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## Future Returns: Navigating the Municipal Bond Market.

The prospect of higher taxes has fueled interest in municipal bonds since state elections in Georgia assured Democrats of a slim majority in Congress at the beginning of the year.

That's because municipal bonds allow investors to earn tax-free income. But the benefits of owning the highest quality of these tax-free securities relative to Treasuries or investment-grade corporate bonds have diminished as the rush to munis has pushed prices higher, and yields lower.

The yield-to-worst (the potential lowest yield for a security) of the S&P Municipal Bond Index was only 1.03% on Monday, slightly above a low of 0.92% hit on July 27 this year. By comparison, the U.S. 10-year Treasury closed Monday at a yield of 1.36%

But high prices, and low yields, haven't quashed investor interest in munis. Estimated net cash flows into municipal bond mutual funds and exchange-traded funds reached US\$79.25 billion through the end of August this year compared with US\$15.73 billion in the same period a year ago, according to Refinitiv Lipper data. Those are the largest inflow totals for municipal bonds on record, according to the firm, a unit of the London Stock Exchange Group.

"There's only been one or two weeks over the last 60 that we haven't had positive cash flows into municipal bond funds," says John Flahive, head of fixed income investments at BNY Mellon Wealth Management.

Penta recently spoke with Flahive about how wealthy investors should approach the municipal bond market amid low interest rates throughout the world of fixed income.

### **A Rapidly Declining Ratio**

Before the pandemic, the yield on 10-year triple-A-rated municipal bonds was about 85% to 90% of the 10-year Treasury yield. For investors in a 40% tax bracket, the taxable-equivalent yield on those municipal securities would be 0.30-0.50 of a percentage point higher (depending on the yield of the security at the time), Flahive says.

But prices of municipal bonds tanked, and yields rose, in the first few months of 2020 as investors feared pandemic-related lockdowns would cause state and local governments to run into financial difficulties. That would mean they could have trouble making bond payments to investors.

As a result, yields on muni bonds rose to nearly four times comparable Treasuries by the end of March 2020, according to research from Brookings.

But interventions by the Federal Reserve during the height of the crisis quickly stemmed fears. By

the time the pandemic-related eligibility of municipal securities for the Fed's Commercial Paper Funding Facility and for the Money Market Mutual Fund Liquidity Facility expired on March 31, muni rates had fallen to about 50% of comparable Treasuries, Brookings researchers wrote in an Aug. 31 post.

As Flahive noted in a mid-year report on the bond markets, the yield on 30-year triple-A rated municipal bonds rose just 0.07 percentage point in the first half of this year compared with a 0.47 percentage point gain in 30-year Treasury yields.

The relative after-tax advantage of munis, as a result, was historically low on all maturities as of the first half. Today, the tax-equivalent yield differential between munis and Treasuries is so slim that in some cases it doesn't exist at all, Flahive says.

Total returns for munis have also been modest. The US\$14 billion Vanguard Tax-Exempt Bond fund, a national intermediate municipal bond fund, returned 1.32% through Monday, Sept. 13, compared to 4.98% in 2020 and 7.45% in 2019, according to Morningstar.

The credit outlook for municipal securities, meanwhile, "is as favorable as we can recall" as a result of federal fiscal stimulus during the pandemic, Flahive said in the mid-year report. While that stimulus swelled general fund balances, he cautioned that spending budgets by these municipalities will expand, "which could make it more difficult to manage during an economic downturn."

### **Still Worth Owning**

For wealthy investors, the tax advantages of municipal bonds mean the securities are worth buying compared with taxable securities of similar credit quality and with durations of more than five years.

More important for investors, however, is to have a diversified fixed-income portfolio. According to Flahive, investors should even consider giving up some after-tax yield to include taxable bonds among their holdings.

"There's nothing wrong with taking on some corporates, and for those who can take on some risk, there's nothing wrong [with having] exposure to high-yield, floating-rate high-yield, and maybe even emerging market debt," he says.

### **Sticking With Bonds**

Even with rates low across the board, BNY Mellon says investors, generally, should own bonds—albeit a judicious amount. While a generic, moderate-risk portfolio might typically call for 60% in stocks and 40% in bonds (taxable and tax-free), for instance, the wealth manager's high-level recommendation is now for something less than 30% in fixed income, Flahive says.

Of that approximate 30% allocation, most should be in "core" securities, such as intermediate municipal bonds. Generally, this allocation should include about 80% in state-issued municipal securities (for those who live in states with good bond ratings, such as New York or California), and about 20% in national bonds. The portfolio should be diversified between revenue bonds (used to fund specific projects) and general obligation bonds.

Another 6% or so of the total fixed-income allocation could then be in riskier, higher-yielding securities, including opportunistic municipal bond strategies, he says.

"You are probably better off following a diversified fixed-income approach even though you might be taking more volatility asset class by asset class, [because] at least it's not just one asset class,"

Flahive says.

## **Barron's**

By Abby Schultz

Updated Sept. 14, 2021

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### **[Introducing Sustainable Fitch: ESG. Focused.](#)**

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### **[Are States And Cities Taking On Too Much Debt?](#)**

Fears are receding of immediate state and city budget crises, due to the double impact of federal spending and restored economic and revenue growth. But low interest rates and pent-up public spending needs are leading to a great deal of new state and local borrowing. Are states and cities taking on too much debt?

In 2020, falling revenues due to the Covid-19 recession led to significant new muni borrowing. In fact, 2020 saw municipal bond sales set a new record of \$451.2 billion, up 11% over 2019.

2021 has seen continued issues from states and cities, "5% above the 5-year average" in June according to Blackrock. But muni supply is being swamped by demand, with large inflows of

purchasing funds and less supply due to investors buying and holding munis.

[Continue reading.](#)

## **Forbes**

by Richard McGahey

Sep 8, 2021

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## **[S&P U.S. Not-For-Profit Health Care Rating Actions, August 2021.](#)**

### **Table of Contents**

S&P Global Ratings affirmed 17 ratings without revising the outlooks and took 12 rating actions in the U.S. not-for-profit health care sector in August 2021. There were 11 new sales in August including ratings initially assigned to AtlantiCare Health System, N.J. and St. Lukes Hospital of Duluth, Minn. We also assigned an issuer credit rating to Antelope Valley Hospital, Calif. The 12 rating and outlook actions were comprised of the following:

- Three stand-alone hospital downgrades all into speculative grade;
- Two upgrades, including one stand-alone hospital and one health system;
- Five favorable outlook revisions (four to stable from negative and one to positive from stable); and
- Two unfavorable outlook revisions (to negative from stable).

The table below summarizes S&P Global Ratings' monthly bond rating actions for U.S. not-for-profit health care providers in August. We based the credit rating affirmations and rating actions on several factors within enterprise and financial profiles, including business position, utilization, financial performance, debt levels, bond-issuance activity, physician relationships, and the external regulatory and reimbursement environment. This also incorporates our stable sector view and our assessment of COVID-19, economic developments, and market volatility.

[Continue reading.](#)

13 Sep, 2021

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## **[Fitch 2021 Median Ratios for Not-for-Profit Life Plan Communities.](#)**

Fitch Ratings-New York-13 September 2021: Fitch Ratings has released its 2021 Median Ratios for Not-for-Profit Life Plan Communities (LPCs). The data presented in this report are limited solely to audited fiscal 2019 results.

"The sector remained resilient during the coronavirus pandemic, which is reflected in the sector's 2020 financial results," said Margaret Johnson, Director. "Most of Fitch's rated communities availed themselves of various forms of emergency stimulus funding to alleviate the operational pressure of the pandemic, which included increased expenses, lower revenues as a result of a decline in post-acute rehabilitation volumes and pressured cash flows from curtailed turnover due to severe limitations imposed on move-ins to communities during the pandemic."

As of Aug. 4, 2021, Fitch maintained public ratings on 161 LPC providers, of which 151 are included in the medians report. The median rating is 'BBB' and the number of ratings in the 'BBB' rating category remains the most numerous at 77 (or about 51%) versus 34 (or 22%) in the 'A' rating category. Within Fitch's median portfolio, Type A contract providers remain the plurality with 57 (about 38% of the portfolio), followed by Type C contract providers and Type B contract providers.

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## **[Update on the Reconciliation Package: Municipal Bonding Priorities](#)**

Pullman & Comley's Public Finance tax attorneys are pleased to bring you the latest development on the budget reconciliation front as it relates to municipal bonding. Last Thursday, September 9, 2021, the House Ways and Means Committee kicked off a multiday markup of key elements of \$3.5 trillion social spending package. In the evening on Friday, September 10, the House Ways and Means Committee released the remaining tax subtitles for consideration in their portion of the reconciliation package. The proposed legislation, which the Committee will mark up this week, includes the following municipal bond priorities (among others):

- Restoration of Advance Refundings,
- Reinstatement of a Direct Subsidy Bond Program Similar to Build America Bonds, and
- Expansion of Bank Qualified Provisions of the Code.

The Committee's section-by-section summary is below. There are still no firm details on the Senate's tax provisions or on the anticipated schedule for consideration.

### **Section-By-Section Details for Select Sections of Subtitle F - Infrastructure Financing and Community Development**

**Sec. 135101. Credit to issuer for certain infrastructure bonds.**

Based on the successful Build America Bonds program enacted in the 2009 American Recovery and Reinvestment Act, issuers of qualified infrastructure bonds would receive a tax credit equal to an applicable percentage of the interest, providing direct financing support for infrastructure investments made by state and local governments. The applicable percentage of the credit for interest paid with respect to qualified bonds is determined in the year the bond is issued as follows:

2022 through 2024 - 35%

2025 - 32%

2026 - 30%

2027 and thereafter - 28%

State and local governments may claim this credit for bonds whose interest would otherwise be eligible for tax-exempt status in the Internal Revenue Code, and the entirety of whose net proceeds are used for capital expenditures or the operation and maintenance of capital expenditures.

This provision requires that 100% of the proceeds of a bond issued under this provision meet the requirements in the Davis-Bacon Act. Payments under this section are grossed up in the event of sequestration. This provision applies to qualified infrastructure bonds issued after December 31, 2021.

#### **Sec. 135102. Advance refunding bonds.**

Advance refunding refers to a state or local government holding the proceeds of a refunding issue for longer than 90 days before using such proceeds to pay off a refunded issue, allowing state and municipal governments to take advantage of lower interest rates to refinance long-term debt obligations. Prior to repeal in the 2017 Tax Cuts and Jobs Act, interest on advance refunding bonds was exempt from tax. This provision would once again allow interest on advance refunding bonds issued by state and local governments to be exempt from tax. This provision applies to advance refunding bonds issued more than 30 days after date of enactment of this Act.

#### **Sec. 135103. Permanent modification of small issuer exception to tax-exempt interest expense allocation rules for financial institutions.**

As a general rule, no deductions are allowed for expenses that are allocable to tax-exempt income, including tax-exempt interest received by holders of certain municipal bonds. The same general rule applies to financial institutions to disallow a deduction for interest expense that is allocable to tax-exempt interest income. However, present law provides an exception for interest expense allocable to certain tax-exempt obligations issued by qualified small issuers, which are defined (in part) as issuers that are not reasonably expected to issue more than \$10 million in tax-exempt obligations during a calendar year. This provision revises the definition of qualified small issuers by increasing the \$10 million limit to \$30 million (indexed annually for inflation). In addition, this provision treats qualified 501(c)(3) bonds as tax-exempt obligations for purposes of the small issuer exception, and makes permanent certain rules related to qualified financings.

#### **Sec. 135104. Modifications to qualified small issue bonds.**

This provision expands the definition of eligible manufacturing facilities eligible for financing through qualified small issue bonds to include facilities used for the creation or production of intangible property, and facilities functionally related and subordinate (or directly related and ancillary) to facilities used for the manufacturing, creation, or productions of tangible or intangible property. This provision also raises the aggregate cap for prior issues from \$10 million to \$30 million, indexed annually for inflation.

Please contact Michael J. Andreana, Sandra D. Dawson or Glenn G. Rybacki with any questions.

by Michael J. Andreana, Sandra D. Dawson and Glenn G. Rybacki

09.14.2021

**Pullman & Comley, LLC**

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## **[Biden Warns States, Cities of Fallout From Debt Default.](#)**

- **White House warns of possible recession, slump in federal aid**
- **Treasury has warned “extraordinary measures” run out in Oct.**

President Joe Biden’s administration is warning state and local governments that the risk of a default on U.S. debt could trigger a recession and curb the flow of federal aid, as it urges Congress to raise or suspend the federal borrowing ceiling and avoid a crisis.

“Hitting the debt ceiling could cause a recession. Economic growth would falter, unemployment would rise, and the labor market could lose millions of jobs,” the White House said in a letter to state and local governments, released Friday.

The White House said disaster relief payments, Medicaid and the children’s health insurance program, as well as funding for education, infrastructure and child nutrition could be disrupted.

“If the U.S. defaults on its obligations, the ripple effects will hurt cities and states across the country,” the letter said.

The letter comes after Senate Minority Leader Mitch McConnell this week rejected an appeal by Treasury Secretary Janet Yellen for Republicans to join with Democrats in raising the federal debt ceiling, leaving the two sides at odds with potentially just weeks to go until the limit is breached.

The debt limit snapped back into place at the beginning of August, but Treasury has been using so-called extraordinary measures since then to avoid a default. Yellen has warned that those measures will run out some time in October.

“If the U.S. defaults on its debt – cities and states could experience a double-whammy: falling revenues and no federal aid as long as Congress refuses to raise or suspend the debt limit,” the White House warned, adding that a debt limit crisis could also raise the cost of borrowing for states and municipalities.

It warned that the S&P 500 could plunge in the event of a prolonged standoff, “and the value of state pension fund assets would fall as a result, hampering states’ ability to pay their pension obligations.”

The administration has been urging Congress to simply raise or suspend the limit, as has been done regularly in the past, though Republicans have seized on the issue as a way to combat Biden’s domestic fiscal agenda, which includes tax increases for corporations and a series of proposed spending measures that the GOP opposes.

National Economic Council Director Brian Deese said Friday that the administration ultimately expects Congress to avoid a debt limit crisis.

“We have seen this done in a bipartisan way consistently and the best way to do this is without a lot of drama, without a lot of self-inflicted harm to the economy and to our country, and that’s what we’re going to do,” Deese told MSNBC. “Now, there’s a lot of posturing on this issue, but we’re confident at the end of the day we’ll get this done.”

The U.S. Conference of Mayors on Friday urged Congress to act on a bipartisan basis.

“Both parties in Washington have added to our debt, and both parties have an obligation to make sure the United States can continue to pay its bills,” Dayton, Ohio Mayor Nan Whaley, the group’s president, said in a statement. “This is one of the most basic responsibilities of Congress, and there is no good reason for lawmakers to create a crisis that undermines the full faith and credit of the United States.”

## **Bloomberg Politics**

By Josh Wingrove

September 17, 2021

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### **[States and the Fiscal Experiment Flowing from Washington.](#)**

**Despite predictions that COVID-19 would crush state tax revenues, most of them didn’t need megabillions in pandemic aid to balance their budgets. But for the most part they seem to be spending the money wisely.**

It’s time for macroeconomists and public finance pundits to eat crow. Early last year, almost all of us — myself included — predicted that states would encounter major revenue shortfalls as the nation locked down to fight the coronavirus. In retrospect, that proved to be a false alarm, at least for all but a third of the states. So the megabillions of federal dollars allocated to them by the 2020 CARES Act and the 2021 American Rescue Plan are largely going someplace other than budget balancing. Has a half-century of empirical public finance wisdom gone out the window?

As for my own humble pie, hopefully I can pass up the largest slice: While I was among the pundits predicting significant tax revenue shortfalls, I did [make the case](#) in this space in April 2020 that the size of federal relief packages being proposed at the time by congressional liberals and advocates of state and local government were double or even quadruple the realistic magnitude of what the pandemic could inflict. Beginning with the data point that total state and local sales and income taxes garner about \$1 trillion annually, my bar-napkin estimate of the likely revenue shortfall was a range of 10 to 25 percent of that number, so perhaps \$100 billion to \$250 billion. At the time, governors were pleading for \$500 billion, and I explained how that was probably going to be far more than was actually needed.

Although the 2020 CARES Act focused mostly on direct aid to individuals and small businesses, it did include about \$150 billion for states and localities. With Democrats relentlessly pushing for more, the bigger funding package came later in this year’s pandemic relief legislation: the American Rescue Plan, which earmarked another \$350 billion for intergovernmental aid — a number that will be debated for many years to come.

[Continue reading.](#)

## **[Amendments to Rule G-10 Notification Requirement for Dealers: SIFMA Comment Letter](#)**

### SUMMARY

SIFMA submitted comments to the Securities and Exchange Commission (“SEC”) on the Municipal Securities Rulemaking Board’s (“MSRB’s”) Filing of a Proposed Rule Change Consisting of Amendments to Rule G-10, on Investor and Municipal Advisory Client Education and Protection, and Rule G-48, on Transactions With Sophisticated Municipal Market Professionals, To Amend Certain Dealer Obligations (the “Filing”).

SIFMA supports many elements of the proposed amendments, which reduce the compliance burden on the dealer community without reducing investor protections. The proposed amendments will render potential cost savings, and each customer notification that no longer needs to be printed or mailed will reduce the environmental impact of this process.

[Read the Comment Letter.](#)

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## **[Tax Hike Seen Luring Banks Back to Munis After Trump-Era Exodus.](#)**

- **House panel approves increase to the corporate tax rate**
- **Banks wading back after Trump tax cuts set off a pullback**

The Democrats’ push to raise the corporate income tax will likely drive banks and insurers to step up their purchases of municipal bonds, a haven for tax-averse investors.

House Democrats are looking to increase the top corporate rate to 26.5% from 21% to help finance President Joe Biden’s \$3.5 trillion economic plan.

That could spark demand for state and local government debt from financial firms seeking to ease their tax burden. Banks, property and casualty insurers and life insurance providers are active investors in the \$4 trillion municipal-bond market, collectively holding a combined \$1 trillion of the securities as of March 31, according to Federal Reserve data.

“With the increase in the tax rate you would see more demand for tax exempts from banks and property and casualty insurance, especially because they’re quite sensitive to tax-rate changes and often times they make decisions between municipal bonds and corporate bonds,” said Karel Citroen, head of municipal research at Conning, which oversees \$9 billion of state and local debt, mostly for insurance clients.

The tax increase would partially roll back the deep cuts in the 2017 law enacted under former President Donald Trump, which reduced the corporate rate from 35%. That caused banks to slash their holdings of municipal bonds by lessening the need for the tax shelter.

Such holdings by financial institutions and insurers are down from \$1.1 trillion at the end of 2017, the Fed's data show.

The latest tax-law changes could also affect demand from the wealthiest investors. The steps approved by the House Ways and Means Committee would raise the highest tax rate and impose a 3% surtax on incomes over \$5 million.

The impacts appears largely priced into the market, given that yields have been largely unchanged since the measures were rolled out. Investors have widely anticipated such tax hikes under Biden, contributing to a large influx into tax-exempt bond funds.

"If the tax changes are implemented in the current form, we will likely see demand for the product remaining quite strong," Barclays strategists wrote in a report Wednesday. "Higher individual tax rates, and a 3% surcharge for adjusted gross income above \$5 million, should increase appetite even further, given that individual investors in top tax brackets own the bulk of tax-exempt bonds."

## **Bloomberg Markets**

By Michelle Kaske

September 16, 2021

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### **[Americans Storm Blackjack Tables in Fiscal Tailwind for States.](#)**

- **U.S. commercial casinos earned record \$4.8 billion in July**
- **More relief for municipalities that collect gaming taxes**

In a boon for U.S. states that tax gambling revenue, the nation's commercial casinos are earning record sums as Americans hungry for leisure and entertainment storm back to play blackjack, work the slots and bet on sports.

July was a historic month for commercial casinos, which earned \$4.83 billion after paying out winnings, according to the latest data from the American Gaming Association.

It was also the fifth consecutive month of double-digit revenue growth over the same period in 2019, and the year's total, \$29.6 billion, almost matches the entire intake for 2020. The peak year was 2019, at \$43.6 billion, and 2021 looks like it may give it a run for the money.

This is more good fiscal news for states and localities, already awash in cash as the result of stronger-than-forecast tax revenue as the economy rebounds from the pandemic, as well as \$350 billion in federal aid. The robust financial backdrop has been one of the pillars supporting municipal debt this year as it's outperformed the broader U.S. fixed-income market.

"For those states that collect gaming taxes, we have seen steady collections from online gaming activity as well as a recovery in in-person gaming receipts, primarily due to a surge in domestic leisure travel and limited alternative entertainment options that conform to social-distancing practices," Ladunni Okolo and Sussan Corson of S&P Global Ratings said in an email Tuesday.

The totals from the AGA represent gambling in the 25 states with commercial casinos, and don't include revenue from Native American tribal operations. July marked the first full month since the onset of the pandemic in which casinos in all 25 of those states could open at full capacity, the

association said.

## **Turnaround 2021**

It promises to be a big turnaround year from the perspective of the tax collectors. In 2020, commercial gaming and sports-betting operations paid \$6.7 billion in taxes, down from \$10.2 billion in 2019, according to AGA data.

Massachusetts gambling operations have reaped the biggest increase in revenue this year: The \$560 million they've taken in amount to a 79.2% increase over the same period in 2019. Nevada casinos brought in the most, at \$7.4 billion, which is a 6% increase over the January-July period in 2019.

Las Vegas has seen visitors increase steadily this year, according to data through July, which was just as the delta variant of the coronavirus was causing cases to soar again.

For municipalities, gambling tax revenue is only part of the story, said Douglas Goldmacher, a senior analyst at Moody's Investors Service.

"Although the overall impact is undeniably positive, the specific impact on a given state or local government is more variable as it depends on the tax structure of the jurisdiction," he said via email Tuesday.

"For some, there is a direct link between higher revenues and higher taxes, but for others, the effects may be more indirect and may depend less on total revenues and more on the number of jobs or ancillary economic impacts," he said.

## **Bloomberg Markets**

By Joseph Mysak Jr

September 15, 2021, 9:06 AM MDT

— *With assistance by Alexandre Tanzi, and Danielle Moran*

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## **[Muni Market Facing Bond-Sales Deluge in Democrats' Budget Plans.](#)**

- **Refinancing, infrastructure subsidies would unleash new issues**
- **At the same time, tax-law changes could affect demand**

A flurry of legislative activity in Congress is promising to shake up the \$4 trillion municipal-bond market by unleashing a potential surge of new debt sales and altering tax rates in ways that could affect demand from investors.

The proposals are among those included in legislation released by Democrats in the U.S. House of Representatives who are moving to implement President Joe Biden's tax-and-spending agenda.

The steps, if enacted, would upend the calculations used in the tax-exempt bond market, where valuations have surged and investors have flooded in over speculation that Biden will raise taxes on the highest earners. Yet the varying elements make it difficult to gauge exactly how it will affect prices, particularly since some elements would likely increase demand as well as supply.

One set of proposals would almost certainly set off a large increase in new bond issuance by subsidizing governments that sell taxable debt for infrastructure projects and restoring the tax-breaks for a refinancing tactic that was effectively ended by Donald Trump in 2017. That could be offset at least in part by moves to raise corporate tax rates and apply a surcharge on individual incomes over \$5 million, providing a potential increase to demand.

“It’s a little hard to predict how that all comes out in the wash at this point,” said James Iselin, head of the municipal fixed-income group at Neuberger Berman Group.

The legislative push could inject more volatility into the state and local government bond market, where yields have been little changed since April.

JPMorgan Chase & Co. estimated that the move to allow governments to again sell tax-exempt bonds for so-called advance refundings could fuel over \$100 billion of debt sales in 2022 alone. At the same time, lawmakers are seeking to revive the Obama-era Build America Bonds program, which covered part of the interest bills on taxable municipal bonds to spur infrastructure projects. About \$186 billion of such debt was sold in 2009 and 2010.

The House Ways and Means Committee’s proposal to raise the top corporate tax rate from 21% to 26.5%, however, could affect demand from buyers such as banks that pared their municipal-bond holdings after taxes were cut under Trump. Even so, some lawmakers are pushing to eliminate the \$10,000 cap on state and local tax deductions that was widely seen as increasing demand for tax-free bonds from wealthy Americans, particularly in states like New York that were heavily affected by the limit.

Overall, though, money managers said the provisions could ease the shortage of new bonds that resulted from a steady influx of cash this year. Municipal debt sales have increased just 3.5% this year, according to data compiled by Bloomberg.

“Most market participants feel there’s just not enough tax-exempt bonds relative to that demand,” Iselin said. “It could wake the market up from this more doldrum-like state. Everybody would be happy for that.”

A surge in debt sales would in theory weigh on performance given that the market tends to be heavily driven by supply and demand dynamics. But any selloff as a result of the expectations for higher supply would be “healthy,” said Jeff Timlin, a managing partner at Sage Advisory Services, and so far prices have barely budged.

Municipal bonds have posted small gains this year, bucking the losses seen in other parts of the fixed-income markets. And the yields on 10-year tax-exempt bonds have averaged about 66% of those on Treasuries this year, down from 106% in the second half of 2020, indicating valuations have risen.

Any pullback could “help the muni market reprice to levels or valuations that are more sustainable in the long run,” Timlin said.

## **Bloomberg Markets**

By Amanda Albright

September 14, 2021, 11:07 AM MDT

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## **Muni-Bond Buyers Wish for ‘Time Machine’ as Airport Sells Debt.**

- **Atlanta’s airport, one of world’s busiest, to sell muni bonds**
- **Bond sale unlikely to face penalty despite rising Covid cases**

When the Hartsfield-Jackson Atlanta International Airport offers nearly \$342 million of municipal debt Tuesday, bond investors may wish they could go back in time.

When the airport, one of the busiest in the world, sold bonds during the depths of the pandemic in September 2020, it paid 49 basis points above AAA rated securities on debt due in 2030. Since then, the additional yield that investors could get on airport bonds has dwindled, lowering the yield penalty on those Atlanta bonds to 19 basis points in secondary market trading on Sept. 8.

Betting on bonds that will benefit from the pandemic recovery is a trade that’s losing its shine in the municipal market. The additional yield that investors received on airport debt has dwindled after the market’s steep selloff in spring 2020 as buyers became more confident in airports’ ability to weather the pandemic.

“If I had a time machine I’d like to go back to May 2020 and buy a bunch of these,” said Paul Toft, senior portfolio manager for municipal investments at Key Private Bank.

Toft said he’ll likely sit out this week’s sale because airport bonds have become “overvalued” over the last six to 12 months.

### **Why It’s Noteworthy**

Municipal-bond investors have been showing confidence in airports, citing their ample supply of liquidity going into the pandemic. Cash on hand for airports rated by Moody’s Investors Service totaled 652 days in fiscal 2019, a record.

Atlanta’s Department of Aviation, which operates the city-owned airport, had 1,026 days of cash on hand as of June 30, 2021. The federal government has provided several rounds of aid to airports through stimulus legislation, and Atlanta’s has received nearly \$800 million in relief.

Jason Appleson, a portfolio manager at PT Asset Management, said the airport benefits from its large size and being the largest hub for Delta Air Lines Inc. “They’re well positioned to sustain a temporary loss of passengers from Covid,” he said.

He said credit spreads in the bond market haven’t reacted much to the spike in Covid-19 cases. U.S. carriers have warned that the rise in Covid-19 infections is delaying their recovery after a strong travel season this summer.

Greg Richardson, chief financial officer of the airport, said in an emailed statement that the airport is seeing signs of “traffic recovery.” Enplanements in June 2021 totaled about 75% of June 2019 levels, according to bond offering documents. He said the airport has about \$600 million of unused pandemic relief aid which it can use to address future challenges.

### **Market’s View**

The Atlanta airport debt is rated Aa3 by Moody’s, which said the airport is in a “solid position.” Loop Capital Markets is serving as the senior manager on the sale.

Richardson said the airport is expecting very strong interest from investors and he hopes to achieve savings of more than \$90 million from the refinancing.

“The market for airport debt remains strong as investors understand the essential role ATL and other airports serve in the national and global transportation network,” he said.

Toft said expects the Atlanta airport deal to price around 20 basis points higher than five-year AAA debt issued by Georgia, which he uses as a proxy for where top-rated municipal credits are trading. He said higher quality debt may make more sense given there is “downside” potential for airports with credit spreads at tight levels.

Appleson said he would consider buying the debt if there was a price “concession” but said he has not been actively buying airport bonds.

“Spreads are so tight in the sector that you’re not getting paid to take airport bond risk,” he said.

## **Bloomberg Markets**

By Amanda Albright

September 13, 2021, 11:04 AM MDT

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### **[Build America Bonds, Advance Refunding Revived by Panel.](#)**

- **Ways and Means Committee on Tuesday will discuss bill markup**
- **New BABs would lead to jump in issuance in the muni market**

Build America Bonds are back.

So is the ability to refinance debt that comes due years later on a tax-exempt basis. There’s also an increase, to \$30 million from \$10 million, in the amount of bonds that can be sold by small issuers and for which banks can deduct their cost of carry. And Native American tribes will find it easier to borrow in the municipal market, while companies will get a new tax credit for wages paid in U.S. possessions.

These are among the proposals affecting the municipal bond market in the text of a bill released late Friday by the House Ways and Means Committee, which on Tuesday will resume discussion of the Build Back Better Act, its portion of President Joe Biden’s \$3.5 trillion economic agenda.

The return of so-called tax-exempt advance refunding bonds is something municipal market participants have been advocating for since they were prohibited under President Donald Trump’s tax overhaul in 2017. The wish for a return of Build America Bonds, a type of subsidized taxable bond, goes back even further, to the end of 2010, when the program expired.

“It’s safe to say there’s a lot of very happy issuers out there,” Emily Swenson Brock, director of the Government Finance Officers Association’s Federal Liaison Center, said in an email on Sept. 11. The group, which represents state and local governments in the U.S. and Canada, has been lobbying for both provisions.

Brock cautioned that the House had a big list to tackle before its self-imposed Sept. 27 deadline, and that Speaker Nancy Pelosi had “to get the caucus in lock-step for reconciliation, which will require

some give and take.”

Issuers sold \$187 billion in Build America Bonds, created by the American Recovery and Reinvestment Act of 2009, before the program expired at the end of 2010. BABs provided issuers with a direct-payment 35% subsidy on the interest they paid to investors, making the taxable borrowing even cheaper than tax-exempt. The subsidy was later lowered as a result of budget sequestration.

“Short opinion is that Christmas came early!” Dave Erdman, Wisconsin’s capital finance director, said in an email. “Yes ‘some assembly required’ and some details need to be worked out, but very happy with the work completed by the Ways and Means Committee!”

New BABs will offer a direct-payment subsidy of 35% from 2022 to 2024 and decrease to 28% by 2027 and after that. Brock of the GFOA said Monday that the committee clarified that the bill would offer direct-pay bonds to the issuer, rather than a credit allowed to the buyer. The committee plans to clarify this in the markup this week, according to Brock.

### **Burned Last Time**

“There will be many issuers out there who felt burned by sequestration-related subsidy cuts last time and may not even consider this taxable financing option without overwhelmingly attractive subsidy rates,” said Tom Kozlik, head of municipal strategy and credit at Hilltop Securities in Dallas, Texas.

Advance refundings once counted for anywhere between 25% and 30% of municipal bond sales every year. In recent years, issuers have turned to doing them with taxable munis because interest rates had become so compressed.

“The muni-friendly provisions in the Ways and Means reconciliation draft is nothing short of a love letter to MuniLand,” said Eric Kazatsky of Bloomberg Intelligence in an email. “While we don’t know what will make the final cut, it is safe to say that public finance bankers should have their hands full going forward.”

The Joint Committee on Taxation on Sept. 11 released a report on the budgetary effects of each of the proposals being considered by Ways and Means. New BABs would cost the government \$22.5 billion between fiscal 2022 and 2031, while allowing tax-exempt advance refundings would cost \$14.9 billion. Expanding bank-qualified issuance would cost \$3.97 billion.

### **Bloomberg Politics**

By Joseph Mysak Jr

September 13, 2021, 12:00 AM MDT Updated on September 13, 2021, 11:44 AM MDT

— *With assistance by Erik Wasson*

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## **[Muni-Bond Sales Set to Surge in Boon to Funds Awash With Cash.](#)**

- **Governments expected to sell \$15.9 billion of bonds in 30-days**
- **Supply, demand imbalance has frustrated investors for months**

The pace of new municipal-bond sales is poised to surge, snapping back from the late-summer lull

and promising to ease a supply dearth that's left money-managers competing to get in on debt offerings.

State and local governments are expected to sell \$15.9 billion of bonds over the next 30 days, the fastest pace since June. The actual amount issued will be much higher because many offerings are scheduled with less than a month's notice.

[Continue reading.](#)

## **Bloomberg Markets**

By Danielle Moran

September 10, 2021, 9:13 AM MDT

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## **Munis In Focus: The Delta Variant (Radio)**

Eric Kazatsky, Senior Municipal Strategist for Bloomberg Intelligence, discusses muni market news. Hosted by Paul Sweeney and Matt Miller.

[Play Episode](#)

## **Bloomberg Radio**

September 10, 2021 — 11:00 AM MDT

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## **Muni Buyers Look for Shift From 'Inertia' That's Gripped Market.**

- **Market stagnates with light trading and predictable patterns**
- **Barclays cites 'Let's Get it Started,' sees more volatility**

Volatility in the state and local debt market has dwindled

Municipal-bond investors and traders are looking for something, anything, to get the market out of its doldrums.

Trading has slowed. Debt sales are up, but only by a paltry 4%. The amount of cash pouring into municipal investment funds has become predictable. State and local debt even defied the selloff in bonds globally on Tuesday, with yields barely budging.

The conditions have meant there hasn't been much volatility that investors often pounce on for buying and selling opportunities. A gauge measuring that volatility in the market over a 30 day period has fallen to the lowest since January.

"Absolute muni yields are too low to sell and too low to buy," said John Ford, co-head of municipal trading at broker-dealer firm Wall Street Access, who described the market as being stuck in a period of "inertia."

"Nobody wants to enter the market at these levels," he said.

Barclays Plc municipal strategists say they think the next few months could get more eventful, publishing a note on Friday with a title that referenced “Let’s Get It Started,” a song by the Black Eyed Peas, a pop-rap group. The note detailed the potential factors that could drive more activity in the market, including federal infrastructure legislation.

Dave Isaak, owner of Isaak Bond Investments, said he thinks buyers are worried about the risk of inflation, and that may be causing buyers to struggle to commit to a big position making a call on the direction of interest rates.

“There’s a level of hesitation,” he said. “Because the risk of inflation being more than transitory is out there.”

The muni-bond market is also watching for any related change in policy from the Federal Reserve. If the Fed sought to taper its bond purchases, it could cause Treasury yields to increase, which could drive up yields on muni bonds, Ford said.

Still, Ford said he thinks any taper-related selloff would likely be muted compared to what happened during the taper tantrum in 2013, given the Fed has refined its messaging strategy and would telegraph a change in policy well in advance.

That would likely limit any increase in muni yields and would mean the securities could have a “lid” on them for a while longer, he said. “I think munis are overpriced here and I hope that a new buying opportunity emerges.”

## **Bloomberg Markets**

By Amanda Albright

September 7, 2021, 11:00 AM MDT

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### **[HUD Opens Access to \\$5 Billion in American Rescue Plan Grants to Prevent and End Homelessness.](#)**

WASHINGTON - The U.S. Department of Housing and Urban Development today issued the HOME-ARP Implementing CPD Notice, Requirements for the Use of Funds in the HOME-American Rescue Plan Program (“the Notice”). The new HOME-ARP notice is a critical step taken by HUD to expeditiously allow communities to begin accessing funds from the nearly \$5 billion funds allocated from the American Rescue Plan to help communities across the country create affordable housing and services for people experiencing or at risk of experiencing homelessness.

“With rates of COVID-19 transmission still high, there is no time to wait to assist the more than half a million Americans on any given night who are enduring this pandemic in crowded shelters or on the streets,” said Secretary Marcia L. Fudge. “Today’s release of guidance opens up access to the critically needed American Rescue Plan funds that will help communities provide the safety and security of a stable home to more Americans.”

In April, HUD [announced](#) the American Rescue Plan funding allocations and broad contours of how the funds can be used. Today, this notice sets forth specific program requirements that participating jurisdictions or grantees must meet to begin planning for their use of their HOME-ARP funds in earnest. Under the regular HOME program, grantees must wait until their allocation plans are

completed and approved by HUD in order to access funds. Given HOME-ARP's focus on addressing the urgent needs of people experiencing and at-risk of homelessness, HUD is providing grantees with five percent of their HOME-ARP grant upfront to support eligible program planning activities related to the development of their HOME-ARP Allocation Plans. Participating jurisdictions will be provided access to the balance of its HOME-ARP grant, including the remaining 10 percent of its administrative and planning set-aside, after HUD reviews and accepts its HOME-ARP Allocation Plan.

The \$4.925 billion in HOME-ARP funding will play a critical role in developing housing to address homelessness and homelessness risk among extremely low-income households. The funding also gives participating jurisdictions flexibility to best meet the needs of people experiencing or at - risk of experiencing homelessness, including through the development of affordable housing and permanent supportive housing, the provision of tenant-based rental assistance, the delivery of supportive services, and acquisition and development of non-congregate shelter units.

September 15, 2021

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### **[BDA Bonding Time Podcast: Infrastructure Analysis and Muni Bonds](#)**

In this installment of Bonding Time featuring Tom Kozlik of HilltopSecurities, we discuss the ongoing infrastructure deliberations in Congress including the recent introduction of muni provisions in the Ways and Means reconciliation draft and handicap potential next steps in both the House and Senate.

We also discuss the immediate and long-term impacts of a potential federal default and a government shutdown on the overall health of the markets and the current lack of a plan to solve these self-made crises.

[Listen to the podcast.](#)

### **Bond Dealers of America**

September 21, 2021

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### **[SEC Approves MSRB Extension for Municipal Advisor Principal Qualification Examination: Cadwalader](#)**

The SEC [approved](#) an MSRB [proposal](#) to extend the deadline for a municipal advisor principal to become qualified by passing the Series 54 examination on line. As a result, the deadline was extended from November 12, 2021 to November 30, 2021.

The extended deadline "roughly coincides with the number of days taken to launch the Series 54 examination online" and is effective immediately. Comments on the extension must be submitted by October 7, 2021.

September 16 2021

## [A Big Bond Market Headache, Courtesy of the SEC.](#)

**Chair Gary Gensler wants to bring greater efficiency and transparency to debt trading, but an updated rule could do just the opposite.**

U.S. Securities and Exchange Commission Chair Gary Gensler made waves in the fixed-income market earlier this week, signaling that he wants to find ways to “bring greater efficiency and transparency” to trading debt.

Yet beneath the surface, the regulator is just days away from potentially causing serious disruptions in those same bond markets.

An obscure SEC rule, 15c2-11, was [amended](#) a year ago for the first time in almost three decades. The change, which is meant to improve disclosure and investor protection in over-the-counter trading markets, sounds innocuous enough on its face. It ensures “that broker-dealers, in their role as professional gatekeepers to this market, do not publish quotations for an issuer’s security when current issuer information is not publicly available.”

There’s one big problem: The rule, which had long been understood to safeguard retail investors from penny stocks and other “pump-and-dump” schemes, doesn’t explicitly exclude fixed-income assets, except for municipal bonds. The Bond Dealers of America, a trade association for securities dealers and banks specializing in fixed income, [says](#) SEC staff have informally confirmed that the rule applies equally to both equities and debt.

“The industry is mildly freaking out,” Kevin McPartland, head of research in Greenwich Associates’ market structure and technology group, said in an interview. Firms must be compliant with the amendment on Sept. 28. “Dealers can’t operationally make that happen in that span of time. If nothing changes, at the end of the month they may have to stop quoting some bonds,” he said.

To get a sense of the level of panic, look no further than an Aug. 6 [joint letter](#) from the Securities Industry and Financial Markets Association and the BDA, which are seeking an exemption:

“We are concerned that the rule as written could apply broadly to quotation activity for fixed income securities, and that the application of the rule to quotations for fixed income securities will deter that quotation activity in a way that will have a significant, deleterious effect on the fixed income markets. We believe that such an application of the rule is overbroad and unnecessary and will increase costs, decrease liquidity, and reverse the gains in transparency that the fixed income markets have achieved in recent years as the market has become more electronic.”

In other words, this rule change could do precisely the opposite of what Gensler was advocating for in his prepared remarks before the Senate Banking Committee.

An [earlier letter](#) in May from the BDA details how it would affect certain corners of the bond market. Non-government guaranteed mortgage-backed securities, for instance, are issued through trusts, meaning each transaction is unique. Under the amended rule, traders would have to review updates

to each underlying pool of mortgages if they wanted to quote a price for a bond. Another example: A security is exempt from the rule if its average daily trading volume is at least \$100,000 during the 60 calendar days before giving a price quote. That might save benchmark bonds from AT&T Inc., General Electric Co. and Microsoft Corp., but it could paralyze the secondary market for high-yield debt, where companies are more often private, smaller and opaque.

Throughout the letter, the BDA can barely hide its incredulity at the whole situation. The group summarizes its position like this:

“The bond market simply is not the high risk, low transparency world of microcap stocks. Moreover, applying the Rule to fixed income would increase compliance costs for dealers, which ultimately would be reflected in higher transaction costs for investors. Finally, adding additional requirements before a firm can provide a quote or execute a trade for a customer could discourage firms from quoting certain securities altogether.”

As far as I can tell, this looming compliance headache hasn't been discussed much anywhere, aside from these letters. That's likely because bond traders assumed the SEC couldn't possibly have intended to rope mortgage-backed securities and junk bonds into its Exchange Act Rule 15c2-11, given the gigantic size of those markets relative to a few hundred thinly traded stocks. Yet for now, that's exactly what it's doing.

“Until April of this year, I've never paid attention to this rule because this was not a fixed-income rule,” Michael Decker, the BDA's senior vice president of federal policy and research, said in an interview. “The SEC has now taken the position that the rule already applies to fixed income and it has always applied.”

The rule was changed when Jay Clayton was the head of the SEC. In a statement announcing the amendment, he applauded the long-overdue shifts to address fraud in markets with significant amounts of retail investors. That sure doesn't sound much like private-label MBS and high-yield debt, which are dominated by institutions.

“I don't think the SEC has thought through this,” Decker said. In light of Gensler's recent remarks, “it's wise for everybody to take a few steps back, think about what enforcement policies will look like.”

An SEC spokesperson didn't reply to an emailed request for comment.

## **Bloomberg Markets**

By Brian Chappatta

September 16, 2021

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### **[Gensler Turns Spotlight on How Hard It Can Be to Get Bond Prices.](#)**

- **SEC chair wants to 'bring greater efficiency and transparency'**
- **Fed's pandemic bond market rescue a source of concern**

After U.S. Securities and Exchange Commission Chairman Gary Gensler signaled he may overhaul

bond market regulations, industry experts zeroed in on just how opaque trading can be.

Gensler, who testified Tuesday before the Senate Banking Committee, said in [prepared remarks](#) released beforehand that he wants to “bring greater efficiency and transparency” to the trading of corporate bonds, municipal bonds and mortgage-backed securities. He offered little detail on what new rules might look like.

Market watchers have suggestions, a year after a liquidity breakdown early in the pandemic forced the Federal Reserve to backstop the bond market. A big source of angst: especially when compared with other key financial assets like stocks, it can take a lot more effort to figure out the price of a bond.

“Pre-trade transparency is a focus,” said Kumar Venkataraman, a finance professor at Southern Methodist University and former member of the SEC’s Fixed Income Market Structure Advisory Committee. “If you’re a large, sophisticated investor, you receive quotes from many dealers and see the best price. If you’re less sophisticated, you might get a less competitive bid.”

### **15 Minutes**

Currently, corporate bond trades must be reported to the Financial Industry Regulatory Authority’s Trace system no more than 15 minutes after they’re executed — a deadline that feels like an eternity in the era when stock and futures traders fret about microseconds.

And before trades are placed, there are no publicly available price quotes. To get those can require making phone calls or sending electronic requests for quotes to a bunch of banks and brokers.

A potential solution would require bond brokers to report their offered prices to a centralized system, which is how it’s worked in the U.S. stock market since the 1970s. That could make the business more efficient by stitching together all the different markets where bonds trade. In stocks, for instance, all orders are supposed to be automatically routed to the market with the best price.

“We think the solution is to consolidate all credible bids and offers into a central system and display that information publicly,” said Christopher White, the chief executive officer of bond market data provider BondCliQ Inc. “Once you create that centralized architecture, you start to see the quality of the data and the market improve.”

Sell-side banks have little incentive to provide greater transparency, since it could cut into their profits. And reporting quotes could be a costly and time-consuming process that banks currently have little interest in participating in, Venkataraman said.

Don’t expect corporate bonds to begin trading in a centralized system like equities anytime soon, says Kevin McPartland, head of research for market structure at Coalition Greenwich.

### **‘Very Different’ Market**

“The bond market is still very different from the equity market in terms of how it trades and in terms of the market participants,” he said. “Bond markets are by and large institutional markets. So we have a very informed consumer if you will.”

There is also “post-trade reporting, and a lot of private sector work to improve pre-trade price transparency,” he added. “The buy side has pushed for it, and the platforms and data providers have really pushed to make pre-trade price transparency better. So I’m not sure we need to regulate something that’s effectively already happening.”

The bond-market crisis of March and April 2020 is fresh in regulators' minds. Government officials appear to view the unprecedented steps taken by the Fed in March 2020 as a mandate to address long-standing concerns that bond liquidity disappears in bad times.

The giants of finance, meanwhile, are more apt to view the global pandemic as a once-in-a-century event that doesn't justify upending how the corporate bond business runs in normal environments.

Gensler has targeted market transparency before. The opacity of the swaps market was one of the reasons why the 2008 financial crisis was so severe, since it was extremely difficult to untangle the connections between Wall Street banks who held the derivatives. Gensler, as chairman of the U.S. Commodity Futures Trading Commission, oversaw a push to get more of that business done on public markets.

## **Bloomberg Markets**

By Jack Pitcher

September 14, 2021, 11:35 AM MDT

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### **[U.S. SEC Chair Wants Private Fund Fee Disclosures, Bond Market Transparency - Testimony](#)**

WASHINGTON (Reuters) - The chair of the top U.S. securities regulator wants private funds to disclose more information to investors about potential conflicts of interest and the fees they charge, according to congressional testimony published Monday evening.

Gary Gensler, chair of the Securities and Exchange Commission (SEC), also wants to impose greater transparency on the corporate bond, municipal bond and asset-backed securities market, which combined are worth about \$28 trillion, he wrote in the testimony submitted to the Senate Banking Committee.

Gensler will appear before the congressional panel on Tuesday to field questions on his agenda for the regulator.

"I believe we can enhance disclosures in this area, better enabling pensions and others investing in these private funds to get the information they need to make investment decisions," Gensler wrote.

In the bond markets, meanwhile, trading data is often insufficient, causing liquidity crunches during times of stress, which was evident during last year's market turmoil sparked by the COVID-19 pandemic.

"This market is so critical to issuers. It is nearly 2.5 times larger than the commercial bank lending of about \$10.5 trillion in our economy," Gensler wrote in his testimony, without elaborating on the changes he may pursue.

Addressing fund fees and the bond market add to an already jam-packed agenda for the SEC, which is working on new corporate climate change-risk disclosures, cracking down on blank-check company deals, and overhauling several aspects of the U.S. equity market structure.

Also on Monday, Gensler, writing in a Wall Street Journal op-ed, urged Chinese companies to open

up their books and records to SEC scrutiny or risk being kicked off U.S. exchanges.

(Writing by Michelle Price; Editing by Leslie Adler)

September 13, 2021

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## **[Moody's Muniland Podcast: US Infrastructure Bill Would Reduce Lead Contamination; US West Drought Hits Water Supply](#)**

Dan Kowalski and Michael Wertz of the US Public Finance team discuss the bill's funding to replace lead service lines and water utilities facing a mix of aging assets and climate change.

Plus, Steven Goodman-Leibof and Helen Cregger weigh in on the credit effects of water reductions in Arizona, Nevada and California.

[LISTEN TO THE PODCAST](#)

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## **[SEC Charges High School District CFO with Misleading Investors.](#)**

### **Dive Brief:**

- The Sweetwater Union High School District and its former CFO, Karen Michel, settled claims that they misled investors in a \$28 million municipal bond offering, the Securities and Exchange Commission says.
- The SEC alleged that Michel and the Chula Vista, Calif.-based school district, in San Diego County, gave investors misleading budget projections and hid the fact that its finances "were severely strained."
- Michel and the public school district said the district would conclude 2021 with \$19.5 million in its general fund, the SEC alleges, but later revealed that the school had overspent its budget by \$28 million, resulting in a year-end deficit of \$7.2 million.

[Continue reading.](#)

### **CFO Dive**

by Jane Thier

Sept. 17, 2021

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## **[SEC Reaches Settlements with Sweetwater Union District, Ex-CFO for Filing False Reports.](#)**

CHULA VISTA, Calif. (CNS) - The Securities and Exchange Commission announced Thursday that it has entered into a settlement agreement with the Sweetwater Union High School District and its former Chief Financial Officer to resolve allegations that the district misled investors who purchased

\$28 million in municipal bonds.

The SEC alleged that in 2018, the school district and former CFO Karen Michel gave investors misleading budget projections indicating it would end the fiscal year with a general fund balance of around \$19.5 million when it was actually on track for a negative \$7.2 million ending fund balance.

The agency said that despite contradictory internal reports, the district and Michel included the projections in its offering documents and presented them to a credit rating agency. Michel also signed “multiple certifications falsely attesting to the accuracy and completeness of the information included in the offering documents,” the SEC said.

While neither settlement includes admissions or denials of the SEC’s allegations, Michel agreed to settle with the SEC and pay a \$28,000 penalty, while the district entered into an SEC order that requires it to retain an independent consultant to evaluate and make recommendations to its procedures regarding its municipal securities disclosures.

When reached for comment, the school district said in a statement, “The district looks forward to implementing the improvements and changes outlined in the SEC’s order. It will continue to take steps to ensure it provides accurate disclosures and information to the public.”

The district’s statement also said the settlement “represents another positive step in the district’s ongoing remedial efforts to continuously evaluate and improve its fiscal health.”

LeeAnn G. Gaunt, chief of the SEC’s Public Finance Abuse Unit, said, “As the order finds, Sweetwater and Michel presented stale and misleading financial information as current and accurate. The SEC will continue to address deceptive conduct that prevents municipal bond investors from getting an accurate picture of the financial risks of their investments.”

**fox5sandiego.com**

Sep 16, 2021

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## **[SEC Settles with San Diego-Area School District and Former CFO.](#)**

The Securities and Exchange Commission has settled with Sweetwater Union High School District in San Diego County, California, as well as its former chief financial officer Karen Michel for misleading investors in connection with an issuance of \$28 million of municipal bonds.

The Commission charged Michel with violating Section 17(a)(3) of the Securities Act of 1933, and she agreed without admitting or denying the allegations to pay a \$28,000 penalty. She is barred from participating in future municipal securities offerings and agreed to refrain from future violations.

Sweetwater, without admitting or denying guilt, violated Sections 17(a)(2) and 17(a)(3) of the Securities Act, the SEC said, and is required to convene with an independent consultant to evaluate its policies and procedures in relation to its municipal securities disclosures.

“As the order finds, Sweetwater and Michel presented stale and misleading financial information as

current and accurate,” said LeeAnn G. Gaunt, chief of the division of enforcement’s public finance abuse unit. “The SEC will continue to address deceptive conduct that prevents municipal bond investors from getting an accurate picture of the financial risks of their investments.”

Michel, who worked within Sweetwater Union High School District’s financial services department from 1996 to 2018, failed to accurately budget for a 3.75% pay raise approved shortly before the beginning of the 2018 fiscal year, the SEC found.

Instead of adding these increases to the district’s expenses, Michel allegedly instead projected expenses nearly identical to the expenses incurred during the 2017 fiscal year, which took into account a less than 1% increase in employee compensation.

The Commission also found that despite Sweetwater’s mid-year budget monitoring reports consistently showing higher expenses than the previous year, Michel made no effort to bring its budget in line with the actual expenses.

The April 2018 \$28 million bond offering documents then included misleading budget projections which indicated the district could cover its costs and would end the year on June 30, 2018 with a general fund balance of \$19.5 million, when in reality it ended the year with a negative \$7.2 million balance.

After Michel’s retirement in September 2018, her successor completed an unaudited actual financial report finding year-end salaries were actually \$18.7 million higher than what was estimated by Michel, leading to a drop in Sweetwater’s rating to BBB+ from A.

The Commission found that the related disclosures failed to reveal Sweetwater’s true financial condition, that the 2018 budget projections were inconsistent with its actual expenses, and that Sweetwater’s budget monitoring procedures did not consider current conditions.

These types of actions aren’t novel for the Commission, as a number of other educational institutions have faced enforcement action for similar infringements, including Park View School in Arizona and California’s Tri-Valley Learning Corporation in 2020.

While the SEC has not hesitated to bring actions against school districts, the Commission rarely seeks monetary penalties against municipal issuers because that penalty is ultimately borne by taxpayers who were not implicated in any wrongdoing.

Lawyers for Michel and Sweetwater failed to respond to requests for comment.

By Connor Hussey

09/16/21

BY SOURCEMEDIA

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## **[RBC Capital Markets to Pay More than US\\$800K to Settle U.S. SEC Charges.](#)**

TORONTO — RBC Capital Markets LLC has agreed to pay more than US\$800,000 to settle U.S. Securities and Exchange Commission charges over the way municipal bond offerings were allocated.

The U.S. regulator said Friday that over a nearly four-year period that RBC improperly allocated

bonds intended for institutional customers and dealers.

The SEC says the bonds went to “flippers,” who then resold or “flipped” the bonds to other broker-dealers at a profit.

“We will continue to pursue those who undermine priority rules and crowd out legitimate retail or institutional customers,” said LeeAnn Gaunt, head of the SEC’s Public Finance Abuse Unit.

The SEC said that without admitting or denying the findings, RBC consented to a public administrative and cease-and-desist order that found it violated provisions around disclosure, fair dealing, and supervision and that it failed to supervise some of its registered representatives.

The bank on Friday said it had no comment on the case.

RBC was ordered to pay a US\$150,000 penalty, disgorgement of US\$552,440, plus prejudgment interest of US\$160,886.

The SEC also settled charges against Kenneth Friedrich, RBC’s former head of municipal sales, trading and syndication, and Jaime Durando, the head of RBC’s municipal syndicate desk.

Friedrich agreed to a censure and to pay a civil penalty of US\$30,000. Durando agreed to a censure and to pay a civil penalty of US\$25,000.

### **The Canadian Press**

This report by The Canadian Press was first published Sept. 17, 2021.

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## **[RBC Resolves U.S. SEC Charges Over Bond Abuses, is Fined.](#)**

Sept 17 (Reuters) - A Royal Bank of Canada (RY.TO) unit was censured and will pay more than \$863,000 to resolve U.S. regulatory charges it broke rules meant to give retail and institutional investors priority in buying new municipal bonds.

In a civil settlement announced on Friday, the U.S. Securities and Exchange Commission said RBC Capital Markets LLC improperly allocated bonds to investors known as “flippers” who quickly resold their bonds to other broker-dealers at a profit.

Municipal bonds are typically issued by states, cities and school districts to fund operations and projects, and contain tax advantages over corporate and U.S. government bonds.

The SEC said RBC knew or should have known that giving priority to flippers violated its rules on bond offerings it underwrote.

It said RBC also improperly bought new bonds it had not underwritten from flippers, rather than wait in line to buy those bonds from the underwriters.

The alleged violations occurred from 2014 to 2017.

RBC’s payout includes a \$150,000 civil fine, plus disgorgement and interest.

Two RBC officials, head of municipal syndication Jaime Durando and former head of municipal sales

Kenneth Friedrich, were also censured by the SEC and fined a combined \$55,000. Friedrich left the bank in 2016.

None of the defendants admitted or denied wrongdoing. RBC closed the flippers' accounts and improved surveillance to help avert a recurrence.

RBC declined to comment. Lawyers for the other defendants did not immediately respond to requests for comment.

The SEC has reached several settlements over flipping abuses in municipal bonds, including a \$10 million accord with Switzerland's UBS AG (UBSG.S) in July 2020.

*Reporting by Jonathan Stempel in New York; Editing by Chizu Nomiyama and Dan Grebler*

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## **Lawsuit Over Harrisburg's \$360M Debt Debacle Can Proceed.**

A Commonwealth Court panel refused Thursday to kill a lawsuit over the \$360 million incinerator debt debacle that plunged Harrisburg into state receivership, but it did reduce the number of players involved in that fight.

In a 95-page opinion by Judge Michael H. Wojcik, the court removed Gov. Tom Wolf, the state and the Department of Community and Economic Development as plaintiffs in the suit.

That leaves the city, its state-appointed coordinator Marita Kelley and Capital Area Water, the successor to the Harrisburg Authority, to keep pursuing claims that financial and legal advisors and engineers misled city officials and others down a fiscal rabbit hole on a project that had no hope of paying its debts.

Wojcik's court also removed Foreman & Foreman, the law firm that was solicitor to the Harrisburg Authority, the operator of the problem-plagued incinerator, as a defendant in the case. Wojcik found that firm did not commit any breaches of propriety in its representation of the Authority as that body sought funding and debt guarantees for the failed incinerator project.

Commonwealth Court directed the remaining defendants - RBC Capital Markets Corp.; Obermayer, Rebmann, Maxwell & Hippel, LLP; Buchanan Ingersoll & Rooney, P.C.; Eckert, Seamans, Cherin & Mellot, LLC; Public Financial Management, Inc.; and Buchart Horn, Inc., to answer the plaintiffs' claims that the city is due unspecified financial damages for what they contend was bad and misleading advice given during the failed attempt to finance the incinerator project into becoming something other than an overly-expensive white elephant.

The city and authority plaintiffs contend the defendants, who were part of a working group advising officials on the incinerator project and its financing, should have told city officials and others that there was no hope the incinerator would be able to generate enough income to pay off the enormous debt it was amassing. City officials relied on the working group's assurance that the incinerator debt would be self-liquidating when they agreed to use the city's taxing power to guarantee the borrowing for the project, the suit which was filed in 2018 states.

Wojcik agreed with the defendants that Wolf, the state and DCED lacked legal standing to pursue the suit. He rejected the defendants' arguments that city officials and the other plaintiffs failed to properly argue specifics of their allegations of impropriety, along with contentions that the city

missed the statute of limitations deadline for filing suit over matters that occurred in the early to mid 2000s.

The city's ultimate inability to pay for the incinerator debt pushed Harrisburg to the edge of bankruptcy. The situation was so bad that in 2012 then-Gov. Tom Corbett placed the city under state receivership to find a way out of the financial mess.

Harrisburg exited the receivership in 2014 but remained classified as a financially distressed municipality by the state. It still feels the after-shocks of the debt crisis.

**pennlive.com**

By Matt Miller

Sep. 09, 2021

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## **[S&P ESG U.S. Public Finance Report Card: Florida Governments And Not-Fo-Profit Enterprises](#)**

### **Key Takeaways**

E (elevated): Florida's vast coastline, low elevation, and susceptibility to severe weather events increase its environmental risks when compared with those of most U.S. states. The chronic long-term effects of climate change and sea-level rise also elevate credit quality risk for Florida issuers, particularly absent comprehensive adaptation and resiliency planning.

S (neutral): We view the sustained population growth—generally outpacing that of the nation—as a social opportunity for Florida, driving economic and job growth. However, the state's relatively high age-dependent population and potentially outsized exposure to disruptive macroeconomic health and safety events, given its large leisure and hospitality sector, are viewed as offsetting factors resulting in our overall neutral assessment.

G (neutral): While we view risk management, culture, and oversight positively due to the presence of state-level programs designed to help mitigate elevated environmental risks, we view the state's governance structure that provides consistency and transparency as neutral, as it's generally comparable with that of highly rated U.S. states.

[Continue reading.](#)

9 Sep, 2021

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## **[S&P State Brief: Montana](#)**

[Read the brief.](#)

14 Sep, 2021

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## [\*\*ESG Is Coming to Municipal Bonds ETFs. What to Know.\*\*](#)

Municipal bond ETFs are getting into something that stock fund managers have been doing for a while now—sustainable investing.

On Friday, asset manager VanEck launched the first municipal bond exchange-traded fund explicitly focused on the type of investment that goes by many names—sustainable, values-aligned, but most commonly ESG, which stands for environmental, social, and corporate governance.

The VanEck HIP Sustainable Muni ETF (ticker: SMI) will hold investment-grade state and local government debt that promotes positive social, environmental and economic outcomes, according to the company.

[Continue reading.](#)

### **Barron's**

By Evie Liu

Sept. 10, 2021

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## [\*\*Fitch: Utah and Idaho Stand Out as U.S. States' Job Growth Strengthens in July; August Growth Slows\*\*](#)

Fitch Ratings-New York-10 September 2021: State employment recovery notably strengthened in July with two states now seeing job growth significantly exceeding pandemic related job losses, according to Fitch Ratings in its latest U.S. States Labor Markets Tracker. State gains slowed considerably in August based on the most recent national report.

The median jobs recovery for states increased in July to 73% from 69% in June. As of July, 45 states have recovered over 50% of the jobs lost at the peak of the pandemic. Hawaii, New Mexico, Wyoming, Louisiana, and Alaska remain below 50% jobs recovered, despite some improvement over recent months.

Job growth in Idaho and Utah is far outpacing all other states. "Utah job growth is up 130% since February 2020 while Idaho job growth has outpaced pre-pandemic levels by over 120%, making them the only two states to have exceeded the pre-pandemic employment levels of last February," said Senior Director Olu Sonola.

Conversely, Alaska, Wyoming and Kentucky remain notable job growth laggards. "Employment recovery in Alaska, Wyoming and Kentucky has declined between 1% and 3% from March of this year, a rather stark contrast to employment recovery rate for U.S. states as a whole, which is up by 10%," said Sonola. Job growth also fell in Oklahoma and Tennessee.

More recent national data for August shows employment growth slowed, largely due to the impact of the delta variant on pandemic-sensitive sectors such as leisure and hospitality (L&H). "The flat growth in national L&H employment in August does signal more downside risk for this sector," said Sonola. In July, gains in L&H had been the largest contributor to the employment recovery.

Fitch's latest "U.S. States Labor Markets Tracker" is available at [www.fitchratings.com](http://www.fitchratings.com).

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Additional information is available on [www.fitchratings.com](http://www.fitchratings.com)

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## **[RBC to Pay More Than \\$863K to Settle Charges over Muni Bond Sales.](#)**

RBC Capital Markets agreed to pay more than \$863,000 to resolve charges that it circumvented procedures aimed at giving institutional and retail investors priority allocations in certain municipal bond offerings over a four-year span, the Securities and Exchange Commission announced on Friday.

From January 2014 and December 2017, RBC improperly allocated bonds to "flippers," unregistered traders who then resold the bonds to other broker-dealers at a profit. In three instances, RBC also violated the issuer's instructions to give retail investors priority and instead sold them first to flippers, the SEC said. RBC used its relationship with the flipping firms to improperly obtain bonds for its own inventory in cases where it was not the underwriter, according to the order.

"RBC did not always follow the standard methodology when it did not have priority instructions from issuers, and, in 41 instances when orders exceeded the bonds available, it failed to prioritize institutional customer and/or dealer orders ahead of flipper orders," the SEC said in the order.

The SEC charged RBC with violating the order disclosure, fair dealing, and supervisory provisions of Municipal Securities Rulemaking Board Rules and the related Exchange Act provision. The settlement includes a censure, a fine of \$150,000, disgorgement of \$552,440, plus prejudgment interest of \$160,886.

A spokesperson for RBC declined to comment. The firm settled the charges without admitting or denying the findings, the SEC said. The agency sued the so-called flipping firms, RMR Asset Management and Core Performance Management, separately in 2018.

The SEC has pursued related violations more than half a dozen times since 2018, with one of the largest resulting in a \$10 million fine against UBS Financial Services in July 2020.

In its case against RBC, it also brought charges against Kenneth G. Friedrich, RBC's former head of Municipal Sales, Trading and Syndication, and Jaime L. Durando, the head of RBC's municipal syndicate desk, who agreed to pay fines of \$30,000 and \$25,000, according to the SEC's press release and orders. In addition, Friedrich consented to a six-month limitation on supervisory activities and a six-month prohibition on trading negotiated new issue municipal securities, the SEC

said.

The SEC found that Friedrich and Durando permitted the “improper allocation and sale of new issue bonds to the flippers,” and that Friedrich also allowed for the “improper purchase of new issue bonds for RBC’s own inventory through the flippers,” it said in a press release.

The two agreed to cease-and-desist orders, without admitting or denying the findings, the SEC said.

Friedrich did not respond to a request for comment left on social media, and Durando did not respond to a similar request, left with the spokesperson.

“We will continue to pursue those who undermine priority rules and crowd out legitimate retail or institutional customers from getting access to newly issued municipal bonds,” LeeAnn G. Gaunt, chief of the SEC’s Division of Enforcement’s Public Finance Abuse Unit, said in a statement.

**advisorhub.com**

by Miriam Rozen

September 17, 2021

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## **[Kansas Cities Unlikely to Find Shortcut to Fast Growth Through STAR Bonds.](#)**

Kansas’s urban areas are the only part of the state that is growing in population; the results from the 2020 Census make that clear. Despite its own self-conception as part of the heartland of America, the Sunflower State is, increasingly, a pretty “citified” place.

This dynamic — a slowly growing and diversifying urban population within a state whose political elites still mostly embrace the values of rural conservatism — can explain a lot. It helps explain the persistence of an inferiority complex in many Kansas cities, with the people of Wichita or Kansas City, Kan., looking south or east, comparing themselves to cities in other states that aren’t as defined by the counties of red that surround them.

It may also help explain the push by these cities and their elected representatives to make use of whatever financing they can to change, innovate and most of all expand. And this is what leads us to STAR bonds.

Sales Tax and Revenue (STAR) bonds are a strange financial instrument. Only two other states — Illinois and Nevada — have allowed their creation, and even they haven’t made use of this fiscal slight of hand for over a decade.

In Kansas, however, urban governments have regularly sought permission to sacrifice the sales tax revenue that ought to go to Kansas’s state and municipal programs in order to raise funds for construction which they imagine will bring major corporate attractions to Kansas.

The Prairie Fire Entertainment District in Overland Park, the Sports Forum in Wichita, the Heartland Park Racetrack in Topeka — STAR bonds made them all.

But did it make them actually successful? A recent accounting of STAR bond programs concluded that only 3 of the 16 projects which the state has approved, at a cost of nearly \$900 million in tax revenue, actually meet the economic requirements of the instrument. The auditors found little

evidence of these projects drawing new tourism dollars to Kansas, and even less evidence that using these bonds to finance construction has led to economic development in areas that weren't good candidates for ordinary capital investment anyway.

Defenders of the STAR program point to, among other things, the increased property tax values of the developed areas (though the unfunded maintenance liabilities these developments have brought with them usually goes unmentioned).

Often, though, the defenders fall back on a plaintive cry unfortunately common in the urban parts of Kansas: Business expansion is essential to the "general economic welfare" of the state. If we're not willing to sacrifice the sales tax revenue normally used to fund voter-approved (and universal, rather than city-centric) government programs for the sake of attracting a new Topgolf franchise to Wichita or building a new speedway in Kansas City, then aren't we showing a lack of confidence in our future?

These are complicated decisions, to be sure.

But still I wonder if urban Kansans sometimes exhibit a "build it and they will come" mentality, in the somewhat desperate hope that they can suddenly change into something other than slow-growth cities on the Great Plains.

If that is so, I would simply say: The work of making Kansas's culture and economy reflect its increasing urban reality will be a long and necessarily local one. Using needed future tax revenue to build a new waterpark may have its merits, but such top-down decisions are unlikely to provide a shortcut.

## **The Topeka Capital-Journal**

by Russell Arben Fox

Sept 12, 2021

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### **[Banks Vying to Hold City of Chicago Deposits Must Provide More Data on Mortgages, Home Equity Loans.](#)**

**The City Council's Finance Committee approved an ordinance that would require banks seeking to hold up to \$400 million of the city's money to post even more detailed information on the city's open data portal.**

Banks holding Chicago tax dollars or vying to becoming municipal depositories would be required to come more clean than ever about lending practices, under a stronger disclosure ordinance intended to reverse longstanding lending inequities.

The City Council's Finance Committee on Monday approved an ordinance championed by Housing Committee Chairman Harry Osterman (48th) that would require banks seeking to hold up to \$400 million in city money to post even more detailed information on the city's open data portal.

Chicago's "Responsible Banking Ordinance" would be revised to include:

- The amount of each home equity loan made in Chicago, by census tract.

- Denial reasons for home mortgages, by race, sex and census tract.
- The number and location of banks in Chicago.
- Employee demographics by job category from all banks with more than 500 employees.

Before voting to designate the city's 13 municipal depositories, the ordinance would also require the Finance Committee to hold an annual hearing to discuss home lending trends.

Osterman said his goal is to "empower" aldermen with the information they need before they decide where to deposit Chicago's tax dollars.

"This is not something that's gonna solve the lending inequities overnight. But it's a piece of a united front on the city, state, county and federal level to really make sure that we're changing things and lifting people up," Osterman said.

"The lenders have an ability every single day to help do that. We're gonna be seeing how this goes with the information on where the loans are going. It's all about an equitable recovery as we come out of COVID. ... We are not in the business to regulate banks. But it is our business to ensure that we are stewards of the interests of the residents that we represent."

City Comptroller Reshma Soni said the 500-employee benchmark for detailed personnel information was included for good reason.

The city is trying to reverse longstanding lending inequities by making it easier for smaller, local banks to become municipal depositories.

"We want to be able to balance the smaller banks. Encourage them to come in and do business with us. So we're trying to ensure this is not unduly burdensome for them," Soni said.

Soni said she hopes to implement the new disclosure requirements in time for the upcoming request for proposals on municipal depositories. But after talks with the Illinois Banking Association, she acknowledged: "There are gonna be some growing pains and some implementation delays. ... They're gonna do their best to get us as much as we can for this round with full implementation happening next year."

Banks designated as "municipal depositories" have long been accused of investing far more money in majority-white neighborhoods than in communities of color.

Those discriminatory practices have made it more difficult for African Americans and Hispanics to secure home mortgages, business loans or loans for home improvements. That has perpetuated a wealth gap and the historic disinvestment in South and West Side neighborhoods.

The most recent study documenting those inequities was conducted by WBEZ-FM (91.5). It showed banks lend 12 cents in Black neighborhoods and 13 cents in Hispanic neighborhoods for every \$1 loaned in white neighborhoods.

To promote "diversity, inclusion and equity" in lending, Chicago's "Responsible Banking Ordinance" already requires banks receiving city deposits to submit detailed information about lending practices.

In a scathing audit released earlier this month, retiring Inspector General Joe Ferguson concluded the city continues to deposit millions of tax dollars in banks that engage in discriminatory lending

practices.

Despite “rigorous collection” of information on lending practices, the audit concluded the Department of Finance conducted “no substantive evaluation” of that data.

## **Chicago Sun-Times**

By Fran Spielman

Sep 13, 2021

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### **California Sells \$2.1 Billion of Munis Amid Newsom Recall.**

- **Ten-year California GO bonds trading at above average yields**
- **Spread widening after vote may create buying opportunity**

California sold \$2.1 billion of tax-exempt general-obligation bonds Tuesday, just as its citizens cast their ballots to decide the fate of Governor Gavin Newsom in a recall vote.

Despite the political tumult, the sale came on the heels of an outlook boost to positive from stable. Credit ratings for the state, which is the largest issuer of muni bonds, are at the highest levels in decades as demand for muni-bonds soars.

Ultimately, the vote may amount to little more than a blip for investors facing high taxes and the prospect of changes to the cap on federal state and local deductions on the horizon.

“It has definitely added a different facet to the deal, but when you’re looking at deals that are 10, 20, 30 years in maturity, investors should look long term and be prepared to hold a credit through multiple election cycles,” said Dora Lee, director of research at Belle Haven Investments.

The state sold bonds to investors at a yield of 0.06% for debt that matures in 2022 with a 5% coupon, 1 basis point less than top-rated benchmark securities, according to repricing data collected by Bloomberg. Longest dated securities priced with a 2.48% yield and a 2.4% coupon. Yields on most maturities dropped slightly from those offered to investors in preliminary pricing, indicating strong demand for the deal, the data shows.

Ten-year California general obligation bonds are trading at yields about 6.8 basis points more than benchmark securities, according to Bloomberg data. That’s slightly higher than the average spread of 5.6 basis points over the last three months, the data show.

The state’s credit is in “excellent shape, and absent the recall, we think worthy of tight spreads,” wrote John Ceffalio and Patrick Luby, municipal analysts at CreditSights in a report evaluating the bond sale published earlier this month. The state is flush with cash, reporting higher than expected revenue collections and receiving \$27 billion from the American Rescue Plan.

Ceffalio and Luby said that a successful recall could push spreads “modestly” wider as investors fear that the state’s strong governance could slip. They said that some replacement candidates seem “ill-suited and lightly qualified” to manage the state’s budget.

Still, any spread widening could create an opportunity. “In our view, if California credit spreads widen in the aftermath of the election outcome, investors should consider it as a buying

opportunity,” wrote Barclays Plc strategists Mikhail Foux, Clare Pickering and Mayur Patel in a Sept. 3 research note.

## **Bloomberg Markets**

By Nic Querolo and Danielle Moran

September 14, 2021, 9:32 AM MDT Updated on September 14, 2021, 1:03 PM MDT

— *With assistance by Natalia Lenkiewicz*

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### **[5 Things Wrong with Illinois Holding 30% of U.S. Pension Bond Debt.](#)**

**Pension obligation bonds, like payday loans, are a sign of mismanaged finances. Illinois not only leads the nation for using that risky debt, it owes the bulk of it.**

It is bad Illinois has the nation’s worst pension crisis, but state politicians have made it worse by using risky debt to delay the day of reckoning, and done so to the point that Illinois now owes 30% of the nation’s pension obligation bonds.

Pension obligation bonds are a form of debt used by state or local governments to fund their pension deficits. Illinois holds \$21.6 billion of the nation’s \$72 billion pension obligation bond debt.

[Continue reading.](#)

## **Illinois Policy**

by Adam Schuster & Aneesh Bafna

September 10, 2021

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### **[High-Yield Munis Worth Considering as Default Rates Cooperate.](#)**

Yields are low across the fixed income universe this year, and municipal bonds aren’t exempt from that trend.

That may sound like an invitation to embrace high-yield municipal bonds and exchange traded funds like the VanEck Vectors High Yield Muni ETF (HYD). After all, the \$4 billion HYD sports a 30-day SEC yield of 2.20%. That’s a lot better than the 0.75% on the widely followed S&P National AMT-Free Municipal Bond Index.

Of course, the trade-off for more yield on any bond usually is elevated default risk, among other concerns. Fortunately, muni defaults remain rare and that’s a plus for investors considering HYD.

“While they may have become more common over the last 10 years, municipal defaults and bankruptcies still remain rare overall,” says Michael Cohick, VanEck senior ETF product manager. “(Indeed, during the period of significant market stress during 2020 resulting from Covid, there were only two municipal defaults and neither were virus related.) Second, muni bonds continue to be

highly rated compared to corporates. While there were municipal ratings downgrades during the year, global corporates' ratings' downgrades were more frequent."

Municipal bonds, high-yield and otherwise, are seen as long-term investments, ideal for conservative investors and retirees. On that note, a recent study by Moody's Investors Service notes the long-term default for munis is rather low.

"The five-year all-rated cumulative default rate (CDR) of municipal bonds throughout the study period (1970-2020) was unchanged at 0.08% and still remains very low," adds Cohick. "Likewise when compared to the five-year CDR of 6.89% for global corporates over the same time period. Of the two muni defaults in 2020, one was rated and the other was "by a Moody's rated entity albeit on an unrated instrument."

Low default rates are particularly relevant in the case of HYD, not just because the fund holds high-yield debt, but also because of some of its state exposures. For example, Illinois, one of the more financially challenged states, accounts for 11.7% of the ETF's roster. California, a state with ballooning public pension obligations, is the fund's largest allocation at 13.7%. Those are points to consider, but history is on HYD's side.

"If one looks at long-term municipal bond obligations, across all sectors, between 1970 and 2020, according to the Moody's report, there were only 114 distinct Moody's-rated defaults, representing a little over \$72 billion, out of a universe of more than 50,000 different state and local governments and other issuing authorities," according to Cohick.

## ETF TRENDS

by TOM LYDON

SEPTEMBER 7, 2021

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## **Muni Market ETFs Ripe For Active Mgmt.**

Though the ETF wrapper's genesis was in benchmark-tracking, with the launch of the SPDR S&P 500 ETF Trust (SPY) in 1993, active ETFs have begun to gain ground since their debut in 2008. Fixed income ETFs have been particularly well-suited for active management, especially in the current low rate environment.

With the return of near-zero interest rates in the wake of the pandemic, active fixed income managers can adjust interest rate sensitivity based on their prediction of the next Federal Reserve action.

Active managers can also conduct analysis on various credits, picking and choosing which might be best-positioned to make good on their debts.

[Continue reading.](#)

**etf.com**

by Jessica Feringer

September 08, 2021

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## **ICE and ADP Introduce Workforce Demographics Data for Municipal Bond Investors.**

ATLANTA & NEW YORK, September 07, 2021-(BUSINESS WIRE)-Intercontinental Exchange, Inc. (NYSE: ICE), a leading global provider of data, technology and market infrastructure, and ADP (NASDAQ: ADP), a leading global technology company providing human capital management (HCM) solutions, today announced the launch of a new data service that helps investors better understand and assess the economic stability and creditworthiness of fixed income issuers in the U.S. municipal bond market.

The new service links aggregated and anonymized human resources and compensation data from ADP directly to more than one million municipal bonds covered by ICE's reference data service. This can allow municipal bond investors, and other market participants, to assess a wide range of dynamics that could impact a municipal issuer and supplement their fundamental research.

"This data is incredibly powerful and can be used by market participants to drill into the financial stability of a municipal issuer," said Lynn Martin, President of Fixed Income & Data Services at ICE. "ADP's human capital data is impressive in its timeliness and breadth of coverage, and by linking it to our municipal fixed income data, we're able to give investors and market participants convenient access to a broad set of alternative datasets to better understand the implications and risks of their investments."

"Our work with ICE highlights that ADP's anonymized and aggregated data can help investors discover and better understand the U.S. municipal bond environment," said Jack Berkowitz, Chief Data Officer at ADP. "ADP serves more than 900,000 clients worldwide, including approximately 75% of the Fortune 500. Our depth of information and data makes us a powerful input for real-time socioeconomic analysis."

Users will have access to granular aggregated and anonymized human capital data, including average gross pay, total projected income, average commute distance, details into specific job sectors and more than 50 other distinct fields. It can also be used to see trends over time, including migration, which is particularly relevant in understanding how a municipality or region's population changed over periods of time. ICE's data will be consistently updated with ADP's anonymized and aggregated data, making it a compelling complement to sources of public information.

For more information about ICE's reference data service, please visit:  
<https://www.theice.com/about/fixed-income-data>.

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## **ESG Is Coming to Municipal Bonds ETFs. What to Know.**

Municipal bond ETFs are getting into something that stock fund managers have been doing for a while now—sustainable investing.

On Friday, asset manager VanEck launched the first municipal bond exchange-traded fund explicitly focused on the type of investment that goes by many names—sustainable, values-aligned, but most commonly ESG, which stands for environmental, social, and corporate governance.

The VanEck HIP Sustainable Muni ETF (ticker: SMI) will hold investment-grade state and local

government debt that promotes positive social, environmental and economic outcomes, according to the company.

[Continue reading.](#)

## **Barron's**

By Evie Liu

Sept. 10, 2021

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### **[Get Hip to Green Municipal Bonds With This New ETF.](#)**

Green bonds are a growing part of the fixed income landscape, and there's an appetite for those issues. The success of the VanEck Vectors Green Bond ETF (NYSEArca: GRNB) confirms as much.

In traditional form, green bonds are debt used by companies and governments to fund environmentally friendly projects. With governments prioritizing climate awareness and sustainability, there are myriad avenues for increasing green debt issuance, including in the municipal bond market. The new VanEck HIP Sustainable Muni ETF (SMI) taps into that theme.

SMI, which debuted last week, is an actively managed ETF. Active management could serve investors in the green municipal bond space, a corner of the bond market that's still in its infancy.

[Continue reading.](#)

ETF TRENDS

by TOM LYDON

SEPTEMBER 16, 2021

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### **[Chicago to Unveil Bank-Loan Data in Bid to Boost Home Ownership.](#)**

- **Council approves ordinance to increase visibility of loan data**
- **Measure to 'hopefully break down some barriers': finance chair**

The Chicago City Council approved a measure on Tuesday to boost transparency around the lending practices of the city's banks and help address home-ownership disparities in the nation's third most-populous city.

The "Lending Equity Ordinance" will publicly share lending data and require an annual hearing on the information with the committee on finance, Alderman Harry Osterman, a chief sponsor, said on Twitter. The measure also collects data on home equity loans and reasons for denial of loans by the banks serving as municipal depositories for the city. Such banks held about \$725.3 million of the city's cash and certificates of deposit as of Dec. 31, according to Chicago's annual comprehensive financial report.

“Transparency is needed to inform Chicagoans about the institutions where their public funds are being deposited,” according to the ordinance.

The measure publicizes data by Census tract such as home-loan amounts and interest rates that banks provide when they bid annually for the city’s business. Disclosures about consumer and commercial loans in the city are also required. In the past, the city’s finance department didn’t evaluate whether banks provided “inclusive and equitable financial services throughout Chicago” even though it collected data, according to an August report by the city’s inspector general.

Now that will change and banks’ lending practices may influence where the city deposits its funds, according to the ordinance.

The ordinance is “going to give us a better understanding of lending activity,” Alderman Scott Waguespack, head of the finance committee, said during the City Council meeting Tuesday. It will “hopefully break down some barriers,” he said.

Chicago is following cities with similar oversight like Pittsburgh and Cleveland. The move comes after recent reports showed lending practices have contributed to the city’s racial homeownership gap. Last year, local NPR affiliate WBEZ and the nonprofit newsroom City Bureau revealed that for every \$1 banks loaned in Chicago’s White neighborhoods, 12 cents went into the city’s Black neighborhoods and 13 cents in Latino areas.

The gap in Chicago exemplifies the disparities across the country, which were only exacerbated during the pandemic. While U.S. White homeownership reached 74.2% in the second quarter of 2021, up from almost 70% in 1994, Black homeownership increased to 44.6% and the Hispanic level to 47.5% from under 42% for both in the same period, according to Census data.

Illinois bankers, however, have concerns about the new rules. The industry aims to improve mortgage access and address inequality in Chicago, particularly among Black and Latinx mortgage applicants, according to an emailed statement from the Illinois Bankers Association.

But “this ordinance creates more hurdles within an already daunting application process, which could further discourage small, community banks and minority-owned banks from applying and working with the city,” the statement said.

## **Bloomberg**

By Shruti Singh

September 14, 2021, 2:57 PM MDT

— *With assistance by Alexandre Tanzi*

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## **[VanEck Launches First Sustainable Muni ETF as Funds Lure Cash.](#)**

- **Actively managed fund enters growing area of fixed income**
- **ETF to deploy four different criteria to evaluate securities**

VanEck is breaking new ground in the nearly \$80 billion municipal exchange-traded fund business with a product focused on sustainable investing.

The asset manager on Friday introduced an actively managed fund, the VanEck HIP Sustainable Muni ETF, which will focus on investments in projects that advance sustainability or those with “positive social, environmental and economic outcomes,” according to a statement by the company. It will trade under the ticker SMI.

The fund will seize on growing demand for investments — in both stocks and bonds — that have a positive social or environmental impact. At the same time, municipal ETFs have lured a record amount of cash this year as investors seek out the tax-free securities to shield income from potentially higher levies under the Biden administration.

The fund, which will be managed by Jim Colby and Stephanie Wang, will add to VanEck’s existing muni ETF lineup, which has over \$7 billion under management. The company is partnering with research firm HIP Investor on the new product.

“Clients all across the board in every channel have been indicating interest in ESG broadly, but specifically an option they can use in an ETF format in this asset class,” Michael Cohick, senior ETF product manager at VanEck, said in an interview.

The fund enters a burgeoning corner of the fixed-income ETF industry focused on investments with a positive environmental or social impact. Janus Henderson Group on Thursday announced two sustainable ETFs dedicated to fixed income, buying corporate credit and other bonds. U.S. fixed-income ETFs that follow certain ESG criteria have amassed about \$4.7 billion, according to Bloomberg Intelligence.

VanEck is using four different screening processes from HIP, which evaluates securities for their environmental and social impact, to determine whether debt is eligible for the fund. The filters take into account resilience to climate threats and proximity to opportunity zones that are typically home to lower-income and racially diverse populations, for example.

The fund, HIP Investor’s first co-branded ETF, uses a broad index with about 60,000 securities in it. After applying the four screens in early August, there were around 23,000 securities remaining, Cohick said. He noted the firm is seeking to construct a “highly sustainable” portfolio that maintains the yield and duration characteristics of the benchmark.

Initial holdings include debt of the state of Minnesota, which will likely become a “climate crisis destination” amid global warming, said R. Paul Herman, chief executive officer of HIP Investor. Another is a California school district that uses solar energy, which helps reduce energy costs and train students about taking climate action, he said.

### **Transparency Push**

The new ETF’s data-driven approach to bond picking will help make clear why securities are in the fund, Herman said.

“It can bring new transparency and accountability to the muni market,” he said.

Cohick said he expects the fund will gain traction with a variety of investors. The muni ETF industry is dominated by passively run products that follow an index, but more companies have launched actively run funds focused on state and local debt. This week, Pacific Investment Management Co. also introduced an actively managed muni ETF.

In its research, VanEck found that its new ETF strategy outperformed the two largest, passively run muni ETFs, Cohick said.

“We thought an active approach made sense for this fund, the novelty of it,” he said.

## **Bloomberg Markets**

By Amanda Albright

September 10, 2021, 7:30 AM MDT

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### **[Introduction to ESG Ratings: Fitch Webinar](#)**

**22 September 2021 | 16:00 BST | 11:00 EDT**

Join us on Wednesday 22 September, 4:00 PM BST, for a presentation of Sustainable Fitch’s new ESG Ratings.

For this webinar we are pleased to offer translation into Spanish and Portuguese. Please choose your preferred language on the widget in the webinar console.

Fitch Group’s new division, Sustainable Fitch, recently launched a comprehensive range of ESG Ratings products, at both an entity and instrument level, for all asset classes globally.

The ESG Ratings suite is designed to help market players to discriminate the ESG quality of both financial instruments and the entities that issue them. Our ESG Entity Ratings evaluate an entity’s activities from an environmental and social perspective, as well as the quality and outcomes of its policies and governance. Our ESG Instrument Ratings assess the ESG credentials of individual bonds or loans in the context of the entity that is issuing them, and where there is a labelled or KPI-linked instrument also provide a standalone assessment of the quality of the framework. Fundamentally, the focus of our ESG Rating analysis is on actions, outcomes, impacts and activities rather than purely on policies and broader commitments. Our instrument analysis looks beyond the labelling to focus on the fundamentals.

The ESG Ratings suite can assess all types of debt instruments (bonds and loans), whether they are labelled, plain vanilla, or structured instruments, as well as any type of entity (corporate, leveraged finance, financial institution, sovereign, supranational and agency (SSA), project finance, public finance and structured finance).

In this session, Andrew Steel, Managing Director, Global Head of Sustainable Fitch, and Gianluca Spinetti, Senior Director, Head of Product Development, will detail the ESG Rating methodology, explain how ratings can be used and discuss findings from the first universe of ratings assigned.

#### **Highlights Include:**

- Addressing capital market needs and concerns
- Providing modularity and granularity
- Introduction to ESG Entity Rating, ESG Instrument Rating, and ESG Framework Rating
- Methodology and references used (EU Taxonomy, UN SDGs, EU Green Bond Standard, ICMA guidelines)
- Data and research output
- Facts and findings from assigned ratings

Questions can also be emailed in advance to [aymeric.poizot@fitchratings.com](mailto:aymeric.poizot@fitchratings.com)

[REGISTER NOW](#)

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## **[Environmentally Sustainable Workforce Housing in OZs.](#)**

Environmentally Sustainable Workforce Housing in OZs, With Majesty Gayle

How can Opportunity Zones be leveraged to create more affordable housing that has a commitment to sustainability? Majesty Gayle is...

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**opportunitydb.com**

September 8, 2021

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## **[Coalition Building In Opportunity Zones.](#)**

Coalition Building In Opportunity Zones, With Bob Richardson

What are some of the biggest lessons learned from the first three years of the Opportunity Zones program? Bob Richardson...

[CONTINUE READING »](#)

**opportunitydb.com**

September 15, 2021

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## **[Cincinnati's Billboard Tax Declared Unconstitutional by Ohio Supreme Court Ruling.](#)**

The Ohio Supreme Court on Thursday blocked the city of Cincinnati's tax on billboard advertising, saying it violates the billboard operator's First Amendment rights.

The city enacted the tax on billboard advertising in 2018 to help close a \$2.5 million budget gap.

Ohio Supreme Court Justice Sharon Kennedy wrote in the majority opinion that "a selective tax creates the intolerable potential of self-censorship by the press and abuse by governmental actors aimed to suppress, compel, or punish speech."

The high court's decision reverses a ruling by the First District Court of Appeals.

Cincinnati City Council imposed the billboard tax, which called for 7% on gross receipts generated by the billboard or an annual minimum fee based on the sign location and size. It was projected to

raise \$709,000 a year.

Lamar Advantage GP Co. and Norton Outdoor Advertising, which control 90% of Cincinnati's billboard signs, sued to block the tax. The companies said it'd make it unsustainable to operate their least-profitable billboards and 70 to 80 of the 865 signs the companies operate in Cincinnati would be removed.

So where does the First Amendment issue come in? Roughly 25% to 30% of the sign space is donated for public service announcements and the companies' own speech, such as tributes to notable public figures.

Kennedy said that the "press" includes not only newspapers, books, and magazines, but has been extended to many other media, including cable television.

by Laura A. Bischoff

September 16, 2021

**Cincinnati Enquirer**

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## **[Chicago Finally Getting Serious About Where It Deposits City Cash.](#)**

The city government of Chicago moves hundreds of millions of dollars in and out of the bank every few months. Taxes, fees, fines and bond sale proceeds come in; paychecks, contractor payments and other spending or investments go out.

Community Advocates Break Down Proposed Changes to Community Reinvestment Act Regs  
As of December 31, 2020, Chicago had \$725 million in the bank — multiple banks, actually, as the city typically designates more than a dozen banks every year as municipal depositories.

The City of Chicago requires banks seeking designation as municipal depositories to have an authorized representative sign a pledge every year that the bank will avoid discrimination in lending on the basis of neighborhood, race, national origin, sex, source of income, sexual orientation and other factors. The pledge notes that failure to comply can result in losing designation as a municipal depository. It's been this way since 1974, when Chicago passed its Responsible Banking Ordinance, the first such ordinance of its kind. Many cities across the country have since passed their own responsible banking ordinances — some more stringent, some less so.

[Continue reading.](#)

NEXT CITY

by OSCAR PERRY ABELLO

SEPTEMBER 14, 2021

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## **[Bitvore Announces Availability of Cellenus® ESG Dataset for the Municipal](#)**

## [Bond Market.](#)

### **New Cellenus ESG for Muni's dataset features ESG topics across all 1.5 million active CUSIP's to reduce investment risk**

IRVINE, Calif., Sept. 14, 2021 /PRNewswire/ — [Bitvore](#), the leading provider of AI-driven intelligence for third-party risk management, today announced availability of a new Cellenus Environmental, Social and Governance (ESG) dataset targeting the municipal bond market.

ESG refers to the three central factors in measuring the sustainability and societal impact of municipal bond debt issuances. These criteria help to better determine the future financial performance of issuers in terms of return and risk. Bitvore's continuously updated ESG topics are derived from over 60K quality unstructured data sources (including news, press releases, EMMA filings and more), and identify what nearly 50k issuers are doing regarding ESG transparency.

"We're excited to announce our new Bitvore Cellenus ESG Dataset for the municipal bond market," said Elizabeth Pritchard, CEO, Bitvore. "It is fast becoming a requirement for investors to evaluate the financials of a muni offering together with the sustainability impact. Our new ESG insights will allow municipal bond analysts to get the full picture of the value of a bond."

The Cellenus Muni ESG dataset is derived from more than 60K unique unstructured data sources, including both publicly available and licensed subscription sources. Using machine learning models and NLP, Bitvore derives 34 unique ESG Muni topics, allowing customers to quickly identify specific ESG topics of interest such as GHG emissions, Diversity & Inclusion, Climate Change, Cybersecurity and more. In addition to the continuously updated ESG topics, Bitvore allows existing customers to effortlessly request ESG topics be included into daily surveillance alerts. Bitvore's surveillance alerts assist in mapping out any potential ESG risk that may be found in a portfolio of municipal bonds or across a sector.

Bitvore's Cellenus platform provides continuous, AI-powered analysis of unstructured data sources, linking the right obligor to specific ESG events or topics and providing early warning of any potential ESG violations. It also offers the capability to monitor specific topics across the entirety of the municipal bond market. For example, monitoring the expanding drought across the western United States or monitoring which municipalities are meeting goals around recycling or net-zero emissions. The Cellenus Muni ESG dataset may also aid in complying with future regulatory requirements by surfacing relevant ESG related topics and mapping the content back to a relevant obligor for transparency purposes.

Bitvore Cellenus datasets are accessible via API, file downloads and full research applications.

For more information about Bitvore Cellenus, please visit <https://bitvore.com/cellenus-intro/>

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- **Ed. Note:** We will be off next week. Double Dose O' Drivel 8/21.
  - [Which Side Are You On? Municipal Broker/Dealer Takes Both Sides.](#)
  - [Billion-Dollar Muni Deals a Rarity as Free Cash, Revenue Pile Up.](#)
  - [NFMA Recommended Best Practices in Disclosure for Toll Road Bonds.](#)
  - [As Wildfires Burn, ICE Shows How Sophisticated ESG Tools Have Become.](#)
  - ['Solar Bond' Demand Goes Through the Roof.](#)
  - [Telephonic TEFRA Hearings are Now Available Through March 31, 2022: Squire Patton Boggs](#)

- [City of Marion v. London Witte Group, LLC](#) - Supreme Court of Indiana holds that the adverse domination doctrine, which tolled the statute of limitations as long as the corporate plaintiff was controlled by alleged wrongdoers, applied to both private and municipal corporations.
- [Indiana Municipal Power Agency v. United States](#) - Court of Federal Claims holds that statute providing funding for tax refunds to pay issuers of Direct Payment Build America Bonds (BABs), under American Recovery and Reinvestment Act (ARRA), did not constitute "appropriation Act," but rather authorized "direct spending," and thus, issuers' refunds of 35% of interest payable for their BABs were subject to sequestration, under Budget Control Act and American Taxpayer Relief Act, that permanently canceled budgetary resources, including direct spending, defined as budget authority provided by law other than appropriation Acts, since BABs were not statutorily listed as program exempted from sequestration.
- And finally, [A Shameless Man With Nothing To Be Shameless About](#) is brought to us this week by [Walker v. Agpawa](#), in which a "[mayoral candidate] engaged in a scheme to defraud an insurance company while he was Markham Fire Department chief. He was sentenced to three years' probation and ordered to perform 200 hours of community service." (That penalty's in line with those meted out to non-violent drug offenders, right? Right?) Dude won his mayoral race and took the issue of whether one who had been convicted of an "infamous crime" is eligible for public office all the way to the Supreme Court of Illinois. Turns out they are. Best of luck, City of Markham!

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## IMMUNITY - ARIZONA

### [Dinsmoor v. City of Phoenix](#)

**Supreme Court of Arizona - August 6, 2021 - 50 Arizona Cases Digest 17 - 492 P.3d 313**

Mother brought action against school district, city, and school officials, alleging negligence-based claims arising from female student's death after being shot by ex-boyfriend while the two were at a friend's house after school.

The Superior Court entered summary judgment for all defendants. Mother appealed. The Court of Appeals affirmed in part, reversed in part, and remanded. District and officials petitioned for review, and the petition was granted.

The Supreme Court held that:

- A primary or secondary school's duty to protect students exists only while the school is fulfilling its roles as custodian, land possessor, and quasi-parental figure, and once students safely leave the school's control, the special relationship ends, and students are simultaneously released to their parents' or guardians' full custodial care, then the school is relieved of any duty to affirmatively protect students from any hazards they encounter, disapproving *Hill v. Safford Unified Sch. Dist.*, 191 Ariz. 110, 952 P.2d 754, and
- School did not owe duty to protect student from her ex-boyfriend.

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## UTILITIES - CALIFORNIA

### [Alameda County Waste Management Authority v. Waste Connections US, Inc.](#)

**Court of Appeal, First District, Division 2, California - August 18, 2021 - Cal.Rptr.3d - 2021 WL 3661201 - 21 Cal. Daily Op. Serv. 8550 - 2021 Daily Journal D.A.R. 8624**

County waste management authority sued three out-of-county landfills that disposed of waste

originating in the county, petitioning for injunctive or declaratory relief to enforce its authority to inspect specified records kept by the landfills.

The Superior Court granted county authority's motion for judgment on the pleadings and compelled landfills to allow inspection. Landfills appealed.

The Court of Appeal held that:

- The Integrated Waste Management Act authorized county authority to inspect and copy the records it sought without precondition, and
- County authority was entitled to judgment on the pleadings.

The language "as necessary to enforce the collection of local fees" in subsection of the Integrated Waste Management Act which governed local governments' rights to inspect and copy specified records related to waste originating in their jurisdiction did not impose as a precondition any factual showing of necessity; that language stated just one purpose for which local government entities could use the records, the mechanism provided for government entities to enforce their authority to inspect indicated inspection was a power or a right, "as necessary" did not inevitably mean "essential," and read in the context of the entire section and its legislative history, that language meant that local agencies with fee ordinances were entitled to inspect and copy the records without precondition.

County waste management authority was entitled to judgment on the pleadings in case in which county authority sued landfills to enforce its statutory authority to inspect and copy specified records kept by the landfills related to waste originating in the county, where the only issue where there was a real dispute was a legal one, regarding the interpretation of a subsection of the Integrated Waste Management Act which governed local governments' rights to inspect and copy such records, and the statute required no showing of factual necessity for county authority to be authorized to inspect and copy the records.

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## **ELECTIONS - ILLINOIS**

### **[Walker v. Agpawa](#)**

**Supreme Court of Illinois - August 26, 2021 - N.E.3d - 2021 IL 127206 - 2021 WL 3776296**

Objectors sought review of decision of municipal officers electoral board finding that mayoral candidate was duly qualified candidate for office despite federal felony conviction for mail fraud.

The Circuit Court affirmed. Objectors appealed. The Appellate Court reversed. Candidate petitioned for leave to appeal, which was allowed.

The Supreme Court held that:

- Governor's certificate to restore rights restored right to hold municipal office;
- Statutory amendment concerning restoration of rights as to public office following conviction was not void for vagueness;
- Statutory amendment did not violate First Amendment rights to object to a candidacy; and
- Statutory amendment did not violate separation of powers principles.

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## **STATUTE OF LIMITATIONS - INDIANA**

### **[City of Marion v. London Witte Group, LLC](#)**

**Supreme Court of Indiana - June 17, 2021 - 169 N.E.3d 382**

City brought action against company that provided financial advice to city regarding financing for a construction project and alleged claims for negligence, breach of fiduciary duty, and constructive fraud and unjust enrichment.

The Superior Court granted in part and denied in part financial advisor's motion for summary judgment. City appealed and financial advisor cross-appealed. The Court of Appeals affirmed in part, reversed in part, and remanded with instructions. City sought transfer, and transfer was granted.

The Supreme Court held that:

- As a matter of first impression, the Supreme Court would adopt the equitable tolling doctrine of adverse domination;
- The adverse domination doctrine applied to both private and municipal corporations; and
- Genuine issues of material fact existed as to whether mayor adversely dominated the city, and whether company that provided financial advice to city contributed to it, precluding summary judgment.

The Supreme Court would adopt the equitable tolling doctrine of adverse domination, which was an equitable doctrine that tolled statutes of limitations for claims by corporations against its officers, directors, lawyers and accountants for so long as corporation was controlled by those acting against its interests, as a logical corollary of its discovery rule.

The adverse domination doctrine, which tolled the statute of limitations as long as the corporate plaintiff was controlled by alleged wrongdoers, applied to both private and municipal corporations.

Genuine issues of material fact existed as to whether mayor adversely dominated the city, and whether company that provided financial advice to city contributed to it, precluding summary judgment based on the adverse domination doctrine on company's statute of limitations defense in negligence, breach of fiduciary duty, and constructive fraud action.

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## **BUILD AMERICA BONDS - INDIANA**

### **[Indiana Municipal Power Agency v. United States](#)**

**United States Court of Federal Claims - July 23, 2021 - Fed.Cl. - 2021 WL 3123777 - 128 A.F.T.R.2d 2021-5316**

Public-sector power providers filed suit against United States, claiming violation of statutory duty, under American Recovery and Reinvestment Act (ARRA), and breach of contract by IRS failing to refund 35% of interest payable under their Direct Payment Build America Bonds (BABs) that they had issued under authority of ARRA.

Government moved to dismiss for failure to state claim.

The Court of Federal Claims held that:

- Claims were within Tucker Act jurisdiction;
- Refunds of interest under BABs were subject to sequestration;
- Issuers' characterizations of payments could not prevent sequestration;
- Sequestration reduced amount of refunds owed to issuers; and
- Government contract was not formed for refund payments.

Issuers of Direct Payment Build America Bonds (BABs), under American Recovery and Reinvestment Act (ARRA), asserted claims against United States that were within Tucker Act jurisdiction, for alleged violation of statutory duty under ARRA and breach of contract by failing to refund 35% of interest payable under BABs, since ARRA was separate money-mandating statute that created payment obligation on government, and issuers alleged nonfrivolous claim of contract with United States.

Statute providing funding for tax refunds to pay issuers of Direct Payment Build America Bonds (BABs), under American Recovery and Reinvestment Act (ARRA), did not constitute "appropriation Act," but rather authorized "direct spending," and thus, issuers' refunds of 35% of interest payable for their BABs were subject to sequestration, under Budget Control Act and American Taxpayer Relief Act, that permanently canceled budgetary resources, including direct spending, defined as budget authority provided by law other than appropriation Acts, since BABs were not statutorily listed as program exempted from sequestration.

Issuers of Direct Payment Build America Bonds (BABs), under American Recovery and Reinvestment Act (ARRA), could not preserve from sequestration full payment of tax refunds of 35% of interest under their BABs, by characterizing payments as "overpayment" of taxes or as "obligated funds," since payments to bond issuers were funded through statute that was subject to sequestration with respect to tax refunds to issuers of BABs, and government did not obligate funds for life of BABs, as obligation arising from BABs arose not when they were issued but only after IRS timely received and processed government form from issuers, so government's payment obligation did not extend beyond year processed.

Government was statutorily required to reduce its payment obligations for tax refund of 35% of interest payable to issuers of Direct Payment Build America Bonds (BABs), under American Recovery and Reinvestment Act (ARRA), due to subsequent enactment of Taxpayer Relief Act, imposing sequestration that permanently canceled budgetary resources, including direct spending such as funding for tax refunds to pay issuers of BABs, since spending cuts implemented by later-enacted Taxpayer Relief Act and Budget Control Act were irreconcilable with ARRA's 35% payment rate and reduced government's payment obligation by sequestration.

Government did not intend to create contract to be bound to pay tax refund of 35% of interest payable to issuers of Direct Payment Build America Bonds (BABs), under American Recovery and Reinvestment Act (ARRA), that did not frame authorized payments under BABs as contractual obligation, but rather, merely set forth payment program for issuers of qualifying BABs.

Issuers of Direct Payment Build America Bonds (BABs) waived any argument based on additional documents to establish existence of contract with United States, where issuers did not plead contract based on those documents in their amended complaint, they did not raise that argument in opposition to government's motion to dismiss, and they disclaimed that argument at oral argument.

## **[Southern Environmental Law Center v. North Carolina Railroad Company](#)**

**Supreme Court of North Carolina - August 13, 2021 - S.E.2d - 2021-NCSC-84 - 2021 WL 3575673**

Requester brought action requesting the entry of an order declaring that the North Carolina Railroad Company was an agency of the State of North Carolina for purposes of the Public Records Act, declaring that the records requested from the railroad constituted public records, and ordering the railroad to make those records available for inspection.

After the case was designated a mandatory complex business case, the Superior Court granted railroad's motion for summary judgment, and requester appealed.

The Supreme Court held that Railroad was not an agency of North Carolina government or a subdivision of such an agency.

North Carolina Railroad Company was not an agency of North Carolina government or a subdivision of such an agency as defined by the Public Records Act, although the State was the Railroad's sole shareholder and the Railroad enjoyed a number of benefits due to its relationship with the State, where both the General Assembly and other governmental entities consistently treated the Railroad as a private corporation rather than a public agency or subdivision, the State lacked a sufficient degree of control over the day-to-day operations of the Railroad, and the Railroad consistently maintained its separate corporate identity and structure and made decisions independently of any directives that it might receive from governmental officials, and owned its own property and paid taxes to counties and the State.

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## **ZONING & PLANNING - OHIO**

### **[State ex rel. Donaldson v. Delaware County Board of Elections](#)**

**Supreme Court of Ohio - August 26, 2021 - N.E.3d - 2021 WL 3821901 - 2021-Ohio-2943**

Relator filed petition for writ of mandamus, seeking to require county board of elections to include referendum on zoning amendment on ballot.

The Supreme Court held that:

- Referendum petition's summary of zoning amendment failed to present issue fairly and accurately, rendering petition invalid, and
- Petition's reliance on public-hearing notices and zoning-commission language did not render summary sufficient.

Relator lacked adequate remedy in ordinary course of the law, as required for relator to obtain writ of mandamus ordering county board of elections to place referendum relating to zoning amendment on ballot, due to proximity of election, which was approximately two months away.

Referendum petition's summary of township zoning amendment relating to planned overlay district, which described amendment in general terms and stated that zoning amendment would include sections detailing permitted uses, open spaces, and prohibited uses, and that zoning resolution and map would be amended to designate the planned overlay district area, failed to present issue fairly and accurately to those being asked to sign petition, and thus petition was rendered invalid; summary did not identify location of land being rezoned, and it did not describe proposed zoning changes by indicating current use of property or uses that zoning amendment would permit.

Referendum petition's reliance on language from township zoning commission's public-hearing notices and zoning commission's resolution recommending denial of proposed zoning amendment regarding planned overlay district did not satisfy requirement that zoning amendment, as adopted by township, be fairly and accurately described in petition; notices did not summarize zoning amendment passed by township, but instead informed public of hearings that were scheduled to take place on proposed amendment prior to its enactment, notices were not required to contain summary of proposed zoning amendment, zoning commission's resolution was recommendation to township, not summary of amendment, and resolution related to previous version of planned overlay district.

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## **BANKRUPTCY - PUERTO RICO**

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

**United States Court of Appeals, First Circuit - August 12, 2021 - 7 F.4th 31**

In the jointly administered restructuring cases of the Commonwealth of Puerto Rico and various governmental instrumentalities pursuant to Title III of the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA), the Puerto Rico Electric Power Authority (PREPA), PREPA's fiscal agent, and the Financial Oversight and Management Board for Puerto Rico (FOMB) moved for entry of order allowing administrative expense claim for the costs of certain "front-end transition services" that private consortium with which PREPA had contracted to assume control over PREPA's power transmission and distribution system (T&D system) had agreed to perform.

Creditors objected. The United States District Court for the District of Puerto Rico granted motion in part and denied it in part. Creditors appealed.

The Court of Appeals held that:

- Addressing an issue of apparent first impression for the court, the subsection of the Bankruptcy Code providing administrative expense priority for the actual, necessary costs and expenses of preserving the estate applies in Title III cases;
- The Title III court did not abuse its discretion in finding that the front-end transition services satisfied the requirements for administrative expense treatment; and
- The Title III court correctly determined that it was not authorized to review challenges to FOMB's decision to certify a fiscal plan and budget for PREPA that included the front-end transition service fee.

Subsection of the Bankruptcy Code providing administrative expense priority for the actual, necessary costs and expenses of preserving the estate applies in cases under Title III of the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA); Congress incorporated the entirety of the Code's administrative expense section into PROMESA, such that each provision of that section must be given effect, and though there is no "estate" to preserve in Title III proceedings, reading "estate" in the context of the administrative expense provision to mean "property of the debtor" is sensible in light of the text and structure of Title III and the Code.

In case under Title III of the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA), the Title III court did not abuse its discretion in finding that "front-end transition services" which private consortium with which the Puerto Rico Electric Power Authority (PREPA) had contracted to assume control over PREPA's power transmission and distribution system (T&D system) had agreed to perform satisfied the requirements for administrative expense treatment; the court correctly recognized that burden was on movants to show that payments at issue qualified to

administrative expense priority, the court permissibly credited declaration submitted by movants indicating that services in question were necessary prerequisites to private consortium assuming control over the T&D system and so were beneficial to PREPA, and objectors did not provide any contrary factual evidence that services did not benefit PREPA.

In case under Title III of the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA), the Title III court correctly determined that it was not authorized to review challenges to decision of the Financial Oversight and Management Board for Puerto Rico (FOMB) to certify a fiscal plan and budget for the Puerto Rico Electric Power Authority (PREPA) that included fees for certain “front-end transition services” that private consortium with which PREPA had contracted to assume control over PREPA’s power transmission and distribution system (T&D system) had agreed to perform; PROMESA insulated FOMB’s certification determinations from judicial review in the federal courts.

In case under Title III of the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA), appellants’ argument that the Title III court’s interpretation of the PROMESA provision insulating decisions of the Financial Oversight and Management Board for Puerto Rico (FOMB) from judicial review violates the nondelegation doctrine was waived where appellants never raised the issue before the Title III court, and no exceptional circumstances warranted consideration of the argument for the first time on appeal.

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## **[How Well Did the Fed’s Intervention in the Municipal Bond Market Work?](#)**

The beginning of the COVID-19 pandemic strained many sectors of the economy, including the municipal bond market, prompting an unprecedented intervention by the Federal Reserve. This post summarizes the latest research on the effectiveness of the Fed’s response to COVID-related distress in the muni market, which finances more than 50,000 local and state governments and other entities.

### HOW DID COVID-19 AFFECT THE MUNI BOND MARKET?

Prior to the pandemic, the muni market was ebullient. According to Morningstar, between the beginning of 2019 and February 2020, investors put \$105 billion into muni mutual funds and exchange-traded funds, the largest annual influx in the muni sector in 25 years.

COVID-19 hit nearly every sector of the financial market. In the muni market, investors apparently feared that state and local government revenues would fall and spending would increase, hurting governments’ ability to service their debt.

[Continue reading.](#)

### **The Brookings Institution**

Sophia Campbell and David Wessel

August 31, 2021

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## **Billion-Dollar Muni Deals a Rarity as Free Cash, Revenue Pile Up.**

- **Average muni offering was \$34 million from Jan. through July**
- **15 deals of \$1 billion or more is fraction of corporate tally**

U.S. states and localities have sold 15 bond deals of at least \$1 billion this year, on pace to surpass the total of 18 offered in 2020 and potentially even challenge the record 26 issued in 2018, data compiled by Bloomberg show.

And yet, it's still a far cry from the hundreds of megadeals sold in the world of U.S. corporate bonds this year. Muni investors may be looking to the corporate-debt space with envy, amid a dearth of trading activity in the state and local-government market.

The conditions are right: The amount that municipalities are paying to borrow is at rock-bottom generational lows. Their credit has never been better because it has been rendered almost irrelevant by free money from the federal government aimed at bolstering the economic rebound from the pandemic. And investor demand is seemingly insatiable.

Two primary forces are holding them back from issuing larger sums, analysts say. The first is, they don't need to, in part as many states and cities are refilling their coffers more quickly than they'd anticipated.

"Tax revenues have surged with the economy re-opening this year and when combined with the stimulus funds from the American Families Plan and more coming from the Infrastructure Investment and Jobs Act, they're simply flush with cash," said Matt Buscone, co-head of portfolio management at Breckinridge Capital, in an email last week.

Some municipalities may use part of the federal money for deferred maintenance; others will tap it for debt reduction and fund more of their capital budgets on a pay-as-you-go basis, Buscone added.

### **Size Mismatch**

A second key reason why states and localities aren't bringing more extra-large deals is that size matters.

It's "primarily attributable to the size of corporations versus municipalities," said Cooper Howard, director of fixed-income strategy at the Schwab Center for Financial Research. "There are many more bonds in the muni index, but they are much smaller on average than the corporate market."

To illustrate, he said there are a bit fewer than 7,000 bonds in the Bloomberg Corporate Bond Index, compared to more than 55,000 in the Bloomberg Municipal Bond Index. The size of the average bond in the muni index is a little over \$30 million, compared with around \$1 billion for the corporate index, according to Howard.

The average size of new muni deals was \$34 million from January to July, according to the Municipal Securities Rulemaking Board. More than half were for \$10 million or less.

So for every Texas Municipal Gas Acquisition & Supply Corp III (which sold \$1.06 billion in bonds in January) or California State University (\$1.66 billion in July), there are hundreds of issuers more like Cimarron, Kansas (population around 2200; borrowed \$975,000 in February), and Pomeroy, Iowa (population roughly 660, borrowed \$995,000 in March).

But a more fundamental reason may be at work, which is that most of the nation's 90,126 units of

government — the tally in the Census of Governments 2017 data — don't seem to like debt.

That may explain why they pay some of it off every year and why 31% of it will mature or be called by the end of 2026, according to a study by Municipal Market Analytics.

## **Bloomberg Markets**

By Joseph Mysak Jr

August 31, 2021

— *With assistance by Danielle Moran*

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### **[Even With Covid, Muni Bonds Report Shows Defaults Remain Rare.](#)**

#### **Summary**

- While they may have become more common over the last 10 years, municipal defaults and bankruptcies still remain rare overall.
- The five-year all-rated cumulative default rate of municipal bonds throughout the study period (1970-2020) was unchanged at 0.08% and still remains very low.
- Municipal credits remain strong.

[Continue reading.](#)

#### **Seeking Alpha**

Sep. 03, 2021

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### **[NFMA Recommended Best Practices in Disclosure for Toll Road Bonds.](#)**

The Disclosure Committee is pleased to release the final version of the [Recommended Best Practices in Disclosure for Toll Road Bonds](#), dated August 2021.

To view this paper and other work products of the Disclosure Committee and the Industry Practices Committee, go to [Best Practices in Disclosure](#) and [Position Statements](#) under Resources.

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### **[Main Street Pensions Take Wall Street Gamble by Investing Borrowed Money.](#)**

#### **Municipalities have assumed about \$10 billion in debt this year to shore up retirement obligations**

Many U.S. towns and cities are years behind on their pension obligations. Now some are effectively planning to borrow money and put it into stocks and other investments in a bid to catch up.

State and local governments have borrowed about \$10 billion for pension funding this year through

the end of August, more than in any of the previous 15 full calendar years, according to an analysis of Bloomberg data by Municipal Market Analytics. The number of individual municipalities borrowing for pensions soared to 72 from a 15-year average of 25.

Among those considering what is known as pension obligation borrowing is Norwich, a city in southeastern Connecticut with a population of 40,000. Its yearly payment toward its old pension debts has climbed to \$11 million in 2022—four times the annual retirement contribution for current workers and 8% of the city's budget. The city will vote in November on whether to sell \$145 million in 25-year bonds to cover the pensions of retired police officers, firefighters, city workers and school employees.

Norwich's rating from Moody's Investors Service is in line with the median for U.S. cities, and officials expect to pay about 3% in interest. Norwich's pension consultant, Milliman, projects investment returns of 6.25%.

Comptroller Josh Pothier said that spread helped him overcome his initial hesitation. "It's pretty scary; it's kind of like buying on margin," he said he thought to himself. "But we've had a long run of interest rates being extraordinarily low," he added.

Milliman forecasts that Norwich would save \$43 million in today's dollars over the next 30 years.

Over the past few decades, state and local governments across the country have fallen hundreds of billions of dollars behind on savings needed to pay public employees' future promised pension benefits. Officials have been trying to catch up by cutting expenses from annual budgets and making aggressive investment bets.

With big pension payments looming and Covid-19-era federal stimulus pushing municipal borrowing costs to record lows, local officials are taking a gamble: that their retirement plans can earn more in investment income on bond money than they pay in interest.

Here is how a pension obligation bond works: A city or county issues a bond for all or a portion of its missed pension payments and dumps the proceeds into its pension coffers to be invested. If the returns on pension investments are higher than the bond rate, the additional investment income will translate into lower pension contributions for the city or county over time. (The \$10 billion in pension borrowing captured by the Municipal Market Analytics analysis also included some money used directly for pension benefits, rather than being invested, and at least one borrower directed some bond proceeds to other uses.)

Pension obligation bonds can backfire. If investments don't perform as expected and returns fall below the bond interest rate, the city can end up paying even more than if it hadn't borrowed.

Norwich is one of many smaller municipalities venturing into pension borrowing. This summer local governments issued 24 pension obligation bonds with an average size of \$112 million, according to data from ICE Data Services. That compares with 11 deals with an average size of \$284 million during the same period last year.

The Government Finance Officers Association, a trade group, in February reaffirmed its recommendation against the practice. "Absolutely nothing has changed," said Emily Brock, director of the group's federal liaison center. "It's still not a good choice."

In 2009, Boston College's Center for Retirement Research examined pension obligation bonds issued since 1986 and found that most of the borrowers had lost money because their pension-fund investments returned less than the amount of interest they were paying. A 2014 update found those

losses had reversed and returns were exceeding borrowing costs by 1.5 percentage points.

By swapping out their pension liability for bond debt, local pension borrowers give up the budgetary flexibility to skip a retirement payment in an acute crisis. Pension obligation bonds have contributed to the chapter 9 bankruptcies of Detroit, Stockton, Calif., and San Bernardino, Calif. Chicago three years ago considered, and then scrapped, plans for a big pension borrowing deal.

Other local officials are starting to educate themselves about the deals. More than 200 people attended the webinar “How to Explain Pension Obligation Bonds to Your Governing Board,” hosted by the law firm Orrick, Herrington & Sutcliffe last month.

For investors, the bonds can be more of a mixed bag. A pension obligation bond approved by Houston voters in 2017 earned praise from analysts because the city paired it with benefit cuts.

Howard Cure, director of municipal bond research at Evercore Wealth Management, said that though he occasionally purchases the securities, the decision to issue them raises red flags. “I have a lot more questions about how an entity is governed if they’re using this tactic,” Mr. Cure said.

## **The Wall Street Journal**

By Heather Gillers

Sept. 4, 2021

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### **[As Wildfires Burn, ICE Shows How Sophisticated ESG Tools Have Become.](#)**

Wildfires are raging across the western United States, destroying homes, commercial buildings and entire towns. The biggest is the Dixie Fire, which has spread across more than 700,000 acres in Northern California and turned more than 1,200 buildings to ash.

“My defiantly quirky, beautiful adopted hometown turned into a ghost town last night,” reporter Meg Upton wrote on Aug. 5 in the Plumas News. In an unstoppable march of heat and flame, the Dixie Fire erased the bulk of Upton’s hometown of Greenville from existence.

As with many of the more than 150 wildfires burning today, the Dixie Fire was fueled by dry timber and high temperatures amid a changing climate.

A nation away, experts at Atlanta-based Intercontinental Exchange, known as ICE, and climate and ESG data provider risQ, headquartered in Boston, work to help identify and quantify the risk associated with such potentially disastrous events. Their efforts power a young service called ICE Climate Risk, developed for those who invest in the trillions of dollars in bonds that municipalities have sold to pay for hospitals, power plants, schools and other critical infrastructure.

ICE Climate Risk sits at the cutting edge of modern ESG tools, with the most advanced growing remarkably sophisticated in recent years as those who invest in a variety of asset classes pay rapt attention to environmental, social and governance issues.

“ESG is definitely evolving,” says Mark Heckert, who oversees ICE’s fixed income and data services products.

ICE Climate Risk works by dividing the nation’s 48 contiguous states into 100-square-meter cells

and analyzing each for its risk from different climate events. Comprising more than 1.3 billion cells in total, the data set quantifies risk for events including flooding, hurricane, heat stress, drought and, of course, wildfire.

Climate risk can be particularly important to investors in municipal bonds, as these securities are tied to the locations of the projects they fund. For example, a bond sold to pay for a new library in an area with a high risk of flooding may warrant a different price than a similar bond in a location with little threat from the climate.

“We can tell you for every patch of dirt in the U.S., what debt is sitting on it,” says risQ CEO Evan Kodra.

Indeed, ICE Climate Risk had identified Plumas County, where Upton’s hometown of Greenville is located, as falling in the 98th percentile of wildfire risk across the United States and the 86th percentile in the fire-prone state of California. Of course, the database could not predict when the Dixie Fire would occur. It can and did, however, quantify the likelihood of such an event.

“It was way at the top end of the percentile in that risk,” says ICE’s Spencer Gallagher, who helped develop ICE Climate Risk together with Kodra.

ESG investing has been around for some time, with the United Nations launching its Principles for Responsible Investment in April 2006 at the New York Stock Exchange, which is owned by ICE. Yet, demand for high-tech ESG tools like ICE Climate Risk has grown most rapidly in recent years as investors have demonstrated a keen interest in projects and organizations whose values and approaches align in these areas.

In addition to climate risk, ICE is involved in many other areas of ESG investing. “ICE was an early investor in this space and has been helping develop these markets for many years,” says Brooklyn McLaughlin, who oversees ICE’s sustainability efforts.

In some ways, the company’s offerings represent a microcosm of the modern ESG universe.

For equity investors, ICE’s ESG Reference Data tracks about 500 ESG metrics across publicly traded companies including carbon emissions, renewable energy, diversity and inclusion, and board profile. The NYSE leverages this data as it works with its 2,400 listed companies to help them adopt best practices in ESG standards and disclosure.

The NYSE Arca exchange lists more than \$23 billion of ESG-focused ETFs. ICE also lists numerous climate-related futures contracts in Europe and North America, allowing companies and other organizations to offset their carbon footprints.

In early August, ICE, together with risQ, announced that municipal bond investors can now receive data to help evaluate the potential social impact of an investment, an area of fast-growing interest. Similar to ICE Climate Risk, they can use this information to analyze poverty, employment, racial diversity and other factors in the geographies where the bonds’ underlying projects live.

Growth in the importance of ESG investing doesn’t seem likely to disappear anytime soon. Earlier this month, the U.N.’s Intergovernmental Panel on Climate Change published a report that received wide media coverage, finding that temperatures will continue to rise globally “until at least the mid-century.” This almost certainly will make the ability to identify the risk of climate events like the Dixie Fire even more critical in the years ahead.

“When we first started, a lot of the market originally was skeptical that a lot of this stuff was ever

going to matter,” Kodra recalls. “That clearly changed.”

By NYSE

August 31, 2021

*By Farrell Kramer, Head of NYSE Communications, New York Stock Exchange*

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## **[The World of Alternative Revenues: Low Carbon Fuel Standard Credits.](#)**

**In a normal public finance transaction to raise capital, local governments often have to pledge some form of revenue stream that’s both reliable and enough to meet the debt service for the capital raised.**

For most municipal debt issuances, these revenue streams are often limited to sales tax, property tax, some form of utility user tax, or a combination of all three. However, with the constantly evolving capital markets and its investor base, issuers are demanding more creative ways to pledge alternative revenue sources to take the pressure off their other revenue streams.

In this article, we will take a closer look at the world of Low Carbon Fuel Standard Credits (LCFS) and how some transportation agencies are pledging them as a revenue source to issue green debt for their respective capital needs.

[Continue reading.](#)

**municipalbonds.com**

by Jayden Sangha

Sep 01, 2021

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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 August) \$309.1 billion, +2.5% Y/Y
- Trading (as of August) \$8.8 billion ADV, -33.0% Y/Y
- Outstanding (as of 1Q21) \$4.0 trillion, +2.7% Y/Y

[Download.](#)

September 2, 2021

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## [S&P U.S. State Ratings And Outlooks: Current List](#)

[View the list.](#)

2 Sep, 2021

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## [S&P U.S. Public Finance Rating Activity, July 2021.](#)

### **Rating Activity**

S&P Global Ratings took the following rating actions in U.S. public finance in July 2021:

25 downgrades

58 upgrades

372 outlook revisions to stable

15 outlook revisions to positive

13 outlook revisions to negative

These data were prepared by individuals on behalf of the USPF group of S&P Global Ratings and are current as of Sept. 1, 2021. For the most up to date, accurate, and complete information on any credit ratings referenced here, visit [www.spratings.com](http://www.spratings.com). For these purposes we represent as one rating action a change in the rating of linked ratings. For example, we reflect as one rating action a change in the rating on a general obligation (GO) issuer and its related appropriation issues if the rating change on the GO led to rating changes for linked appropriation issues. In certain other publications, linked ratings actions may be represented or counted as separate rating actions.

[Continue reading.](#)

3 Sep, 2021

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## ['Solar Bond' Demand Goes Through the Roof.](#)

### **Larger investors are starting to buy up the debt behind loans to homeowners who want to reduce their dependence on vulnerable electric grids**

Investment firms are buying record amounts of so-called solar bonds, debt issued to help U.S. individuals finance the purchase of rooftop solar panels to power their homes.

Sales of solar bonds hit around \$2 billion in the first six months of the year, roughly double levels during the same period in 2020 and 2019, according to deal tracker Finsight.com. The bonds, which are backed by bundles of loans made to homeowners for panel purchases, are being issued by a handful of financing companies that specialize in residential solar panels, including GoodLeap LLC, Sunnova Energy Corp. and Solar Mosaic Inc.

By tapping bond markets, the companies are connecting fund managers looking for eco-friendly investments with homeowners who want to get cheaper—and potentially more reliable—electricity

while cutting their carbon footprints.

“It came down to cost and the environment,” said Josh Rudin, a 34-year-old real-estate attorney who took out a 10-year loan from Solar Mosaic to install solar panels on the house his family bought in Woodbury, N.Y., this year. “We just started a week ago, and even with the bad weather, the system is producing 82% of our electricity.”

The solar panels cut the cost of his electricity purchases from the grid by 95% and qualify him for about \$15,000 in federal and state tax credits. Even after accounting for loan payments, his monthly power expenditure will fall, saving him about \$8,500 over the life of the loan, according to EmPower Solar, the company that sold him the equipment. Payments on the loan will remain fixed, and when the panels produce more electricity than he uses, Mr. Rudin can sell the excess to his local power grid, he said.

Demand for the loans is accelerating this year amid more violent and unpredictable weather patterns, said Tanguy Serra, president of GoodLeap LLC, the largest issuer of solar bonds. “The wildfires in California, the Texas winter, the outages in Louisiana, they’re all large-scale advertising for the product,” he said.

Hurricane Ida cut power to roughly one million customers in New Orleans and Mississippi and 200,000 people in New York, New Jersey and Pennsylvania this past week.

Bond investors like debt backed by solar loans because the borrowers must own their homes and have good mortgage track records to qualify, said Katrina Niehaus, head of corporate structured finance at Goldman Sachs Group Inc., which arranges solar bonds. Buying the securities also helps asset managers meet environmental, social and governance, or ESG, investing targets required by their clients.

Growing appetite for the bonds is lowering borrowing costs for companies like GoodLeap. Investors bought the bulk of the firm’s most recently issued bonds at a yield of 1.94%, compared with 2.77% on a deal done in July 2020, according to Finsight.com.

Solar energy systems can cost \$30,000 or more, and until recently, most homeowners had two choices when purchasing them: pay cash or sign a lease. Over the past five years, solar financing companies scaled up operations by borrowing money from banks and credit unions, then lending it out to customers of panel vendors like EmPower.

The companies use algorithms to rapidly assess and approve borrowers, collect fees on the loans and then sell them to fund managers. Loans accounted for 63% of solar financing in 2020, up from 21% in 2015, Mosaic Chief Executive Billy Parrish said.

Initially, finance companies sold much of their loans and bonds to hedge-fund managers. Alternative fund manager CarVal Investors LP has purchased more than \$500 million worth of loans from GoodLeap and Blackstone Group Inc. bought large quantities from the company when bond markets seized up in the summer of 2020, people familiar with the matter said.

The solar bond market is still small, but it is now starting to attract larger traditional investors, said Rob Camacho, co-head of structured credit at Blackstone. “This market is going to grow a lot, so you have money managers willing to spend time on it,” he said.

BlackRock Inc., the largest fund management company in the world, has begun buying solar bonds, a person familiar with the matter said.

As the market expands, so could the risk in the loans backing solar bonds. The average FICO score of solar loan borrowers is roughly 745, but “there’s definitely the possibility that the industry will expand to borrowers that are in the lower credit spectrum,” said Melvin Zhou, an analyst at Kroll Bond Rating Agency LLC.

Increased government support is playing a part in the industry’s growth, said Bryan White, a solar analyst at market research firm Wood Mackenzie. The 26% federal investment tax credit on residential solar panels is slated to expire fully in 2024, but the Biden administration and Democrats in Congress are working on extending that by as much as eight years through the current budget reconciliation process, he said.

“It’s a great day for solar today,” Mr. Rudin said on Thursday as blue skies replaced Ida’s torrential downpour. “I’m exporting five kilowatts to the grid and it’s only 9 a.m.”

## **The Wall Street Journal**

By Matt Wirz

Sept. 4, 2021

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### **[Climate Change Is Bankrupting America’s Small Towns.](#)**

**Repeated shocks from hurricanes, fires and floods are pushing some rural communities, already struggling economically, to the brink of financial collapse.**

FAIR BLUFF, N.C. — It’s been almost five years since Hurricane Matthew flooded this small town on the coastal plain of North Carolina. But somehow, the damage keeps getting worse.

The storm submerged Main Street in four feet of water, destroyed the town hall, the police and fire departments, and flooded almost a quarter of its homes. After two weeks underwater, the roads buckled. The school and grocery store shut, then didn’t reopen. When Hurricane Florence submerged the same ground two years later, in 2018, there was little left to destroy.

What started as a physical crisis has become an existential one. The town’s only factory, which made vinyl products, closed a few months after Matthew. The population of around 1,000 fell by about half. The federal government tried to help, buying the homes of people who wanted to leave, but those buyouts meant even less property tax, tightening the fiscal noose.

[Continue reading.](#)

## **The New York Times**

By Christopher Flavelle

Sept. 2, 2021

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### **[NTIA Releases Interactive Federal Funding Guide.](#)**

Today, the National Telecommunications and Information Administration (NTIA) released the [Interactive Federal Funding Guide](#) as an enhancement to BroadbandUSA's "[one-stop](#)" [federal funding site](#). The Guide provides an interactive, step-by-step approach for users to filter through more than 90 broadband related programs compiled from 12 federal agencies and the Federal Communications Commission. These programs were included in the BroadbandUSA FY21 website update, which was recently updated with [EDA's American Rescue Plan Programs](#). It highlights general information about each program, including program descriptions, important dates, contact information, and links to program websites. Developed in response to feedback from users of the federal funding site, the Interactive Guide can be used offline and across multiple platforms, including tablets and mobile devices, providing an option for users with limited access to the internet or digital devices.

Feedback on the site overall and this Interactive Guide is welcomed; please contact [BroadbandUSA@ntia.doc.gov](mailto:BroadbandUSA@ntia.doc.gov) to provide input.

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## **[Fitch: Multifamily Housing Cushioned Against End of Aid and Eviction Ban](#)**

Fitch Ratings-New York-30 August 2021: Multifamily mortgage delinquency levels have remained low throughout the pandemic, up only slightly from pre-pandemic levels for both Fitch-rated affordable housing and market-rate housing loans in commercial mortgage backed securities (CMBS), Fitch Ratings says. The end of federal unemployment aid that provides support to individuals may lead to increased rent delinquencies, negatively affecting multifamily loan performance. Both affordable housing transactions and CMBS have robust overcollateralization to protect against multifamily loan performance deterioration.

Occupancy levels may see some volatility with the end of the Centers for Disease Control and Prevention's (CDC) eviction moratorium, which applied to those counties experiencing substantial and high community transmission virus levels, covering over 90% of the country. The Supreme Court of the United States ruled on August 26 that the CDC did not have the authority to impose the moratorium. Only a fraction of federal aid for rental assistance has been dispersed, and it is unclear how quickly remaining funds will be made available.

The impending expiration of federal supplemental unemployment benefits in September presents a significant income cliff for millions of unemployed and increased coronavirus cases are expected to drag on jobs recovery for lower wage earners. Lower wage sectors saw the biggest hit to employment during the pandemic and employment has not rebounded for these sectors to the same extent as other wage brackets.

We would expect delinquencies and evictions to be higher for lower-income individuals, although some affordable housing properties lack the ability to evict tenants. For the week ending August 2, 70% of renters who were delinquent on rent payments have an annual household income of less than \$35,000, according to the US Census Bureau. This is a material jump up from a range of 60% to 63% during the 1H21. The National Multifamily Housing Council Rent Payment Tracker indicates that 94.9% of apartment renters made a full or partial rent payment in July, down 0.7% from June and 0.8% yoy.

Fitch-rated affordable housing programs maintained sufficient cushion along with liquidity and reserves sized to cover short-term cash flow disruptions without eroding the overcollateralization sufficient to cover debt service payments and provide cushion for higher ratings. Fitch's stress

scenario models a hit of 10%-50% to NOI for rated affordable housing pools. This assumes 30% of each unsubsidized property may experience non-payment or payment lag in addition to a 10%-20% increase in operating expenses, due to coronavirus containment efforts during a six-month period, resulting in a total discount to the debt service coverage ratio (DSCR) of 40%-50%. We assume full, on-time rental payments for government subsidized properties and an increase in operating expenses of 10%-20%, resulting in a 10%-20% discount to the DSCR.

Multifamily mortgages securitized in Fitch-rated conduit CMBS and Freddie Mac transactions are typically 10-year loans backed by properties with historically strong performance. CMBS multifamily delinquencies remained low, ticking up slightly to 0.49% in July 2021, compared with 0.41% prior to the pandemic. Master servicers for CMBS transactions are obligated to advance against missed principal, interest, taxes and insurance, thus providing liquidity if there are payment shortfalls.

Multifamily cash flow performance throughout the pandemic significantly outperformed our expectations and we have removed additional coronavirus stresses for CMBS multifamily loans. The expiration of the eviction moratorium is not expected to cause disruptions to landlords of properties securitized in CMBS, as multifamily property-level NOI for conduit and Freddie Mac loans in our rated portfolio saw an overall positive NOI growth rate of 1.4% in 2020. Some of the Negative Outlooks previously assigned were revised to Stable based on performance stabilization.

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The above article originally appeared as a post on the Fitch Wire credit market commentary page. The original article can be accessed at [www.fitchratings.com](http://www.fitchratings.com). All opinions expressed are those of Fitch Ratings.

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## **Fitch: Children's Hospital Sector Remains Strong in the Midst of Coronavirus Operating Pressures**

Fitch Ratings-New York/Austin-31 August 2021: Fiscal 2020 was a very challenging operational year for children's hospitals, but the medians confirmed that the sector's specialized service mix and high acuity of care translated into favorable profitability compared to adult hospitals. That being said, Fitch Ratings' analysis shows that stimulus relief provided significant support as the 2021 median operating margin and operating EBITDA of 3.8% and 9.8% would have decreased significantly to negative 0.8% and 7.1% without the support of CARES Act funding.

Management teams did not halt their focus on strategic efforts as many children's hospitals took advantage of low interest rates to fund upcoming projects using tax-exempt and taxable debt issuances, resulting in increased liquidity and leverage. "Capital spending was lower in the past fiscal year, but this is expected to be a temporary reaction to conserve liquidity given the unknown risks of the pandemic during the March/April 2020 timeframe," said Fitch Director Richard Park. 2021 median cash-to-adjusted debt decreased to 229.6% from 240.9% in the prior year. Yet days cash on hand improved to 396.1 days, compared with 350.4 in the prior year.

The 2021 medians largely reflect the reduction in patient care revenues with children's hospitals being forced to temporarily cease elective procedures and caretakers deferring care even though COVID-19 has not had the same physical effect on children as it has had on adults. Fitch believes the coronavirus pandemic remains a significant operating risk as the Delta variant appears to be more easily spread than other coronavirus variants to the pediatric population and children under the age of 12 are still not eligible for vaccination.

Fitch's '2021 Median Ratios for Not-for-Profit Children's Hospitals' is available at [www.fitchratings.com](http://www.fitchratings.com).

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## **[Fitch Ratings Updates Public Sector, Revenue-Supported Entities Rating Criteria.](#)**

Fitch Ratings-New York/London/Moscow-01 September 2021: Fitch Ratings has updated the [Public Sector, Revenue-Supported Entities Rating Criteria report](#) (the Revenue Master Criteria) as part of the routine criteria review process. Revisions to the criteria are mostly editorial in nature and there is no impact on existing ratings.

This update describes in criteria the effect on ratings of a distressed debt exchange event and adds consideration of management's ability to protect cyber and other infrastructure adequately as an asymmetric risk factor. Other minor and editorial revisions to the report include clarifying the application of these criteria to government-owned financial institutions and updating various references consistent with changes in other criteria and definitions.

This new criteria report replaces the criteria report of the same name dated Feb. 23, 2021.

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## **[Fitch Ratings Updates U.S. Military Housing Rating Criteria.](#)**

Fitch Ratings-New York-01 September 2021: Fitch Ratings has published an updated criteria report titled 'U.S. Military Housing Rating Criteria.' The report replaces the existing criteria dated July 2, 2020.

Primary revisions to the criteria include the publication of category-specific assessments for each key rating driver (revenue defensibility, operating risk and financial profile). The key rating drivers were updated in line with the master revenue criteria, 'Public Sector, Revenue-Supported Entities

## Rating Criteria.'

The revised criteria report also describes the explicit forward-looking approach for military housing surveillance reviews, which, similar to the initial rating assignment, considers revenue and expenses stresses, and the potential impact on a project's debt service coverage ratio (DSCR). The magnitude of the revenue and expense stresses are evaluated in the context of the revenue defensibility and operating risk assessments. The financial profile DSCR ranges in the criteria were also updated, as supported by fourteen-years of financial performance of this ratio for all Fitch-rated military housing projects.

Additionally, the updated criteria references Fitch's 'Completion Risk Rating Criteria' for the analysis of construction risk (if present).

No changes to the ratings of existing transactions are anticipated as a result of the application of the criteria.

The criteria report is available at '[www.fitchratings.com/criteria/us-public-finance](http://www.fitchratings.com/criteria/us-public-finance).'

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## **[Infrastructure Bill Could Influence How States Select Transportation Projects.](#)**

### **Virginia's 'Smart Scale' program offers an example of how a more-calibrated approach can work—and generate controversy**

Included in the bipartisan infrastructure bill now before the U.S. House of Representatives are a pair of provisions that could spur states to rethink how they allocate scarce transportation dollars.

One new program would offer \$2 million grants to help planners set up a formal and more open process to determine which projects should get funding. The other gives officials access to new data sources to help set those priorities.

The grants, pushed by Sens. Tom Carper (D., Del.) and Tammy Duckworth (D., Ill.), were modeled on

a Virginia program that shows how such a system could work—and how it can generate controversy.

In 2014, Virginia lawmakers on a bipartisan basis changed the way the state's transportation department allocates funds to road, transit and pedestrian projects.

Before, transportation officials would release a list of their top projects and then work their way down as money became available. But they didn't discuss in detail what criteria they used to devise their ranking.

The ranking was closely watched by local officials and residents, anxious to get money for projects such as widening a traffic-choked highway or calming a dangerous intersection.

Many states use a similar process. In some cases the legislature, rather than the department of transportation, determines the list of projects to fund.

Under Virginia's new system, dubbed "Smart Scale," officials score projects based on six criteria. They examine a project's effect on congestion, safety and environmental quality. They also look at how it fits into regional land-use plans and whether it would contribute to local economic development efforts.

Finally, they assess how a project, such as a widened road, would make the region more accessible, defined as whether people would be able to more easily move around their neighborhoods, even if they don't use the road in question.

"It ties the benefits to people rather than to how well an individual road is performing," said Chris McCahill, director of the State Smart Transportation Initiative, a research group at the University of Wisconsin that helped Virginia set up its program.

Academics have focused on such accessibility measures for decades. But only in the past few years have planners begun to incorporate them into transportation decisions, in part because they can get much more detailed data now than in the past, said Andrew Owen, a research fellow at the Center for Transportation Studies at the University of Minnesota.

For instance, planners can now map out how long it takes for people on every block to get to destinations such as jobs, grocery stores, schools or doctors' offices and estimate how those travel times would change under different scenarios.

Focusing on those details could change how planners invest their money, said Mr. Owen.

"One of things that we might see is more attention being paid to projects that are smaller-scale but that have an outsized impact on people's ability to get to destinations," he said.

A provision in the infrastructure bill would make that data more widely available.

Virginia officials publish a project's scores on all the criteria, and weigh the results against the costs. They then recommend the top projects for funding from the state's transportation board. The board can adopt or reject the agency's recommendations.

"In the past there was a sense the process was opaque," said Nick Donohue, Virginia's deputy transportation secretary. "Now we have a much more transparent and accountable process. I would like to think that we're picking much more effective projects."

But Virginia's effort has its critics. For instance, a \$115.5 million request to widen the northbound

lanes of Interstate 95 over the Rappahannock River didn't score high enough to receive money through the program, even though widening the southbound lanes was approved under the program. That upset local officials who say that stretch of highway is among the state's most congested.

Matthew Kelly, a city council member in nearby Fredericksburg, said that although he agrees with the principle behind Virginia's Smart Scale program, he has problems with its execution.

"It's the metrics that they use to determine what gets funded that creates a problem," he said. "Everybody would agree we are the most screwed-up section of 95 in the freaking world."

The project eventually received funding through other sources.

Dave LaRock, a Republican who represents Loudoun County in the Virginia House of Delegates, said the department of transportation's criteria put too little emphasis on reducing congestion, which he called "the most fundamental need for roads."

Mr. LaRock has introduced legislation to overhaul Smart Scale, so far without success.

Other states, such as North Carolina and Utah, have similar processes in place. In Utah, planners evaluate how projects will affect safety, economic growth, air quality, the possibility of walking or biking and whether the project would fit into the existing community, said Carlos Braceras, executive director of the Utah Department of Transportation.

"When I started here in 1986 the attitude was we're the experts, get out of the way," Mr. Braceras said. "The focus on transparency, on being clear how and why decisions are made, I don't think was as big a focus."

Asking transportation officials to publicly spell out their priorities is a significant shift, said Mr. McCahill. "You've got to change the way you've been doing things and commit to some level of staffing to get it right," he said. "The pilot program in the bill would enable a lot more folks to take that step."

Mr. Braceras said the grants included in the infrastructure bill could help states overcome the fear of trying something new.

"There's so much risk," he said. "If it's done in partnership with the federal government and it's done with a pilot [program], it gives you a lot of cover."

## **The Wall Street Journal**

By David Harrison

Sept. 4, 2021

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## **[The Rich Rush to Muni Bonds.](#)**

### **As Biden's tax hikes loom, cities and states see a tax-exempt boom.**

The biggest winners of the 2020 election have turned out to be state and local governments, especially those run by Democrats. Democrats in Congress have showered them with federal largesse, and President Biden is now reducing their borrowing costs by driving a stampede of

investors into tax-exempt municipal bonds.

Demand for muni debt has surged this year even from last year's high levels as well-to-do Americans seek protection from the expected income and capital gains tax increases. Investors have plowed a record \$69 billion into muni-bond mutual and exchange traded funds during the first seven months of this year, driving yields to historic lows.

The yield on the S&P Municipal Bond Index this summer fell below 1% for the first time and is now about half of what it was two years ago. BlackRock's California and New York Muni Bond ETFs (which include bonds from municipalities and local public agencies) are yielding 0.83% and 0.86%, respectively, versus 1.29% on the 10-year Treasury.

Try to wrap your head around this: The U.S. government has been issuing hundreds of billions of dollars in debt to help states and localities that are rolling in record tax revenue and can borrow at negative real rates. Now Congress plans to borrow even more for public works that many states could finance more cheaply. Only in Washington does this make any sense.

Munis have become more attractive because their interest is exempt from federal income tax, unlike Treasuries and corporate bonds. Most states also exempt debt issued by their localities from income taxes. This makes muni ETF and mutual funds especially popular among wealthy Americans in states with high tax rates like California and New York.

Now Mr. Biden wants to raise the top income tax rate to 39.6% from 37%. After adding the 3.8% investment tax, couples making more than \$509,000 would pay 43.4% on interest income and dividends. High earners currently pay 23.8% on long-term capital gains, but Democrats also want to tax their capital gains as ordinary income.

The tax bill for wealthy Americans in many states could soon exceed 50% on stock sales, dividends and interest income. Tax-exempt munis are a port in this tax storm. Despite the paltry yields on munis, Americans may still net more than they would buying corporate bonds or Treasuries.

The gusher of cash from Congress to the states has also reduced muni-bond risk. Illinois recently received its first credit rating upgrade in more than 20 years, though the state's spendthrift policies and public-union stranglehold on Springfield haven't changed. The difference is the federal bailout cash.

The biggest, if unseen, cost of this investment in munis is misallocation of capital. Muni bonds do finance some needed public works improvements. But today's extraordinary rush to munis means that many investors are looking for tax avoidance rather than investing for higher returns in new ventures or productive private enterprises.

All of this finances bigger government, not the wealth creation that is essential to long-term growth and higher living standards.

## **The Wall Street Journal**

By The Editorial Board

Sept. 2, 2021 6:48 pm ET

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## **SEC Fines Ex-Broker for Retail Order Period Scheme.**

A former broker has agreed to be barred from the industry and pay a \$40,000 penalty to settle Securities and Exchange Commission charges he dishonestly obtained new-issue bonds meant for retail customers, instead placing orders on behalf of broker-dealers.

The settled proceeding against Anthony Falsetta, announced Tuesday, is the latest in a string of SEC cases targeting violations of retail order periods. Some of that conduct has been labeled “flipping,” though that is not an official legal term, because of the practice of “flipping” the bonds to other broker-dealers at a profit. Falsetta did not admit nor deny the SEC’s findings.

“Between January 2016 and April 2018, Falsetta violated retail order period priority provisions in certain new-issue municipal bond offerings by placing orders for broker-dealers, who were attempting to buy bonds for their inventory, as retail customer orders,” the SEC found. “Falsetta did so despite knowing that pursuant to issuer priority rules, orders on behalf of broker-dealers do not qualify for retail priority.”

According to the SEC, Falsetta earned about \$122,353 in commissions on 106 retail allotments he sold to Hilltop and Wells Fargo (WFC) while acting as a broker at Philadelphia-based Drexel Hamilton. As an institutional sales representative, Falsetta marketed new-issue municipal bonds that Drexel Hamilton was offering.

The SEC found that Falsetta in January 2016 contacted Daniel Tracy, a Hilltop representative who was the subject of a separate SEC action in July, and invited him to submit orders for new-issue bonds. Falsetta had previously worked together with Tracy at a different firm, and Falsetta knew the orders would be for Hilltop’s inventory, the SEC said. Falsetta had a similar arrangement with an unnamed Wells Fargo (WFC) representative, the SEC found.

“Falsetta understood that the stock orders he received from Tracy and Trader A did not qualify for retail priority,” the SEC found. “Falsetta submitted these orders as retail to create the false appearance that they were submitted on behalf of an individual rather than on behalf of a broker-dealer.”

The SEC has been worried about this and similar conduct for several years now, in part because it risks crowding legitimate retail purchasers out of offerings. In perhaps the most significant of these cases, the SEC in 2018 charged two firms and 18 individuals with operating a wide-ranging scheme to circumvent retail order restrictions.

Further cases followed, some linked to that initial case. Last year Roosevelt & Cross Inc. and its CEO agreed to pay some \$1 million to settle the SEC’s charges linked to that flipping investigation.

The SEC said Falsetta took certain steps to conceal his activity, including delaying writing the sales tickets for the orders until the bonds were “free to trade.” This created the false appearance that the bonds were sold in the secondary market, the SEC alleged.

Falsetta’s conduct violated the anti-fraud provisions of the securities laws, as well as Municipal Securities Rulemaking Board rules G-17 on fair dealing and G-11 on primary offering practices.

Falsetta signed a statement attesting to his inability to pay disgorgement, though under the terms of the settlement he will pay the \$40,000 civil penalty in installments. He can reapply to be eligible for a securities license after three years.

By Kyle Glazier

BY SOURCEMEDIA | 08/31/21

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## **[These Charts Show Which States Will Get the Most Money from Biden's Infrastructure Bill.](#)**

### KEY POINTS

- California, Texas and New York will likely cash in big on the trillion-dollar infrastructure package if the bill makes its way to President Joe Biden's desk.
- But far less populous states — such as Montana and Alaska — will get the most money per capita.
- The Senate overwhelmingly approved the \$1 trillion infrastructure bill earlier this month. The House aims to pass the bill by October.

[Continue reading.](#)

**cnbc.com**

by Thomas Franck & Nate Rattner

AUG 31 2021

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## **[Why Didn't Covid-19 Wreck State And City Budgets? Federal Spending.](#)**

When the Covid-19 recession hit hard in spring 2020, people feared that state budgets would collapse, driving cities and states to bankruptcy and crippling public services. Although we still must keep investing in public goods, the feared budget disaster didn't happen. Why? Prompt government action, including unprecedented steps by the Federal Reserve and massive federal spending.

Remember the headlines? In May 2020, the New York Times NYT -1.3% saw state services decline "as virus ravages budgets." The US Conference of Mayors put a "[Fiscal Pain Tracker](#)" on the internet, detailing the cuts being made across America's cities, big and small. In August, National Public Radio said "[States Are Broke And Many Are Eyeing Massive Cuts.](#)"

I was among those fearing deep harm from the Covid-19 recession. In May 2020, I endorsed a \$1 trillion spending package for states and cities, arguing that "collapsing" tax revenues were undercutting public sector jobs and threatening the macroeconomy.

[Continue reading.](#)

**Forbes**

by Richard McGahey

Sep 1, 2021

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## **State, Local Job Recovery Stalls Out Amid Virus's Resurgence.**

- **Combined payrolls fell in August for first time since February**
- **Employment levels still below pre-pandemic levels despite aid**

State and local governments shed employees in August, underscoring the impact of the latest surge in U.S. coronavirus infections and the cautious approach municipalities have been taking with their windfall from federal aid.

August payrolls for nonfarm state and local government employees fell by about 11,000, according to Bureau of Labor Statistics data released Friday. The decline followed steady gains for most of 2021 and represents the first drop since February.

The losses took place against a backdrop of a weak overall hiring across the economy in August, which produced the smallest job gains in seven months.

The lethargic rebound at the state and local level — in particular in education, where pandemic-related staffing fluctuations are roiling hiring — is significant, though: The state and local areas combined account for about 12% of total employment.

“The pandemic is weighing on the labor market again,” said Teryn Zmuda, chief economist at the National Association of Counties. “Overall the jobs report did not perform as we hoped for or expected.”

Municipalities received \$350 billion from the federal government to ease the blow of the pandemic and to stave off the sort of cuts that hampered growth in the years after the 2008 financial crisis.

### **Education Losses**

Still, the 466,000 jobs gained in the sector since January 2021 leaves states and localities 780,000 positions short of their January 2020 levels, according to the BLS data. Of note, around half of that deficit is from education jobs.

The gap should continue to close as the governments build and implement programs to spend the unprecedented federal aid distributed as part of the American Rescue Plan. States have spent or appropriated at least \$81 billion of the \$200 billion they received, according to data compiled by Bloomberg. The measured approach is evident at the local level as well, Zmuda said.

The fact that state and local job losses have been concentrated in education is a promising sign for recovery, said Mikhail Foux, head of municipal strategy at Barclays Plc. He sees next month showing a bigger rebound as schools reopen and resume in-person activity.

“We expect September job numbers to be substantially stronger,” he said.

### **Bloomberg Economics**

By Fola Akinnibi

September 3, 2021

— *With assistance by Amanda Albright, and Olivia Rockeman*

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## [\*\*Munis In Focus: Ida Impact And Rescue Funds \(Radio\)\*\*](#)

Joe Mysak, Editor of Bloomberg Brief: Municipal Market, discusses the latest news from the muni market. Hosted by Paul Sweeney and Matt Miller. (Taylor Riggs fills in for Paul Sweeney)

[Play Episode](#)

### **Bloomberg Radio**

September 3, 2021

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## [\*\*Telephonic TEFRA Hearings are Now Available Through March 31, 2022: Squire Patton Boggs\*\*](#)

On November 4, 2020, we all thought that the COVID-19 pandemic was going to be long over by now. We certainly did not think we were going to get so far down the [Greek alphabet of variants](#) of this virus. And, this author certainly did not think that she was going to have to keep looking up what the next letter of the Greek alphabet is. Now we are at mu, and there does not seem to be an end in sight.

It seems like when the IRS issued [Revenue Procedure 2020-49](#), it thought that the COVID-19 pandemic was going to be over by now too. As a reminder, on November 4, 2020, the IRS issued [Revenue Procedure 2020-49](#), which allowed telephonic TEFRA hearings to continue through September 30, 2021. Specifically, during this period, a governmental unit can meet the TEFRA requirement that the public hearing be held in a convenient location for affected residents by affording the general public access to the hearing by toll-free telephone call.[1]

With September 30th right around the corner, public finance tax attorneys were starting to get nervous[2] about whether these hearings were going to have to be in-person as cases are back on the rise. We can all breathe a sigh of relief because yesterday the IRS has further extended the period during which telephonic TEFRA hearings can be held in lieu of in-person TEFRA hearings until **March 31, 2022** through issued [Revenue Procedure 2021-39](#).

Hopefully this will be the last extension that we need and we won't have variants that start sounding like [sororities](#).

[1] The authors of this blog are still explaining to people what constitutes a toll-free number.

[2] More nervous than we usually are.

By Taylor Klavan on September 1, 2021

**Squire Patton Boggs**

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## [\*\*Hawkins Advisory: Rev. Proc. 2021-39 - Extension of Ability to Hold\*\*](#)

## **Telephonic TEFRA Hearings**

In response to the ongoing COVID-19 public health concerns and the continuation of local restrictions on public gatherings, the Internal Revenue Service has issued Revenue Procedure 2021-39, extending the period during which issuers may hold telephonic hearings to March 31, 2022.

[Read the Hawkins Advisory.](#)

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### **TAX - CONNECTICUT**

#### **Boardwalk Realty Associates, LLC v. M & S Gateway Associates, LLC**

**Supreme Court of Connecticut - August 13, 2021 - A.3d - 2021 WL 3610351**

Court-appointed receiver of rents brought action car dealership operators seeking to collect unpaid rent as well as use and occupancy payments as part of town's effort to collect unpaid property taxes on parcel of commercial property that was abandoned by its owner.

The Superior Court entered summary judgment for operators. Receiver appealed.

The Supreme Court held that as a matter of first impression, receiver did not have statutory authority to impose or collect rent or use and occupancy payments where the property had been abandoned prior to his appointment.

Receiver who was appointed under statute that permitted appointment of a receiver of rents when real property taxes due to a municipality were delinquent was not statutorily authorized to impose or collect rent or use and occupancy payments where the property had been abandoned by the owner prior to the appointment of the receiver and there was no existing obligation for the receiver to enforce

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## **Citigroup Sees Pain for High-Yield Munis After Nuveen Shuts Fund.**

- **Fund manager plan to close to new money may signal overheating**
- **Citi sees high-yield muni spreads widening, valuations falling**

The riskiest part of the \$4 trillion municipal bond market may see demand fade as the largest fund devoted to buying that debt closes its doors to new investors, according to Citigroup Inc. strategists.

Nuveen's plan to limit new money in its high-yield muni fund signals to investors that the market for riskier tax-free bonds may be overheating, strategists led by Vikram Rai wrote this week, in a report that doesn't mention the asset manager by name.

In addition to the signaling effect, Nuveen's fund accounts for almost a fifth of the assets under management by high-yield muni asset managers, according to Citigroup. Even if existing holders keep adding money, and new investors hand their dollars over to other firms, the fund is big enough to have an impact on the overall market as its demand slows.

"You can expect spreads to cheapen because one, people will buy less and secondly the largest mission fund manager will also buy less," Rai said in an interview.

The strategists estimate that the Nuveen fund's demand for new securities will drop by about 50%. But it's unusual for muni funds to close their doors to new investors, so it's hard to know what the net decline will be for demand overall in the market as at least some investors pour money into other funds, they wrote.

In addition to high-yield municipal bonds getting weaker relative to Treasuries, valuations will likely fall overall, Rai wrote. Any declines would come after the securities lost 0.2% in August on a total return basis, the first monthly decline since February, according to a Bloomberg index. The debt has still gained 7.2% this year.

Nuveen said last month that its High Yield Municipal Bond Fund, run by John Miller, plans to close to new investors at the end of September. It has returned around 15% over the past year, better than all but 2% of its peers, according to data compiled by Bloomberg.

Junk and unrated munis can fund a range of issuers, including airline-linked projects and convention centers. Investors have poured nearly \$18 billion into funds buying these securities this year, as an improving economy and federal bailouts for state and local governments have made many fund buyers more willing to take risk.

Meanwhile, there are only so many opportunities to buy high-yield muni bonds now, Citigroup strategists wrote, noting "demand far exceeds supply." Buying investment-grade securities would depress returns for these funds.

Nuveen's move came after Invesco in May said it was closing its high-yield muni fund to new investors.

## **Bloomberg Markets**

By Skylar Woodhouse

September 1, 2021, 11:48 AM MDT

— *With assistance by Romy Varghese*

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### **[‘Can’t Go Up Forever’: Muni Bonds See First Loss Since February.](#)**

- **Bloomberg benchmark shows tax-free debt down 0.37% in August**
- **Market still up for the year, beating Treasuries, corporates**

State and local government debt is poised for the first monthly drop since February, stepping back from a rally that made it one of the best performing corners of the bond market.

The securities have posted a loss of 0.37% since the start of August, according to Bloomberg's benchmark index, as yields rose on speculation about when the Federal Reserve will start tightening monetary policy.

The decline is a shift after five straight months of gains that have allowed tax-exempt bonds to eke out a positive return so far this year, in contrast the overall losses for both Treasuries and investment-grade corporate debt.

"The market just can't keep rallying," said Vikram Rai, head of municipal strategy for Citigroup Inc.

He said the returns are not “deeply negative,” so the dip isn’t likely to shake up investor sentiment or cheapen heady valuations that have frustrated investors for much of the year. “August is just a minor correction.”

The advance this year came as investors plowed record amounts of cash into mutual funds, fueling high demand for the bonds. That helped hold down yields and earlier this year pushed a key measure of valuations to an all-time high. That influx has continued to hold up despite the price retreat.

James Iselin, a portfolio manager at Neuberger Berman Group, said that tax-exempt bonds have been extremely expensive relative to Treasuries and it’s natural to see “a modest pullback” as trading slows at the end of the summer.

“Things can’t go up forever,” he said.

“A lot of people in the market aren’t upset to see a little backup in yields off these levels,” he added. “The market got a little bit tired and, with Treasuries stopping the huge rally that they had and going the other way, it makes sense that munis came a little off their highs.”

## **Bloomberg Markets**

By Danielle Moran and Skylar Woodhouse

August 31, 2021, 11:33 AM MDT

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### **[Which Side Are You On? Municipal Broker/Dealer Takes Both Sides.](#)**

On Aug. 26, 2021, the U.S. Securities and Exchange Commission (“SEC”) instituted enforcement proceedings against Rush F. Harding III, the 65-year-old co-founder of [Crews & Associates, Inc.](#) (“Crews”), a Little Rock, Arkansas, broker/dealer and municipal advisor, and against Crews for unfair dealings in the bonds of Ohio County, West Virginia. County offices are in Wheeling, West Virginia. In 2006 the County issued \$81 million of bonds bearing interest at 8.25%, and which had a make-whole provision, making calling them prohibitively expensive. In 2007 Crews began a business relationship with the County, and by 2015 had underwritten nine bond offerings for the County.

#### **Municipal Broker**

Harding, on behalf of Crews, organized two tender offers (in 2012 and 2014) to purchase the outstanding 2006 bonds, as market interest rates had fallen significantly since 2006, making an offer at a price higher than the market for the 2006 bonds, an attractive way for the County to reduce its debt service costs. The County funded the buybacks by issuing new lower interest rate bonds underwritten by Crews. Crews then purchased approximately \$1 million of the 2006 bonds on the open market at 106.69% of par. It then sold those bonds to two Crews customers.

In 2015 Crews again bid on the 2006 bonds, buying \$3.12 million at 107.2% of par, \$2.5 million of which it sold to a Crews affiliate of which Harding was also the CEO. The County did not in any of these transactions retain a municipal advisor to represent its interests, “relying instead (per the SEC) on its relationship with, and the expertise of, Crews.”

As required by Municipal Securities Rulemaking Board (“MSRB”) Rule G-17, on Dec. 14, 2015, Crews sent the County a disclosure letter that documented the relationship between Crews and the County and acknowledged its obligations to deal fairly with the County. That letter asserted that it

“had not identified any potential or actual material conflicts that required disclosure.” Crews did not disclose that it had acquired through its affiliate \$2.5 million of the 2006 bonds. Before the tender offer urged by Crews, Crews continued to purchase 2006 bonds for the affiliate.

### **Dealer Takes Both Sides**

In December 2015, the tender offer was priced at 110% of par. When the tender closed in February 2016, the affiliate tendered 71% of the 2006 bonds tendered to the County. The SEC noted that the tender resulted in “significant savings” for the County. In connection with the tender, the SEC also found that Harding and Crews violated MSRB Rule G-27 for failing to have adequate supervisory systems. Crews made a net profit of \$34,631; Harding was paid \$36,524 in commissions; and the affiliate made a net profit of \$27,153.

Harding and Crews consented to the entry of the SEC enforcement proceedings. As a result, Harding was censured and ordered to pay disgorgement of \$36,524, as well as a civil penalty of \$100,000. Crews was also censured, ordered to disgorge \$44,072, and ordered to pay a civil penalty of \$200,000. Ohio County and the rest of the capital markets might benefit not only from considering the way in which it and its tax-paying citizens were victims, but also from considering the frequency of abuses in the offering of municipal securities. See my Sept. 29, 2020 Blog “What if the Advice is Suspect? Municipal Securities Advisor Registration and Dereliction.”

Thursday, September 2, 2021

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## **[MSRB Compares ATS And Broker's Broker Trading Platforms: Cadwalader](#)**

The Chief Economist for the MSRB [analyzed](#) the effect of electronic trading technology by comparing trading activity on alternative trading systems (“ATSs”) with broker’s broker platforms.

The author drew the following conclusions:

- ATS platforms (i) are more likely to include inter-dealer trades that are smaller and involve municipal securities with “complex features” (g., insured bonds and bonds with call features) and (ii) provide more robust search functions as compared to broker’s broker platforms.
- ATS platforms appear to promote “visible liquidity and price discovery,” particularly for municipal securities that are not commonly traded or well-known.
- Broker’s broker trading platforms may be geared more towards trading for institutional investors and dealer’s principal positions.

The MSRB emphasized that the analysis was “preliminary” and the results “may warrant further investigation.”

31 August 2021

**by Cadwalader, Wickersham & Taft LLP**

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## **Javits Center Debt Downgraded as NYC Tourism Struggles to Revive.**

- **Moody's lowers credit ratings on about \$1 billion of bonds**
- **Javits senior bonds lowered to A2, subordinate to Baa2**

New York's Jacob K. Javits Convention Center, which was turned into an emergency hospital during the first wave of Covid-19, had about \$1 billion of municipal bonds downgraded by Moody's Investors Service as tourism struggles to recover from the pandemic.

Moody's lowered ratings on \$770 million of senior debt issued by the New York Convention Center Development Corporation one level to A2 from A1. The rating on \$220 million of subordinate debt was lowered two levels to Baa2, the second-lowest investment grade, from A3. The outlook on the bonds is negative.

"The continuing impact of the coronavirus pandemic has created severe and ongoing disruptions in the New York City travel and tourism market and therefore pledged revenue receipts," Moody's said in a news release. "As the world continues to grapple with new virus variants, an uncertain recovery path faces travel and tourism as well as New York City's office occupancy and business travel."

Debt issued for the Javits Center is payable from a \$1.50 per-night fee on occupied hotel rooms in New York City and the senior bonds also get backing from a state agency that finances mortgages. The city's convention and visitors bureau projects tourism won't return to pre-pandemic heights of 66.6 million visitors until 2025. In late July almost 100 were closed to tourism, according to Costar.

The New York International Automobile Show, normally held at Javits, was canceled this month for the second year in a row because of concerns about the Covid-19 delta variant.

### **Bloomberg Markets**

By Martin Z Braun

September 1, 2021

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## **S&P U.S. Local Governments Credit Brief: California School Districts**

### **Overview**

Despite the effects of the COVID-19 pandemic, California school districts demonstrated generally stable credit quality in fiscal years 2020 and 2021, and S&P Global Ratings expects this will continue in fiscal 2022. State revenue significantly outperformed budget during fiscal 2021, and the enacted budget for fiscal 2022 provides the highest funding per pupil in the state's history. Nevertheless, if school districts that are more reliant on state funding and have experienced enrollment declines do not prepare accordingly, they could face budgetary challenges in fiscal 2023 with the expiration of provisions that have held them harmless against enrollment declines during the pandemic.

S&P Global Ratings maintains general obligation (GO) ratings on 662 school districts in California. Fifty-seven percent of California school districts are in the 'A' category, 42% are in the 'AA' category or above, and fewer than 1% are in the 'BBB' category or lower. In addition, 97% of the ratings have a stable outlook, while approximately 2% have a negative outlook. One school district has a positive outlook.

[Continue reading.](#)

30 Aug, 2021

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## **[Novogradac Private Activity Bond and 4% LIHTC Overview Recording.](#)**

**Monday, July 26, 2021 - 7:43am**

### **On-Demand Training**

The Novogradac Private Activity Bond and 4% LIHTC Overview Webinar Recording presents an overview of the major accounting concepts associated with the use of private activity bonds and 4 percent low-income housing tax credits (LIHTCs) to finance affordable multifamily rental housing properties. The recording focuses on the 50% Test, the 95-5 Test and challenges of complying with bond rules and LIHTC rules.

[Click here](#) for the recording.

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## **[Muni-Bond Buyers Shrug Off California Governor's Recall Peril.](#)**

- **Newsom faces gubernatorial recall, state's second, on Sept. 14**
- **Bond sale set same day underscores lack of investor concern**

Municipal-bond investors are seemingly unfazed by the prospect that voters this month may toss out the governor of California, the most prolific issuer of such debt, and replace him with a popular conservative talk-radio host.

In fact, California's 10-year general-obligation bonds are yielding about 0.06 percentage point over benchmark munis, a smaller premium than the 0.11 percentage point seen at the beginning of the year. California's credit ratings are at the highest in about 20 years and demand for munis is soaring, especially for the state's debt as wealthy residents seek tax-exempt bonds.

Gavin Newsom, a first-term Democrat, is facing a rare recall election Sept. 14. While polls shows he's got a good chance of keeping his seat, Democrats worry that he could lose and a political neophyte like Larry Elder, a Republican who's opposed to mask and vaccine mandates, could end up in the governor's office.

Though Elder or any of the other 45 candidates on the ballot could upend state policies through executive orders and political appointments, Democrats would still control both chambers of the legislature. And Newsom's replacement would be up for election next year in a state where Democrats outnumber Republicans nearly two to one.

"We just don't think it's going to be a large impact on credit, even if the recall is successful," said Jennifer Johnston, director of research for Franklin Templeton Fixed Income's municipal bond team. "I don't think there's much damage, so to speak, that a new governor could do in this time frame."

Propping up Wall Street's confidence in the world's fifth-largest economy are California's booming technology industry and other lucrative sectors and its progressive tax system that have led it to

notch a record \$75.7 billion surplus. Revenue collections are again running ahead of projections this fiscal year. Not only has California weathered a gubernatorial recall election before, but its finances are even better than in 2003, when voters expelled Democrat Gray Davis and tapped Republican Arnold Schwarzenegger as his successor.

“The state’s credit is very strong. Revenue receipts this summer have exceeded expectations,” said Parker Colvin, a managing director at underwriter Raymond James. “The market is in need of large, liquid, benchmark transactions.”

In a testament to how little the political furor has impacted bonds, the California treasurer’s office has scheduled a sale of \$2.1 billion of tax-exempt general-obligation bonds the day of the recall election.

## **Bloomberg Markets**

By Romy Varghese

September 2, 2021

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### **[Act Before Year End to Maximize Opportunity Zone Benefits.](#)**

If you are planning to acquire or build a senior living facility that is located in an opportunity zone, there are many tax benefits that are available to you. One of these benefits is that 10% of the capital gains that you defer when you make your investment in an opportunity zone will be forgiven, provided your investment is made by December 31, 2021, and held for at least 5 years.

Time is running out on when you can make your investment. However, while the investment must be made before year end, your acquisition can occur after this date if you properly structure your transaction to take advantage of the working capital safe harbor.

For a discussion of the tax benefits associated with opportunity zone investments and the requirements to qualify for them, download our brief [primer](#).

If you cannot make your investment until after December 31, do not fret. You can still qualify for the other tax benefits available to opportunity zone investments. It is only the forgiveness of 10% of deferred gain that ceases to be available after year end.

## **Lowndes**

August 27, 2021

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### **[Turbocharging OZ Returns with Historic Tax Credits, with John Blatchford.](#)**

Can opportunity zones be leveraged for historic renovation projects? How does the combination of historic tax credits and the opportunity...

[CONTINUE READING »](#)

## OpportunityDb

September 1, 2021

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### **[NFMA Accepting Applications for At-Large Seats on the 2022-2023 Board of Governors.](#)**

**We are accepting applications for At-Large seats on the 2022-2023 Board of Governors**

Applications are due by October 1, 2021.

To apply, [click here](#).

Please contact Lisa Good at [lgood@nfma.org](mailto:lgood@nfma.org) if you have questions.

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### **[Visualizing Data for Residents of Los Angeles: GFOA](#)**

The Office of the Controller for the City of Los Angeles, California manages vast amounts of data—particularly open data and financial data. The team’s work is based on three Ts: Transparency, Trust and Transformation, with the goal of making Los Angeles the most transparent city in the United States. Years ago, organizations that rank the transparency of governments placed Los Angeles at the bottom of the list. Today, the city is ranked at the top. Greater transparency, which creates greater accountability, can help build the public’s trust, which is vital to continuing democracy. And then, of course, there’s transformation.

Thanks to technology, the daily activities of city departments have changed and are changing radically, increasing efficiency in operations and in the delivery of vital services. We must continue to be innovative and bring technology to city government, along with different ways of thinking about it.

Publication date: August 2021

Author: Ron Galperin

[DOWNLOAD](#)

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- [Muni Underwriters Cut Fees in Takedown Race-to-Bottom.](#)
- [Another Climate Risk for Cities: Higher Borrowing Costs.](#)
- [Cities and States on the Frontline of Climate Change Aren’t Always Upfront about Risks. Does the Municipal Bond Market Care?](#)
- [Bond Insurance on Pace for Best Market Share Since 2008.](#)
- [The Dedication Doctrine vs. The Project Influence Rule - Which Valuation Methodology Applies? - Nossaman](#)
- [How to Explain Pension Obligation Bonds to Your Governing Board: Orrick On-Demand Webinar](#)
- [BDA’s Fixed Income Leadership Three-Part Webinar Series is NEXT WEEK.](#)

- [Rosenberg v. JPMorgan Chase & Co.](#) - Supreme Judicial Court of Massachusetts holds that remarketing agents alleged misrepresentations that they would comply with their obligations to Commonwealth to determine applicable rate of interest on long-term, tax-exempt, variable rate bonds that financed long-term public projects and infrastructure that, in their judgment, was lowest rate that would permit sale of bonds bearing interest at applicable interest rate at par plus accrued interest as of applicable rate determination date, was in public domain, for purposes of “public disclosure” bar to qui tam action against agents under Massachusetts False Claims Act (MFCA).
- And finally, Great Moments in Tragicomic Topography is brought to us this week by [Doe v. Town of Madison](#), in which a high-school English teacher was arrested, convicted, and sentenced. to two years for sexually explicit contact with three students. A female teacher. With the football team. Her extremely bewildered/mortified husband testified that she was, “a woman who was teetering on the precipice of being kind of unhealthy and making some bad decisions and being very unhealthy and making some bad decisions.” It had been our understanding that the teetering precipice metaphor is typically deployed in order to indicate some kinda binary good/evil scenario. We’ve consulted a Chex Mix of esteemed geographers, cartographers, and pornographers and the scientific consensus is that she hurled herself off the precipice, picked up speed, plummeted past Kind of Unhealthy Canyon, slammed into Very Unhealthy Gorge, and splattered her mangled corpse at the bottom of Some Bad Decisions Valley. GPS coordinate currently unavailable. We pray to god that you know it when you see it.

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## IMMUNITY - CONNECTICUT

### [Doe v. Town of Madison](#)

**Supreme Court of Connecticut - July 30, 2021 - A.3d - 2021 WL 3281024**

Three public high school students who were sexually abused by high school teacher brought separate action against town, town school board, police officer assigned as school resource officer, and high school principal.

Actions were consolidated. The Superior Court granted summary judgment in favor of defendants. Students appealed.

The Supreme Court held that:

- High school personnel lacked reasonable suspicion to believe that teacher was sexually abusing students or exposing them to risk of sexual abuse, as would trigger duty to report under mandatory reporting statute;
- School athletic director’s testimony did not create ministerial duty of professionalism; and
- Defendants had no ministerial duty to monitor security camera video footage at high school.

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## INSURANCE - ILLINOIS

### [Netherlands Insurance Company v. Macomb Community Unit School District No. 185](#)

**United States Court of Appeals, Seventh Circuit - August 6, 2021 - F.4th - 2021 WL 3464356**

Insurers brought action seeking declaration of their rights and obligations under school district’s

general commercial liability insurance policy after district settled female students' action alleging that it had failed to prevent and inappropriately responded to sexual misconduct by male student.

The United States District Court for the Central District of Illinois entered judgment on pleadings in district's favor, and insurers appealed.

The Court of Appeals held that student's sexual misconduct fell within scope of policy provision excluding coverage for "[a]ny sexual misconduct" of "any person."

Under Illinois law, male student's sexual misconduct towards female students unambiguously fell within scope of provision of school district's general commercial liability insurance policy excluding coverage for "[a]ny sexual misconduct" of "any person," despite district's contention that it excluded coverage only for sexual misconduct by school employee.

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## **PUBLIC PENSIONS - MARYLAND**

### **[Cherry v. Mayor and City Council of Baltimore City](#)**

**Court of Appeals of Maryland - August 16, 2021 - A.3d - 2021 WL 3611768**

Police officers and firefighters filed class action lawsuit against Mayor and City Council of Baltimore, alleging claims for declaratory relief and breach of contract.

The Circuit Court certified class of plaintiffs and three sub-classes and ruled that city did not breach its contract with sub-class of active employees, but it did breach its contract with retired and retirement-eligible sub-classes and awarded more than \$30 million in damages to them.

Police officers' and firefighters' petition for writ of certiorari was granted.

The Court of Appeals held that:

- City did not breach its contract with pension plan members by underfunding plan;
- City breached its contract with retired police officers and firefighters and retirement-eligible police officers and firefighters;
- City had authority to make reasonable prospective modifications to pension plan, provided they were reasonable and necessary;
- Ordinance was reasonable and necessary, as required to be enforceable; and
- Circuit court correctly declined to order specific performance and calculated damages.

City did not breach its contract with pension plan members by underfunding plan, since plan did not require city to "fully fund" retiree reserves and provision governing calculation of city's annual contribution to fund contemplated possibility of either underfunding or overfunding of plan.

City, by way of ordinance that retrospectively divested benefits belonging to those pension plan members by replacing market-driven post-retirement cost-of-living adjustment feature with tiered cost-of-living adjustment, breached its contract with retired police officers and firefighters and retirement-eligible police officers and firefighters by unlawfully withdrawing or removing previously earned and accrued benefit entitlements.

City had authority to make reasonable prospective modifications to pension plan, provided they were reasonable and necessary, notwithstanding provision that contractual relationship existed between plan members and city and benefits provided under plan thereafter could not be diminished or

impaired in any way, since benefits set forth in plan did not vest until members reached service retirement eligibility and provision did not eviscerate city's reserved power to make such reasonable and necessary prospective changes to plan.

Ordinance retrospectively divesting benefits belonging to public pension plan members by replacing market-driven post-retirement cost-of-living adjustment feature with tiered cost-of-living adjustment was reasonable and necessary, and therefore it did not violate Contract Clause, since ordinance was reasonably intended to preserve integrity of plan, changes to plan, as they affected active members, were reasonable changes promoting paramount interest of city without serious detriment to employee, active member employees received substantially plan for which they bargained, and to extent any benefits were lessened or other terms became more onerous, those changes were balanced by combination of overwhelming public welfare considerations and new benefits or qualifying conditions.

Circuit court correctly declined to order specific performance, i.e., reinstatement of variable benefit for retired and retirement-eligible police officers and firefighters, and calculated damages owed to retired and retirement-eligible police officers and firefighters from ordinance retrospectively divesting benefits belonging to public pension plan members by replacing market-driven post-retirement cost-of-living adjustment feature with tiered cost-of-living adjustment (COLA) by assessing how retired and retirement-eligible members would have fared if, hypothetically, city had retained variable benefit for them but made prospective changes to plan for members whose rights to benefits had not yet vested, since retired and retirement eligible were "closed" from changes but city was permitted to apply new COLA to active members.

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## **VARIABLE RATE BONDS - MASSACHUSETTS**

### **[Rosenberg v. JPMorgan Chase & Co.](#)**

**Supreme Judicial Court of Massachusetts - May 11, 2021 - 487 Mass. 403 - 169 N.E.3d 445**

Relator filed complaint under Massachusetts False Claims Act (MFCA) against financial institutions that served as remarketing agents for Commonwealth on long-term tax-exempt variable rate bonds that financed long-term public projects or infrastructure, based on allegations that agents fraudulently inflated interest rates on bonds, in breach of agents' obligations in remarketing agreements determine lowest interest rate that would permit sale of bonds on any given rate determination date.

The Superior Court Department granted agents' motion to dismiss and relator appealed.

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

- Information relating to agents' misrepresentations to Commonwealth was in public domain, for purposes of "public disclosure" bar to qui tam action;
- Purportedly true state of agents' fraud was in public domain;
- Remarketing agreements constituted "reports," and thus were statutory source of previously disclosed information, for purposes of "public disclosure" bar to qui tam action;
- Internet website that published information on all municipal bonds constituted "news media," and thus, was statutory source of previously disclosed information;
- Relator's assertions in complaint were substantially same as misrepresentations and true state of facts that were previously disclosed to public, for purposes of "public disclosure" bar to qui tam suit;

- Relator did not have knowledge independent of that information previously disclosed to public, as would bring relator's complaint within "original source" exception to "public disclosure" bar to suit; and
- Relator's information did not materially add to previously disclosed fraudulent scheme, as would bring relator's complaint within "original source" exception to "public disclosure" bar to suit.

Remarketing agents alleged misrepresentations that they would comply with their obligations to Commonwealth to determine applicable rate of interest on long-term, tax-exempt, variable rate bonds that financed long-term public projects and infrastructure that, in their judgment, was lowest rate that would permit sale of bonds bearing interest at applicable interest rate at par plus accrued interest as of applicable rate determination date, was in public domain, for purposes of "public disclosure" bar to qui tam action against agents under Massachusetts False Claims Act (MFCA), where representations were set forth in agreements with Commonwealth, in Municipal Securities Rulemaking Board (MSRB) rules that addressed agents' duties to bond issuers, and in Securities Industry Financial Markets Association (SIFMA) model disclosures.

Purportedly true state of remarketing agents' fraud in setting artificially high interest rates on long-term tax-exempt variable rate bonds to finance long-term public projects or infrastructure, when they represented to Commonwealth that they would comply with their obligations as remarketing agents to determine lowest interest rate that would permit sale of bonds on given rate determination date, were in public domain, for purposes "public disclosure" bar to qui tam action against agents under Massachusetts False Claims Act (MFCA); relator's assertion that agents were not obtaining lowest rates was available to public on Internet, specifically, website that publishes information on all municipal bonds, and relator used same data from website on Internet to conclude that agents were not setting lowest rates on bonds.

Remarketing agreements with Commonwealth, in which remarketing agents purportedly misrepresented state of facts that they would comply with their obligations to Commonwealth to determine applicable rate of interest on long-term, tax-exempt, variable rate bonds that financed long-term public projects and infrastructure that, in their judgment, was lowest rate that would permit sale of bonds bearing interest at applicable interest rate at par plus accrued interest as of applicable rate determination date, constituted "reports," and thus were statutory source of previously disclosed information, for purposes of "public disclosure" bar to qui tam action against agents, under Massachusetts False Claims Act (MFCA).

Internet website that published information on all municipal bonds constituted "news media," and thus, was statutory source of prior disclosure of purportedly true state of remarketing agents' alleged fraud in setting artificially high interest rates on long-term tax-exempt variable rate bonds that financed long-term public projects or infrastructure, when agents represented to Commonwealth in remarketing agreements that they would comply with their obligations to determine lowest interest rate that would permit sale of bonds on given rate determination date, for purposes of public disclosure bar to qui tam action under Massachusetts False Claims Act (MFCA).

Relator's allegations in qui tam complaint against remarketing agents, relating to agents' purportedly fraudulent scheme to artificially inflate interest rates on long-term tax-exempt variable rate bonds that financed long-term public projects or infrastructure, when agents represented to Commonwealth in remarketing agreements that they would comply with their obligations to determine lowest interest rate that would permit sale of bonds on any given rate determination date, were substantially same as misrepresentations and true state of facts that were previously disclosed to public, such that publicly disclosed information put Commonwealth on trail of alleged fraud without relator's assistance, and thus, relator's complaint fell within "public disclosure" bar to qui tam suit under Massachusetts False Claims Act (MFCA).

Relator did not have knowledge independent of that information previously disclosed to public regarding scheme by remarketing agents to artificially inflate interest rates on long-term tax-exempt variable rate bonds that financed long-term public projects or infrastructure, despite agents' obligations in remarketing agreements with Commonwealth to determine lowest interest rate that would permit sale of bonds on any given rate determination date, and thus, relator was not original source of information, as would bring relator's complaint under "original source" exception to "public disclosure" bar to suit under Massachusetts False Claims Act (MFCA); Internet website that published information about municipal bonds publicly reported same data upon which relator relied, and relator's analysis depended entirely on interest rate data, which were available on website.

Relator did not materially add to previously disclosed fraudulent scheme by remarketing agents to artificially inflate interest rates on long-term tax-exempt variable rate bonds that financed long-term public projects or infrastructure, in breach of agents' obligations in remarketing agreements with Commonwealth to determine lowest interest rate that would permit sale of bonds on any given rate determination date, and thus, relator was not "original source" of information, as would bring his qui tam complaint within "original source" exception to "public disclosure" bar to suit under Massachusetts False Claims Act (MFCA), despite relator's claim that his investigation revealed robo-resetting scheme for resetting interest rates; salient information was that agents promised they would reset rates individually and failed to do so, and manner in which they conducted the fraud — purportedly in order to discourage holders of bonds from selling those bonds — was detail that would not influence behavior of someone already armed with knowledge of salient elements of fraud.

Relator's assertion of collusion between remarketing agents to artificially inflate interest rates on long-term tax-exempt variable rate bonds that financed long-term public projects or infrastructure, in breach of agents' obligations in remarketing agreements with Commonwealth to determine lowest interest rate that would permit sale of bonds on any given rate determination date, did not materially add to information previously publicly disclosed, and thus, relator was not "original source" of knowledge of scheme, as required for relator's complaint to come within "original source" exception to "public disclosure" bar to qui tam suit under Massachusetts False Claims Act (MFCA); complaint simply alleged that agents must have colluded in order for interest rates to have changed as they did, and only additional information beyond this deduction from data contained on website that published information regarding municipal bonds, obtained during single interview, was not relevant to purported fraud, but merely confirmed what relator had already had discerned from data.

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## **POLITICAL SUBDIVISIONS - NEW JERSEY**

### **[Ocean County Board of Commissioners v. Attorney General of State of New Jersey](#)**

**United States Court of Appeals, Third Circuit - August 9, 2021 - F.4th - 2021 WL 3482908**

Counties and county agencies filed suits against Attorney General for State of New Jersey, Office of Attorney General, and State of New Jersey, seeking declaration that law enforcement directive, also known as Immigrant Trust Directive, issued by Attorney General to limit ability of counties and local law enforcement to cooperate with federal immigration authorities violated United States Constitution and New Jersey law and was preempted by federal statutes.

Following consolidation of cases, the United States District Court for the District of New Jersey granted defendants' motion to dismiss for lack of subject matter jurisdiction and for failure to state claim. Counties and county agencies appealed.

The Court of Appeals held that:

- In matter of first impression, political subdivision may sue its creator state in federal court under Supremacy Clause; and
- Immigrant Trust Directive was not preempted by federal law.

Immigrant Trust Directive, issued by Attorney General for State of New Jersey, limiting ability of counties and local law enforcement to cooperate with federal immigration authorities, was not preempted by federal statutes, barring state entity or official from prohibiting, or in any way restricting, any government entity or official from sharing immigration information with federal authorities, and also providing that no state or local government entity could be prohibited, or in any way restricted, from communicating immigration information to federal government, since statutes regulated state actors, not private actors.

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## **MUNICIPAL ORDINANCE - NORTH DAKOTA**

### **[City of Fargo v. Roehrich](#)**

**Supreme Court of North Dakota - August 5, 2021 - N.W.2d - 2021 WL 3411833 - 2021 ND 145**

Defendant was convicted in the District Court of harassment in violation of city ordinance. Defendant appealed.

The Supreme Court held that:

- Ordinance criminalizing telephone calls with “no purpose of legitimate communication” was not unconstitutionally vague in violation of due process;
- Ordinance was not unconstitutionally vague as applied to defendant; and
- First Amendment did not protect defendant’s conduct.

City harassment ordinance criminalizing telephone calls with “no purpose of legitimate communication” was not unconstitutionally vague in violation of due process, although term was not defined by statute; ordinance required the defendant to have the intent to frighten or harass to be found guilty, and the combination of the specific intent element with the required conduct of repeated phone calls or other electronic communication with no legitimate purpose created minimum guidelines for the reasonable police officer, judge, or jury and limited the dangers of arbitrary and discriminatory application, and provided a reasonable person with adequate and fair warning of the prohibited conduct.

City harassment ordinance criminalizing telephone calls with “no purpose of legitimate communication” was not unconstitutionally vague in violation of due process as applied to defendant; while defendant may have initially called city police officers with the purpose of legitimate communication regarding his son’s car accident, he made hundreds of telephone calls to three officers over a period of two years, and many of the calls had no purpose of legitimate communication, and calls were repetitive and included name calling and profanity, allegations the officers were liars or corrupt and did not know how to do their jobs, and other similar statements.

First Amendment did not protect defendant’s conduct in making harassing phone calls to city police officers and did not prevent conviction for violating city harassment ordinance criminalizing telephone calls with “no purpose of legitimate communication,” where defendant made hundreds of telephone calls to three officers, he was told to stop calling numerous times, he was sent a cease and

desist letter, and he continued to call the officers after being told to stop, and defendant stated in multiple voicemail messages that he would continue to call the officers until he was charged with harassment.

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## **ZONING & PLANNING - PENNSYLVANIA**

### **[Drummond v. Robinson Township](#)**

**United States Court of Appeals, Third Circuit - August 17, 2021 - F.4th - 2021 WL 3627106**

Gun rights organization, gun club, and would-be operator of gun club filed § 1983 action against township and township zoning officer, alleging violation of plaintiffs' Second Amendment rights by stalling club operator's zoning application to allegedly zone gun club out of existence, among other claims.

The United States District Court for the Western District of Pennsylvania granted defendants' motion to dismiss and denied plaintiffs' motion for preliminary injunction as moot. Plaintiffs appealed. The Court of Appeals affirmed in part, vacated in part, and remanded. On remand, the United States District Court for the Western District of Pennsylvania granted defendants' motion to dismiss for failure to state a claim. Plaintiffs appealed.

Holdings: The Court of Appeals held that:

- As a matter of first impression, zoning restrictions lacked historical foundations, as would support heightened scrutiny;
- Intermediate scrutiny, rather than strict scrutiny, applied;
- Defendants failed to establish a close fit between challenged rules and actual public benefits they served; and
- Reassignment to another district judge was unwarranted.

Township's zoning restrictions barring training with common weapons in areas where firearms practice was otherwise permitted and preventing businesses in certain areas from selling guns or range time at a profit lacked historical foundations, as would support heightened scrutiny on facial Second Amendment challenge pursuant to § 1983, even though ordinance shared some features with traditional antecedents of dividing township into districts, excluding firearms purchase and practice from residential areas, and designating certain areas for center-fire practice and commercial ranges.

Township's zoning ordinance prohibiting commercially-operated gun clubs and forbidding center-fire cartridges, did not ban firearms purchase and practice in township, but rather preserved avenues for citizens to acquire weapons and maintain proficiency in their use, thus implicating intermediate scrutiny, rather than strict scrutiny, on Second Amendment facial challenge pursuant to § 1983; ordinance allowed non-profit gun clubs, allowed citizens to train with forms of ammunition other than center-fire cartridges, and opened two districts to commercial ranges and center-fire rifle training.

Township failed to establish a close fit between challenged zoning ordinance prohibiting commercially-operated gun clubs and forbidding center-fire cartridges and actual public benefits they served of preventing use of powerful ammunition, reducing noise, increasing safety, and moderating intensity of use, and thus township failed to establish that ordinance withstood intermediate scrutiny on § 1983 Second Amendment facial challenge at the motion to dismiss for failure to state a claim stage; there were no parallels for the challenged rules whether in history or in contemporary practice, there was no evidence tying challenged rules to asserted interest, and

township neglected to explain why it eschewed more targeted alternatives.

Reassignment to another district judge was unwarranted for § 1983 Second Amendment case challenging township's zoning ordinance prohibiting commercially-operated gun clubs and forbidding center-fire cartridges; district court did not disregard Court of Appeals' prior order which directed district court to follow two-step framework for Second Amendment challenges, and which did not direct district court to reach a particular result at either step.

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## **ZONING & PLANNING - UTAH**

### **[Croft v. Morgan County](#)**

**Supreme Court of Utah - August 12, 2021 - P.3d - 2021 WL 3557629 - 2021 UT 46**

Residents brought action to challenge county's rejection of their application to submit an ordinance approving the development of a ski resort community to a referendum.

The Second District Court dismissed the challenge for lack of jurisdiction, and residents appealed.

The Supreme Court held that, as a matter of first impression, residents could not have obtained an extraordinary writ in the Supreme Court, and thus were not required to file a petition for extraordinary writ and properly filed their challenge in the district court.

Residents who sought to challenge county's rejection of their application to submit an ordinance approving the development of a ski resort community to a referendum could not have obtained an extraordinary writ in the Supreme Court, and thus were not required to file a petition for extraordinary writ and properly filed their challenge in the district court, where construction of the ski resort was not imminent, referendum did not need to be immediately placed on the ballot to avoid the ski resort's construction, referendum application was not tied to any specific election or other deadline, and, while 18 months had passed since the referendum application was rejected, their alleged injury could still be redressed through a referendum.

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## **PUBLIC RECORDS - WASHINGTON**

### **[Bogen v. City of Bremerton](#)**

**Court of Appeals of Washington, Division 2 - August 10, 2021 - P.3d - 2021 WL 3504603**

Citizen brought action against city alleging violation of Public Records Act (PRA).

The Superior Court granted city's motion to dismiss. Citizen appealed.

The Court of Appeals held that:

- One-year statute of limitations on citizen's PRA claim began to run on day after city's final action on citizen's records request, and
- Court would defer to superior court to award attorney fees.

One-year statute of limitations on citizen's Public Records Act (PRA) claim against city began to run on day after city's final action on citizen's public records request, rather than on day of city's final action; "within one year of" language in statute established period of time allowed for judicial review

of agency actions, not how to compute that period of time, and “within one year of” time period in statute did not include day of triggering event.

Court of Appeals would defer to Superior Court to award attorney fees in citizen’s action against city alleging violation of Public Records Act (PRA); though citizen prevailed on his appeal of grant of motion to dismiss for failure to state a claim, citizen’s PRA claims had not yet been decided on merits

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## **Bond Insurance on Pace for Best Market Share Since 2008.**

The two active bond insurers combined for a total of \$18.75 billion of insured par in the first half of 2021 in 1,164 deals, up from the \$14.04 billion in 985 transactions in the first half of last year.

They are on pace for the most insured par since 2008 and best market share since 2009.

Assured Guaranty Municipal Corp. and Build America Mutual insured 8.4% of the market, measured by par, according to Refinitiv data, the highest since it was 8.64% at the end of 2009. Pre-pandemic, the wrap rate was roughly 6%.

The first-half insured par is up 31% year-over-year compared to the overall market volume growth of 15%. The number of insured transactions is up 88%, while the total transaction count in the muni market increased by 19%.

Insurance usage was up 77.5% in the first quarter to \$8.71 billion from \$4.91 billion in the same time the year before, while the second quarter was up 9.9% to \$10.04 billion from \$9.14 billion.

Assured Guaranty (AGO) accounted for a total of \$10.74 billion in 543 deals in the first half of 2021, compared to \$7.84 billion in 476 deals a year prior. Those figures include Assured’s subsidiary, Municipal Assurance Corp, according to Refinitiv data.

“Assured Guaranty’s U.S. municipal bond insurance production was outstanding during the first half of 2021, guaranteeing 58% of new issue insured par sold,” said Robert Tucker, senior managing director and head of investor relations and communications at Assured. “The \$11.1 billion (inclusive of a corporate-CUSIP transactions) Assured Guaranty (AGO) guaranteed in the primary market was 34% higher than the amount of new-issue insured par sold that it guaranteed in the first half of 2020 and, looking back to a comparable period just before the pandemic, 73% more than the amount of new-issue insured par sold that it guaranteed in the first half of 2019.”

Tucker added that the results were achieved in a market where municipal interest rates hovered near historic lows and credit spreads tightened.

“Year over year, the financial guaranty industry’s total first half insured par was up 34%, more than double the 15% rate of increase for total par issued in the U.S. municipal bond market,” Tucker said.

Build America Mutual was credited by Refinitiv with \$7.54 billion in 584 deals or 41.2% of the two-insurer market share in the first half of 2021, up from its first half 2020 total of \$6.09 billion in 504 transactions.

“Insured bond volume is growing significantly faster than the market overall, and that is likely to be a lasting change: 48 underwriters priced transactions with BAM insurance in the first half, and we

find that dealers who have had positive experiences selling BAM-insured bonds are more likely to utilize us again in the future,” according to Scott Richbourg, head of public finance at BAM.

Assured Guaranty (AGO) reports continued heightened demand for its financial guaranty insurance on larger transactions, where high demand typically signals interest from institutional investors.

In the first half of 2021, Assured Guaranty (AGO) selectively insured 21 transactions of \$100 million or more in insured par, Tucker said.

“Assured Guaranty also continued to add value on double-A credits, insuring \$2.3 billion of par on 56 transactions in this category during the first half of 2021,” he said. “Overall par volume of municipal bonds issued has been strong year-to-date as monetary and fiscal policy drive economic recovery. Additionally, to the extent high-net-worth individual investors anticipate higher tax rates, the demand for tax-exempt income tends to increase.”

Tucker noted that taxable issues made up a quarter of the par amount issued in the U.S. municipal bond market year-to-date and that Assured Guaranty (AGO) believes these issues are attractive to taxable buyers because of the currently high relative value of taxable municipals versus corporate bonds.

“Some buyers of taxable municipal bonds, including international buyers, may prefer insured bonds because they are less familiar with U.S. municipal credit and benefit from the underwriting experience of the financial guarantor,” he said. “Bond insurance penetration of first-half taxable new issue par sold reached 10%, and Assured Guaranty (AGO) insured \$3.9 billion of taxable new-issue par sold, which was about two-thirds of the taxable new-issue insured par sold.”

BAM’s Richbourg said the insurer is seeing increased utilization on sales with underlying ratings in the double-A category, which allows the mutual insurer to achieve substantial growth without changing its credit appetite.

Both of the major insurers bring AA financial strength ratings from S&P Global Ratings to the paper they wrap.

“We anticipate that new-money volume will be stronger in the second half and into 2022 as issuers gear up their capital plans post-COVID, and our guaranty will be a helpful tool for them,” he said.

Grant Dewey, head of capital markets at BAM, noted the “uneven” economic recovery from the COVID-19 pandemic.

“Even though municipal bond yields began and ended the first half at about the same level, there were some significant swings in the interim,” he said. “We saw weakness in the first quarter based on inflation concerns, which then reversed when the Delta variant began to spread more widely in Q2.”

He added that institutional investors, in particular, recognize that insured bonds can be more stable during those periods of volatility.

“So their appetite for a BAM wrap has remained elevated as compared to similar pre-COVID market conditions,” he said. “We’re also continuing to see strong interest on taxable transactions from buyers who are relatively new to the municipal market, and value BAM’s deep knowledge of the sector and the liquidity of BAM-insured bonds.”

By Aaron Weitzman

## **Another Climate Risk for Cities: Higher Borrowing Costs.**

**The severe drought covering the Western U.S. threatens the economic health of municipalities and may force them to pay more for bonds that fund local projects.**

The extreme drought that has gripped much of the western United States has shriveled crops, stoked wildfires, and drained reservoirs across several states. According the U.S. Drought Monitor, more than 60 million people are currently living under drought conditions in the region. For some cities, lack of water could be a fiscal as well as an environmental disaster: Prolonged droughts are threatening the creditworthiness of local governments, utilities and irrigation districts.

According to a new report from S&P Global Ratings analysts Jane Ridley, Chloe Weil and Nora Wittstruck, drought-struck municipalities may generate less income from their water systems because there's less to sell or they may have higher costs to provide adequate supplies. While cities and utilities can manage a year of dry weather, the drought conditions west of the Rocky Mountains have persisted since May 2020, with no end in sight. These conditions could slow overall local economic growth and dent property values, creating "revenue implications that can lead to rating changes."

Lower credit ratings would force local governments and utilities to pay higher interest rates on bonds they issue to fund general operations and special projects. "Cities finance their infrastructure projects with debt, so this could have a significant impact on their ability to do so," said Danielle Spiegel-Feld, executive director of the Guarini Center at New York University's law school, which focuses on sustainable energy and environmental practices.

Cities may also need to restrict water use for residents and farmers, as well as limit commercial and residential development in areas where the water supply may be insufficient to sustain additional growth, S&P said.

"In some ways, cities are between a rock and a hard place in terms of financing their debt," Spiegel-Feld said. They need to limit development in areas prone to flooding, for example, but also need the property tax revenue from building on valuable land.

But lower ratings shouldn't be a near-term problem for cities, said Bloomberg Intelligence analyst Eric Kazatsky. "Credit spreads in munis are at all-time lows, across the curve and credit spectrum," he said.

Higher borrowing costs from extreme dry weather would add to expenses governments are already shouldering to shore up infrastructure, deal with damage from other extreme climate events such as floods and wildfires, and supply adequate power.

California's hydroelectric production in the first four months of this year is 29% of that generated in the same period two years ago; the hydroelectric facility on Lake Oroville, for example, was forced to shut down for the first time when water levels dropped too low at the beginning of August. In Nevada, Lake Mead's capacity is at 35%, the lowest since the area that sends water and power throughout the Southwest was created. Both situations could force local utilities to turn to more expensive — and less climate-friendly — options, such as natural gas powered plants, S&P said.

The water problem is part of a bigger puzzle for cities to solve on the overall environmental, social and governance front, with the S&P analysts writing that water considerations “will be part of issuers’ ESG planning as they address what could become the ‘new normal’ across the West.”

## **Bloomberg CityLab**

By Lauren Coleman-Lochner

August 23, 2021

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### **[Cities and States on the Frontline of Climate Change Aren't Always Upfront about Risks. Does the Municipal Bond Market Care?](#)**

#### **Are some of our most popular regions becoming uninhabitable?**

In mid-August, as water in the Colorado River dwindled, the Metropolitan Water District of Southern California declared a “water supply alert,” asking its 19 million customers to voluntarily conserve water. With many California counties already in a state of drought, mandatory restrictions could be put in place in the coming months, Governor Gavin Newsom said.

A few months earlier, officials in Miami-Dade County made a very different announcement, releasing a splashy “[Sea Level Rise Strategy](#)” that attempted to answer the question “how can we gracefully, strategically live with two feet of additional sea level rise?” But one environmentalist told the New York Times the blueprint fell short, offering “just enough to reassure developers that Miami’s safe enough to build in.”

Across the country, state and local governments are hustling to tackle challenges from changing climate, while simultaneously preparing for things to only get worse. It raises uncomfortable questions: at what point is Miami’s waterlogged coastline just too wet? How many 100+-degree days can Phoenix, the country’s fastest-growing city for the fifth-straight year, handle?

We’re barely prepared for the immediate complications, forget the existential ones, public finance professionals say. Government officials often are loathe to admit the dangers their communities face. There is no standard guidance or regulation on how to document climate risk, let alone mitigate it.

More to the point, anyone looking for discipline from the \$4 trillion municipal bond market, which funds state and local governments and their projects, will be disappointed.

“It’s just amazing, the power of the (muni-bond) tax exemption and the avoidance of taxes. It’s an unbelievable force in America,” said Thomas Doe, president of Municipal Market Analytics, a Massachusetts-based provider of muni-bond market data.

“Look at the migration to Florida, Texas, and Arizona,” Doe said. “You may be able to live there for a short period of time, but it’s not going to be a 20-year experience.” He calls it denial: “It won’t happen while I’m living there.” “I can’t believe there will be a day when water won’t come out of the tap.”

Researchers at the Brookings Institution came to the same conclusion in a [working paper](#) published last September.

“In municipal finance, there appears to be almost no meaningful disclosure of climate-related risks,” the researchers wrote. “Using some of the latest science projecting spatially resolved potential climate impacts, we show that there is no detectable difference in the level of municipal disclosure between communities most at risk from climate change and those least exposed to physical impacts.”

“A central challenge seems to be not analysis but imagination,” they add.

It’s not just the thousands of ordinary Americans flocking to the “smile states” in search of sun and lower taxes — or the people buying tax-exempt bonds — who add to the risk, Doe says. The entire municipal market makes it possible for people and resources to migrate to areas that arguably may be least prepared to receive them.

Take California’s Metropolitan Water. In June, the utility sold \$100 million of bonds to refinance some that had been issued earlier. It has \$2.6 billion in bonds outstanding, which carry the top possible rating from the two largest rating agencies, Moody’s and S&P Global.

Metropolitan does note the risks posed by climate change, from flooding that puts pressure on its infrastructure to drought that may limit its supply, in its bond offering statement. But it adds, “Metropolitan is unable to predict with any certainty how climate change will ultimately affect Metropolitan or State water supplies or whether Metropolitan will be required to take additional mitigation measures.”

In early August, some of the bonds maturing in 2033 traded at 140.67, well above par — the 100 price typically due at maturity — in a sign investors will be willing to pay handsomely to look past all that uncertainty for the next 12 years.

“These risks are not incorporated in the municipal market. At all,” Doe told MarketWatch. “Because investors want the tax exemption, they’re not saying ‘no’ because they want the product. They don’t discern risk. It’s not a prioritized risk in the ratings. So the rating agencies aren’t penalizing the issuer, no-one is telling the issuer you have to disclose risks. No-one wants their cost of capital to go up.”

## **Ratings**

The Brookings paper takes aim at the bond raters. While acknowledging that credit firms cannot fully disclose their methodology, the researchers still found what they call big gaps.

Among other things, they note, when Moody’s, S&P and Fitch address climate risk, it tends to be backward-looking, rather than proactive. The paper highlighted a 2017 Moody’s downgrade of Puerto Rico bonds, as an example: “Hurricane Maria hits in September 2017; the next month Moody’s downgrades the (Puerto Rico) revenue bond out of revenue concerns but still makes no mention of climate change affecting the probability of Maria-like events in the future.”

“I understand that particular criticism,” said Marcy Block, senior director of sustainable finance for Fitch. (Moody’s did not respond to a request for comment.)

Fitch does include a climate risk component (called an “ESG relevance score”) in all of its ratings, Block said, and some issuers — in the Florida Keys, for example — are graded as higher-risk because of capital needs relating to flooding and other environmental impacts.

“(S&P Public Finance) specifically incorporates an ESG paragraph into our issuer-level credit rating reports and research to provide transparency on how ESG factors may affect a particular entity’s credit profile,” the credit firm said in emailed remarks. It also discloses if one of its steps was driven

by an ESG (environmental, social or governance) factor, the group said.

“There’s a recognition that there’s still more that can be done,” Fitch’s Block said. “I think it’s clear that the disclosure so far from issuers has been very weak. Whether that’s driven by investors continuing to demand more information or regulatory change, I think you’ll see more and more disclosure coming forward.”

## **Regulators**

Many market participants are hoping for more clarity and enforcement from regulators. In March, the U.S. Securities and Exchange Commission announced an [evaluation of climate-change disclosures](#). The SEC and federal prosecutors have since opened probes into whether a subsidiary of Deutsche Bank overstated its use of sustainable investing criteria, according to a [Wall Street Journal report](#), citing people familiar with the matter.

Enforcement efforts might go only so far. The SEC might look to extract fines from fund managers who make misleading ESG claims or it might go after issuers who knowingly obscure risks. But its role isn’t to set standards that will force issuers to identify their risks, disclose them, and get rated on them.

Mark Kim is CEO of the Municipal Securities Rulemaking Board (MSRB), which sets rules around trading and transacting in the muni market but, like the SEC, does not have the ability to set issuer standards. In an interview with MarketWatch, Kim said, “There’s certainly more work to be done. I think the market’s understanding of climate risk is evolving. Today, reasonable investors consider climate risk to be material.”

Ideally, all disclosure would be standardized, not just a reflection of whatever quirks belong to particular issuers, Kim noted, so “investors can compare apples to apples.”

Asked whether Congress should amend its charter so the MSRB could make disclosure rules, Kim said, “That’s a really important policy question. We will leave it to Congress to decide.”

## **Investors**

“We recognize that climate risk is a real threat, it’s not just some secular theme that’s 10, 20 years out. It’s here now,” said Sean McCarthy, head of the municipal credit research team for \$2.2 trillion money manager PIMCO.

“I think disclosure is the area where people want to see more,” McCarthy told MarketWatch. “It’s getting better, but it’s a risk factor that needs to be discussed. Large borrowers, bellwether borrowers, like the state of California, are pretty good at it. Where it could be better is on the local government level but, there’s a cost associated with. I think states could help out a little bit more.”

McCarthy also thinks industry-wide standards would be ideal, but like any institutional investor, his team will still do its own credit analysis, he said.

He offered one example: PIMCO rates single-site project bonds in coastal areas lower and demands a slightly higher yield as compensation for taking on additional risk. And he noted that the municipal market broadly agrees, paying less for such bonds than it does for similar inland deals — but only by about 5 basis points.

As previously reported, demand for municipal bonds has run so hot in recent months that it’s pushed yields to all-time lows (yields move in the opposite direction as prices) and inflows to mutual and exchange-traded funds have smashed weekly records multiple times in 2021.

MMA's Doe notes a muni-market irony: some of the country's climate-change hot spots, like California and Florida, are also some of the wealthiest, where demand for tax-exempt investments is highest. He believes the municipal tax exemption is one of the biggest reasons the market looks the other way, rather than confronting climate risk.

## **Issuers**

To be sure, plenty of people think the worst-case scenarios people dream up are simply too pessimistic. For example, McCarthy calls the question of out-migration from some of the country's most popular areas "generational."

"I am worried about population trends," he said, but views tax policy as an immediate catalyst of migration trends.

Some municipal officials argue they're far more prepared than the market may realize. Mark Hartman, a Canadian who moved to Phoenix several years to take a role as that city's chief sustainability officer, points out that his adopted hometown has always been a desert, adapting to heat long before anyone worried about manmade climate change.

"People here, it's in their DNA," Hartman told MarketWatch. "Just like the trees here are desert-adapted. We look at innovative projects and policies that will help cool our city."

In a [study conducted by Arizona State University](#), which makes Phoenix a sort of climate-change living laboratory, two city neighborhoods just two miles apart were found to have a temperature difference as high as 13 degrees, pointing to the efficacy of climate mitigation efforts like planting trees, "cool pavement" technology, and more, Hartman said.

But the tricky thing about climate change is that it represents, well, change — not necessarily the same challenges communities faced in the past.

"The latest science about climate change shows the system changing rapidly, with synergistic impacts that will have substantial and growing impacts on physical assets and public welfare, including the economic viability of communities on the front lines," the Brookings researchers wrote.

"Extensions of the latest climate science suggests that plausible tail risks are even larger and more immediate. The problem of disclosure reflects a problem of imagination."

Doe likes to talk about climate risk in three stages: denial, which he thinks we've largely moved beyond, defense, and departure.

We are now in the "defend mode," he said. "There will be rationales made as to why an investment should be made to preserve a community. We'll build gates or drains to protect us. We'll establish resilience committees. But will it be sufficient? Does anyone have the timing right? And then, is that the best use of the money?"

No family likes to prepare for death, but eventually most of us write wills, he said. Similarly, "no-one wants to say a place is going to become uninhabitable."

## **MarketWatch**

By Andrea Riquier

Aug. 28, 2021

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## **The Dedication Doctrine vs. The Project Influence Rule - Which Valuation Methodology Applies? - Nossaman**

Property dedication requirements and eminent domain usually don't mix well: they make for an odd and confusing set of valuation rules. For example, if an agency seeks to condemn property to build a road through an undeveloped area, but that road would be required in order to develop the properties, how should it be valued? Under one set of eminent domain rules (the *Porterville* doctrine), the property subject to dedication has little value since it would have to be given up as part of any future development. Under another set of eminent domain rules (the "project influence rule"), the road project should be disregarded as part of the valuation. These rules create an inherent tension for valuation purposes that courts have struggled to resolve. A recent Court of Appeal decision, *City of Escondido v. Pacific Harmony Grove Dev.*, 2021 Cal. App. LEXIS 706 (Aug. 26, 2021), provides some guidance on what valuation methodology should apply.

### **Background**

In *Pacific Harmony*, the city filed an eminent domain action to acquire a strip of land for a road extension. The road extension had long been on the city's circulation element of its general plan, and a city ordinance required any owner developing property to dedicate public improvements to conform to the general plan. The city had also previously entered into a development agreement with a nearby hospital pursuant to which the city agreed to extend the road with contributions from the hospital and surrounding developers. With the anticipated road extension coming to fruition, the surrounding properties were up-zoned for industrial use (as opposed to low-density residential).

In the condemnation action, the city argued that the strip of land had nominal value (\$50,000) since it would have been required to be dedicated as part of any future development. The city provided extensive testimony as to why the road dedication was roughly proportional to the impacts of any development (including increased daily trips from a new industrial development, the costs for the owner to build its own access road, etc.). The owner claimed the road was not necessary, as it could utilize an existing road which had sufficient capacity, and therefore the strip of land should be valued based on its industrial highest and best use, resulting in compensation of nearly \$1 million. The owner also argued that the city was liable for precondemnation damages since it waited more than 10 years to condemn after entering into the development agreement which committed to build the road.

The trial court concluded that the strip of land should be valued at its unimproved value since it would have been required to be dedicated as part of any future development, and such a dedication requirement was constitutional (it was roughly proportional and rationally related to any future development impacts). The court also concluded that the "project-effect rule" did not apply, since the dedication was not put in place to impact the value of the property, but instead to mitigate the traffic burdens created by a future development. Finally, the court held that the owner was not entitled to precondemnation damages as there was no unreasonable delay in pursuing the condemnation or the road extension project. The owners appealed.

### **Court of Appeal Decision**

The Court of Appeal walked through the two competing arguments on valuation: how to take into account the dedication requirements while also disregarding project influence.

#### *Dedication Doctrine*

With respect to the dedication issue, the Court explained that pursuant to the *Porterville* decision, “when a city would lawfully have conditioned development of property upon the owner’s dedication of a portion of the property” to mitigate the impacts of the development, “the fair market value of that portion in a subsequent condemnation action is its value in its undeveloped, agricultural state,” rather than in its highest and best developed state.” The rationale for this rule is that because the owner could not develop the portion of land subject to dedication, no willing buyer would purchase that portion for more than its undeveloped value, and therefore that is what the acquiring agency should pay. In order for this valuation approach to apply, the dedication requirement must be constitutional (roughly proportional and rationally related to the impacts from the proposed development), and it must be reasonably probable that the condemning agency would actually impose the dedication requirement as a condition of development.

### *Project Influence Rule*

With respect to the project influence rule, the Court explained that the rule prohibits the fair market value of condemned property from being influenced by the project for which the property is being condemned. For example, if the government is condemning property to build a sewage plant, the government does not get a discount because its project renders surrounding properties less valuable. So if municipal zoning actions were enacted to suppress property values before an intended taking, the zoning law must be disregarded when valuing the condemned property.

These two concepts present an inherent conflict: the dedication approach allows a city’s dedication requirements to depress the value of condemned property, while the project influence rule prohibits it. In order to address this conflict, courts look at a “date of probable inclusion” to determine which rule applies. If the dedication requirement arose before the date of probable inclusion, the dedication approach applies, but if it arose after, the project influence rule applies. The date of probable inclusion is determined when a public agency is engaging in a public project for which it intends to acquire property, and it must be probable that the property at issue would be included in that project. Where a general plan and circulation element require a strip of land be dedicated for a roadway if the larger parcel is ever developed, the designation itself does not make it probable that the agency would condemn the strip (and hence does not trigger the date of probable inclusion).

Here, the Court concluded that the dedication requirement was constitutional, as the city did “its constitutionally required homework” to ensure that its dedication requirement was proportional to the impacts caused by developing the property. The Court also agreed that the project influence rule did not apply because the dedication requirement arose as part of the general plan and circulation element, which were in place long before the “date of probable inclusion”. The Court held it would result in a windfall to compensate the property owner for an industrial use of the strip of land when the owner would have been required to dedicate that land in order to achieve an industrial development.

With respect to the precondemnation damages claim, the Court explained that the owner is required to demonstrate that the public agency acted improperly by either unreasonably delaying an eminent domain action following an announcement of an intent to condemn or by other unreasonable conduct, and the actions must have resulted in a diminution in value. There must also be some formal announcement or other official act or expression of intent to acquire the property in question (i.e., the agency’s activities must go beyond the planning stage to reach the acquiring stage).

Here, the city’s entering into a development agreement with the hospital committing to build the road 10 years before filing the condemnation was not unreasonable; the city still had to go through general planning and environmental approvals, and regardless, the owner did not suffer any damages as a result.

## Take-Aways

Dedication requirements will continue to create complex, fact-specific inquiries to determine the appropriate valuation methodology. Government agencies will likely continue to require owners to dedicate property for public improvements as part of future developments, and may resort to condemnation when necessary to complete those improvements. Property owners should be informed regarding the conditions or exactions placed on their property, and understand the constitutional factors and valuation methodologies that come into play.

**Nossaman LLP** - Bradford B. Kuhn

California Eminent Domain Report

August 27 2021

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### **Muni Underwriters Cut Fees in Takedown Race-to-Bottom.**

- **Massachusetts' documents show how little banks' will charge**
- **But there may be a hidden downside for states and cities**

Every once in a while, a state or local government's request for underwriting services will have a question that illuminates what's going on in the municipal-bond market at large.

Massachusetts' request from May 2020 is one of them. It asked for something rather mundane — their underwriting takedown for every \$1,000 of bonds sold. That's effectively what the banks' main fee would be upfront, a key measure of the total cost of floating a bond issue.

Underwriting fees have declined steeply since the 1980s, when negotiated fees were more than \$20 per \$1,000 of bonds, and had more or less continued on the downward drift in recent years. This year, they're around \$5.15 overall, according to data compiled by Bloomberg.

But for a big-name client like Massachusetts, underwriters, it seems, are willing to work for much less. Sue Perez, the state's Deputy Treasurer for Debt Management, said the takedowns on its bond deals has been in the \$2 to \$3 range since at least 2014.

Sixteen banks applied to underwrite all three transactions mentioned in the RFP. None wanted more than \$3, according to copies of the responses received through a public records request. Bank of America Corp., the market's underwriting behemoth, was willing to work for just 50 cents, as was Morgan Stanley, on one-year maturities. Both won top slots.

I was shocked because I hadn't realized takedowns had shrunk to so little. But David Erdman, Wisconsin's capital finance director, assured me in an email that this collapse had come in the past two or three years, and that "starting 3-4 years ago firms have stopped even asking for a management fee," formerly levied for running a syndicate.

This takedown death-ride has come as a result of both issuers and their advisers pressing for it, but also banks on their own just offering it, said Erdman. There's often been a shortage of bonds to go around, and banks have been eager to land inventory for their clients.

All told, this seems like a great thing. That means it costs municipalities less to gain access to the bond market, right?

And this is true, but there are two elements to “how much you pay.” The first is one-time professional fees, like those for underwriters, that are transparent. The second is how the actual bonds are priced, which has a much more long-term and costly impact, and is more murky.

Lee McElhannon, director of bond finance for the Georgia State Financing and Investment Commission, said the more those transparent fees are cut the more important it is to see whether the banks are underpricing the bonds.

That would make it a lot less work to sell them and maybe even deliver a quick gain to early investors. But all that would come at the government’s expense, which perhaps could have paid a lower interest rate for many years to come.

This seems especially important for smaller issuers who may not have the knowledge or ability to evaluate how their bonds are priced, or who may not even care. You would do well to remember that most of the municipal market’s issuers — beyond states, major authorities, some large cities and counties — are small and relatively unsophisticated.

“Your financial adviser better be very good at pressing them on preliminary and final scales, and even then you might see some interesting secondary market trades for a week or so after pricing,” McElhannon said in an email. “Underwriters are pricing bonds so they move the bonds and don’t take on any (significant) risk.”

That may not be the case for big, sophisticated issuers like Massachusetts, who comprise a very small portion of the market. Yet other public officials chasing after those rock-bottom fees may do well to remember that sometimes, well, you get what you pay for.

## **Bloomberg Markets**

By Joseph Mysak Jr

August 24, 2021

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### **[S&P U.S. State Ratings And Outlooks: Current List](#)**

[View the current list.](#) (Registration required.)

27 Aug, 2021

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### **[Fitch Ratings Resolves Ratings of Life Plan Communities Placed Under Criteria Observation.](#)**

Fitch Ratings-New York-25 August 2021: Fitch Ratings has resolved the ratings of all Life Plan Communities (LPCs) placed Under Criteria Observation (UCO) in March, following the release of its revised LPC rating criteria.

Of the 22 ratings placed UCO, four were downgraded: one driven solely by criteria factors, one driven solely by credit reasons (a large additional borrowing), and two driven by a combination of criteria and credit factors. The remaining 18 were affirmed.

Updated review status of UCO names is available in the special report linked above.

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## **[S&P: A Regional Investment Bank Wins New Business and Better Manages its Municipal Clients' Credit and Climate Risks.](#)**

### HIGHLIGHTS

**A regional investment bank is looking into upgrading its credit and climate workflow processes. By working with S&P Global Market Intelligence, the bank was able to automate its credit and climate data collection process, acquire a transparent approach to understanding creditworthiness of financial advisory clients, and help the firm win the underwriting of new deals.**

This regional investment bank advises over 100 municipal clients and underwrites dozens of deals annually. The financial advisory team supports their clients with the issuance of new debt and navigating the credit rating process. Separately, the underwriting team facilitates the purchase and resale of new municipal securities, where having a deep understanding of credit and climate risks is essential in structuring a deal. Also, the company was aggressively looking to add more clients. Given the importance of these functions to these departments, the company was interested in upgrading its credit and climate workflow processes. By working with S&P Global Market Intelligence (Market Intelligence), the company achieved these goals of automating its credit and climate data collection process and providing a simple to use, completely transparent approach to understanding creditworthiness of financial advisory clients and helping the firm compete, win and promote the underwriting of new deals.

### **Pain Points**

The Public Finance financial advisory and underwriting teams had been struggling with their internally developed solution, which was not adequate for the company's needs. Specifically:

- **Lacked an understanding of client climate risk:** The company did not have the data or process to assess the impact of climate or physical risk for its clients or new deals they were taking to market.
- **Internal credit models were misaligned with Rating Agency criteria:** Since the company's credit models were not annually recalibrated and updated, they were not reflective of the current methodology including environmental and social factors. Consequently, they were generating credit results that had material credit scores different than the public ratings. So, when scenario

analyses were conducted (e.g. new debt) the results were inconsistent.

- **Needed innovative approaches to win new business:** The business was increasingly competitive, and they needed to identify ways to differentiate themselves from competitors.
- **Cumbersome surveillance process:** The process the company used to conduct annual reviews of their customers was manual and time consuming.
- **Insufficient data coverage:** The company was spending more time trying to obtain the necessary data than it was conducting the analysis.
- **Gaps or lack of expertise for certain public finance segments:** The company had difficulty entering new Public Finance segments because they lacked the expertise or did not have the appropriate segment specific credit models (e.g. higher education, healthcare, housing, general obligation, transportation, water & sewer).

The company's Public Finance team adopted the Market Intelligence's Public Finance Automated Scoring Tool (PFAST) solution to address these challenges.

### **The Solution**

Market Intelligence recommended PFAST, an Excel-based suite of Market Intelligence Credit Assessment Scorecards that is both an automated credit scoring and data solution enabling users to:

#### **Assign credit scores to the vast majority of the company's municipal customers**

PFAST offers broad Public Finance sector coverage, including:

- **General Obligation** issuers or states, cities, counties, and school districts
- **Water and Sewer** utilities
- **Not-for Profit Health Care** including health care systems and hospitals
- **Not-for-Profit Higher Education** including private and public/state institutions
- **Transportation** including airports, mass transit, toll roads, bridges, and tunnels
- **Housing** including single- and multi- family agencies

#### **Understand your client's climate risks**

Understanding your client's susceptibility to 18 different natural hazards and potential economic loss from those natural disasters will help you better and more proactively manage your clients. PFAST also includes a quantitatively based summary environmental/social score for every municipal entity where data is available.

#### **Win new business by differentiating yourself from your competitors by providing credit and climate insights**

PFAST will provide easy to identify credit and climate finding that will highlight your command of new and existing clients. Leverage our unrivaled ability to create local, regional, and national benchmarks for prospective clients given our vast database of both rated and unrated issuers.

#### **Automate the spreading for all S&P rated General Obligation, Water & Sewer, Healthcare, Higher Education and Airport Obligors**

Market Intelligence has collected more than three years of financial and economic data for all rated general obligation issuers, water & sewer, healthcare, higher education, and airports. The data and credit scoring are fully automated by simply using an identifier (CUSIP or S&P Capital IQ ID).

#### **Monitor your customer credit quality in minutes**

By simply inputting an identifier a user can generate overall credit risk scores for your complete public finance customer portfolio.

#### **Conduct scenario analysis**

Additional functionality for conducting “what-if” scenario analysis for your municipal portfolio.

## Key Benefits

The PFAST solution provides an automated credit scoring tool for all US cities, counties, and school districts and water and sewer utilities. A similar approach is also available for the major rated revenue bond segments. Key benefits include:

- **Broad scope of application** with sector-specific credit scorecards and data for General Obligation and Revenue Bonds including Water and Sewer, Not-For-Profit Healthcare, Not-For-Profit Higher Education, Transportation and Housing.
- **Climate Risk data and scores** that identifies the susceptibility and potential economic from 18 different natural hazards fully mapped to every U.S. county.
- **Methodology transparency** of the Scorecard including all risk factors, weights, benchmarks, and scoring algorithms.
- **Training and ongoing analytical assistance** to help groups understand the range of available capabilities and continue to get the most out of the solutions.
- **Quickly get up to speed** in public finance credit analysis with our easy to use Scorecard User Guides and 24/7/365 support from our global customer support team.
- **Validation support** through annual technical documentation that explains Scorecard methodology and testing.
- **Extensive coverage and continually growing database** of municipal entities financials and economic data.

[Click here](#) to learn more about the Public Finance Automated Scoring Tool (PFAST), mentioned in this case study.

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## **Fitch: Fiscal 2022 Much Smoother for U.S. State Budgets.**

Fitch Ratings-New York-23 August 2021: A stronger economy and Federal Aid have helped U.S. states weather the disruption caused by the coronavirus pandemic with a smoother budget season firmly in place for 2022, according to Fitch Ratings in its latest annual report for U.S. state budgets.

Fiscal 2022 budgets have been enacted so 47 states so far with North Carolina, Oregon and Michigan (whose fiscal year begins on October 1) as the only outliers so far. This represents a return to more normal budgeting and is in stark contrast to the upheaval the pandemic induced last year that led to a steep drop in state tax revenue.

Many states are still determining how to allocate funds received under the American Rescue Plan Act, and renewed concerns about the trajectory of the pandemic pose a downside risk. That said, ‘Strong fiscal 2021 revenue performance led many states to make upward revisions to their forecasts for fiscal 2022, bringing many close to pre-pandemic revenue estimates,’ said Senior Director Karen Krop.

Going into this latest fiscal year, a primary focus for states will be rebuilding their budget resilience through adding to reserves and paying down liabilities. Whereas only a few states drew on their rainy day funds to close out fiscal 2020 and several budgeted reserve draws in fiscal 2021, states are now drawing down reserves less than budgeted and are adding to reserves in fiscal 2022.

‘With additional available revenues, many states are addressing issues such as displaced workers

and employment issues, mental and other health programming, and education spending,' said Krop. 'Health care is also still a key driver with many states using additional available tax revenues to support various programs, though several states are still struggling with whether or not to expand Medicaid under the Affordable Care Act ten years after its passage.'

'U.S. State Budgets Bounce Back in 2022' is available at [www.fitchratings.com](http://www.fitchratings.com).

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## **[Activists to U.S. Treasury: Use Federal Aid for Pandemic Relief, Not Debt](#)**

**Grassroots groups are imploring federal officials to make sure local governments get relief to those most in need, rather than banks.**

Dozens of community organizations from across the U.S. want Treasury Secretary Janet Yellen to issue rules that direct the latest round of relief funds into communities hardest hit by the pandemic and away from state and local debt repayments and police budgets.

Fifty-seven national and local groups are sending Yellen and President Joe Biden a letter Tuesday to maintain the current ban on states and cities using American Rescue Plan Act funds to repay debt. They also are asking that the aid not boost police budgets. Paying back loans and increasing funding for cops would come at the expense of community needs such a rental assistance, mental health programs, child care, homeless services and violence prevention, according to interviews with the organizations and local elected officials.

The groups are making a public push in response to efforts and comments submitted by state and local officials to the Treasury since May that seek to change or ease interim rules on the use of the funds. The rescue plan enacted in March is sending \$350 billion in aid to state and local governments, which are now debating how to appropriate the unprecedented amounts.

"Congress passed the federal relief to go directly into communities," Bahar Tolou, a campaign director in Los Angeles for the Action Center on Race and the Economy, said in an interview. "The relief money is in real danger of being diverted."

ACRE, one of the lead organizations sending the letter to Yellen, is among groups from New York, Philadelphia, Detroit, Milwaukee, Chicago and Sacramento that advocate for workers, minority

communities and lower income neighborhoods. They are trying to shine a light on the needs of communities after the pandemic exacerbated long-standing income gaps. Now is not the time to send money to Wall Street banks, expand police budgets or give corporations tax cuts, according to the letter.

“Every year, public dollars are already siphoned off by banks through high cost municipal debt and for corporate tax benefits, draining hundreds of billions from neighborhood services, enabling the conditions for over-policing, and exacerbating racial and economic inequality in communities,” according to the letter. “These are the very conditions that made Black and brown communities so vulnerable in the pandemic.”

### **Ongoing Argument**

The debate over how to best use the unprecedented infusion of federal aid is playing out across the country. Philadelphia is among the cities that have asked the Treasury to reconsider and allow debt service to be paid with the money.

The city wants to “generate the highest impact for our residents,” Ashley Del Bianco, Philadelphia’s chief grants officer, said in an emailed statement. “Using a portion of our ARP allocation for debt service would allow us to provide services that are key to the economic recovery of our region.” Debt service funds projects that “directly benefit residents,” she said.

Philadelphia Councilwoman Kendra Brooks is among those who want the city to instead use the aid to address the “root causes of poverty.” For example, officials should use the funds to boost support for a mobile crisis program run by social workers rather than police, she said.

“ARPA is so unprecedented. It can have long lasting impacts,” Amanda Kass, associate director of the Government Finance Research Center at the University of Illinois in Chicago, said in an interview. “It’s great to see this kind of debate taking place.”

In Chicago, where the budget process is just getting started, officials are planning to use the funds to provide fiscal relief and still abide by the rules. Before the Treasury’s interim guidance banned using the funds for debt repayment, Chicago Mayor Lori Lightfoot’s administration had floated the idea of using ARP funds to repay a \$465 million loan the city took in 2020 from JPMorgan Chase & Co. Since then, the city has said that eligible reimbursements under the Treasury’s interim rules will open up money in its main operating fund to pay back the debt and cancel another refinancing it had planned for this year.

Alderman Daniel La Spata argues that using \$782 million of ARP funds to pay for expenses in Chicago’s corporate fund, which pays for services including policing, as the Lightfoot administration has proposed, and then using the money that’s freed up to pay the loan immediately, ignores the dire situation facing some residents.

“It’s within the letter of what Treasury guidance says but not the spirit,” said La Spata who wants to divvy up the city’s \$1.9 billion in ARP funds for needs including mental health, child care and homeless services. “There are so many urgent needs.”

The department is “carefully reviewing” all input as it finalizes the rule, a Treasury official said Tuesday. In Sacramento, community organizer Christina Livingston said she’s worried the Treasury will relax the rules, as the city asked last month. Livingston is executive director of the Alliance of Californians For Community Empowerment, which advocates for low-income workers and people of color.

“Debt service should be included as an eligible expenditure, especially as a ‘negative economic impact’ of Covid-19,” Leyne Milstein, Sacramento’s assistant city manager, wrote in a comment on the Treasury’s website in July. “Debt secured prior to the pandemic, whose primary source of repayment is a specific source impacted by the pandemic, is especially challenged as many of these revenue sources declined precipitously and have yet to fully recover.”

Aug. 31 is the deadline for when states and larger municipalities must report to Treasury how much of the ARP allocation they’ve spent so far. In the meantime, the collective of grassroots groups is trying to sway the Biden administration’s stance on the rules.

“We don’t want this money spent on banks nor on police,” said Emma Tai, executive director of United Working Families in Chicago, among the community groups that signed the letter. “At this time, it’s so evident human need is so great.”

## **Bloomberg CityLab**

By Shruti Singh

August 24, 2021

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### **[Characteristics of Municipal Securities Trading on Alternative Trading Systems and Broker’s Broker Platforms.](#)**

Did you know market share of alternative trading systems (ATS) and broker’s broker platforms makes up 58% of inter-dealer trades?

MSRB Chief Economist Simon Wu tracks how electronic muni trading on such platforms affects the market in his [latest paper](#).

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### **[We’re Burying Our Kids in Debt \(Just Not the Way You Think\).](#)**

For the Philadelphia teacher Freda Anderson, setting up her classroom involves clearing plaster, dust and paint chips from tables, chairs and desks. Somewhere, a leak has allowed water to seep through the walls. Years of deferred maintenance have caused dust and paint chips to scatter across the room. This debris is not just a brazen reminder of state abandonment of public education — it is an active vector of harm. A report released this spring revealed an asbestos epidemic creeping through Philadelphia schools.

During the 2019 school year, 11 schools closed because of toxic physical conditions; a veteran teacher is suffering from mesothelioma, a lethal disease caused by asbestos. Ms. Anderson used to believe the best way to fix schools would be to hire more teachers, counselors and mental health providers, “but, honestly, now the first thing I would do is start reallocating money to fix the buildings,” she told me. “They’re just really dangerous.”

The question of how to finance Philadelphia schools’ \$4.5 billion of unmet infrastructure needs — as well as hiring more teachers, counselors and nurses — has been a vexing issue for the community. Despite high levels of affluence in the city, inequitable distribution of state aid and regressive

taxation, including hundreds of millions of dollars in local corporate tax breaks, have exacerbated budget shortfalls.

[Continue reading.](#)

## **The New York Times**

By Eleni Schirmer

Aug. 27, 2021

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### **[Ninth Circuit Rules That EPA's 2010 WET Testing Methodology Is Not Subject to APA Review: Taft Stettinius & Hollister](#)**

In *Southern California Alliance of Publicly Owned Treatment Works v. U.S. Environmental Protection Agency*, — F.4th —, No. 19-15535, 2021 WL 3412744 (9th Cir. Aug. 5, 2021), the Ninth Circuit held that the Environmental Protection Agency's (EPA) nonbinding guidance recommending a new statistical method for assessing water toxicity under the Clean Water Act (CWA) was not a reviewable final action under the Administrative Procedures Act (APA). Instead, challenges to the guidance must be made in the context of individual permit decisions.

Under EPA's National Pollutant Discharge Elimination System (NPDES) program, the CWA permitting scheme, some permit holders must pass a whole effluent toxicity (WET) test which measures the "aggregate effect of a discharge on aquatic organisms." *Id.* EPA previously recommended several statistical methods to satisfy the WET test requirements and in June 2010, recommended an additional method called the Test of Significant Toxicity (TST) in a separate nonbinding guidance document (2010 Guidance). *Id.* at \*2. The plaintiffs, municipal wastewater trade associations, alleged that EPA violated the APA by issuing the 2010 Guidance and the TST without following notice-and-comment procedures. *Id.*

The Ninth Circuit affirmed the district court's dismissal of the plaintiffs' challenge on the alternative ground that the 2010 guidance was not a reviewable final agency action. Under the APA, plaintiffs are only allowed to challenge final agency action and an agency's action is final only if it imposes legal consequences. *Id.* at \*1.

The Ninth Circuit determined that the 2010 guidance does not impose any legal consequences on its own because it merely recommended the TST as another WET testing methodology from which permitting authorities may choose. *Id.* at \*4. In fact, the court found that the 2010 guidance will not have legal consequences at all unless the TST is incorporated into an entity's individual NPDES permit. The court explained that "an agency action is not final when subsequent agency decision making is necessary to create any practical consequences." *Id.* The court, therefore, held that the 2010 guidance was not reviewable under the APA.

Plaintiffs argued that if they are not permitted to challenge the 2010 guidance in the district court, they will have no forum to do so. The Ninth Circuit disagreed and advised plaintiffs and other would-be challengers that the appropriate forum to challenge the TST and 2010 guidance is in the context of individual NPDES permit decisions. *Id.* at \*5.

**Taft Stettinius & Hollister LLP - Kristine Gordon**

## **Modernizing the Budgetary Process with Cloud-Based Systems Lets Municipalities Better Adapt.**

It wasn't just businesses that shuttered their doors when the pandemic struck last spring. With everyone suddenly telecommuting, municipal governments from Massachusetts to New Mexico were unexpectedly thrust into an entirely digitized world.

For many cities and counties accustomed to working in-person within closed or analog systems, adapting to the change was undoubtedly a challenge. Especially when it comes to budgeting, being able to adapt to the pandemic's rapidly changing conditions has been a vital skill for municipal leaders over the last year, according to Charlie Francis, senior policy analyst at Questica, a California-based government administration software company.

"The ones that could respond and react most efficiently and strategically were the ones that had already made the transition from excel-based budgeting to cloud-based budgeting," said Francis, who has spent 45 years working in government finance, including half as finance director at Sausalito, Calif.; Tracy, Calif.; and Indian Wells, Calif. Last year, he returned to Sausalito after the municipality's finance director unexpectedly resigned in the middle of budget season.

Those municipalities still working with analog systems suddenly had to confront the question, "How do you collaborate when everyone is working from home?" he said. In this, cloud-based budgeting programs, which allow administrators to access data remotely and work together collaboratively, provide an answer for municipalities of all sizes.

According to Francis, digital budgeting systems have a number of benefits: First, data is accessible from anywhere. With built-in archives, there's more time for municipal leaders to analyze historical and present-day data (a feature that was especially important last year, with town meetings held via video conference apps). It's also easier to collaborate remotely when everything is digitized. And because digital data is accessible from anywhere and by everyone—citizens, too—trust in government is enhanced through transparency.

"One of the integral parts of going through a crisis like the pandemic is that you want to be able to communicate easily and accurately," Francis said, noting that trade organizations like the Government Finance Officers Association can help municipal leaders set up digital cloud-based budgeting infrastructure (OpenGov, ClearGov and Questica are three companies that make cloud-based budgeting software).

Beyond digital collaboration, Francis said governments that early-on in the pandemic preplanned and developed scenarios for budgeting were better able to adapt. Based on those scenarios, they were able to leverage data in real time as challenges unfolded, adjusting quickly to meet community needs—a process Francis calls "continuous budgeting. In other words, as new data was coming in, they were recalibrating their figures," he said.

Within the government finance community, this is "an emerging practice," Francis said. "We went from line item budgeting ... to priority-based budgeting. Continuous budgeting is going to be the next wave."

But it's only made possible through technology advancements such as cloud-based budgeting. In an

analog system, administrators have to crunch numbers derived from separate data sheets to estimate a specific performance results. Digital systems allow this data to be viewed in real time.

For example, in order to find out how much it costs to vaccinate one person, a financial officer working in an analog system might have to, by hand, combine the number of people vaccinated with the total amount spent on vaccinations, Francis said. “Modern systems can bring all of that into one place with a dashboard: ‘Here’s the number of people vaccinated; here’s the cost for each person to be vaccinated.’”

Another beneficial aspect of cloud-based budgeting is social features, which are increasingly being integrated.

“Governing and budgeting used to be (completed by) department heads ... getting together and saying, ‘here’s what we think the services are that citizens need,’” he said. These days, “Citizens are finally telling us what services they need and how they would like them delivered. It’s more interactive, it’s more productive.”

As an example, he pointed to the civil unrest that erupted last year.

“We saw it going on during COVID—here’s how we would like to see police services delivered,” Francis continued. Instead of governments telling citizens how they were going to be managed, many communities across the United States called on their leaders to integrate different policing practices based on their personal experiences.

In looking to the future, Francis said he expects these governing tech-trends to continue long after the pandemic subsides and life returns to a semblance of what it used to be. The ongoing pandemic accelerated a shift toward the digital realm that had already started. A next step beyond continuous budgeting is budgeting based on “geo-predictive analytics”—a process through which municipal leaders allot funds based on predictive data. Francis said it’s already happening in some regions.

“The new generation of finance leadership has been born into an entirely digitized working (environment),” he said. “They’re used to using rules and algorithms.”

## **American City & County**

Written by Andy Castillo

20th August 2021

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## **[Michigan Supreme Court Rules Against Revenue Sharing Suit.](#)**

METRO DETROIT — On July 28, the Michigan Supreme Court ruled largely in favor of the state in a case that addressed Michigan’s Headlee Amendment, which, in part, requires that roughly half of the state’s spending from state revenue sources each year be paid as aid to local governments.

The minimum percentage required to satisfy Section 30 of the Headlee Amendment has been set at 48.97%. Plaintiffs, consisting primarily of municipal leaders from around the state, known as Taxpayers for Michigan Constitutional Government, argued the state of Michigan is shortchanging local governments because it counts payments directed to school districts, including charter schools, pursuant to Proposal A of 1994, as well as spending for state-mandated local services, as part of that

48.97%.

“We were obviously disappointed,” remarked Christopher Johnson, general counsel to the Michigan Municipal League, which was a plaintiff in the suit. “I think it really boils down to the interpretation between the interplay between Proposal A and the Headlee Amendment and how much money has been siphoned off from local communities to the state.”

Both Eastpointe and Roseville were parties in the suit. Roseville City Manager Scott Adkins said that municipalities like his have lost millions of dollars in the last two decades due to the 2008 recession slashing cities’ income while the Headlee Amendment and Proposal A severely limited how much they could then take in after the financial situation improved. He said that both measures also have reduced the amount of money coming into municipal governments from the state, which has amounted to a “one-two punch” that has left many cities struggling.

“We were party to the suit, along with many municipalities,” said Adkins. “When it comes to municipal finance, the state hasn’t always been consistent. There are two types of revenue sharing: constitutional revenue sharing, which is written in the Michigan Constitution. The other is statutory, which is determined by the Legislature and can be changed. They can both be difficult for communities, depending on how they are implemented.”

“You start to explain this thing to John Q. Citizen out there, and their eyes roll back in their head and they lose interest,” Johnson added. “They think it doesn’t make sense and no one would ever adopt something that crazy.”

The Supreme Court decision dictated that state payments from Proposal A revenues paid to public schools count under Headlee Section 30 as state aid to local governments; state payments to charter schools are not necessarily payments to local units of government, although some charter schools may still qualify as local units of government; and state payments to local units of government to cover state mandates required by Headlee Section 29 also must be counted under Headlee Section 30.

“This ruling is a win for the people of this state,” Michigan Attorney General Dana Nessel stated in a press release. “Public school funding is about 25% of the state’s annual budget, representing approximately 12-13 billion of state dollars each year. A significant portion of that annual funding was in question in this case — and could have resulted in higher taxes and/or fewer state-level services for Michigan’s residents if the court had determined the state was not providing enough money to local governments. This decision affirmed that the state’s decades-long treatment of these public school funds was proper under our Constitution. This was a complicated issue that demanded the best advocates on behalf of Michigan, and I am proud of the work done by my staff.”

However, those who brought the case forward said the goal is not to decrease the money going to schools but to increase the money going to municipal governments.

“What it really boils down to is the municipal finance system the state has is broken. The state needs to fix it. The decline in government spending at a local level has been devastating for communities all over Michigan. It’s not a system that can be fixed by throwing a few dollars at it here and there; it needs a more long-lasting and permanent solution,” said Johnson. “The Headlee Amendment was originally sold to voters as a way to make sure they wouldn’t be taxed out of their house, but it actually was a revenue cap on local taxes. Proposal A accomplished what the Headlee Amendment sold, which was limiting a tax increase for an individual.”

Adkins said this wasn’t a complete victory.

“Municipalities have consistently lost ground in past cases when changes were made, so we will take whatever victories we can get,” Adkins added. “What we were trying to do with this suit was a more fair and equitable manner of state finance. We were able to get an acknowledgment that the state hasn’t been fair in the distribution of revenue at least in certain components, but this isn’t a complete fix. We need them to look at the whole pie, not just one or two pieces.”

Adkins said that Headlee and Proposal A may have been good ideas when they were approved, but that the situation in Michigan has changed since then, citing the existence of charter schools as a key example.

“I think you have to look at both Headlee and Prop A,” he said. “Headlee is the constitutional amendment. When it was passed in 1978, you had a different economic platform. The same can be said for Prop A, which was passed in 1994. In both cases, you have a certain sort of economy in the 1970s and a certain sort in the mid ’90s. Neither has been adapted for 2021. While they might have been a good fit for the time they were passed, they weren’t built to be adapted as the situation changed. You weren’t paying the same price for a gallon of milk in 1978 (as) you are now. Now, municipalities have been losing ground while inflation kept going up.”

Adkins said that, until the state takes a full and comprehensive look at how revenue is being shared with local municipalities and how those municipalities are struggling, those communities will continue to struggle.

“We’re frustrated that many of the major issues still haven’t been fixed in the state’s finance system. We’re glad there’s more awareness and some small victories have been achieved, but municipalities are still struggling, so these issues have to be addressed and we still haven’t seen that happen.”

**candgnews.com**

by Brendan Losinski

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## **[Tax-Loss Selling and the January Effect Revisited: Evidence from Municipal Bond Closed-End Funds and Exchange-Traded Funds.](#)**

### **Abstract**

We revisit the tax-loss selling hypothesis as a potential explanation of the well-known January effect in securities markets. We expand the empirical evidence from municipal bond closed-end funds (CEFs) by extending the sample period by almost 20 years and adding exchange-traded funds (ETFs) to the sample. Our updated sample covers the recent growth of municipal bond ETFs and a significant increase in municipal bond trading volume and liquidity. Both developments reduce arbitrage costs and thus are expected to increase tax loss selling in the funds and increase the transmission of price effects to the underlying bonds. We find that the January effect of municipal bond CEFs becomes stronger in more recent years, and show evidence that largely supports the tax-loss hypothesis. We also find some evidence indicating a smaller discrepancy between the abnormal returns of the funds and underlying bonds. For the municipal bond ETFs, we find a smaller January effect that cannot be explained by the tax-loss selling hypothesis.

[Read the paper.](#)

August 18, 2021

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## **Muni Trading Hasn't Been This Slow Since the Turn of the Century.**

- **Market's trading volume tumbles 34% this year to 22-year low**
- **Bonds have grown scarce with cash flowing steadily in**

The loneliest place on Wall Street may be the muni-bond trading desk.

Even with the volume of new state and local government debt sales on pace to surpass last year's record, trading activity has dried up considerably. The par amount of bonds traded has tumbled by 34% so far this year to \$1.43 trillion, a 22-year low, according to data compiled by Bloomberg.

On average, about \$8.9 billion of municipal bonds are changing hands each day, the least since 2001.

The dearth of activity is likely a side effect of the massive influx of cash into the \$4 trillion municipal securities market, with mutual funds receiving an average of about \$2 billion each week since the start of the year, according to Investment Company Institute figures.

As a result, money managers have faced brisk competition to get in on new bond deals and yields have held near the lowest in decades. And it seems those who own the securities are, on the whole, not eager to sell.

"Overall a lot more investors, whether they are participating in new issues or not, they are just holding on to their paper," Jonathan Law, a portfolio manager at Advisors Asset Management, said in an interview Wednesday.

It doesn't look like the gulf between supply and demand will narrow much soon. Over the next month, there's about \$10.6 billion of new municipal debt sales scheduled so far, according to data compiled by Bloomberg. That's about \$14.3 billion less than the amount of cash bondholders will receive from debt that's being paid off, which they typically seek to reinvest.

### **Bloomberg Markets**

By Shruti Singh and Skylar Woodhouse

August 25, 2021

— *With assistance by Natalia Lenkiewicz*

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## **Municipal Bonds Are the Apple of Fixed Income Investors' Eyes.**

Fixed income investors can't get enough of municipal bonds, putting exchange traded funds (ETFs) like the Vanguard Tax-Exempt Bond ETF (VTEB) in focus.

Even in the current challenging rate environment, investors aren't thinking twice about picking up municipal bond exposure.

“The yield on the S&P Municipal Bond Index this summer fell below 1% for the first time since it was created in 1998,” a Wall Street Journal report said. “The index tracks returns on a selection of core municipal bonds from across the market and assumes any interest thrown off is reinvested. The yield in question—known as yield to worst—is the lowest rate the investor can expect to earn short of a default.”

“Still, investors can’t get enough of the bonds,” the article said, noting the high interest in munis. “Prices have surged even though outstanding muni debt has swelled by more than \$100 billion in the year ended March 31, according to Federal Reserve data. Cities and states could probably sell an additional \$89 billion in bonds without meaningfully driving down prices, according to an analysis of lending capacity by Municipal Market Analytics.”

Per the fund description, VTEB 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. This index includes municipal bonds from issuers that are primarily state or local governments, or agencies whose interests are exempt from U.S. federal income taxes and the federal alternative minimum tax (AMT).

### **What’s Driving Demand for Munis?**

One of the factors driving the strong demand for municipal bonds is their inherent tax advantages. That’s especially the case given the current U.S. presidential administration’s proclivity for raising taxes.

As such, getting tax-free income is a prime option to lower investors’ tax burdens. The other reason driving demand for munis is the relative stability of local government debt.

Local governments have been able to successfully stave off the effects of the pandemic, making municipal bonds a prime option for investors looking for a stable debt market.

“Meanwhile, many states, cities and counties have weathered the Covid-19 pandemic far better than expected, assuaging investor concerns that pandemic-related budget pressures could drive down the value of some local-government debt,” the Wall Street Journal article said. “Moody’s Investors Service raised its outlook on state and local governments to “stable” from “negative” in March, citing better-than-expected revenues and federal stimulus.”

ETF TRENDS

BEN HERNANDEZ

AUGUST 26, 2021

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## **[If You Bought Municipal Bonds a Long Time Ago, This Is a Great Time.](#)**

### **Prices surge, hurting yields for new investors, as Biden comments ignite tax-increase fears and local governments weather Covid-19**

Everyone wants state and local-government bonds. That’s a good thing if you already own muni debt, and a bad thing if you’re trying to get your hands on some.

The yield on the S&P Municipal Bond Index this summer fell below 1% for the first time since it was created in 1998. The index tracks returns on a selection of core municipal bonds from across the market and assumes any interest thrown off is reinvested. The yield in question—known as yield to worst—is the lowest rate the investor can expect to earn short of a default.

Still, investors can't get enough of the bonds. Prices have surged even though outstanding muni debt has swelled by more than \$100 billion in the year ended March 31, according to Federal Reserve data. Cities and states could probably sell an additional \$89 billion in bonds without meaningfully driving down prices, according to an analysis of lending capacity by Municipal Market Analytics. Bond yields rise as prices fall.

"If you're sitting on bonds that were issued three to five years ago I would ride it out," said Greg Zandlo, president of Minneapolis-based North East Asset Management. "It's absolute gold."

There are several factors driving the surging demand in munis.

Among them are concerns that President Biden and the Democratic-controlled Congress will raise taxes. Mr. Biden spoke about the possibility on the campaign trail; his comments have since made muni bonds and the tax-free income they provide more precious to many investors.

Meanwhile, many states, cities and counties have weathered the Covid-19 pandemic far better than expected, assuaging investor concerns that pandemic-related budget pressures could drive down the value of some local-government debt. Moody's Investors Service raised its outlook on state and local governments to "stable" from "negative" in March, citing better-than-expected revenues and federal stimulus.

The surge in muni prices comes at the same time demand is high across markets, driving up prices for homes, equities and a range of other assets.

The nearly unending demand is crushing returns for prospective investors who want to earn tax-free interest. Still, bondholders who got into the market years ago are sitting on hefty returns.

Minnesota local-government bonds that Mr. Zandlo bought for clients about a decade ago yielded more than 3% annually until they were paid off recently, he said. Bonds he bought in the past few years are now trading at 10% to 15% more than the price he paid.

An investor who bought the bonds reflected in the S&P Municipal Bond Index 10 years ago and reinvested the interest he earned would have seen his investment grow 50%, said Brian Luke, head of fixed-income at S&P Dow Jones Indices.

The stampede into munis has pushed yields even below previous lows in February 2020, when investors spooked by early reports about Covid-19 viewed munis as a haven and rushed in.

Though prices plummeted briefly the following month amid a multimarket liquidity crisis, the pandemic hasn't interrupted a decadelong slide in government borrowing costs. The median amount of annual interest state governments are paying as a percentage of their total outstanding debt fell to 3.4% in 2020 from 4.2% in 2010, according to preliminary data from Merritt Research Services.

Public officials have taken advantage, issuing \$186.5 billion in new debt this year through Aug. 18, a 35% increase from last year and the highest since at least 2007, according to data from Refinitiv.

When the Chicago suburb of Lincolnwood, Ill., sold \$9 million in bonds this month to pay for road and water-system improvements, officials expected to pay as much as 3%, said Finance Director

Denise Joseph. Four bidders competed for the debt, she said, and the village ultimately agreed to yields ranging from 0.2% to 2.16% for bonds with maturities ranging from one to 20 years, sale documents show.

“It was a nice surprise,” Ms. Joseph said.

Much of the competition for munis is coming from asset managers charged with deploying an unceasing stream of investor cash. From the start of the year through the end of July, investors poured a total of \$69 billion into municipal-bond mutual and exchange-traded funds, the most of any year since record-keeping began in 1992, according to data from Refinitiv Lipper.

In a recent New York City bond sale, institutional investors put in orders for about 70% more bonds than were available to them, allowing the city to slightly shave down interest costs, according to the city comptroller’s office.

“Every time a new deal comes to market, there’s this food fight from the institutional investors to grab as many bonds as they can get,” said Eric Friedland, director of municipal-bond research at asset manager Lord Abbett & Co.

## **The Wall Street Journal**

By Heather Gillers

Aug. 24, 2021

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### **[Flood of Cash Into Muni Bonds Drives ETFs to Record Year Already.](#)**

- **Muni-bond ETFs have pulled in \$14.5 billion year-to-date**
- **Investors have become more comfortable with muni ETFs**

Municipal-bond exchange-traded funds are attracting a record-breaking amount of cash in 2021 as investors get more comfortable with the investment tool and buyers flock to state and local debt.

The funds have pulled in \$14.5 billion year-to-date, more than last year’s total of \$14.4 billion, according to data compiled by Bloomberg. That’s the highest annual total on record since 2007.

Todd Rosenbluth, head of ETF and mutual fund research at CFRA Research, said the funds are benefiting from increasing investor familiarity with bond ETFs. “This is a continuation of the adoption of ETFs as more investors are getting comfortable using fixed-income ETFs,” he said.

The influx into the funds also comes as investors continue to flock to the market for state and local debt, which pays interest that’s tax free and offers a shelter for wealthy Americans worried about higher taxes.

Mutual funds focused on municipal securities have seen inflows for 25 straight weeks, with investors adding about \$1.87 billion to municipal-bond mutual funds during the week ended Wednesday, according to Refinitiv Lipper US Fund Flows data.

Within muni ETFs, the biggest, passively-run products continue to dominate inflows. The Vanguard Tax-Exempt Bond ETF, a \$13.9 billion fund that trades off the ticker VTEB, has seen \$3.5 billion of inflows this year, already an annual record for the fund and more than any other muni ETF tracked

by Bloomberg. It's also the cheapest muni ETF, with an expense ratio of just 0.06%.

Rosenbluth said buyers have continued to look to "extremely cheap" funds like VTEB that offer broad exposure to the municipal market. But he noted that the space is diversifying, with other funds starting to gain more sizable inflows.

For example, the nearly \$2.1 billion JPMorgan Ultra-Short Municipal Income ETF, which is actively run and launched in 2018, has seen \$941 million of inflows this year, the fourth-most of any muni ETF tracked by Bloomberg. And 40 of the 67 muni ETFs tracked by Bloomberg have more than \$100 million in assets, Bloomberg data show.

"I'm particularly encouraged to see the breadth of ETF products that are gaining meaningful traction," Rosenbluth said.

## **Bloomberg Markets**

By Amanda Albright

August 27, 2021, 9:38 AM PDT

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### **[Junk Munis Head for First Drop in Six Months on Slowing Demand.](#)**

- **Bloomberg Barclays high-yield index is down 0.09% this month**
- **Despite slowing inflows, Parametric not expecting outflows yet**

The riskiest debt in the \$4 trillion municipal-bond market is headed for its first monthly drop since February as the resurgence in Covid-19 cases in the U.S. increases uncertainty around the nation's economic recovery.

The Bloomberg Barclays High Yield Index, which includes debt from convention centers and airline-backed projects, is down 0.09% this month. Investor appetite for the riskiest state and local debt is showing signs of slowing as inflows into high-yield muni mutual funds have fallen in five of the past six weeks, according to Refinitiv Lipper US Fund Flows data. High-yield muni mutual funds saw a \$389 million inflow for the week through Aug. 18, the lowest in seven weeks.

"What caused the weakness is simply the Treasury yields rose a little bit and you have more uncertainty about the virus," Kathleen McNamara, senior municipal investment strategist at UBS Global Wealth Management, said in an interview. "Those two things weighed on the market. It was due to take a little bit of a breather."

High-yield munis have delivered outsized returns all year as the market rallied while yields on top-rated state and local debt stayed near record lows. Junk muni bonds surged as the U.S. economy reopened earlier this year and more Americans boarded planes, conventions restarted and office workers returned to high-rises thanks to the vaccine roll out. Now the resurgence of Covid-19 amid a slowdown in vaccinations and the emergence of the delta variant, is raising questions about the return to normal.

Last week, Nuveen said it plans to shut its high-yield municipal bond fund, the biggest focused on state and local government junk bonds, to new investors after the end of next month. The move follows a similar step by rival Invesco Ltd., which closed its \$11 billion high-yield muni fund to new

investors.

After five straight months of high-yield muni index returns topping 1%, “it’s not surprising to see some fatigue in August,” said Gabe Diederich, a portfolio manager for Robert W. Baird, which has \$9.6 billion in muni assets.

“The tailwind of improved fundamentals, cash inflows, reopening and potential tax hikes set up lower quality municipals for a strong performance run,” Diederich said. “In recent trading sessions, it does seem as though the market is looking for additional clues on economic openness as well as monetary and fiscal policy.”

Some high-yield bonds are seeing spreads widen from just two months ago. For example, the spread on 30-year bonds issued in March 2020 by Illinois’s Metropolitan Pier & Exposition Authority for the expansion of McCormick Place, the largest convention center in North America, was 55 basis points over benchmark on Aug. 16, compared to 46 basis points in June.

The decline in high-yield munis could be temporary, according to Nisha Patel, a portfolio manager at Parametric Portfolio Associates LLC. They are still the best performing class within fixed income. There’s the prospect for higher tax rates, which bodes well, and lots of cash waiting to be invested as supply of new debt has lagged demand, she said.

“Outside of economic data deterioration, I don’t see how we see massive outflows as of now,” Patel said.

“Investors are just taking some pause here,” Patel said. “Munis are having a hard time continuing to grind lower in spreads” because investors are starting to question if the income they are getting is worth the higher risk, she said.

## **Bloomberg Markets**

By Shruti Singh

August 23, 2021

— *With assistance by Martin Z Braun*

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## **[Senator Wyden Proposes Sweeping Housing Tax Credit Reforms.](#)**

**Senate Finance Committee Chairman Ron Wyden (D-OR) proposes sweeping changes to affordable housing in the US, including expansions and improvements to the Low Income Housing Tax Credit (LIHTC) program.**

On August 18, Senator Wyden released the [Decent Affordable, Safe Housing for All \(DASH\) Act](#), which implements sweeping reforms to affordable housing financing in an effort to combat homelessness and expand affordable housing access.

The legislation proposes to expand and improve the Low-Income Housing Tax Credit (LIHTC) program and make other fixes to the Housing Credit program. The bill also proposes reforms to local zoning and housing development practices, expands vouchers to combat homelessness, and includes a first-time homebuyer tax credit, a rental tax credit, and a Middle Income Housing Tax Credit.

As the chairman of the Senate Finance Committee, the bill represents a major show of support for affordable housing from a key Senate office. Specifically, Senator Wyden proposes a range of spending and tax policy reforms, including:

- Extending Housing Choice Vouchers to all families or individuals experiencing or at risk of homelessness
- Instituting reforms to local zoning and housing development practices
- Expanding and improving the Low-Income Housing Tax Credit;
- Repealing the qualified contract loophole;
- Modifying and clarifying the Section 42 nonprofit Right of First Refusal;
- Creating a tax credit for affordable housing supportive services;
- Establishing a Renter's Tax Credit;
- Creating a Middle Income Tax Credit; authorizing the Neighborhood Homes Investment Act; and
- Establishing a First-time Homebuyer Refundable Credit.

Combatting homelessness, expanding the supply of affordable housing (including through the Low-Income Housing Tax Credit program), expanding supportive services in affordable housing, and fixing the Right of First Refusal issue are key priorities for LeadingAge.

#### LOW-INCOME HOUSING TAX CREDIT PROGRAM: EXPANSION AND IMPROVEMENTS

The legislation also includes the Emergency Affordable Housing Act, which would strengthen the Low-Income Housing Tax Credit by preserving and protecting existing LIHTC properties, expanding production of affordable housing, and extending housing to people who earn extremely low incomes. Some of the main provisions of the EAHA would expand the 9% housing tax credit by 50% to house more families; provide a 50% basis boost to projects that prioritize extremely low-income renters; expand the 4% credit for rural areas; reduce the tax-exempt bond financing threshold for 4% credit projects from 50% to 25% for three years; and preserve tens of thousands of affordable housing units by closing a loophole. The EAHA is projected to produce nearly 1 million new affordable housing units over the next 10 years.

Some portions of the bill are expected to move through the Reconciliation process currently underway in Congress. LeadingAge supports key provisions of the bill and will work with the Senate office to advance the legislation.

AUGUST 18, 2021 | BY JULIANA BILOWICH

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### **[Capital Analysis of the Proposed Middle-Income Housing Tax Credit.](#)**

Novogradac conducted capital analysis at the request of Senate Finance Committee Chairman Ron Wyden that looks at the effect of enacting the proposed middle-income housing tax credit (MIHTC) on financing affordable rental housing for households earning just above the low-income housing tax credit (LIHTC) income limits. In addition to a pool of tax credit authority allocated to states, this analysis also examines the potential of a separate pool of tax credits that would be generated by the allocation of tax-exempt private activity bonds (PABs) and could be used in conjunction with the 4% LIHTC.

#### **Reducing the Need for Soft Financing**

“Soft” subsidies are funds and grants that are available from government sources or other lenders used to fill the financing gap between what is needed to develop the property and what the property

can receive in equity and supportable debt. This free report examines how enacting a MIHTC, to be used with LIHTC and PABs, would enable developers to finance properties in a variety of markets with less additional soft financing to fill the financing gaps, making it easier to address the severe affordable rental housing shortage in the United States.

### **Increasing the Amount of Affordable Housing**

The proposed tax credit is intended to significantly jump-start affordable rental housing financing and reduce the tremendous deficit in the supply of affordable rental housing for more renters earning a little more than the traditional LIHTC income-targeting threshold nationwide.

[Download the report.](#)

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## **[How to Explain Pension Obligation Bonds to Your Governing Board: Orrick On-Demand Webinar](#)**

### **On-Demand Webinar | August 26, 2021 | 2pm - 3pm (Eastern Daylight Time)**

Panelists on this Web Seminar will discuss and analyze the issuance of pension obligation bonds from the decision-making perspective of an issuer, sharing examples of principal considerations that an issuer's finance managers and governing board members are called to consider prior to moving forward with a pension obligation bond (POB) issuance:

- How and why to consider the refunding of unfunded pension liabilities with POBs?
- What market conditions make POBs one tool to combat rising pension costs?
- What is needed (board study sessions, policies, etc.) to responsibly move forward with a POB issuance?
- How much unfunded pension liability should an issuer consider refunding with POBs?
- What happens if conditions (stock market, actuarial assumptions, etc.) change after POBs are issued?

Donald Field, a partner with Orrick, Herrington & Sutcliffe LLP, will lead an experienced panel through these and other critical questions. The focus of the panel will be to share recent market experience with issuers considering POBs, particularly governing board members and those who might be tasked with presenting for governing board consideration the how's and why's of POBs as an effective tool to address rising pension costs, and the development of pension funding policies for best financial practices.

#### **Key Presenters:**

##### **Donald Field**

Partner, Orrick  
(Moderator)

##### **Oliver Chi**

City Manager, City of Huntington Beach  
(Speaker)

##### **Mark Young**

Managing Director, KNN Public Finance  
(Speaker)

**John Kim**

Managing Director & Executive Committee Member, Stifel  
(Speaker)

**Kevin Hale**

Counsel, Orrick  
(Speaker)

**Mike Perkowski**

Co-Founder and Partner, New Reality Media, LLC  
(Bond Buyer Moderator)

[Click here](#) to watch the webinar.

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## **[Underwriter Settles SEC Charges for Failing to Disclose Conflicts: Cadwalader](#)**

An Arkansas-based broker-dealer and its former CEO [settled SEC charges](#) for fair dealing violations arising from a municipal bond tender offer.

In separate orders, the SEC found that, at the instruction of the former CEO, the broker-dealer recommended to a West Virginia county that it (i) effect a tender offer for bonds issued in 2006 in order to decrease its outstanding debt service expense, (ii) offer to purchase the outstanding bonds from the bondholders and (iii) bankroll the purchase of the bonds by selling new bonds with a lower interest rate that the broker-dealer would underwrite. According to the SEC's findings, the broker-dealer and its former CEO failed to disclose to the county when making those recommendations that it and its affiliates had recently purchased and sold a significant amount of the bonds that were the subject of the tender offer, which bonds were then sold back to the county at a significant profit.

As a result of its findings, the SEC determined that (i) the broker-dealer and its former CEO violated MSRB Rules G-17 ("Conduct of Municipal Securities and Municipal Advisory Activities") and G-27 ("Supervision") and (ii) the former CEO caused the broker-dealer to violate Section 15B(c)(1) ("Discipline of municipal securities dealers; censure; suspension or revocation of registration; other sanctions; investigations") of the Exchange Act.

To settle the charges, the broker-dealer and former CEO each agreed to (i) a censure, (ii) cease and desist from future violations, (iii) pay \$44,072 and \$46,481 in disgorgement and prejudgment interest, respectively, and (iv) pay \$200,000 and \$100,000 in civil money penalties, respectively. In addition, the former CEO agreed to "certain undertakings and limitations on activities."

**Cadwalader Wickersham & Taft LLP**

August 26 2021

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## **[Legislative Path Forward for Key Muni Legislation.](#)**

Yesterday, the House advanced the \$3.5 trillion budget reconciliation framework, a legislative vehicle to be used for additional infrastructure spending after weeks of back-and-forth between a

small caucus of Democratic moderates and House Leadership. The group pushed for a vote on the Senate bipartisan infrastructure package before advancing the budget framework, however, conceded, pushing the vote to September 27th setting up what will likely be a legislative battle through the fall.

With multiple infrastructure packages moving through Congress in the coming months, below is a primer on the status of key municipal bond legislation and prospects for each spending package:

### **Bipartisan Infrastructure Package**

Earlier this month, the Senate passed a \$1 trillion infrastructure spending package that includes nearly \$600 billion in new funding. While a new direct-pay bond was originally included in the Senate outline, the American Infrastructure Bond was removed from the package due to a lack of offsets and the inability to reach a consensus on reimbursement rates. **While light on key municipal provisions, the bill relies heavily on the usage of PABs, including:**

- **The package would allow states to issue PABs to finance broadband deployment, specifically for projects in rural areas where a majority of households do not have access to broadband;**
- **Permit carbon capture and direct air capture (DAC) technologies to be eligible for PAB financing. These bonds would be 75 % exempt from the volume cap;**
- **The bill increases the current cap of tax-exempt highway or surface freight transfer facility bonds from \$15 billion to \$30 billion as proposed by the bipartisan BUILD Act (S.881). Currently, \$14,989,529,000 billion of the \$15 billion cap has been issued or allocated.**

As part of the House negotiations this week, the legislation will be brought to the House floor by September 27th, and will almost certainly become law shortly thereafter setting the stage for the budget reconciliation package that will include additional infrastructure spending, possibly including munis, following through on the Biden Build Back Better Agenda.

### **Infrastructure Focused Budget Reconciliation**

Following the passage of the bipartisan package, the Senate turned its attention to the next phase of infrastructure spending, a robust budget reconciliation outline that provides the ability for an additional \$3.5 trillion of federal spending. While initial policy details are light by design, through discussions with key Hill and Administration staff, the MBFA and BDA believe that municipals will receive consideration in the tax title of this potential package, with House Ways and Means Chairman Richie Neal (D-MA) a key ally for the municipal bond industry, helping to guide the path.

**We remain focused on the municipal provisions included in the LIFT Act which was introduced earlier this year by House Ways and Means Member Terri Sewell (D-AL). This package includes:**

- **The reinstatement of tax-exempt advance refundings,**
- **Raise the BQ debt limit, and**
- **Creation of a new direct-pay bond exempt from sequestration.**

While we believe municipals will play a role in this package, the road towards passage will likely be narrow. Senate and House moderates have pushed back at the \$3.5 trillion price tag, so we expect that to come down substantially for passage. We remain focused on the LIFT Act provisions as they have support in both Chambers and remain a common-sense infrastructure solution at a low cost to

the Federal government.

The MBFA and BDA will continue to provide updates as they become available.

## **Bond Dealers of America**

August 25, 2021

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### **[BDA's Fixed Income Leadership Three-Part Webinar Series is NEXT WEEK.](#)**

**September 9-10, 2021**

**Thursday, September 9**

Time - TBD

#### **Corporate Market Structure, New Technologies, and Liquidity Providers**

The conversation will focus on the evolution of electronic trading since the pandemic began, trading protocol usage, the role of non-bank liquidity providers, and what to watch in the coming year.

- Kevin McPartland, Coalition Greenwich
- David Parker, MTS Markets
- Jim DiMonte, KeyBanc Capital Markets

**Friday, September 10**

10:00 am ET

#### **Bond Market Regulation - 4210, G13, 15c2-11, Muni Advisor Rule, Corporate Syndicate Rule, Remote Work**

Hear from senior staff of the SEC, FINRA, and MSRB on hot topics in fixed income regulation, compliance, and enforcement. We will examine issues like FINRA's margin rule, MSRB Rule G-13 and the recent related compliance case, SEC Rule 15c2-11, and other key topics. Dan Deaton, partner at BDA member firm Nixon Peabody, will provide commentary.

- Rebecca Olsen, SEC
- Cindy Friedlander, FINRA
- Gail Marshall, MSRB
- Dan Deaton, Nixon Peabody
- Moderated by Michael Decker, BDA

**Friday, September 10**

11:00 am ET

#### **Municipal Markets 2021 - Credit Conditions and Issuance Expectations, plus What to Expect from Washington, DC**

We will look into current credit conditions and issuance expectations as localities continue to recover from the COVID-19 pandemic and what we can expect for the remainder of the year. The discussion will also provide a legislative update and the current status of key muni legislation in DC.

- Tom Kozlik, HilltopSecurities
- Stephen Winterstein, MarketAxess

- Brett Bolton, BDA

### **Registration Fees**

\*For full series of all three webinars

Single User - \$95

Firm Enterprise Fee (up to 50 weblinks per firm) - \$300

[Click here](#) to register.

Please contact Rebecca Cooke-Rodriguez if you would like to change your registration at [rcrodriguez@bdamerica.org](mailto:rcrodriguez@bdamerica.org)

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## **SEC Fines Firm and Ex-CEO for Failing to Disclose Conflict of Interest.**

Arkansas-based Crews & Associates has agreed to pay more than \$200,000 and its former CEO more than \$100,000 to settle Securities and Exchange Commission charges they violated fair dealing and supervision rules by failing to disclose the firm's relationship with an affiliate that profited from business the firm did with a West Virginia county.

The SEC announced the settled administrative proceedings against the firm and former CEO Rush Harding III Thursday, a significant enforcement action that is only the third muni case of 2021 following a busy 2020 for the Public Finance Abuse Unit.

The charges stem from Crews' October 2015 recommendation that Ohio County, West Virginia, reduce its debt burden through a tender offer for bonds it had issued in 2006.

The SEC said that following the discussions of the tender offer, Crews, with Harding's approval, purchased millions of dollars of the county's outstanding bonds and sold them to an entity affiliated with Crews and to Crews' customers. Almost all of the bonds Crews acquired were eventually sold to its affiliate and tendered back to the county at a price that Crews had recommended, resulting in a net profit to the affiliate.

"In municipal bond offerings, underwriters must fully disclose to issuers their financial interests in the deal," said LeeAnn G. Gaunt, chief of the Enforcement Division's Public Finance Abuse Unit. "Failure to do so is a violation of their obligation to deal fairly with issuers."

Both Crews and Harding agreed to the settlements without either admitting or denying the SEC's findings.

The 2006 bonds, maturing in 2035 and bearing interest at 8.25%, contained a make-whole call provision that rendered calling them cost-prohibitive, and an ordinary refunding or advance refunding impractical, the SEC said. Crews had a business relationship with the county since 2007, and had underwritten nine bond offerings for it.

According to the SEC, Crews recommended that the county offer to pay bondholders a price higher than the current market price of its outstanding bonds to incentivize bondholders to tender their bonds. Crews also recommended that the county fund its purchase of those previously issued bonds through the sale of new, lower interest rate bonds, which Crews would underwrite. When Crews made these recommendations, the SEC found, the firm did not disclose to the county that Crews had

recently acquired more than \$1 million of the county's outstanding bonds at market prices and then sold them to two customers.

In the months following the initial discussions of the tender offer, the SEC alleged, as Crews and the county finalized the terms of the proposed transaction, Crews purchased some \$4.8 million more of the county's outstanding bonds at market prices and sold them to an affiliated entity and to Crews' customers. Almost all of the bonds Crews acquired were eventually sold to the affiliate and tendered back to the county by the affiliate at a price that Crews had recommended. Crews did not disclose to the county that the affiliate had acquired bonds to be tendered, or the resulting conflict of interest created by the affiliate's financial interest in the tender offer, the SEC said.

The county authorized the issuance of \$10 million of new municipal bonds to fund its purchase of the 2006 bonds. In January 2016, the notice of tender was publicly posted, with the maximum acceptable price set at 110% of par.

Crews then continued to buy 2006 bonds from third parties and from Crews customers at market prices, in some cases mark them up, and selling them to the affiliate, the SEC said.

By the time of the tender date, Crews had purchased \$5.9 million in principal value of the bonds on behalf of its affiliate. On the tender date of Feb. 16, 2016, the affiliate offered to tender all of these bonds to the county's tender agent at the maximum acceptable price. Since the county did not receive a sufficient number of tender offers at prices lower than the maximum acceptable price, the county accepted the offer of the affiliate.

In all, the SEC found, the affiliate tendered 71% of all 2006 bonds that were tendered to the county. The deal did save the county money, the SEC found.

But as a result of the markups it charged on its transactions with its customers and the affiliate, Crews made a net profit of \$34,631. The affiliate made a net profit of \$27,153 as a result of its purchases of the bonds from Crews and its tender of those same bonds to the county.

MSRB Rule G-17 requires broker-dealers to deal fairly with all market participants, which the SEC said the firm violated by failing to make the county aware of the secondary market transactions going on. MSRB Rule G-27 requires that firms have in place a supervisory system reasonably designed to ensure compliance with all applicable securities laws and rules, but the SEC found that Crews' system provided no means of accountability and so the transactions were not reviewed as they should have been.

By violating these rules, the SEC found, Crews violated Section 15B(c)(1) of the Securities Exchange Act, which prohibits dealers from using the mail or "any means or instrumentality of interstate commerce" to execute municipal securities transactions in violation of any MSRB rule.

Crews agreed to pay a civil penalty of \$200,000 and disgorgement of \$34,631 and prejudgment interest of \$9,441. The SEC said Crews has already taken steps to correct the supervisory problems that led to the action.

"Crews and Associates is pleased to resolve this matter and is now looking to the future," said Paul Maco, a Bracewell attorney who represented the firm. Maco said the firm is devoting its full attention to serving its customers and growing its business.

Harding agreed to pay a \$100,000 penalty and disgorgement of \$36,524 and prejudgment interest of \$9,957. Harding, who is still a registered broker, may not participate in new issues or tender offers for 12 months. An attorney for Harding did not respond to a request for comment.

By Kyle Glazier

BY SOURCEMEDIA | MUNICIPAL | 08/26/21 12:45 PM EDT

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## **[Chicago Gambled on Federal Stimulus and Will Now Use \\$500 million to Pay Off Short-Term Borrowing.](#)**

**‘This fits the spirit of the American Rescue Plan,’ one analyst says, even as she finds the opacity troubling**

Savvy cash management, or creative bookkeeping?

The city of Chicago recently announced plans to use funds from the federal American Rescue Plan stimulus to pay down about \$500 million in short-term debt it took out in December. The step received scant attention until a public-finance expert published a [blog post](#) on the subject in August.

As Amanda Kass, associate director for the Chicago-based Government Finance Research Center, makes clear, the move isn’t improper — but she thinks it isn’t a prudent selection among possible steps, either. At best, Kass sees it as a financial Hail Mary that will probably work out for the city at the expense of transparency and public engagement.

Here’s what happened. Last November, facing a near \$800 million fiscal 2020 budget deficit, due mostly to the pandemic, city managers decided to take on \$450 million in short-term debt, plus interest. City managers reached out to several banks and found JPMorgan Chase & Co. offered the best rate. The deal was finalized in December.

[Continue reading.](#)

### **MarketWatch**

By Andrea Riquier

Aug. 27, 2021

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## **[August Issue of GFOA's Government Finance Review.](#)**

[This month’s issue](#) of *Government Finance Review* puts a spotlight on state banks. Are state banks a useful economic development tool with future promise?

Other topics from the magazine include budgeting bias, strengthening risk management, a spotlight on GFOA scholarship recipients, and more.

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## **[Financial Accounting Foundation Trustees Announce Appointment of New Chair of the Governmental Accounting Standards Advisory Council \(GASAC\)](#)**

**Norwalk, CT—August 24, 2021** — The Board of Trustees of the Financial Accounting Foundation (FAF) announced today the appointment of Elizabeth (Beth) Pearce as Chair of the Governmental Accounting Standards Advisory Council (GASAC). Ms. Pearce’s term will begin January 1, 2022.

Ms. Pearce currently serves as the Treasurer for the State of Vermont. She is the state’s banker and investment officer. In her role, she manages short and long-term debt, the administration of three retirement systems, unclaimed property funds, and plays an advisory role to state policy makers.

The GASAC advises the Governmental Accounting Standards Board (GASB) on strategic and technical issues, project priorities, and other matters that affect standard setting. The GASAC provides the GASB with diverse perspectives from individuals with varied governmental, professional, and occupational backgrounds.

The FAF Board of Trustees appointed Ms. Pearce as a member of the GASAC, nominated by the National Association of State Treasurers, beginning January 1, 2021. She will succeed Mr. Robert W. Scott, who joined the GASAC in 2011 and became Chair in 2015.

“It is a pleasure to welcome Beth Pearce as our new GASAC Chair. She will play an important role in the GASB process,” said Kathleen L. Casey, Chair of the FAF Board of Trustees. “We would also like to thank our departing Chair, Robert Scott, for his time, expertise, and the contributions he made to the standard-setting process,” she added.

For a complete list of current Council members, visit the GASAC webpage.

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- **Ed. Note:** It’s happened yet again; the annual summer doldrums (See, [Coleridge, Samuel Taylor](#)) in which not much of anything seems to be happening. Going a month or so without providing you with substantive content used to stress us out, until we arrived at the Zen-like tranquility resulting from the awareness that we routinely – and gleefully – fail to provide you with any substantive content whatsoever for 12 months of the year.
  - [SIFMA State-by-State Capital Markets Database.](#)
  - [Muni Buyers Grab Billions in Bonds They Won’t See for Months.](#)
  - [Treasury Guidance on Non-Entitlement Units is Now Available.](#)
  - [Muni Feeding Frenzy Seen Lasting as New Sales Lag Investor Cash.](#)
  - [S&P: Could The Western U.S. Drought Threaten Municipal Credit Stability?](#)
  - [Important Ohio Supreme Court Decision Clarifies Proper Method to Value “Big Box Stores.”](#)
  - And finally, [I’m Not Sure That I Agree With You 100% On Your Police Work, Lou](#) is brought to us this week by [Gonzalez by Gonzalez v. City of Jersey City](#), in which police officers were dispatched to a single-car accident on a Jersey City bridge. Upon arrival they encountered Hiram Gonzalez (a name we can make absolutely no sense of) standing by his wrecked truck and offered him a ride to a nearby gas station while he waited for assistance. Mr. Gonzalez declined, stating, “I am not riding with no Jersey City cops.” Such a charmer, Hiram. Hiram was subsequently struck and killed on the bridge. When the autopsy revealed a BAC of .226%, and eyebrow or two was raised. But, really, what did the cops have to go on other than the symptoms of intoxication resulting from a .226, (“The toxicologist concluded that Gonzalez would have been ‘markedly intoxicated’ when speaking with the police.”), a single-vehicle spinout at 3:24 on a Saturday morning, and the fact that, “Earlier in the evening, Gonzalez had posted pictures of alcoholic drinks on his social media, and an opened bottle of Hennessy was found in his truck after the accident.” I mean, who could have known? Oh, on the advice of counsel and effective immediately, the BCB offices will be relocating to Jersey City, New Jersey. No particular reason.

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## **BROWN ACT - CALIFORNIA**

### **[Daly v. San Bernardino County Board of Supervisors](#)**

**Supreme Court of California - August 9, 2021 - P.3d - 2021 WL 3482924 - 21 Cal. Daily Op. Serv. 8047**

Disappointed applicant for seat on Board of Supervisors and civic organization filed petition for writ of mandate, naming county Board of Supervisors and members who had participated in appointment of Board member, with appointed member as real party in interest, seeking judicial determination that initial nomination process violated Brown Act.

The Superior Court granted mandate petition. Board and appointed member appealed. The Court of Appeal denied writ of supersedeas effectuating such automatic stay of enforcement pending Board and appointed member's appeal on the merits. Board and appointed member filed joint petition for review asking whether superior court's order should have been automatically stayed as mandatory injunction. Petition for review by Board and appointed member was granted, and judgment and further proceedings below were stayed pending further order.

The Supreme Court held that:

- Superior court order was subject to automatic stay of enforcement pending Board and appointee's appeal on merits, and Board and appointee were entitled to writ of supersedeas effectuating such stay, and
- Quo warranto was available remedy for appointed member of county Board of Supervisors to be immediately excluded from office on claim that nomination process violated Brown Act.

On petition for writ of mandate seeking judicial determination that initial process to nominate applicant for county Board of supervisors position violated Brown Act, superior court order requiring Board to rescind its appointment of applicant as supervisor and instead to seat appointee named by Governor was subject to automatic stay of enforcement pending Board and appointee's appeal on merits, and Board and appointee were entitled to writ of supersedeas effectuating such stay, since requirement to remove appointee from supervisor position and seat Governor's replacement plausibly could not be described as merely incidental to other aspects of order.

Quo warranto was available remedy for appointed member of county Board of Supervisors to be immediately excluded from office on claim that nomination process violated Brown Act

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## **BALLOT INITIATIVE - MAINE**

### **[Caiazzo v. Secretary of State](#)**

**Supreme Judicial Court of Maine - July 29, 2021 - A.3d - 2021 WL 3197177 - 2021 ME 42**

Voter brought action to challenge Secretary of State's decision to draft a single ballot question for direct initiative regarding transmission lines.

The Superior Court affirmed, and voter appealed.

The Supreme Judicial Court held that Secretary of State appropriately exercised her discretion when deciding to draft single ballot question.

Supreme Judicial Court of Maine holds that Secretary of State appropriately exercised her discretion when deciding to draft single ballot question for direct initiative proposing “An Act To Require Legislative Approval of Certain Transmission Lines, Require Legislative Approval of Certain Transmission Lines and Facilities and Other Projects on Public Reserved Lands and Prohibit the Construction of Certain Transmission Lines in the Upper Kennebec Region,” as initiated bill presented a set of amendments aimed at a stated, but compound, purpose.

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## **MUNICIPAL CONTRACTS - MARYLAND**

### **[Town of Riverdale Park v. Ashkar](#)**

**Court of Appeals of Maryland - July 15, 2021 - A.3d - 2021 WL 2965001**

Palestinian-American principal of towing company brought action against municipality and its personnel, claiming malicious prosecution and intentional discrimination on basis of national origin after he was denied municipal towing contract.

The Circuit Court granted judgment for municipality. Principal appealed. The Court of Special Appeals affirmed in part and reversed in part. Municipality’s petition for writ of certiorari was granted.

The Court of Appeals held that:

- Argument that had not been advanced in motion for judgment could not be considered on review judgment notwithstanding verdict;
- All that Palestinian-American had to show, as member of protected class, to establish prima facie case of discrimination was that he was qualified, but despite those qualifications, his application for tow contract was rejected, and given to somebody else;
- Membership on tow list provided legally sufficient and nondiscriminatory reason for why other towing company may have been preferred over towing company owned by Palestinian-American that had lapsed membership;
- Palestinian-American presented sufficient evidence that discrimination against his national origin motivated employment decision by municipality;
- National origin discrimination from police department officers reasonably could be imputed to municipality;
- Evidence was sufficient for jury to find that municipality’s use of law enforcement list of member towing companies as nondiscriminatory reason for decision to not select Palestinian-American’s towing company for towing contract was not worthy of credence; and
- Circuit court’s failure to decide whether to grant motion for new trial if judgment was later reversed on appeal required remand.

Palestinian-American presented sufficient evidence that discrimination against his national origin motivated employment decision by municipality to choose other towing company over his towing company for towing contract, where, among other things, claimant was called “camel jockey” by lieutenant colonel on two separate occasions, at least two more indications of discriminatory animus by police department were directed against claimant based on his national origin, police department, and specifically lieutenant colonel, was most important voice in denying claimant’s bid for employment, contract was given to other towing company on basis that it was on law enforcement towing list but list was never mentioned as necessary qualification prior to granting contract, and municipality passed resolution preferring local vendors, claimant’s company was local vendor, and other towing company was not.

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## **MUNICIPAL CORPORATIONS - NEVADA**

### **[Endo Health Solutions, Inc. v. Second Judicial District Court of State in and for County of Washoe](#)**

**Supreme Court of Nevada - July 29, 2021 - P.3d - 2021 WL 3266732 - 137 Nev. Adv. Op. 39**

City brought tort action against manufacturers and distributors of prescription opioid medications to recover damages as a result of the opioid epidemic allegedly caused by defendants, and alleging public nuisance, common law public nuisance, negligence, and unjust enrichment.

The District Court denied in part defendants' motion to dismiss. Defendants petitioned for writ of mandamus.

The Supreme Court held that District Court's failure to strictly apply statutory definition of "matter of local concern" as set forth in modified Dillon's Rule warranted writ of mandamus.

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## **IMMUNITY - NEW JERSEY**

### **[Gonzalez by Gonzalez v. City of Jersey City](#)**

**Supreme Court of New Jersey - August 4, 2021 - A.3d - 2021 WL 3376907**

Estate brought negligence action against police officers, city, and police department, arising out of motorist's death from being struck by a car on a highway bridge where officers allegedly left him after responding to his one-vehicle accident that left his vehicle inoperable.

The Superior Court granted summary judgment in favor of defendants. Estate appealed. The Superior Court reversed. Defendants' petition for certification was granted.

The Supreme Court held that:

- Officers' actions did not implicate the Good Samaritan Act;
- Immunity for acting under statute requiring removal of an incapacitated person from public place to a treatment center did not apply;
- Fact issues precluded summary judgment; and
- Neither immunity for failure to enforce a law nor immunity for good-faith enforcement of a law applied.

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## **PUBLIC INTEREST PRIVILEGE - NEW YORK**

### **[Comptroller of City of New York v. City of New York](#)**

**Supreme Court, Appellate Division, First Department, New York - August 12, 2021 - N.Y.S.3d - 2021 WL 3555807 - 2021 N.Y. Slip Op. 04685**

Comptroller brought proceeding against city for an order compelling city to fully comply with subpoena comptroller issued after city failed to produce documents requested by comptroller in investigation under city charter regarding city's preparation, planning, and response to the COVID-19 pandemic.

City filed cross petition seeking an order dismissing proceeding and quashing, modifying, or fixing

conditions on city's compliance with subpoena. The Supreme Court, New York County, granted in part and denied in part the petition and cross petition, ordering city to comply with the request for documents but quashing the request for documents relating to communications involving mayor or first deputy mayor, and denying city's request in cross petition to quash testimonial subpoenas.

The Supreme Court, Appellate Division, held that:

- Comptroller's investigation did not exceed his authority under city charter, and
- Public interest in protecting mayor's and first deputy mayor's predecisional and deliberative communications outweighed public interest in allowing comptroller to review and possibly publish those communications as part of his investigation, and thus, public interest privilege applied to such communications.

Comptroller's investigation into city's preparation, planning, and response to the COVID-19 pandemic did not exceed his authority under city charter; charter gave comptroller power to audit and investigate all matters relating to or affecting the finances of the city and to issue subpoenas, and although investigation into city's pandemic response was not strictly targeted to finding out how the response affected city finances, charter provided comptroller with broad investigative authority of matters that affected city finances and did not strictly limit investigations to only fiscal matters, and investigation addressed the impact of the city's response to the pandemic on the city's finances.

The public interest in protecting the mayor's and first deputy mayor's predecisional and deliberative communications outweighed the public interest in allowing comptroller to review and possibly publish those communications as part of his investigation into city's response to COVID-19 pandemic, and thus, public interest privilege applied to such communications; given the ongoing threat of the pandemic, mayor and leadership team needed access to information and advice from all sources, which required that the sources had some assurance that their advice would remain confidential and free from fear of reprisal, and public disclosure of confidential communications could chill future deliberations about pressing matters, potentially to the public's harm.

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## **MUNICIPAL ORDINANCE - WASHINGTON**

### **[City of Seattle v. Long](#)**

**Supreme Court of Washington - August 12, 2021 - P.3d - 2021 WL 3556950**

Truck owner sought review of municipal court order requiring him to reimburse city \$547.12 for impoundment costs via payment plan of \$50 per month, for truck that served as owner's home and that was impounded for violation of city's 72-hour parking ordinance.

The Superior Court affirmed in part and reversed part. City petitioned for discretionary review, and owner cross-petitioned. The Court of Appeals affirmed in part and reversed in part. Parties sought further review.

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

- Truck automatically qualified as a homestead;
- Homestead claim was premature;
- Impoundment did not violate state constitutional provision protecting against unwarranted government intrusions into private affairs;
- Impoundment and associated costs were partially punitive and thus constituted fines;
- A court considering whether a fine is constitutionally excessive should consider a person's ability

to pay; and

- Payment plan as imposed violated excessive fines clause.

Truck that served as owner's home and that was impounded by city for parking infraction automatically qualified as a homestead without need for owner to file a declaration.

Truck owner's homestead claim seeking shield against attachment, execution, or forced sale of his truck that served as his home and that was impounded by city for parking infraction was premature, where city did not seek to collect on owner's debt in the form of impoundment costs for which magistrate set up payment plan to reimburse city.

City's impoundment of truck for parking infraction and \$547.12 payment plan of \$50 per month for impoundment costs were unconstitutionally excessive for truck owner who used truck as residence, where nature of offense was a civil parking infraction that carried a \$44 fine, city suspended enforcement of the 72-hour parking violation during COVID-19 pandemic signaling that city viewed violation as a relatively minor offense, there was no evidence that the infraction was related to any other criminal activity, truck was not parked in residential area or area of hot demand for city vehicles, owner made at most \$700 per month, owner was attempting to save for apartment to move himself out of homelessness, and owner could not access his tools for work as general tradesman during impoundment.

Impoundment of truck for parking infraction after city posted notice of violation of 72-hour parking ordinance did not violate state constitutional provision protecting against unwarranted government intrusions into private affairs, where truck owner told officers his truck was in need of repairs and could not be driven, even though owner used truck as his home and did not have access to it for 21 days.

Impoundment and associated costs for truck that had a parking infraction were partially punitive and thus constituted fines under excessive fines clause, even though owner retrieved truck and costs were intended to reimburse city for towing and storage fees, where costs were imposed only as a result of the impoundment, which city code characterized as a penalty.

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## **[SIFMA State-by-State Capital Markets Database.](#)**

Explore the companies and municipalities accessing capital markets to drive economic growth in this state-by-state database.

[View the SIFMA database.](#)

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## **[This Week in Federal Funding.](#)**

**In the latest edition, we talk with Shamiah Kerney, director of Baltimore's new Office of Recovery Programs. Also, updates from St. Louis, Hoboken, N.J., and Memphis.**

[Continue reading.](#)

by BILL LUCIA

AUGUST 17, 2021

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## **[Billions From Biden Aid Plan Left Untapped by Cash-Flush States.](#)**

**At least 10 states haven't spent any of the aid from the American Rescue Plan legislation as officials grapple with how to use the unprecedented federal relief that Congress approved almost six months ago.**

Tens of billions of dollars that U.S. states got as a lifeline from the Biden administration is sitting idle in local coffers already flush with cash.

Michigan has budgeted just 7% of its \$6.5 billion allocation and hadn't spent any as of last week. South Dakota officials haven't even gotten around to asking for their \$974 million allotted under the White House's American Rescue Plan legislation. In West Virginia, a state website says detailed plans for its \$1.35 billion are "COMING SOON."

Officials nationwide are grappling with how to spend an unprecedented infusion at a time when their coffers have been replenished by a rebounding economy that in many cases is generating billions more in tax revenue than budgeted for.

[Continue reading.](#)

### **Bloomberg CityLab**

By Amanda Albright and Danielle Moran

August 17, 2021, 6:54 AM MDT

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## **[S&P: Could The Western U.S. Drought Threaten Municipal Credit Stability?](#)**

### **Key Takeaways**

- Water supply challenges could create credit pressure for municipal utilities, irrigation districts, and local governments resulting from either a materially unfavorable shift in cost or if the service area economy stagnates due to insufficient supply.
- Managing water demand, procuring drought-resistant supply, and maintaining storage will be critical to managing fluctuations in hydrology. Issuers with prudent rate structures and strong balance sheets will be best positioned to absorb disruptions in operations or revenue collections from hydrological variability.
- Drought-related credit pressures for local governments include potential limits on economic growth, heat waves that require assistance for residents, and climate change-induced hydrological volatility that weakens levees and leads to flash flooding and mudslides.
- Extreme hydrological variability has been a pervasive challenge across the West. As droughts become more prolonged or expansive, there could be credit pressure. We expect well-defined climate adaptation policies, credible long-range resource plans, and achievable supply and demand management strategies will support stable credit quality. Many of these plans will be part of

issuers' ESG planning as they address what could become the "new normal" across the West.

[Continue reading.](#) (Registration required.)

18 Aug, 2021

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## **S&P: Ten U.S. Cities Successfully Weathering The Pandemic Thanks To Strong Management, Federal Support**

### **Key Takeaways**

- Although COVID-19 had a significant effect on major U.S. cities, strong management conditions and considerable federal support prevented credit deterioration.
- The sudden stop recession was shorter, and the economic rebound stronger, than anticipated, leading to more robust revenue for local governments than originally expected.
- Unprecedented federal relief was a lifeline and abated liquidity pressure.
- Current challenges for big cities include the delta variant, changing work/school patterns, and an uptick in violent crime.

[Continue reading.](#) (Registration required.)

19 Aug, 2021

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## **Transit Leaders See New Federal Money as a Bridge, Not the End of the Line.**

**Bus, subway and local rail systems nearly shut down when the pandemic first struck. Now they're trying to find a new way forward.**

Congress pulled public transit agencies from the brink of financial collapse during the darkest days of the pandemic, and it is getting closer to helping them upgrade their physical assets too. But that doesn't mean the agencies running buses and trains are in the clear yet.

The actual impact could vary greatly from one agency to the next, but overall, the industry is still worried about whether ridership will return to pre-pandemic levels.

Recent estimates show that ridership levels are now about 58 percent of what they were before the pandemic. Many agencies hope to see that number climb as offices reopen after Labor Day. If not, agencies may have to change the services they offer, make spending cuts or find new sources of funding to make up the difference.

[Continue reading.](#)

ROUTE FIFTY

by DANIEL C. VOCK

AUGUST 21, 2021

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## **[S&P Credit FAQ: Global Not-For-Profit Transportation Criteria Implementation Results Show How Operational Risk And Tax Support Influence Ratings](#)**

### **Key Takeaways**

- The implementation of S&P Global Ratings' updated not-for-profit transportation infrastructure enterprise (TIE) criteria resulted in 22 rating actions (15 upgrades and seven downgrades) where the TIE criteria were the primary criteria applied; and four priority-lien rating upgrades where the updated TIE criteria were used to determine the obligor's creditworthiness for 32 priority-lien ratings of 21 different mass transit obligors that issued sales tax-backed obligations.
- For operating revenue-backed ratings on TIEs, positive rating changes were due to the added financial stability and flexibility from receiving significant tax revenues (like property or sales taxes) that do not fluctuate with transportation activity levels; for sales tax-backed ratings on TIEs where our priority-lien tax revenue debt criteria are applied, positive rating changes were generally due to an improvement in the linked obligor's creditworthiness, which incorporates pledged tax revenues that were generally resilient, as further evidenced during the COVID-19 pandemic; and for property tax-backed ratings on TIEs, negative rating changes were largely attributed to our incorporation of operating risk exposure for debt issued by TIE entities as well as weakened market positions for those issuers sensitive to changes in transit ridership or air travel volumes.
- Twenty-nine TIE entities benefiting from tax support received one to three notches of rating uplift; 14 received one notch of uplift, 13 receiving two notches of uplift, and two received three notches of uplift. Key considerations behind the amount of uplift were the significance of the tax revenue relative to total revenues, the type of tax (for example, sales versus property taxes), tax base characteristics as measured by diversity and stability, and a demonstrated willingness and ability to increase the tax levy.

[Continue reading.](#) (Registration required.)

17 Aug, 2021

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## **[S&P Global Mass Transit Ratings And Outlooks As Of Aug. 16, 2021.](#)**

[Read the S&P list of ratings.](#)

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## **[Bonding Time Podcast - Infrastructure Analysis and Muni Bonds with Tom Kozlik and Brett Bolton](#)**

In this installment of Bonding Time featuring Tom Kozlik of HilltopSecurities, we discuss the ongoing infrastructure deliberations in Congress and likely next steps for the bipartisan bill as well as the budget reconciliation package that will potentially provide an additional \$3.5 trillion in infrastructure spending.

We also take a look at the debt ceiling and the recent extraordinary measures implemented by

Secretary Yellen halting the sale of SLGS and the potential credit ramifications of default.

[Click here for audio.](#)

## **Bond Dealers of America**

rcrodriguez

August 18, 2021

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## **[House Returns to Debate Infrastructure Legislation - MBFA and BDA Continue to Advocate for Muni Priorities.](#)**

Today, the House returns from August recess for a week-long session to debate budget reconciliation instructions and voting rights legislation. At this time, House leadership remains steadfast in their position that the Chamber will not debate the Senate bipartisan infrastructure package until the budget reconciliation package, which will serve as a vehicle for additional infrastructure spending potentially including key muni priorities, becomes law- likely a months-long process.

In response to Leadership's position, a group of 9 rank-and-file Democrats demanded the House pass the bipartisan infrastructure package prior to advancing the budget reconciliation outline. This weekend, the group remained staunch in their legislative opposition [penning an op-ed](#) laying out their position.

At this time, House Leadership does not have the votes to pass the budget reconciliation instructions, setting up a likely legislative showdown in the next 48 hours. While it is too early to predict outcomes for this week's process, the MBFA and BDA believe both the bipartisan infrastructure package and a narrowed budget reconciliation package focused on the Biden Build Back Better infrastructure agenda will become law by year-end regardless of procedural hiccups.

### **Muni Priorities Update**

**The BDA and MBFA continue to press for the inclusion of key muni priorities in the budget reconciliation package. The MBFA recently met with Senior Staff in Rep. Terri Sewell's (D-AL) office to discuss the Congresswoman's muni package, the LIFT Act, and possible inclusion in the draft budget bill. The MBFA plans to continue meeting with key offices leading up to the introduction of legislative text promoting all muni priorities including:**

- The reinstatement of tax-exempt advance refundings,
- Raise the BQ debt limit, and
- Creation of a new direct-pay bond exempt from sequestration.

The MBFA and BDA will continue to provide updates as they become available.

## **Bond Dealers of America**

August 23, 2021

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## **[The Infrastructure Bill Shows Why Congress Must Stop Enabling Bad Behavior by Cities and States.](#)**

Under America's constitutional system, states and cities are responsible for maintaining public infrastructure such as streets, schools, parks, and water and sewer facilities. Yet even as Congress moves ahead with the \$1 trillion Infrastructure Investment and Jobs Act, and even as calls increase for more federal assistance to ease burdens on local taxpayers, it's clear that the legislative branch largely fails to understand how states and municipalities manage their budgets.

This lack of understanding—or willful ignorance—is a critical shortcoming that should be addressed promptly, given the enormous amount the federal government already spends to subsidize state and local governments. In 2019, such subsidies accounted for 22% of those governments' operating expenditures of \$3.5 trillion, according to U.S. Census data. Federal tax deductions on interest on most municipal bonds, the financing vehicles that cities and towns use to build roads, bridges, and schools, will cost \$334 billion in forgone federal revenue from 2021 to 2030, U.S. Treasury projections show. Federal aid and tax breaks also help support the jobs of 19 million schoolteachers, police officers, firefighters, public health workers, and other state and local employees whose roles have been so critical during the COVID-19 crisis.

If the infrastructure bill and a proposed \$3.5 trillion budget resolution become law, federal assistance to states and municipalities will swell even further, with Congress on the hook for much of the cost of everything from roads and bridges to broadband Internet installations, in the process helping states and localities avoid taking on massive amounts of new debt beyond the \$4 trillion they have already borrowed.

[Continue reading.](#)

### **Yahoo Finance**

by William Glasgall & Richard Ravitch

August 19, 2021,

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## **[BlackRock: Infrastructure Spending Will Continue To Be A 'Ballast' for Municipal Bonds](#)**

**BlackRock Municipal Bonds Group Head Peter Hayes joins Yahoo Finance to explain the municipal bonds outlook.**

### **Video Transcript:**

EMILY MCCORMICK: Welcome back to "Yahoo Finance Live." US Treasury Secretary Janet Yellen doubled down on her support for President Joe Biden's infrastructure investment plans in an op-ed published to Yahoo Finance earlier today. The plans include the \$1 trillion infrastructure bill passed by the Senate last week, and the \$3.5 trillion budget plan to expand the social safety net, which the Senate also approved the blueprint for last week. Here to discuss infrastructure, the outlook for the Fed, the markets and more is Peter Hayes, BlackRock's Municipal Bonds Group Head.

And Peter, I want to start off with that op-ed and those remarks from Janet Yellen. She highlighted several points to make the case for the spending now. And from your vantage point, how could investors be thinking about municipal bonds, specifically as a way to trade this increased government spending?

PETER HAYES: I think in general, first of all, thanks for having me, great to be back. I'll say that in general, there's been an awful lot of stimulus since the start of the pandemic on the part of both the Fed and Congress. And this is just another element. So I think it probably gives a tailwind to assets in general. But certainly adds a big balance to the municipal bond market. When you think about the spending that's occurred at the state and local level, it's been really beneficial on top of actually surprisingly strong tax revenues that have occurred.

Remember, most states and cities were really talking about large budget deficits, and actually what we've seen, is large budget surpluses. I think I saw today where the state of New York, their July revenue collections are up 21% from a year ago. New York City, 14%. Many states have not even touched these billions of dollars that they've received from the federal government. So all of this investment, all of this infrastructure spending will continue to be a ballast I think to the economic environment and the municipal market going forward over even, probably the next two years.

ADAM SHAPIRO: Peter, it's always good to see you. When we talk about going forward, I realize that you and the team, the bonds group deal in much larger numbers, but I'm going to ask a question from the kind of perspective of a lot of people who might be 45 years and older looking at the future. If they had say \$500,000 saved up for retirement, how do you advise them?

Because it used to be a chunk of that you might want to put into municipal bonds. And you noted in the note that 27% of the supply was taxable issuance, because we're seeing the refinancing of what had been tax exempt muni bonds by cities and municipalities into taxable. What would you say to that potential woman or man regarding the future for them?

PETER HAYES: I'd say a lot of it is around, how much do you want to protect from taxes? And that's one of the reasons we've seen such strong inflows into the asset class this year. We've seen \$62 billion in mutual fund inflow. So that's about the strongest that I can remember going back into the '90s. And I think a lot of that is because the fear of taxes going up. Now it's likely that the marginal tax rate for individuals, perhaps it goes back to 39.6%. So the benefit there is somewhat incremental. I think the bigger fear is corporate taxes. But clearly, for that individual looking to shelter income and not pay taxes on that income, municipal bonds will continue to provide, I think will provide that benefit.

The other element that sometimes is forgotten, is you look, if you think interest rates are going to rise, municipal bonds tend to do better. Well, look at this year. Year to date, the municipal index is up 1.6%. Most fixed income asset classes are actually negative. We'll use the Barclays ag. That's down negative 70 basis points. So a fair amount of outperformance. But it provides you some insulation if you really believe interest rates are going to rise.

And the other one is, it's a great hedge against equity risk. It's always done very well when you see volatility in the equity markets. Municipal bonds tend to be a safe haven for that. So it's really got kind of a three-pronged benefit to that investor, and that's what I would tell them. Adam.

ADAM SHAPIRO: In fact, the S&P municipal bond index, to reiterate what you said, has you said in the note, year to date, total return of about 1.9%, almost 2%. The other thing that's great about your note, is how everything is connected. You talk about climate change impacting revenue to utilities, especially the water utilities. Out West, which are now going to have to restrict demand, and you

ended that part of the note by saying, we anticipate water usage limitations will become stricter and more widespread through year end. What kind of pressure does that put on the utilities to make good on their notes? I don't think anyone's going to default, but does it put pressure on them?

PETER HAYES: Well, I'll start with your comment. No one's going to default. I think that's very important. Sometimes they see these headlines and they think that means that an issuer is not going to repay their debt. That's never happened. California in particular has had a long history of drought. And even, and you look in some other areas of the US where droughts have been an issue over the years, water utility systems have always been very resourceful. They could cut water usage, they could raise rates. There's a lot of ways that they can actually utilize to repay their debt.

And the other one is just general utilities. So you talk about A, water restrictions. We saw I think in the Southwest yesterday for the first time they're going to cut the water usage in the Southwest to the Colorado River. And then the other is just general utilities. We saw today where I think PG&E is going to basically cut power to a certain part of their population in Northern California. That can impact revenues in the utility sector.

But again, they have a lot of tools at their disposal that they can ultimately use to help repay the debt. So it's not a default issue. Sometimes it's a rating issue, but it hasn't even really been that. Sometimes they go on negative watch, but again, investors shouldn't be necessarily very concerned about that on a going forward basis.

ADAM SHAPIRO: Peter, just quickly on interest rates. What are you expecting from the Fed meeting minutes tomorrow and Jackson Hole next week? When do you expect that tapering announcement and the actual start of tapering?

PETER HAYES: That's the \$64,000 question that the bond market I think would love to know. I think our feeling generally is that interest rates have to rise. When you look at the, something you asked at the outset about the economic stimulus that's occurred, when you look at some of the supply chain disruptions and you look at the impact it's had on inflation, the notion that it's transitory is probably under, I think probably overvalued to some degree. This is here to stay for a while. So interest rates have to rise. It's a matter of when, and that goes to your question.

I think Jackson Hole is going to be somewhat of a non-event. I think the market may be expecting more out of Jackson Hole. Probably not likely to see anything there. I think it's more likely to occur in the coming months after that when we get by this Delta variant. The Fed wants to see what the impact will be on the economy. And then I think if we can get through that, if there's some clarity around the booster, and is a 2022 to restart to the economy, then you have to think more seriously about the Fed tapering, beginning to raise short-term interest rates, all of which are more likely to occur in 2022.

ADAM SHAPIRO: Peter Hayes, BlackRock Municipal Bonds Group Head, thank you so much.

August 17, 2021

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## **[Munis In Focus: NJ Megamall Sinking In Debt \(Bloomberg Radio\)](#)**

Joe Mysak, Editor of Bloomberg Brief: Municipal Market, discusses the latest news from the muni market. Hosted by Paul Sweeney and Matt Miller. (Taylor Riggs fills in for Paul Sweeney)

## **Bloomberg Markets**

August 20, 2021

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### **Convention Centers Face Risks as Delta Ramps Up Threat to Crowds.**

- **S&P warns of slow recovery, trouble reaching pre-Covid levels**
- **Texas borrowers have convention center deals on calendar**

The Delta strain is dealing a setback to the convention industry's fragile recovery.

Some big gatherings are being shut down as the number of coronavirus cases surges again, dealing a fresh hit to a business that was already struggling to revive from the era of social distancing and working from home. The New York International Automobile Show was canceled this month for the second year in a row because of concerns over the pandemic. In Florida, the epicenter of the U.S. outbreak, the North American Association of Food Equipment Manufacturers and the Global Surgical Conference called off their events, with organizers of the later, citing the "dramatic surge" in the state's cases.

"It is very hard to pull a group of people and make sure that they are all comfortable in meeting together," S&P Global Ratings credit analyst Safina Ali said in an interview. "To an extent, they might not even get back to pre-Covid" levels, she said, referring to convention centers.

Bond-financed convention centers have seen their businesses dry up since the pandemic struck the U.S. in early 2020. The Center for Exhibition and Industry Research reported that the industry has shriveled to \$24 billion, down \$77 billion from 2019.

"There is not going to be a light switch and everybody is able to go back and go to events," said Brad Mayne, president and chief executive officer of the International Association of Venue Managers.

Still there isn't much distress right now for convention center debt, said Eric Kazatsky, senior U.S. municipals strategist at Bloomberg Intelligence. Many of these had pretty solid cash on hand going into the pandemic and decent credit quality.

"They had some cash to burn," Kazatsky said. "Things aren't at a total zero. They've just declined. There are still conventions being held."

Plus the muni market is searching for supply amid ongoing investor demand, and there is appetite for new projects, he said.

About \$1.5 billion of municipal bonds for convention centers have been sold so far this year, down from \$2.4 billion in the same period in 2020, according to data compiled by Bloomberg. There are some upcoming municipal bond deals that may offer a look at how investors view the risk.

The city of Abilene, Texas, through the Abilene Convention Center Hotel Development Corp., is looking to finance the construction for a full-service, upscale 200-room hotel and conference center 150 miles (241 kilometers) west of the Dallas-Fort Worth area. S&P considers the \$19.5 million first-lien bonds BBB-, one step above junk. Additionally, the corporation is also selling \$24.7 million of second-lien bonds for the project.

Also in Texas, the Baytown Municipal Development District outside of Houston plans to sell about \$61 million in bonds to finance the development of the Baytown Convention Center Hotel with about 208 rooms, [according to bond documents](#).

Yet such deals may belie the risks posed the industry's slowdown. Earlier this week, S&P said it expects Overland Park Development Corp. in Overland Park, Kansas to draw on \$530,000 debt service reserves to cover a portion of its Sept. 1 interest payment.

"If revenue fails to meaningfully improve over the remainder of 2021, particularly given the additional uncertainty imposed by the Delta variant, credit quality could deteriorate," S&P said in the report on Tuesday on the Overland debt.

Cooper Howard, director of fixed-income strategy at the Schwab Center for Financial Research, said the impact of the pandemic on convention centers is about "looking at the liquidity and health of the region that they are located in. "Right now the delta variant doesn't appear to be posing a major risk to this sector, longer term it is something that yes, we will be watching," Howard said.

## **Bloomberg Business**

By Skylar Woodhouse

August 19, 2021, 12:30 PM MDT

— *With assistance by Natalia Lenkiewicz*

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### **[Municipal Bonds Are Still a Solid Summer Bet for Retirees.](#)**

Municipal bond yields aren't exactly thrilling these days, but the asset class remains an important income-generator and risk-reducer for investors in retirement.

While yields are broadly low today in the municipal bond space, there are some positive points for retirement investors to consider, and the asset class is proving sturdy even as the delta variant of the coronavirus vexes investors.

"Municipals maintained their seasonal trend and posted strong performance throughout the month of July. The market benefited from a favorable supply-demand backdrop and rallying interest rates due to excess liquidity, short covering, and Delta variant fears," [according to BlackRock research](#).

More recently, longer duration munis and those with lower credit ratings delivered upside for investors as muni market participants sought to embrace credit and duration risk. A recent decline in supply could be another factor supporting municipal bonds.

"Supply moderated from the robust levels experienced in June and trended more in line with historical expectations. Issuance of \$35 billion was down -26% month-over-month but just 5% above the 5-year average, bringing the year-to-date total to \$255 billion," notes BlackRock.

While yields are low within the broader municipal bond universe, investors are still displaying enthusiasm for this form of debt, with flows to related funds, including exchange traded funds, poised to hit records this year.

"Demand remained firm with the asset class garnering continued inflows. While fund flows slowed

slightly into month end amid lower absolute yields, 2021 remains on pace to eclipse 2019 as the best fund flow year on record,” continues BlackRock.

The asset manager recommends underweighting munis tied to “speculative projects with weak sponsorship, unproven technology, or unsound feasibility studies,” as well as senior and assisted living facilities in markets that already have plenty of those establishments. However, BlackRock is bullish on munis issued by states in strong fiscal positions as well as munis issued by cities and school boards with robust property tax bases. The fund issuer also likes some high-yield munis.

## **ETF Trends**

AUG 16, 2021

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### **Treasury Guidance on Non-Entitlement Units is Now Available.**

The United States Treasury has issued [guidance on non-entitlement units](#) (NEUs) providing additional information on eligibility and a step-by-step guide for states to allocate and distribute funds to their NEUs. States should follow the guidance and calculate allocations based on the [list of local governments](#) and their respective populations. The statute requires that all allocations to eligible governments be based on population. Treasury expects to make payments to states for distribution to NEUs in two equal tranches approximately twelve months apart.

## **NASACT**

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### **Muni Feeding Frenzy Seen Lasting as New Sales Lag Investor Cash.**

- **One-third of outstanding debt will be paid off by end of 2026**
- **Investors already face ‘a very challenging muni environment’**

Municipal-fund managers awash with cash are struggling to find bonds to buy, a situation that may persist for the next few years if new issues continue to fall short of the demand.

About 21% of outstanding tax-exempt debt will mature or be called by the end of 2024, according to data compiled by Bloomberg. That rises to 31% by the end of 2026. The figures are higher than those seen historically and exacerbate the challenge bondholders have in reinvesting their payments, said Matt Fabian, partner at Municipal Market Analytics. Meanwhile, new dollars continue to flow apace into mutual funds.

So far this year, issuers have sold \$289 billion in long-term municipal debt, higher than the \$267 billion over the same period last year, according to data compiled by Bloomberg. While the federal infrastructure bill in the works may drive more sales of new debt, it’s unclear if it will be “enough to offset the giant sucking sound of the pending maturity schedule,” Fabian said.

“We need to see a material increase in new money projects, if only for the market to stand still,” he said.

The dynamic underscores the strength of the municipal-bond market, which is notching positive returns even as several other corners of the fixed-income universe are down for the year. Investors

are shifting into the tax haven as President Joe Biden's administration pushes to raise income taxes on the highest earners. Meanwhile, Biden's stimulus packages easing the impact of the coronavirus pandemic have boosted the credit quality of local government borrowers such as cities and transit systems.

Investors have plowed a record amount into municipal-bond funds for the first seven months of the year, totaling more than \$69 billion, according to Refinitiv Lipper US Fund Flows data. The wall of cash has led Nuveen to turn new investors away from its high-yield municipal bond fund, the market's biggest.

The demand from mutual funds and those seeking to redeploy their principal payments will likely keep spreads at tight spreads, Fabian said.

"This is a context in which spreads are not going to widen absent some kind of surprise," he said. "We need some big city to file for bankruptcy, or some kind of major reversal of revenue trends."

Meanwhile, portfolio managers are left scrambling to get a piece of new deals, which receive so many orders that underwriters are able to lower yields that the buyers feel compelled to accept.

"What starts off looking attractive, by the time it comes to you, it's okay," said Sweta Singh, portfolio manager at City Different Holdings LP. "It is a very challenging muni environment, for sure."

## **Bloomberg Markets**

By Romy Varghese

August 20, 2021, 10:00 AM MDT

— *With assistance by Natalia Lenkiewicz*

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### **[Muni Buyers Grab Billions in Bonds They Won't See for Months.](#)**

- **Sales with later delivery head for record as rate risk rises**
- **Ban on tax-exempt advance refundings lifts popularity of tool**

State and local governments barred from a key refinancing tactic are turning more than ever to a funding tool that helps them avoid the risk of rising interest rates.

Sales of municipal bonds that won't be delivered to investors until months after they price have reached about \$10.5 billion in 2021, up 174% from the same period a year ago and on pace for a record, according to data compiled by Bloomberg. California issued the largest ever so-called delayed-delivery bond four months ago, while deals by issuers from across the country are set to price in the weeks ahead.

The structure allows state and local governments to lock in interest rates in anticipation of refinancing higher costing debt that's not yet eligible to be called back. It's an attractive tool for governments that believe rates are going to rise, said Vikram Rai, head of municipal strategy for Citigroup Inc. The structure has grown in popularity since a clause included as part of former President Donald Trump's 2017 tax cuts banned the sale of tax-exempt bonds to refinance debt ahead of the call date.

“It’s a rate call,” Rai said in an interview. “Rates are low and I find it difficult to believe that they will go lower.”

California sold nearly \$1.1 billion in April to be delivered next month, and the state plans to sell \$372 million of the same structure in October. The Phoenix Children’s Hospital is selling \$150.4 million through the Arizona Industrial Development Authority that will be delivered in November. And Connecticut’s Health and Educational Facilities Authority sold \$206 million Wednesday that will be delivered no earlier than April.

The rising volume of forward sales comes as demand outpaces the supply of new bonds in the \$4 trillion muni market, leaving yield-hungry investors willing to take on more risk to boost returns.

Rising inflation, the potential for Treasury yields to climb higher and the possibility the Federal Reserve starts tightening monetary policy could all shift future pricing for state and local governments. Ten-year top rated municipal benchmark bonds currently yield about 0.9%, according to Bloomberg BVAL pricing.

“What’s in it for us is we get the advantage of low rates,” Tim Schaefer, the deputy treasurer of public finance for the state of California, said in an interview. The state began issuing large chunks of bonds for forward delivery last October, and while it doesn’t make interest-rate predictions, it wants to benefit from the low-yield environment, he said. “All of our risk of rate fluctuation beyond the date we sign the contract is thus eliminated. We have certainty.”

Forward-delivery bonds offer extra yield to investors to compensate for the risks associated with waiting months to get your bonds. Rai, the Citigroup analyst, estimates the premium is about 3 to 4 basis points per month, meaning the further out the settlement date, the higher cost of selling the debt.

“This structure is seen as a win-win for issuers which can lower their cost of capital while investors will usually get some modest additional spread on forward delivery deals,” said Erin Ortiz, managing director for municipal credit at Janney Montgomery Scott. “In fact, investors appear as being comfortable with forward delivery deals settling much longer out, even some over one year, as opposed to three or even six months.”

Illinois’s Metropolitan Pier and Exposition Authority sold about \$811 million forward delivery bonds in July to take advantage of “favorable” interest rates, said Jason Bormann, chief financial officer of the agency. A bond that matures in 2052 priced at a yield of 97 basis points over the Bloomberg BVAL benchmark, according to data compiled by Bloomberg. It generated \$140 million of present value savings, the authority said. The bonds won’t be delivered to investors until March.

“I don’t see the demand changing on the issuer side unless the advance refund rules change,” Bormann said.

## **Bloomberg Markets**

By Shruti Singh and Danielle Moran

August 18, 2021, 11:56 AM MDT Updated on August 18, 2021, 1:04 PM MDT

— *With assistance by Skylar Woodhouse*

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## **[CDEFA // BNY Mellon Development Finance Webcast Series: Layering the Capital Stack](#)**

**September 21, 2021 | 2:00 PM - 3:00 PM Eastern**

The phrase “Capital Stack” is one that is pretty commonplace in the Development Finance nomenclature these days, but what does it truly mean to build the Capital Stack and how can it work for your project? This session will discuss how Bonds, Tax Increment Finance, Tax Credits as well as the litany of federal funding through recent legislation can work for your project and ultimately the community that is benefitting.

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

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## **[Important Ohio Supreme Court Decision Clarifies Proper Method to Value “Big Box Stores.”](#)**

The Ohio Supreme Court issued an important decision today clarifying the proper method under Ohio law to value big box stores—in this case, a Lowe’s store.

The Ohio Supreme Court rejected the property owner’s argument that an appraiser should presume that the property is vacant when appraising the property. Instead, the Court agreed with the school board and county that a property should be valued using market rent rather than the actual rent from an existing lease encumbering the property at the time of the sale and transfer.

The Court was called upon to interpret somewhat recent changes to R.C. 5713.03, which requires county auditors to value property based upon the value of the “fee simple estate, as if unencumbered.” Rejecting the property owner’s argument, the Court clarified that this statute invokes a market-lease rule, rather than a vacant-at-transfer rule. This decision, commonly referred to as *Rancho Cincinnati*, is the latest in a series of decisions in Ohio that affect the valuation of big box stores. The Court’s decision will be perceived as more favorable to political subdivisions and taxing authorities; in contrast, the Court’s decision will diminish the salience of appraisals that use a “go-dark” value of big box stores.

The *Rancho Cincinnati* decision was issued by the Ohio Supreme Court on August 18, 2021 and may be cited as *Rancho Cincinnati Rivers, LLC v. Warren County Board of Revision, et al.*, slip opinion no. 2021-Ohio-2798.

If you have questions about how this case impacts the valuation of properties located in your school district, please contact your legal counsel.

**Bricker & Eckler LLP**

August 19, 2021

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## **[Solving The Housing Crisis With OZs, With Riaz Capital.](#)**

In this webinar, Garrick Monaghan discusses the need for affordable housing in the Bay Area and the Riaz Capital Ozone Fund III.

[Watch the webinar.](#)

OPPORTUNITYDB

by JIMMY ATKINSON

AUGUST 13, 2021

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## **[Real Estate Technology And Opportunity Zones, with Steve Nson.](#)**

How does real estate innovation intersect with Opportunity Zones? How can Opportunity Zones catalyze business development and business investment in low income communities?

Steve Nson is founder of AnySizeDeals, a conference organizer with a focus on real estate innovation. Their upcoming AnySizeDeals Festival of Real Estate Innovation event will focus on the innovation that is transforming the real estate industry.

[Listen to audio.](#)

OPPORTUNITYDB

by JIMMY ATKINSON

AUGUST 18, 2021

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## **[Demand, Supply Fundamentals Are in Muni Bond ETFs' Favor.](#)**

Long-term fundamentals could support municipal bond exchange traded funds as investment demand could fall short of new muni issuances.

About 21% of outstanding tax-exempt debt will mature or be called by the end of 2024, Bloomberg reports. The amount rises to 31% by the end of 2026.

Matt Fabian, partner at Municipal Market Analytics, warned that the amount of money maturing or set to be called is higher than that which is experienced historically, and could prove challenging for those trying to reinvest their payments, especially as new dollars continue to flow into the space with an aging population.

Meanwhile, on the supply side, issuers have sold \$289 billion in long-term municipal debt so far in 2021, which was slightly higher than the \$267 billion over the same period last year. Additionally, while the federal infrastructure bill could stimulate greater sales of new debt, it's unclear if it will be "enough to offset the giant sucking sound of the pending maturity schedule," Fabian told Bloomberg.

“We need to see a material increase in new money projects, if only for the market to stand still,” Fabian said.

The difference between supply and demand in the muni market has helped this pocket of the fixed income space turn a positive return in 2021, even as other areas of the debt markets are down for the year. Additionally, investors have been targeting the tax-exempt debt as President Joe Biden’s administration seeks to hike income tax rates on high earners and stimulus packages have helped ease the negative impact from the coronavirus pandemic on local government borrowers.

Investors have so far funneled a record \$69 billion into municipal bond funds for the first seven months of the year, according to Refinitiv Lipper US Fund Flows data.

Looking ahead, Fabian warned that the demand for muni funds and those trying to redeploy principal payments will keep spreads tight.

“This is a context in which spreads are not going to widen absent some kind of surprise,” he added. “We need some big city to file for bankruptcy, or some kind of major reversal of revenue trends.”

ETF investors who are interested in the munis space can also consider targeted ETF strategies, such as the popular iShares National Muni Bond ETF (NYSEArca: MUB), Vanguard Tax-Exempt Bond ETF (NYSEArca: VTEB), and SPDR Nuveen Bloomberg Barclays Municipal Bond ETF (NYSEArca: TFI).

ETF TRENDS

AUG 23, 2021

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## **[Michigan’s Overlapping Property Tax Limitations Create an Unsustainable Municipal Finance System.](#)**

- States generally limit growth of property tax burdens in one of three ways - rate limit, assessment limit, or levy limit. Michigan uses all three, making it among the strictest property tax limitations of the states. Statutory tax rate limits, the Headlee Amendment’s assessment limit, and the taxable value system created by Proposal A all work to limit the growth of tax burdens and constrain year-to-year changes.
- The Great Recession and its impact on property values led to the overlapping tax limits having a mitigating affect, keeping the tax base from declining further than it could have. Since the Great Recession, which was a unique event, tax bases have been growing at relatively slow rates.
- The property tax system is not sustainable. Local government tax revenues are constrained in their growth unless they add new development to their tax bases or increase tax rates. Land is finite and cannot continue to be developed. Tax rates are statutorily limited. Local governments need revenue that can grow with their economies.

[Download Report.](#)

AUGUST 10, 2021

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## **Barring California Taxpayers from the Courts.**

Big government interests – and by “big government interests” we mean elected officials, bureaucrats, public sector unions and private corporations that live off taxpayer dollars – do everything they can to erect barriers to taxpayers seeking to vindicate their rights.

As this column has previously addressed, those barriers include making it difficult to vindicate rights at the ballot box by consistently changing election laws – often in the middle of an election cycle – in a manner designed to protect the existing political power structure.

But there is an equally virulent set of hurdles placed before taxpayers consisting of procedural barriers to obtaining relief in the courts. Just a few examples are short statutes of limitations, requirements that taxpayers must “exhaust administrative remedies” before filing a legal action, requirements that taxpayers must first pay the disputed tax in full before filing suit, and severe restrictions on the use of class actions that preclude meaningful tax relief when entire communities are hurt by an illegal tax.

Another example is the requirement that challenges to certain tax increases be brought exclusively as “validation actions.” Such actions may be brought by government entities to “bulletproof” their tax or fee increases from any future legal attack. Typically, the lawsuit will be filed against “All Persons Interested” in the legality of a bond issuance or other public finance matter and, once filed, taxpayers have only a very limited time to respond.

The short time to respond to a validation action, however, isn’t the biggest headache for taxpayers. Specifically, if the government entity doesn’t file its own action, then the validation action must be filed by citizens (any “interested party”) within 60 days of the resolution authorizing a bond or tax. The citizens’ failure to do so results in the bond or tax becoming automatically “validated” through inaction, and forever insulated from judicial review. This puts the costs of litigation on the shoulders of those having to pay the tax. And those costs include the very expensive price tag of having to “publish” a summons in the local newspaper over several days.

Ordinary taxpayers rarely have the expertise or financial wherewithal to initiate a “validation” action in court and must rely on advocacy groups such as the Howard Jarvis Taxpayers Association, which has been involved in numerous such lawsuits. But even with that expertise, there remains much wrong with expanding the circumstances where the law requires that challenges must be brought as a validation action as opposed to more traditional legal actions such as taxpayer injunctions, declaratory relief or money damages.

Validation actions may make sense in the limited area of protecting municipal bonds from legal attack well after the bonds have been issued. There is arguably a public interest in protecting the “marketability” of public bonds so that government entities have access to capital markets in order to construct public projects such as schools.

However, a bill currently pending in the California Legislature, Senate Bill 323, would hijack the validation statutes and apply them to preclude ratepayers from challenging unlawfully high rates for water or sewer – essential public services that no one can live without.

Simply stated, this expansion of the validation statutes is an unfair denial of due process that can have the effect of cementing into law illegal government acts that are then insulated from judicial review. Even the state Supreme Court has taken notice, writing in *City of Ontario v. Superior Court* that some applications of the validation statutes are “of doubtful constitutionality.” Not surprisingly, the Howard Jarvis Taxpayer Association opposes all attempts to enlarge the universe of government

actions that are subject to the validation statutes. And we are not alone.

Even a couple of water agencies in Orange County see a problem with this expansion. While generally supportive of the bill's aims, they also recognize the importance of providing adequate notice to ratepayers "in recognition of public water and sewer agencies' Constitutional responsibility to guarantee that ratepayers - particularly economically disadvantaged residents and marginalized communities - know their rights."

What ratepayers should really know about their rights is how Senate Bill 323 takes them away. The validation statutes were never meant to insulate water, sewer, or other agency rates and fees from legal challenge. If such rates are imposed in a manner contrary to the constitutional protections guaranteed to taxpayers by Proposition 13 and other laws, ratepayers must not have the courthouse door slammed in their faces by a burdensome process that makes such challenges difficult, if not impossible.

PE.COM

By JON COUPAL

August 16, 2021

*Jon Coupal is president of the Howard Jarvis Taxpayers Association.*

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## **[High-Yield Munis Remain Sturdy Despite an Uptick in Defaults.](#)**

The federal government heaped billions of dollars on states to help them tidy up their balance sheets in the wake of the coronavirus pandemic.

However, municipal default rates ticked higher in 2020 and to this point this year. Yet that's not damping the case for high-yield municipal bonds and the VanEck Vectors High Yield Muni ETF (HYD), one of the dominant exchange traded funds providing exposure to junk-rated munis.

The \$4 billion HYD follows the Bloomberg Barclays Municipal Custom High Yield Composite Index and turns 13 years old next February. As of Aug. 12, it yields 2.17% on a 30-day SEC basis. These days, that's elevated in the municipal bond universe, but it's not cause for alarm. As Tamara Lowin, VanEck senior municipal research analyst, points out, investors should dig into where exactly the muni defaults are coming from.

"While default rates increased in several sectors, the healthcare sector is responsible for most of the spike, doubling its five-year average," she said in a recent note. "The healthcare sector is known as one of the riskiest sectors historically, mainly due to the senior-living sub-category, which includes nursing homes, assisting living facilities, and continuing care retirement communities. This category was directly impacted by the pandemic and hit harder than any other municipal sector. The nation saw occupancy levels fall, broken supply-chains, and a loss of employees, which devastated them financially."

HYD has a 19% weight to healthcare munis - its largest segment allocation. That exposure isn't hindering the ETF this year. Year-to-date, HYD is higher by 3.35% while the widely followed S&P National AMT-Free Municipal Bond Index is flat on the year.

That's a sign that the concentration of muni defaults in one corner of the market isn't denting the

thesis for this asset class in general.

“The concentration of defaults in one sector affirms our belief in the strength of high yield municipal bonds overall,” adds Lowin. “The shock to the system did not result in widespread staggering defaults, but instead targeted borrowers most vulnerable to a sudden health-event shift. It is no surprise that the sector most directly impacted by the Coronavirus continues to struggle through instability. However, the size and brevity of the disruption in the remaining sectors speaks to the continued strength of high yield municipal bonds.”

Of HYD’s top four state exposures – California, Illinois, New York, and New Jersey – only Illinois appears somewhat financially strained at the moment. California, the ETF’s largest state exposure, is doing well when it comes to tax collection and is running a massive budget surplus.

## ETF TRENDS

TOM LYDON AUGUST 16, 2021

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### **Illinois to Sell Bonds After First Ratings Increase in Decades.**

- **State plans to offer \$500 million in debt over next two months**
- **First batch, \$130 million in tax-exempt bonds, slated Aug. 24**

Illinois is returning to the \$4 trillion municipal bond market after winning credit rating upgrades for the first time in more than two decades.

#### **Why It’s Noteworthy**

The state, which still has the lowest credit designation in the nation, plans to sell \$130 million in junior obligation tax-exempt securities through a competitive auction for its Build Illinois program on Aug. 24. The bonds will help fund construction projects and are backed by Illinois sales tax revenue. The state’s share of sales tax increased 13% to \$10.4 billion in fiscal 2021, according to bond documents.

The offering scheduled for next week is the first of three issues slated for over the next two months. The state plans to sell \$210 million taxable debt and \$160 million tax-exempt refunding bonds through negotiated sales in mid-September, according to a statement.

Illinois last came to market in March. That was before the economy began reopening from the Covid pandemic shutdown and when investors were still grasping the impact of President Joe Biden’s American Rescue Plan Act, which funnels \$350 billion to state and local governments. Illinois is getting about \$8.1 billion from the latest stimulus package.

#### **Outlook**

While S&P Global Ratings and Fitch Ratings have assigned BBB+ ratings to the \$130 million sales tax bonds to be sold next week, Illinois’s overall credit picture has brightened noticeably in the last six months. That’s largely given higher-than-projected revenue, billions more in federal aid and some fiscal discipline shown by the state government.

After raising their outlooks on the state in March to stable from negative, both S&P and Moody’s Investors Service lifted their ratings. Moody’s raised its designation to Baa2 from Baa3 on June 29

and S&P boosted to BBB from BBB- on July 8. Both increases were the first for the state in more than 20 years.

Fitch raised its outlook to positive from negative on June 23, but maintained its BBB- rating, which is still one notch above non-investment grade. The state remains the lowest rated, largely because of its heavy unpaid pension liability — which currently stands at about \$144 billion, lack of a meaningful rainy day fund and ongoing structural deficits.

It had faced a string of outlook and rating cuts resulting from the budget impasse from 2015 through 2017 between the Democrat-controlled Illinois General Assembly and then Governor Bruce Rauner, a Republican. Plunging revenue in 2020 due to pandemic-spurred business closures had added to the pressure and put the state on the brink of a junk rating.

Now, S&P's stable outlook for the Build Illinois bonds reflects sales tax resilience, liquidity strength and continued economic recovery, Geoff Buswick, an analyst for S&P, said in a report Aug. 13.

### **Market's View**

"For the first time in a long time the state is coming to market with the momentum of positive rating actions," said Dora Lee, director of research for Belle Haven Investments, which holds \$15 billion in muni assets including Illinois debt. "It really shows what the state is capable of with a bit of financial discipline and a supportive federal aid environment."

The state's yield spreads are still wider than other states but are historically low, said Dennis Derby, a portfolio manager for Wells Fargo Asset Management, which holds Illinois as part of \$35 billion muni assets. The sales tax bonds are also "one of the strongest financing mechanisms for Illinois" and using them for capital projects makes sense, he said.

Illinois pays 70.8 basis points more to borrow than 10-year AAA benchmark securities, according to data compiled by Bloomberg. While that is slightly more than earlier this summer, it's far less than the 4.4% in May 2020 at the height of investors' anxiety about financial repercussion from the pandemic.

"Illinois continues to ride positive market momentum and improved ratings outlooks," Derby said.

### **Bloomberg Markets**

By Shruti Singh

August 20, 2021, 6:33 AM MDT

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### **[Nuveen to Close Top High-Yield Muni Fund to New Investors.](#)**

- **Investors have flocked to muni junk bond funds for high yields**
- **Nuveen fund has gained over 14% in the past year, data shows**

Nuveen said it plans to shut its high-yield municipal bond fund to new investors after the end of next month.

The fund is the biggest focused on state and local government junk bonds, a corner of the market that's received a massive influx of cash at a time when the pace of new debt sales has struggled to

keep up.

High-yield municipal funds have drawn in new cash week after week this year as the market rallied, delivering out-sized returns at a time when yields on the safest state and local government bonds are holding not far from record lows.

Investors have added nearly \$17 billion of new money to such funds since the start of the year, according to Refinitiv Lipper US Fund Flows data.

That influx has created challenges for fund managers forced to compete against each other to get in on new bond offerings. At the same time, surging economic growth and the massive federal rescue package has left local government credit ratings broadly on the rise.

Nuveen's High Yield Municipal Bond Fund, run by John Miller, is not only the market's behemoth, with more than \$24 billion of assets, but one that has also consistently outperformed its rivals. It has returned more than 14% over the past year, better than all but 2% of its peers, according to data compiled by Bloomberg.

The fund is closely watched by municipal-bond investors, given its track record and size. A spokesperson said Miller was unavailable to comment.

Nuveen is also closing its California high-yield muni fund to new investors after Sept. 30, the company said in a statement and filings with the Securities and Exchange Commission. Those with stakes by then will still be allowed to keep investing.

The step follows a similar move by rival Invesco Ltd., which closed its \$11 billion high-yield muni fund to new investors.

"Nuveen investment and product teams will closely monitor market conditions and other fund-specific factors and will actively look to reopen the funds when it is deemed to be in the best interest of shareholders," Nuveen said in a statement to Bloomberg News.

## **Bloomberg Markets**

By Danielle Moran

August 19, 2021, 2:45 PM MDT Updated on August 19, 2021, 3:40 PM MDT

— *With assistance by Romy Varghese*

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## **[New Jersey's American Dream Megamall Is Once Again Sinking in Debt.](#)**

- **Developers hired restructuring lawyers and financial advisers**
- **Ghermezians sacrifice pieces of empire to keep project afloat**

Since its groundbreaking nearly two decades ago, the megamall built in New Jersey's Meadowlands has done little except hemorrhage cash. Now, less than two years after its much-delayed opening, the complex known as American Dream is threatening to dash the lofty ambitions of yet another developer.

The Ghermezian family, which runs some of the biggest and most successful malls in North America,

can't keep up with the bills on the shopping and entertainment megaplex, which helped drive its original developer to the brink of bankruptcy and later was seized by lenders from the team that came next.

Revenue from the stores has been so scarce amid the surging pandemic that the Ghermezians have hired legal and financial advisers to help them ease the crushing \$3 billion debt load, and perhaps retain some role in running the project, according to people with knowledge of the matter.

[Continue reading.](#)

## **Bloomberg**

By Eliza Ronalds-Hannon, John Gittelsohn, Lauren Coleman-Lochner, and Martin Z Braun

August 19, 2021, 5:00 AM MDT

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### **[HilltopSecurities Strengthens Footprint, Adds Key Professionals to Public Finance Division.](#)**

DALLAS, August 18, 2021-(BUSINESS WIRE)-Hilltop Securities Inc. (HilltopSecurities) recently welcomed a pair of key financial services leaders to its Public Finance division in Florida and Minnesota. John Pellicci will serve as senior managing director, head of municipal high yield underwriting and sales, while Yaffa Rattner will serve as senior managing director, head of municipal credit in the firm's Public Finance division.

The two bring a combined 67 years of financial services experience to HilltopSecurities' team of financial professionals and will report to Todd Bleakney, senior managing director, co-head of Debt Capital Markets.

"John and Yaffa will be wonderful additions to our Public Finance division," said Bleakney. "They are both seasoned professionals and will only enhance our ability to serve our clients. I look forward to working with them."

"With the addition of Yaffa and John, we continue to strengthen our capital markets effort across our platform," said Mike Bartollota, Executive Managing Director, Co-Head of Public Finance/Debt Capital Markets at HilltopSecurities. "We are delighted to have such talented and experienced professionals join our team."

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### **[Investors Flock To Municipal Bonds For Tax Savings.](#)**

Wealthy investors are shoveling more money into municipal-bond exchange-traded funds as they seek shelter from expected higher tax rates.

Municipal-bond ETFs have already experienced \$13.8 billion in net inflows this year. The current trajectory is set to outpace the \$14.5 billion gathered by muni-bond ETFs for all of 2020.

The U.S. Senate recently approved a \$1 trillion infrastructure spending package. That's on top of the \$1.9 trillion Covid-19 relief bill passed earlier this year, plus \$2.2 trillion more spending via the

CARES Act in 2020. The surge in government spending has alarmed many affluent households and financial advisors who are bracing for higher income tax rates.

Income generated from municipal bonds is exempt from federal taxes and from state income taxes, so long as the bonds purchased are from a taxpayer's home state. In certain cases, income from in-state municipal bonds could be subject to state taxes.

There are 65 U.S.-listed municipal-bond ETFs with \$78.5 billion in combined assets, according to ETFAction.com. The Denver-based firm is seeing a big pickup in demand for muni-bond ETFs.

ETFs that own higher yielding, lower credit quality municipal bonds have been among the biggest beneficiaries of surging investor demand. Over \$1.25 billion has already flooded into high-yield muni-bond ETFs this year, which is more than 10 times greater than the \$111 million of assets gathered in 2020.

The \$3.9 billion VanEck Vectors High Yield Muni ETF (HYD) is among the funds within the high-yield category that's seen an uptick in asset flows. HYD carries a 30-day SEC yield of 2.18% which equates to a 3.46% taxable equivalent yield for investors in the highest 37% tax bracket. The fund distributes income payments monthly and charges 0.35% annually.

Muni-bond ETFs that are exempt from the federal alternative minimum tax, or AMT, have become another popular target for investors.

With \$8.7 billion in combined assets, ETFs tied to municipal bonds with AMT-free income represents the largest segment within the overall municipal-bond ETF category. Within this group, the Invesco National AMT-Free Municipal Bond ETF (PZA) owns at least 80% of its assets in muni bonds that are exempt from the AMT.

The AMT disallows certain deductions that are permitted in the ordinary income-tax code. After calculating taxes under both ordinary income and AMT rates, taxpayers must pay whichever rate is higher. The 2017 tax law change under the Tax Cuts and Jobs Act increased the phase-out thresholds, meaning fewer tax filers are subject to AMT.

FINANCIAL ADVISOR

AUGUST 17, 2021 • RON DELEGGE

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## **[Should You Rethink Your Muni Ladders?](#)**

Municipal bond ladders are a common strategy to mitigate interest rate risk. If interest rates rise, you can reinvest bonds coming due in higher-yielding bonds. If interest rates fall, you always have a good number of bonds locked in at higher rates. The problem is that the current environment introduces a lot of uncertainties.

Let's look at why muni bond investors face a challenging reinvestment environment and alternative strategies to consider.

### **Demand Outstrips Supply**

The municipal bond market has become a fixed-income safe-haven. After a tumultuous winter, the

federal government's stimulus spending has padded state and local budgets. Meanwhile, the swift economic recovery alleviated many concerns of future budget shortfalls. These trends have eliminated the need for new muni bond issues to raise capital.

[Continue reading.](#)

## **dividend.com**

by Justin Kuepper

Aug 18, 2021

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- [More Muni Issuers Are Making Banks Compete to Win Bond Deals.](#)
  - [MSRB Offers Remote Municipal Advisor Principal Exam.](#)
  - [Fitch: USPF Exposed to the Same Factors Pressuring the US Sovereign](#)
  - [S&P: Uncovering Local-level Risk Factors for Municipal Exposures](#)
  - [Pimco Veterans Look to Shake Up 'Old School' Muni Loan Market.](#)
  - [MSRB Research Paper on the Taxable Municipal Bond Market.](#)
  - [GFOA 2021 GAAP Update.](#)
  - And finally, Bismarck, Otto van Bismarck, is brought to us this week by [Smith v. Isakson](#), in which Eric Smith was found guilty of violating a Bismarck ordinance restricting the use of public grounds without a permit after a mall and fast-food restaurant repeatedly asked Mr. Smith to remove his flags, banners, and assorted merchandise promoting the campaign of a particular presidential candidate from the property. (Don't ask us, could have been any number of presidential candidates.). The penalty for this particular infraction is \$100. There exists no possibility for jail time. Nevertheless, in a move no one could have seen coming from an individual already deemed a vexatious litigant (Is there a better two-word combo in the English language? Moist Towelette?) by the Supreme Court of North Dakota, Mr. Smith sued the mall for \$500k (*pro se*, natch) and managed to ([once again](#)) take his case to the state supreme court. Our deepest, deepest condolences to the DAs who will now be required to provide Mr. Smith with a jury trial. You ever deal with a *pro se* litigant? Think clown-car towing rabid monkeys barreling head-long into a tanker truck of human waste. And finally, finally, [when even Chick-fil-A](#) wants you off its property, please take this as a sign that it's time for a long dark night of political soul-searching.

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## **EASEMENTS - CALIFORNIA**

### **[Pear v. City and County of San Francisco](#)**

**Court of Appeal, Sixth District, California - July 28, 2021 - Cal.Rptr.3d - 2021 WL 3186556 - 21 Cal. Daily Op. Serv. 7667**

Grantors' successors brought action regarding their uses of surface of strip of property deeded to city and county for use for underground water pipes, alleging claims for quiet title, an irrevocable license, declaratory relief, and injunctive relief.

The Superior Court granted summary judgment for city and county. Successors appealed, and the Sixth District Court of Appeal reversed and remanded. Following a court trial, the Superior Court entered judgment for successors on claims to quiet title and for declaratory and injunctive relief, and city and county appealed.

The Court of Appeal held that:

- Deed reservation allowed grantors' successors to plant grass on the property;
- Deed reservation allowed grantors' successors to place ornamental landscaping on the property;
- Deed reservation permitted roads and streets for both residential and commercial use;
- Deed reservation allowed access to commercial property's service bays which were perpendicular to the pipeline property; and
- Deed reservation did not permit parking lot use of the property as part of general access to neighboring automotive service center.

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## **PUBLIC FINANCE - MICHIGAN**

### **[Taxpayers for Michigan Constitutional Government v. Department of Technology, Management and Budget](#)**

**Supreme Court of Michigan - July 28, 2021 - N.W.2d - 2021 WL 3179659**

Taxpayer organization brought action against state and state authorities to enforce state constitutional amendment requiring certain percentage of state spending to be apportioned to local government.

The Court of Appeals granted mandamus relief for organization, and the matter then came before the Court of Appeals again on motion for reconsideration. The Court of Appeals granted summary judgment in part and denied it in part for both parties. Parties' applications for leave to appeal were granted.

The Supreme Court held that:

- "Proposal A" payments should be counted as part of total state spending paid to units of local government for purposes of Headlee Amendment;
- Public school academies (PSAs) were not "school districts" as that term was used in Headlee Amendment; and
- State funding provided to units of local government had to be counted for purposes of "total state spending paid to all units of Local Government" under Headlee Amendment.

Under the Headlee Amendment requiring certain percentage of state spending to be apportioned to local government, neither specific individual units of local government nor classes of units of local government are entitled to the same proportion of the allotment for units of local government as they received in 1978-1979.

"Proposal A" payments from state sales and use tax that state directed to school districts, and state spending for state-mandated local services and activities, had to be counted as part of total state spending paid to units of local government for purposes of Headlee Amendment requiring certain percentage of state spending to be apportioned to local government.

Public school academies (PSAs) were not "school districts" as that term was used in Headlee Amendment which requires certain percentage of state spending to be apportioned to local government; although legislature authorized creation of PSAs and treated them as school districts for specific purpose of receiving aid from State School Aid Fund, PSAs were organized as nonprofit corporations by person or other entity, PSAs were not limited to defined local geographic area, governing body of PSA was made up of board of directors comprised of privately selected members, board of directors of PSA could enter into contract with education-management corporation to

manage or operate PSA or to provide PSA with instructional or other services, and PSA was funded solely by state and may not levy taxes.

State funding provided to units of local government had to be counted for purposes of “total state spending paid to all units of Local Government” under Headlee Amendment which required certain percentage of state spending to be apportioned to local government to honor voters’ intent neither to freeze legislative discretion to enact necessary and desirable legislation in response to changing times and conditions nor to permit state government unrestricted discretion in its allocation of support for mandated activities and services; state funding to unit of local government was state funding to unit of local government, whether that funding was tied to state mandate or was unrestricted aid for discretionary spending.

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## **STANDING - NEW HAMPSHIRE**

### **[Carrigan v. New Hampshire Department of Health and Human Services](#)**

**Supreme Court of New Hampshire - July 20, 2021 - A.3d - 2021 WL 3044342**

Taxpayer-resident brought declaratory judgment action against Department of Health and Human Services and its Commissioner, alleging that they were failing to meet their statutory and constitutional duties with respect to abused and neglected children as a result of their “irresponsible” spending decisions.

The Superior Court dismissed for lack of standing. Taxpayer-resident appealed.

The Supreme Court held that taxpayer-resident lacked standing under state constitutional provision allowing declaratory judgment actions challenging unlawful spending of public funds.

State constitutional provision allowing declaratory judgment actions by taxpayer-residents challenging governmental action involving unlawful spending of public funds does not provide the judiciary with the authority to decide whether the State or a local government has invested sufficient resources to address alleged shortcomings or has properly funded the agencies with responsibility for abiding by the legal requirements enacted by the legislature at levels that facilitate legal functioning.

Taxpayer-resident lacked standing, under state constitutional provision allowing declaratory judgment actions by taxpayer-residents challenging governmental action involving unlawful spending of public funds, against Department of Health and Human Services and its Commissioner alleging that they were failing to meet their statutory and constitutional duties with respect to abused and neglected children as a result of their “irresponsible” spending policies involving poor allocation of resources, where taxpayer-resident failed to challenge any specific spending action or spending approval by Department.

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## **MUNICIPAL ORDINANCE - NORTH DAKOTA**

### **[Smith v. Isakson](#)**

**Supreme Court of North Dakota - July 22, 2021 - N.W.2d - 2021 WL 3083472 - 2021 ND 131**

Defendant convicted, following bench trial, of violating city ordinance prohibiting the sale of merchandise on public grounds without a permit filed a pro se petition for writ of supervision,

alleging violation of his right to jury trial.

The Supreme Court held that:

- Defendant was not entitled to jury trial under Sixth Amendment, but
- He was entitled to jury trial under North Dakota constitution.

Defendant charged with violating city ordinance prohibiting the sale of merchandise on public grounds without permit was not entitled to jury trial under the Sixth Amendment, since the offense was characterized as infraction, and carried a maximum potential fine of \$1000, without any possible prison term.

Defendant charged with violating city ordinance prohibiting the sale of merchandise on public grounds without permit was entitled to jury trial under North Dakota constitution; when North Dakota constitution was adopted in 1889, laws permitted cities to comprehensively regulate sales in public places, and jury trial was guaranteed for violation of such laws because potential penalties included incarceration for up to three months and fines of up to \$100, and constitution extended right to jury trial to all crimes for which the right was preserved when constitution was adopted.

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## **IMMUNITY - OREGON**

### **[Sherman v. State by and through Department of Human Services](#)**

**Supreme Court of Oregon, En Banc - July 29, 2021 - P.3d - 368 Or. 403 - 2021 WL 3204726**

Former foster child brought action against Department of Human Services, alleging that the Department failed to protect her from abuse while she was a child in foster care by negligently certifying her foster parents and failing to appropriately investigate and respond to alleged abuse, and also alleging violation of the Vulnerable Person Act.

The Circuit Court granted Department's motion to dismiss, ruling that claims were time-barred by the statute of ultimate repose. Former foster child appealed. The Court of Appeals reversed and remanded, and Department appealed.

The Supreme Court, en banc, held that:

- Statutory two year limitations period for Oregon Tort Claims Act (OTCA) claims does not render statute, exempting child abuse claims from the statute of ultimate repose, completely ineffective;
- Statute, exempting child abuse claims from the statute of ultimate repose, applies to all child abuse claims, including claims for child abuse brought against public bodies; and
- Child abuse claims brought against Department should not have been dismissed.

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## **EMINENT DOMAIN - SOUTH CAROLINA**

### **[Ray v. City of Rock Hill](#)**

**Supreme Court of South Carolina - August 4, 2021 - S.E.2d - 2021 WL 3378945**

Landowner brought action against city for trespass and inverse condemnation arising from city's piping stormwater under her house.

The Circuit Court granted summary for city on inverse condemnation claim, after which the Circuit

Court directed a verdict for city on trespass claim. Landowner appealed. The Court of Appeals affirmed in part, reversed in part, and remanded. City petitioned for writ of certiorari, which was granted.

The Supreme Court held that:

- Factual issues about city's reconnection of city pipes to stormwater catch basin precluded summary judgment on inverse condemnation claim, but
- Statute of limitations barred recovery for damage caused by flow of water before city reconnected pipes.

Genuine issues of material fact existed as to whether city's reconnection of three city pipes to stormwater catch basin, which allowed water to resume flowing through pipe under landowner's house, was an affirmative, positive, aggressive act by city resulting in damage to landowner's property, precluding summary judgment on landowner's inverse condemnation claim.

Landowner's right of action against city for inverse condemnation was limited to three years from date she discovered, or by exercise of reasonable diligence should have discovered, she might have had a claim against city for city's piping stormwater under her house.

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## **PUBLIC UTILITIES - TEXAS**

### **[Quadvest, L.P. v. San Jacinto River Authority](#)**

**United States Court of Appeals, Fifth Circuit - August 3, 2021 - F.4th - 2021 WL 3362470**

Investor-owned water utilities brought action against San Jacinto River Authority (SJRA), state entity, alleging that SJRA violated Sherman Act when it entered into and enforced contracts relating to purchase of wholesale water in Montgomery County, Texas.

The United States District Court for the Southern District of Texas denied SJRA's motion to dismiss based upon state-action immunity. SJRA filed interlocutory appeal.

The Court of Appeals held that:

- SJRA invoked state-action immunity as state entity, and therefore interlocutory appeal of denial SJRA's motion to dismiss based upon state-action immunity was proper, and
- SJRA was not entitled to state-action immunity at pleading stage.

San Jacinto River Authority (SJRA) invoked state-action immunity as state entity, in action brought by investor-owned water utilities alleging that SJRA violated Sherman Act when it entered into and enforced contracts relating to purchase of wholesale water in Montgomery County, Texas, and therefore interlocutory appeal of denial SJRA's motion to dismiss based upon state-action immunity was proper, since SJRA was active participant in market over which it purportedly exerted anticompetitive control.

Texas Legislature did not authorize entry of San Jacinto River Authority (SJRA), as state entity, into, and enforcement of, challenged provisions of groundwater reduction plan (GRP) contract with intent to displace competition in market for wholesale raw water in Montgomery County, Texas, and therefore SJRA was not entitled to state-action immunity at pleading stage of action brought by investor-owned water utilities alleging that SJRA violated Sherman Act, since statutory authority to sell surface water would not inherently, logically, or ordinarily result in displacement of competition

in market for allegedly cheaper, plentiful groundwater.

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## **TAX - MARYLAND**

### **[Mayor and City Council of Ocean City v. Commissioners of Worcester County, Maryland](#)**

**Court of Appeals of Maryland - August 5, 2021 - A.3d - 2021 WL 3417685**

Municipality brought action seeking declaratory judgment that tax setoff laws were unconstitutional because they treated different municipalities differently.

The Circuit Court dismissed the action. Municipality appealed. The Court of Special Appeals affirmed. Municipality's petition for writ of certiorari was granted.

The Court of Appeals held that statutes providing for mandatory real property tax setoffs did not violate uniformity requirement in Constitution.

Statutes providing for mandatory real property tax setoffs did not regulate matters of purely local concern, and therefore they did not violate Constitutional provision requiring General Assembly to act in relation to government or affairs of any municipal corporation only by general laws that in their terms and in their effect applied uniformly, since tax setoff statutes strongly affected county residents who resided outside of municipality.

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### **[Municipal CUSIP Request Volumes Slow in July, Ending 5-Month Growth Streak.](#)**

NEW YORK, Aug. 13, 2021 /PRNewswire/ — CUSIP Global Services (CGS) today announced the release of its CUSIP Issuance Trends Report for July 2021. 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 significant monthly decrease in request volume for new municipal identifiers and a slight increase in request volume for new corporate identifiers.

CUSIP identifier requests for the broad category of U.S. and Canadian corporate equity and debt edged higher in July versus June totals. The monthly increase was driven largely by medium-term note and Canadian corporate issuance. On a year-over-year basis, corporate CUSIP request volume was down 1.3%.

Monthly municipal volume decreased in July, the first monthly decline in muni CUSIP request volume since January of this year. The aggregate total of all municipal securities - including municipal bonds, long-term and short-term notes, and commercial paper - fell 18.7% versus June totals. On an annualized basis, municipal CUSIP identifier request volumes were up 4.2% through July. New York led state-level municipal request volume with a total of 196 new CUSIP requests in July, followed by Texas with 195 and California with 93.

"Municipalities have been busy with new debt issuance this year, and while the volume of new requests has slowed this month, it's important to note that seasonality could be playing a role in the trend. June is peak short-term notes season, so it stands to reason that we'd see a tough comparison in July," said Gerard Faulkner, Director of Operations for CGS. "With interest rates still holding at

historic lows and state governments very much in need of cash flow, we expect issuance volume to stay healthy for the near term.”

Requests for international equity and debt CUSIPs both declined in July. International equity CUSIP requests were down 4.6% versus June. International debt CUSIPs were down 24% on a monthly basis.

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

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## **More Muni Issuers Are Making Banks Compete to Win Bond Deals.**

- **So-called competitive deals are up 32% to highest since 2016**
- **Competitive sales were down a year ago following market crash**

In a stark contrast to a year ago when states and local governments hit by the pandemic had to woo skittish investors, more issuers are selling municipal bonds through competitive auctions that put the risk on underwriters.

The amount of long-term bonds sold through competitive deals has risen to \$64.6 billion so far this year, a 32% increase from the same period of 2020 and the highest for the year-to-date period since 2016, according to data compiled by Bloomberg. Meanwhile, the volume of long-term bonds sold through a negotiated offering — still the bulk of the market — has gained 2.7% to about \$211.8 billion, the data show.

In a competitively priced deal, underwriters bid for and buy the bonds and then have to sell them no matter the market conditions. In negotiated offerings, banks are hired in advance to set the interest rates and line up buyers for the securities.

Right now, investor demand for tax-exempt debt is so great that the extra legwork by underwriters and marketing time needed with negotiated deals to attract buyers isn't as necessary, according to Vikram Rai, a municipal analyst for Citigroup Inc. Munis have proven to be an oasis in the fixed-income universe in 2021, outperforming Treasuries.

“Negotiated deals are more popular when the market has a slightly weaker tone,” Rao said. “When demand is strong we see competitive deals increase.”

The rise in competitive deals is a big shift from a year ago, when negotiated sales spiked as the market coped with the impact of business shutdowns at the start of the pandemic and spooked investors pulled record amounts of cash from mutual funds. Last year through mid-August, competitive deals were down about 18% from the same stretch of 2019, while negotiated deals jumped 35%.

The supply of muni bonds expected to be issued in the next 30 days is short of the amount available for reinvestment by \$14.9 billion, up 10% from a year ago, according to data compiled by Bloomberg. Mutual funds for tax-exempt bonds have seen inflows of almost \$60 billion this year as investors look for income amid historically low interest rates, and there have been no meaningful outflows for almost 66 weeks.

Right now, the market is leaning more toward competitive deals than last year because “issuers, and their financial advisors, see the uneven landscape between supply and demand,” said Bloomberg

Intelligence analyst Eric Kazatsky. “To help drive the best deal for their clients, advisors help navigate them towards the competitive market, where they can save on costs of issuance and have many firms bid on their debt.”

Also boosting the rise in competitive sales, recent rate volatility has eroded some of the benefits of refunding offerings, which are largely priced through negotiated sales, according to Kimberly Olsan, senior vice president of municipal bond trading for FHN Financial. Refunding deals are down while new money sales, which are usually sold via a competitive auction are up, she said.

Still, the surge in competitive deals may be a “temporary phenomenon,” according to Citi’s Rai. “If there is any letup in demand, the needle will turn toward negotiated deals,” he said.

## **Bloomberg Markets**

By Shruti Sing

August 13, 2021

— *With assistance by Danielle Moran*

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### **[Fitch Ratings Updates State Revolving Fund and Muni Finance Pool Program Criteria.](#)**

Fitch Ratings-Austin-11 August 2021: Fitch Ratings has published an update to its “State Revolving Fund and Municipal Finance Pool Program Criteria.” This report replaces the previous report of the same title last published on March 3, 2021.

The fundamentals of these criteria remain unchanged. However, on Aug. 9, 2021, Fitch published an exposure draft for its “CLOs and Corporate CDOs Rating Criteria (CDO Criteria)” that proposes a calibration update to its Portfolio Credit Model, including probability of default assumptions, confidence intervals, and correlation.

Given the relationship of these criteria to the CDO criteria, for new ratings, Fitch will utilize a modified version of its Portfolio Stress Model incorporating similar changes as those proposed in the CDO criteria exposure draft. With respect to the surveillance of existing ratings, Fitch will utilize the existing version of the Portfolio Stress Model without modification. Following the consultation period and publication of the new CDO Criteria, this SRF criteria and the Portfolio Stress Model will be updated accordingly.

Fitch does not expect any ratings changes as a result of these updates.

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## **Fitch: USPF Exposed to the Same Factors Pressuring the US Sovereign**

Fitch Ratings-New York-12 August 2021: US Public Finance (USPF) ratings are subjected to the same macroeconomic and structural factors that underlie the Negative Outlook on the United States' Long-Term Foreign Currency Issuer Default Rating (IDR) of 'AAA' says Fitch Ratings. Most USPF ratings are not explicitly tied to the US sovereign rating, except when bond repayment depends on federal agencies or instruments. However, federal policy actions have direct and indirect ramifications for the operating environment of states, local governments, and revenue-supported entities, which over time could influence the risk profile of the sector.

The Negative Outlook on the US sovereign rating reflects ongoing risks from fiscal deficits and real interest rates to its public finances and debt trajectory. A further meaningful increase in debt could lead to a downgrade. Deterioration in governance represents a further risk, reflecting in part a lack of bipartisanship and difficulty in formulating policy and passing laws in Congress.

Although there are numerous policy and funding links between USPF issuers and the federal government, USPF issuers benefit from the significant autonomy inherent in the US federal structure. Legal and fiscal powers enshrined in the US Constitution devolve broad powers to states, most notably fiscal powers. Government frameworks below the state level follow similar patterns, with substantial fiscal powers delegated to local governments to deliver general services and to public and not-for-profit entities to fund public services through their own revenue powers.

Future actions by the US government to rein in the nation's very high debt burden by curtailing spending could directly affect USPF credits that rely on federal funding for certain programs, particularly Medicaid, housing subsidies and grants, higher education grants and student loans, and the Highway Trust Fund. USPF ratings assume sufficient flexibility to respond to reduced federal funding, although service mandates or decisions to backfill lost federal funds with own-source resources could affect operating performance over time.

Local governments bear the added risk of absorbing both federal spending cuts and state tightening that could follow a round of federal spending cuts but their typically broad budgetary tools and high reserves help offset this constraint. Lower infrastructure investment could also affect credits longer term if states, local governments and revenue-supported entities must ultimately bear the full

burden for expansion or restoration of infrastructure.

Beyond funding effects, a weakening of the US government's credit quality could have wider reverberations on USPF finances. Higher interest rates would make debt issuance costlier for USPF issuers. Weaker public finances could diminish the reach and effectiveness of countercyclical actions, leaving USPF issuers vulnerable to deeper downturns and slower recoveries.

A limited number of ratings with direct links to, or dependence on, the US sovereign credit retain the Negative Outlook on their 'AAA' rating, unless there are mitigants that reduce US sovereign exposure. These ratings with US rating links are municipal housing bonds currently rated 'AAA' and secured entirely, or predominately, by Fannie Mae and Freddie Mac mortgage-backed securities and pre-refunded municipal bonds where escrowed funds deposited with a trustee to advance refund the bonds are invested in US government obligations. Ratings on the latter bonds depend on the rating assigned to those securities, which are generally US treasuries or other bonds directly guaranteed by a US federal agency.

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## **S&P: Uncovering Local-level Risk Factors for Municipal Exposures**

### **The Muni Landscape**

Municipal securities, or "muni bonds", issued by states, cities, counties and other governmental entities in order to fund infrastructure, schools and other projects represent an extensive marketplace. As of the first quarter of 2021, there was \$4 trillion in outstanding issuance, accounting for over 50,000 issuers.

Muni bonds come in two varieties: general obligation and revenue bonds. General obligation bonds are used to finance public projects that aren't linked to a particular revenue stream. Revenue bonds, by contrast, are bonds whose interest and principal are backed by the revenues of a specific project that the bonds are funding, such as toll roads and universities.

Often, revenue bonds are issued through a conduit, which is usually a government agency or government-sanctioned entity that issues debt to raise funds for large-scale projects, such as hospitals and airports, on behalf of a borrower. Conduits typically are not responsible for the payment of principle or interest for the issue(s) in question, as this falls to the borrower. In addition, conduits are often not located in the same geographic area as the projects they are funding.

### **The Rise of ESG Concerns are Impacting Munis Too**

Environmental, social and governance (ESG) factors are taking center stage and playing an increasingly important role in the evaluation of risks associated with investments. In March of this year, for example, the European Union's Sustainable Finance Disclosure Regulation ("SFDR") came into force requiring certain asset managers and financial advisers to make ESG disclosures to potential and current investors. This new regulation also impacts large U.S. firms that market funds in Europe.

To fully understand potential ESG risks, it is imperative to know where assets are located. This applies to muni bonds, as well, but there are three major challenges here:

1. Conduit issues are assigned to the state where the conduit issuer resides, not where the actual projects are located.

2. Revenue bond issues often represent projects that are located across numerous cities, counties and even states, but are assigned to a single state at issuance.
3. Many revenue bond issuers (e.g., hospital obligated groups, gas districts and water districts) cover multiple locations, and it is important to map these multiple entities to the issuer in question in order to effectively assess ESG risks.

To address these challenges, CUSIP Global Services (CGS) partnered with ISS ESG[2] to create a location mapping solution.

### **Shining a Light on Municipalities to Assess Potential Risks**

CUSIPs are nine-character alphanumeric security identifiers that capture the unique attributes of issuers and their financial instruments throughout the U.S. and Canada. In the muni bond market, a CUSIP is used by investors to uniquely identify and track municipal securities and link them with the underlying issuing entity. This represents approximately 1.5 million CUSIPs today.

Working with ISS ESG, CGS has created a mapping file that links the first six characters of the unique CUSIP identifier for each municipal issue with the geographic identifier (GEOID) hierarchy for the issuer, including state, county, city and school district. The GEOID is a unique geographic identifier assigned by the U.S. Census Bureau to administrative/legal and statistical geographic areas.

ISS ESG has also developed its Muni QualityScore based on socioeconomic, environmental, health and crime data, which can be accessed through a separate mapping and is updated quarterly. The GEOID-level detail enables muni bond identifiers to be paired with these ESG scores, giving market participants insight into the level of exposure their municipal securities have to certain ESG attributes.

This new capability addresses a longstanding challenge in the U.S. muni bond market, where interested parties could not easily make the link between underlying issuer and related census, socioeconomic, climate change and crime data. Through this partnership, CGS and ISS ESG are able to deliver more transparency into the muni bond market, facilitating links to data that can be used to inform risk models and values-based investment strategies.

[Click here for more information on the CGS/ISS ESG solution.](#)

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### **[Pimco Veterans Look to Shake Up 'Old School' Muni Loan Market.](#)**

- **Alpha Ledger's blockchain-based platform offers loan auctions**
- **Firm aims to move into business of public muni debt in 2022**

After breaking new ground in exchange-traded funds for Pimco more than a decade ago, Manish Dutta and Tammie Arnold have set their sights on one of the more opaque corners of municipal finance.

Their company, [Alpha Ledger Technologies](#), is seeking to modernize the market for direct lending to municipalities through a platform based on blockchain, the technology used for verifying and recording transactions that's at the heart of Bitcoin.

The firm's system lets cities and localities auction their loans, allowing a wide group of investors —

such as regional banks — to bid, potentially reducing borrowing costs on these relatively small, private financings. The other benefit is that the system provides an online account of the bids and the deal — a novelty for localities used to maintaining paper records.

It amounts to a shift from the “old-school” process of underwriting, where the decision to pick a bank and the terms of a loan can be private, said Dutta, Alpha Ledger’s chief executive officer. Fifty banks have used the platform, including community, regional and national banks, he said.

“On our platform, it’s an open, direct, transparent market,” he said.

In July, the Poulsbo, Washington-based company, which was founded in 2019, made further inroads when California’s Coachella Valley Unified School District borrowed through its platform. It was one of five loan transactions Alpha Ledger has completed this year, after two in 2020.

Banks held about \$197 billion of direct loans to municipalities as of the second quarter, according to research firm Municipal Market Analytics. Alpha Ledger wants to move into the public-debt arena — which accounts for the brunt of municipal borrowing — some time in 2022.

The muni market, with annual bond and note issuance of about \$400 billion, has proved to be tough to disrupt. In one example, Neighborly, a venture that tried to sell muni bonds in smaller pieces than the typical \$5,000, abandoned that effort in 2019.

Dutta, who worked on technology development at Pacific Investment Management Co., co-founded the company with Christopher Wade and brought on former colleagues like Arnold and Don Suskind, who worked on ETF products at Pimco.

#### ‘Nothing But Competition’

Traditionally with municipal loans, borrowers hire advisers who seek bids from banks. Municipalities can also approach banks directly. With direct loans, officials have found they can borrow at rates comparable to those on bonds without the fees or disclosure requirements associated with public-debt offerings.

Alan Crain, chief financial officer of Kitsap Bank in Port Orchard, Washington, said his bank joined the platform even though he knew it was “nothing but competition” in the lending market.

“My recognition was that if we don’t work with them to do this, someone else will,” he said. “I’d rather work with them and understand how to pivot our business, rather than be left out in the cold.”

Kitsap manages a portfolio of about \$280 million of municipal debt including the loans, and has participated in four transactions on the platform. Crain said that he’s seen the bidding process deliver lower rates for borrowers as well as more flexible terms for them, and said it helps improve transparency around pricing.

“When banks compete, you win” as a borrower, he said.

#### **ETFs to Blockchain**

Arnold and Dutta met in 2008, when Arnold was tasked with starting Pimco’s actively managed bond ETF products, an effort that she said stretched existing technology around compliance, trading and disclosure.

For example, the money manager had to address issues with pricing of ETFs, which updates

instantly because the funds trade on an exchange, while mutual funds can sort out net asset values overnight if needed, she said.

Arnold's request for more help with technology led to her connection with Dutta. Both spent roughly two decades at Pimco. She says ETFs were instructive in how to make small transactions financially viable, given that they had to be available for investors at a much lower cost than mutual funds, for example.

That's now relevant to Alpha Ledger's strategy of focusing on municipal loans, which tend to be smaller. The average size of loans the company has worked on is about \$3 million.

"This is an exercise in small transaction size access and economics," said Arnold, the company's head of business strategy.

Alpha Ledger charges what it calls a technology fee, that is fixed regardless of loan size and which the company declined to share. The company is working with municipal advisers and bond counsel as it seeks new business, Dutta said.

### **'Digitizing Everything'**

David Ulbricht, director of advisory services for SDAO Advisory Services, which advises Oregon-based issuers, said he researched blockchain for two years after first meeting with the company in 2019. He wanted to make sure it would be a good product for his clients, which include special districts, cities, school districts and counties.

"It's basically digitizing everything," he said. "You realize, OK, this is kind of where things are going."

The platform helps banks hear about transactions — and as a result, the terms of the financings under the platform are "very, very" competitive and can cut out costs like bank counsel fees, something that ultimately benefits borrowers, Ulbricht said.

The platform also offers a debt-management tool, which appealed to Oregon's Port of Astoria, which operates an airport in Warrenton, Oregon. It obtained a \$1.3 million loan through the platform in April, and plans to put its \$14 million loan portfolio on the platform, said Melanie Howard, the port's accounting and business services manager.

The port typically monitored its loans on a spreadsheet, while the blockchain technology offered a way for both the port and the banks to have easily accessible details on the loans, she said.

"It ties a better relationship between the lender and borrower," she said.

### **Bloomberg Markets**

By Amanda Albright

August 16, 2021, 10:00 AM MDT

— *With assistance by Martin Z Braun*

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## [Schools Brace for More Cyberattacks After Record in 2020.](#)

**Reported hacking incidents have increased nearly fivefold since 2016. Virtual learning during the pandemic created even more access points for attackers.**

Cyber criminals are targeting U.S. schools at an increasing rate after remote learning during the pandemic left them more vulnerable to hacks, and the risk shows no sign of abating as students and teachers head back to the classroom this month.

The number of publicly disclosed computer attacks on schools has exploded since 2016 to a record 408 in 2020, according to the [K-12 Security Information Exchange](#), a nonprofit that tracks such incidents, and those figures are almost certainly an undercount because many go unreported. While schools are opening back up across the country for in-person instruction, many are expected to retain virtual learning as an option and that means more access points for potential intrusion with financial consequences for districts that are already facing increased costs to bring students back.

The growing frequency of hacks — averaging more than two per school day last year — has school officials worried about the potential for the theft of students' identities and the added cost to insure against attacks and repair breaches. In Del Rio, Texas, the district comptroller mistakenly wired more than \$2 million to a hacker's account. About 170 miles (274 kilometers) away, a district in Live Oak, Texas, paid an undisclosed ransom amount to regain control of some computer platforms, and in Broward County, Florida, thousands of stolen files, including some confidential information, were published after district officials refused to pay a \$40 million ransom, according to [local reports](#).

[Continue reading.](#)

### **Bloomberg CityLab**

By Nic Querolo and Shruti Singh

August 9, 2021, 12:06 PM MDT

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## [Cut in Infrastructure Money for Communities Hurt by Highways Disappoints Advocates.](#)

**The Reconnecting Communities Initiative aimed to help cities rectify damage caused by highways built through minority neighborhoods. The bipartisan infrastructure bill cut it by 95 percent.**

Shawn Dunwoody and Suzanne Mayer can remember when Democratic Sens. Kristen Gillibrand and Chuck Schumer of New York went to Rochester's Inner Loop at the end of June and emphasized the need to fund projects that reconnected neighborhoods bisected by highways.

The senators' advocacy meant the world, said Dunwoody and Mayer, who created a group called Hinge Neighbors. Their goal was to fill in the Inner Loop, a part of Interstate 490 that the federal government built after it plowed through minority neighborhoods in the 1950s, destroying hundreds of homes and businesses.

They said the words of support feel confusing now that they have seen the details of the bipartisan infrastructure bill. The Reconnecting Communities Initiative — which began as a bill written by

Gillibrand and Schumer, whose offices did not respond to requests for comment — was cut from a proposed \$20 billion in the American Jobs Plan to \$1 billion in the recently proposed legislation.

[Continue reading.](#)

**abcnews.com**

By Phil McCausland

Aug. 5, 2021

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## **[What's In the Infrastructure Plan for Rural America?](#)**

**Here's a deep dive into the final bipartisan infrastructure deal approved by the Senate impacting those in agriculture.**

The U.S. Senate's passage of the more than 2,700-page Infrastructure Investment and Jobs Act offers many important provisions that those in rural America were seeking. The bill provides \$548 billion in additional spending. When combined with existing baseline infrastructure spending, total funding for infrastructure will be approximately \$944 billion over five years and \$1.2 trillion over eight years.

The House has already passed its own version of an infrastructure bill - the INVEST In America Act, also in H.R. 3684, which the Senate replaced with this plan. The House could take up the Senate's version, but it's unlikely given House Transportation and Infrastructure Chairman Peter DeFazio, D-Ore., concerns with missing provisions after he spent months on his own plan.

The Infrastructure Investment and Jobs Act represents a highlight reel of the Senate's bipartisan work. It includes several bills that have already won bipartisan action in the Senate, including a must-pass highway bill to extend programs set to expire this fall.

[Continue reading.](#)

**farmprogress.com**

Jacqui Fatka | Aug 11, 2021

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## **[What Works? Evidence and Evaluation Key as States and Localities Spend Aid.](#)**

**The federal government is urging states and localities to study the results of their American Rescue Plan Act spending and to adopt programs with proven track records.**

As state and local governments get started spending billions in federal recovery dollars, public officials are making bold predictions about how far the money will go to help their communities with issues like homelessness, upgrading infrastructure and job training.

But to know how well these investments are paying off, it will be necessary to have systems in place to assess whether they're meeting their goals. With this in mind, the federal government is pushing

states and localities receiving American Rescue Plan Act funds to think about ways to evaluate the results of their spending, and also to pursue “evidence-based” programs.

“Evaluation lets us understand if something is working as intended, why and for who,” Diana Epstein, who leads a team focused on evidence-based policymaking at the White House Office of Management and Budget, said during an online seminar the Treasury Department held this week to discuss program evaluation and other issues tied to ARPA’s state and local aid funding.

[Continue reading.](#)

ROUTE FIFTY

by BILL LUCIA

AUGUST 12, 2021

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