seeking declaratory judgment that township ordinance prohibiting discharging of firearms within township, alongside zoning ordinances limiting shooting ranges to two non-residential districts in township, violated Second Amendment on its face.

The Court of Common Pleas entered summary judgment in township's favor, and landowner appealed. The Commonwealth Court reversed. Leave to appeal was granted.

The Supreme Court held that:

- Owner's conduct in discharging firearms on his own property in order to gain proficiency in their use was covered by Second Amendment, but
- Ordinance did not violate Second Amendment on its face.

Property owner's conduct in discharging firearms on his own property in order to gain proficiency in their use was covered by Second Amendment's plain text, where owner faced confiscation of his lawfully-owned firearms pursuant to township ordinance for doing so.

Township ordinance prohibiting discharging of firearms within township except in shooting ranges within non-residential districts was fully consistent with Nation's historical tradition of firearm regulation, and thus did not violate Second Amendment on its face; colonial, founding, and antebellum generations recognized states' longstanding power to regulate when and where firearms could be used for non-self-defense purposes, number of firearm discharge regulations proliferated after Second Amendment's ratification, number of regulations during this time were aimed specifically at shooting ranges and target practice, and township adopted ordinance for protection of public health and safety and general welfare of residents and visitors.

BLOWING OF THE WHISTLE - TEXAS

City of Denton v. Grim

Supreme Court of Texas - May 3, 2024 - S.W.3d - 2024 WL 1945118

Former city employees filed suit against city under Whistleblower Act, based on allegations that they were terminated for having reported violations of law by city council member who leaked confidential vendor information to reporter for local newspaper in context of story about controversial plan for construction of new power plant.

The 68th District Court, Dallas County, denied city's motions for directed verdict and for judgment notwithstanding verdict (JNOV), entered judgment on jury's verdict for employees, and denied city's

motion for new trial.

City appealed, and Dallas Court of Appeals affirmed. Petition for review was granted.

The Supreme Court held that:

- Alleged violations by city council member, who was not public employee, of Public Information Act and Open Meetings Act, could not be imputed to city, and thus, council member's violations of law were not violations of law by city, as employing governmental entity, within meaning of Whistleblower Act;
- Council member was not acting as agent for city when she allegedly violated law, and thus, council member's violations of law were not violations of law by city, as employing governmental entity;
- Whether government official who had no authority to act on behalf of government entity was acting in his or her individual or official capacity at time of violation of law had no bearing on issue whether official's violation of law constituted violation of law by employing government entity, within meaning of Whistleblower Act, disapproving *City of Cockrell Hill v. Johnson*, 48 S.W.3d 887; and
- Goal of Whistleblower Act to encourage public employee's reports of violations of law that were detrimental to public good or society in general without fear of retribution had no bearing on whether violation of law by governmental official who had no authority to act on behalf of governmental entity constituted violation of law by employing governmental entity, within meaning of Act, disapproving Housing Authority of the *City of El Paso v. Rangel*, 131 S.W.3d 542.

EMINENT DOMAIN - WISCONSIN

Antosh v. Village of Mount Pleasant

United States Court of Appeals, Seventh Circuit - April 25, 2024 - F.4th - 2024 WL 1786287

Property owners brought action challenging village's use of its eminent domain power to acquire their property.

The United States District Court for the Eastern District of WisconsiN granted village's motion to dismiss, and owners appealed.

The Court of Appeals held that:

- Owners' state and federal actions were parallel for purposes of Colorado River abstention, and
- District court did not abuse its discretion in dismissing action on basis of Colorado River abstention.

Property owners' state and federal actions challenging village's use of its eminent domain power to acquire their property were parallel for purposes of Colorado River abstention, even though state action contested amount of compensation they were owed, and federal action challenged validity of using eminent domain for private purpose; owners did not file federal action until two years after commencing state court, only after state court issued evidentiary ruling that limited compensation they could recover did they decide to file federal complaint, it was unlikely that owners were unaware of their Fifth Amendment claim prior to that ruling, and owners pled identical equal

protection claims in both actions.

District court did not abuse its discretion in dismissing property owners' action challenging village's use of its eminent domain power to acquire their property on basis of Colorado River abstention; owners filed state action two years before federal action and did not file federal complaint until four days before trial and until after evidentiary ruling that limited compensation they could recover, both suits were about rights in same real property, village had already built road across property, and nothing would have prevented owners from asserting public-use takings claim in state action.

The State of the $2 Trillion Local Government Checkbook.

Local governments in the United States spend trillions of dollars each year delivering essential services and infrastructure, with enormous implications for our economy and quality of life. Chris Berry and Justin Marlowe examine the links between municipal governance structures and fiscal outcomes, revealing the state of municipal finances today.

Local government is big business. According to the most recent United States Census estimates, there are 90,837 units of local government. This includes 19,491 municipalities, 16,214 townships, 3,031 counties, 12,546 independent school districts, and 39,555 special districts. In fiscal year 2021, they spent $2.3 trillion, an amount roughly equal to 10% of U.S. GDP.

These governments deliver a vast portfolio of services and public infrastructure; everything from police and fire protection, public education, water and sewer systems, golf courses, ports, professional sports facilities, cemeteries, and mosquito abatement, just to name a few.

How our local communities are governed has enormous implications for our economy and quality of life. In this article, we discuss the structure of municipal governance and the links between structure and fiscal outcomes.

Continue reading.

PROMARKET.ORG

BY CHRISTOPHER BERRY and JUSTIN MARLOWE

April 29, 2024

What the Hazardous Substance Designation of PFAS Chemicals Means for Local Governments.

On April 19, the U.S. Environmental Protection Agency (EPA) released a final rule designating perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS) as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), also known as the Superfund law. PFOA and PFOS are two of the most widely used and widely studied PFAS chemicals.

NLC has been tracking this rulemaking since 2022 and sharing local government concerns with the

EPA. While the recently finalized EPA drinking water regulation for PFAS creates an unfunded mandate for local governments, this CERCLA rule is likely to have significant economic impacts, as well as unintended consequences, for local governments. As such, the NLC urges Congress to act to protect local governments and provide additional resources.

What Does a CERCLA Designation Mean?

With this final rule, PFOA and PFOS are added to the list of over 800 hazardous substances regulated by the EPA. As with all the elements, compounds, mixtures, and solutions designated as hazardous substances, any entity that releases a substance over the allowed limit (in the case of PFOA and PFOS: one pound) needs certain notification and reporting steps.

Continue reading.

NATIONAL LEAGUE OF CITIES

MAY 6, 2024

Riskiest Tobacco Bonds Slide as a Drop in Smoking Hits Payments.

- **Annual payments from tobacco firms drops to a record low**
- **High-yield debt backed by legal settlement boomed in 2023**

Tobacco bonds faltered to become the worst performers in high-yield municipal debt as a decline in smoking drove the payments that back the securities to a record low.

The debt dropped 0.4% in the year to May 7 compared to a 2.3% gain for the high-yield tax-exempt market, according to data compiled by Bloomberg. US states are receiving a combined $5.8 billion from tobacco companies this year, the smallest amount since payments from their legal settlement, which are linked to cigarette shipments, started in 1999.

Though shipments have fallen as the share of Americans who smoke has dropped — government data show almost 12% of US adults are smokers, down from 21% in 2005 — the April announcement on the size of this year's settlement payments nevertheless took investors by surprise. A shrinking supply of the securities and investors' search for yield may yet help the bonds recover.

Continue reading.

Bloomberg Markets

By Michelle Kaske

May 8, 2024

MSRB Amends Rule G-27 to Harmonize with FINRA and Adopt the Residential Supervisory Location Classification.

Washington, DC – The Municipal Securities Rulemaking Board (MSRB) today filed with the

Securities and Exchange Commission (SEC) a proposed rule change to MSRB Rule G-27 on dealer supervision. The proposed rule change will allow Financial Industry Regulatory Authority (FINRA)-member dealers to designate an associated person's private residence where supervisory activities are conducted as a residential supervisory location (RSL), which will harmonize Rule G-27 with recently adopted amendments by FINRA. The rule change was filed today for immediate effectiveness and becomes operative on June 1, 2024.

"This amendment is an important milestone in the modernization of the regulatory framework for dealer supervision of municipal securities activities," MSRB Chief Regulatory and Policy Officer Ernesto A. Lanza said. "We recognize that the adopted amendments by FINRA are a sea change for the industry and are mindful of the need to promote regulatory consistency for dealers."

The RSL classification allows FINRA-member broker-dealers (dealers) the option to treat a private residence at which an associated person engages in specified supervisory activities, subject to certain safeguards and limitations, as a non-branch location. As a non-branch location, the newly defined RSL will be subject to inspections on a regular periodic schedule instead of the annual inspection currently required for offices of municipal supervisory jurisdiction (OMSJ) and supervisory branch offices.

To utilize the optional RSL classification, a dealer and the associated person assigned to each location must meet specified conditions and eligibility requirements, pursuant to Rule G-27. Additionally, the dealer must develop a reasonable risk-based approach to designating an office or location as an RSL and conduct and document a risk assessment for the associated person assigned to each office or location. Dealers must also provide a list of designated RSLs to FINRA, with the first list due to FINRA by October 15, 2024, covering all locations designated between June 1, 2024, and September 30, 2024.

"MSRB acknowledges that the way dealers conduct business has changed over recent years with an increasing move to hybrid workplace models," Lanza said. "We will continue to engage with stakeholders to better understand ongoing burdens and balance those burdens against the need for robust protection of investors."

In the coming weeks, MSRB expects to file an additional amendment to Rule G-27 with the SEC, allowing certain dealers to fulfill their office inspection obligations remotely for a pilot period through participation in FINRA's Remote Inspections Pilot Program.

Read the notice.

Date: May 10, 2024

Contact: Aleis Stokes, Chief External Relations Officer
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GFOA: GASB 102 and More Disclosure for You

Following the issuance of the Governmental Accounting Standards Board (GASB) Concepts Statement No. 7, *Communication Methods in General Purpose External Financial Reports That Contain Basic Financial Statements: Notes to Financial Statements*—an amendment of GASB Concepts Statement No. 3 (GASB CS7) in June 2022, GASB has undertaken several projects focused

exclusively or primarily on required note disclosures, providing an opportunity to put GASB CS7's new, more rigorous criteria for note disclosure content to the test.

The recently issued GASB Statement No. 102, Certain Risk Disclosures (GASB 102), is the first of these projects to become a final standard. This article will provide a brief overview of GASB 102 and some background on the other disclosure-focused projects on GASB's current technical agenda.

DOWNLOAD

Publication date: April 2024

Author: Michele Mark Levine

Proposed Rule Change To Amend MSRB Rule G-47, on Time of Trade Disclosure, To Codify and Retire Certain Existing Interpretive Guidance and New Time of Trade Disclosure Scenarios: SIFMA Comment Letter

SUMMARY

SIFMA provided comments to the U.S. Securities and Exchange Commission (SEC) on the Municipal Securities Rulemaking Board's (MSRB) Notice of Filing of a Proposed Rule Change To Amend MSRB Rule G– 47, on Time of Trade Disclosure, To Codify and Retire Certain Existing Interpretive Guidance and New Time of Trade Disclosure Scenarios.

View the SIFMA Comment Letter.

See related: Request for Comment Regarding a Retrospective Review of the MSRB's Time of Trade Disclosure Rule and Draft Amendments to MSRB Rule D-15, On Sophisticated Municipal Market Professionals

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BofA, Barclays Municipal Bond Strategists Are At Odds Over Summer Rally.

- **Bank of America sees an 'easy' rally with spreads tightening**
- **In contrast, Barclays remains cautious on surge in bond sales**

Two of the biggest banks in the $4 trillion municipal bond market are conflicted over whether the summer will bring a rally for state or local government debt or instead leave investors disappointed.

In research notes published within minutes of each other Friday morning, strategists at Barclays Plc and Bank of America Corp. diverged on their outlooks for the next several weeks. BofA portrayed a sunny view — calling for an "easy" rally with credit spreads tightening, while Barclays provided a more cautious outlook.

"We expect the muni market rally during the summer months to be gradual and methodical as the economy is entering a goldilocks zone and macro market volatilities come down steadily," the BofA group led by Yingchen Li and Ian Rogow wrote in a note to clients.

Continue reading.

Bloomberg Markets

By Danielle Moran

May 10, 2024

Muni Mega Deals Set to Smash Record on Lower Rates, Higher Costs.

- **Issuers rush to refinance, pay for more expensive projects**
- **Buyers seize chance to add large, liquid issuers to positions**

States and municipalities are demonstrating an explosive demand for debt two years after the Fed first suppressed bond sales with a series of 11 interest rate increases.

Nowhere is this more evident than in the number of bond sales of $1 billion or more, long a rarity in municipals. There have been 22 so far this year, putting the market on pace to smash the previous annual record of 26 set in all of 2020, according to data compiled by Bloomberg. Those deals account for almost one-quarter of the year's $154 billion in long-term borrowing.

"I've never seen deal sizes like this," said JB Golden, portfolio manager for Advisors Asset Management. He said the large deals make it easier for smaller firms to get access to bond sales, a welcome development.

Continue reading.

Bloomberg Markets

By Joseph Mysak Jr

May 9, 2024

Fitch Updates Public-Sector Counterparty Obligations in PPP Transactions Rating Criteria.

Fitch Ratings-Sao Paulo/New York-08 May 2024: Fitch Ratings has updated its criteria for rating public sector counterparty obligations in public private partnership (PPP) transactions. The criteria updates and replaces the prior report from April 2022.

The criteria report continues to set out Fitch's methodology for assigning new ratings and monitoring existing ratings for obligations of public-sector grantors under a concession, lease or other agreement (referred to herein as a framework agreement) used to support PPP financing for public infrastructure assets.

With this update, Fitch expands the scope to include obligations of government-related entities (GREs) within the U.S. following publication of the U.S. Public Sector, Revenue-Supported Entities Rating Criteria in January 2024 which allowed for U.S.-based GREs. This report also updates references to other criteria including to the U.S. Public Finance Local Government Rating Criteria and U.S. Public Finance State Governments and Territories Rating Criteria, both published in April

2024.

The key criteria elements remain consistent with those of the prior report. There is no effect on outstanding ratings. The previous version of the criteria has been retired.

The updated criteria report is available at ‘www.fitchratings.com’.

Fitch Updates U.S. Housing Finance Agency Loan Program Rating Criteria.

Fitch Ratings-San Francisco/New York-10 May 2024: Fitch Ratings has updated its master criteria for rating Housing Finance Agency (HFA) affordable housing loan securitization program bonds. The criteria updates and replaces the prior report from May 2022.

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

The updated criteria report is available at www.fitchratings.com.

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Additional information is available on www.fitchratings.com

California Statewide Communities Development Authority: Fitch New Issue Report

Key Rating Drivers Revenue Defensibility – ‘bbb’ Maintenance of Leading Market Positions; Growing in Accretive Markets Adventist’s revenue defensibility continues to be midrange, with solid positions in multiple markets, all of which exhibit stable-to-favorable population growth trends and socioeconomic characteristics. Adventist is a multistate provider, with system operations in four states and inpatient hospital facilities located in three states: California, Oregon and Hawaii, (with one retirement facility in Washington), although the vast majority of facilities are located in California. Operating Risk – ‘bbb’ Improved, but Challenged Performance in Fiscal 2023; Expected Operational Progress with Robust Capex Plan The system’s operating risk assessment remains

midrange with the expectation of adequate cost management opportunities to continue supporting improved operating performance. In fiscal 2023 (Dec. 31), Adventist recorded an operating loss of approximately $108 million, which is significantly improved from the prior period's $241 million operating loss in fiscal 2022. Fiscal 2023's improved operating performance translated into a better 3.0% operating EBITDA margin (up from 0.3%), and is in line with management's projections. Fitch anticipates operational performance to continue to track positively and reach between 6%-7% over the next 24 months, which should be attainable.

ACCESS REPORT

Wed 08 May, 2024

San Diego Unified School District, California: Fitch New Issue Report

The downgrade to 'A' from 'A+' reflects implementation of Fitch's new U.S. Public Finance Local Government Rating Criteria. The 'A' IDR incorporates the district's weak financial resilience ('bbb'), which reflects the relatively low five-year unrestricted fund balance (6.3% of spending) and limited budgetary flexibility. The district's long-term liability (LTL) composite includes the weak LTL associated with direct debt and Fitch-adjusted net pension liabilities as a percentage of residents' personal income (9.8%, 20th percentile), high fixed carrying costs as a percentage of governmental expenditures (approximately 20.0% of governmental expenditures; 19thpercentile) and high liabilities to governmental revenues (287%, 13th percentile). Demographic trend is weak (population growth is in the 22nd percentile) and the demographic strength composite is midrange (56th percentile), offset somewhat by the district's population with a bachelor's degree significantly above the national average. In addition, MHI is moderately above the Fitch portfolio average and the district's unemployment rate is just the 19th percentile

ACCESS REPORT

Thu 09 May, 2024

High-Yield Munis Could Be Interesting.

Broadly speaking, bonds are lagging again this year. As of April 2022, the Bloomberg U.S. Aggregate Bond Index was lower by 3% year-to-date. This slump affects municipal bonds, highlighted by a 1% decline since the start of the year by the ICE AMT-Free US National Municipal Index. However, there are pockets of strength in the municipal bond space. Perhaps to the surprise of some fixed investors, muni bullishness can be sourced via high-yield fare.

For example, the VanEck High Yield Muni ETF (HYD) is higher by almost 1% year-to-date, confirming investors have been rewarded for adding a bit of risk with municipal debt.

High-yield implies higher risk when it comes to bonds. Still, the $2.91 billion HYD, which turned 15 years old in February, isn't excessively risky. The ETF allocates 31.42% of its weight to bonds with investment-grade ratings, compared to 26.30% with junk grades.

HYD Risk Could Be Worth the Reward

Indeed, an ETF such as HYD carries more risk than an investment-grade equivalent. However, the VanEck offering compensates investors for that risk as highlighted by a 30-day SEC yield of 4.49%. That is well above what we find on municipal bond funds with higher credit quality. Additionally, HYD could merit attention by tactical, affluent investors.

“We believe high-yield munis are an asset class that carries additional risks, but is worth consideration by investors in higher tax brackets who are comfortable taking added risks,” noted Cooper Howard of Charles Schwab. “If the economy continues to remain resilient and yields don’t move substantially higher, the total return prospects for high-yield munis look favorable, in our view.”

Some fixed income experts argue that current yields on high-yield munis aren’t elevated enough to merit consideration. However, that’s also a sign prices on these bonds, including HYD holdings, weren’t as adversely affected by rising interest rates. On that note, HYD outperformed “the Agg” by 270 basis points over the past three years.

We can attribute some of HYD’s less bad performance over that span to an effective duration (currently 6.74 years) that puts the ETF in intermediate-term territory. That segment of the bond market is typically less vulnerable to rising rate than long duration debt.

High-Yield as an Alternative

As Schwab’s Howard noted, high-yield munis may currently be a credible alternative to junk corporate bonds for wealthy market participants.

“The difference in yields fluctuates, but more often than not, high-yield corporate bonds yield more than high-yield munis because of their lack of tax benefits,” he concluded. “Today, the difference in yields is about 3.2% which is above the longer-term average but near the level over the past two years. In other words, high-yield munis are not overly attractive at these levels, but also not overly unattractive, in our view.”

ETF TRENDS

by TODD SHRIBER

APRIL 29, 2024

Can Newly-Divided Congress Fuel Municipal Bond ETFs?

Infrastructure spending—it’s one of the few things, if any, that Democrats and Republicans can agree on, but with the newly-divided Congress, can this fuel municipal bonds exchange-traded funds (ETFs) moving forward?

Following Tuesday’s results, the post midterm-election rally was in full swing the next day with the major indexes gaining as the Democrats took majority control of the House of Representatives, while the Republicans maintained their majority in the Senate. The general consensus among analysts, political and economic alike, is that a divided Congress will create political gridlock, which typically benefits the capital markets.

For example, a split Congress could help damper U.S. President Donald Trump’s tariff-for-tariff

battle with China, which has roiled the markets despite its historic bull run prior to October's sell-off. However, with both the Democrats and Republicans seeing eye-to-eye on infrastructure spending, it could bring forth a resurgence in municipal bonds–a boon for muni bond ETFs like the iShares National Muni Bond ETF (MUB) , SPDR Nuveen Bloomberg Barclays ST Municipal Bond ETF (SHM) and Vanguard Tax-Exempt Bond ETF (VTEB) .

"We have a lot of things in common on infrastructure," said U.S. President Donald Trump following the midterm election results.

The case for infrastructure spending is evident in the latest numbers from the American Society of Civil Engineers (ASEE), which estimates that the total cost of leaving the potholed roads, aging airports and rusting bridges in a state of disrepair would amount to more than $4 trillion by the year 2025. Furthermore, the ASEE estimates the gap the gap necessary to maintain existing infrastructure is $1.4 trillion.

Investment-Grade Bond ETFs Tick Higher

Investment-grade bond ETFs like the iShares 1-3 Year Credit Bond ETF (CSJ) and Xtrackers Inv Grd Bd Intst Rt Hdg ETF (IGIH) ticked higher. CSJ ticked up to 0.03% and IGIH rose 0.63%.

CSJ tracks the investment results of the Bloomberg Barclays U.S. 1-3 Year Credit Bond Index where 90 percent of its assets will be allocated towards a mix of investment-grade corporate debt and sovereign, supranational, local authority, and non-U.S. agency bonds that are U.S. dollar-denominated and have a remaining maturity of greater than one year and less than or equal to three years–this shorter duration is beneficial during recessionary environments.

IGIH seeks investment results that track the performance of the Solactive Investment Grade Bond – Interest Rate Hedged Index where a portion IGIH's total assets will reside in long positions in U.S. dollar-denominated investment-grade corporate bonds. As in the case of IGHG, this strategy effectively eliminates exposure to riskier bonds with fund allocations in investment-grade issues.

aol.com

November 9, 2018 at 10:29 AM

Flood of Property Assessment Appeals Could Wallop U.S. Cities.

'A lot of owners and operators have what they perceive as significant data to support a 40 percent or 50 percent reduction'

For big city landlords and office owners, seeking to shave a few dollars off tax bills might as well be muscle memory. On March 1 of this year, there was a line down the block in front of the Municipal Building in Lower Manhattan to file property tax appeals.

"In New York City, 99 percent of owners appeal," said Steve Thompson, a commercial property tax expert at tax consulting firm Ryan. "Most commercial owners are acutely aware that this is their largest annual operating expense, and it becomes like spraying for pests. If you don't do it every year, it can snowball and become a huge problem."

This year, the appeals came with a lot more angst. Amid steeply declining office values and open

questions about the future of this sector of commercial real estate, tax appeals and efforts to reduce tax burdens have become more frenzied. Thompson's clients, which include Fortune 1000 firms and large real estate investment trusts, have petitioned for significantly lower tax assessments: 40 percent to 50 percent in New York City and San Francisco, and even 75 percent in Washington, D.C. In his two decades of work, he's never seen owners dig in their heels and be so combative.

Continue reading.

COMMERCIAL OBSERVER

BY PATRICK SISSON

MAY 9, 2024

New Jersey Infrastructure Bank: Fitch New Issue Report

The 'AAA' bond rating reflects the ability of the New Jersey Infrastructure Bank's (NJIB, or I-Bank) Water Bank Program (WBP or the program) financial structure to absorb hypothetical pool defaults in excess of Fitch's 'AAA' liability stress hurdle without causing an interruption in bond payments. The F1+ assigned to the Environmental Infrastructure Extendable Commercial Paper (ECP) notes is mapped to the long-term debt rating of the WBP and is based on its program's superior market access granted by its 'AAA' bond rating.

ACCESS REPORT

Fri 10 May, 2024

Dormitory Authority of the State of New York (School Districts Revenue Bond Financing Program): Fitch New Issue Report

The 'AA–' program rating, two notches below the State of New York's 'AA+'/Stable Issuer Default Rating (IDR), reflects linkage to the IDR given the statutory ability to intercept available state school aid to provide funds to pay debt service on a timely basis if borrowers fail to make payments on the underlying loans to the Dormitory Authority of the State of New York (DASNY). Although annual state aid has provided coverage of pro forma maximum annual debt service for all participating school district borrowers, not all school districts participating in the program have historically received sufficient state aid in the time between when loan payments are due to DASNY and when debt service is due (intercept periods). There is no provision for advancement of aid that has been appropriated but not yet paid. There is a constitutional mandate for, and strong history of, state support for education. Fitch Ratings believes program management by DASNY, a key issuer for the state's capital program, is a credit strength for this pooled financing program and mitigates the above-mentioned concerns, including around intercept periods.

ACCESS REPORT

Thu 09 May, 2024

BlackRock Cuts Jobs in Muni Business Under New Leadership.

- **Patrick Haskell took over muni group from Peter Hayes in 2024**
- **BlackRocks' muni ETF dwarfs its largest actively-managed fund**

BlackRock Inc., the world's largest money manager, cut fewer than 10 jobs in its municipal bond department under the new leadership of Patrick Haskell, according to a person familiar with the matter.

Haskell, a former co-head of fixed-income capital markets at Morgan Stanley, took over the group this year from Peter Hayes, who retired after nearly four decades managing state and local government debt.

"BlackRock continuously organizes its teams to better serve the market and our clients, and this week aligned our municipal bond investment team to help us accelerate processes, improve information sharing and drive performance," a BlackRock spokesperson wrote in an emailed statement.

Continue reading.

Bloomberg Markets

By Martin Z Braun

May 6, 2024

Muni Momentum Spurs Illinois to Speed Up $1.8 Billion Bond Sale.

- **Demand allowed state to sell earlier as spread tightened**
- **Market rally and state's improved credit rating helped sale**

Illinois took advantage of an improving credit grade to speed up an $1.8 billion debt sale, bolstered by investors' hunger for yield amid a rally in the municipal market.

The state sold $1.55 billion in tax-exempt bonds and $250 million in taxable debt for capital projects and to finance an accelerated pension payment program on Tuesday. Illinois received more than $12 billion in orders, which includes $1.5 billion from retail investors, according to the state.

While the state is still the lowest rated in the US, it has earned nine credit rating upgrades in the last three years, pulling back from the brink of junk near the start of the pandemic. Illinois now carries three A-level grades.

Continue reading.

Bloomberg Markets

By Shruti Singh

May 8, 2024

Coming Up: NFMA Advanced Seminar on Higher Education

Now that the NFMA's Annual Conference has concluded, attention is focused on the Fall Advanced Seminar on Higher Education to be held on **October 17 & 18 at the Omni Shoreham in Washington, D.C**.

A planning committee will be assembled in early June with registration set to commence in August.

- Forbes: AI And The Municipal Bond Market.
- GFOA Utility Finance Forum Virtual Networking Event.
- Reminder: 118th GFOA Annual Conference
- WSJ: Texas Ban on 'Woke' Banks Opens Door for Smaller Firms.
- Bonds for Florida High-Speed Rail Pop in Market 'Starved' for High-Yield Munis.
- Muni Bond Sales Soar as Issuer Needs Exceed Worry on Fed.
- And Finally, Home Sweet Home is brought to us this week by T&C Construction Services, LLC v. City of St. Albans, in which "The City of St. Albans first inspected the premises after a *tenant* contacted the Fire Marshal to inform him about a fire. Inspection revealed a number of fire hazards including exposed wires, exposed electric panels, storage of combustible materials under the stairs, no fire extinguishers, combustible fuel sources and combustible carpet directly in front of the heating source, inadequate alarm systems, a portable space heater built into the steps, abandoned wiring, permanent use of extension cords throughout, and combustible fuel engine equipment in the building." Other than that, nice place to raise a family. We're thinking that "slum lord" fails to capture the majestic flaunting of the laws of god and man, so we're gonna move these folks up the peerage. Slum Viscount? Slum Duke? Either way, it's Relocation, Relocation, Relocation. for the tenants of this lovely locale.

STATUTE OF LIMITATION - IDAHO

Hastings v. Idaho Department of Water Resources

Supreme Court of Idaho, Boise, - February 2024 Term - April 24, 2024 - P.3d - 2024 WL 1750063

Landowner brought action seeking declaratory judgment that Department of Water Resources could no longer pursue an enforcement action against him under Stream Channel Alteration Act, and Department counterclaimed for enforcement of consent order concerning landowner's unauthorized river alterations.

The Fourth Judicial District Court granted summary judgment for Department on counterclaim after taking judicial notice and denying motion for a continuance to conduct discovery. Landowner appealed.

In a case of first impression, the Supreme Court held that:

- Two-year statute of limitations for enforcement action under Act began running when landowner brought declaratory judgment action;
- Trial court acted within its discretion in taking judicial notice of conditional permit issued by

Department for river restoration work;
- Trial court acted within its discretion in denying motion for a continuance to conduct discovery; and
  Department was not entitled to statutory attorney fees on appeal as prevailing party.

EMINENT DOMAIN - ILLINOIS

Alan Josephsen Co. Inc. v. Village of Mundelein

Appellate Court of Illinois, First District - March 8, 2024 - N.E.3d - 2024 IL App (1st) 230641 - 2024 WL 1005468

Recycling company sought judicial review of village's administrative decision, denying certain relocation expenses under federal Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970 (URA) claimed by recycling company whose property was taken by village through eminent domain.

The Appellate Court held that:

- Village did not violate URA by basing its relocation payments to recycling company on multiple estimates from different moving companies;
- Recycling company failed to demonstrate that village's designee for administrative official adjudged the facts or the law prior to hearing the case, as required for recycling company to show that administrative official was biased;
- Administrative proceedings comported with due process and did not require an evidentiary hearing or additional discovery;
- Village's estimates of self-move relocation costs under URA for recycling company satisfied language of regulations; and
  Sufficient evidence supported village's relocation payments to recycling company under URA, such that administrative official's factual findings were not against manifest weight of the evidence.

MUNICIPAL CORPORATIONS - LOUISIANA

Broome v. Rials

Supreme Court of Louisiana - April 26, 2024 - So.3d - 2024 WL 1825148 - 2023-01108 (La. 4/26/24)

Mayor-president of city-parish and member of council for city-parish filed petition challenging incorporation of area adjacent to city as new municipality against proponents of incorporation.

Proponents filed exceptions of no right of action, which the District Court denied. Following bench trial, the trial court entered judgment for plaintiffs, finding incorporation was unreasonable and would adversely affect city. Proponents appealed, and the First Circuit Court of Appeal granted proponents' re-urged exception of no right of action as to mayor, but denied it as to council member, and affirmed denial of incorporation. Proponents filed separate applications for writ of certiorari.

The Supreme Court held that:

- Member lacked standing to challenge sufficiency of petition for incorporation;
- Member had standing to challenge whether area could provide services within reasonable period

of time, and whether incorporation was reasonable;
- Area had sufficient revenue to provide non-parish-provided services within reasonable time, supporting incorporation;
- Factor considering whether area proposed for incorporation had definite characteristics of village weighed in favor of finding that incorporation was reasonable;
- Factor considering whether area residents had taken initial steps toward incorporation weighed in favor of finding that incorporation was reasonable;
- Factor considering whether nearby city had initiated preliminary proceedings toward annexation weighed in favor of finding that incorporation was reasonable; and
- Factor considering whether there had been any financial commitments toward incorporation weighed in favor of finding that incorporation was reasonable.

EMINENT DOMAIN - NEW YORK

Brinkmann v. Town of Southold, New York

United States Court of Appeals, Second Circuit - March 13, 2024 - 96 F.4th 209

Property owners filed § 1983 action alleging that town violated Takings Clause by exercising eminent domain to take their property for creation of park as pretext for defeating their commercial use.

The United States District Court for the Eastern District of New York denied owners' motion for preliminary injunction and dismissed complaint. Owners appealed.

The Court of Appeals held that town's exercise of eminent domain to take property for creation of park did not violate Takings Clause.

Town's exercise of eminent domain to take property for creation of park did not violate Takings Clause, even if town took land to prevent owners' commercial use; public park was public use, town paid fair compensation, and there was no indication that town meant to confer any private benefit or intended to use property for anything other than public park.

POLITICCAL SUBDIVISION - RHODE ISLAND

Preserve at Boulder Hills, LLC v. Kenyon

Supreme Court of Rhode Island - April 24, 2024 - A.3d - 2024 WL 1750068

Following delays in approval of resort and hotel development project, developers brought action against town for violations of substantive due process, tortious interference with contract, tortious interference with prospective business advantages, civil liability for crimes and offenses, and a violation of the civil Racketeer Influenced and Corrupt Organizations (RICO) statute.

The Superior Court granted city's motion for judgment on the pleadings. Developers appealed, and town cross-appealed.

The Supreme Court held that:

- Three-year statute of limitations for claims in tort against a political subdivision applied to developers' claims for civil liability for crimes and offenses;

- As a matter of first impression, three-year statute of limitations for claims in tort against a political subdivision applied to developers' civil RICO claims; and
- Causes of action for tortious interference were not based on any continuing tort which tolled three-year statute of limitations.

EMINENT DOMAIN - TEXAS

Rhone v. City of Texas City, Texas

United States Court of Appeals, Fifth Circuit - February 14, 2024 - 93 F.4th 762

Owner of three apartment buildings in city brought appeal, in state district court, from order of nuisance abatement issued by a Municipal Court of Record, asserting claims under § 1983 for inverse condemnation, denial of procedural due process, and unconstitutional seizure, and seeking declaratory judgment.

After removal by city, the United States District Court for the Southern District of Texas granted summary judgment to city on due process claim, and later granted summary judgment to city on remaining claims. Owner appealed and filed motion to restrain and enjoin damage to or demotion of buildings. The Court of Appeals denied the motion without prejudice, and buildings were demolished by city during pendency of appeal.

The Court of Appeals held that:

- Owner satisfied requirement for exception to mootness, for issues capable of repetition yet evading review, that duration of challenges, to Municipal Court of Record's nuisance finding and court's constitutionality, was too short for complete judicial review and sufficient relief;
- Theoretical possibility of future procedural due process and seizure violations did not support exception to mootness;
- Appeal was not moot as to takings claim; and
- City's imposition of compliance costs for repairing conditions at apartment buildings did not violate doctrine of unconstitutional conditions.

PUBLIC UTILITIES - UTAH

Utah Associated Municipal Power Systems v. 3 Dimensional Contractors Inc.

Court of Appeals of Utah - March 21, 2024 - P.3d - 2024 WL 1202505 - 2024 UT App 35

Interlocal electric energy services agency, a political subdivision of the state formed under Utah Interlocal Cooperation Act (UICA), sued subdivision developer for nuisance and trespass and sought declaratory and injunctive relief, alleging that developer's placement of house on subdivision lot interfered with agency's utility easement.

Developer counterclaimed for declaratory and injunctive relief, seeking removal of agency's support pole and relocation of guy wires that were near house. The Fifth District Court granted summary judgment to agency on its claim for easement interference, awarding declaratory and injunctive relief. The District Court then entered summary judgment in favor of agency on developer's counterclaims and entered final judgment, finding that the agency's trespass and nuisance claims were moot due to agency's election of remedies, and ordering developer to remove any portions of the house encroaching on the easement. The District Court also denied developer's request for

attorney fees, pertaining to agency's trespass and nuisance claims, under bad-faith statute. Developer appealed.

The Court of Appeals held that:

- Developer was not required to provide notice of counterclaims to agency under Utah Governmental Immunity Act (UGIA);
- Agency was subject to easement realignment statute, which gave servient estate owners the right to realign municipal easements;
- Realignment statute included right to relocate existing utility infrastructure in the process of realigning boundaries of easement;
- Doctrine of unclean hands did not prevent developer from asserting its rights under easement realignment statute;
- Developer bore burden of proof on realignment claim;
- Expert reports of developer's engineer and surveyor complied with disclosure rule; and
- Developer was not entitled, under bad-faith attorney fees statute, to attorney fees pertaining to agency's trespass claim.

INJUNCTION - WEST VIRGINIA

T & C Construction Services, LLC v. City of St. Albans

Supreme Court of Appeals of West Virginia - April 25, 2024 - S.E.2d - 2024 WL 1793824

City brought enforcement proceeding seeking injunctive relief against operators of residential rental building in connection with citations issued and criminal fines imposed by municipal court for fire prevention and building code violations.

The Circuit Court issued a cease-and-desist order that enjoined operators from operating rental business at building, granted city a money judgment for the criminal fines, and appointed city's counsel as special commissioner to sell the property and satisfy the judgment. Operators appealed.

The Supreme Court of Appeals held that:

- Statute that specifically applied to every judgment for a fine rendered by a circuit court, or other court of record having jurisdiction in criminal cases, rather than statute that referred generally to liens resulting from a judgment, applied;
- City had authority to bring a civil action in Circuit Court to obtain an injunction to enjoin operators from violating city's building and fire prevention codes;
- Circuit Court had jurisdiction to grant city's request for injunctive relief;
- Sufficient evidence supported circuit court's decision to grant injunctive relief; and
- Circuit Court's failure to follow fieri facias statutory process for execution of money judgment precluded, as premature, appointment of city's counsel as special commissioner to sell property to satisfy money judgment.

ZONING & PLANNING - WISCONSIN

Greenwald Family Limited Partnership v. Mukwonago

United States Court of Appeals, Seventh Circuit - April 29, 2024 - F.4th - 2024 WL 1854665

Developer brought action against village which challenged the use of eminent domain to take land for road from developer's five-acre parcel. After the village returned that strip of land, developer filed an amended complaint adding a class of one equal protection claim under the Fourteenth Amendment and several new claims under state law regarding previous unfavorable land use decisions.

Following removal to federal court, the village filed a motion for summary judgment on the equal protection claim. United States District Court for the Eastern District of Wisconsin granted the motion, entered summary judgment for the village, and relinquished jurisdiction over the state-law claims. Developer appealed.

The Court of Appeals held that:

- Village's requirements for final approval of developer's certified survey map before approving developer's proposed division of four-acre parcel from vendor's larger property were clearly rational;
- Village had a rational reason for refusing to construct developer's preferred north–south road connection;
- Villages' refusal to take over the maintenance of a private, unimproved roadway on developer's property without a developer's agreement in place was not a violation of developer's equal protection rights;
- Village's refusal to remove trees from one of developer's properties was reasonable;
- Village's denial of developer's request for tax-incremental financing (TIF) was rational; and
- Imposition of a special assessment on all properties, including developer's property, that benefited from the municipal improvements in development area was rational.

Fitch: US Credit Momentum Will Be Tempered by Rate Uncertainty

Fitch Ratings-New York-03 May 2024: Interest rates remain a key risk for U.S. credit following a strong 1Q24 characterized by robust domestic demand, improved market liquidity and a sharp rise in bond issuance, Fitch Ratings says in its new U.S. quarterly credit brief Fitch Wire+ report.

Sticky inflation has renewed uncertainty about the extent and timing of future rate cuts by the Federal Reserve. The likelihood of a no-landing scenario, in which growth and interest rates remain largely unchanged, has increased, elevating credit risks for rate-sensitive asset classes, including real estate, high yield corporate debt, certain financial institutions and subprime consumer securitizations. This could cause commercial real estate and lower credit quality consumer loan delinquencies and corporate defaults to rise more than currently anticipated.

Increased risk appetite and investor confidence, as reflected in primary and secondary credit market data and lending, were contingent upon a more aggressive rate cutting agenda than is now likely. Credit spreads and other risk assets have reversed some of their bullish momentum in the early weeks of 2Q24 as investors rein in their expectations for significant monetary policy easing.

Fitch revised its 2024 U.S. real GDP growth forecast to 2.1% in March from 1.2% in December and expects growth will slow to a significantly below-trend rate later this year. Our forecasts for individual sectors point to a relatively benign base case, and we expect broad ratings stability across asset classes, reflecting the strong economy, robust ratings cushions, and structural protections.

Upgrades and downgrades were broadly balanced in the first three months of 2024, while Positive

Outlooks and Watches exceeded Negative Outlooks and Watches at the end of the quarter. However, the higher percentage of sub-investment-grade ratings on Negative Outlook versus investment-grade ratings reflects pressures related to higher leverage, refinancing risk and deteriorating asset quality.

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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 April) $143.2 billion, +26.2% Y/Y
- Trading (as of April) $12.5 billion ADV, -1.5% Y/Y
- Outstanding (as of 4Q23) $4.1 trillion, +0.5% Y/Y

Download xls

May 3, 2024

S&P U.S. State Ratings And Outlooks: Current List

View the Current List.

2 May, 2024

Forbes: AI And The Municipal Bond Market.

AI is rapidly reengineering the $4 trillion Municipal Bond Market. No part of the market is going to be untouched. Trading, pricing, underwriting, credit analysis, compliance, disclosure, regulations—every bit of it is being transformed. In five years, the municipal bond market as it exists today will look vastly different. Wringing out existing inefficiencies and opaqueness, AI will ultimately create billions in value for investors and save issuers billions in interest expenses.

Okay, okay. That sounds a bit hyperbolic, but I'm going to stand by it. Yes, AI has been hyped to atmospheric levels, with grandiose pronouncements that it will surpass human intelligence in just two years. On the other hand, one wag quipped when I mentioned I was writing about Artificial Intelligence in the muni market, "I thought most intelligence in the muni market was artificial."

Snark all you want or dismiss this as starry eyed overenthusiasm for the latest shiny new toy, but AI is driving the world forward in incalculable ways. Be it robotics or breast cancer detection or fashion choices, AI often does it better than its human counterparts.

The municipal bond market is not immune. AI is moving the market into the 21st century, whether some like it or not.

Continue reading.

Forbes

by Barnet Sherman

May 6, 2024,

U.S. State Medicaid Transition: Stable Condition Near Term, With Outyears Demanding Care - S&P

Key Takeaways

- U.S. states' credit quality has held steady after Medicaid and Children's Health Insurance Program (CHIP) reimbursement rates returned to unenhanced levels following the Jan. 1, 2024, stepdown of the pandemic-related eFMAP.
- States' compressed 12- to 18-month timeline to work through the backlog of eligibility redeterminations could complicate financial forecasting and budgeting for the state-share of Medicaid costs in fiscal 2025 and beyond.
- Medicaid could consume a larger share of state budgets, which could have credit implications if they are compounded by other operating pressures.
- Supplemental federal government support could wane in the future, necessitating proactive program management and making long-term planning integral to states' financial stability and credit quality.

Continue reading.

2 May, 2024

WSJ: Texas Ban on ‘Woke’ Banks Opens Door for Smaller Firms.

Megabanks are in retreat in the $4 trillion municipal-bond market

The political conflict over socially conscious finance is a boon for smaller investment banks in one contentious market: Texas.

The clash over environmental, social and corporate-governance investing follows state restrictions passed in 2021 on government business with financial firms perceived as taking a stand against firearms or fossil fuels. Wall Street heavyweights such as Bank of America and Wells Fargo have pulled back in Texas, even as the state’s growth has made it the nation’s top issuer of state and local debt, with $42 billion last year.

Even beyond Texas, big banks are in retreat in the $4 trillion municipal-bond market. Higher rates and depressed borrowing have dented profits, which weren’t that spectacular to begin with. Large firms are pulling back at varying rates as a result.

Continue reading.

The Wall Street Journal

By Heather Gillers

May 4, 2024

Barclays Is the Latest Firm to Face Anti-ESG Wrath in Oklahoma.

- **Treasurer added company to state list of oil boycotters**
- **Move could hurt bank’s public finance business in Oklahoma**

Oklahoma State Treasurer Todd Russ announced on Friday that Barclays Plc would be added to his list of companies that he claims have boycotted the fossil fuel industry — a gesture that aims to limit the governmental business the bank can conduct in the state.

The Republican treasurer’s office justified the move by saying the British bank has “publicly committed to boycott fossil-fuel companies,” according to an emailed statement. Barclays’ 2024 climate change statement says the bank does not provide project financing, or other direct financing to energy clients, for upstream oil and gas expansion projects or related infrastructure.

According to the 2022 Republican-backed law, Oklahoma state agencies and political subdivisions can’t contract with a company unless it provides a written verification that it doesn’t boycott energy companies.

Continue reading.

Bloomberg Markets

By Amanda Albright

May 3, 2024

Wells Fargo, RBC Bankers Met Texas AG Staff Regarding ESG Probe.

- **Paxton's office is investigating banks' stance on fossil fuels**
- **Meetings took place in Austin last month, emails show**

The Texas Attorney General's staff met with municipal finance executives from Wells Fargo & Co. and RBC Capital Markets as Ken Paxton's probe into whether the Wall Street banks "boycott" the fossil fuels industry drags on.

Bankers from RBC, including Bob Spangler, the New York-based head of municipal finance for the firm, met with Paxton's staff on Tuesday at the attorney general's office in Austin, according to emails obtained by Bloomberg News through a public records request.

Earlier in April, Wells Fargo also met with members of the attorney general's office, other emails between the bank's employees and Paxton's staff show. Attendees included Scott Fontenot, senior vice president for state and local government relations at the bank, and Blaine Brunson, a Texas public finance banker. They were joined by the bank's lawyers.

Continue reading.

Bloomberg Green

By Amanda Albright and Danielle Moran

May 1, 2024

What Could Ken Paxton's Bank Bans Mean for the Dallas Bond?

As banks are banned from the Texas bond industry, interest rates are inflating and taxpayers are footing the bill.

Finance experts from across the state gathered in Austin last month for The Bond Buyer's Texas Public Finance conference, where they lamented, among other things, the cost of Ken Paxton's bank bans.

The bans stem from a 2021 anti-ESG (environment, social and governance) state law barring banks from underwriting municipal bonds if the bank is seen as boycotting or discriminating against the fossil fuel or firearm industries. The law pertains to any local government contract over $100,000, and has been enforced through investigations by Attorney General Ken Paxton.

So What Does That Mean for Dallas?

When voters approve a bond package, city officials go to major banks for the loans. Once local governments find underwriters for the bonds, Paxton signs off on the deals, per state law. With a $1.25 billion bond package approved by Dallas voters on May 4, the city now has to find a bank or banks to loan the money. But now they have fewer options than they did with previous bond

measures.

Continue reading.

Dallas Observer

By Emma Ruby

May 6, 2024

Fitch: FTC Ban on Non-Competes Complicates NFP Hospital Staffing Issues

Fitch Ratings-Austin/New York/Chicago-02 May 2024: The recently announced Federal Trade Commission (FTC) rule banning non-compete clauses could add staffing complications to not-fo--profit (NFP) hospitals that are still adapting to the upward reset of wages and have only recently begun to rein in labor costs, Fitch Ratings says.

The rule prohibits non-compete provisions in employment contracts, with the exception of existing agreements with senior executives. The rule, which would go into effect 120 days following publication in the Federal Register on April 30, 2024, has already been challenged in court and implementation is likely to be delayed as the rule is litigated.

The FTC indicates in the rule that non-profit organizations are "not categorically beyond" the FTC's jurisdiction and that it looks to whether an entity or its members derive a profit. The rule notes that employees of a physician group that work at an NFP hospital would fall under the FTC's jurisdiction and are therefore subject to the rule.

Continue reading.

S&P: Preliminary 2023 Medians For U.S. Acute Health Care Providers Indicate Continued Operating Pressures For Many

Key Takeaways

- U.S. acute health care providers' preliminary 2023 performance-related medians show only modest, if any, improvement from the 2022 medians; we expect slight improvement once we have reviewed the full group of 2023 audits.
- Days' cash on hand continues to fall, as providers' expenses rise, with growth in unrestricted reserves having limited impact on this ratio in the near term.
- Outlook revisions in first-quarter 2024 could suggest potential stabilization slowly emerging, but rating actions still vary month to month.

Continue reading.

30 Apr, 2024

S&P: U.S. Not-For-Profit Health Care Covenant Violations Will Continue To Affect Pressured Issuers

Key Takeaways

- S&P Global Ratings has observed an increased number of technical covenant violations in U.S. not-for-profit health care over the past two fiscal years, largely attributable to operating weakness stemming from persistent industry difficulties and inflationary pressure on expenses.
- Providers have avoided bond acceleration as a result of covenant violations, as most organizations received waivers or forbearance agreements from lenders to allow time to remedy covenants or execute financial improvement plans, while a few merged with a larger and financially stable organization.
- The majority of providers that have breached covenants have been in the 'BBB' and speculative-grade rating category.
- While many providers are on a path to recovery, we expect some will still experience heightened covenant violation risk in 2024 as they continue to face significant operating pressures.

Continue reading.

29 Apr, 2024

Bonds for Florida High-Speed Rail Pop in Market 'Starved' for High-Yield Munis.

- **Florida rail firm tapped muni, corporate bond market last week**
- **Muni high-yield fund flows helped drive demand for the issue**

Municipal bonds issued last week for Florida's private rail operator, Brightline, climbed in the secondary market as investors clamored for new high-yield securities.

Prices on large block trades for the BBB- rated securities issued with a 5.5% coupon rose as high as 105.4 cents on the dollar Tuesday, up from 102.3 cents when they were priced last week. Eager investors drove risk premiums, or the spread over top-rated debt, on the bonds tighter to about 75 basis points from 120 basis points.

Brightline's Florida route where trains can reach speeds as fast as 125 miles per hour, is the first new US private passenger railroad in the US in more than a century. The railroad issued about $3.2 billion of municipal bonds as part of a debt restructuring and recapitalization last week. With backing from Fortress Investment Group, Brightline is also building a new, faster train line connecting Las Vegas to Southern California.

Continue reading.

Bloomberg Markets

By Martin Z Braun

April 30, 2024

Muni Bond Sales Soar as Issuer Needs Exceed Worry on Fed.

- **Year-to-date sales reach $142.8 billion, highest since 2015**
- **States, cities still see debt costs as relatively attractive**

States and municipalities sold $142.8 billion in long-term municipal bonds during the first four months of 2024, the most in almost a decade, as the need to borrow outweighed concerns over higher interest rates that afflicted investors in the market.

This year's surge follows a 20% decline in issuance in 2022 and a flat 2023, according to data compiled by Bloomberg. The amount of borrowing so far is 33.3% higher than last year and the most for the period since $144.3 billion in 2015.

The sales boom runs counter to munis' performance, with a year-to-date loss of 1.62%, according to Bloomberg indexes. Treasury and other debt markets have dropped as economic data signal sticky inflation likely will push the Federal Reserve to keep borrowing costs at a more than two-decade high.

Continue reading.

Bloomberg Markets

By Joseph Mysak Jr

May 1, 2024

Worst Returns Since September Show Munis Vulnerable to Fed Talk.

- **April's 1.24% loss tracks credit markets drop on rates review**
- **Pickup in supply, slack funds demand also weighed on muni debt**

Municipal bonds this month showed that all credit markets are vulnerable to the worry over interest rates remaining high, producing their worst performance since September.

US state and local debt is on track to post a loss of 1.24% in April, according to Bloomberg indexes. Treasury and other debt markets have been selling off as economic data indicates persistent inflation pressures.

Wall Street firms and investors have tempered their expectations for interest-rate cuts in 2024, now anticipating the Federal Reserve will hold borrowing costs at a more than two-decade high at its meeting on Wednesday.

Continue reading.

Bloomberg Markets

By Aashna Shah

April 30, 2024

Connecticut Waterfront Real Estate Project to Tap Muni Market.

- **Roughly $30 million in bonds are expected to be issued**
- **Bridgeport district's first phase now calls for 420 apartments**

A district set up by Bridgeport, Connecticut, to transform a waterfront steelworks site off of Interstate 95 into a new residential neighborhood with shops and parks plans to sell more municipal bonds to fund the project.

The Steel Point Infrastructure Improvement District — on behalf of a subsidiary of developer RCI Group — will issue $30 million of additional debt in May, according to an investor presentation disclosed Monday on the Municipal Securities Rulemaking Board's EMMA website. Since the sale of about $50 million in unrated muni bonds in 2021, plans for the first phase of the massive 2.8 million-square-foot development have changed, necessitating extensive site clean up and infrastructure.

Proceeds of the latest bond offering will cover public improvements and remediation.

Continue reading.

Bloomberg Industries

By Martin Z Braun

April 29, 2024

Are Your Traffic-Impact Fees Tied to Your Land-Use Interests and Roughly Proportional to the Development's Impact on Those Interests? If Not, They Should Be.

Developers often bemoan the costs they incur before breaking ground on new residential projects. But the developer isn't the only party that experiences costs. New residential developments require new (or stress existing) municipal services, like water and sewer systems, roads, schools, libraries, parks, and recreation facilities.

To address these costs, municipalities commonly assess reasonable impact fees (sometimes called "exactions") on developments. Some fees are assessed on an *ad hoc* basis by administrators after an individualized review of the development. Others are assessed by legislation through impact schedules.

On April 12, 2024, the U.S. Supreme Court addressed a question about development impact-fee schedules that most municipal officials probably hadn't ever asked themselves: Does the so-called *Nollan/Dolan* exactions test—which applies to ad hoc permit conditions—apply also to permit conditions imposed by legislation? *See Sheetz v. County of El Dorado, California*, 144 S.Ct. 893 (2024) (slip op.).

The Supreme Court held unanimously that it does. Thus, all permit conditions that constitute compensable takings—whether enacted by legislation or adopted by administrators—must have: (1) an "essential nexus" to the government's land-use interest; and (2) "rough proportionality" to the development's impact on the land-use interest, *i.e.*, they must not require a landowner to give up (or

pay) more than is necessary to mitigate harms resulting from the new development. *See Nollan v. California Coastal Comm'n,* 483 U.S. 825 (1987); *Dolan v. City of Tigard*, 512 U.S. 374 (1994).

If the permit does not satisfy these *Nollan/Dolan* elements, then it might be an unconstitutional taking. Why only might? Because the controlling opinion answered only the narrow question stated above. The Supreme Court did not address whether the permit fee at issue was a compensable taking that triggered the *Nollan/Dolan* test in the first place or whether legislative permit conditions must be tailored with the same degree of specificity as a permit condition that targets a particular development. It left these questions for the lower courts, and each affects the takings analysis.

Despite its limited scope, the Supreme Court's *Sheetz* opinion isn't feckless. Rather, it puts on notice municipal officials that impose permit conditions—such as impact fees—on new developments through legislation. It signals that municipalities should carefully consider whether their legislative permit conditions have an essential nexus to their land-use interests and are roughly proportional to the development's impact on those interests. If they are not, then municipal officials would be wise to devise permit conditions that do satisfy those elements.

Frost Brown Todd LLP – Yazan S. Ashrawi, Thaddeus M. Boggs and Anthony R. Severyn

April 30, 2024

TAX - NEW YORK

Brookdale Physicians' Dialysis Associates, Inc. v. Department of Finance of City of New York

Court of Appeals of New York - March 21, 2024 - N.E.3d - 2024 WL 1199333 - 2024 N.Y. Slip Op. 01583

Building owner, which was a not-for-profit healthcare fund, filed, along with its tenant, which was a for-profit corporation that provided dialysis services for a fee, petition commencing hybrid article 78 and declaratory-judgment action to annul city department of finance's revocation of building's status as exempt from real-property taxation.

The Supreme Court, New York County granted petition. Finance department appealed. The Supreme Court, Appellate Division, affirmed. The Court of Appeals granted the finance department leave to appeal.

The Court of Appeals held that:

- Building was not property-tax exempt under statutory provision allowing for a property-tax exemption for property that was owned by certain not-for-profit entities and that was used for certain not-for-profit purposes, and
- Building was not tax exempt under statutory provision governing that same not-for-profit tax exemption for property that was leased for non-exempt purposes.

Building was not property-tax exempt under statutory provision allowing for a property-tax exemption for property that was owned by certain not-for-profit entities and that was used for certain not-for-profit purposes; building owner was a not-for-profit healthcare fund that did not reside on the premises or otherwise itself use the building in whole or in part for its exempt fundraising purpose, and owner's tenant was a for-profit corporation that had sole occupancy and used the building during the lease term exclusively to perform its for-charge dialysis services.

Building that was owned by a not-for-profit healthcare fund that did not reside on the premises or otherwise itself use the building in whole or in part for its exempt fundraising purpose was not property-tax exempt under statutory provision governing the property-tax exemption for property that had a particular kind of not-for-profit owner but was leased for non-exempt purposes; building was leased and used solely for pecuniary gain by a for-profit corporation that performed dialysis services for a fee.

TAX - MINNESOTA

Huizenga v. Independent School District No. 11

United States District Court, D. Minnesota - March 29, 2024 - F.Supp.3d - 2024 WL 1345173

Taxpayers brought § 1983 action against school district and teachers union, alleging that political advocacy by teachers while on paid leave, under provision of collective-bargaining agreement (CBA) allowing paid leave for the conduct of union business, violated taxpayer's free-speech rights under the First Amendment and the Minnesota Constitution and violated the Minnesota Public Employee Labor Relations Act.

The District Court dismissed taxpayers' federal claims for lack of Article III standing and declined to exercise supplemental jurisdiction over state-law claims. On taxpayers' appeal, the United States Court of Appeals for the Eighth Circuit vacated and remanded, holding that taxpayers had sufficiently alleged municipal taxpayer standing as school-district taxpayers. On remand, after discovery, the parties filed cross-motions for summary judgment.

The District Court held that:

- Wife whose husband paid property taxes as a county taxpayer did not establish that she paid municipal taxes relevant to school district, and wife thus lacked municipal taxpayer standing;
- Taxpayers failed to show that school district spent any money providing paid leave under challenged provision of CBA, and taxpayers thus lacked municipal taxpayer standing; and
- Even if school district lost money providing paid leave under challenged provision of CBA, that loss was not clearly tied to municipal tax revenues, and taxpayers thus lacked municipal taxpayer standing.

BlackRock Cuts Jobs in Muni Business Under New Leadership.

- **Patrick Haskell took over muni group from Peter Hayes in 2024**
- **BlackRocks' muni ETF dwarfs its largest actively-managed fund**

BlackRock Inc., the world's largest money manager, cut fewer than 10 jobs in its municipal bond department under the new leadership of Patrick Haskell, according to a person familiar with the matter.

Haskell, a former co-head of fixed-income capital markets at Morgan Stanley, took over the group this year from Peter Hayes, who retired after nearly four decades managing state and local government debt.

"BlackRock continuously organizes its teams to better serve the market and our clients, and this

week aligned our municipal bond investment team to help us accelerate processes, improve information sharing and drive performance," a BlackRock spokesperson wrote in an emailed statement.

Continue reading.

Bloomberg Markets

By Martin Z Braun

May 6, 2024

Municipal Bond Q1 2024 Performance.

The first quarter of 2024 brought some notable shifts in the municipal bond landscape, reflecting broader economic trends and market dynamics. Although interest rate fluctuations drove a slight decline broadly, investment-grade municipals held up better than most comparable quality taxable fixed income sectors, and high yield munis performed on par with high yield corporates. By the end of the quarter, we saw muni yields rising particularly in the short end of the curve, an increase in issuance and narrowing spreads, which may create buying opportunities for investors. The first quarter of 2024 brought some notable shifts in the municipal bond landscape, reflecting broader economic trends and market dynamics.

The ICE Broad Municipal Bond Index (MUNI) experienced a modest decline of -0.28% during this period, following a robust 5.99% return in 2023. This dip was primarily influenced by interest rate volatility, driven by stronger-than-expected economic data and inflation figures. Consequently, expectations for policy rate cuts in 2024 were pushed back, causing municipal yields to rise across the curve. Short-term yields saw a more pronounced increase compared to intermediate and long-term yields, resulting in a flatter municipal yield curve.

The changing outlook on policy rates also impacted the U.S. Treasury (UST) curve, albeit to a lesser extent. The term structure shift indicated a decreased risk premium for interest rates. Longer-dated bonds underperformed shorter-dated ones due to their higher interest rate sensitivity. However, A-rated and BBB-rated bonds outperformed among quality cohorts, as their higher yields helped offset the impact of rising rates.

Continue reading.

VANECK

By Michael Cohick, Director of Product Management

MAY 4, 2024

Today's Municipal Bond Opportunity in Two Charts.

Higher yields and a steeper muni curve may signal an attractive entry point for investors.

“Now’s the time,” as music legends Charlie Parker and Led Zeppelin have urged listeners (in different recordings, of course). Based on two current market trends, that message may be one municipal bond investors may also wish to heed.

Why? As the illustrations below will show, municipal bond yields remain near their highest levels in over 10 years, while the municipal yield curve is close to its steepest level in over a decade. We believe these conditions present investors with an extremely attractive entry point for new investments in munis, or to add to existing holdings.

Let’s take a closer look at these trends.

Continue reading.

Lord Abbett

By Donald A. Annino – Investment Strategist

May 2, 20242

TAX - HAWAII

Tax Appeal of West Maui Resort Partners LP v. County of Maui

Supreme Court of Hawai‘i - April 23, 2024 - P.3d - 2024 WL 1738908

Taxpayers, which were plan managers for nearly 700 time share units, sought judicial review of decision of County Board of Review which upheld county tax assessments on time shares.

The Tax Appeal Court granted county’s summary judgment motion, and denied taxpayers’ cross-motion for summary judgment. Taxpayers appealed to the Intermediate Court of Appeals (ICA), and the cases were transferred to Supreme Court and were consolidated.

The Supreme Court held that:

- Taxpayer’s appeal from Tax Appeal Court was required to be filed within 30 days of orders denying taxpayer’s summary judgment motion and granting county’s summary judgment motion;
- Application of the equitable doctrine of “unique circumstances” was in the interests of justice and appropriate in connection with taxpayer’s untimely appeal;
- County’s time share tax classification and its rate acted as a real property tax based on the assessed property value, rather than as a tax assessed on individual time share unit users and value of their stay;
- Time share units were not required to be assigned to a real property tax classification according to their use;
- State’s comprehensive transient accommodation tax (TAT) scheme did not cover the same subject matter as county’s time share tax classification;
- County’s time share tax classification and rate did not duplicate, contradict, or enter an area fully occupied by state’s general law; and
- County’s creation of a separate real property tax classification for time share units was reasonably related to legitimate policy purposes.

State of Illinois: Fitch New Issue Report

The ‘A-‘ Long-Term Issuer Default Rating (IDR) of Illinois reflects its solid operating performance, albeit still weaker than most other states’, and long record of structural imbalance, primarily related to pension underfunding offset by continued progress toward more sustainable budgeting practices. The ‘A-‘ IDR also reflects the state’s elevated long-term liability position and resulting spending pressure. Illinois’ deep and diverse economy is only slowly growing, but still provides a strong fundamental context for its credit profile.

ACCESS REPORT

Wed 01 May, 2024

Why This Top-Rated Muni-Bond Fund Is Betting Big on Puerto Rico.

The municipal-bond market is often driven by retail investors, who can be spooked into selling by negative headlines. Scott Diamond finds opportunity there.

The co-manager of the $9.3 billion Goldman Sachs Dynamic Municipal Bond fund has the flexibility to snap up beaten-up issues wherever he spots inefficiencies in the muni-bond market, as the go-anywhere approach allows him to deviate from the fund’s benchmark duration and credit.

That flexibility—and Diamond’s two decades-plus experience managing Dynamic Muni—allowed the fund to beat 93% of its muni-bond peers over a 10-year period, with a 2.6% annualized return versus 1.9% for its peers, according to Morningstar. It has also outperformed its benchmark Bloomberg Municipal Bond 1-10 Year index, which also returned 1.9% over that time.

Continue reading.

Barron’s

By Debbie Carlson

May 01, 2024,

Reminder: 118th GFOA Annual Conference

June 9-12, 2024

Orange County Convention Center
9800 International Drive West Building
Orlando, Florida

Details:
Registration and housing for GFOA’s 118th Annual Conference is now open. The conference will take place on June 9-12, 2024, at the Orange County Convention Center in Orlando, Florida. Join us

for 70+ CPE-accredited sessions that will address current issues facing government finance professionals, inspiring keynote sessions, interactive discussions, leadership workshops, and networking opportunities.

IMPORTANT INFORMATION ABOUT THE REGISTRATION PROCESS

GFOA has streamlined the registration process combining both the preconference seminars and full conference registration into a single transactional flow. After clicking the "Register" button below, please select all of your options prior to checking out of your shopping cart. Once you have completed a registration, you will not be able to add or remove products through your GFOA account. To add preconference seminars at a future date, please fill out the selected options on this PDF and submit it to training@gfoa.org. Learn more about the Closing Event and purchase tickets here.

REGISTER

GFOA Utility Finance Forum Virtual Networking Event.

May 17, 2024 | 2 pm – 3 pm ET

Details:
We're happy to announce over 150 new members to the Utility Finance Forum (UFF) this past month, bringing membership close to 700! To foster connections among our growing community, we're hosting a virtual Networking Event on May 17th, and we want you to join us. This event will provide an opportunity to share insights, exchange ideas, and shape the future direction of the UFF. Don't miss a chance to meet your colleagues from across utility organizations and municipalities, forge new connections, and lay the groundwork for an exciting year ahead!

Member Price: Free
Non-member Price: Free

REGISTER

- Muni Regulator Flags Risks of Buying Build America Bonds,
- A Range of Emerging Fiscal Risks Could Disrupt State Budgets.
- EPA Issues PFAS Enforcement Discretion Policy Addressing Environmental Cleanup Liability: Spencer Fane
- Tax Code Constraints Limit Tribal Tax-Exempt Bonding.
- Final Municipal Tax Credit Regulations Present Opportunities for Clean Energy Projects.
- GFOA's Best Practices Forum.
- Oklahoma Republicans Weigh Rolling Back Anti-ESG Law They Passed.
- Supreme Court Texas eminent domain case here.
- And Finally, I Don't Know What To Believe Anymore! is brought to us this week by *Ex parte City of Montgomery*, in which decedent's attorneys vigorously challenged the veracity of two police officers based upon their wildly divergent accounts of the events in question. While Officer Favor testified that he heard "a 'clicking noise' before he heard the vehicle's engine engage, Officer Davis stated that he heard a 'clunk.'" Which was it?!! A click or a clunk? Similarly, "Davis stated

in his affidavit that he lost sight of Favor and fired his weapon because, 'Favor was subject to being seriously wounded or killed if the vehicle were placed in drive.' However, in his prior deposition, Davis testified that he had lost sight of Favor and fired his weapon because 'it appeared that Favor was being run over by the vehicle.'" Who can keep track of all the lies?!! Fortunately, the third party on scene didn't get the chance to further muddy up the waters 'cuz, uh, the two officers, uh, kinda shot her.

IMMUNITY - ALABAMA

Ex parte City of Montgomery

Supreme Court of Alabama - April 19, 2024 - So.3d - 2024 WL 1685063

Administrator and personal representative of suspect's estate filed a wrongful death complaint against city and police detectives after suspect was shot and killed after she refused detective's commands and struck two detectives with her vehicle.

Defendants filed a motion for summary judgment based on peace-officer immunity. The Circuit Court denied the motion. City and detectives filed a petition for a writ of mandamus directing the circuit court to grant their motion for summary judgment.

The Supreme Court held that police detectives were entitled to peace-officer immunity from liability in wrongful death lawsuit.

EMINENT DOMAIN - FEDERAL

DeVillier v. Texas

Supreme Court of the United States - April 16, 2024 - 601 U.S. - 144 S.Ct. 938

Owners of properties near one side of interstate highway brought actions in state court against State, asserting inverse-condemnation claims under Takings Clause and Texas Constitution, based on allegations of flooding, during a hurricane and a tropical storm, caused by State's projects to facilitate use of highway as flood-evacuation route by installing barrier along highway median to act as dam to prevent stormwater from covering other side of highway.

After removal and consolidation, the United States District Court for the Southern District of Texas adopted the report and recommendation of the United States Magistrate Judge and denied State's motion to dismiss for failure to state a claim certified the order for permissive interlocutory appeal.

The United States Court of Appeals for the Fifth Circuit vacated and remanded, and rehearing en banc was denied. Certiorari was granted.

In a unanimous opinion, the Supreme Court held that inverse-condemnation cause of action under Texas law provides vehicle for claims under the Takings Clause.

The inverse-condemnation cause of action under Texas law provides a vehicle for takings claims based on both the Texas Constitution and the Fifth Amendment's Takings Clause.

ANNEXATION - KENTUCKY

Calhoun v. Tall Oak, LLC

Court of Appeals of Kentucky - March 22, 2024 - S.W.3d - 2024 WL 1222076

City residents, who lived next to property that was formerly country club, appealed decision of city commission to rezone property from agricultural to residential to allow for development of residential subdivision.

The Circuit Court affirmed commission's decision. Residents appealed.

The Court of Appeals held that:

- Residents waived argument that commission failed to comply with statute regarding amendment of comprehensive plan prior to annexation;
- Commission did not exceed its statutory powers in deciding to annex and rezone property without amending its comprehensive plan; and
- Property developer was not required by applicable city ordinances to submit storm water management plan along with rezoning request, and thus, commission's decision was not arbitrary.

City residents, who lived next to property that was formerly country club, waived argument that city commission failed to comply with statute regarding amendment of comprehensive plan prior to annexation, on resident's appeal of trial court's affirmance of commission's decision to rezone property from agricultural to residential to allow for development of residential subdivision, where residents did not raise such argument to city planning commission prior to developer's appeal to city commission.

City commission did not exceed its statutory powers in deciding to annex property that was formerly country club and to rezone property from agricultural to residential to allow for development of residential subdivision without amending its comprehensive plan; commission adopted ordinance expressing its intention to annex property prior to public hearing on application for city to annex and rezone property, commission took final action by adopting separate ordinance reversing decision of city's planning commission and annexing property, no amendment to plan was required to bring zoning amendment into conformity with it, requiring amendment of plan for every change to zoning map would yield absurd results, and other statutes contemplated changes to city zoning map without plan amendment.

Developer, who purchased property that was formerly country club with plan to develop it into residential subdivision, was not required by applicable city ordinances to submit storm water management plan along with request to have property rezoned from agricultural to residential, and thus, city commission's decision to annex and rezone property pursuant to developer's request was not arbitrary; ordinances required submission of storm water management plans as prerequisite for land disturbance activity, rather than initial approval of development plan or approval of rezoning request.

PUBLIC CONTRACTS - LOUISIANA

Robinson-Carter o/b/o Robinson-Carter v. St. John the Baptist Parish School Board

Court of Appeal of Louisiana, Fifth Circuit - April 3, 2024 - So.3d - 2024 WL 143208123-397

(La.App. 5 Cir. 4/3/24)

Unsuccessful bidder, individually and on behalf of her accounting firm, filed complaint against parish school board for detrimental reliance, fraud, and emotional distress, alleging board intentionally misrepresented aspects of its request for qualifications for contract to conduct tax collection services.

In a bench trial, the District Court rendered judgment in favor of board. Bidder appealed.

The Court of Appeal held that:

- Trial court's alleged mischaracterization of bidder's claims as being based on verbal agreement, and court's failure to address unsuccessful bidder's evidence did not constitute reversible error;
- Request's disqualification provision did not apply to warrant disqualifying or assessing lower score to successful bidder's response;
- Unsuccessful bidder could not recover costs incurred preparing response to request for qualifications under theory of detrimental reliance;
- Unsuccessful bidder failed to demonstrate that board misrepresented truth regarding process for analyzing responses to request for qualifications, as required to support fraud claim; and
- Unsuccessful bidder failed to demonstrate that board intended to obtain unjust advantage or to cause damage or inconvenience to bidder, as required to support fraud claim.

IMMUNITY - NEBRASKA

Barber v. State

Supreme Court of Nebraska - April 19, 2024 - N.W.3d - 316 Neb. 398 - 2024 WL 1694663

Inmate brought negligence action against State pursuant to the State Tort Claims Act (STCA), alleging that Department of Correctional Services' (DCS) staff negligently subjected him to an involuntary medication order (IMO) and injected him with antipsychotic medication against his will.

The District Court dismissed for lack of subject matter jurisdiction. Inmate appealed.

The Supreme Court held that:

- Inmate's claim of medical treatment without consent presented a claim of battery, and
- STCA's exception to waiver of sovereign immunity for claims arising out of a battery applied.

Inmate's claim that Department of Correctional Services' (DCS) staff injected him with antipsychotic medication against his will pursuant to an involuntary medication order (IMO) presented a claim of "battery," for purposes of the intentional tort exception to the State's waiver of sovereign immunity under the State Tort Claims Act (STCA); claim alleged medical treatment without consent.

Inmate's claim that Department of Correctional Services' (DCS) staff negligently subjected him to an involuntary medication order (IMO) and injected him with antipsychotic medication against his will was a claim that arose out of an alleged battery and, thus, the intentional tort exception to State's waiver of sovereign immunity under State Tort Claims Act (STCA) applied to bar inmate's claim; gravamen of inmate's complaint was that the acts or omissions of DCS staff in administering medication against his will resulted in his personal injury.

EMINENT DOMAIN - NEVADA

City of Las Vegas v. 180 Land Co., LLC

Supreme Court of Nevada - April 18, 2024 - P.3d - 2024 WL 1689634 - 140 Nev. Adv. Op. 29

Owner of 250-acre former golf course property brought action against city for inverse condemnation following the denials of landowner's development applications for 35-acre parcel, alleging a per se regulatory taking.

After taking evidence and holding multiple hearings, the District Court granted summary judgment for landowner on its takings claims and awarded just compensation, attorney's fees, and prejudgment interest which totaled $48,114,039.30. Landowner and city both appealed.

The Supreme Court held that:

- Zoning ordinance, which designated golf course property as residential planned unit development, prevailed over land designation in master plan which classified the property as "Parks/Schools/Recreation/Open Space";
- Appropriate denominator parcel of land for per se regulatory takings claim was 35 acre parcel for which landowner sought approval of housing project, rather than entire 250 acres;
- Per se regulatory takings claim was ripe;
- Denials of landowner's applications for development constituted a per se regulatory taking;
- Evidence was sufficient to support finding that valuation of 35-acre parcel at its highest and best use was $34,135,000 as stated in landowner's expert's report; and
- Landowner was not entitled to interest at a rate that would reimburse it for the purported profit it lost had it been able to develop the land.

PREJUDGMENT INTEREST - OHIO

Vandercar, L.L.C. v. Port of Greater Cincinnati Development Authority

Supreme Court of Ohio - April 23, 2024 - N.E.3d - 2024 WL 1723420 - 2024-Ohio-1501

Purchaser of hotel brought action against assignee of purchaser's interest in hotel, which was city port authority, for breach of contract arising out of assignee's failure to pay purchaser redevelopment fee, under assignment agreement.

The Court of Common Pleas granted purchaser's motion for summary judgment but denied its motion for prejudgment interest. Both parties appealed. The First District Court of Appeals affirmed. Purchaser appealed, and the Supreme Court accepted jurisdiction.

The Supreme Court held that port authority, as assignee of purchaser's interest in hotel, was liable to pay prejudgment interest to purchaser for breach of redevelopment agreement, abrogating Beifuss v. Westerville Bd. of Edn., 37 Ohio St.3d 187, 525 N.E.2d 20, State ex rel. Brown v. Milton-Union Exempted Village Bd. of Edn., 40 Ohio St.3d 21, 531 N.E.2d 1297, and State ex rel. Stacy v. Batavia Local School Dist. Bd. of Edn., 105 Ohio St.3d 476, 829 N.E.2d 298.

Port authority, as assignee in assignment agreement, was liable to pay prejudgment interest to assignor, for port authority's breach of agreement by failing to pay redevelopment fee as required under agreement, although port authority argued that, because it was state actor, it was immune from liability for prejudgment interest; statutes governing immunity from liability for port authorities

did not include immunity for prejudgment interest, and no exception to application of prejudgment interest for judgments requiring payment of money arising out of a contract existed.

Where a statute does not expressly exempt a subordinate political subdivision from its operation, the exemption therefrom does not exist; abrogating Beifuss v. Westerville Bd. of Edn., 37 Ohio St.3d 187, 525 N.E.2d 20, State ex rel. Brown v. Milton-Union Exempted Village Bd. of Edn., 40 Ohio St.3d 21, 531 N.E.2d 1297, and State ex rel. Stacy v. Batavia Local School Dist. Bd. of Edn., 105 Ohio St.3d 476, 829 N.E.2d 298.

GFOA: Generative AI and Local Governments

Exploring potential uses, the speed of change, and the need for caution.

When he first heard news reports about ChatGPT and its powers to search the internet and create readable text, rhymes, and fanciful tales, Micah Gaudet immediately saw the use for entertaining his eight-year-old son with “corny dad jokes and little bedtime stories.”

But within weeks, as deputy manager of the fast-growing City of Maricopa, Arizona, he started imagining ways to use this newly available form of artificial intelligence (AI) in his work as deputy city manager and chief public safety officer.

Download the GFOA report.

Publication date: April 2024

Authors: Katherine Barrett and Richard Greene

A Range of Emerging Fiscal Risks Could Disrupt State Budgets.

Tomorrow’s demographic, environmental, and technological trends require planning and action today.

Crafting a state budget is a delicate balancing act in the best of times. Policymakers must estimate spending needs, predict revenue trends, and balance countless competing urgent priorities, all while maintaining a structurally balanced budget.

These demands can make it difficult for fiscal leaders to look beyond the needs of the immediate budget cycle and consider how major shifts in the status quo could disrupt their states’ fiscal future. But with major demographic, environmental, and technological changes on the horizon, states must find ways to look ahead and consider the potential fiscal impact of these new and emerging risks to ensure that they have time to plan for and manage these future budget challenges.

Demographic Shifts Pose Risks to State Budgets

States are likely to face significant demographic pressures in the coming decades. Baby Boomers continue to age out of the workforce, and the scale of this exit is unlikely to be matched with new workers because of declines in fertility and international migration. Still, some regions have seen significant recent population growth, driven by remote work flexibilities, refugee resettlement, or

simply changes in people's living preferences. The exact nature of these trends will vary from state to state, but policymakers need to understand how these shifts can affect their states' economic and fiscal future, both in terms of revenue and expenditures.

Continue reading.

ROUTE FIFTY

by PETER MULLER

APRIL 26, 2024

Many Large U.S. Cities Are In Deep Financial Trouble. Here's Why.

Municipal governments across the United States are looking to rein in spending as pandemic-era stimulus dries up and inflation lingers for longer than expected.

"Clearly there are significant capital needs across the U.S.," said Michael Rinaldi, senior director at Fitch Ratings' public finance group. The group issued a AA investment grade general obligation bond rating for New York City in March 2024.

The financial challenges within cities appear to be mounting despite high municipal credit ratings and robust demand for urban commodities like housing. For example, New York City had a total public debt of $177.6 billion at the end of fiscal year 2022, according to researchers at Truth in Accounting, a nonprofit that partners with the University of Denver to promote transparency in public accounting. That translates into a per capita taxpayer burden of $61,200, according to the group's analysis.

Continue reading.

cnbc.com

APR 25 2024

EPA Issues PFAS Enforcement Discretion Policy Addressing Environmental Cleanup Liability: Spencer Fane

On April 19, 2024, the U.S. Environmental Protection Agency (EPA) released its PFAS Enforcement Discretion and Settlement Policy Under CERCLA, addressing environmental cleanup liability for per- and polyfluoroalkyl substances (PFAS). The EPA's issuance of the policy came just two days after the agency formally announced it would list two PFAS, perfluorooctanoic acid (PFOA) and perfluorooctanesulfonic acid (PFOS), as "hazardous substances" under the nation's Superfund law, the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), a decision with long-term consequences for site closure and contaminated site cleanup.

In light of CERCLA's joint-and-several strict liability framework, the EPA's decision comes as no surprise as an attempt to mollify the impact on passive potentially responsible parties (PRPs). For many businesses, however, the EPA's policy will feel like the agency has cut off their hand, only to

give them a few fingers back. Indeed, whether a company is considered passive or a major PRP for the release of PFAS into the environment, is an issue that will take years – and even decades – before the liability contours under CERCLA and the PFAS Enforcement Discretion Policy come into focus.

Entities Entitled to PFAS Enforcement Discretion

According to the EPA, the purpose of its PFAS Enforcement Discretion Policy is to "focus on holding accountable those parties that have played a significant role in releasing or exacerbating the spread of PFAS into the environment, such as those who have manufactured PFAS or used PFAS in the manufacturing process, and other industrial parties. For purposes of this policy only, these parties are referred to as major PRPs." As a result, the agency has signaled that it does not intend to seek cleanup costs or response actions from the following types of PRPs:

Continue reading.

Spencer Fane LLP – Andrew C. (Drew) Brought

April 29, 2024

MSRB: Possible Redemption of Build America Bonds

Read the MSRB publication.

4/26/24

Muni Regulator Flags Risks of Buying Build America Bonds,

- **Refinancings can saddle investors with losses as bonds called**
- **MSRB says a number of the bond issues trading above par value**

The municipal-bond market's regulator published a note highlighting the risks of buying Build America Bonds that are trading at more than 100 cents on the dollar, which expose investors to potential losses as governments increasingly buy them back under refinancings.
The securities were sold in 2009 and 2010 through a federal program that was aimed at helping to pull the economy out of its slump by increasing state and local government spending on infrastructure. The federal government subsidizes some of the interest bills on the bonds instead of making the interest tax-exempt, as is the case with traditional municipal securities.

But those subsidies were cut over a decade ago, and governments have been refinancing them by exercising their right to buy the bonds back from investors. That call price can be below where the bonds have been trading.

In guidance published Friday, the Municipal Securities Rulemaking Board said it has seen "a number of BABs trading in the secondary market at a significant premium to par," and said investors should be aware of the risk of buying them. If called, it could "result in a loss, particularly for investors who purchase the BABs at a premium."

The group also said that the likelihood of an individual security being called will depend on a range of factors like the rate environment, the government's cash position and the specifics of the call provisions.

Bank of America Corp. said Friday that Build America Bond refinancings have helped to boost the pace of overall debt sales, which picked up this year as markets recovered from the impacts of the Federal Reserve's rate hikes.

Bloomberg Markets

By Nic Querolo and Amanda Albright

April 26, 2024 at 7:06 AM PDT

S&P U.S. Public Finance Housing Rating Actions, First-Quarter 2024

View the Rating Actions.

25 Apr, 2024

Fitch: Southwest Airlines' Service Reduction Does Not Affect U.S. Airport Credit

Fitch Ratings-New York/Austin-29 April 2024: The recent decision by Southwest Airlines to discontinue service at four airports based on cost cutting actions stemming from weaker than expected financial performance and aircraft delivery delays will not affect the credit profiles of affected Fitch-rated airports, Fitch Ratings says.

First quarter earnings reports from the leading U.S. domestic carriers indicate divergent trends in performance, resulting in mixed near-term expectations for profitability and fleet growth. Those airlines with weaker results are evaluating their network strategies given the challenges to stay profitable in some markets as elevated costs and aircraft delivery constraints stunt the level of growth they had anticipated. This introduces uncertainty to some U.S. airports aiming to build on their previous progress now that the pandemic rebound is largely considered over.

Southwest (BBB+/Stable) recently announced that it will end service at Houston George Bush Intercontinental Airport, Texas (part of Houston Airport System [HAS], subordinated obligations A+/stable); Syracuse Hancock International Airport, New York (SYR) (A-/stable); Bellingham International Airport, Washington; and Cozumel International Airport, Mexico.

Southwest had only initiated services at SYR within the past three years and the impact of its exit on SYR should be modest as Southwest represents less than 10% of the airport's enplanements in fiscal 2023. SYR hit a record 1.3 million enplanements in fiscal 2023 and has a strong financial profile with a relatively small debt burden, negative leverage profile, and a hybrid agreement that provides for sufficient cost recovery. The airport has seen a healthy level of competition from legacy airlines as well as a number of low-cost carriers such as Breeze Airways, Frontier, and Allegiant (BB-/Negative), among others.

Similarly, HAS's credit profile will not be affected by Southwest's departure as the airline has a small presence at Bush Intercontinental. HAS has low traffic volatility over longer term horizons and very limited competition due to its large dual-hub airport system (George Bush Intercontinental and William P. Hobby). Southwest will continue to serve the Houston system out of Hobby, a top 10 airport for SWA where it maintains more than a 90% market share. The desirability of HAS's strong metropolitan service area helps mitigate the system's exposure to carrier concentration and connecting traffic.

Southwest's decision was preceded by JetBlue Airways' (B+/Negative) announcement in March that it will discontinue service at Kansas City International Airport (A/Stable) and Stewart International Airport and cut routes at other airports such as Fort Lauderdale-Hollywood International Airport (A+/Stable) and Los Angeles International Airport (AA/Stable). While airlines anticipate strong travel demand in 2024, they are facing higher labor and jet fuel costs, coupled with chronic aircraft issues, including delivery delays of certain Boeing models. In this environment, Fitch expects smaller and cost-focused carriers in particular will continue to evaluate their networks and assess the need to cease or reduce service at select airports that are less profitable.

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Supreme Court Rules on Important Impact Fee Case.

This month, the Supreme Court issued a unanimous decision in *Sheetz v. El Dorado County*, which is a case involving government "Takings," specifically ones that involve the government's use of impact fees. Impact fees are typically a one-time payment that local governments levy on a property developer for new development projects. Municipalities use these fees to offset the financial impact that new development places on public infrastructure, such as roads and utilities.

In their ruling, the Court narrowly determined that legislatively enacted impact fees are not exempt from the requirements set forth in two previous property rights cases *(Nollan v. California Coastal*

Commission and Dolan v. City of Tigard, Oregon). As such, **local governments that impose impact fees will now be subjected to a standard requiring them to demonstrate the relationship and relative impact of the development on the community**. Specifically, cities will have to show that conditions (impact fees) to obtain a land-use permit have an "essential nexus" (relationship) to the government's land-use interest and a "rough proportionality" between the weight on the property owner and the development's effects of the proposed land use.

This case involves the County of El Dorado's traffic impact mitigation fee, which it adopted via the General Plan, to require new development to help finance the construction of new roads and widen existing roads. The amount of the fee is set by formula after the County conducted a nexus study and generally, the fee was based on the location of the project and the type of project. In assessing the fee, the County does not make any "individualized determinations" as to the nature and extent of the traffic impacts caused by a particular project on state and local roads.

Continue reading.

National League of Cities

by McKaia Dykema

APRIL 25, 2024

Tax Code Constraints Limit Tribal Tax-Exempt Bonding.

Legal barriers may contribute to tribal governments' lower usage of tax-exempt bonds

Tax-exempt municipal1 bonds play an important role in financing the construction of public purpose projects and supporting private development across the country. For a given level of risk, tax-exempt debt can offer a lower cost of capital than financing the same project using taxable debt.2 Tribal governments, however, face both legal and debt service barriers to using this important financing mechanism available to state and local governments. These barriers can create challenges for tribes seeking to access the half-trillion-dollar annual tax-exempt municipal bond market for low-cost capital financing.

As part of our mission to advance the economic self-determination and prosperity of Native nations and Indigenous communities, the Center for Indian Country Development provides research and analysis on factors influencing access to capital in Native communities. To shed light on the barriers to tribes using tax-exempt bonding, we review the legal framework governing tribal tax-exempt bonding authority. We also provide an analysis of per capita tax-exempt bond financing. Our analysis spans 2003–2010—the most recent years for which both tribal-specific bond data are publicly available from the U.S. Department of the Treasury (Treasury) and annual municipal bond data are available from the Internal Revenue Service (IRS).

After accounting for differences in the target populations of both tribal governments and municipalities, we find that from 2003–2010, tribal governments' use of tax-exempt bonds falls below that of state and local governments. We also explore tribal-specific factors that may explain why we observe this large capital gap. More tribal tax-exempt bond data are needed to extend this analysis to recent years.

Continue reading.

The Federal Reserve Bank of Minneapolis

by Matthew Gregg & John Morseau

April 25, 2024

Final Municipal Tax Credit Regulations Present Opportunities for Clean Energy Projects.

In March, the U.S. Department of the Treasury and Internal Revenue Service (IRS) published final regulations for the Inflation Reduction Act elective pay program, also known as direct pay, that provides tax incentives to municipalities for installing a variety of clean energy projects.

Since the initial guidance was published last year, NLC hosted focus groups with members to inform our comments to Treasury and the IRS on what municipalities need to see in these rules to make them work. We are pleased to see much of our feedback incorporated into the final rule, which will make it easier for local governments to take advantage of the tax credits and clean energy projects in communities that help meet local climate action goals. The final regulations incorporate much of our feedback.

This blog breaks down the final regulations into things municipalities should know, key wins, and remaining challenges for municipalities as they move forward with implementing elective pay programs in their communities.

Continue reading.

National League of Cities

by Michael Gleeson & Carolyn Berndt

APRIL 24, 2024

TAX - ILLINOIS

Village of Shiloh v. County of St. Clair

Appellate Court of Illinois, Fifth District - December 19, 2023 - N.E.3d - 2023 IL App (5th) 220459 - 2023 WL 8722508

Village filed action against county, county clerk, and others, petitioning for a writ of mandamus requiring that alleged incremental taxes owed to village be paid and sought declaratory judgment regarding payments and alleged violations of the Tax Increment Allocation Redevelopment Act.

The Circuit Court granted defendants' motion for involuntary dismissal based upon certain defects or defenses. Village appealed.

The Appellate Court held that:

- Village was entitled to payment for taxes collected from its tax increment finance (TIF) districts, but

- Reversal was not required based on village's failure to join necessary parties.

Village did not forfeit, on appeal in mandamus action, issue of whether county and county clerk were required to collect and then pay village funds from incremental taxes collected from village's tax increment finance (TIF) districts established by ordinance, where village's response in trial court to county and clerk's motion to dismiss argued that while a TIF district's life expectancy was 23 years, the last payment came in the 24th year because the property had to be assessed in the 23rd year as well, which was same argument village presented on appeal.

Village was entitled to a 24th payment from county and county clerk for incremental taxes collected from village's tax increment finance (TIF) districts, even though the life expectancy of a TIF was limited to 23 years under the Tax Increment Allocation Redevelopment Act; in the year after village adopted ordinances establishing TIF districts, county distributed its first payment to village for taxes levied in the prior year, county made 23 yearly distributions of taxes, life of village's TIF districts did not exceed the 23-year limitation, and therefore, the fact that 24 payments were required, rather than 23, did not mean that a violation of the Act occurred.

Absence of school districts and fire protection district in village's mandamus and declaratory judgment action against county and county clerk, which sought payment for incremental taxes collected from village's tax increment finance (TIF) districts, did not require reversal of trial court's order dismissing village's complaint based on failure to join necessary parties, where court's order did not materially affect school districts or fire protection district.

TAX - ALASKA

City of Valdez v. Prince William Sound Oil Spill Response Corporation

Supreme Court of Alaska - April 19, 2024 - P.3d - 2024 WL 1689057

Corporate taxpayer, which owned oil spill prevention and response vessels stationed at a marine terminal that stored oil, appealed State Assessment Review Board's (SARB) orders that were entered in city's long-pending property-tax appeals and that stated SARB's refusal to entertain arguments that certain tax years should not be included in a tax audit that spanned approximately 20 tax years.

The Superior Court reversed the orders related to the limitation on the audit and determined that the three-year statute of limitations applied. City appealed.

The Supreme Court held that:

- Prior superior-court decisions were not the law of the case so as to preclude finding that the three-year statute of limitations for assessments applied, and
- Even when an administrative tribunal or court holds that the Department of Revenue wrongly determined certain property was not taxable, the statute of limitations on assessments bars the Department from assessing a tax on the property more than three years after the tax return was filed.

TAX - MASSACHUSETTS

Outfront Media LLC v. Board of Assessors of Boston

Supreme Judicial Court of Massachusetts, Suffolk - April 22, 2024 - N.E.3d - 2024 WL

1707561

Taxpayer, which contracted with Massachusetts Bay Transportation Authority (MBTA) to use MBTA's outdoor advertising signs, sought abatement of real estate tax assessed by city of Boston for fiscal year at issue.

After City denied claim, taxpayer appealed to Appellate Tax Board, which upheld assessment. Taxpayer appealed, and action was transferred from Appeals Court to Supreme Judicial Court on latter court's own initiative.

The Supreme Judicial Court held that:

- Taxpayer "used" MBTA signs "in connection with a business conducted for profit" and, thus, was not entitled to abatement of real estate taxes, and
- Essential government function doctrine did not bar city of Boston from assessing real estate taxes upon taxpayer.

Taxpayer, which contracted with Massachusetts Bay Transportation Authority (MBTA) to use MBTA's outdoor advertising signs, "used" those signs "in connection with a business conducted for profit" and, thus, was not entitled to abatement of real estate taxes assessed by city of Boston for fiscal year at issue; taxpayer did not just provide services to MBTA but, also, used signs on public property to conduct a for-profit business, as agreement with MBTA gave taxpayer exclusive right to advertise on existing signs and to advertise on new signs designed and installed by taxpayer on MBTA property, to contract with private parties seeking to advertise on those signs, to install, license, operate and maintain telecommunications equipment on MBTA signs, to contract with those telecommunications companies, and taxpayer was compensated through revenue it generated from signs and equipment installed on signs, and could reap significant, uncapped profits from such operations.

Taxpayer, which contracted with Massachusetts Bay Transportation Authority (MBTA) to use MBTA's outdoor advertising signs, "used" those signs "in connection with a business conducted for profit" and, thus, was not entitled to abatement of real estate taxes assessed by city of Boston for fiscal year at issue, despite contention that statute governing MBTA's tax exemption incorporated a specific, restrictive, common-law meaning for term "use and occupancy" requiring greater possessory interest in property than that granted to taxpayer in order to be subject to taxation; statute did not refer to "use and occupation" and, instead, use of property alone was sufficient so long as it was in connection with a business for profit.

"Essential government function doctrine," which prohibited regulation of entities or agencies created by legislature in manner that interfered with their legislatively mandated purpose, did not bar city of Boston from assessing real estate taxes upon taxpayer, which contracted with Massachusetts Bay Transportation Authority (MBTA) to use MBTA's outdoor advertising signs, for fiscal year at issue; although taxing MBTA property when contracted out to private parties to operate businesses for profit could affect MBTA's negotiating power and lower revenues MBTA would be able to receive from private parties to support its provision of mass transportation services, such a possible reduction was understood by Legislature when it passed the specific exception to the MBTA's tax exemption for use of MBTA property "in connection with a business conducted for profit."

TAX - NEW JERSEY

Freda by Acme v. City of Sea Isle City

Tax Court of New Jersey - March 5, 2024 - 33 N.J.Tax 292

Taxpayer that operated a new supermarket filed tax appeal challenging property tax assessment.

City moved to dismiss.

The Tax Court held that:

- Unpaid non-residential development fee was not an unpaid "municipal charge" precluding tax appeal, and
- Unpaid planning board escrow fees were not unpaid "municipal charges."

An unpaid "municipal charge" that would prevent an appeal to the Tax Court challenging a property tax assessment from going forward is not merely a fee or imposition of a municipality; is part of a statutorily-specified class giving rise to a lien and eventual sale of the property

Unpaid non-residential development fee relating to taxpayer's new supermarket was not an unpaid "municipal charge" that would preclude an appeal to the Tax Court challenging property tax assessment, where there was no statutory authorization creating a lien for the development fee.

Unpaid city planning board escrow fees relating to taxpayer's new supermarket were not unpaid "municipal charges" that would preclude an appeal to the Tax Court challenging property tax assessment, where governing statute did not mention that escrow fees were a lien or charge.

Oklahoma Republicans Weigh Rolling Back Anti-ESG Law They Passed.

- **Oklahoma study shows anti-ESG law has caused higher debt costs**
- **The state's house is considering the Republican-backed bill**

Lawmakers in Oklahoma are having second thoughts about anti-ESG legislation that limits which Wall Street banks local governments can do business with.

A Republican-introduced bill that would narrow the scope of a state law that blacklisted financial firms for their restrictions on lending to oil, gas and coal companies, is making its way through Oklahoma's legislature.

The proposal comes as concerns mount that the 2022 law is driving up municipalities' borrowing costs in the state. Three major municipal-bond underwriters — Bank of America Corp., Wells Fargo & Co. and JPMorgan Chase & Co. — are on a state list of companies considered to "boycott" the fossil fuels industry.

A new study published Monday from the Oklahoma Rural Association — a group representing smaller communities — found that the state is incurring "avoidable" costs as a result of the law.

According to Oklahoma's Energy Discrimination Elimination Act, state agencies and political subdivisions can't contract with a company unless it provides a written verification that it doesn't boycott energy companies. In the 17 months since the law went into effect it's cost the state and its governments $185 million in additional expenses, the study estimated.

"This increase in borrowing costs imposes an unnecessary financial burden on Oklahoma

municipalities, potentially forcing them to cut spending on important public services or infrastructure projects, or raise taxes," according to the report's author, Travis Roach, an economics professor at the University of Central Oklahoma. The estimate is conservative, he noted.

The GOP stronghold is one of a handful of US states, including Texas, that enacted legislation targeting environmental, social and governance corporate policies in recent years, driving upheaval in local muni markets. Bank of America, Wells Fargo and JPMorgan are among the six companies considered energy boycotters by Oklahoma's Republican State Treasurer Todd Russ. Since the law went into effect, the firms have seen their public finance business in the state dry up.

Bank of America was Oklahoma's top muni bond underwriter in 2021 and has since ceded its spot to Robert W. Baird & Co., according to data compiled by Bloomberg. JPMorgan and Wells Fargo – also once major underwriters in Oklahoma — have also seen their public finance business there dwindle.

'Free Market' Barrier

Roach's study compared the average coupon rate on muni bonds sold in Oklahoma against those of states without a similar law. He found that Oklahoma's coupon rates are now 59 basis points higher than they would have been if the law didn't pass.

"This number will continue to grow for as long as the EDEA policy restricts municipalities from participating in a free market and selecting banks that meet their economic needs," he said.

Oklahoma's Senate Bill 1510, would rein in the energy law so it only applies to state agencies and no longer applies to cities and counties.

The bill was introduced by Republican state senator Chuck Hall, who is the chief executive officer of Exchange Bank and Trust Co. He told the Oklahoma Voice that he didn't think the law should pre-empt local decision-making. The legislation has advanced to the state house.

John Collison, director of the Oklahoma Rural Association, said that the bill is a "step in the right direction" and the group hopes it passes. Still, he said he would like to see more work done on the issue.

"The ideal outcome would be to get back to where we were two years ago and let the lending institutions lend to cities and municipalities and the state of Oklahoma at the best rate possible," he said.

Bloomberg Green

By Amanda Albright

April 22, 2024

Rockefeller Hires Ex-Invesco Portfolio Managers for Muni Roles.

Rockefeller Asset Management hired three former Invesco Ltd. portfolio managers as it builds out its fixed-income offerings.

Scott Cottier, Mark DeMitry, and Michael Camarella will help launch new high-yield muni investment strategies for the firm. They start in mid-June, will be based in Rochester, New York, and

report to Alex Petrone, director of fixed income.

The New York-based asset management division of Rockefeller Capital Management has $14 billion in assets under supervision. Its fixed-income business manages approximately $5 billion on behalf of investors.

“There are compelling opportunities in both high-yield and investment-grade municipal bonds today, and we remain committed to expanding our offering to enhance our ability to deliver alpha through actively managed strategies,” Petrone said in a statement on Monday.

Cottier, DeMitry and Camarella worked together at Oppenheimer Funds, as part of the Oppenheimer Rochester brand, before the company was acquired by Invesco. Cottier served as portfolio manager on one of the company’s top-performing high-yield muni funds there.

At Invesco, all three were portfolio managers on numerous muni-bond funds, including the Invesco California Municipal Fund.

Bloomberg Markets

By Amanda Albright and Martin Z Braun

April 22, 2024

S&P Charter School Brief: North Carolina

Overview

As of April 23, 2024, S&P Global Ratings maintains six public ratings on North Carolina charter schools. North Carolina began allowing charter schools to operate after passing the Charter Schools Act of 1996. As of the 2023-2024 school year, North Carolina is home to 211 charter schools serving approximately 145,000 students, representing around 9% of all public school students in the state.

Although our six rated North Carolina charter schools represent a small sample size, we believe growing charter school enrollment, compared with that of traditional district schools, reflects increasing demand for charter school options in the state.

Continue reading.

23 Apr, 2024

Bears Request More Than $2 Billion in Public Money to Fund $4.6 Billion Stadium Project.

The Chicago Bears have some big plans for the new stadium they’re looking to build to replace their longtime home of Soldier Field. Of course, they aren’t planning to pay for it all themselves.

The team revealed reveal plans Wednesday for a $4.6 billion project to build a new enclosed stadium on the Lake Michigan lakefront area. The team is planning to pledge $2.025 billion to make it

happen, leaving Illinois taxpayers on the hook for the remaining $2.6 billion.

For perspective, that works out to $183 per Illinois resident.

Continue reading.

Yahoo Sports

by Jack Baer & Liz Roscher

Wed, Apr 24, 2024,

Municipal Bonds: Warming to Prepaid Gas Bonds

These corporate-backed, tax-exempt issues represent a fast-growing segment of the municipal bond market. We think they offer an attractive opportunity.

“Prepaid gas” may make people think of the fuel-purchase cards sold at their local convenience store, but the term also applies to bonds issued in a lesser-known, but rapidly growing, segment of the municipal bond market. Here, we explain what they are, how they work, and why we believe they can present attractive opportunities in an actively managed tax-free bond portfolio.

What are prepaid gas bonds?

These are tax-exempt bonds issued by a municipal authority that enters contracts to purchase and supply natural gas or electricity to municipal utilities. While they pay tax-free income like a municipal bond, prepaid gas bonds have the backing of a corporate credit, typically a large bank or insurance company.

How does the transaction work?

Continue reading.

lordabbett.com

By Donald A. Annino, Wells Chen

April 23, 2024

Bonds Look Enticing Even If Rate Cuts Come Later Than Expected.

Even if higher-for-longer interest rates are applying downward pressure on bond prices — and conversely, upward pressure on yields — bonds still look enticing. Vanguard has a few bond-focused exchange-traded funds (ETFs) that are worth considering.

The prolonging of rate cuts is adding a speed bump to the equities rally, and likewise, bonds. While the Federal Reserve continues to fish for econometrics that provide the green light to institute rate cuts, the environment is still ripe for picking bonds as long as investors know in which corners of the

market to look.

“Still, fixed income experts see the rate climate improving if the Fed manages to push through a cut or two later in the year,” Barron’s reported. “Yields are attractive, and if the economy stays healthy, credit metrics should hold up, supporting prices in corporate debt. All that could make for good opportunities within the bond universe, particularly in investment-grade corporate, junk bonds, and floating-rate bank loans. Municipal bonds also are attractive.”

“Adding exposure to high-quality bonds is a good idea for investors sitting in cash,” said Matthew Palazzolo, senior investment strategist at Bernstein Private Wealth Management. “You can get an attractive level of income and price appreciation.”

As the report mentioned, corporate debt presents a compelling option to fixed income investors. One fund to look at is the Vanguard Short-Term Corporate Bond Index Fund ETF Shares (VCSH). The fund seeks to track the performance of a market-weighted corporate bond index with a short-term dollar-weighted average maturity. It employs an indexing investment approach designed to track the performance of the Bloomberg Barclays U.S. 1-5 Year Corporate Bond Index. As of April 12, it offers a 30-day SEC yield of 5.24%.

A Treasury and Muni Option to Consider

Those who don’t want the additional credit risk of corporate debt can stay within the confines of safer Treasuries via the Vanguard Short-Term Treasury ETF (VGSH). It offers ideal exposure to short-term Treasury notes, focusing on maturity dates that fall within one to three years. Its 30-day SEC yield stands at 4.80%.

The Barron’s report also mentioned munis, so another fund to consider is the well-diversified Vanguard Tax-Exempt Bond ETF (VTEB). The fund tracks the Standard & Poor’s National AMT-Free Municipal Bond Index, which measures the performance of the investment-grade segment of the U.S. municipal bond market. Overall, this index includes municipal bonds from issuers, primarily state or local governments or agencies whose interests are exempt from U.S. federal income taxes, and the federal alternative minimum tax. Its 30-day SEC yield is 3.49%.

ETFTRENDS.COM

by BEN HERNANDEZ

APRIL 23, 2024

Vegas-to-California $12 Billion Rail Line Kicks Off Construction.

- **Brightline West awarded $3 billion under infrastructure bill**
- **Fortress-backed rail refinancing some $4 billion for Florida**

Brightline West, a $12 billion high-speed rail project connecting Las Vegas to Southern California, broke ground Monday, the latest step in bringing high-speed rail to the US.

“People have been dreaming of high-speed rail in America for decades — and now, with billions of dollars of support made possible by President Biden’s historic infrastructure law, it’s finally happening,” Department of Transportation Secretary Pete Buttigieg said in a statement.

The Fortress Investment Group-backed rail operator is projected to run 218 miles (about 350 kilometers) along the median of Interstate 15. Trains will be capable of running at speeds of 200 miles per hour, making it the first true high-speed rail line in the US. Amtrak’s 457-mile Acela service on the East Coast tops out at 150 miles per hour and is variously labeled high-speed or “higher-speed.”

The project has been in the works for years as Brightline — the operator of the first new US private passenger railroad in more than a century — seeks to expand its footprint outside of Florida.

Currently, the rail company is seeking to refinance roughly $4 billion in debt for its Florida line. Brightline plans to sell $2 billion of municipal bonds with some of the lowest investment grade ratings as well as about $1.25 billion of subordinate taxable debt.

Last year, Brightline West was awarded $3 billion in funding under President Joe Biden’s Bipartisan Infrastructure Bill. The rest of the project will be privately funded and has also received a total allocation of $3.5 billion in private activity bonds from the US Department of Transportation.

“This is a historic project and a proud moment where we break ground on America’s first high-speed rail system and lay the foundation for a new industry,” said Wes Edens, Brightline founder. “Today is long overdue, but the blueprint we’ve created with Brightline will allow us to repeat this model in other city pairs around the country.”

Bloomberg Industries

By Skylar Woodhouse

April 22, 2024

San Francisco’s Sluggish Recovery Puts S&P Credit Rating at Risk.

- **Outlook on the city’s debt cut to negative from stable by S&P**
- **Rating firm cites slow revenue recovery and swelling budget**

San Francisco’s sluggish recovery from the pandemic, coupled with growing budgetary expenditures, threatens to deteriorate the city’s ability to repay its debt, according to S&P Global Ratings.

The outlook on the city-county's outstanding general obligation and appropriation debt was cut to negative from stable this week by the ratings company. The weakness in the city's commercial real estate market and tourism activity were factors that drove the move, S&P said. Adding to the city's burdens, San Francisco's budget expenditures outpaced revenue growth in fiscal 2023.

"We believe management will be challenged to make the cuts needed to restore it to budgetary balance during the outlook horizon, which could lead to rating pressure if the city's general fund reserves decline precipitously," S&P said in a release.

Persistent work-from-home habits, inordinately expensive real estate, homelessness and crime are colliding to threaten the city's growth and its spot among the world's top-tier metropolises.

A change in outlook doesn't necessarily mean that the credit rating will be adjusted. However, a top credit rating is often a point of pride for public officials, and losing it could make it more expensive for the city to borrow in the municipal-bond market.

The ratings company also affirmed its AAA long-term rating and underlying rating on San Francisco's outstanding general obligation debt, citing ample general fund reserves that give the city-county room to weather projected deficits during the next two years.

Bloomberg CityLab

By Maxwell Adler

April 22, 2024

Gloria Vanderbilt's Prep School Joins Boomlet in Muni Market.

- **An $11 million tax-exempt bond sold on behalf of the school**
- **Proceeds of sale to go to new eight-lane pool, other amenities**

The Wheeler School, where heiress Gloria Vanderbilt attended, is joining other elite private schools in taking on debt to spruce up its campus on a farm in Massachusetts.

The Massachusetts Development Finance Agency, an agency that sells debt on behalf of nonprofits, sold an $11 million tax-exempt bond for the school to build a new eight-lane pool, an outdoor splash pad and a nature-based early learning center at its campus in Seekonk, Massachusetts, according to a statement by the agency on Thursday.

It is the latest elite school to sell debt in an effort to enhance their campuses with bells and whistles. In Connecticut, Loomis Chaffee School sold bonds for campus projects in December, and the Brunswick School issued debt in the fall. Curtis School, a private school catering to wealthy Los Angeles residents, tapped the municipal market earlier this year.

Continue reading.

Bloomberg Markets

By Amanda Albright and Sri Taylor

April 25, 2024

GFOA' April Issue of Government Finance Review.

This month's magazine highlights how to architect a budget process, budgeting transparency initiatives, overcoming fear and resistance to create positive organizational change, payroll processing, GASB 102, ERP contracts, members spotlights and much more.

The full issue of the April 2024 Government Finance Review is available to read electronically. Individual articles are available for download below.

READ FULL ISSUE

- U.S. Supreme Court: Takings Clause Applies to Impact Fees on New Development – Brownstein
- SLFRF Portal Updates for April 2024.
- Mintz: EPA Has Now Listed Two PFAS as Hazardous Substances Under CERCLA. Hold Onto Your Hats.
- Accounting for Capital Assets – GFOA In-Person Training.
- Accounting and Financial Reporting for Investments – GFOA In-Person Training
- Texas Muni Borrowers Bemoan Anti-ESG Laws Restricting Banks.
- And Finally, Great "Moments" In Superfluous Punctuation is brought to us this week by *Fleureme v. City of Atlanta*, in which Roodson Fleureme sued the City of Atlanta after a city employee "failed to yield" and "ran over" him on the sidewalk. (Presumably he's had better days.). Those aren't my quotation marks; they come to us directly from the Georgia Court of Appeals. In what conceivable universe – or Southern City – is "ran over" some kind of slang or term of art? May we suggest hitting the Honorable Kenneth Bryant Hodges III (a name begging for a wedgie) with a car and enquiring of him whether he has been "run over," has "kinetically encountered the front bumper of a vehicular transport," or simply squashed "like" a bug. All that being said, what the hell is a Roodson Fleureme and why is it not legal to "run over" such a thing on sight?

MUNICIPAL ORDINANCE - ALABAMA

City of Gulf Shores v. Coyote Beach Sports, LLC

Supreme Court of Alabama - April 12, 2024 - So.3d - 2024 WL 1592183

Company that rented out motor scooters, which were deemed motor-driven cycles under state law, brought action against city for a judgment declaring that city ordinance that required renters of motor scooters to have a motorcycle license or motorcycle license endorsement was invalid.

Company also sought monetary damages and attorney fees and costs.

After a jury trial, the Circuit Court entered final judgment that declared that the ordinance was preempted by state law and that awarded company compensatory damages pursuant to the jury's verdict. and the Court later entered an order that awarded company attorney fees. City appealed both the judgment and the order, and the Supreme Court consolidated those appeals.

The Supreme Court held that state law did not preempt the ordinance.

MUNICIPAL CORPORATIONS - CALIFORNIA

City of Santa Cruz v. Superior Court of Santa Cruz County

Court of Appeal, Sixth District, California - April 16, 2024 - Cal.Rptr.3d - 2024 WL 1633744

City filed petition for writ of mandate directing the Superior Court to vacate order sustaining in part and overruling in part city's demurrer and to enter new order sustaining demurrer to county's entire first amended complaint alleging county incurred more than $1.2 million in costs for emergency repairs to portion of road located within city's jurisdiction on ground that county failed to plead its compliance with city ordinance's claim-presentation requirement.

The Court of Appeal held that:

- City ordinance applied to claims expressly excepted by the Government Claims Act from its claim-presentation requirement, and
- City ordinance applied to all of county's claims against city, including cause of action for declaratory relief.

Phrase "not governed by," as used in city ordinance establishing pre-suit presentation requirement for claims which were not governed by Government Claims Act section imposing presentation requirement for all claims except for enumerated claims, encompassed claims expressly excepted by the Act from its claim-presentation requirement, even if using "not excepted by" instead of "not governed by" would have been clearer; ordinance expressed clear intent to broadly impose requirement, such that there would be no reason why city would adopt ordinance expressly excluding claims already excluded by Government Claims Act, and ordinance language and structure tracked Government Claims Act section empowering local public entities to establish presentation policies and procedures for exempted claims.

City ordinance establishing pre-suit presentation requirement for claims which were not governed by Government Claims Act section imposing presentation requirement for all claims except for enumerated claims applied to all of county's claims against city in connection with $1.2 million incurred by county for emergency repairs to portion of road located within city's jurisdiction, including cause of action for declaratory relief; primary purpose of county's action was to obtain damages.

LIABILITY - GEORGIA

Fleureme v. City of Atlanta

Court of Appeals of Georgia - April 12, 2024 - S.E.2d - 2024 WL 1594606

Plaintiff filed suit against city and city employee for injuries sustained when employee "failed to yield" and struck plaintiff on public sidewalk.

City filed motion to dismiss due to plaintiff's noncompliance with ante litem notice statute. The State Court granted motion, and plaintiff appealed.

The Court of Appeals held that:

- General service statute did not control over specific statute governing claim for money damages against municipality, which mandated that service of ante litem notice of such claim "shall be

served" upon mayor or chairperson of city council or city commission "personally or by certified mail or statutory overnight delivery";
- Plaintiff's service by statutory overnight mail of ante litem notice of claim with envelope addressed to "[city] City Hall[, city] City Council" failed to strictly comply with statute mandating that notice of claim be served upon mayor or chairperson of city council or city commission, as prerequisite to suit; and
- Service by statutory overnight mail of ante litem notice with envelope mailing label addressed to "Office of the Mayor," failed to strictly comply with statute mandating that ante litem notice of claim be served upon mayor or chairperson of city council or city commission.

PUBLIC RECORDS - NEW JERSEY

American Civil Liberties Union of New Jersey v. County Prosecutors Association of New Jersey

Supreme Court of New Jersey - April 17, 2024 - A.3d - 2024 WL 1644543

Civil rights group brought action against nonprofit organization comprised of county prosecutors seeking order compelling production of requested documents, including meeting minutes and funding records, as well as declaratory judgment stating that organization was subject to Open Public Records Act (OPRA) and common law public right of access.

The Superior Court granted organization's motion to dismiss for failure to state a claim. Civil rights group appealed. The Superior Court, Appellate Division, affirmed. Civil rights group's petition for certification was granted.

The Supreme Court held that:

- Organization was not a "public agency" required to disclose records pursuant to OPRA, and
- Organization was not a "public entity" subject to common law right of access to records.

Nonprofit organization comprised of county prosecutors was not a "public agency" required to disclose its records pursuant to the Open Public Records Act (OPRA); organization was distinct from county prosecutors, not their alter ego, it instead constituted an association in which county prosecutors were members and had no constitutional or statutory powers of any kind, nor was it authorized to investigate, arrest, or prosecute anyone.

Nonprofit organization comprised of county prosecutors was not a "public entity" subject to common law right of access to records and accordingly was not required to provide requested documents concerning meeting minutes and membership to civil rights group; organization was a private, tax-exempt, and unstaffed entity, its governing body was comprised of seven voting members, no statute, regulation, or other mandate required organization to create or maintain the documents in dispute, and the documents were not maintained in a public office.

SCHOOL FUNDING - OKLAHOMA

Independent School District #52 of Oklahoma County v. Walters

Supreme Court of Oklahoma - April 2, 2024 - P.3d - 2024 WL 1399463 - 2024 OK 23

School districts brought action for writs of mandamus against defendants including Department of

Education, alleging that districts received insufficient state aid payments for certain years. Other school districts intervened, and case was consolidated with a separate action that had been filed with another school district.

The District Court granted summary judgment to intervening districts, finding no requirement for defendants to seek repayment of excessive state aid payments made to certain schools until an audit was performed by auditors approved by the State Auditor and Inspector.

Plaintiff districts appealed. The Supreme Court affirmed in part, reversed in part, and remanded for District Court to adjudicate whether school districts had standing to bring claims. On remand, the District Court granted defendants' summary judgment motion, and denied plaintiffs cross-motion for summary judgment. Plaintiffs appealed.

The Supreme Court held that:

- State aid funds were general revenue funds that had lapsed within 30 months of their appropriation;
- State Board of Education's statutory mechanism for recoupment of state aid funds did not confer standing on school districts to seek to recover funds from lapsed past appropriations of state aid through mandamus action;
- State aid funds sought by school districts were not ad valorem revenue;
- Tolling exception did not apply; and
- Date to determine whether state aid appropriations sought by school districts had lapsed was the date school districts commenced action in District Court.

PUBLIC CONTRACTS - TEXAS

Campbellton Road, Ltd. v. City of San Antonio by and through San Antonio Water System

Supreme Court of Texas - April 12, 2024 - S.W.3d - 2024 WL 1590000

Property developer, which owned 585 acres within city's extra-territorial division, brought breach of contract and declaratory judgment action against city by and through city's water agency, arising from water agency's agreement with developer that agency would provide sewer service for proposed residential developments on property.

The 150th District Court denied water agency's plea to the jurisdiction, and motion to dismiss for lack of subject matter jurisdiction. Water agency filed interlocutory appeal. On appeal, the San Antonio Court of Appeals reversed and remanded, finding the Local Government Contract Claims Act did not apply to waive city's immunity. Developer filed petition for review.

The Supreme Court held that:

- Developer sufficiently pleaded that written, bilateral contract was formed, as would support waiver of city's sovereign immunity under the Act;
- Developer sufficiently pleaded that written, unilateral contract was formed, as would support waiver of city's sovereign immunity under the Act;
- Contract terms contemplated that agency had right to developer's participation in project upon contract signing, as would support waiver of city's sovereign immunity under the Act; disapproving *Big Blue Props. WF, LLC v. Workforce Res., Inc.*, 2022 WL 1793516; *W. Travis Cnty. Pub. Util. Agency v. Travis Cnty. Mun. Util. Dist. No. 12*, 537 S.W.3d 549; *CHW-Lattas Creek, L.P. v. City of*

Alice, 565 S.W.3d 779;
- Contract terms contemplated provision of payment to developer, as required to trigger waiver of sovereign immunity under the Act; and
- Developer sufficiently pleaded that contract contemplated provision of services to agency, as required to trigger waiver of sovereign immunity under the Act.

PUBLIC CONTRACTS - TEXAS

San Jacinto River Authority v. City of Conroe

Supreme Court of Texas - April 12, 2024 - S.W.3d - 2024 WL 1590001

Private utilities filed suit against San Jacinto River Authority (SJRA), claiming breach of groundwater reduction plan (GRP contracts. SJRA filed counterclaims against utilities and third-party claims against cities, claiming breach of GRP contracts by failing to pay required water rates and pumpage fees for surface water sold to cities in order to transition from groundwater use to surface water use.

The 284th District Court granted cities' pleas to jurisdiction, asserting their statutory immunity had not been waived under Local Government Contract Claims Act, and dismissed SJRA's claims against cities. SJRA filed interlocutory appeal. The Beaumont Court of Appeals affirmed. SJRA petitioned for review.

The Supreme Court held that:

- In matter of first impression, contractual adjudication procedures made enforceable by Local Government Contract Claims Act are not limitations on Act's immunity waiver;
- Government Code provision stating that statutory prerequisites to suit were jurisdictional in suits against governmental entity did not apply;
- Pre-suit mediation procedures in GRP contracts did not apply; and
- GRP contracts stated essential terms so cities waived immunity.

Municipal CUSIP Request Volumes Rise for Second Consecutive Month.

NORWALK, Conn., April 18, 2024 (GLOBE NEWSWIRE) — CUSIP Global Services (CGS) today announced the release of its CUSIP Issuance Trends Report for March 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 monthly increase in request volume for new municipal identifiers, while requests for corporate identifiers slowed on a monthly basis.

North American corporate requests totaled 6,752 in March, which is down 13.0% on a monthly basis. On a year-over-year basis, North American corporate requests closed the month up 9.4%. The monthly volume decline was driven by a 19.9% decrease in request volume for U.S. corporate debt identifiers, a 12.4% decrease in request volume for short-term certificates of deposit (CDs) with maturities of less than one year, and a 14.1% decrease in request volume for long-term CDs with maturities of more than one year.

The aggregate total of identifier requests for new municipal securities – including municipal bonds, long-term and short-term notes, and commercial paper – rose 3.2% versus February totals. On a year-over-year basis, overall municipal volumes are up 5.6%. Texas led state-level municipal request

volume with a total of 92 new CUSIP requests in March, followed by New York (65) and Wisconsin (62).

“We’ve seen steady, strong demand for new municipal identifiers throughout the first quarter of this year,” said Gerard Faulkner, Director of Operations for CGS. “While there has been quite a bit more volatility in the corporate segment, particularly around corporate debt and CDs, the municipal space is clearly one to watch as we make our way through the first part of the year.”

Requests for international equity CUSIPs rose 53.1% in March and international debt CUSIP requests rose 29.2%. On an annualized basis, international equity CUSIP requests are down 3.8% and international debt CUSIP requests are up 102.0%.

To view the full CUSIP Issuance Trends report for March, please click here.

SLFRF Portal Updates for April 2024.

The State and Local Fiscal Recovery Funds (SLFRF) portal has three significant updates that recipients should be aware of as they get ready to file this April.

The portal is the mechanism that municipalities use to file either annual or quarterly reports on obligations and expenditures for their respective municipality.

This reporting cycle, the U.S. Department of Treasury has instituted three new pages that recipients will have to navigate through. The rest of the portal will be familiar to recipients.

Continue reading.

National League of Cities

by Michael Gleeson

APRIL 15, 2024

Mintz: EPA Has Now Listed Two PFAS as Hazardous Substances Under CERCLA. Hold Onto Your Hats.

Less than ten days after setting drinking water standards for six of the hundreds of chemicals known collectively as PFAS, EPA has now identified two of those PFAS that have been widely used for decades, PFOA and PFOS, as hazardous substances under CERCLA.

The media will report this as breaking news, and it is monumental but it is most certainly not a surprise. As EPA’s reminds us, EPA promised to do exactly this in its PFAS road map issued in the fall of 2021. It is nothing short of extraordinary that EPA is only about six months later than it hoped in doing these things.

On April 10, EPA reported its conclusion that ***zero*** is the concentration of these PFAS in drinking water that does not present a risk to human health, so we can now expect an avalanche of CERCLA litigation over the most minute concentrations of these PFAS in water that might be a drinking water

source (the enforceable drinking water limit for each of these PFAS is 4 parts per ***trillion***).

Continue reading.

Mintz – Jeffrey R. Porter

April 19, 2024

PFOA and PFOS are CERCLA Hazardous Substances; Prepare Accordingly

The U.S. Environmental Protection Agency (EPA) released its Pre-Publication Notice of a Final Rule designating Perfluorooctanoic Acid (PFOA) and Perfluorooctanesulfonic Acid (PFOS), along with their salts and structural isomers, as hazardous substances under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), also known as Superfund. According to EPA, this designation is based on significant evidence, including epidemiological and toxicological studies, that PFOA and PFOS, when released into the environment, may present a substantial danger to public health or welfare or the environment.

Release Reporting

The rule requires releases of PFOA and PFOS that meet or exceed the reportable quantity (1 pound) within a 24-hour period to be reported to the National Response Center, state or tribal emergency response commission, and the local or Tribal emergency planning committee for the areas affected by the release. This reporting requirements applies to both continuous and non-continuous releases.

PFAS Enforcement Discretion Policy Announced

Simultaneous to the final designation of PFOA and PFOS as CERCLA hazardous substances, EPA issued a PFAS Enforcement Discretion and Settlement Policy Under CERCLA that provides direction on how EPA will exercise its enforcement discretion regarding per- and polyfluoroalkyl substances (PFAS) contamination in the environment. According to the policy, EPA "will focus on holding responsible entities who significantly contributed to the release of PFAS into the environment, including parties that manufactured PFAS or used PFAS in the manufacturing process, federal facilities, and other industrial parties."

Continue reading.

Michael Best & Friedrich LLP – Leah Hurtgen Ziemba, Todd E. Palmer, David A. Crass, Joseph Louis Olson and Eric J. Callisto

April 19 2024

S&P U.S. State Ratings And Outlooks: Current List

View the Current List.

19 Apr, 2024 | 16:01 United States of America

Fitch U.S. Public Finance Rating Actions Report and Sector Updates: First-Quarter 2024

Positive rating momentum accelerated in 1Q24 for the U.S. Public Finance (USPF) sector, which saw upgrades strongly outpace downgrades. Fitch Ratings upgraded 45 USPF ratings and downgraded 13 during the quarter, compared to 35 and 20, respectively, in 4Q23. Upgrades represented approximately 4.2% of rating activity in the quarter, while downgrades represented approximately 1.2%. Three of eight USPF 2024 sector outlooks are deteriorating, with the remaining two at neutral relative to 2023.

ACCESS REPORT

Wed 17 Apr, 2024

S&P U.S. Not-For-Profit Health Care Outstanding Ratings And Outlooks As Of March 31, 2024

View the S&P Ratings and Outlooks.

19 Apr, 2024 | 16:12 United States of America

S&P U.S. Higher Education Rating Actions, First-Quarter 2024

S&P Global Ratings took 20 rating actions and maintained 73 ratings in the U.S. not-for-profit higher education sector during the first quarter of 2024. The 20 rating actions include one rating withdrawal and are broken out as follows.

Continue reading.

18 Apr, 2024

S&P: U.S. Charter School Rating Actions, First-Quarter 2024

During the first quarter of 2024 (Jan. 1-March. 31), S&P Global Ratings changed its rating or revised the outlook on 25 U.S. charter schools. S&P Global Ratings also assigned four new ratings and maintained 37 ratings across the sector. The 29 rating actions are broken out as follows:

Continue reading.

15 Apr, 2024

Public Funding for Sports Stadiums: A Primer and Research Roundup

Team owners looking to build or revamp big league sports stadiums often seek public funds in the hundreds of millions of dollars. But research conducted over decades indicates these investments almost never lead to massive economic gains for host cities.

In June 2023, Nevada legislators approved $380 million in public funding for a 30,000-seat ballpark for the Oakland A's, who are expected to throw their first pitch in Las Vegas in 2028 after Major League Baseball owners approved the franchise move in November.

It's the latest public commitment of hundreds of millions of dollars for a professional sports stadium. In the U.S., most franchises in the four major sports leagues — MLB, the National Football League, the National Basketball Association and the National Hockey League — are valued at over $1 billion.

Across those leagues there have been eight new stadiums or arenas built since 2020, at a total construction cost of roughly $3.3 billion, according to a September 2023 paper in the Journal of Policy Analysis and Management. About $750 million in public funds went toward those construction projects, the paper finds.

Continue reading.

The Journalist's Resource

by Clark Merrefield | April 10, 2024

Simplifying Federal Grant Compliance for All Municipalities.

NLC is making great strides to improve grant compliance for all municipalities. Out of the American Rescue Plan's State and Local Fiscal Recovery funds, NLC realized that many municipalities struggled with compliance and reporting. For those who did OK and wanted to seek a competitive grant, the order might have seemed too tall.

Over the past two years, NLC has been working with the Majority Staff of the Senate Homeland Security and Government Affairs Committee (HSGAC) on drafting a bill that would help municipalities better navigate the federal grant process.

A representative from HSGAC joined the Finance, Administration, and Intergovernmental Relations (FAIR) federal action committee at NLC's 2023 Congressional Cities Conference to gather feedback from members about the challenges they are navigating with grants. That feedback was carefully incorporated into the Streamlining Federal Grants Act of 2023 (S. 2286 and H.R.5934).

Continue reading.

National League of Cities

by Michael Gleeson

APRIL 12, 2024

Tiny Texas City Repels Russia-Tied Hackers Eyeing Water System.

- **Water utility attacks in Texas tied to notorious Sandworm**
- **Other recent breaches on water systems linked to China, Iran**

When Mike Cypert got the call that utilities in remote Texas communities were being hacked, he raced across his office to unplug the computer that ran his city's water system.

Hale Center is a dusty, cotton-growing burg of 2,000 about five hours drive northwest of Dallas. After the alert from a software vendor in January, Cypert, the city manager, said he found thousands of attempts to breach Hale Center's firewall, some coming from an internet address that traced back to St. Petersburg, Russia.

Within minutes of the discovery, Cypert said he reported the episode to agents from the FBI and US Department of Homeland Security, who were already looking into related incidents in nearby Texas towns. One of the hacks caused a water tank in another city to overflow.

Continue reading.

Bloomberg Technology

By Jake Bleiberg

April 19, 2024

WSJ: Liberal Cities, Conservative Towns Seek Supreme Court's Help on Homelessness

Local leaders claim power to keep parks and sidewalks clear, but a lower court said punishing people who have nowhere else to go is unconstitutional

A Supreme Court case on the limits of vagrancy laws is making allies of rural towns and big cities at their wits' end over homelessness.

The court on Monday will hear arguments on how far municipalities can go in prohibiting camping on public property, laws that police employ to clear homeless people from parks and streets. A federal appeals court in San Francisco has found such measures unconstitutional when enforced against those with nowhere to go, prompting an appeal backed by many of the cities facing housing crises, including Los Angeles; Portland, Ore.; and San Francisco.

Monday's case originated far from the urban centers typically associated with homelessness. It comes instead from Grants Pass, Ore., where in March 2013, officials convened a community roundtable over "vagrancy problems" afflicting the small city along the Rogue River. "The point," said one city councilor, "is to make it uncomfortable enough for them in our city so they will want to move on down the road."

Continue reading.

The Wall Street Journal

By Jess Bravin

April 21, 2024

The Surprising Political Difficulty of Promoting Infrastructure Safety.

For politicians, there are lots of incentives in favor of new construction projects but not much for maintenance. That can lead to deadly results, as the bridge collapse in Baltimore demonstrated.

Following the March 26 collapse of Baltimore's Francis Scott Key Bridge, many pressing questions remain about the tragedy that shocked a nation and took the lives of six people. This includes the most obvious: Could this accident have been avoided?

In the coming months, the National Transportation Safety Board will conduct an exhaustive technical investigation to determine the exact sequence of events that led to the ship's power failure and the catastrophic ensuing collision with one of the main pillars that held up the Key Bridge. But the board's final report will only tell part of the story. The full explanation involves a complex mixture of maritime and civil engineering — and politics.

When the Key Bridge was completed in 1977, it represented a momentous engineering achievement. Its main 1.6-mile span was the second longest continuous truss bridge in the United States. Prior to its collapse, an average of 30,000 vehicles crossed each day. Given the enormous volume of maritime cargo that passed beneath the Key Bridge every year, its span is notable for what it lacks — reinforced protective barriers around the main support columns, often called fenders.

Continue reading.

governing.com

OPINION | April 18, 2024 • Kevin DeGood, Center for American Progress

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3 Tips for Short-Term Land-Use Planning.

COMMENTARY | As populations grow and real estate requirements change, cities or counties should regularly evaluate their mix of land use designations so they get the kind of development they can live with long term.

Like most cities, Rancho Cucamonga, California, has a detailed, 20-year general plan that establishes a common ground for making decisions about the future. But because of the community's evolving needs, values or long-term issues, such as climate change, health and wellness or land use, that plan is regularly reviewed.

One of the most important elements in the general plan is land use designation, which specifies the type, intensity and distribution of land used for a variety of public and private purposes, such as housing, business, industry, open space, education, public buildings and waste disposal facilities. Proper land use is critical because it shapes other significant planning decisions involving transportation, electricity, water demand and more.

As populations grow and real estate development requirements change, cities or counties must regularly evaluate their mix of land use designations to properly classify and distinguish the various land uses needed within their jurisdiction and allowable by code. This evaluation and its impact on land use planning directs how, where and what kind of development may occur. Plotting the distribution of these designations is referred to a land use map, controls or table.

Continue reading.

Route Fifty

By John R. Gillison

APRIL 19, 2024

U.S. Supreme Court: Takings Clause Applies to Impact Fees on New Development - Brownstein

The *Sheetz v. County of El Dorado* decision will create uncertainty in California, Arizona, Nevada, Colorado and many other states as cities, counties, developers and property owners reexamine whether existing impact fee programs could result in an unconstitutional taking.

Many states fund the construction of roads, schools, sewers, libraries and other essential infrastructure by collecting impact fees on new development. The amount of the impact fee may be calculated based on the type of development and its location. This municipal financing structure, however, has been premised on an understanding that the Takings Clause of the U.S. Constitution does not apply to impact fees established by legislative action and applied generally to all classes of development.

On April 12, 2024, the Supreme Court of the United States issued a unanimous opinion in *Sheetz v. County of El Dorado, California*, 601 U.S. ___ (2024) (*Sheetz*), clarifying that the Takings Clause does apply to legislatively established land-use permit conditions, like development impact fees. The Supreme Court's decision resolves a split in how state courts viewed this question but stops short of providing a definitive answer on "whether a permit condition imposed on a class of properties must be tailored with the same degree of specificity as a permit condition that targets a particular development."

Continue reading.

Brownstein Hyatt Farber Schreck

April 18, 2024

Fortress-Backed Brightline Asks Investors to Bet on Florida Rail.

- **$2 billion of investment-grade muni debt may price next week**
- **Rail will need to raise more cash for California-Vegas line**

Brightline, the first new US private passenger railroad in more than a century, is betting it can lure more Floridians out of their cars — but first, it is refinancing roughly $4 billion in debt.

The Fortress Investment Group-backed rail is reshuffling its debt in advance of a July 1 interest payment that should provide breathing room to ramp up operations after the opening of its long-haul Orlando line fell behind schedule and ridership came up short of the firm's own projections.

Success for Brightline hinges on convincing travelers to take the train all 235 miles (378 kilometers) to Orlando as the rail seeks to replicate Amtrak's popular Acela service in the Northeast, without government subsidies.

Continue reading.

Bloomberg Markets

By Martin Z Braun

April 18, 2024

Muni Funds Lose Most Cash Since 2022 With Fed Delaying Cuts.

- **Investors pull $1.5 billion from muni funds in last week**
- **This week's outflow 'unlikely to be a one-off': Barclays**

Investors yanked money from municipal bond funds at the fastest clip in more than a year as they sold assets to pay income taxes and tried to protect returns amid signals that the Federal Reserve will keep rates higher for longer.

Municipal bond funds saw an outflow of $1.5 billion during the week ended Wednesday, according to LSEG Lipper Global Fund Flows data, the largest retreat since December 2022. The exodus broke eight consecutive weeks of inflows, spurring debate about whether this week would start an outflow cycle.

Tax season is one reason for the selling given investors often dump tax-exempt municipal holdings to pay what they owe around the April 15 filing deadline, said Kathleen McNamara, senior municipal strategist at UBS Global Wealth Management. The other factor is volatile and rising Treasury yields that have pushed "skittish" retail investors to the sidelines, she said.

Continue reading.

Bloomberg Markets

By Shruti Singh and Nic Querolo

April 19, 2024

Industry Veteran Sees 2024 Muni Sales Hitting as High as $440 Billion.

- **He now expects a gain of as much as 15%, instead of 5%**

- **Issuance to near normal levels after ‘abnormally low’ period**

A strong start to the year is stoking veteran municipal bond investor John Miller’s prediction for sales in the $4 trillion market for state and local government debt.

Municipal issuance will rise 10% to 15% to as high as $440 billion this year, the head and chief investment officer of the high-yield muni credit team at First Eagle Investments said. When the year started, he had expected a 5% increase to $400 billion but surging first-quarter sales led him to revise his estimates upward.

“So far we’ve come out of the gates a bit on the high end,” Miller said. “I am being influenced, I have to admit, by the first quarter.”

Continue reading.

Bloomberg Markets

By Shruti Singh

April 18, 2024

MSRB Announces Discussion Topics for Quarterly Board Meeting.

Washington, DC – The Board of Directors of the Municipal Securities Rulemaking Board (MSRB) will meet on April 17-18, 2024, holding the third quarterly meeting of fiscal year 2024 to advance its FY 2022-2025 Strategic Plan.

Market Regulation

The Board will discuss regulatory matters and receive updates on several on-going Market Regulation initiatives including:

- Notice 2023-11: Review of public comments to Request for Information on Impacts of MSRB Rules on Small Firms.
- Rule G-12(c): Potential codification of confirmation requirements for certain inter-dealer trades.
- Rule G-14: Pending rule proposal to shorten the timeframe for trade reporting.
- Rule D-15: Potential modifications to the definition of a sophisticated municipal market professional (SMMP).
- Form G-32: Review of recent changes to the submission process for primary market disclosures to the MSRB’s EMMA website.

Market Transparency

The Board will receive an update regarding work to modernize the Electronic Municipal Market Access (EMMA) website and related market transparency systems.

Additionally, the Board will review recent and upcoming research and education publications and discuss potential opportunities for future pieces.

MSRB to Seek Comment on Form A-12.

The Municipal Securities Rulemaking Board has approved a request for comment for amendments to its Form A-12 under its registration rule A-12, which would collect information on associated persons from bank dealers for display on MSRB.org.

That step was approved during the MSRB's second quarter meeting that concluded Thursday. The meeting also discussed a bevy of other regulatory efforts concerning its rule book, in addition to discussing the outcomes of its stakeholder meeting, also held this week.

The forthcoming request for comment on Form A-12 aims to make similar information available for bank dealers as it already does for municipal advisors, in addition to adding certain technical amendments to the rule.

"Modernizing MSRB rules and technology is a key focus for the Board as it works to provide greater transparency while protecting and strengthening the municipal securities market," said MSRB chair Meredith Hathorn. "We continue to make progress on our strategic objectives, while also identifying important ways to enhance our broader outreach to the industry and stakeholders to hear their diverse perspectives."

The MSRB also approved the issuance of a concept proposal, seeking input on the potential for creating a standalone rule requiring dealers to deliver primary offering disclosures to customers for municipal fund securities, including 529 plans and ABLE programs.

For other rules, the MSRB discussed its pending rule proposal for G-14 on customer transaction reporting, or its switch to a one minute trade reporting window. The board discussed comments received as part of its January 2024 rule filing and discussed next steps around final approval by the Securities and Exchange Commission.

"The SEC does have to take action on the MSRB and FINRA's rule filings before the end of this month," said Mark Kim, chief executive officer of the MSRB.

The board also discussed Rule G-12(c) the subsection of its uniform practices rule concerning inter-dealer confirmations and the potential codification of confirmation requirements, potential modification modifications to its sophisticated municipal market professional definition as part of Rule D-15, and reviewed changes to the submission process for primary market disclosure on Form G-32.

The board further discussed public comments received as part of its request for information on small firms and received a briefing on the muni market impact of the SEC's newly adopted Rule 192 on conflicts of interest on certain securitizations.

Finally, the board discussed its second stakeholder meeting on its budgeting process. The board, as well as much of the market waits to hear what the Commission will do in response.

"We look forward to continued engagement with our stakeholders as we advance the MSRB's mission of protecting and strengthening the municipal securities market," Kim said.

By Connor Hussey

BY SOURCEMEDIA | MUNICIPAL | 04/19/24 12:03 PM EDT

Florida’s High-Speed Rail Kicks Off $1.2 billion Junk-Debt Sale.

Florida’s high-speed rail system, Brightline, is tapping the US high-yield market with a $1.25 billion offering on Monday.

The Fortress Investment Group-backed railroad is selling six-year senior secured notes callable after three years, according to people with knowledge of the matter. The bonds — which are expected to price next week — are part of the rail line’s plans to refinance its roughly $3.9 billion debt load.

Morgan Stanley, the sole underwriter, had been sounding out investor appetite on the taxable junk bond at a yield of 10% to 11%, Bloomberg reported earlier this month. Interest has reached about $500 million for the deal at that yield range.

The offering is part of an expected $3.2 billion debt-refinancing package that includes proposed senior municipal bonds that may be issued this month by the Florida Development Finance Corp.

Earlier in April, the tax-exempt notes were assigned a S&P Global Ratings preliminary rating of BBB-, its lowest investment grade. The muni bonds also received preliminary designations of BBB- from Fitch Ratings and BBB from Kroll Bond Rating Agency.

Brightline is betting on replicating the model of Amtrak’s high-speed Acela service in the Northeast with better amenities. The railroad says travelers between Miami and Orlando — both big tourism destinations and business centers — can avoid the stress of a traffic-clogged four- to five-hour drive as well as the hassles of air travel.

American Journal of Transportation

By: Caleb Mutua | Apr 15 2024 at 08:55 AM | Intermodal

–With assistance from Gowri Gurumurthy and Martin Z. Braun.

Beyond the Safety Net: Understanding the Hidden Risks of General Obligation Municipal Bonds

Driven by their tax-free interest and current high yields, municipal bonds have continued to be in the spotlight. More investors have continued to add the bond variety to their portfolios to take advantage of these benefits. And, increasingly, they are choosing so-called general obligation (GO) bonds. Issued by state and local governments, these bonds are backed by the taxing authority of municipalities, giving them an aura of safety.

But just how safe are they when compared to other municipal bond varieties?

According to investment manager Thornburg, perhaps not as safe as investors think. While they feature lower rates of default, the carnage tends to be worse when they do have issues. For investors building out their municipal bond portfolios, it pays to be diversified.

Continue reading.

dividend.com

by Aaron Levitt

Apr 17, 2024

LA Unified School District Seeks to Shed Build America Bonds.

- **LAUSD expects to experience 2.5% annual enrollment declines**
- **District is selling $3 billion of refunding bonds next week**

The Los Angeles Unified School District is heading to Wall Street next week to lower the cost on some of its outstanding debt, a bond sale that comes amid a push to align spending with declining enrollment that was cited by Moody's Ratings when it raised its issuer credit rating recently.

LAUSD – as the second largest public school system in the US is known – is selling $3 billion of general obligation refunding bonds beginning Tuesday through a negotiated sale led by Bank of America, Jefferies and RBC Capital Markets. It will use the proceeds to replace $2.65 billion of taxable Build America Bonds with lower-yielding, tax-exempt securities.

Moody's on Wednesday said it had raised the district one step to Aa3 from A1 for its conservative budgeting practices aimed at reducing spending to accommodate future reductions of federal pandemic-aid and continuing declines in enrollment. It assigned an Aa2 rating to the $3 billion bond offering.

"School districts across the state and country are increasingly having to cut spending; enrollments have declined post-Pandemic which reduces capitated state aid payments and Federal Pandemic aid has been exhausted," said Dora Lee, director of research at Belle Haven Investments. "You also have increasing wage pressures to contend with."

The sale is part of a wave of planned refundings to replace taxable debt sold under the Obama-era Build America Bonds program with tax-exempt securities. A provision in such bonds allows state and local governments to buy back their debt before it comes due if an extraordinary event occurs. That means existing holders could incur losses on the outstanding bonds when the issuer buys them back at a price close to par, and may also have trouble replacing the securities in their portfolio. Such redemptions have been contentious, even sparking a potential legal dispute.

LAUSD announced a hiring freeze at the end of 2023, and it has said it is considering closing or consolidating schools. Moody's said it upgraded the district, in part, because it improved its general fund balance by negotiating favorable wage agreements, cutting costs and maximizing the operating efficiency of individual schools.

"The ratings were upgraded because of the district's consistent financial performance driven by conservative budgeting practices, adopted policies and multiyear planning that will support satisfactory finances as the district spends down its final pandemic-related grants and adjusts to slowed state aid growth," Moody's said in a release.

California is home to the most billionaires in the US as well as more than 1 million millionaires and levies a rate of at least 13.3% on its highest earners. That creates ample appetite for tax-exempt debt in the state as wealthy investors look to shield their income from high taxes and lock in yields before interest rate cuts.

“Demand for tax exempt paper is even more appealing after everyone is reminded of their tax liabilities at tax time,” Lee said.

Bloomberg Markets

By Maxwell Adler

April 19, 2024

California’s Debt Continues to Grow.

After borrowing billions from the federal government to pay for unemployment during the pandemic, the state’s debt now stands at about $21 billion and growing. The state also currently accounts for about 20 percent of the nation’s unemployment.

California’s massive budget deficit, coupled with the state’s relatively high level of joblessness, has become a major barrier to reducing the billions of dollars of debt it has incurred to pay unemployment benefits.

The surge in unemployment brought on by the COVID pandemic pushed the state’s unemployment insurance trust into insolvency. And over the last year California’s joblessness has been on the upswing again, reaching 5.3 percent in February, the highest among all states. The March job numbers come out Friday.

To keep the safety-net program operating at a time when the taxes paid by employers and earmarked for jobless benefits are insufficient, Sacramento has been borrowing billions of dollars from the federal government. The debt now stands at about $21 billion and growing, an increasing burden for state deficit fighters and for the businesses that pay into the jobless insurance program.

Continue reading.

governing.com

April 18, 2024 • Don Lee, Los Angeles Times, TNS

Bloomberg: Muni Funds Lose Most Cash Since 2022 With Fed Delaying Cuts.

- **Investors pull $1.5 billion from muni funds in last week**
- **This week’s outflow ‘unlikely to be a one-off’: Barclays**

Investors yanked money from municipal bond funds at the fastest clip in more than a year as they sold assets to pay income taxes and tried to protect returns amid signals that the Federal Reserve will keep rates higher for longer.

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Tax season is one reason for the selling given investors often dump tax-exempt municipal holdings to pay what they owe around the April 15 filing deadline, said Kathleen McNamara, senior municipal strategist at UBS Global Wealth Management. The other factor is volatile and rising Treasury yields that have pushed “skittish” retail investors to the sidelines, she said.

Continue reading.

Bloomberg Markets

By Shruti Singh and Nic Querolo

April 19, 2024

TAX. - RHODE ISLAND

Wilmington Savings Fund Society, FSB v. Power Realty, RIGP

Supreme Court of Rhode Island - April 10, 2024 - A.3d - 2024 WL 1545731

Deed holder brought action to challenge decree that foreclosed right of redemption from title to the property following tax sale.

The Superior Court granted summary judgment to tax sale purchasers, and deed holder appealed.

The Supreme Court held that citation which notified interested parties of petition to foreclose right of redemption did not violate deed holder’s due process rights, although the citation did not refer to the street address of the subject property.

Citation which notified interested parties of tax sale purchaser’s petition to foreclose right of redemption did not violate deed holder’s due process rights, although the citation did not refer to the street address of the subject property, where citation contained all other required components as well as the name and address of the attorney for tax sale purchaser, the fact that the property was located in city, a return date, and the location of the proceeding, deed holder received, through certified mail, a citation that contained an accurate metes and bounds description, the property’s correct street name, town, and state, and the correct plat and lot number for the property, and deed holder was a sophisticated and publicly traded mortgage company which owned thousands of properties throughout the country.

Industry Veteran Sees 2024 Muni Sales Hitting as High as $440 Billion - Bloomberg

- **He now expects a gain of as much as 15%, instead of 5%**
- **Issuance to near normal levels after ‘abnormally low’ period**

A strong start to the year is stoking veteran municipal bond investor John Miller’s prediction for sales in the $4 trillion market for state and local government debt.

Municipal issuance will rise 10% to 15% to as high as $440 billion this year, the head and chief investment officer of the high-yield muni credit team at First Eagle Investments said. When the year started, he had expected a 5% increase to $400 billion but surging first-quarter sales led him to

revise his estimates upward.

“So far we’ve come out of the gates a bit on the high end,” Miller said. “I am being influenced, I have to admit, by the first quarter.”

Continue reading.

Bloomberg Markets

By Shruti Singh

April 18, 2024

Climate Risks Fuel Niche Market in Muni-Bond Funds.

- **Specially tailored accounts target flood, power projects**
- **Green impact performance has roughly tracked broader market**

US states and municipalities face a daunting challenge — and added costs — girding against weather that’s becoming more extreme. Now a niche market is springing up for investors who are looking to target their dollars toward projects aimed at mitigating those risks.

A growing cadre of investors is turning to separately managed accounts, or SMAs, working with advisers to design individualized portfolios that allow them put their money toward projects aimed at abating flooding and other potential hazards.

“A lot of the strategies are newer in the grand scheme of things relative to standard funds or vehicles,” Lauren Kashmanian, director of portfolio management and responsible investing at Parametric Portfolio Associates, an advisory firm specializing in customization. She’s seen increased demand from clients interested in investing in projects like clean drinking water and renewable energy.

Continue reading.

Bloomberg Green

By Lauren Coleman-Lochner

April 16, 2024

MSRB Advanced Regulatory and Technology Modernization Initiatives; Discussed Enhanced Stakeholder Outreach at Quarterly Board Meeting

Washington, D.C. — The Board of Directors of the Municipal Securities Rulemaking Board (MSRB) met on April 17-18, 2024, for the third quarterly meeting of fiscal year 2024, where it discussed several market regulation and market transparency initiatives to advance its FY 2022-2025 Strategic Plan. The Board also discussed recent outreach efforts to enhance stakeholder understanding of the MSRB’s rate card model, budget and technology investments.

“Modernizing MSRB rules and technology is a key focus for the Board as it works to provide greater transparency while protecting and strengthening the municipal securities market,” said MSRB Chair Meredith Hathorn. “We continue to make progress on our strategic objectives and to identify important ways to enhance our broader outreach to the industry and stakeholders to hear their diverse perspectives.”

Market Regulation

The Board approved issuing a request for comment on proposed changes to MSRB Form A-12 to collect associated person information from bank dealers for subsequent display on MSRB.org, similar to information made available by the MSRB on associated persons of municipal advisors, as well as on certain potential technical amendments to Rule A-12.

The Board also authorized issuing a concept proposal seeking input on the potential modernization of requirements for dealers to deliver primary offering disclosures to customers for municipal fund securities, which include 529 plans and ABLE programs. The concept proposal would also seek input on potentially creating a new standalone rule similar to Rule G-47 on time of trade disclosure, which would include codifying existing interpretive guidance related to disclosure for municipal fund securities.

Additionally, the Board received an update on:

- Rule G-14: Pending rule proposal to shorten the timeframe for trade reporting. The Board discussed certain key aspects of the proposal in light of comments received on its January 2024 rule filing and considered next steps toward potential final approval of the proposal by the SEC.
- 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).
- Form G-32: Review of recent changes to the submission process for primary market disclosures to the MSRB’s Electronic Municipal Market Access (EMMA) website.
- Public comments to MSRB’s Request for Information on Impacts of MSRB Rules on Small Firms.

Finally, the Board received briefings on the potential impact on the municipal securities market of the SEC’s recently adopted Rule 192 on conflicts of interest relating to certain securitizations as well as on recent press reports regarding extraordinary optional redemptions of Build America Bonds.

Market Transparency

The Board received an update on efforts to modernize the EMMA website, and related market transparency systems. This includes leveraging cloud computing and new technologies such as artificial intelligence and machine learning to improve the quality of data available on the EMMA website.

Additionally, the Board reviewed recent and forthcoming research publications, including a report indicating that an increase in pre-trade quote volume was correlated with trade price improvement in the municipal securities market.

MSRB Stakeholder Meeting

The Tuesday prior to its quarterly meeting, MSRB Board leadership and Finance Committee members, along with several other members of the Board and MSRB senior staff, met with industry stakeholders including broker-dealers, municipal advisors, issuers and investors. This was the

second of two meetings, the first of which was held in March with regulated entities to discuss the MSRB's 2024 rate card and fee-setting process. Tuesday's meeting, which focused on the MSRB's budget and technology initiatives, provided greater transparency and insight into these areas, while providing an opportunity for various stakeholder groups to come together and share their perspectives.

"We look forward to continued engagement with our stakeholders as we advance the MSRB's mission of protecting and strengthening the municipal securities market," said MSRB CEO Mark Kim.

Date: April 19, 2024

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

Accounting for Capital Assets - GFOA In-Person Training.

May 15, 2024

GFOA Training Center
203 N LaSalle St, Suite 2700
Chicago, Illinois

Details:

Virtually all state and local governments use capital assets, some of which are essentially unique to the public sector. Properly accounting for these different assets can pose a real ongoing challenge for accounting and auditing professionals. The training will furnish participants with the basic information needed to properly account for capital assets and report them in financial statements prepared in conformity with generally accepted accounting principles (GAAP).

Learning Objectives:

- Those completing this seminar should be able to:
- Identify the major capital asset classes and the specific types of capital assets properly included in each
- Determine the value at which capital assets should be reported and the proper depreciation or amortization for each
- Identify and calculate impairments
- Prepare financial statements that conform to the display and disclosure requirements of generally accepted accounting principles (GAAP) for capital assets
- Identify the essential elements of system design for the management of capital assets, including specific policies related to capital assets.

Click here to learn more and to register.

Accounting and Financial Reporting for Investments - GFOA In-Person Training

May 14, 2024

GFOA Training Center
203 N. LaSalle Street, Suite 2700
Chicago, Illinois

Details:

The course will take a comprehensive look at the common investment instruments, including the accounting and required note disclosures for financial reporting in accordance with generally accepted accounting principles (GAAP). The materials will familiarize the participants with a variety of investment instruments, the purpose and the risks associated with each type of instrument, the process for valuing an investment, and the relevant accounting and note disclosures.

Click here to lrean more and to register.

SIFMA Update on The Guidelines on Funds' Names Using ESG or Sustainability-Related Terrms

SUMMARY

SIFMA AMG provided comments to the Investor Protections and Sustainable Finance Department on the Guidelines on funds' names using ESG or sustainability-related terms regarding their concerns about the impact of the proposed timing for implementation as well as some of the details of the final guidelines.

See related: ESMA Consultation Paper regarding Guidelines on funds' names using ESG or sustainability-related terms

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Texas Muni Borrowers Bemoan Anti-ESG Laws Restricting Banks.

- **Issuers at Austin conference discuss laws enacted in 2021**
- **Two state laws target banks' policies on guns, fossil fuels**

Texas borrowers gathered at an industry conference bemoaned two Republican-backed laws in the state that issuers say have restricted which Wall Street banks they can do business with.

The local officials spoke on a panel Tuesday before a packed room of city representatives, bankers and lawyers at an event hosted by the Bond Buyer in Austin. Several bankers at the conference work at firms that have been ensnared by the laws at various points since they took effect almost three years ago.

"I look around the room, I'm seeing a bunch of bankers, lawyers, prospect vendors that want to knock on the door of all the municipalities up here to do business," said Vernon Lewis, director of

the Treasury Department for the city of Houston. The “person that really needs to be in the room is the attorney general and the comptroller.”

Continue reading.

Bloomberg Markets

By Amanda Albright

April 16, 2024

Texas CFO Welcomes Bankers Even as He Compiles Boycott List.

Texas’s chief financial officer told bankers on Tuesday that he wants as many companies involved in the state as possible even as probes into banks’ ESG policies threaten their ability to do business.

“I want you to engage in Texas. I want you to be involved in Texas,” Comptroller Glenn Hegar said Tuesday during a speech at a public finance conference hosted by the Bond Buyer in Austin.

Under Texas law, Hegar is charged with developing a list of financial firms that “boycott” the fossil fuels industry. If a firm is added to the so-called divestment list, state entities like pension funds have to sell their holdings of the companies, plus they’re ineligible from certain public contracts. Listed companies aren’t able to underwrite bond sales for the state or its municipalities, for example.

Continue reading.

Bloomberg Politics

By Amanda Albright

April 16, 2024

Economic Fallout from Baltimore's Bridge Collapse Hits Home.

Maryland legislators are taking steps to protect workers and businesses affected by the port and highway closure. There are broader, indirect effects, however, that are creating additional uncertainty.

In Brief:

- The now-crippled Port of Baltimore is responsible for 15,000 direct jobs and 140,000 indirect jobs and brings in over $70 billion in revenue every year.
- Baltimore is bracing for losses in tax revenues and fees, while regional inflation is expected to spike after the bridge’s collapse.
- Analysts caution that the disaster’s lasting economic impact will be in how workers and small businesses in communities around the port fare.

Continue reading.

governing.com

April 18, 2024 • Zina Hutton

S&P: Baltimore Bridge Accident Will Likely Increase Supply Chain Costs, With Minimal Rating Impacts

Key Takeaways

- We don’t expect the accident at Baltimore’s Francis Scott Key Bridge to dent the U.S. economy overall, but it could limit the disinflationary momentum and weigh on the local economy.
- Other East Coast ports seem to have capacity and operational flexibility to handle cargo diverted from Baltimore, but the accident will likely increase supply chain costs, especially for autos, coal, oil and gas, and agribusiness.
- The accident is unlikely to affect our ratings on the relevant U.S. public finance entities and insurers.

Continue reading.

15 Apr, 2024

Marijuana Tax Revenues Fall Short of Projections in Many States, Including Colorado.

COMMENTARY | As the market matures both the price of marijuana and tax revenues associated with its sale will likely drop further in the future.

Nearly half of Americans live in a state that allows legal access to recreational marijuana. Eleven more states, including Wisconsin and Florida, are considering legalization in 2024.

One of the most common rationales for legalizing marijuana is increasing state tax revenue. How much revenue comes in depends on decisions states make about regulating the marijuana industry, including how it is taxed.

I’m an economist who specializes in forecasting how various tax regimes affect markets. My expertise spans industries such as legal recreational marijuana, alcohol and tobacco. I’ve examined various taxes on marijuana in states such as Colorado and Washington to understand how much revenue has been brought in and the role state tax policies have played in that outcome.

Continue reading.

Route Fifty

By Boyoung Seo,
The Conversation

April 15, 2024

The Brookings Institution: Putting Public Assets to Work Through Innovative Finance

Wednesday, May 01, 2024
2:30 PM – 4:00 PM EDT

The Brookings Institution
Falk Auditorium
1775 Massachusetts Ave NW
Washington, DC 20036

The U.S. Department of Transportation (USDOT) Build America Bureau recently announced an unprecedented grant opportunity: the Innovative Finance and Asset Concession Program. The program makes available $100 million in grants over five years to public entities doing pre-development work to structure public-private partnerships and other innovative finance and delivery mechanisms for transportation and transit-oriented development projects. The grant provides up to $1 million in funding with no local match requirement and an additional $1 million in funding with a match. Eligible applicants are public entities that own, control, or maintain assets that could be enhanced through projects eligible for Transportation Infrastructure Finance and Innovation Act (TIFIA) credit assistance.

For the last couple of years, the Government Finance Officers Association (GFOA) has been working with local governments across the country on a program called Putting Assets to Work (PAW). PAW inventories and maps all of the assets that a local government owns—including surface parking lots, pieces of right of way, and buildings—and helps local leaders think through unique and strategic development opportunities that can generate new revenues without selling assets.

On Wednesday, May 1, Brookings Metro will host the USDOT Build America Bureau and the GFOA Putting Assets to Work team to discuss the Biden administration's vision and new tools for empowering transit-oriented development, and how local leaders are evaluating the opportunity. Attendees should expect a constructive dialogue on status quo barriers to integrating transportation and land development, yielding an action agenda for how to overcome them.

Attend in Person

Watch Online

City Rejects Revenue Stream Concept for Bears, White Sox Joint Stadium Funding Plan: Report

Illinois state leaders have told the Bears and White Sox they won't support separate public funding plans for their respective stadium aspirations.

In an attempt to meet everyone's needs, the Bears and White Sox have been working to create a joint public funding plan that can satiate the necessities of both teams, the city and the state.

But that's no easy task, as proven by the city's recent rejection of a part of the teams' joint plan.

According to Crain's Chicago Business, the city rejected a proposal from both teams to use the city's amusement tax from ticket sales at their respective stadiums to help the debt of the ISFA (Illinois Sports Facilities Authority) bonds attached to both Guaranteed Rate Field and the 2003 Soldier Field renovations.

Continue reading.

Yahoo Sports

by Ryan Taylor

Fri, Apr 12, 2024

TAX - VIRGINIA

City of Richmond v. Property Ventures, Inc.

Court of Appeals of Virginia, Richmond - April 2, 2024 - 80 Va.App. 538 - 899 S.E.2d 82

City filed motion for judicial sale of real property to enforce delinquent taxes after landowner failed to pay special assessments and civil penalties charged for grass cutting and other yard maintenance on the property.

The Richmond Circuit Court dismissed the action, and city appealed.

The Court of Appeals held that:

- Statutes granting localities power to require property owners to cut back weeds "on such property or any part thereof" and authorizing city to cut weeds and charge abatement fees did not grant city power to charge for weeds beyond landowner's property;
- City code and statutes authorized city to abate nuisances, including by removing weeds, on both private property and adjacent public property and to enforce those charges exceeding $200 as a lien against the property, including by judicial sale; and
- Evidence was sufficient to support finding that city failed to prove that vegetation on landowner's property and any adjacent property violated city code provision prohibiting grass and other vegetation 12 inches high or over "other than trees, shrubbery, agricultural plants, garden vegetables, flowers or ornamental plants."

TAX - MARYLAND

901, LLC v. Supervisor of Assessments of Baltimore City

Appellate Court of Maryland - April 3, 2024 - A.3d - 2024 WL 1425420

Taxpayer, a limited liability company (LLC), sought judicial review of decision of Maryland Tax Court affirming city assessment supervisor's denial of its applications for partial exemptions from property tax on real property that taxpayer had leased from Maryland Transit Administration (MTA).

The Circuit Court affirmed, and taxpayer appealed.

The Appellate Court held that taxpayer leased property from government with privilege to use property in connection with for-profit business, precluding tax exemption.

Taxpayer leased real property from Maryland Transit Administration (MTA) with "privilege to use" property in connection with for-profit business, and thus, taxpayer was required to pay property taxes on such property pursuant to statute requiring "the lessee or user of government-owned property" to pay property tax as if such lessee or user were property's owner if property was "leased or otherwise made available to that person" by qualifying government entity and "with the privilege to use the property in connection with a business that is conducted for profit"; no statute, ordinance, or lease-related agreement restricted taxpayer's ability to use property in connection with for-profit business of subleasing property to others or operating its own for-profit business on premises.

S&P U.S. Local Governments Credit Brief: Illinois School Districts Means And Medians

Overview

Illinois school districts demonstrated credit stability in 2023, and we expect this will continue, supported by a stable state funding environment and generally healthy reserves.

Headwinds include rising labor costs and dwindling federal Elementary and Secondary School Emergency Relief (ESSER) funds, particularly for the minority of districts that used ESSER funds for recurring operating costs. Higher mortgage rates, a slowing national economy, and Illinois' declining population could dampen local tax base growth, though in most cases we do not expect this will materially limit school districts' revenue-raising flexibility. In our view, most districts are well positioned to navigate these challenges in the near term given the state's commitment to funding the Evidence-Based Funding (EBF) formula. In addition, the cumulative effect of ESSER, EBF, and elevated corporate personal property replacement tax (CPPRT) distributions has allowed many districts to shore up reserves and address capital needs.

S&P Global Ratings maintains ratings on general obligation (GO) or GO-equivalent debt for 424 school districts in Illinois. Ninety-eight percent of the ratings have a stable outlook, with three on positive outlook and seven on negative. Overall, credit quality has been stable over the past year, with 17 school district debt ratings raised since April 26, 2023. Over the same period, we lowered four school district debt ratings, and revised the rating outlook to positive from stable on two school districts and to negative from stable on one.

Continue reading.

17 Apr, 2024

- Get Involved with GFOA's Utility Finance Forum.
- Citi's Muni Exit Creates Liquidity Test If Downturn Hits Market.
- New Federal Program Provides Grants for Eligible P3 Transportation Projects: Holland & Knight
- Information for Florida practitioners from our friends at Holland & Knight here.
- Information for Wisconsin practitioners from our friends at Foley & Lardner here.

- *Sheetz v. County of El Dorado, California* – Supreme Court of the United States holds that the Nollan/Dolan test for determining whether a fee imposed as a condition for a land use permit constitutes an unconstitutional taking under the Fifth Amendment applies to both legislative and administrative permit conditions; abrogating precedent.
- *Florida PACE Funding Agency v. Pinellas County* – Although merely a decision regarding choice of venue at this point, substantive question to be decided is whether the court's opinion in a bond validation for $5 billion of Florida PACE Funding Agency (FPFA) bonds will allow the FPFA to operate statewide, without regard to municipal or county PACE ordinances.
- And Finally, AND Vegetables?!! is brought to us this week by *Colyear v. Rolling Hills Community Association of Rancho Palos Verdes*, in which we learn that Rancho Palos Verdes began development in the 1930s, featuring, "large lots which offered the ideal outdoor life, seclusion, privacy, recreation, horseback riding, cultivation of fruits and vegetables, and the enjoyment of a country atmosphere, all protected by good restrictions." Well that sounds lovely! Just to clarify, those "good restrictions" of which you speak were there to protect the rights of people of all colors, class, and creed to cultivate fruits and vegetables together in perfect harmony, right? Right? Just like Washington dreamed!

COMMON INTEREST COMMUNITIES - CALIFORNIA

Colyear v. Rolling Hills Community Association of Rancho Palos Verdes

Court of Appeal, Second District, Division 4, California - March 1, 2024 - 100 Cal.App.5th 110 - 318 Cal.Rptr.3d 805 - 2024 Daily Journal D.A.R. 1805

Following initial dismissal of neighbor from lawsuit, subdivision filed amended complaint against community association, seeking declaratory relief, an injunction, quiet title relief, and damages for breach of fiduciary duty arising out of the association's tree-trimming covenant.

The Superior Court, Los Angeles County, entered judgment for lot owner on his claims for declaratory and injunctive relief and for breach of fiduciary duty, but denied quiet title claim. Association appealed, and lot owner cross-appealed.

The Court of Appeal held that:

- Original declaration containing tree cutting covenant, on its own terms, did not apply to lot owner's property;
- Subsequent subdivision declaration which applied to lot owner's property did not sufficiently incorporate tree cutting covenant;
- References to original subdivision declaration in subsequent declaration did not put lot owner on constructive or inquiry notice; and
- Lot owner's enjoyment of benefits of subdivision's roads, gates, and other facilities did not subject him to tree trimming covenant.

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EMINENT DOMAIN - FEDERAL

Hyatt v. United States

United States Court of Federal Claims = March 13, 2024 - Fed.Cl. - 2024 WL 1090727

In rails-to-trails case, owners of property adjacent to and underlying rail corridor right-of-way filed suit claiming just compensation for taking of their property allegedly effected by Surface Transportation Board (STB) issuing notice of interim trail use (NITU), railbanking corridor, and authorizing interim recreational trail use, under National Trails System Act.

Parties cross-moved for summary judgment.

The Court of Federal Claims held that:

- Taking was effected by issuing NITU and expanding easement that was meant specifically for railroad purposes;
- Genuine disputes of material fact remained as to precise dimensions of taking; and
- Owners were entitled to complete expert discovery as to property valuation.

EMINENT DOMAIN - FEDERAL

Sheetz v. County of El Dorado, California

Supreme Court of the United States - April 12, 2024 - S.Ct. - 2024 WL 1588707

Landowner filed petition for writ of mandate and complaint for declaratory and injunctive relief, challenging $23,420 traffic impact mitigation fee imposed by county, as a condition of issuing him a building permit for the construction of a single-family residence on his property, as violating the California Mitigation Fee Act as well as the Takings Clause of the United States Constitution.

The Superior Court sustained county's demurrer in part and denied the petition for writ of mandate. Landowner appealed, and the Third District Court of Appeal affirmed. After the California Supreme Court denied further review, landowner petitioned the United States Supreme Court for certiorari review. Certiorari was granted.

In a unanimous opinion, the Supreme Court held that the Nollan/Dolan test for determining whether a fee imposed as a condition for a land use permit constitutes an unconstitutional taking under the Fifth Amendment applies to both legislative and administrative permit conditions; abrogating St. Clair Cty. Home Builders Assn. v. Pell City, 61 So. 3d 992, and Home Builders Assn. of Central Ariz. v. Scottsdale, 187 Ariz. 479, 930 P. 2d 993.

BOND VALIDATION - FLORIDA

Florida PACE Funding Agency v. Pinellas County

District Court of Appeal of Florida, Second District - March 27, 2024 - So.3d - 2024 WL 1288194

Florida PACE Funding Agency (FPFA) is a local government entity created under section 163.01(7), Florida Statutes (2010). It finances energy conservation and hurricane "hardening" improvements on residential and commercial properties.

FPFA entered into an interlocal agreement in 2019 to operate a non-residential PACE program

within Pinellas County. FPFA agreed that, in addition to the limitations and requirements of applicable state and federal law, it must also comply with the limitations and requirements of the County PACE Ordinance.

In October 2022, a circuit court in Leon County validated a series of FPFA bonds worth up to $5 billion. “Significantly, that same judgment includes language that seemingly permits FPFA to finance commercial and residential improvements statewide, without regard to municipal or county ordinances that regulate PACE local governments.”

“With the bond validation judgment in its pocket, FPFA sent a letter to the County on January 20, 2023, notifying the County that it was terminating the interlocal agreement effective March 21, 2023, and stating, ‘Henceforth, the [FPFA’s] program will be conducted independently, and not under the Agreement.’ FPFA asserted that the ‘[judicial validation] process clarified that the [FPFA] has independent authority to carry out its mission of offering PACE financing statewide, without requiring additional efforts from individual counties or cities.’

In the County’s subsequent suit, and without weighing in on the merits of FPFA’s claims, the District Court of Appeal upheld the interlocal agreement’s broad forum selection clause and denied FPFA’s motion for a change of venue.

EMINENT DOMAIN - GEORGIA

City of Canton v. Brandreth Holdings, LLC

Court of Appeals of Georgia - April 1, 2024 - S.E.2d - 2024 WL 1360766

Property owners, which were two limited liability companies (LLCs), brought inverse-condemnation action against city, alleging that city failed to maintain its sewer system and failed to make necessary improvements and repairs in a timely manner, causing damage to owners’ property that constituted a taking for which compensation was due.

The Superior Court denied city’s motion to dismiss. Upon grant of its application for interlocutory appeal, city appealed.

The Court of Appeals held that owners were not required to provide notice pursuant to municipal ante litem notice statute before bringing their claim.

MUNICIPAL ORDINANCE - ILLINOIS

Cammacho v. City of Joliet

Supreme Court of Illinois - April 4, 2024 - N.E.3d - 2024 IL 129263 - 2024 WL 1449094

Commercial truck drivers filed complaint for review of decision of city administrative hearing officer finding drivers liable, under city ordinance, for driving semitruck trailers on posted “No Truck” routes and nondesignated state or local roadways, and imposing fines.

The Circuit Court affirmed. Drivers appealed. The Appellate Court reversed. City’s appeal was allowed.

The Supreme Court held that:

- Municipal Code did not operate as jurisdictional limit on a home rule municipality's authority to administratively adjudicate violations of its ordinances; overruling Catom Trucking, Inc. v. City of Chicago, 351 Ill.Dec. 797, 952 N.E.2d 170, but
- City's ordinances regulating weight and length of vehicles driving over nondesignated state or local roadways were similar to Vehicle Code provisions regulating movement of vehicles over a certain weight or length, so that violations of ordinances were "reportable offenses," within meaning of Vehicle Code and city's administrative adjudication code, and thus, city ordinances required that drivers appear in circuit court.

Even if General Assembly intended that definition of "system of administrative adjudication" set forth in Municipal Code, which definition excluded municipal offenses that were similar to offenses prohibited in traffic regulations governing movement of vehicles or to reportable offenses under Vehicle Code, would operate as jurisdictional limit on a home rule municipality's authority to administratively adjudicate violations of its ordinances by issuing orders, General Assembly did not satisfy requirement, for valid limit of a home-rule municipality's constitutional powers, of expressly stating that a home-rule municipality's constitutional powers would be limited; overruling *Catom Trucking, Inc. v. City of Chicago*, 351 Ill.Dec. 797, 952 N.E.2d 170.

Home rule city's ordinances regulating weight and length of vehicles driving over nondesignated state or local roadways were similar to Vehicle Code provisions regulating movement of vehicles over a certain weight or length, so that violations of ordinances were "reportable offenses," within meaning of city's administrative adjudication code, which incorporated Code's definition of that term, and thus, city ordinances required that commercial truck drivers be issued uniform traffic citations, rather than notices of ordinance violation, and that drivers be required to appear in circuit court to have their objections adjudicated, rather than appearing at city's code hearing unit, though city ordinances differed from Code in method used to measure weight of vehicles, maximum weight allowed, and designation of specific truck routes in city.

PUBLIC EMPLOYMENT - MISSISSIPPI

Barker v. Ivory

Supreme Court of Mississippi - April 2, 2024 - So.3d - 2024 WL 1406576

Objector filed petition for judicial review challenging finding of political party's executive committee that candidate for city alderman was a qualified candidate.

After evidentiary hearing, the Circuit Court entered judgment finding candidate not qualified for failure to satisfy residency requirement. Candidate appealed.

The Supreme Court, en banc, held that evidence was sufficient to support finding that candidate was a resident of city in another state rather than of city in which candidate sought office of alderman, as would preclude candidate from being qualified to be placed on ballot.

Evidence was sufficient to support finding, after evidentiary hearing before bench, that candidate for city alderman was a resident of city in another state rather than of city in which candidate sought office of alderman, as would preclude candidate from being qualified to be placed on ballot; home in which candidate asserted he resided in city in which office was sought was owned by candidate's late aunt's husband rather than by candidate, candidate owned several properties in city in other

state, candidate had claimed homestead exemption on one of those properties for previous 11 years, and candidate remained a registered voter in other state.

PUBLIC LANDS - MISSISSIPPI

State v. Aldrich

Supreme Court of Mississippi - April 4, 2024 - So.3d - 2024 WL 1455595

Owners of acre of coastal land and others filed complaint challenging Secretary of State's preliminary drawing of map demarcating boundary line between owner's property and State-owned Public Trust Tidelands.

State answered and filed counterclaim that it held fee simple title to disputed property.

The Chancery Court granted State's motion to dismiss plaintiffs' complaint for failure to prosecute, but did not dismiss State's counter-claim, granted motions by city, county, and public school district to intervene.

After both owners passed, owner's son filed amended answer to State's counterclaim. Following bench trial, the Chancery Court entered judgment for owner's son, and State appealed.

The Supreme Court held that:

- City, county, and public school district were entitled to intervene as of right;
- State did not acquire disputed acre of coastal land from United States in 1817 when Mississippi became state;
- Chancery court's dismissal with prejudice of son's complaint for failure to prosecute did not conclusively establish boundaries in map as final and therefore no longer subject to revision, on son's answer to State's counterclaim that was not dismissed;
- Evidence supported finding that artificial accretions to subject coastal land from accumulation of oyster shells that were replanted on reefs and dredging operations by United States Army Corps of Engineers prior to July 1, 1973 were done pursuant to legislative enactment and for higher purpose, and thus property accretions accrued to owner's son, and not State; and
- Supreme Court would not apply doctrine of equitable estoppel to estop State from asserting that disputed acre of coastal land that lay north of shoreline was included in Public Trust Tidelands.

ZONING & PLANNING - NEW HAMPSHIRE

Mojalaki Holdings, LLC v. City of Franklin

Supreme Court of New Hampshire - April 9, 2024 - A.3d - 2024 N.H. 17 - 2024 WL 1514612

Landowner and solar energy company appealed decision of the city planning board that denied a site plan application to install a solar panel array.

The Superior Court affirmed, and landowner and company appealed.

The Supreme Court held that:

- Planning board improperly relied on purpose provisions of city site plan regulations when denying application, and

- Landowner and solar energy company were entitled to builder's remedy to construct proposed solar panel array.

City planning board improperly relied on purpose provisions of city site plan regulations when denying application to install solar panel array which satisfied all of the site-specific technical regulations applicable to the project; board, which had concerns about constructing the solar panel array in a rural residential area, relied on purpose provisions stating that the regulations were to provide for harmonious and aesthetically pleasing development, to provide for building purposes which would not endanger the health, safety, and welfare of the general public and the abutting properties, and provide for the protection of trees and other natural features.

Landowner and solar energy company were entitled to builder's remedy to construct proposed solar panel array, where their site plan application met the specific, applicable site plan regulations, and planning board improperly relied on purpose provisions of the city site plan regulations to deny the application.

ZONING & PLANNING - NEW HAMPSHIRE

Newfound Serenity, LLC v. Town of Hebron

Supreme Court of New Hampshire - April 3, 2024 - A.3d - 2024 WL 1423559

Site plan applicant petitioned for judicial review of decisions of town planning board and town zoning board of adjustment (ZBA) relating to planning board's denial of application for site plan approval for seasonal recreational vehicle park, after town housing appeals board (HAB) dismissed applicant's initial appeal as untimely and ZBA then ruled on applicant's appeal to ZBA.

The Superior Court dismissed. Applicant appealed.

The Supreme Court held that:

- Applicant's complaint seeking judicial review two weeks after ZBA finally resolved appeal was timely, and
- HAB's dismissal of premature appeal did not have preclusive effect as to appeals to superior court from planning board and ZBA decisions.

Site plan applicant's complaint seeking judicial review of decisions of town planning board and town zoning board of adjustment (ZBA) relating to planning board's denial of application for site plan approval for seasonal recreational vehicle park was timely, where applicant filed complaint approximately two weeks after ZBA finally resolved applicant's appeal via dismissal of applicant's motion for rehearing.

Town housing appeals board's (HAB) dismissal of site plan applicant's premature appeal of town planning board's adverse decision, while applicant's appeal of planning board's decision to town zoning board of adjustment (ZBA) was pending, did not foreclose applicant from pursuing its complaint in superior court seeking review of both the planning board and ZBA decisions, which related to applicant's proposed seasonal recreational vehicle park, since the applicable statutes contemplated final resolution of zoning-related issues by ZBA before an appeal of a planning board decision to the superior court or the HAB became timely.

From Climate to Cyber to Politicization, Mega Trends Impacting Municipal Market.

We are at the initial stages of a major paradigm shift that has significant implications for the municipal market over the next five to 10 years. A number of societal mega-trends will present material challenges for the municipal market. These include climate change, growing federal debt, shrinkage of the workforce, the impact of remote work, cybersecurity attacks, and political polarization.

This commentary will discuss each of these trends and their interrelationship. In combination, these trends will likely increase expenses and decrease revenue resulting in growing challenges for municipalities.

Whether it be unprecedented droughts, forest fires, floods, tornadoes, wind, or heat waves, it is evident that climate change has begun in a dramatic fashion. How quickly it will escalate is unknown but that it will escalate is a near certainty, absent a quick dramatic change in human activity. As climate change escalates there will be even more damage to infrastructure, farmland, coastal properties, utilities, homes, and businesses. The cost of addressing these damages will likely rise significantly.

According to the National Oceanic and Atmospheric Administration, in 2023 there were 28 separate billion-dollar climate disaster events, the highest count of record. The cost of these events was $92.9 billion, and this number may rise by several billion as more costs are identified.

As these costs escalate, the Federal Emergency Management Agency (FEMA) will not be able to pay the costs of all of these climate-driven events and will limit their spending by putting more responsibility on localities to contribute to paying these costs. The Disaster Recovery Reform Act of 2018 requires FEMA to increase the thresholds for paying relief and encourages FEMA to place adequate responsibility on state and local governments. Insurance companies are already refusing to provide property insurance in at risk areas such as coastal properties.

In addition, as interest costs on the federal debt continues to grow in unprecedented ways there will be even less of a possibility or desire for the federal government to fund own climate change costs. The Congressional Budget Office projects that interest on the ever-expanding federal budget will grow from $870 billion in 2024 to $1.6 trillion in 2034. That is an 87% increase and is a whopping 22% of all tax revenues. The payments for social security, Medicaid and other non-discretionary budget items will leave a shrinking percentage of the federal budget for all discretionary items. Overall, the federal deficit will grow to 116% of GDP by 2034. The money just will not be there to pay the significant increase in climate change costs that will arise around the country.

There will be growing pressure for state and local governments to provide the funds to address climate catastrophes. As more events occur and the federal government pays less of the remedial costs, localities will have to pay the costs so that their communities and economies can be sustained. This will be a matter of political and economic survival. In addition, as the federal government pays less for mitigation projects, localities will increasingly see it in their interests to pay for these projects to avoid even greater costs in the future.

Where will localities get the monies for climate change mitigation and remediation? It will have to be either from raising taxes or from issuing more bonds. Increasing taxes is always difficult politically but it will also cause other problems. If taxes in a locality are too high more people will move to

another location. This in turn would undermine the tax base overall to raise the needed funds.

The more likely and more often used tool will be municipal bonds. States and municipalities are very likely to increase their debt load substantially over the next decade due to climate change. This increased debt load will result in varying degrees of fiscal stress as debt service payments as a percentage of the overall local budgets will increase. This could result in rating downgrades in some places which would in turn result in higher interest rates on debt. The U.S. territories (which are all islands) and coastal states are particularly at risk.

As expenses increase as projected above, revenue is likely to decline. This will be due to a number of mega-trends. One such trend is an unprecedented shrinking workforce resulting in lower economic growth. The baby boomer generation has come of age and people have and are retiring. At the same time subsequent generations have had significantly fewer children. And the present generation has an even lower birth rate. The result is a shrinking workforce.

And historically a major driver of growth has been new flows of immigrants into the workforce. Recently the only reason for a modest increase in population growth has been immigration. But immigration has become a controversial issue with some wanting to severely limit immigration, not just illegal entry into our country.

If and as the workforce declines resulting in lower economic growth, the tax base of municipalities will decline as well. The revenue base will shrink.

In addition, due to changes in work habits in reaction to COVID-19, major cities have experienced a serious loss of their tax base. This has occurred due to loss of population, lower values of real estate (especially office buildings) resulting in less property tax, and decreased foot traffic producing less sales tax revenue. Absent a change in remote work, major cities will continue to face these revenue challenges.

Certain mega-trends like cyberattacks and political polarization have the potential to negatively impact either or both of expenses and revenue. As cyberattacks grow with a greater sophistication, revenue collection may be disrupted, and expenses will rise to both defend against such risk and/or address an actual attack. Political polarization could result in political paralysis, which may result in the loss of revenue opportunities and/or in greater expenses. For example, if a city council or state legislature is divided and unable to reach compromises on important budget decisions, such as how to mitigate and remediate climate change, difficult decisions may not be made. This could ultimately be quite costly.

Of course, there are potential mitigants to each of these trends. Countries may successfully cut back carbon emission enough to reverse climate change. Congress may reverse the direction of the federal deficit. Shrinkage of the workforce may be offset by productivity increases without creating excessive unemployment. Workers may go back to work five full days a week. Costly but sophisticated safety systems may protect government entities from cyberattacks. Political polarization may subside. We think it is highly unlikely that most, if any, of these mitigants will occur.

The next five to 10 years will present unprecedented challenges for states and municipalities. In combination, these trends will present serious obstacles to maintaining fiscal health and they exist independent of economic cycles. They will likely be exacerbated by and exacerbate economic downturns. Localities that understand these trends and develop policies to counter them will be in the best position to address them effectively.

By David L. Dubrow

BY SOURCEMEDIA | MUNICIPAL | 04/09/24 10:26 AM EDT

Citi's Muni Exit Creates Liquidity Test If Downturn Hits Market.

- **Nuveen's Blair says effect may be seen 'when it's risk off'**
- **BlackRock's Carney sees support in Citi bankers at new firms**

The recent departure of Citigroup Inc., a perennial top-10 underwriter of municipal debt, from that industry may eventually pose a challenge in the next muni downturn, said officials at two of the largest market participants.

"We haven't had an event that really presses on liquidity in the market in quite some time," Sean Carney, head of municipal strategy at BlackRock Inc., said at a public finance conference hosted by the Bond Buyer in Austin on Tuesday. He added that the hiring of many former Citigroup muni bankers and traders by other firms is a help to the industry.

The bank was a leader in the $4 trillion market for US state and local debt for decades, working on financing projects as large as the rebuilding of the World Trade Center site and the installation of 65,000 streetlights in Detroit. When the unit slumped in recent years, Chief Executive Officer Jane Fraser determined it didn't fit with the firm's vision of becoming the premier bank for large, multinational corporations.

Citigroup's withdrawal from the market so far has had a "very marginal" effect on liquidity, David Blair, managing director at Nuveen LLC, said in a panel discussion at the conference. "Let's wait and see until we get that event when it's risk-off," he said.

Blair noted that a market downturn is when the absence of a liquidity provider could be felt. Banks often step in and buy bonds when prices are volatile. The muni market has posted a 1.25% loss so far this year, according to Bloomberg indexes.

Both Blair and Carney said that municipal bonds still look attractive despite high valuations.

It's "rates over ratios," Carney said, adding that tax-free securities still offer competitive yields compared to alternatives after adjusting for taxes. A 10-year tax-exempt bond sold by CommonSpirit Health in March had a taxable equivalent yield of 5.6%, he said.

"This is what people are looking at in the market," he said.

This year's increase in yields brings a "tremendous" investment opportunity within municipals, Nuveen's Blair said. His team likes high-yield municipals, given the risk of a recession is low, and bonds maturing in five to 10 years because of selling pressure in that part of the market.

BAB Brouhaha

During the panel, Blair touched on investors' pushback against refinancings of Build America Bonds, saying he's not confident they have a case against the refinancings. A group of bondholders have hired a law firm to challenge a recent deal by the University of California.

Carney said he thinks the issuance of new deals could slow down and be pushed into the second half

of the year and continue into 2025.

“It throws some sand in the gears of the timing of these deals,” he said.

The BlackRock strategist also said he’s focused on discussions with advisers about shifting out of cash, anticipating that once the Federal Reserve starts cutting rates, front-end yields will fall.

Regarding overall credit quality among munis, Carney said he’s seeing a “divergence” among states that rely on income taxes, like California, compared to states that rely on taxes on consumption, like Texas.

Bloomberg Markets

By Amanda Albright and Danielle Moran

April 16, 2024

Congress Resolves Threat of a Government Shutdown with Mixed Outcomes for Local Government Priorities.

Six months into the new Fiscal Year and following four continuing resolutions to keep the government running beyond the October 1st start of Fiscal Year 2024, Congress has approved all twelve annual spending bills, which have been signed into law.

A Best-Case Scenario

For local governments, passing all twelve bills through two legislative packages was the best-case scenario in an unusually contentious appropriations cycle. The expectation for mixed results on funding levels for programs important to local governments was present from the start of the appropriations cycle due to growing pressure within Congress to address the national debt following trillions in unbudgeted emergency spending related to stabilization and recovery from the COVID-19 emergency. And this is indeed the case for FY24.

However, the looming threat of a year-long continuing resolution that locked in FY23 spending levels for all of FY24 and the worse threat of sequestration were both overcome. A year-long CR would have meant new programs would go without FY24 funding, and existing programs could not account for the costs of inflation. The possibility of sequestration was imposed by an earlier debt limit deal to incentivize Members of both parties with the threat of an automatic 1% cut across all federal agencies. Over time, that evolved into the threat of a strikingly deep 9% to 10% cut for nearly all federal grants local governments are eligible to receive due to reinterpretations of the debt-ceiling law by Congressional and White House budget authorities. NLC member advocacy was crucial in preventing both these worse outcomes.

Continue reading.

National League of Cities

by Michael Wallace

APRIL 2, 2024

New Federal Program Provides Grants for Eligible P3 Transportation Projects: Holland & Knight

The Build America Bureau (Bureau) of the U.S. Department of Transportation (DOT) released on March 11, 2024, a Notice of Funding Opportunity for the new Innovative Finance and Asset Concession Grant Program (IFACGP).

The IFACGP is authorized by the Bipartisan Infrastructure Law that was passed by Congress and signed into law on Nov. 15, 2021. The Bipartisan Infrastructure Law establishes the funding for Federal Transit Administration (FTA) programs through authorizing legislation that amends Chapter 53 of Title 49 of the U.S. Code. The legislation reauthorizes surface transportation programs for fiscal years (FY) 2022 to 2026 and provides advance appropriations for certain programs. The Bipartisan Infrastructure Law also authorizes up to $108 billion to support federal public transportation programs, including $91 billion in guaranteed funding.

What Is the IFACGP?

The IFACGP is a unique opportunity for eligible public entities to receive financial support to facilitate and evaluate public-private partnerships (P3s) and explore opportunities for innovative financing and delivery of eligible transportation infrastructure projects.

Continue reading.

Holland & Knight Alert

by Michael L. Wiener | Denise Ganz | Vlad Popik | Lisa Ann Barkovic

APRIL 3, 2024

'Artificial Intelligence Is Not Innovation,' It's a Tool. How Governments Use It Will Vary.

Some state and local governments may embrace AI wholly, while others may take a more measured approach. Either way, experts said, the competition to be first is moot.

Announcing its ambitions to be a "global hub" for artificial intelligence, California was the first state to regulate its use by state agencies. Boston was one of the first cities to issue guidelines for how its workers can use generative AI. And Tempe, Arizona, turned heads last June when it enacted what is believed to be the first policy on AI's ethical use.

Recognizing its economic and cost-savings potential, everybody wants to be first to harness AI. But while the race to embrace the new technology may leave some government leaders feeling like they are already lagging behind, they needn't worry so much, according to David Graham, chief innovation officer for the city of Carlsbad, California, and co-chair of the Civic Innovation Executive Certificate program at the Technology and Entrepreneurship Center at Harvard University.

Graham said it's still too early in policy development for governments to measure themselves against each other. What's more, every government's AI needs and uses will be different, making any sense

of competition moot.

Continue reading.

ROUTE FIFTY

by CHRIS TEALE

APRIL 12, 2024

Fitch: More Bond Issuance Likely for U.S. Community Development Financial Institutions

Fitch Ratings-Chicago/New York/San Francisco-10 April 2024: U.S. community development financial institutions (CDFIs) will increasingly turn to bond markets to raise capital as investor interest in the sector continues to grow, according to Fitch Ratings in a new report.

Increased appetite also means more questions from investors as to the economic sustainability of CDFIs in a broader market still replete with elevated interest rates and high inflation. Another variable is whether CDFIs can count on philanthropy and other traditional sources of funding (among them loan and investment income and bank loans) for ongoing support. The economic landscape presents both challenges and opportunities for CDFIs, according to Senior Director Karen Fitzgerald.

“Despite current economic headwinds, Fitch expects CDFIs to sustain their affordable lending missions while maintaining strong financial profiles,” said Fitzgerald. “Successful CDFIs will adapt to the changing financial landscape by leveraging their strong equity positions to diversify their funding sources, and by increasingly turning to bond markets and impact investors to raise capital.”

Broader market volatility has not impeded CDFIs’ strong underwriting, minimal loan defaults and low charge-off rates thus far. “Though similar in structure and function to banks and other financial institutions, CDFIs are public benefit entities with little incentive to take risk or maximize profit and are rather incentivized to preserve their equity and to operate in a sustainable manner,” said Fitzgerald.

The rapid growth in the number of CDFIs also raises investor question as to the potential impact of potential new entrants to the market. ‘The need for the services provided by CDFIs continues to exceed available resources, such that new entrants do not typically pressure demand,’ said Fitzgerald.

‘What Investors Want to Know: CDFI Loan Funds’ is available at www.fitchratings.com.

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Fitch: Skilled Nursing Beds Weigh on LPC Operating Performance

Fitch Ratings-New York-10 April 2024: Skilled nursing will continue to weigh on life plan communities' (LPCs) performance in 2024, even as skilled nursing occupancy improves and labor challenges begin to ease, Fitch Ratings says. LPCs with more independent living (IL) units relative to skilled nursing facility (SNF) beds will perform better than SNF-heavy LPCs given their ability to spread costs to IL business lines to cover SNF-related costs.

SNF-heavy LPCs, considered by Fitch as those LPCs where SNF beds comprise more than 20% of total units, experienced operational stress in Fitch's rated portfolio in 2023, with labor costs, inflation, tighter reimbursement and heightened government oversight pressuring skilled nursing expenses and revenues.

Of the eight LPCs downgraded in 2023 due to operational challenges (compared to downgrades driven by debt issuance), half were SNF-heavy LPCs, even though these LPCs make up just over a quarter of Fitch's rated portfolio. For these LPCs, SNF beds as a percentage of total units ranged from 23% to 61%. SNF-heavy LPCs also compose half of the 10 LPC ratings currently on Negative Outlook or Rating Watch Negative due to operational stress.

Many Fitch-rated LPCs have reduced their SNF beds in response to staffing and revenue pressures. Others have reduced external admits to focus, often exclusively, on taking care of their own residents. This active management of SNF beds, along with higher monthly IL rate increases close to or above inflation, helped LPCs absorb SNF-related operating pressures in 2023.

A leading indicator of the easing of the inflationary and staffing pressures has been lower monthly IL rate increases in 2024 in the 4% to 7% range, compared with 6% to 10% (and higher in some cases) in 2023. These IL rate increases should support the performance of LPCs in 2024, especially as IL occupancy continues to rise. The investment-grade (IG) median for IL occupancy was 92.5% in 2023, up from 90.7% in 2022.

However, SNF-heavy LPCs will continue to lag in performance, as the effect of IL rate increases, while helpful, remain diluted given the SNF exposure. SNF-heavy LPCs have been less able to reduce their SNF exposure and have a limited ability to raise rates, given that Medicaid and Medicare, which set non-negotiable rates, are a major component of SNF revenue, compared to IL revenue, which is private pay and has more pricing power. Three out of the four downgraded SNF-heavy LPCs were already rated below IG (BIG), indicating an already weaker operating risk assessment.

The IG SNF occupancy median improved in 2023 to 82.2% from 72.4% in 2022. The BIG median also improved but at 81% trailed the IG median. Preliminary 2024 data shows SNF occupancy continuing to rise. In response to improving SNF occupancy, some LPCs have brought SNF beds back on line, although not to pre-pandemic levels, and have begun to rebuild their skilled nursing staffing as monthly IL rate increases have helped cover staffing costs.

We expect LPCs to continue to redesign care to focus more on assisted living/memory care and home

health care, all of which are largely private pay. Further IL expansions are likely, given the solid demand for IL units, especially larger units, and the support IL revenue has provided to LPC operational performance.

Fitch Ratings published an exposure draft that proposes revisions to its rating criteria for U.S. not-for-profit LPCs. One of the proposals is to cap the revenue defensibility assessment of SNF-heavy LPCs at 'bbb'. Fitch is actively soliciting market feedback on the proposed criteria by April 18, 2024. Please see Fitch Ratings Publishes Exposure Draft for U.S. Life Plan Communities Rating Criteria for details.

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Fitch: Government Hiring is Boosting US Job Growth

Fitch Ratings-London/New York-11 April 2024: Government sector job growth averaged 2.7% yoy in 2023, the highest yoy growth rate since 1990, according to Fitch Ratings. Fitch expects this trend to continue through 2024 as the recovery in government employment continues to catch up with post-pandemic private sector employment.

"Government sector payroll accelerated in 2023, largely on the back of strong catch-up hiring from state and local governments. The post-pandemic recovery for government payroll did not begin until much later in 2021 because most government educational institutions maintained a remote only system with minimal staff throughout 2020," said Olu Sonola, head of U.S. economic research.

Full recovery of all government sector jobs lost to the pandemic occurred in 2H23, more than a year later than full recovery in the private sector. Despite the recent acceleration in government sector job growth, a significant recovery gap remains between the government and the private sector.

The momentum in government sector job growth was maintained during 1Q24, as government sector job growth averaged 64,000, about 23% of average job growth during the quarter.

For more information, a special report titled “Economics Dashboard: Government Hiring Will Continue to Boost U.S. Job Growth in 2024” is available at www.fitchratings.com

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Fitch: Immigration Boosts U.S. Labor Force and All State Populations

Fitch Ratings-New York-11 April 2024: Growth in immigration increased for all states in 2023 and boosted U.S. labor force growth, Fitch Ratings says in a new report. Immigration has significantly contributed to job and economic growth, and momentum is likely to continue through 2024, but the risk of oversupply increases as labor demand softens.

Increases in the U.S. labor force post-pandemic have been led by foreign-born workers, which represented 19% of the U.S. labor force at YE 2023, higher than 17% as of YE19. The foreign-born labor participation rate is 66%, more than the native-born participation rate of 62%. The growth in the number of women in the labor force is due to foreign-born women, as the recovery of native-born women in the labor force largely stagnated in 2023.

The Congressional Budget Office (CBO) estimates net immigration averaged 0.9% of the U.S. population in 2022 and 2023, higher than the Census Bureau’s estimate of 0.3%, and projects a net immigration surge of approximately 14 million over five years (2022–2026). A similar increase previously took 15 years (2005–2019).

Continue reading.

Fitch Places Various Utility System Revenue Bond Ratings Under Criteria Observation.

Fitch Ratings – Austin – 08 Apr 2024: Fitch Ratings has placed the following ratings Under Criteria Observation (UCO) in relation to the publication on April 2, 2024 of Fitch's revised rating criteria titled 'U.S. Public Finance Local Government Rating Criteria':

–Anaheim Housing and Public Improvements Authority, CA water system revenue and refunding bonds;

–Anaheim Public Financing Authority, CA water revenue bonds;

–California Municipal Finance Authority, CA (city of Anaheim) water revenue bonds;

–City of Chicago, IL second lien water revenue and refunding bonds;

–City of Chicago, IL second lien wastewater transmission revenue and refunding bonds;

–City of Milwaukee, WI sewerage system revenue bonds.

Fitch will review the ratings designated as UCO as soon as practicable, but no later than six months from the date of the criteria release.

Continue reading.

'Valuable and Largely Overlooked:' Interest in Virtual Power Plants Grows

Virtual power plant programs can be a cost-effective way to support a strained electric grid at a time when huge projected electric demand increases loom.

Just about every week, Shawn Grant, who works for Salt Lake City-based Rocky Mountain Power, gets an inquiry from another utility looking for information about the company's Wattsmart battery program.

"We want to do something. … How did you guys do it?'" Grant, the company's customer innovation manager, says he's often asked. "We're always fielding those questions."

The program pays customers with solar who opt to install battery storage systems for the ability to use that stored electricity to help balance flows on the electric grid.

Continue reading.

Route Fifty

By Robert Zullo,
New Jersey Monitor

APRIL 11, 2024

Powering Down: To Prevent Wildfires, States Try Turning Off the Grid.

COMMENTARY | The trend started in California, but now more states are opting to shut off power to parts of the grid in extreme conditions.

The U.S. power grid is the largest and most complex machine ever built. It's also aging and under increasing stress from climate-driven disasters such as wildfires, hurricanes and heat waves.

Over the past decade, power grids have played roles in wildfires in multiple states, including California, Hawaii, Oregon and Minnesota. When wind speeds are high and humidity is low, electrical infrastructure such as aboveground power lines can blow into vegetation or spark against other components, starting a fire that high winds then spread.

Under extreme conditions, utilities may opt to shut off power to parts of the grid in their service areas to reduce wildfire risk. These outages, known as public safety power shutoffs, have occurred mainly in California, where wildfires have become larger and more destructive in recent decades.

Continue reading.

Route Fifty

By Kyri Baker,
The Conversation

APRIL 12, 2024

New Bill Would Convert Unused Government Buildings Into Affordable Housing.

California Reps. Adam Schiff and Jimmy Gomez cosponsored legislation that would direct the Housing and Urban Development Secretary to help refashion certain federal, state and local government properties into affordable residential rental projects.

New House legislation introduced Tuesday would aim to repurpose underutilized government facilities into affordable housing projects in an effort to boost residential use development.

The Government Facilities to Affordable Housing Conversion Act — cosponsored by Reps. Adam Schiff and Jimmy Gomez, D-Calif., — would task the Housing and Urban Development Department, General Services Administration and the Office of Management and Budget with identifying vacant or underused federal, state and local government properties that may be suitable for residential conversion.

The three agencies would analyze the federal real property footprint, whether it's being utilized and should be reduced and which properties could be eligible for conversion in a report to Congress.

Continue reading.

Route Fifty

By Carten Cordell,
Managing Editor, Government Executive

APRIL 5, 2024

EPA Limits PFAS in its New Drinking Water Rules: Phelps Dunbar

This week, the U.S. Environmental Protection Agency (EPA) finalized its National Primary Drinking Water Regulation (NPDWR) for per- and polyfluoroalkyl substances (PFAS) to limit the legal concentration of both several individual PFAS and total PFAS compounds in drinking water nationwide, using its authority under the federal Safe Drinking Water Act.

PFAS, or "forever chemicals," are a class of long-lasting chemical compounds that accumulate in the environment and in many living organisms over time. PFAS have been linked to adverse health conditions, including increased cholesterol, changes in liver enzymes, immune system deficiencies, decreases in birth weight, and kidney and testicular cancer. While manufacturers stopped using many of the most harmful PFAS compounds years ago, thousands of PFAS are still used in a wide variety of products ranging from aqueous fire-fighting foams and ski waxes to fast-food packaging due to their water resistance, stain resistance, thermal regulation, and surfactant properties.

EPA set maximum contaminant level standards (MCLs) for perfluorooctanoic acid (PFOA), perfluorooctanesulfonic acid (PFOS), perfluorononanoic acid (PFNA), perfluorohexane sulfonate (PFHxS), and GenX chemicals in parts per trillion (ppt).

Continue reading.

Phelps Dunbar LLP – Sophie D. Gray

April 12 2024

E.P.A. Says 'Forever Chemicals' Must Be Removed From Tap Water.

The rule applies to a family of chemicals known as PFAS that are linked to serious health effects. Water utilities argue the cost is too great.

For the first time, the federal government is requiring municipal water systems to remove six synthetic chemicals linked to cancer and other health problems that are present in the tap water of hundreds of millions of Americans.

The extraordinary move from the Environmental Protection Agency mandates that water providers reduce perfluoroalkyl and polyfluoroalkyl substances, known collectively as PFAS, to near-zero levels. The compounds, found in everything from dental floss to firefighting foams to children's toys, are called "forever chemicals" because they never fully degrade and can accumulate in the body and the environment.

The chemicals are so ubiquitous that they can be found in the blood of almost every person in the United States. A 2023 government study of private wells and public water systems detected PFAS chemicals in nearly half the tap water in the country.

Continue reading.

The New York Times

By Lisa Friedman

April 10, 2024

What to Know About the EPA Limits on 'Forever Chemicals' in Drinking Water and Your Health.

Health experts have linked PFAS, also found in consumer products and fish, to a range of health effects

In the eight decades since they were created, so-called forever chemicals have reached remote corners of the Arctic and populous cities and rural areas around the world. The chemicals have been detected in the open ocean and the tissue of animal species, as well as the drinking water that millions of Americans consume each day.

Also known as PFAS, or perfluoroalkyl and polyfluoroalkyl substances, they can stay in the environment for years without breaking down.

Nearly all people in the U.S. are believed to have some level of PFAS in their blood, according to the Centers for Disease Control and Prevention. That is because these harmful chemicals can be found in a range of products, from cosmetics and fish, to food packaging and nonstick cookware, in addition to the water supply.

Continue reading.

The Wall Street Journal

By Nidhi Subbaraman

Updated April 10, 2024

Where Do Utility Legal Settlements for PFAS Stand?

With EPA's National Primary Drinking Water Regulation for PFAS now finalized, the recently announced 3M and DuPont settlements, stemming from the ongoing Aqueous Film-Forming Foam (AFFF) Multi-District Litigation (MDL) promise access to billions of dollars to cover PFAS treatment and monitoring expenses for water systems across the county.

Faced with significant costs of treatment for PFAS contamination, over the past few years many water systems have filed lawsuits against PFAS manufacturers, seeking to hold the companies responsible for water pollution. These lawsuits have been grouped into the AFFF MDL that eventually led to the proposed PFAS class action settlements.

An MDL is a consolidated legal process in which multiple lawsuits filed by public water providers,

property owners, personal injury plaintiffs, and sovereigns (such as states, territories, and tribes) from across the country have been grouped together. All the lawsuits in the AFFF MDL claim that the plaintiffs have been negatively impacted by contamination stemming from the use of AFFF, a PFAS-containing firefighting foam, as well as other PFAS products. In an effort to resolve some of these legal claims, DuPont and its related companies, Chemours and Corteva, offered U.S. public water providers a settlement totaling $1.1859 billion in June 2023. Shortly after the DuPont settlement was announced, 3M agreed to pay U.S. public water providers up to $12.5 billion over 13 years in settlement funds. DuPont's settlement received final approval in February 2024, while 3M's received final approval in March.

Continue reading.

Water Finance and Management

By Ken Sansone & Mike DiGiannantonio

APRIL 8, 2024

EPA Finalizes Highly-Anticipated Rule to Regulate PFAS in Drinking Water.

On April 10, the U.S. Environmental Protection Agency (EPA) announced a final National Primary Drinking Water Regulation (NPDWR), establishing Maximum Contaminant Levels (MCLs) for six per- and polyfluoroalkyl substances (PFAS). The long-awaited regulation has drawn pushback from the water sector over the cost increases it may impose on utilities and ratepayers.

The final rule will regulate PFOA and PFOS to MCLs of 4 parts per trillion (ppt). It will also regulate PFHxS, PFNA, GenX to 10 ppt and will mandate water systems to measure for a mixture of at least two of the four chemicals PFHxS, PFNA, GenX and PFBS using a hazard index. The final NPDWR requires:

- Public water systems must monitor for these PFAS and have three years to complete initial monitoring (by 2027), followed by ongoing compliance monitoring. Water systems must also provide the public with information on the levels of these PFAS in their drinking water beginning in 2027.
- Public water systems have five years (by 2029) to implement solutions that reduce these PFAS if monitoring shows that drinking water levels exceed these MCLs.
- Beginning in five years (2029), public water systems that have PFAS in drinking water which violates one or more of these MCLs must take action to reduce levels of these PFAS in their drinking water and must provide notification to the public of the violation.

Continue reading.

WATER FINANCE & MANAGEMENT

BY ANDREW FARR

APRIL 11, 2024

Florida Board Approves Premium Reimbursement Formula to Help Insurers.

(The Center Square) — The Florida Hurricane Catastrophe Fund Advisory Council has approved a new premium reimbursement formula that will help alleviate the burden on insurance companies operating in Florida.

The FHCF operates under the State Board of Administration and is a tax-exempt state trust fund that reimburses a portion of hurricane losses to residential property insurance companies in the Sunshine State.

According to FHCF's website, it operates to protect and advance Florida's interest in maintaining sufficient insurance capacity. All residential property insurance companies are mandated to participate in the FHCF and enter into a reimbursement contract.

Continue reading.

By Andrew Powell | The Center Square Contributor Apr 5, 2024

New Florida Law Provides More Public-Private Partnership Opportunities: Holland & Knight

The Florida Legislature recently amended Section 255.065, Florida Statutes (P3 Law) pursuant to House Bill (HB) 781, which is expected to become effective on July 1, 2024. HB 781 provides responsible public entities (e.g., counties, cities, special districts and certain regional entities) with a new, alternative process for accepting unsolicited public-private partnership (P3) proposals.

P3s are contractual arrangements between public and private-sector entities that facilitate increased private-sector involvement in the funding and execution of public building and infrastructure projects.

Florida's P3 Law

The P3 Law provides a statutory framework for responsible public entities to undertake P3s. Under the current P3 Law, if a public entity desires to execute a comprehensive agreement for a project arising from an unsolicited proposal, it must first publish notice in the Florida Administrative Register (FAR) and a newspaper of general circulation, as well as mail a copy of the notice to each local government in the affected area that states it has received a proposal and will accept other proposals for the same project.

Continue reading.

Holland & Knight Alert

by Michael L. Wiener | Denise Ganz | Vlad Popik

APRIL 3, 2024

Changes to General Obligation Notes Borrowing in Wisconsin: Benefits to Municipalities - Foley & Lardner

Municipalities issuing general obligation promissory notes under section 67.12 (12)[1] of the Wisconsin Statutes may now take advantage of a statutory maximum maturity date of 20 years. 2023 Wisconsin Act 128 (the "Act")[2] took effect on March 23, 2024, and included legislation to extend the statutory maximum maturity date, which had been 10 years, for general obligation promissory notes. The maximum maturity date for general obligation promissory notes issued under section 67.12 (12) is now the same as the maximum maturity date for general obligation bonds as stated in Chapter 67[3]. This new legislation impacts all municipalities as defined under section 67.01 (5), which includes technical college districts, counties, cities, towns, villages, school districts, metropolitan sewerage districts, and certain other municipal issuers.

While the statutory maximum maturity date for general obligation bonds and promissory notes is now the same in most cases, there are several differences between the two types of debt that now make notes more attractive as described in more detail below: (1) notes may be issued for any public purpose and (2) the statutorily required procedures for issuance are less onerous for notes.

Prior to the Act, municipalities would frequently need to issue both general obligation bonds and promissory notes to finance their planned projects, given the statutory limitation on eligible projects that applies to bonds issued under Chapter 67. Promissory notes, on the other hand, would be used to finance other public purposes not otherwise eligible to be bond financed, such as vehicles, furniture, equipment, technology and software, and construction and improvements to any public building, for the shorter 10-year maximum borrowing period. Now, a single issuance of tax-exempt promissory notes could finance all a municipality's planned projects for a 20-year period[4].

Continue reading.

02 April 2024

Washington DC's Cash Bounty to Wither on Empty Offices, Downtown.

After a decade of flush coffers, Washington is bracing for lower revenue as the downtown of the nation's capital continues to struggle with a post-pandemic bounceback.

Glen Lee, Washington's chief financial officer, cautioned that the extra cash the city has enjoyed for the last several years is at risk as a result of slower revenue growth, the end of pandemic stimulus funding and higher operating costs.

"The surpluses that we've been enjoying are going to shrivel up," Lee said in an interview. As of the end of 2023, Washington had about $1.5 billion in reserve funds. "Worrying about whether or not we have enough cash on hand to pay bills — which was something inconceivable for a CFO since 2010 — is now a real issue."

Continue reading.

Bloomberg CityLab

By Skylar Woodhouse

April 9, 2024

How California Business and Government Might Solve the Freshwater Crisis - Together

Does the public sector need the private sector's help to address the freshwater crisis? That's the controversial thesis of Stanford law and environmental social sciences professor Barton "Buzz" Thompson's provocatively titled new book: Liquid Asset: How Business and Government Can Partner to Solve the Freshwater Crisis. (Buzz is also a member of the PPIC Water Policy Center's research network.) We sat down with him to hear more.

How is the private sector currently involved in water?

The private sector is already involved in water in many ways, some more controversial than others. The private provision of water and water marketing are the most controversial because they impact how water is allocated—who gets it, and who doesn't. But the private sector also provides new technology to reduce the cost of important processes like recycling or desalinization. And many private companies, which are the largest consumers of water, have adopted corporate water stewardship programs to reduce their water footprint.

We think of the Sustainable Groundwater Management Act (SGMA) as a public program, and it is. The legislature passed the law, and public agencies are implementing it. But if you look carefully, you'll see private handprints all over SGMA's success. The private sector has been instrumental in SGMA's passage, its implementation, and dealing with its impact.

Philanthropic foundations helped lay the groundwork that led to SGMA's passage, and they've funded development of new data and modeling tools. Private consultants provided the scientific and technical knowledge needed for implementation. Nonprofit organizations like the Environmental Defense Fund (EDF) and The Nature Conservancy have helped monitor SGMA's implementation to make sure it's meeting the law. They've also helped develop local groundwater markets and programs to help transition some farms to other land uses, including the Multibenefit Land Repurposing Program.

Why did you decide to write about this topic now?

I've worked in the water sector for about four decades. It's clear that water crises are growing and multifaceted, whether it's climate change, aging infrastructure, or groundwater overdraft. The public sector, populated by dedicated, smart officials, is struggling to meet all these challenges. The more I looked at the public sector, the more I realized it needs the private sector's help.

For instance, cities would love to do more water recycling, but for a lot of cities that would require new pipes and digging up streets, which people don't like. Epic Cleantec in San Francisco has developed modular equipment to recycle water on-site so you don't have to dig up the street. A lot of small water suppliers—frequently for low-income communities—are having a hard time financing new infrastructure. Nonprofit organizations like Water Finance Exchange and Moonshot Missions try to match small water suppliers with financing.

Where the public sector struggles, private entities can try to help. But the public sector needs to be

willing to reach out, and the private sector needs to realize it can't contribute without the public sector.

What are some of the changes you're advocating, and why?

We need new technologies to solve current challenges, but we face a technological deficit in the US: we're not getting new technologies out and adopted quickly enough.

Places like Singapore have made a lot of progress on issues like desalination and recycling by working with the private sector. Singapore funds innovation and allows businesses to use public infrastructure to test new technologies. These technologies have become an export industry, adding $2 billion to Singapore's economy and employing 14,000 people. Government needs to develop regulations that encourage the development of new technologies and work with private companies to test and adopt them.

But government also must ensure that private companies aren't negatively impacting the public interest in water. The petroleum industry creates immense amounts of produced water—for instance, in the Permian basin, for every barrel of oil, you produce about four barrels of water. Companies recycle that water for reuse, the government's role is to ensure that the reuse is safe, as California has done with the use of produced water in Kern County agriculture. That's a key role of government—policing the private sector to protect the public interest.

What disincentivizes engagement between the public and private sectors?

The public sector is inherently conservative, and it should be when it comes to freshwater. If your iPhone malfunctions, it's an inconvenience. If the system that supplies water to San Francisco malfunctions, that could be a public health crisis. But in many cases, it's too conservative. Governmental agencies just don't have the same incentive to embrace new, creative ideas as the private sector.

The public sector is also highly fragmented. Many small utilities don't have funds to replace current infrastructure, and frequently they have no R&D program, which is where you'd typically interact with the private sector. They can't invest in new technologies. That makes it hard to take advantage of what the private sector has to offer.

The energy sector operates very differently—it's dominated by private companies that are developing new technologies and implementing them with public support. Between 2001–14, governments in the US provided about $8 billion of funding to develop new energy technologies; in the water field, it was $28 million. If we want to know how to solve water challenges, we can look at what the energy sector has done.

What gives you hope?

I've taught a class at Stanford on "The Business of Water" for seven years, bringing in dozens of companies working in water. Their enthusiasm, dedication, and creativity give me confidence that, with the public sector, they can help solve key water challenges.

Public Policy Institute of California

Dismantling Misconceptions: The Stability of High Yield Municipal Bonds

When it comes to the high-yield bond space, high-yield corporate bonds have certainly earned their "junk" moniker. Filled with high default rates, volatility, and potential payback complications, investors treading here truly are taking on plenty of risk. But high-yield municipal bonds may tell a different story.

They may not be that risky at all.

The high-yield municipal sector comes in many flavors, each with its own set of rules and covenants. But the thing is, certain investors are still able to get very high yields at lower risk than their corporate rivals. In the end, high munis may not be that risky at all.

Revenue-Backed Bonds

When investors think about municipal bonds, they often think about general obligation (GO) bonds. Here, the State of New York or the City of Houston issues debt to help fund their operations. The ability to repay these bonds is directly tied to the municipality's ability to tax, either through payroll, property, sales, use or other means.

Continue reading.

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by Aaron Levitt

Apr 10, 2024

Uncle Sam's Debt Woes Create Opportunity for Muni Buyers.

'If you think taxes are going up, munis and the muni exemption are a great place to be," Nuveen's head of municipals says.

Uncle Sam is digging a hole that only taxpayers can fill. That's why advisors are plugging their high-net-worth clients' portfolios full of tax-free municipal bonds.

The Congressional Budget Office said this week that the federal budget deficit for the first six months of fiscal 2024, ended in March, was $1.064 trillion. For the full year of 2024, the CBO sees the budget deficit totaling $1.5 trillion, a decrease from the $1.7 trillion deficit in 2023 that was the third-largest in American history.

Like it or not, those bills are going to have to be paid. And that means the folks down in Washington will be figuring out ways to hike taxes however and wherever they can, on top of selling new bonds to pay for the old ones.

Since interest income from munis is exempt from federal income tax and munis issued within a client's home state are generally exempt from state and local taxes, muni bonds will increasingly become a haven for the well-heeled as taxes rise. And while the market has seen explosive growth in Treasury and sovereign issuance, the same can't be said on the muni side.

Meanwhile, outside the nation's capital, the country's municipalities are showing strong credit fundamentals, said Dan Close, head of municipals at Nuveen.

"Right now, state and local governments have $290 billion on their balance sheets from five rounds of COVID finance," he said. "They are prepared to take anything that comes our way in an economic downturn."

Close added that the rating agencies have upgraded munis by a factor of 4 to 1 over the past three years. On the other hand, the nation's credit rating is heading in the other direction, with Fitch downgrading the country's long-term credit rating last August to AA+ from AAA.

"If you look at Biden's initial budget, it was taking taxes from 37 to 39.6 percent at the federal level and from 3.8 to 5 percent for the Medicare surcharge," he said. "So if you do think taxes are going up, munis and the muni exemption are a great place to be."

Elsewhere in Washington, over at the Federal Reserve, Close sees a maximum of three rate cuts this year. If and when they arrive, he sees that as a bullish sign for munis, where income levels remain high.

"You're getting paid right now to wait," he said. "On an average portfolio of AA-minus, intermediate duration, you're getting in excess of 6% on a taxable-equivalent yield, and more than 9% for high yield."

Trent Leyda, CEO of SpirePoint Private Client, agrees, saying taxes for high-net-worth individuals can be complicated, therefore tax-free municipal bonds are usually used for higher-tax-bracket taxable accounts.

"The yields tend to be lower than what you can get on high-quality corporate bonds or Treasury bonds," said Leyda. "However, the tax-equivalent yield is usually at parity with taxable bonds. It is always advisable to understand the credit quality, the interest-rate sensitivity and the underlying corporate health of all bond issues."

All that said, Tom Graff, chief investment officer at Facet, sees municipal bonds as "extremely expensive" right now compared to taxable bonds.

"A typical 5-year, high-quality muni bond yields about 2.6 percent to 2.7 percent, while the 5-year Treasury yields 4.55 percent," he said. "If you are in the highest federal tax bracket of 37 percent, the Treasury would yield 2.87% after paying taxes on the income. That's a bit higher than the tax-free muni yield. If your tax bracket is anything lower than that, munis are an even worse deal."

investmentnews.com

By Gregg Greenberg

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Munis Offer Benefits Beyond Tax-Free Income.

Municipal bonds are lauded for the tax-free income they can provide to fixed income investors. A closer look under the hood shows the tangible impact muni sales can provide to the communities

that benefit from the funding.

“Municipal bond issuers are responsible for building and supporting the physical infrastructure and the public goods and services that enable citizens to participate more in an inclusive economy,” an Alliance Bernstein report said. The report noted the U.S. muni bond market comprises roughly $4 trillion. That can help fund their respective goals for local communities.

“Challenges like supplying clean water and improving access to quality healthcare can both be tackled through environmentally, socially, and financially productive investments in communities and institutions,” the report added.

Of course, the prime benefit of munis is the tax-free income they can offer that’s beneficial for investors in higher income tax brackets. Rather than opt for a variety of muni bond holdings, an easier way is via one ETF: the well-diversified Vanguard Tax-Exempt Bond ETF (VTEB).

The fund tracks the Standard & Poor’s National AMT-Free Municipal Bond Index, which measures the performance of the investment-grade segment of the U.S. municipal bond market. Overall, this index includes municipal bonds from issuers, primarily state or local governments or agencies whose interests are exempt from U.S. federal income taxes, and the federal alternative minimum tax.

Of course, a prime goal for fixed income investors, especially in a year in which rate cuts could happen, is extracting the highest yield in the current macroeconomic environment. To that note, VTEB brings a yield of 3.39% (as of April 2).

A Short-Term Bond ETF Solution

The anticipation of rate cuts puts investors on notice that they may need to lock in rates now before the Federal Reserve loosens monetary policy. To mitigate rate risk, a short-term solution is an option. And if investors want to maintain exposure to municipal debt, Vanguard has a solution.

Investors will want to take a closer look at the Vanguard Short-Term Tax-Exempt Bond ETF (VTES), which can also offer the aforementioned tax benefits. The fund tracks the S&P 0-7 Year National AMT-Free Municipal Bond Index. That index is designed to balance the need for tax efficiency with the need for tax-exempt yield. This balance can translate to potentially higher yields than those afforded by competing strategies, for an appropriate level of duration risk.

As of April 2, the 30-day SEC yield of VTES is 2.95%.

ETF TRENDS

by BEN HERNANDEZ

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