

---

### **House Passes Senate-Approved Bank Regulatory Reform Bill - BDA's Advocacy Efforts Help Classify Muni Bonds as HQLA.**

On May 22, 2018, the US House of Representatives passed by a vote of 258-159 the Senate's bank regulatory reform bill, *The Economic Growth, Regulatory Relief, and Consumer Protection Act* (S. 2155). With the bill's passage in both Chambers, the President is expected to sign it into law before the start of the weekend.

**A legislative success for BDA members** in the bill is a provision (Section 403) that directs the FDIC, the Federal Reserve, and the OCC to classify qualifying investment-grade, liquid and readily-marketable municipal securities as level 2B liquid assets under the agencies' liquidity coverage ratio (LCR) rules. This classification ensures that municipal bonds remain an attractive and low-cost financing tool for public infrastructure.

Working in tandem with state, local, and issuer groups, BDA has supported and advocated for the high-quality liquid asset (HQLA) provision in the bill. BDA's work on this issue can be viewed [here](#).

#### **Next Steps**

The BDA will be tracking and updating members as the federal banking agencies amend LCR regulations to reflect the change in law.

Section 403 directs all the banking agencies to amend their LCR rules and any other regulation that incorporates similar liquidity definitions within 90 days after the date of enactment of the legislation.

#### **Bond Dealers of America**

May 23, 2018

---

### **Banking Bill Expected to Help Lower State and Local Borrowing Costs.**

The banking bill President Trump signed into law on Thursday promises to help reduce state and local borrowing costs, public finance officials and experts said.

A section in the bill would reclassify investment grade municipal bonds as "high-quality liquid assets," referred to as HQLA for short.

This change opens the door for the nation's biggest banks to use the bonds to meet federal liquidity

requirements. Liquidity is a measure of how swiftly assets can be converted to cash to meet financial obligations.

Enabling banks to count the bonds as liquid assets is expected to drive up demand for the bonds and, in turn, push down interest rates for state and local borrowers.

"HQLA is huge for us," said Emily S. Brock, who leads the Government Finance Officers Association's federal liaison center. "We've been working it for about four years."

The Federal Reserve, Federal Deposit Insurance Corporation and the Comptroller of the Currency approved liquidity rules in 2014 for banks with over \$250 billion in assets, setting guidelines for the high-quality liquid assets that they need to maintain. But "muni" bonds didn't qualify as an HQLA asset under those rules.

Vermont Treasurer Beth Pearce is the current president of the National Association of State Treasurers.

"For me as a treasurer, and treasurers across the country, we're concerned about the cost for our taxpayers and we see this as an important improvement," Pearce said.

"It's a very big deal," she added.

State and local governments commonly borrow to pay for infrastructure like roads, schools and water systems. The municipal debt market in the U.S. totals about \$3.8 trillion.

It's too early to know how much the HQLA designation could save states and localities, according to Brock and Pearce.

But Brock anticipates no shortage of interest among banks in municipal debt. "Banks love safety, they love liquidity and they love yield," she said. "Municipal securities do it for them."

The bipartisan legislation the president signed Thursday is dubbed the Economic Growth, Regulatory Relief, and Consumer Protection Act.

It rolls back rules for small- and medium-sized banks that were imposed as part of the 2010 Dodd-Frank law, which lawmakers passed in the wake of the nation's 2008 financial crisis.

## **Route Fifty**

By Bill Lucia,  
Senior Reporter

MAY 24, 2018

---

## **[Puerto Rico Update: Bond Insurers Leading A Divided Charge.](#)**

Another courtroom battle is shaping up between holders of the Puerto Rico Sales Tax Corp (COFINA) bonds and Puerto Rico general obligation bonds. At stake are who has the first claim on the sales tax revenue, one of the few reliable revenue sources dedicated to bond service. The issue arises because the government has not guaranteed the COFINA bonds in a way that puts them on par with GO obligations. The issue is particularly critical to the bond insurers who differ on their

exposure to the two issuers. AMBAC has insured some \$7.3 billion and MBIA some \$4.2 billion of COFINA bonds representing 75% of AMBAC's and 49% of MBIA's total exposure in Puerto Rico. Hence, a ruling that favors the GO bondholders could be devastating to AMBAC and windfall to Assured Guaranty (AGO) which has greater GO bond exposure. Some \$26.3 billion of Puerto Rico's \$73 billion in bonds carry monoline bond insurance, so all the carriers face serious write offs no matter who wins, however, the AMBAC exposure appears the most crippling. The total exposures are \$8.5 billion for AGO, \$9.7 for AMBAC and \$8.5 billion for MBIA. While this battle takes shape COFINA has also gone into court to obtain relief from its \$17 billion bond obligation through a mandatory reduction of the principal amount.

On another front, Governor Ricardo Rossello has thrown out a projection of a 70% to 90% recovery for island GO bondholders if all goes well over the next decade. This projection is more motivated by his power struggle with the oversight board, which wants deeper cuts in the Governor's budget, than by economic realities. The facts in support of any such projections would lead one to a different conclusion. The islands debt burden from bonds and pension obligations total some \$123 billion. Divide this by a population of 5.3 million and you get an average debt burden per person of \$35,142. Consider this in the light of a population where almost half live in poverty and the average income is \$19,350 making the average debt burden 181%. Compare this to the USA where we worry about a 20 trillion national debt which works out to about \$55,500 per citizen. Compared to an average income of \$53,800 means we have a much lower average debt burden of only 103%. Oh, but I forgot to include our unfunded social security and Medicare obligations of at least another, say, \$10 trillion? That would kick our average person debt burden up to 155%. Is that scary or what? Maybe those worrying about our unsustainable debt growth aren't so far off.

The economic hard facts are that, while a few select bondholders with better collateral may possibly achieve a 70% recovery, the average for the rest will likely achieve no more than 15%. This will be done in stages as agreements are reached which are unachievable but have to be dealt with by other than the current participants. A few years later the next generation gets to redo the agreements, blaming the incompetence of their predecessors and the inability to see into the future or anticipate the next hurricane. Isn't a Puerto Rico moment what politicians of all stripe are facing? Isn't that what's going on with those tobacco bonds or unfunded state and municipal pension promises? Yet the market must go on and we all play musical chairs without recognizing that high coupons on bonds mean a lower chance of getting your principal back. Want proof? Our Distressed Municipal Debt database, which contains over 4,000 defaults shows an average coupon rate since 1983 of 8.03%. So when you see yields of 8%, recognize that when they default, the average recovery was 8.7 cents on the dollar.

## **Forbes**

Richard Lehmann, Contributor

MAY 26, 2018

---

## **[Did States Maximize their Opportunity Zone Selections?](#)**

### ***Analysis of the Opportunity Zone Designations***

#### **Abstract**

The Tax Cuts and Jobs Act included a new federal incentive—Opportunity Zones—to spur investment

in poor and undercapitalized communities. Governors (and the mayor of the District of Columbia) have now selected which among the roughly 56 percent of eligible census tracts in the U.S. should be classified as Opportunity Zones. While many criteria could be used to assess how successfully governors targeted Zones, we offer two for consideration: need and benefit. In this brief we gauge governors' selections against tract measures of the investment flows they are receiving and the social and economic changes they have already experienced.

[Download PDF](#)

## **The Urban Institute**

by Brett Theodos, Brady Meixell & Carl Hedman

May 21, 2018

---

## **[Federal Reserve Bank Releases New Opportunity Zones Explorer.](#)**

[Explore the Explorer.](#)

---

## **[Opportunity Zones - Driving Community Development Finance Through Equity Investments.](#)**

Now that most Opportunity Zones have been designated, we thought it would be good to provide some insight on the basics of Opportunity Zones and how this tax incentive could be used to spur investment into low-income and underserved communities across the country. How should local communities with Opportunity Zones begin the important work of identifying potential investments and attracting investors? We review the basics in this post from the Council of Development Finance Agencies.

### **Overview**

Created as part of the Tax Cuts and Jobs Act, Opportunity Zones are a federal economic development tool aimed at improving the outcomes of distressed communities around the country. Opportunity Zones are low-income census tracts that offer tax incentives to investors who invest and hold their capital gains in Opportunity Funds. These Opportunity Funds must invest at least 90% of their assets in qualified investments located in Opportunity Zones. Investors in Opportunity Funds receive a temporary deferral on their capital gains taxes if they hold their investments for at least 5 years, and a permanent exclusion from a tax on capital gains from the Opportunity Zones investments if the investments are held for 10 years.

[Continue reading.](#)

### **Smart Incentives**

by Ellen D. Harpel | May 22, 2018

---

## **Hawkins Advisory re: Qualified Opportunity Zones - IRC Sections 1400Z-1 and 1400Z-2**

Attached is a Hawkins Advisory describing Qualified Opportunity Zones, which were introduced by the Tax Cuts and Jobs Act of 2017 as a temporary measure to incentivize economic growth and development in certain low-income communities.

[Read the Advisory.](#)

---

## **BDA's 10th Annual National Fixed Income Conference is Open for Registration.**

**When:** October 25-26, 2018

**Where:** Four Seasons Hotel, Washington, DC

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

May 22, 2018

---

## **Fitch: Budget Impact of Marijuana Legalization Modest for NYC.**

Fitch Ratings-New York-24 May 2018: The potential budgetary impact of legalizing marijuana for recreational use in New York State would be modest for New York City with no impact on credit quality, according to Fitch Ratings. Fitch expects the decision to legalize in New York State, which as a whole would also see modest revenue gains, will be based on political and public policy considerations rather than budgetary ones.

A recent report by New York City's Comptroller estimates the legal adult-use marijuana market at \$3.1 billion in New York State, including \$1.1 billion in New York City. The \$336 million in annual tax revenue to New York City estimated by the comptroller represents 0.3% of fiscal 2019 budgeted revenues of \$89 billion. The budget, which does not assume legalization for recreational use, includes \$100 million in excise taxes from medical marijuana, which has been legal since 2014. Fitch expects any increased receipts would take time to become fully realized. If legalization is approved by the state, many details would remain to be worked out, including which elements to tax and at what rate.

The comptroller also estimates a \$36 million savings from reduced misdemeanor arrests if legalization is approved, although the mayor has already announced an order for the New York Police Department to stop making marijuana-related arrests and the Manhattan district attorney announced that his office would no longer prosecute most marijuana-related cases.

As Fitch noted in "U.S. States Experiment with Cannabis Legalization," (August 2017) states have taken a variety of approaches to cannabis legalization (Fitch uses the broader term cannabis to refer to both marijuana, which typically connotes the dried form of the plant used for smoking, as well as oils and other formulations derived from the same plant). Eight states and the District of Columbia

have legalized cannabis use for adults for nonmedical purposes, and another 22 have legalized it for medical purposes only. Taxes on nonmedical cannabis vary greatly, reflecting a range of both tax rates and the elements that are taxed. Some states tax based on price, with others based on weight, and taxes can be levied on producers, retailers and/or customers.

The New York City comptroller report's estimate of \$336 million in annual taxes, which is based on surveys of marijuana use and sales per user in states that have already legalized recreational marijuana, equates to a tax rate of 30%, which is sizable but in line with the effective tax rates estimated by Fitch in its review of states that already have legalization for recreational use. States with high effective tax rates may see legal sales shift back to black markets over time, especially if neighboring states legalize with lower effective rates. Price declines over time could also result in reduced tax revenues if the tax is tied to price.

Neighboring states New Jersey and Connecticut are also considering legalization for recreational purposes. Legislators in all three states have proposed bills, and the new governor of NJ made legalization a campaign promise.

In our earlier report, Fitch noted the need for flexibility in implementing new laws, as they may not achieve the expected goals within the anticipated timeframe. Obstacles to successful legalization include state restrictions on cultivation, distribution and sales, which may conflict with other policy goals.

Contact:

Amy Laskey  
Managing Director  
+1-212-908-0568  
Fitch Ratings, Inc.  
33 Whitehall Street  
New York, NY 10004

Stephen Walsh  
Director  
+1-415-732-7573

Media Relations: Sandro Scenga, New York, Tel: +1 212-908-0278, Email:  
sandro.scenga@fitchratings.com

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

---

## **[Fitch: California Solar Rule Neutral for Resi, Power Issuers.](#)**

Fitch Ratings-New York-22 May 2018: California's potential building requirement for many types of new residential construction to include solar panels will have a limited credit effect on public power issuers, homebuilders and the housing markets in the state, Fitch Ratings says. If the requirement is implemented, it will be an incremental component of a broader regulatory trend for which Fitch-rated issuers have prepared. California building code already requires all new residential construction to be zero net energy (ZNE) by 2020 and all commercial buildings to be ZNE by 2030. The lack of new construction in California will lower the impact on house prices.

We do not expect the building requirement to have a material effect on public power issuer ratings. The requirements are consistent with the ongoing trend toward greater energy efficiency and reduced per capita electricity consumption in the state. Public power utilities have been planning for, and adapting their long-term supply strategies to, responding to this trend.

Furthermore, many Fitch-rated public power issuers are in built-out communities with modest levels of new home growth. Those in higher growth areas, such as Roseville, already factored the much greater energy efficiency of new homes into their load forecasts.

We do not expect the mandate to install solar panels to meaningfully affect prices of existing homes in the state. Sales of new homes account for a smaller portion of homes sold in California. The incremental cost of installing solar panels is relatively marginal to the buyers of homes in the state, where home prices are already high to begin with. However, higher interest rates and increasing home prices in recent years, combined with the additional cost of installing solar panels, will likely continue to erode affordability for new homes in the state, particularly for entry level/first-time homebuyers. Nevertheless, the total cost of homeownership is likely to go down with lower monthly energy costs. California is one of the largest states, in terms of new home construction, with new home permits in the state accounting for about 9% of the U.S. total in 2017.

Homebuilders in the state have already begun marketing roof top solar features and changed practices to comply with ZNE codes, although adoption has been relatively limited, as most homebuyers have not been willing to pay for the added cost. The requirement to install solar panels could exacerbate the already tight construction labor market. Thus, the large public homebuilders rated by Fitch are well-positioned for the change, as these builders generally have better access to labor and materials due to scale. We expect homebuilders not marketing solar features to have ample time to do so, as the rule would not go into effect for two years. There is a small risk solar panel installations rise quickly, creating supply pressures that raise prices and slow down construction. This risk would be higher if states such as Nevada, Texas and Florida adopt similar building standards.

On May 9 the California Energy Commission voted to adopt the building standards beginning in 2020. The standards still need approval from the California Building Standards Commission. In addition to solar panels, the standard includes requiring residential and commercial buildings to have updated attic insulation and commercial buildings to conform to more energy efficient lighting standards. The standards would apply to apartment buildings of 1-, 2- and 3-stories and single-family homes.

Contact:

Kathy Masterson  
Senior Director, U.S. Public Finance  
+1 512 215-3730  
Fitch Ratings, Inc.  
111 Congress Avenue, Suite 2010  
Austin, TX 78701

Robert Rulla  
Director, U.S. Corporate Ratings  
+1 312 606-2311  
Fitch Ratings, Inc.  
70 West Madison Street  
Chicago, IL 60602

Robert Rowan  
Senior Analyst, Fitch Wire  
+1 212 908-9159

Media Relations: Elizabeth Fogerty, New York, Tel: +1 (212) 908 0526, Email: [elizabeth.fogerty@fitchratings.com](mailto:elizabeth.fogerty@fitchratings.com)  
Sandro Scenga, New York, Tel: +1 212-908-0278, Email: [sandro.scenga@fitchratings.com](mailto:sandro.scenga@fitchratings.com)

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

---

## **Florida Cities Are Most at Risk From Climate Change, Report Says.**

- **Miami Beach most exposed city in the U.S to climate change**
- **Four Twenty Seven developed new climate change risk index**

The picturesque Florida cities of Miami Beach and Sarasota carry high investment-grade credit ratings and are popular travel destinations. They're also two of the most exposed U.S cities to climate change in the country, according to a new analysis by advisory firm Four Twenty Seven.

The Berkeley, California-based firm has developed an index surveying 761 cities' and 3,143 counties' exposure to sea level rise, water stress, heat stress, cyclones and extreme rainfall based on analysis of changes between current and future conditions. It found that communities in Florida are the most susceptible to climate change risks, with Miami Beach being the most exposed city and Manatee County being the most-exposed county.

The data will help investors, ratings companies and local governments better evaluate the issue, said Frank Freitas, chief development officer at Four Twenty Seven. "We're hoping that municipalities and investors can engage in conversations that see market support for initiatives that foster resilience going forward, just like we've seen investors engage with companies in equity markets on ESG and climate risk," Freitas said.

The \$3.9 trillion municipal-bond market has been slow to take climate change risks seriously, said Nicholas Erickson, assistant vice president of portfolio management at Sage Advisory Services. But the hurricanes that battered Florida, Texas and Puerto Rico last year show how significant weather-related events could be for local economies, he said.

"It could have a huge impact," he said.

Investors have pushed credit-ratings companies to give them more of a warning about environmental risks. Moody's Investors Service and S&P Global Ratings say they incorporate environmental risks in their ratings through their analysis of factors such as leaders' preparedness for weather events. Even so, rating methodologies for states, local governments and utilities don't "explicitly" address climate change as a credit risk, Moody's said in a report last year.

For Florida cities and counties, home values could suffer as a result of the risks of cyclones and flooding, which could in turn hurt property-tax revenue that governments rely on, the Four Twenty Seven report said. In order to address water shortages or droughts, water utilities may have to spend more on infrastructure or their customers may have to pay more in fees, it added.

Charleston, South Carolina, and Virginia Beach, Virginia, topped the ranking for cities susceptible to severe hurricanes and typhoons in the future. Heat stress, which measures the frequency and severity of hot days and average temperature, was found to predominantly affect the Southeast and Midwest.

Freitas said he hopes the firm's findings don't cause investors to avoid investing in projects out of the most exposed places to climate change. "Understanding risk is the first step toward helping people invest in resilience as well," he said.

## **Bloomberg**

By Amanda Albright and Danielle Moran

May 22, 2018, 4:00 AM PDT

---

### **[Hedge Those Bets: Sports Gambling May Not Be a Jackpot for States.](#)**

Some states were getting ready to jump into sports gambling even before the U.S. Supreme Court legalized it last week, lining up legislation that would allow their states to cash in as quickly as possible on millions of dollars in tax revenue.

New Jersey, which won the high court case, and Delaware, with its racetracks, could be the first to benefit, potentially hosting sports gambling in a matter of weeks. Mississippi and Pennsylvania also expect to see legal betting soon.

But gambling experts warn that starry-eyed lawmakers might be overestimating their haul from legalized sports betting. Differences in state tax structures, competition for a limited market of gamblers, the push for a federal framework and the continued allure of black-market betting all could cut into the hoped-for windfall.

[Continue reading.](#)

## **The Pew Charitable Trusts**

By Elaine S. Povich

May 22, 2018

---

### **[S&P: Colorado SB 18-200 Outlines A Path Toward Pension Funding; Is It Enough?](#)**

DALLAS (S&P Global Ratings) May 21, 2018 – On May 9, Colorado's legislature passed Senate Bill 18-200, which outlines adopted changes to the state's pension system to restore to full funding within 30 years. The governor has not yet signed the law.

[Continue Reading](#)

---

## **S&P Medians And Credit Factors: Virginia Local Governments.**

Local government (LG) ratings in the Commonwealth of Virginia remain strong and stable characterized by low unemployment, high income and wealth levels, and strong budgetary performance, often supported by formal financial policies and regular budget monitoring.

[Continue Reading](#)

May 23, 2018

---

## **Better Disclosure Is One Florida Issuer's Path to Lower Borrowing Costs.**

As the treasurer for the country's fourth-largest school district, Tony Vu says his goal is to lower borrowing costs for a voter-approved \$1.2 billion general obligation construction program in south Florida.

Vu said his Miami-Dade County School District is "a Fortune 500-sized organization" that is limited by legislation and faces shrinking resources, growing mandates and tighter regulations.

A priority since becoming the treasurer 10 months ago, he said, was to create a new investor community website to augment the district's use of Digital Assurance Certification and the Municipal Securities Rulemaking Board's EMMA filing system.

The Miami-Dade County School District has \$3.73 billion of outstanding debt.

As he considered a new platform, Vu said he was approached by representatives of BondLink, a Boston-based financial technology company that provides investor outreach to municipal issuers. Vu liked what he saw.

"I think from the investor's standpoint we can reach a larger group and a larger pool," he said. "I think one thing we'll definitely be able to do is have a more localized outreach effort."

Vu said he expects BondLink to give him with the ability to get the district's "story out there as effectively as possible," and to conduct targeted and proactive outreach to new retail investors and existing bondholders.

"Higher transparency typically means lower borrowing costs," he said.

Studies have supported the notion that issuers with good disclosure practices tend to elicit lower interest rates.

That was the conclusion of "When transparency pays: The moderating effect of disclosure quality on changes in the cost of debt," a paper by Christine Cuny and Svenja Dube of New York University's Stern School of Business.

In their research, presented at Brookings' July 2017 Municipal Finance Conference, Cuny and Dube examined the relation between disclosure choice, changes in issuer credit ratings, and adverse local housing conditions.

The “results suggest that disclosure quality can lower the cost of debt by attenuating the impact of negative economic outcomes,” they said.

Vu said he hopes improved disclosure will help the district lower borrowing costs as it completes its \$1.2 billion 21st Century GO Bond Program approved by voters in 2012. To date, the district has issued \$929 million of GOs, leaving \$271 million in bonding capacity to be sold.

The district’s bond advisory committee reported that \$546 million has been spent on new and renovated schools and technology upgrades as of Dec. 31.

The Miami-Dade School District also has \$2.37 billion of certificates of participation lease-revenue debt outstanding, secured by its capital millage rate, impact fees, and other legally available funds.

The ability of Florida school districts to issue COPs in the future is in question as a result of the Legislature’s passage of House Bill 7069 in 2017.

The sweeping education bill required districts for the first time to share with charter schools a portion of their optional 1.5 millage rate dedicated to capital funding. One mill equals \$1,000 of the assessed taxable property value.

HB 7069 “won’t impact already issued debt,” Vu said. The bill requires outstanding debt service of the districts to be paid first before funds are shared with charter schools.

The State Board of Education is continuing to implement the bill, and has yet to determine how the law will impact the ability of Florida school districts to issue COPs in the future.

More than a dozen districts have filed a law suit challenging HB 7069.

The Miami-Dade County School District, which operates 342 traditional public schools and must share a portion of its capital millage with 130 charter schools in the county, is not participating in the HB 7069 suit.

S&P Global Ratings raised its rating on the district’s GO bonds to AA-minus from A-plus and its rating on the district’s COPs to A-plus from A in April 2017. Moody’s Investors Service (MCO) assigns an Aa3 rating to the GOs and an A1 to the COPs. Both have stable outlooks.

BY SOURCEMEDIA | MUNICIPAL | 05/14/18 07:03 PM EDT

By Shelly Sigo

---

## **[FINRA to Start Examining New Muni Markup Rule Compliance.](#)**

WASHINGTON - The Financial Industry Regulatory Authority is going to immediately begin examinations of firms’ compliance with markup disclosure rules, with early returns indicating minor speed bumps in the implementation of those landmark requirements, regulatory officials said Tuesday.

Cindy Friedlander, the senior director of fixed income regulation within FINRA’s Regulatory Operations group, said during a panel at FINRA’s annual conference that the regulator will not wait to begin examining firms’ compliance with the markup disclosure requirements that took effect less than two weeks ago.

Amendments to Municipal Securities Rulemaking Board rules G-15 on confirmation and G-30 on prices and commissions require dealers as of May 14 to disclose their markups and markdowns on certain transactions in the confirmations they send to retail customers. Dealers had hoped for a compliance extension, but didn't get it.

Under the rules, dealers initially must look at their contemporaneous trades of the same muni with other dealers or customers to establish a presumption of prevailing market price. If that data is unavailable, they must make a series of other successive considerations.

They must look at contemporaneous trades of the muni in interdealer trades, then trades of the muni between other dealers and institutional investors, then trades on alternative trading systems or other electronic platforms. Further down the waterfall, dealers can look at contemporaneous trades of similar securities.

Markup disclosures must be given as a total dollar amount and a percentage of the prevailing market price.

"We will be examining firms immediately," Friedlander said. "We are going to be very careful to take into account firms' good faith efforts to comply with the rules."

Michael Post, MSRB general counsel, said the board has been discussing how compliance with the markup rule has gone over the first week or so.

"What we've heard is that things have gone relatively smoothly," Post said, acknowledging that there have been reports of some hiccups. "It's a relief that the issues that people are encountering are things that they think that they can address."

Post reserved some measure of caution about his remarks, realizing that a firm experiencing a significant compliance failure might be hesitant to admit that to the MSRB.

Peg Henry, a deputy general counsel at Stifel Financial (SF) in St. Louis, said she has spent a lot of time on the trading floor recently and has asked traders in the past couple of days how things are going with markup disclosure.

"The responses I got ranged from 'not bad' to 'so far so good' to 'it is what it is,'" she said.

Henry said her firm has experienced some issues, such as the fact that it works with several vendors in its day-to-day business that don't standardize how they report information. She also added that the size of the markup that needs to be reported on a trade could seemingly be affected by a trade of the same security that occurs later in the day.

"There are situations that have arisen just in the first week that have created problems for us," she said. "We've developed workarounds, but the workarounds are very labor intensive."

Post said that firms can choose to calculate the prevailing market price of a security earlier in the day if it chooses, so it can disclose the markup before another transaction occurs that could muddy the waters.

Ivonia Slade, an assistant director in the Securities and Exchange Commission's Public Finance Abuse Unit, said her group is going to remain focused on topics it has acted on over the past several years, such as offering fraud that occurs when issuers make misleading statements in their bond documents. She highlighted the SEC's focus on enforcing the fiduciary duty requirements of municipal advisors.

"Our focus has been on making sure that they're meeting those obligations," she said.

The FINRA conference began May 21 and concludes May 23.

BY SOURCEMEDIA | MUNICIPAL | 05/22/18 07:04 PM EDT

By Kyle Glazier

---

## **L.A. Metro Boosts Disclosure With New Investor Website.**

The Los Angeles County Metropolitan Transportation Authority launched a new investor relations website Thursday.

The site is powered by BondLink, a Boston-based firm that has been rolling out new municipal bond investor websites regularly since Colin MacNaught, a former Massachusetts deputy treasurer, created the company in 2016 with Chief Technology Officer Carl Query.

The new website comes just months after Metro unveiled a \$5 billion capital plan with a long list of projects it wants to complete before the city hosts the 2028 Summer Olympics and Paralympics. The Twenty-Eight by 28 plan is aimed at completing 28 major road, transit and bicycle projects before the event.

"We are excited to work with them; they have a robust capital program, good management and they are an active credit and issuer," said Colin MacNaught, BondLink's co-founder and chief executive officer.

The company has created investor websites for issuers across the country. In California, it created websites for the state government, the Port of Los Angeles and West Basin Water District and hopes to launch two more California websites next week.

The websites provide a portal for issuers to share status updates on projects funded by bonds or quarterly cash reports, and allows investors to sign up for custom alerts. The Metro website will provide access to more than 10,000 documents including information on bond sales, credit ratings and investor resources.

BondLink's websites enable issuers to provide more frequent disclosure to investors, which besides accomplishing the Government Finance Officers Association's best practices goals, also attracts a broader swath of investors, MacNaught said.

"Academic research shows that more timely disclosure can lower borrowing costs for issuers," MacNaught said.

Metro remains committed to minimizing borrowing costs in its capital finance program, Metro Treasurer Donna Mills said in a statement.

"This new website will enhance our investor outreach and improve our disclosure and transparency in the capital markets," Mills said.

Given the size of its capital program, even a small increase in demand for the bonds would lower borrowing costs significantly, MacNaught said.

“California is such a big market and retail plays such a big part of that bond market,” MacNaught said. “Providing a really convenient investor platform for issuers like Metro and the Port of Los Angeles is a big benefit for bond investors including retail.”

BY SOURCEMEDIA | MUNICIPAL | 05/24/18 07:05 PM EDT

By Keeley Webster

---

## **How Sports Teams Exploit City Budgets to Fund Stadiums.**

This past January, the city council of Clark County, Nevada, approved over \$750 million in tax-free municipal bonds for the construction of a \$1.9 billion stadium for the NFL’s Raiders. This comes on the heels of Arlington, Texas, agreeing to provide \$500 million for a new \$1.1 billion stadium for the MLB’s Rangers.

Around the country, other cities’ budgets are still reeling from the costs of subsidizing stadiums. Bloomberg News [linked](#) Oakland’s 2011 decision to decrease its police force by 18 percent to debt from building the Coliseum, cuts which increased average police response time to 17 minutes. And in 2014, Detroit was forced to [cut pensions](#) for retirees by 4.5 percent to subsidize a new stadium for the Red Wings, a stadium which the Red Wings will pay one dollar a year to lease.

These projects reflect a larger nationwide trend of local governments footing the bill for the construction of sports stadiums. Of the 45 major stadiums built since 2000, 36 were financed through tax-free municipal bonds. Their total cost to taxpayers? Over \$3.2 billion.

[Continue reading.](#)

### **Harvard Political Review**

By Michael Wornow | May 21, 2018

---

## **Pennsylvania Sues Over Troubled Harrisburg Incinerator Bond Deals.**

NEW YORK (Reuters) – Pennsylvania Governor Tom Wolf’s administration on Monday sued an array of financial, legal and other professional firms over their involvement in a 15-year-old incinerator upgrade project that nearly bankrupted the state capital, Harrisburg.

The state sued RBC Capital Markets, Buchanan Ingersoll & Rooney PC, Public Financial Management Inc (PFM) and others over the 2003 ill-fated trash-to-energy project, which saddled the city with more than \$360 million of debt.

The city filed for bankruptcy in 2011 but the case was later thrown out. In its time, Harrisburg’s debt saga was the most dramatic episode in U.S. public finance, coming before both Detroit and Puerto Rico filed their respective bankruptcies.

“It is time to hold those responsible for the failed incinerator debt scheme accountable and recoup the taxpayer dollars wasted by their negligence and deception,” Wolf said in a statement.

In their push to close bond deals so they could be paid, the professionals named in the lawsuit, dubbed the Working Group, misled the city by providing false information and concealing important facts, according to the complaint.

The city backed the bonds used to finance the project. After the bonds defaulted, the city was forced into the state's first and only municipal receivership – paid for by state and local taxpayers.

A spokeswoman for RBC declined to comment. Representatives of Buchanan Ingersoll & Rooney and PFM did not immediately respond to emails seeking comment.

Eckert Seamans, which provided legal advice to underwriters of the 2003 bonds and in 2007 to the authority that issued the bonds, said on Monday that it had cooperated fully with investigations over the years “because we are confident that the firm represented its clients professionally, competently, and ethically.” “We will vigorously defend our service to our clients and aggressively fight these unfounded allegations,” the firm’s Chief Executive Officer Timothy Hudak said in a statement.

The state seeks punitive damages, with interest.

Adding to taxpayer frustration was the case of Stephen Reed, who was mayor at the time and who ended his 28-year tenure in 2010.

Reed was charged in 2015 with hundreds of criminal counts for using some bond proceeds to travel the country and buy a bizarre list of roughly 10,000 artifacts, including a sarcophagus, a suit of armor and a “vampire hunting kit,” that he said were destined for museums.

Last year he pleaded guilty and received probation to a shortened list of charges.

BY HILARY RUSS

May 21, 2018

(Reporting by Hilary Russ; editing by Richard Chang and Lisa Shumaker)

- 
- [MSRB Requests Comment on Re-Establishing Standalone Rule on Discretionary Transactions in Customer Accounts.](#)
  - [SEC Adopts Amendments to Modify MA Forms.](#)
  - [NFMA Submits Amicus Brief Concerning Puerto Rico Highway Revenue Bond Ruling by U.S. District Court.](#)
  - [The Curious Case of Hartford: How Can a State Rescue a Debt-trapped City?](#)
  - [Using Asset Recycling as an Infrastructure Funding Mechanism.](#)
  - [Fitch's Tolerance for U.S. NFP Hospitals to Stay Viable and Profitable: Five Years.](#)
  - [CED Properties, LLC v. City of Oshkosh](#) – Supreme Court of Wisconsin holds that city was not judicially estopped from specially assessing property owner for special benefits resulting from roundabout construction, even though city conceded no special benefits arose in condemnation action. Quite an interesting eminent domain case.
  - And finally, We Winter in Alaska and Summer in Hades is brought to us this week by [Lane v. City & Borough of Juneau](#), in which we learned that the City of Juneau, Alaska operates a free campground whose “winter residents included alcoholics, the ‘chronically unemployed,’ and

‘people who were not welcome in homeless shelters’ because of ‘previous incidents or violence.’ We have found our people. We have found our home. Change of address form to follow.

---

## **IMMUNITY - ALASKA**

### **[Lane v. City & Borough of Juneau](#)**

**Supreme Court of Alaska - April 27, 2018 - P.3d - 2018 WL 1977730**

Campground resident, who was shot and severely injured at campground, brought action against city, which operated the campground, alleging that city created unreasonable risk of violence at the campground, failed to protect resident from that risk, was negligent in hiring and supervising campground’s caretaker, and that city was vicariously liable for caretaker’s negligent conduct.

The Superior Court granted summary judgment in favor of city. Resident appealed.

The Supreme Court of Alaska held that:

- Municipality does not automatically share the protection of its employees’ personal immunity, abrogating *Pauley v. Anchorage School District*, 31 P.3d 1284, and *Mills v. Hankla*, 297 P.3d 158;
  - City employee’s decision to allow minor alcohol consumption so long as it did not cause problems at campground was planning decision for which the city was immune;
  - Resident’s negligent supervision claim, alleging that city employee’s explanation of alcohol policy to caretaker was inconsistent, concerned operational matter, rather than planning decision, and thus, city was not immune from the claim;
  - City’s decision not to employ private security for campground was planning decision for which the city was immune; and
  - Genuine issues of material fact existed as to whether caretaker was acting within the scope of his employment with the city when he failed to disperse drinking party at which resident was shot, precluding summary judgment as to resident’s vicarious liability claim.
- 

## **ZONING & PLANNING - CALIFORNIA**

### **[La Mirada Avenue Neighborhood Association of Hollywood v. City of Los Angeles](#)**

**Court of Appeal, Second District, Division 2, California - May 3, 2018 - 2018 WL 2057465 - 18 Cal. Daily Op. Serv. 4145**

After city council granted variances for corporation to build retail store that did not comply with requirements of municipal code and neighborhood area plan, community associations filed petitions for writ of mandate against city, naming corporation as real party in interest, alleging that construction project violated zoning laws and California Environmental Quality Act (CEQA).

The Superior Court granted writ petitions in part and entered judgment in favor of community associations on writs invalidating six of the eight municipal code variances, enjoining any actions in furtherance of those variances, immediately restraining all construction activities, and authorizing community associations to seek attorney fees. City council and corporation appealed. While appeals were pending, council amended neighborhood area plan to permit construction of retail store. The Court of Appeal dismissed appeal as moot. Community associations moved for attorney fees for prevailing on their challenges to variances. The Superior Court granted community organizations

attorney fees. Corporation and city council filed notices of appeal from each attorney fee award, and appeals were consolidated.

The Court of Appeal held that:

- Trial court did not abuse its discretion in concluding that associations were successful parties, as required to be eligible for attorney fees;
- Trial court did not abuse its discretion in concluding that associations' lawsuit conferred a significant benefit on the general public or large class of persons; and
- Change in zoning laws following judgment did not preclude associations from obtaining award of fees.

Trial court did not abuse its discretion in concluding that community associations were successful parties, as required to be eligible for attorney fees under statute permitting award of fees to successful party in action resulting in enforcement of important right affecting public interest, in proceedings challenging city council's grant of variances from neighborhood area plan zoning requirements in order to permit corporation to build retail store; associations sought to vacate variances to vindicate their interest in ensuring that city's decisions were in conformity with municipal code's zoning requirements, associations achieved their objective when many of the variances were invalidated for noncompliance with code, and lawsuit motivated city to amend neighborhood area plan.

Trial court did not abuse its discretion in concluding that community associations' suit challenging city council's grant of variances from neighborhood area plan zoning requirements in order to permit corporation to build retail store conferred significant benefit on the general public or large class of persons, as would support award of attorney fees in favor of associations under statute permitting award of fees to successful party in action resulting in enforcement of important right affecting public interest; city was required to adhere to municipal code's legal requirements for granting variances as a result of lawsuit, which furthered a significant public policy, and city residents benefited from ruling that held city council's zoning decisions to the letter and spirit of the code.

Change in zoning law that permitted corporation to build retail store following judgment in favor of community associations in proceedings challenging city council's grant of variances from neighborhood area plan that allowed corporation to build store did not preclude associations from obtaining attorney fees under statute permitting award of fees to successful party in action resulting in enforcement of important right affecting public interest, even though validity of project to build store under new zoning law was still pending; petitions were not aimed at stopping project, showing that associations put entire dispute to rest was not required to obtain fees, and denying fees because associations had yet to succeed under law as it might be amended would have led to absurd results.

---

## **STORMWATER FEES - CALIFORNIA**

### **[California Building Industry Association v. State Water Resources Control Board](#)**

**Supreme Court of California - May 7, 2018 - P.3d - 2018 WL 2090997 - 18 Cal. Daily Op. Serv. 4189 - 2018 Daily Journal D.A.R. 4154**

Home-building industry association brought action against State Water Resources Control Board for declaratory, injunctive, and writ relief challenging storm water program fees.

The Superior Court entered judgment for the Board. Association appealed. The Court of Appeal affirmed. Petition for review was granted.

The Supreme Court of California held that:

- Statute providing that any final action of the Board shall be taken by a majority of all the Board members did not apply to approval of storm water program fee schedule;
- Annual permit fees and expenses need not be correlated for each of the program areas within Board's current waste discharge program;
- Association failed to show that storm water program fees exceeded costs of administering permit program;
- Association failed to show that storm water program fees were levied for unrelated revenue expenses; and
- Association failed to show that Board failed to allocate charges to payors fairly.

---

## **REGULATORY - GEORGIA**

### **[Georgia Republican Party v. Securities and Exchange Commission](#)**

**United States Court of Appeals, Eleventh Circuit - April 26, 2018 - 888 F.3d 1198**

State political parties filed petition for review of Securities and Exchange Commission (SEC) rule governing political contributions of Financial Industry Regulatory Authority (FINRA) members who solicited government officials for investment advisory services contracts.

The Court of Appeals held that:

- One party lacked standing to seek judicial review of rule, and
- Eleventh Circuit was improper venue for other parties' petition.

State political party failed to establish injury in fact as result of Securities and Exchange Commission's (SEC) adoption of rule prohibiting placement agents from engaging in distribution or solicitation activities for compensation with government entity on behalf of investment adviser that provides or is seeking to provide investment advisory services to such government entity within two years after contribution to official of government entity, and thus lacked standing to seek judicial review of rule, despite party's contention that rule inhibited its ability to fundraise, forced it to divert resources, and harmed its members, where party did not identify anyone who wished to contribute to it but would not because of rule, provide support for its assertion that it would have to divert resources, or identify any specific member who would be injured by rule.

Eleventh Circuit was improper venue for state political parties' petition challenging Securities and Exchange Commission (SEC) rule governing political contributions of Financial Industry Regulatory Authority (FINRA) members who solicited government officials for investment advisory services contracts, thus warranting transfer to appropriate circuits, where parties did not reside or have principal places of business within circuit, and parties could not refile their petitions in proper venues due to fact that filing period had expired.

---

## **MUNICIPAL CORPORATIONS - MASSACHUSETTS**

## **St. Laurent v. Middleborough Gas & Electric Department**

**Appeals Court of Massachusetts - April 4, 2018 - N.E.3d - 93 Mass.App.Ct. 901 - 2018 WL 1614048**

Individuals, who were injured when a ladder they were near came into contact with an arcing electrical current that allegedly came from an improperly grounded line maintained by town's electric plant, brought negligence suit against electric plant.

The Superior Court denied plant's motion to dismiss for lack of presentment, and plant appealed.

The Appeals Court held that town's electric plant was a "public employer," such that Tort Claims Act applied to negligence claim brought against electric plant.

Town's electric plant was a "public employer," such that Tort Claims Act applied to negligence claim brought against electric plant by individuals, who were injured when a ladder they were near came into contact with an arcing electrical current that allegedly came from an improperly grounded line maintained by town's electric plant; statute defined "public employer" as including any town and any department thereof, including a municipal gas or electric plant.

---

## **EMINENT DOMAIN - NORTH DAKOTA**

### **North Dakota Department of Transportation v. Schmitz**

**Supreme Court of North Dakota - May 8, 2018 - N.W.2d - 2018 WL 2111964 - 2018 ND 113**

Following trial to determine the amount due to property owner for eminent domain taking, property owner sought an award of attorney fees, expert witness fees, and litigation costs.

The District Court awarded property owner \$137,347.50 in attorney fees, \$35,930.96 in expert fees and \$8,027.38 in litigation costs. Property owner appealed.

The Supreme Court of North Dakota held that:

- The trial court's order awarding property owner \$114,840 in attorney fees was not an abuse of discretion;
- Order lowering the hourly rate of associate attorney to \$150 per hour was not an abuse of discretion;
- The trial court's order declining to award expert witness fees for nontestifying expert was not an abuse of discretion; and
- Remand was required to allow the trial court to properly apply statutes addressing litigations costs and disbursements.

The trial court's order awarding property owner \$114,840 in attorney fees was not an abuse of discretion, in eminent domain action; the court found reasonable expenditures of 287.1 hours for attorney at \$400 per hour, and it expressly considered the character of legal services rendered, the results obtained, the customary fee charged for services in the locality, and attorney's skill and ability.

The trial court's order lowering the hourly rate of associate attorney to \$150 per hour when determining attorney fee award in eminent domain action was not an abuse of discretion; the trial court found \$150 per hour a customary fee for associates in the locality, and the \$150 figure fell within the range of evidence presented to the trial court.

The trial court's order declining to award attorney fees incurred in making the application for attorney fees and costs in eminent domain action was not an abuse of discretion; no authority supported a mandatory award for preparation of an application for attorney fees and costs, and the trial court determined the reasonable number of hours that were expended by attorney and associate attorney for the entire action.

The trial court's order declining to award expert witness fees for nontestifying expert was not an abuse of discretion, in eminent domain action; the trial court excluded costs for nontestifying expert witness because he "added nothing as he did not even testify at trial," and statute gave the trial court the sole discretion over the number of expert witnesses who were allowed fees or expenses.

The trial court's decision to reduce the amount of expert fees and expenses awarded was not an abuse of discretion, in eminent domain action, where the trial court considered area of expertise, education and training, prevailing rates, quality of discovery responses, fee actually charged, and other factors, and the court considered the jury's rejection of the testimony from two experts the most important in its determination, which it categorized as consideration of "other factors."

Remand was required to allow the trial court to properly apply statutes addressing litigation costs and disbursements, in action seeking attorney fees, expert witness fees, and litigation costs associated with eminent domain action; the court found travel expenses, such as airfare, car rental, and meals, were not taxable as costs or disbursements, however statute provided a list of disbursements to be taxed in judgment, and second statute gave the court discretion to award other costs.

---

## **EMINENT DOMAIN - VIRGINIA**

### **[Commissioner of Highways v. Karverly, Inc.](#)**

**Supreme Court of Virginia - May 10, 2018 - S.E.2d - 2018 WL 2142871**

Commissioner of Highways initiated condemnation proceeding.

The Circuit Court entered judgment on jury verdict awarding \$167,866 in damages to remainder. Commissioner appealed.

The Supreme Court of Virginia held that Commissioner was entitled to present expert testimony that take caused no damages to remainder.

In eminent domain proceeding brought by Commissioner of Highways, Commissioner was entitled to present expert testimony that take caused no damages to remainder, which contained daycare center that had been separated from road by buffer that was part of taking; expert for property owner had been permitted to testify that take, absent relocation of improvements, would render any part of property functionally obsolete, and even without testimony of Commissioner's expert, only three of five jurors awarded damages to remainder.

---

## **ZONING & PLANNING - WASHINGTON**

### **[Schnitzer West, LLC v. City of Puyallup](#)**

**Supreme Court of Washington - May 10, 2018 - P.3d - 2018 WL 2144379**

Commercial property developer filed petition against city requesting a declaration that ordinance, which imposed a variety of new design standards and development regulations, was an invalid land use decision under the Land Use Petition Act (LUPA).

The Superior Court entered judgment in favor of developer. City appealed, and the Court of Appeals reversed and remanded. Developer appealed, and the Supreme Court granted review.

The Supreme Court of Washington held that:

- Ordinance was applied to a specific tract of land;
- Ordinance was a classification change;
- City council was a “specific party” for purposes of whether ordinance was a site-specific rezone; and
- Ordinance was not excluded from review as a legislative approval.

Zoning ordinance extending overlay zone for “limited manufacturing” was applied to a specific tract of land, for purposes of determining whether it was a site-specific rezone reviewable under the Land Use Petition Act (LUPA); ordinance carved out single annexed property from adjacent parcels and left all surrounding annexed properties unaffected, despite their similar characteristics, location, and zoning.

Ordinance extending overlay zone for “limited manufacturing” to landowner’s property was a classification change, for purposes of determining whether it was a site-specific rezone reviewable under the Land Use Petition Act (LUPA), where overlay imposed a building size limitation, restricted the design, size, setback, and orientation of buildings, imposed landscaping, open space, and pedestrian infrastructure requirements, and established regulations pertaining to outdoor storage uses, storm water management, and signage.

City council was a “specific party” for purposes of issue of whether ordinance extending overlay zone for “limited manufacturing” to landowner’s property was requested by city as a specific party and thus was a site-specific rezone reviewable under the Land Use Petition Act (LUPA); city council expressly classified its actions as “approval,” and city code itself named the city council as a specific party with authority to initiate a site-specific rezone application.

Site-specific ordinance extending overlay zone for “limited manufacturing” to landowner’s property was not excluded from review under the Land Use Petition Act (LUPA) as a legislative approval “such as area-wide rezones and annexations,” as overlay extension was not an area-wide rezone or annexation, nor was it similar in nature to either, but rather was a site-specific rezone, confined to a specific tract and impacting a sole owner.

---

## **EMINENT DOMAIN - WISCONSIN**

### **[CED Properties, LLC v. City of Oshkosh](#)**

**Supreme Court of Wisconsin - April 3, 2018 - 380 Wis.2d 399 - 909 N.W.2d 136 - 2018 WI 24**

Property owner appealed city’s special assessment and conclusion that owner received special benefits from the construction of a roundabout, after owner had obtained summary judgment on a challenge to a previous assessment.

The Circuit Court granted city’s motion for summary judgment. Owner appealed. The Court of

Appeals affirmed. Owner's petition for review was granted.

The Supreme Court of Wisconsin held that:

- "Special benefits" means an uncommon advantage in both the eminent domain statute and the assessment statute;
- Special benefits in eminent domain statute are restricted to local improvements that affect market value;
- Special assessments are not conditioned on conferral of special benefits affecting market value of property;
- Failure to raise special benefits in eminent domain action does not preclude municipality from levying special benefits via special assessment; and
- Genuine issues of fact regarding validity of special assessment precluded summary judgment.

"Special benefits" has the same meaning, an uncommon advantage, in both the statute governing the determination of just compensation in eminent domain proceedings and the statute governing the general rules applicable to special assessments.

In the eminent domain statute, special benefits are restricted to those local improvements that affect the market value of the property for purposes of determining whether to offset compensation to the owner of property taken for a planned public improvement.

The statute governing the general rules applicable to special assessments does not condition special assessments on the conferral of special benefits affecting the market value of the property; the work or improvement must only provide an uncommon advantage specific to that property.

City was not judicially estopped from specially assessing property owner for special benefits resulting from roundabout construction, even though city conceded no special benefits arose in condemnation action; special benefits in condemnation actions were limited to immediate or imminent increases in property's fair market value, and city asserted special benefit in special assessment action based on substantial increases in accessibility, which included safer, lower cost, and shorter travel times for customers, deliveries, and employees.

Construction of roundabout was improvement that could be basis for special assessment, rather than service which was arguably not properly subject of special assessment; statutory examples of services have in common removal or rectification of temporary but recurring occurrences, such as snow, weeds, and dead animals, along with repair of sidewalks, curbs, or gutters, but not construction of permanent structure.

Genuine issues of material fact regarding validity of special assessment city levied on property for construction of roundabout precluded summary judgment for city in property owner's challenge to assessment.

---

## **[The Curtain Is Lifted For Municipal Bond Markups.](#)**

### **Summary**

- FINRA Rule 2232 requires municipal bond markups.
- Bond transaction fees examined.
- Market impact yet to be seen.

As of May 14th, 2018, FINRA Rule 2232 went into effect which requires broker dealers to disclose on customer confirmations their markup for principal trades executed within the same day. Previously, these markups were not disclosed and were rarely discussed. Since bonds are bought and sold on a yield basis, if an investor was looking for a certain yield, maturity, and credit quality, brokers would make sure they achieved these goals while still making a mark-up for themselves. Sometimes this markup was minuscule as is the case with high quality, very short-term bonds. Sometimes it was as much as 3% as it would be on a highly speculative, long dated bond. Dealers would buy bonds in the open market and mark the price up to their clients to cover their expenses and earn a living.

Now some of you may be saying 'what if I was looking for 5% and I could really get 6%, but my broker's undisclosed markup ate away at that return?' If that was occurring, your broker is a jerk (to put it politely). I am not here to defend anyone who does/did that. I am here to defend the reasonable fee charged on the onset of what is typically a multiple year and often a many decade long investment.

In many of the articles I read about the implementation of Rule 2232, the example that I always see is that a customer who invests \$100,000.00 and is charged a 1% mark-up will now see that \$1,000 one-time fee disclosed on their trade confirmation. This is true, that is how this new rule should work. Without a doubt, there will be some initial and significant sticker shock to seeing this markup printed on an investor's trade confirmations. "\$1,000 for one phone call WTF?!?" What needs to be explained clearly by brokers and understood by investors, is that this is a one-time fee, in contrast to the annual fees charged by other competing products.

I read often that bond investors should look to bond funds or bond ETFs to avoid the fees that come with purchasing individual bonds. Fees that many deem too steep. Let's use the example of the \$100k invested and the 1% fee charged and dig a little deeper. Let's assume, for argument's sake, that an investor is looking for a 20-year bond. Not too short, not too long, right in the meat of the yield curve to give a fair representation of an average bond investment time frame. The 1% fee charged at the outset of this investment breaks down to just 0.05% annually. Now, compare that to the 0.36% charged by the Fidelity Intermediate Municipal Income Fund (MUTF:FLTMX), or the 0.09% charged by the Vanguard Tax-Exempt Bond ETF (NYSEARCA:VTEB), or the 0.25% charged by the iShares National AMT-Free Muni Bond ETF (NYSEARCA:MUB). One percent on the onset of the investment doesn't stack up too bad. Now, bonds can be called in early, or might need to be liquidated by investors prior to maturity, which would increase the transactional annual fee. That I cannot argue with. If you are a true buy and hold investor, transactional fees, on annual basis, are very reasonable.

Fixed income investments, overall, are the buy and hold portion of an investor's portfolio. Meaning they are not bought and sold frequently to capture short-term gains (as one could do in the stock market) and generate mark ups for broker dealers. Rather bonds are purchased to preserve capital and/or to generate a predictable amount of income over a longer time frame.

I hope that the implementation of this rule does not kick off a large wave of investors moving into bond ETFs from traditional bond portfolios. I feel that these products are a square peg in a round hole. That they appear to accomplish the same goals as individual bond investing but do so by sacrificing certain objectives. We will see how the market reacts.

*NatAlliance Securities LLC may hold a position in all bonds/funds referenced, and in the future may be a buyer or a seller of the securities. This is not a recommendation to buy, sell, or hold the securities. Las Olas Wealth Management is a wealth management group within NatAlliance Securities LLC.*

**Disclosure:** I/we have no positions in any stocks mentioned, and no plans to initiate any positions within the next 72 hours.

I wrote this article myself, and it expresses my own opinions. I am not receiving compensation for it (other than from Seeking Alpha). I have no business relationship with any company whose stock is mentioned in this article.

## **Seeking Alpha**

by Dean Myerow

Las Olas Wealth Management of NatAlliance

May 16, 2018

---

### **[MSRB Requests Comment on Re-Establishing Standalone Rule on Discretionary Transactions in Customer Accounts.](#)**

Washington, DC – The Municipal Securities Rulemaking Board (MSRB) today [requested comment on a draft proposal to re-establish a standalone rule governing the handling of transactions in discretionary accounts](#) — those customer accounts in which a dealer is authorized to determine what municipal securities will be purchased or sold.

The MSRB's proposal also seeks to address other uses of discretion for transactions in customer accounts, including when discretion is granted to a third-party agent of the customer, who is not an associated person of the dealer. Specifically, the MSRB believes it is important to expand the scope of the rulemaking to address these scenarios to recognize current practices in the municipal market and to provide investors with basic protections from unauthorized trading in their customer accounts.

The limited new proposed requirements for municipal securities customer accounts are harmonized with requirements of other financial regulators.

Comments should be submitted no later than July 16, 2018. [Read the request for comment.](#) Following the public comment period, the MSRB will carefully consider the comments received and may amend the proposal, submit the proposed rule with any necessary amendments to the Securities and Exchange Commission for its consideration and approval, or take no further action at this time.

Date: May 16, 2018

Contact: Jennifer A. Galloway, Chief Communications Officer  
202-838-1500  
[jgalloway@msrb.org](mailto:jgalloway@msrb.org)

---

### **[MBFA Chair Submits Commentary in the Bond Buyer.](#)**

#### **Why mayors are 'completely baffled' by loss of advance refunding**

The beginning of Infrastructure Week 2018 presents us with the perfect opportunity to highlight a

major blow to community control and to local government infrastructure investment: the repeal of advance refunding of municipal bonds in the Tax Cuts and Jobs Act.

I deeply appreciate that the Tax Cuts and Jobs Act maintained the century-old tax exemption for municipal bonds. State and local governments make more than 75% of our nation's infrastructure investments, most of them financed with municipal bonds, and the tax law's preservation of the tax exemption for municipal bonds recognized that the best thing the federal government can do on infrastructure is to first do no harm.

Unfortunately, the tax law's elimination of the tax exemption for the advance refunding of municipal bonds will do considerable harm. This ill-conceived provision robs local governments of the ability to stretch infrastructure dollars and save taxpayer money by taking advantage of lower interest rates. Between 2012 and 2017, advanced refunding saved South Carolina cities, counties, school districts, universities, and utilities (and their taxpayers and ratepayers) approximately **\$164 million**.

Indeed, I am at a loss as to why the same tax law that recognizes the central role of municipal bonds to our nation's infrastructure is the same one that eliminated advanced refunding of municipal bonds. I am, to quote one of my fellow mayors, "completely baffled" by the law's advance refunding provision. Summaries of the tax law offered no policy justification for this provision, making it clear that it was nothing more than a money grab from local governments and local taxpayers to finance tax cuts elsewhere in the bill.

Even worse, I fear that eliminating advanced refunding does not even work as an offset for tax cuts: the Joint Tax Committee's estimate that it will generate \$17 billion in revenue over the next decade seems to assume that issuers will continue to move forward with advanced refunding issues per usual, an assumption that defies common sense.

As Infrastructure Week launches and we focus on our nation's infrastructure challenge, Congress has an opportunity to make things right. Representatives Randy Hultgren, R-Ill., and Dutch Ruppersberger, D-Md., the Chairs of the bipartisan Municipal Finance Caucus have introduced legislation to reinstate that tax exemption for advanced refunding of municipal bonds.

It is no surprise that Hultgren and Ruppersberger are leading this charge. Both spent much of their careers in public service in local government and they are therefore fully aware of how infrastructure gets built, who builds it, and what tools are needed to do so. Members of Congress who care about infrastructure should follow their leadership and support their legislation to correct this blow to our nation's infrastructure, municipal finance, and local taxpayers.

## **Bond Dealers of America**

**by Steve Benjamin**

*Steve Benjamin is the Mayor of Columbia, South Carolina. He serves as Chair of Municipal Bonds for America, a non-partisan coalition of municipal bond issuers and State and local government officials along with other municipal market professionals working together to explain the benefits of the tax-exempt municipal bond market which provides the financing needed to build vital infrastructure throughout the United States.*

May 15, 2018

---

## **SEC Adopts Amendments to Modify MA Forms.**

The SEC recently adopted a set of rule amendments removing certain personally identifiable information (PII) from a group of SEC forms, including Forms MA and MA-I (and their variants). Specifically, the amendments eliminate portions of the forms that request filers to provide certain PII, including Social Security numbers, dates of birth, or Foreign ID numbers. **The amendments take effect today, May 14th. Information on the amendments can be viewed [here](#).**

Though the rules have been amended, the actual forms the filers complete in EDGAR have not yet been updated to reflect the rule amendments. As a result, when completing Form MA, MA/A, MA-A, or Form MA-I or MA-I/A, filers will see sections that ask for PII. Filers should not provide this information.

A copy of the Commission's Adopting Release regarding the rule amendments can be viewed [here](#).

### **Bond Dealers of America**

May 14, 2018

---

## **Fitch's Tolerance for U.S. NFP Hospitals to Stay Viable and Profitable: Five Years**

Fitch Ratings-Austin-16 May 2018: Capital projects are an inevitability in order for U.S. not-for-profit hospitals to stay viable and so are the disruptions to profitability that arise from seeing those projects to fruition, according to Fitch Ratings in a new report.

Taking those two commonalities into account, a question Fitch frequently receives from investors is "How long will you be patient with the rating before you see our improved results?" Fitch's answer: an uncharacteristically direct "five years". More specifically, Fitch's five-year scenario analysis, which offers a look ahead into a hospital's ability (or inability) to maintain its rating through a cycle.

'Since a hospital's balance sheet will inevitably take a hit once a capital project goes through its various stages up to completion, the key will be how much cash the hospital can generate in order to soften the impact on the balance sheet,' said Senior Director Kevin Holloran 'Whether the hospital can generate enough cash flow until the capital project is completed will go a long way in dictating whether the rating is affirmed, upgraded or downgraded.'

This may raise questions among some investors as to whether hospitals have more difficulty adhering to Fitch's five-year scenario analysis in light of heightened sector pressure. 'Not necessarily. Hospitals are showing surprising resiliency thus far in light of recent broader tax reform changes and other secular pressures,' said Holloran. 'If there is a subset of not-for-profit hospitals that could be affected, however, it would be those organizations that either begin capital projects from a position of financial weakness or are unable to grow top line revenues.'

'Rating Tolerance through Capital and Strategic Projects' is available at 'www.fitchratings.com'.

Contact:

Kevin Holloran  
Senior Director  
+1 512 813-5700  
Fitch Ratings, Inc.  
111 Congress Avenue  
Austin, TX 78701

Media Relations: Sandro Scenga, New York, Tel: +1 212-908-0278, Email:  
sandro.scenga@fitchratings.com

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

---

## **Fitch: Limited State, Casino Impact From US Sport Betting Ruling.**

Fitch Ratings-New York-14 May 2018: The U.S. Supreme Court's (SCOTUS) decision to strike down a federal law banning states from permitting gambling on the outcome of sporting events will lead to an increase in the number of states permitting sports betting, Fitch Ratings says. However, those revenues will only have a small impact on overall gaming revenue and is unlikely to have a material adverse impact on Las Vegas' sports betting activity.

The ruling struck down the Professional and Amateur Sports Protection Act (PASPA), which unconstitutionally restricted state governments. The ruling was directly linked to a case involving New Jersey but Connecticut, Mississippi, New York, Pennsylvania and West Virginia have already enacted laws to offer legal sports betting, anticipating SCOTUS' ruling. At least 14 other states have had sports gaming legislation introduced in recent sessions. New Jersey filed the case with SCOTUS, arguing PASPA violated the 10th Amendment, which prohibits the federal government from compelling states to impose federal laws.

Sports betting will not contribute substantially to either gross gaming revenue (GGR) or state tax revenue. Notably, sports betting in Nevada, where it is already legal, accounts for a relatively small proportion of gaming revenue. The Nevada Gaming Control Board reported almost \$4.9 billion in sports handle in 2017, with \$249 million in GGR and about \$17 million in associated state tax revenue. That is a small fraction of the state's \$4 billion in General Fund revenue.

Casino operators could grow sports betting to a wider range of locations. However, the growth will depend on several local factors. Setting competitive tax rates will be required to draw participants from existing illegal or informal wagering pools and could limit the growth of some markets. Higher tax structures, such as Pennsylvania's, or those with a handle-based integrity fee, which charges approximately 1% on each wager and pays it to the sports league, will limit margins for casino operators and could lower their ability to be competitive in those markets.

The impact of this expansion on casino operators will be small. We expect casino operators to set up sports books, or partner with companies such as William Hill, to offer betting at their facilities or, if permitted, online. The revenue effect will be small and Fitch expects sports books to be offered as amenities to drive higher visitation, rather than raise revenue.

We do not expect the growth of other markets to have a negative impact on casino operators in Las Vegas. We do not anticipate sports books in regional markets will materially compete with Las Vegas during marquis sporting events, such as the NCAA Final Four or the NFL Super Bowl, as Las Vegas has firmly established its attractiveness as a leisure destination.

Contact:

Marcy Block  
Senior Director, U.S. Public Finance  
+1 212 908-0239  
Fitch Ratings, Inc.  
33 Whitehall Street  
New York, NY 10004

Alex Bumazhny  
Senior Director, U.S. Corporates  
+1 212 908-9179

Robert Rowan  
Senior Analyst, Fitch Wire  
+1 212 908-9159

Media Relations: Elizabeth Fogerty, New York, Tel: +1 (212) 908 0526, Email: [elizabeth.fogerty@fitchratings.com](mailto:elizabeth.fogerty@fitchratings.com)  
Sandro Scenga, New York, Tel: +1 212-908-0278, Email: [sandro.scenga@fitchratings.com](mailto:sandro.scenga@fitchratings.com)

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

---

## **Insurers Pull Back From Muni-Bond Market as Tax Rates Fall.**

- **Progressive, Travelers, Chubb reduce holdings, filings show**
- **Filings confirm speculation that tax overhaul would cut demand**

Some of the biggest U.S. insurers reduced their holdings of state and local government bonds after the corporate tax cut took effect this year, marking a retreat by a key buyer in the \$3.9 trillion municipal-securities market.

The disclosures, made in filings by companies including Progressive Corp. and Chubb Ltd., confirm the speculation among analysts that the lower tax rate would weaken demand for municipal debt, which offers lower yields because the income is tax-free. The pullback, if sustained, could create headwinds for a market that's already contending with periodic selloffs as investors brace for the Federal Reserve to raise interest rates further.

Progressive, Travelers Cos. and Chubb have collectively decreased their holdings of municipal bonds by \$2.37 billion, according to their most recent quarterly reports. Progressive cut its holdings by 24 percent, the steepest drop among the largest publicly-traded property and casualty insurers. Chubb cut its investments by 4.6 percent, while Travelers reduced its stake by 2.9 percent.

"The new corporate tax rate we use to value our tax-exempt holdings rendered these bonds less attractive relative to alternative taxable investments," Mayfield Village, Ohio-based Progressive said in its filing.

The cutbacks came as municipal bonds posted their biggest drop during the first quarter since late

2016, when President Donald Trump's surprise victory raised concerns that his tax and spending plans will accelerate the pace of inflation. While individual investors and mutual funds are bigger owners of state and local government securities, insurers remain a large source of demand. According to the most recent Fed statistics, the companies held about 14 percent of all outstanding municipal bonds, nearly almost as much as banks.

"It's not a great signal when an industry that has represented a significant percentage of your investors doesn't see it as attractive, on an absolute or relative basis, as they used to," Meyer Shields, an insurance analyst at Keefe, Bruyette & Woods, said in a phone interview.

Not every part of the industry is retreating, and some of the pullback may have been driven as much by the market's rocky performance or routine portfolio-adjustments as by changes to the tax code.

Life insurer Principal Financial Group Inc., which decreased its holdings by 3 percent to \$6.25 billion, still views the asset class as "important," according to a statement by James Welch, a portfolio manager with Principal Global Investors, the company's asset management arm.

"The first quarter was certainly difficult for all asset classes and any adjustments in allocation amounts should not be construed as a material shift in long-term strategy," he said in the statement, which the company provided in response to questions.

Life insurers have historically been less active buyers of state and local bonds because of limits on how much they could benefit from the tax advantages, though the tax overhaul tweaked the law to give them more incentive to hold the securities. Several of the largest life insurers added to their muni portfolios this year. MetLife Inc., Prudential Financial Inc. and Lincoln National Corp. added a total of \$146 million to their holdings in the first quarter, the filings show.

MetLife, the largest U.S. life insurer by market share, upped its holdings by 0.09 percent to \$10.76 billion. That increase included a pickup in taxable munis, a decision driven by many factors including tax code changes, according to James Murphy, a MetLife Investment Management spokesman.

The approach was also mixed at Allstate Corp. and American International Group Inc., both of which have substantial property and casualty operations as well as life insurance businesses. Allstate's muni holdings increased by 4 percent to \$8.4 billion, while AIG's declined by 2.5 percent to \$16.94 billion.

Allstate said that "shifts in asset allocation reflect purposeful decisions intended to balance risk and return considering current and expected market conditions."

Progressive spokesman Jeff Sibel didn't return calls and emails requesting comment. Lincoln spokeswoman Holly Fair said the increase was not a result of tax changes. Chubb, Prudential, AIG and Travelers declined to comment.

## **Bloomberg**

By Katherine Chiglinsky, Romy Varghese, and Brian Louis

May 17, 2018

— *With assistance by Amanda Albright*

---

## **Fire Sale for Closed-End Muni Funds Means Only Brave Should Buy.**

- **Average discounts on muni closed-end funds are 9 percent**
- **Leverage fees are up and longer duration means more volatility**

Shares of municipal-bond funds are trading at their deepest discounts since 2013 as the rising cost of leverage, dividend cuts and the market's worst first quarter since 1996 have pushed share prices down.

The discount, or the difference between a closed-end fund's share price and the underlying value of its assets, is 9.1 percent, according to Ryan Paylor, a portfolio manager at Thomas J. Herzfeld Advisors, Inc. in Miami who invests in the sector. Those gaps reached a more than four-year high of 9.67 percent in March, dangling a potential arbitrage opportunity.

"If you've got the stomach for it, this is a fairly decent level to be adding because discounts are wide and should provide some cushion if there's a further sell-off in rates," Paylor said.

Closed-end funds raise a fixed amount of money from shareholders in a public offering, unlike mutual funds, which continually sell and redeem shares. The funds are traded on stock exchanges and can trade at premiums or discounts to their net value of the securities they own.

Many closed-end funds borrow short-term and buy higher-yielding, long-dated debt. Short-term borrowing costs in the muni market have almost doubled to 1.51 percent in a year.

Those rising leverage costs narrow the profit that can be made by investing in long-dated debt, whose yields haven't increased as much, eating into distributions to investors, Paylor said. More than 80 percent of municipal closed-end funds have cut dividends in the past year, according to data compiled by Bloomberg. Bond traders are pricing in a more than 50 percent probability that the Federal Reserve will hike rates three more times this year.

The overall muni market has lost about 1 percent this year, posting the biggest first-quarter loss in more than two decades, largely because of the January sell-off triggered by concern the Fed would raise interest rates more aggressively than previously expected.

Muni closed-end funds have fared worse, losing an average of 4.5 percent, according to Paylor. If inflation and economic growth pick up more steam, causing interest rates to rise, closed-end funds will incur even bigger losses.

This potential for higher rates and the risk that the lower corporate tax rate will spur selling by banks and insurers has led BlackRock Inc. to shorten duration, reduce leverage and buy bonds with higher credit ratings, Peter Hayes, the head of the company's municipal bond group, said in a conference call with the firm's muni closed-end investors last week.

"The market hasn't really been tested thus far," Hayes said.

But there are opportunities in closed-end funds for more conservative investors, Paylor said. Some muni-closed-end funds that don't use leverage are also trading at discounts and have higher dividend yields than municipal exchange traded funds, which trade at their net asset value. Investors are better off buying the closed-end fund, which gives you the opportunity for price appreciation when discounts narrow, Paylor said.

"In my experience, that discount goes away," he said.

## **Bloomberg**

By Martin Z Braun

May 17, 2018

---

### **[The Week in Public Finance: This Illinois Town Is on the Brink of Bankruptcy. How Many Will Follow?](#)**

***Harvey, Ill., is facing insolvency thanks to its pension crisis. Some say it won't be the only one.***

[Continue reading.](#)

GOVERNING.COM

BY LIZ FARMER | MAY 18, 2018

---

### **[S&P: The Road Ahead For Autonomous Vehicles.](#)**

Growth of fully autonomous vehicles will be influenced by and significantly lag the market growth of electric vehicles, which could approach a 10% share of U.S. light vehicle sales by 2025 (compared to 1.1% today), behind our forecast 25% share in Europe and 20% share in China.

[Continue Reading](#)

May 14, 2018

---

### **[Cities Now Use Taxes to Fight Blight. Is It Working?](#)**

***Land use experts question whether vacant property taxes are the right way to spur development.***

It's a scenario that plays out over and over in cities across the country: A small business in a hip neighborhood closes, the storefront is left empty for months — maybe years — and then eventually gets replaced by a national chain.

Whether it's gentrifying Brooklyn, Greenwich Village in Manhattan or Miami Beach, the coffee shops, boutiques and eateries that drew many residents to those areas are struggling to stay.

But why?

The notion of greedy landlords hiking up rents makes an easy scapegoat for policymakers and residents. But the real picture is much more complicated, with an insistence on long-term leases and

major disruptions in retail shopping habits all playing a role in the vacancies, according to commercial real estate analysts.

Still, cities are turning to vacant property taxes to nudge property owners of both retail and residential spaces to lease, develop or sell their properties before a short-term vacancy turns into what some cities see as blight.

Cities opting for this solution are seeing varying degrees of success.

[Continue reading.](#)

GOVERNING.COM

BY J. BRIAN CHARLES | MAY 14, 2018

---

## **S&P: Level U.S. State Debt Reflects Long-Term Management Strategies And Affordability Concerns.**

Despite elevated credit pressures in fiscal 2017, state debt levels for the most part stayed constant. Although we anticipate more positive credit conditions heading into fiscal 2019, we think it is unlikely that there will be a significant uptick in debt levels.

[Continue Reading](#)

May 14, 2018

---

## **S&P Live Webcast: U.S. Charter Schools Fiscal Medians Webcast**

**Jun. 14, 2018 | New York, NY**

Please join our leading S&P Global Ratings analysts from the Charter School team for a live interactive webcast on **Thursday, June 14th at 2:00 pm Eastern Daylight Time**, where they will provide their views on the sector's fiscal 2017 financial medians and general trends in the sector.

[Register For This Webcast](#)

---

## **S&P: Shifting Competition Leads U.S. Not-For-Profit Health Care Organizations To Accelerate New (And Old) Strategies.**

Since the turn of the century, the competitive environment facing hospitals and health systems has changed at an ever-increasing pace, requiring strategies that are vastly different compared with the days when all a hospital had to worry about was putting patients in beds.

[Continue Reading](#)

## **TAX - OHIO**

### **[Lone Star Steakhouse & Saloon of Ohio, Inc. v. Franklin County Board of Revision](#)**

**Supreme Court of Ohio - April 26, 2018 - N.E.3d - 2018 WL 1960259 - 2018 -Ohio- 1612**

Taxpayer, which owned restaurant, filed complaint seeking reduction in valuation of property for property tax purposes by county auditor based on property's sale price, which city board of education opposed in countercomplaint.

The Board of Revision retained county auditor's valuation. Taxpayer appealed. The Board of Tax Appeals adopted valuation by Board of Revision. Taxpayer appealed.

The Supreme Court of Ohio held that:

- Effective date of sale was date conveyance-fee statement was filed with county auditor's office, and
- Taxpayer presented facially qualifying evidence of sale of property more than 24 months after lien date, thus triggering rebuttable presumption of recency for property tax purposes.

Effective date of a sale for real-property-valuation for property tax purposes is the date the conveyance-fee statement is filed in the county auditor's office.

Taxpayer, which owned restaurant, presented facially qualifying evidence of sale of property, including certified copies of deed, conveyance-fee statement, and disbursement statement, which occurred more than 24 months after tax-lien date, thus triggering rebuttable presumption of recency, under statute governing use of sale price as true value for property tax purposes when sale was recent and arm's length transaction.

---

## **TAX - NEW JERSEY**

### **[Gourmet Dining, LLC v. Union Township](#)**

**Tax Court of New Jersey - March 14, 2018 - 2018 WL 1352651**

Operator and manager of restaurant in building which public university leased from the New Jersey Educational Facilities Authority (NJEFA) filed complaints contesting county board of taxation's judgments dismissing its petition of appeal challenging tax assessments by township.

Township filed motions for summary judgment and operator and manager filed cross-motion for summary judgment. The Tax Court ordered that NJEFA and university be joined as necessary parties. University joined in operator and manager's cross-motion for summary judgment.

The Tax Court held that:

- Operation and management of restaurant did not serve public purpose;
- Operation and management of restaurant was not an actual use for college purposes;
- Restaurant operator and manager was not NJEFA's agent;
- University and university foundation were not NJEFA's agents;

- Restaurant operator and manager occupied building as a tenant or lessee; and
- Statute imposing an assessment and taxation on otherwise-exempt real property based on the property's use applied to operator and manager.

Operation and management of restaurant in public-university building did not serve public purpose and, thus, was not exempt from local property tax; restaurant was not public dining establishment, provision in resolution by university's board of trustees stating certain fees paid by operator and manager would be used for scholarships did not make restaurant's operation and management a public purpose, operator and manager's employment of university students did not serve as benefit to community as a whole and was not related to government functions, and fact that restaurant was allegedly integrated into university's mission and contributed to university's academic programs did not render its operation a use for public purposes.

Operation and management of restaurant in building public university leased from the New Jersey Educational Facilities Authority (NJEFA) was not an actual use for college purposes and, thus, restaurant operator and manager was not entitled to exemption from local property taxes, even though university foundation was paid a management fee and a percentage of gross revenue before restaurant realized any profit, where intent and motive of restaurant's operations were to generate profit, operation of restaurant generated gross revenues for its operator and manager, and any profits remaining after all expenses of restaurant's operations were paid belonged to operator and manager.

Operator and manager of restaurant in building public university leased from New Jersey Educational Facilities Authority (NJEFA) was not NJEFA's agent and, thus, was not subject to exemptions from local property tax granted to NJEFA and its agents; contractual agreement by which operator and manager operated restaurant was with university foundation, rather than with NJEFA, and did not involve any transactions, sales, or leases with NJEFA, and no third parties perceived operator and manager to have been conferred some authority by NJEFA or relied on any alleged apparent authority they perceived operator and manager to possess on behalf of NJEFA.

Public university and university foundation were not agents of the New Jersey Educational Facilities Authority (NJEFA), from which university leased a building, and, thus, operator and manager of restaurant located in building were not entitled to exemption from local property tax as agent of the university or the foundation, even though five sections of lease agreement between NJEFA and university contained the word "agents," where agreement contained no provision or term expressly creating an agency relationship between university and NJEFA.

Operator and manager of restaurant in building public university leased from New Jersey Educational Facilities Authority (NJEFA) occupied building as a tenant or lessee and, thus, was not exempt from local property tax under the Leaseholding Taxing Act; management subcontract agreement between university foundation and operator and manager was a contract, concerned a defined property, delineated a set term of years, required operator and manager to pay a fixed annual rate, and afforded operator and manager rights that were akin to those of a lessee, including the right to exclusively occupy the property.

Statute imposing an assessment and taxation on otherwise-exempt real property based on the property's use applied to operator and manager of restaurant in building which public university leased from New Jersey Educational Facilities Authority (NJEFA), where operation and management of restaurant failed to serve a public purpose.

---

## **S&P: California's Tax Increment Bonds Prove Increasingly Resilient; Sector Trend Is Stable To Positive.**

In 2018, S&P Global Ratings expects California's tax increment bond quality to remain stable to positive, supported by assessed valuation (AV) that is on the upswing, limitations on additional debt, and a stable legislative landscape.

[Continue Reading](#)

May 16, 2018

---

## **S&P: U.S. Tax Increment Sector Is Stable, Amid A Sustained Economic Recovery.**

S&P Global Ratings believes the U.S. tax increment sector will remain stable in the next one to two years fueled primarily by its expectation that the national economy will continue to experience favorable, albeit modest, property value growth.

[Continue Reading](#)

May 16, 2018

---

## **Save the Crew!**

The Tax Cuts and Jobs Act, as introduced in the House of Representatives on November 2, 2017, would have [prohibited the issuance after that date of tax-exempt bonds to finance a professional sports stadium](#). The Tax Cuts and Jobs Act, as enacted, did not contain this prohibition.

Even if it had, it would likely not have ended the financial assistance that state and local governments lavish upon top-level professional sports franchises to keep those franchises in their current cities or to induce them to relocate. Major League Baseball, Major League Soccer, the National Basketball Association, the National Football League, and the National Hockey League each hold a monopoly in the United States on the allocation of top-level professional franchises in their respective sports. As long as these monopolies exist, state and local governments will afford the leagues financial assistance to claim one of the artificially limited number of franchises, regardless of whether tax-exempt bonds can be used to finance the stadiums in which the franchises play.

Is there anything state and local governments can do to ensure that one of these franchises, after having received public benefits and financial assistance, will not relocate? Read on after the jump.

[Continue Reading](#)

By Michael Cullers on May 20, 2018

The Public Finance Tax Blog

## **Neighborly Issuer Brief.**

### **Solar Moves Forward in California**

The California Energy Commission [approved new rules](#) governing residential buildings requiring all residential buildings up to three stories high (including both single-family buildings and condos) to be built with solar panels. The rules go into place in 2020. There will be exceptions for buildings that can't fit panels or are hidden from the sun by vegetation or their urban environment. Solar is already responsible for about 16% of California electricity — these rules are intended to help the state reach its goal of having at least half of electricity come from renewable energy by 2030.

One issue people will have with the new regulations is the estimated \$8,000-\$12,000 more it will cost to build a new home. The Energy Commission estimates that buyers could see their monthly mortgage go up by \$40 every month. Still, this would be offset by an estimated \$80 decrease in monthly utility bills. Over time, a family would save \$19,000 in today's dollars, adjusted for inflation, over 30 years. Other estimates show higher installation costs offset by greater monthly utility savings. All the estimates we have seen show better than breakeven results for residences installing the panels.

As is the case with so many other environmental issues, California is at the forefront of innovation. Should the regulation work out favorably, this standard could not be adopted by other states as they seek to achieve environmentally beneficial goals.

In addition, should the program work favorably, there's an opportunity for California to use housing finance programs, such as municipal bonds, to assist lower-income homebuyers finance environmentally friendly homes. Bonds could also be used to finance "retrofitting" of existing housing, especially for lower-income homeowners where such a program could generate both cost savings for the homeowner as well as environmental benefit for society as a whole.

### **Oregon Introduces Sustainability Bonds**

Oregon State Treasurer, Tobias Read, [recently announced](#) the inaugural sale of Oregon Sustainability Bonds — a new category of state bonds tailored for socially responsible investors and dedicated to projects that will enhance community and sustainability efforts. The first tranche is a \$40 million federally taxable issuance to bolster affordable housing construction and home ownership programs.

Proceeds will finance grants for the construction of affordable housing projects via the State's Local Innovation and Fast Track (LIFT) Affordable Housing Program. The projects selected for inclusion in the LIFT program by the Oregon Housing and Community Services Department are in historically underserved communities and designed for households earning at or below 60% of Area Median Income.

These bonds are authorized under the Oregon Sustainability Act, which calls for developing and protecting resources so we can meet current needs while also providing that future generations can meet theirs — from the joint perspective of environmental, economic and community objectives.

The Treasurer's Office also detailed how they intend to address accountability concerns of socially

responsible investment interests. There will be annual reporting on the uses and spend-down of the bond proceeds available on the Oregon State Treasurer's website until the funds are spent in full. This is a trend we anticipate will continue across the country as more investors are increasingly mindful about where they put their money.

## **Infrastructure Dead at the Fed for 2018**

The [White House acknowledged](#) last week that one of President Donald Trump's central domestic legislative promises - a massive \$1 trillion package to fund the construction of new roads, bridges and other infrastructure projects - probably isn't going to happen anytime soon.

As a result, states and localities will remain the leaders in creating, executing and most importantly, funding their infrastructure needs. And this puts more pressure on their existing funding sources and credits as they cope with the lack of a coherent (if promised) funding plan.

Posted 05/17/2018 by Joseph Krist

## **Neighborly**

---

### **[Chicago Schools Double Bond Sale as Rates Head Higher.](#)**

- **Board of Education sold \$561 million of G.O. refunding bonds**
- **Demand for yield, rate hike outlook seen as reason for change**

The Chicago Board of Education doubled the size of its bond sale Thursday to \$561 million amid signs of strong demand for the junk-rated district's high-yielding securities.

The offering, which was initially planned for next week until officials moved it up, is the first this year for the nation's third-largest school district and was increased from the \$260 million initially scheduled. Because of its chronic fiscal strains, the system's uninsured bonds carried yields that were 1.93 percentage point to 2.24 percentage points more than top-rated securities, with debt backed by Assured Guaranty Municipal Corp. offered for as much as 1.35 percentage point over the benchmark, according to a repricing note sent to an investor.

The acceleration of the district's bond sale came after yields rose this week amid concern that the Federal Reserve may raise interest rates more aggressively than previously anticipated.

"There's a consensus that on the horizon there's not a lot of yield coming, and so buyers are certainly putting their money to work," Adam Buchanan, senior vice president of municipal sales and trading at Ziegler Capital Markets Group in Chicago, said in a telephone interview. "For an institution that needs capital in a rising interest rate environment, you want to raise as many dollars as you can at this cost of capital — it could be more expensive down the road."

High-yield bonds have been one of the few bright spots in the municipal market this year, delivering returns of 1.9 percent despite the losses posted by most securities, according to Bloomberg Barclays indexes. Prices on the Chicago district's debt have rallied over the last year, reflecting the significant step-up in state aid for a system that had long been in fiscal crisis largely due to its escalating pension bills.

This month, the most-actively traded Chicago Board of Education debt traded at an average price of

\$1 at a 4.96 percent yield, compared to 79.6 cents at a 7.3 percent yield in May 2017, according to data compiled by Bloomberg.

In August, lawmakers and Governor Bruce Rauner overhauled Illinois's school funding formula, making the state pick up the normal cost of Chicago's teacher pensions, a major expense for the cash-strapped district. That change, along with a hike in other state aid and property taxes, means Chicago schools have an additional \$444 million of revenues, according to bond documents.

The state now covers \$221 million of normal pension costs for Chicago schools and provides an additional \$93 million in other state funding, according to bond documents. The district also enacted a \$130 million property-tax levy for pensions, according to an online presentation to investors.

"CPS is on the hook for a lot less of their pension burden than they have in the past, and there's a number of other funding sources that are offsetting that risk," said Dennis Derby, a portfolio manager at Wells Fargo Asset Management, which holds \$39 billion of municipal debt, including Chicago school bonds. His firm is considering buying Thursday's deal. "The market reception is significantly better than it was two years ago because there's less uncertainty tied to funding going forward."

It's a more positive story than a year ago, but still there's a lot of pension debt to fund, said Dan Solender, head of municipal investments at Lord Abbett & Co., which holds \$20 billion of state and local debt, including some issued by district. The Chicago teachers' pension fund is about 50 percent funded, leaving an unfunded liability of about \$10.9 billion, according to bond documents.

"They're telling an improving story," Solender said in a telephone interview. "They still have a lot to do to really improve themselves to get out of the below investment grade category."

Another risk is the board's reliance on the fiscally-stressed state of Illinois that faces ongoing political squabbles over its budget. Rauner, a Republican who is facing re-election this year, proposed a spending plan in February that ends the state's pension pickup of CPS's normal pension costs. Democrats have resisted Rauner's plan, and it remains to be seen what budget, if any, Illinois leaders will approve for the year that starts July 1.

In April, S&P Global Ratings revised its outlook on the board to positive from stable, citing the jump in state aid, but the board is still rated B, five steps below investment grade, partly due to its "extremely weak liquidity," according to S&P.

There's no question that this year is different for the board. Ending the school year early, canceling summer school and slashing school spending were all floated as options for the district in 2017 as it struggled to make its June 30 pension payment.

"A large part of it is the credit outlook for CPS is substantially better than it was even just a year ago," Derby of Wells said. "And management has done a commendable job in getting their message across to investors."

## **Bloomberg**

By Elizabeth Campbell

May 17, 2018

---

## **S&P: Pension Pressures For Illinois Municipalities Could Become An Imminent Budgetary Challenge Under The State's Revenue Intercept Law.**

Invoking a statute designed to compel Illinois municipalities to fund their public safety pension plans according to statutory minimum levels, pension boards in the cities of Harvey (not rated) and North Chicago (A/Stable) recently petitioned the state comptroller to intercept state revenues due to the municipalities.

[Continue Reading](#)

May 14, 2018

---

## **Chicago Schools Sell Upsized Bond Deal Ahead of Schedule.**

CHICAGO, May 17 (Reuters) - The junk-rated Chicago Public Schools (CPS) on Thursday more than doubled a planned bond refinancing issue to \$561 million and accelerated its pricing amid rising rates in the U.S. municipal market.

The district had initially sized the issue at \$260 million and set a tentative pricing date for next Tuesday through senior underwriter Loop Capital Markets.

"I guess they are taking advantage of the market while rates are increasing," said Daniel Berger, Municipal Market Data's (MMD) senior market strategist.

The 10-year bond yield on MMD's benchmark triple-A scale has climbed 10 basis points since Monday.

There was no immediate comment from CPS on the bond pricing.

Yields in the deal topped out at 4.95 percent for general obligation bonds due in 2035 with a 5 percent coupon, according to a repricing released by underwriters. Insurance by Assured Guaranty Municipal Corp on an additional 2035 maturity produced a lower yield of 4.05 percent.

Spreads over MMD's scale ranged from 193 basis points to 224 basis points for uninsured bonds and were as high as 135 basis points for insured bonds.

Escalating pension payments have led to junk credit ratings, drained reserves and debt dependency for CPS, the country's third-largest public school system.

School officials have touted an improved financial outlook under a new Illinois school funding formula enacted last year that boosted the flow of state funding to CPS by \$450 million.

The district still has an "extremely weak cash position," according to S&P Global Markets, which last week rated the bonds at 'B' with a positive outlook.

The sale came a day after the Illinois State Board of Education placed the district's special education services under supervision after finding some CPS policies and practices violated a federal law protecting disabled children's right to a free and appropriate public education.

---

## **WV Governor Announces Bond Sales and Investor Relations Website**

Charleston — As the state prepares to put up for sale about \$800 million in general obligation bonds for larger projects of the Roads to Prosperity program, Gov. Jim Justice announced the creation of a bond sale and an investor relations site.

Found at [investorrelations.wv.gov](http://investorrelations.wv.gov), the governor said the bonds carry a strong rating by Moody's S&P Global Ratings and Fitch Ratings and have maturities ranging from one to 25 years.

Among the information housed on the site is a list of West Virginia bond offerings, the state's credit ratings and a step-by-step process to purchasing West Virginia bonds.

A frequently asked questions (FAQ) on the site answers such questions as:

What is a State of West Virginia General Obligation bond ("GO bond")? Do GO bonds require voter approval? What is a Revenue Bond? What is a Lease Revenue Bond? What are key factors in pricing municipal securities? What are Credit Ratings? What does it mean when a bond or note is taxable? What is a preliminary official statement (POS)? What is the pricing/sale date? What is the difference between a competitive and negotiated sale? A news release said West Virginia residents can purchase tax-exempt bonds by contacting one of 15 firms in the underwriting syndicate and selling group led by Bank of America Merrill Lynch. Bonds may only be offered through a preliminary official statement and be purchased through a registered broker.

"These bonds are part of a program that will finance over \$2 billion in road infrastructure improvements," Justice said in the release. "The projects will rebuild and reconstruct West Virginia's aging roads and bridges as well as starting up several new highways projects. This is your chance as a West Virginian to invest directly in the Mountain State's future, and help move our state forward for generations to come."

By Andrea Lannom

**Register-Herald**

---

## **City of Billings Sued Over Franchise Fees in Utility Bills.**

A complaint is filed in Yellowstone County District court claiming franchise fees collected by the City of Billings on water and garbage utility bills are illegal.

The contention comes after the state Supreme Court struck down similar fees in the past.

The 15 page complaint is filed in Yellowstone County Court on the behalf of six Billings Public Works utility customers.

The complaint is seeking class action status which would up the number of plaintiffs from six to over 30,000.

“Billings residents sue the city of over utility franchise fees.”

That’s the headline in today’s edition of the Yellowstone County news.

A copy of the complaint shared with KULR-8 argues that these franchise fees are actually an illegal sales tax.

The franchise fee is listed under current charges standard utility bill.

The City of Billings outlined what the “franchise fees” are for and where they go in the “rules and regulation governing water and waste water services” published in February of 2009

Section 1611 states that the utility shall pay all money collected from franchise fees to the city of billings for use of its rights-of-way to install water/waste water lines. such money shall be deposited in the general fund.

This is where the complaint takes issue.

The plaintiffs argue the city’s “franchise fees” are not reasonably related to the city’s cost of providing water, sewer, and garbage disposal services.

This is because the general fund is used to support the general administrative costs of the city and other services provided by the city, including but not limited to public safety, municipal court, parks, recreation and public lands, and city finance costs.

The complaint asks the court to prevent the city from collecting future franchise fees and repay customers who have paid the fee over the last eight years.

That could be a hefty fee for the city in the neighborhood of \$15 million.

Breaking that number down, the average customer could see roughly \$30 returned to them after court costs are assessed.

Now again all that is only comes if a judge grants class action status in this case.

We did reach out to the city for comment.

City Administrator Bruce McCandless couldn’t comment on the complaint as he has not been served with it yet.

However, he did say that this past march council members did request the franchise fee be removed from utility bills during the next fiscal year.

By Mary Jane Belleza

May 17, 2018

**KULR**

---

**[The Big Wager is On Who'll Win the Fight For the Sports Betting Jackpot.](#)**

Gambling is as woven into the fabric of American life and history as stars and stripes are woven into the pattern of an American flag.

From the neighborhood poker game to state lotteries to office March Madness pools to giant casino complexes, from fully legal to completely unsanctioned, gambling is everywhere and most of us participate.

So it might seem there's little room to ratchet up even further the pervasiveness of gambling as entertainment, as an industry and as a tool of public finance in this country.

You ain't seen nothin' yet.

What's coming is not a wave of more casino construction — while there are projects in development, including a handful in Washington, that segment of the gambling (sorry, "gaming") industry looks to be nearing saturation. Nor is there interest in putting slot machines or similar devices in every bar, restaurant store and convenience store.

Instead, the jackpot everyone is dreaming of hitting will be found in sports betting.

The U.S. Supreme Court last week struck down the Professional and Amateur Sports Protection Act, a 1992 federal law that prevented all but a handful of states from allowing betting on sporting events and contests. Stripped of legalese, the court's decision basically told Congress "butt out, this is none of your business."

That is glorious news to states that, in their never-ending quest for more tax revenue, have long and longingly eyed the millions they knew Americans were wagering on sports, never mind the laws and rules forbidding such recreation.

They weren't wrong to surmise Americans were spending sums just on sports betting that might be small individually but that amounted to millions, or more, in the aggregate.

True confession time: Your columnist, working years ago in a part of the country known for enthusiasm for both sports and gambling, used to pitch a quarter into the pool for the weekly pick-10-games card during football season. It was organized by teachers at the local high school.

That was long before the days when office copiers worked overtime to print basketball tournament brackets and the office-pool winner was likely someone who made selections according to school colors and nicknames. Participants in those low-stakes affairs might not have seen themselves as part of the sports-wagering complex, but government did, along with bookies, offshore betting services, legal Vegas sports books and the like, and dreamed of getting a slice of the action.

Now it can.

What's fascinating about the decision is not so much the ruling itself. Given the general shift in societal attitudes toward what were once regarded as vices (hello, marijuana), the outcome seemed inevitable. When recently has some of the gambling toothpaste been shoved back into the tube?

The dramatic change has come in sports organizations' attitudes, especially for the professional leagues. Where once they decried the idea of sanctioned gambling on their contests, out of professed fear for point shaving and tampering with outcomes, now they too are getting comfortable with the notion, especially if they too get a cut of the action.

The motivation behind that shift might be less a matter of its inevitability, or that the leagues were

never going to stamp out gambling. They, like government, are always on the hunt for money. But the leagues are looking at forecasts for the once bounteous revenue streams from television and not liking what they're seeing. Gambling could be the answer.

The huge question now is how legal sports betting is to be structured. The Supreme Court didn't legalize sports betting; it merely said it's up to the states to regulate.

A few states are poised to go. Oregon was one of the handful of states grandfathered in by the federal law, and has run sports-related contests through its lottery before. It's already discussing new games.

Washington is well behind, and the Legislature isn't due back in Olympia until January. Even that gap, though, might not provide enough time for all the negotiating that must be done.

What kind of betting, for example, would be allowed, and who would run it? The teams themselves? Would they outfit their stadiums and arenas with betting parlors — or make it possible to make a wager via wireless device from your seat? How about horse-racing tracks, which have long offered betting not only on their own contests but also on races at other venues?

Maybe we'll have independent bookies. Or, since this region fancies itself a hub of the online world, the next big company will be a web-based sports-wagering operation. Then there are the Indian tribes and casinos — think they might want in? And how does the state get involved? How much of a cut does it take?

Gambling has a history of disappointment, and that goes for government entities and others counting on big rewards from sports wagering. The official, professionally run sports-betting venue will attract big bettors. Will the once-a-year office-pool participants make the switch, and will the system work if they don't?

We're about to spin the wheel to find out.

THE NEWS TRIBUNE

BY BILL VIRGIN

May 19, 2018

*Bill Virgin is editor and publisher of Washington Manufacturing Alert and Pacific Northwest Rail News. He can be reached at [bill.virgin@yahoo.com](mailto:bill.virgin@yahoo.com).*

---

## **[The Early Results of States' Opportunity Zones are Promising, But There's Still Room for Improvement.](#)**

Eighteen states have submitted their selections of local neighborhoods that will qualify as "Opportunity Zones" under a new tax incentive created by Congress in last year's tax bill. These selections—and the characteristics of the neighborhoods themselves—will be important determinants of the ultimate success of the program. [As I wrote in February just before the state selections were due](#), poor choices by states could turn a program meant to benefit residents of poor neighborhoods into a tax break for developers investing in already-gentrifying areas. With information in hand from 18 states, I describe the characteristics of neighborhoods that have been

selected so far. ([That information is also available in this file \(.xls\)](#) for the remaining 32 states who have yet to select their Opportunity Zones).

Looking at the 18 states that have submitted, the good news is that most states designated deeply impoverished places for the new subsidy, with Georgia and California standing out for allocating most of their picks to their most distressed neighborhoods. Nevertheless, 22 percent of selections were for areas with relatively low poverty rates (below 20 percent) and an additional 19 percent were in already-gentrifying areas (areas with the highest rates of home price appreciation).

Opportunity Zones (hereafter referred to as OZs) offer favorable capital gains treatment for taxpayers who invest in designated low-income neighborhoods. States were given a list of eligible neighborhoods produced according to the law by the Department of Treasury—a broad list that actually includes 57 percent of all neighborhoods in America, not all of which are distressed—and were allowed to select one in four of them to be Opportunity Zones.

[Continue reading.](#)

## **The Brookings Institute**

Adam Looney

Wednesday, April 18, 2018

[Download the data](#)

[Download the tables and figures](#)

---

## **[The Curious Case of Hartford: How Can a State Rescue a Debt-trapped City?](#)**

The common misconception with local government debt was that all the debt issued by the local government was backed by its full tax authority; so, if there is ever a loss in revenue or general fund deficit, the municipality will simply increase the taxes to fill that deficit. Then, Detroit, MI and Stockton, CA happened, delivering a rude awakening for many investors who simply thought local governments can never go bankrupt. For Detroit and Stockton, there was little to no state intervention to help their municipalities and it eventually led to two of the biggest municipal bankruptcies in the history of the United States. However, there have been other examples, like Atlantic City, NJ, where the City has been under major financial strain to meet even its short-term obligations and the state (New Jersey) intervened to provide the much-needed help to prevent bankruptcy.

Recently, investors and municipal debt markets witnessed something quite similar: the State of Connecticut's intervention into its capital city, Hartford, and its finances to provide much-needed financial relief. This eventually led to a four-notch credit rating boost for Hartford City debt from CCC (junk) to A (investment grade).

In this article, we will take a closer look at the State of Connecticut's intervention, its short- and long-term impacts, and what it means for other municipality General Obligations (GOs) in a similar situation.

[Continue reading.](#)

**municipalbonds.com**

by Jayden Sangha

May 17, 2018

---

## **Municipal Bonds Weekly Market Report: Fed Chair John Williams Using Neutral Rate as Guidance.**

**MunicipalBonds.com provides information regarding the performance of muni bonds for the past week in comparison with Treasury yields and net fund flows, as well as the impact of monetary policies and relevant economic news.**

- Treasury and municipal yields all increased this week.
- Muni bond funds saw its second week of inflows.
- Be sure to review our [previous week's report](#) to track the changing market conditions.

[Continue reading.](#)

**municipalbonds.com**

Brian Mathews

May 22, 2018

---

## **Amazon's Fight with Seattle over Head Tax Foreshadows Battles to Come in Other Cities.**

SAN FRANCISCO — If Seattle's bitter public fight with Amazon over a new tax on employees is a sign of the future for cities vying to become the company's next headquarters, there's a take-home message: You can push Amazon, but you have to be prepared for it to push back — hard.

On Monday, Seattle's city council unanimously passed a measure that will require companies with revenues of more than \$20 million a year pay an annual \$275 tax per employee despite strong pushback from Amazon — the city's largest employer — and other large businesses including Starbucks.

The vote came after weeks of hearings, demonstrations, heated public meetings and a threat by Amazon to stop construction of its newest Seattle tower and to pull out of leasing another.

The dispute ended in something of a draw Monday. For Seattle, the initial result should be another \$45 million in the city's coffers each year to build low-cost housing and to aid the homeless — problems many in the city feel have been exacerbated by the influx of thousands of highly-paid tech workers at Amazon who have driven up rents and pushed out lower income residents.

Though it passed, in many ways the final vote was a victory for Amazon. The original proposal had called for a \$500 a head tax on all Seattle businesses with more than \$20 million a year in gross revenue. The tax passed by the council was a compromise at slightly more than half that, though at

\$275 per employee it is still the largest head tax in U.S. history.

The company minced no words when the council voted.

"We are disappointed by today's City Council decision," Amazon vice president Drew Herdener said in a statement. "We remain very apprehensive about the future created by the council's hostile approach and rhetoric toward larger businesses, which forces us to question our growth here."

At the same time, it backed away from its previous threats to pull out of its most recent building project in Seattle, a 17-story office tower that will have 1 million square feet of office space and will house as many as 8,000 new employees.

It also said it would continue plans to lease the Rainier Square skyscraper, which will have 720,000 square feet of office space and be the Pacific Northwest's second-tallest building when it is completed in 2020.

There had been concerns Amazon might scale back its hiring plans for Seattle, but that doesn't seem to be happening. According to the Seattle Times, in the two weeks since Amazon said it was going to stop its buildup in Seattle because of the tax, it's actually posted new ads for 547 new Seattle-based jobs. Currently, Amazon has 5,700 jobs open in Seattle, up from 4,000 a few months ago.

The showdown is one familiar to residents in the San Francisco Bay Area, where public anger has risen over who should pay for the civic woes that can result from fast growth, high salaries, too-little housing and rising income inequality. Tech firms especially, because they have fewer working class and blue collar positions compared to their highly-paid technical staffs, have been a lightning rod for these concerns.

For the 20 cities on Amazon's finalist list for its second headquarters — a prize worth more than \$5 billion and 50,000 white-collar jobs — their first response should be to run to the phone, said Thomas Cooke, a professor at Georgetown University's McDonough School of Business who writes on tax ethics and liability.

"Anybody who's on the wait list should be communicating with Amazon to say, 'That's not our style. Something like this has never been proposed in our city,' " he said.

Others think seeing Amazon's hardball tactics might give those eager cities pause.

"This is brinksmanship at its best, and this is a tension that really could impact how positive the relationship will be with the city ultimately selected," said William Riggs, a planning strategist and professor at the University of San Francisco.

While housing shortages and income inequality are common across the nation, Seattle is in a very different position from other cities where its HQ2 might go.

In Washington state, neither state or local government are allowed to tax income. In addition, state law caps real estate tax increases to no more than 1% a year.

"It's a very challenging environment in which to raise revenues. So from that unique perspective, the proposed tax on workers seems like the best available to Seattle right now," said Matthew Gardner, a senior fellow at the Institute on Taxation and Economic Policy, a Washington D.C.-based, non-partisan non-profit, focused on federal, state and local tax reform issues.

At the same time, Amazon has a well-deserved reputation for aggressively avoiding taxes. In fact, it

chose Washington state as its home in part because of its small population, allowing the company to make most of its sales where it had no physical presence and therefore wasn't required to pay sales tax.

"Amazon appears to have built its business plan from day one on avoiding taxes," Gardner said.

Whether other cities will be as deeply affected by Amazon's arrival as Seattle is not clear. An analysis by Fitch Ratings published two weeks ago found that most large metropolitan areas being considered for HQ2 probably wouldn't see much real estate impact.

Most of the finalists have "large populations, well-developed infrastructure and sufficient housing supply to support the needs of Amazon's workers. We do not expect HQ2 to have much, if any, impact and only in the long term," said Amy Laskey, managing director for U.S. public finance with Fitch Ratings

Only in the smaller cities, such as Raleigh, N.C., Indianapolis, Ind. and Columbus, Ohio could any change be significant enough to affect demand on housing and infrastructure, she said.

USA TODAY

by Elizabeth Weise

May 16, 2018

---

## **[Congress Was Just Handed a Blueprint for Solving Puerto Rico's Debt Crisis.](#)**

A recent report concludes that the factors that contributed to Puerto Rico's debt crisis were inadequate management and oversight practices by the government. This included poor policy decisions by government leaders with regards to public debt financing and public pension funding, and a prolonged economic contraction, which has cut across all economic sectors in the island. Puerto Rico has an estimated \$70 billion in public debt and close to 50 billion in unfunded liabilities.

In summary, General Accountability Office (GAO) report recommendations released May 9 include:

- modifying the federal tax exempt status for Puerto Rico municipal debt
- applying federal investor protection laws to Puerto Rico
- modifying the Securities and Exchange Commission's (SEC) authority over municipal bond disclosure requirements

From a practical point of view these recommendations may seem untimely. The government of Puerto Rico is currently under the jurisdiction of a congressionally mandated oversight board and in bankruptcy-like proceedings in the Federal District Court. The government also will not have access to the municipal bond markets for the foreseeable future,.

It should be noted that Rep. Nydia Velázquez (D-N.Y.) recently presented H.R. 1366 to amend the Investment Company Act of 1940 to protect mutual fund investors in Puerto Rico as other American citizens in the mainland. The House approved the bill with bipartisan support. In the previous Congress, the bill had also been approved by the House, but was blocked by the Senate.

This report comes on the heels of a series of pronouncements made in the last few weeks by various

congressional members on Puerto Rico's financial crisis and political future.

Just last week Rep. Rob Bishop (R-Utah) as chairman of the House Energy and Natural Resources Committee, declared that he favored statehood for Puerto Rico. Sen. Bill Nelson (D-Fla.), who is up for reelection in the 2018 midterm elections, declared he would favor statehood if Puerto Ricans asked for it, apparently ignoring that in the last two local plebiscites the statehood alternative won.

Florida's Republican Gov. Rick Scott, who is running against Nelson for the Senate seat, also declared that he favors statehood for Puerto Rico. As a political commentator ironically noted, it would appear that the next elected Florida senator will also represent Puerto Rico.

On the other hand, both Sens. Marco Rubio (R-Fla.) and Lisa Murkowski (R-Alaska) have argued that statehood for Puerto Rico is not currently on the discussion table, and that economic and financial recovery are the main concerns. Of course, statehood and economic and financial recovery are not mutually exclusive, and it is possible to address both simultaneously.

In fact, GAO'S recommendations on modifying the federal tax exemption enjoyed by Puerto Rico municipal bonds silently underlines the status question. It is precisely because Puerto Rico is an unincorporated territory — belonging to, but not a part of the United States.

As a matter of constitutional law, any other stateside municipal bond which hypothetically enjoyed a federal tax exemption would run afoul of the Uniformity Clause. This is the same issue that was raised by the December 2017 amendments to the Federal Tax Code, which classified Puerto Rico as a foreign jurisdiction for purposes of imposing a 20 percent taxation rate on American Controlled Foreign Corporations earnings at the time of entering the United States.

The GAO report is correct in pointing out that Puerto Rico's current fiscal and economic woes are due to the mismanagement by elected officials in Puerto Rico throughout the years.

Puerto Rico's government addiction to public debt financing, concurrent with a private sector dependent on federal and territorial tax incentives, has until recently benefited the financial goals of investors, manufacturers, and certain political sectors in Puerto Rico at the expense of long-term stability and growth.

As to be expected, the GAO report studiously avoids making any political or constitutional recommendation. Historically speaking Congress shoulders some of the responsibility by statutorily facilitating this state of affairs. In this context, PROMESA is a belated recognition by Congress that the unincorporated territorial model for Puerto Rico is spent.

Only when the political underpinnings of the current relationship between Puerto Rico and the United States are addressed can real progress be achieved on the social and economic fronts. Congress should act on GAO's recommendation as a step in the right direction, formally incorporating the territory of Puerto Rico, and treating in all matters it as any other state jurisdiction.

THE HILL

BY ANDRÉS L. CÓRDOVA, OPINION CONTRIBUTOR — 05/14/18

*Andrés L. Córdova is a law professor at Inter American University of Puerto Rico, where he teaches contracts and property courses. He is also an occasional columnist on legal and political issues at the Spanish daily El Vocero de Puerto Rico.*

---

## **Seattle Wanted to Break Up With Wells Fargo. Then It Committed to Three More Years.**

Breaking up is hard — especially if you're a city trying to break up with a bank.

Especially if the other banks aren't all that interested in dating you.

That's more or less why Seattle just signed a three year extension to keep banking with Wells Fargo, even though officials voted a year ago to cut ties with the bank because of its role in funding the Dakota Access Pipeline.

The city council resolved to find a new financial institution before ending the Wells Fargo contract at the end of 2018. But this week, City Finance Director Glen Lee gave them an update on the search for a bank.

"The reality is, none wanted to participate and bid for our services, and given the time it takes to shift to a new service, we felt it was prudent for the city to move forward," Lee said.

Lee said some banks offered to run certain services, but none applied to handle the city's lending and deposits. Wells Fargo provides lending and deposit services for the city, processing about five-billion dollars a year in city finances.

Since no other bank applied, Seattle will bank with Wells Fargo for three more years.

In the meantime, city staff are studying the idea of a municipal bank, which Lee said Mayor Jenny Durkan supports. That idea was proposed at the state level in the past, but never gathered steam. City staff want to hire a consultant, possibly in conjunction with other Washington cities, to set up a public bank.

Cities such as San Francisco and L.A. have also considered municipal banking, but only North Dakota and Native American tribes currently have their own banks.

Environmental activists and Native American leaders in the region celebrated last year's decision by the Seattle City Council. Under the ordinance approved last year, the city of Seattle will not work with any business that engages in unethical business practices.

The council voted to stop banking with Wells Fargo because it's a lender for the Dakota Access Pipeline — and because of a scandal last year in which accounts were set up for clients without their knowledge. More than a dozen banks are connected to the pipeline, including CitiBank, I-N-G, Chase and Bank of America.

KUOW

By PAIGE BROWNING | MAY 14, 2018

---

## **NFMA Submits Amicus Brief Concerning Puerto Rico Highway Revenue Bond Ruling by U.S. District Court.**

The National Federation of Municipal Analysts announced today that it has filed an amicus curiae

brief with the United States Court of Appeals for the First Circuit in support of the appeal filed by Assured Guaranty, Financial Guaranty Insurance Company and National Public Financial Guarantee Corporation of a decision of the United District Court for the District of Puerto Rico (the “District Court”) involving Puerto Rico Highway and Transportation Authority bonds.

[Click here](#) to read the press release.

[Click here](#) to read the amicus brief.

---

## **Puerto Rico Bondholders Pitch \$10 Billion Debt-Cutting Deal.**

### ***Proposed sales-tax agreement rejected by Puerto Rico’s federal overseers***

Major Puerto Rico creditors agreed how to split up sales-tax collections and cut \$10 billion in public debt but were rebuffed by the U.S. territory’s federal financial supervisors.

The settlement framework unveiled Monday concerns future sales-tax revenue collections that Puerto Rico transferred to a public corporation to raise \$18 billion in securitization bonds known as Cofinas. Competing creditors have tried to free up that money in Puerto Rico’s court-supervised bankruptcy proceeding to pay down other government debts.

The federal board overseeing Puerto Rico’s finances would need to approve any settlement for it to take effect. An oversight board spokesman said the proposed terms were crafted without its input “and are completely unaffordable.”

The proposed deal swings the pledged taxes to a new lockbox which would distribute securities to participating debtholders at a discount to their claims, providing Cofina bondholders 64.5 cents on the dollar.

Creditors holding general obligation debt backed by Puerto Rico’s full faith and credit would receive 58.6 cents on the dollar, according to settlement documents.

The oversight board approved a fiscal plan that includes a \$6.7 billion surplus over six years from which creditors could be repaid, provided a host of other fiscal and structural reforms are enacted.

An agent for Cofina bondholder interests appointed by the oversight board supports the proposed division of sales-tax monies, settlement papers said. The agent appointed to attack the Cofina structure on behalf of unsecured creditors “did not support any portion.”

The judge presiding over Puerto Rico’s bankruptcy heard arguments last month on ownership of the sales tax collections, a dispute that has dominated the proceedings since they began more than a year ago. She hasn’t yet issued a ruling or decided whether to punt the matter to Puerto Rico’s highest local court.

Mutual funds with large holdings of subordinated Cofina debt including OppenheimerFunds Inc. weren’t signatories to the proposal.

How the dispute is resolved will reverberate throughout the U.S. municipal marketplace as investors gauge the safety of Cofina-like investments backed by specific revenue streams. Discussions around an alternative settlement proposal with Puerto Rico’s public pensioners are ongoing, according to a

spokesman for hedge funds holding Cofina debt.

## **The Wall Street Journal**

By Andrew Scurria

May 14, 2018

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

---

### **Fitch: Seattle's Head Tax Unlikely to Affect Credit.**

Fitch Ratings-San Francisco-18 May 2018: The city of Seattle, WA's employee tax announced yesterday on select large companies will not materially affect the city's 'AAA' rating and Stable Outlook, according to Fitch Ratings.

This week, Seattle's city council unanimously adopted a measure to impose a \$275 per employee tax on companies that gross over \$20 million annually. The ordinance is expected to be signed by the mayor and will go into effect Jan. 1, 2019 and expire Dec. 31, 2023. The city estimates it will generate roughly \$47 million per year to address homelessness and housing affordability issues though its ultimate use will be determined along with the 2019 budget.

The estimated increase to revenues totals about 3.4% of 2017 revenues and is expected to increase at roughly the pace of employment (about 3% in recent years). Fitch views the city's revenue growth prospects as very strong, and as such, this change does not affect that assessment.

Fitch expects any impact to the city's strong economic growth as a result of the new tax to be limited, given the relatively modest amount of the tax and other considerations related to corporate locations. Seattle is attractive to employers because of the pool of qualified employees in the city and broader region. The city's proportion of working age population is 9% higher than the county and 17% higher than the nation, and the proportion with a bachelor or advanced degree is 23% higher than the county and twice as high as the nation. The city is also the cultural center of a large metropolitan region with many public amenities including sports, entertainment, transit, and nearby airport, and seaport facilities. The unemployment rate in the city has been below 4% since 2015 and trends below the county rate and the national rate.

The city's revenue framework and overall credit quality could be affected longer term if the tax increase leads corporations to decide to move out of or not to locate in the city. However, any impact would be felt marginally over many years and would thus be difficult to distinguish from other rationales for corporate decisions.

Contact:

Karen Ribble  
Senior Director  
+1-415-672-2792  
Fitch Ratings, Inc.  
650 California Street, Suite 2250  
San Francisco, CA 94108

Stephen Walsh  
Director  
+1-415-732-7573

Media Relations: Sandro Scenga, New York, Tel: +1 212-908-0278, Email:  
sandro.scenga@fitchratings.com

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

---

## **Behind Seattle's Amazon Tax: Seething Tensions, Livid Neighbors, and Rising Rents.**

### ***As a tech boom drives up home prices, lawmakers ask: "Can cities grow too fast?"***

It was, as the local public radio station said, the day "Seattle Nice" died. On May 2, the residents of Seattle were hit with a one-two punch. For months, the city council had been debating a new tax on large employers to raise \$75 million for new affordable housing and services for the homeless, whose growing population had burst out of shelters and into tents around the city.

In the late morning, just before a council hearing, a columnist for the Seattle Times broke the news that Amazon.com Inc., the city's largest employer, was playing hardball. The typically hermetic company said it paused expansion plans for buildings that would house about 7,000 employees pending the outcome of the upcoming tax vote.

Later that night, hundreds of residents packed a Methodist church in the gentrifying Ballard neighborhood, turning what was supposed to be a civil town hall discussion into a scrum that exposed deep division in the city.

Homeowners shouted down the council members and each other—decrying how growth and homeless encampments were encroaching into neighborhoods. Some opposed the tax, shivering at the thought of risking jobs at the city's largest employer and furious about giving more money to a municipal government that already seemed inept at addressing housing issues. "It's refreshing to see ordinary citizens revolting against this lousy city council," one man said to cheers.

Others supported the measure, enraged by what they saw as lack of compassion by their neighbors and struggling to understand why lefty Seattle should feel subservient to one of the largest corporations in the world. One supporter, taking the floor at the front of the church, suggested it could take \$5 billion to build enough affordable housing to meet demand. "That's a pretty conservative estimate," he said. "Five billion is how much Jeff Bezos made in 10 minutes when Amazon announced they bought Whole Foods."

The debate raged on for two weeks, culminating on Monday when the city council levied a scaled-back version of the tax, voting 9-0 to raise about \$50 million. Under the new law, companies bringing in more than \$20 million in revenue a year would be required to pay \$275 per employee every year. Amazon has more than 40,000 employees at its headquarters in Seattle, meaning the tax could cost the e-commerce giant more than \$10 million annually. The council came out so strongly for the bill that it was protected against a mayoral veto.

In a statement, Amazon Vice President Drew Herdener said Amazon was "disappointed" in the vote and that the company remains "very apprehensive about the future created by the council's hostile

approach and rhetoric toward larger businesses, which forces us to question our growth here.”

The showdown demonstrates how politics and economics have shifted in Seattle, where the pressure to address the city’s growing pains has surpassed the conventional wisdom that attracting new jobs is the top civic priority. Council member Mike O’Brien, a co-sponsor of the legislation, said in an interview last week that he doubts the tax would slow expansion. But even if it did, he added, that may not be such a bad thing. “We’re not really supposed to say that,” he said, but “I think it’s actually a question we probably should be asking: Can cities grow too fast?”

**For years, Seattle has been one of the fastest growing metros in the country.** The city’s unemployment rate is now down to 3.5 percent, and the boom has put unprecedented stress on the housing market in this city hemmed in by a bay, lakes, and mountains.

“The dynamics we see in Seattle are an extreme example of dynamics we see in other very successful labor markets,” said Enrico Moretti, an economics professor at University of California, Berkeley, whose book “The New Geography of Jobs” explores the divergent paths of manufacturing hubs and technology cities. “These cities have a very good problem in terms of employment, and wages in particular.”

Moretti found that each new tech job creates four to five non-tech jobs over the next decade. Roughly 40 percent of the non-tech work is for professionals—think lawyers, doctors, architects—and the remaining 60 percent are non-professional, like Uber drivers, store clerks, or restaurant servers. “The labor market is a tide that lifts most boats, with one big issue,” Moretti paused, “the cost of living, of course.”

That’s because while there are more jobs across the spectrum, and generally rising wages, the supply of housing doesn’t keep up. Rather than slowing down Amazon and its ilk with a tax on jobs, Moretti said, cities should “accommodate as many housing units as possible, especially with transit.” Economically, he said, that makes the most sense. Whether it can pass political muster is another question.

As bad as the housing crunch is in Seattle—home prices have soared more than 14 percent in the past year—it is still adding more new units than other boom towns like San Francisco, said Jed Kolko, chief economist at Indeed. “More than any of the large metros, Seattle is building upwards rather than sprawling out,” Kolko said. The city has channeled new density and construction into to core areas, which are called “urban villages,” like parts of Ballard, where the town hall was held. But single-family zones, which account for a large portion of the city—have largely been sacrosanct.

“Normally, higher prices would induce more construction, but zoning laws prevent that,” Glenn Kelman, CEO of Redfin Corp. wrote in a blog post on Tuesday. The Seattle-based real estate company did not sign on to a widely circulated petition opposing the tax, but Kelman did argue that it would ultimately fall short. “The amount of housing the city can build with a head tax, or any tax, is nominal,” he wrote.

While homelessness is driven by many factors, including the nationwide opioid epidemic and the state’s meager mental health resources, new research indicates the city’s rising housing costs corresponds to increases in the number of people without shelter. A pro bono report that McKinsey & Co. produced for the Seattle Metropolitan Chamber of Commerce found a “96 percent statistical correlation between the region’s rent increases and the increase in homelessness,” according to the Seattle Times.

And despite the city spending more than \$50 million a year in services, the local homeless

population has been growing. “The city does not have a revenue problem—it has a spending efficiency problem,” Amazon’s Herdener said. A count last year found King County’s homeless population had reached more than 11,000 people, and the city’s database tracking unauthorized encampments now contains more than 400 unique locations, with people living in tents under freeways and in parks, atop graves at a cemetery and in medians across the street from houses. The McKinsey report estimated the county would have to spend between \$360 million and \$410 million to build the number of affordable units and services needed.

“It becomes pretty clear to me that there’s no way we solve the scale of the crisis we’re in ... without additional resources on the housing side,” said council member O’Brien. “We just have to have more housing.” O’Brien said he’s particularly hamstrung in finding funding because the state constitution forbids an income tax, making the government dependent on property and sales taxes. By some measures, the City of Seattle has the most regressive tax scheme in the most regressive tax state in the county.

In their hunt for tax revenue, politicians saw fertile ground in large companies—Amazon chief among them—that have built Seattle into an established tech hub. Amazon grew its employee base off the tech community developed by Microsoft Corp., which in turn worked off the engineering community developed by Boeing Co. and the University of Washington. The effect was to solidify Seattle’s place on the industry’s map. Google and Facebook now also have large outposts in the city. “Here is what is really cool about what’s going on right now,” said Michael Schutzler, CEO of the Washington Technology Industry Association, which counts Amazon a member. “Amazon completely changed the world of tech roughly 10 years ago when they made the cloud a reality. More so than another other company in the world, they have radically changed machine learning, which is now being called AI.”

That clustering effect has leading other large tech companies to set up major outposts in Seattle. That core talent for artificial intelligence is in Seattle, Schutzler said, “nowhere else, not in the Valley, not in Boston. Now they are recruiting from all over the country to move people here.” The day after Amazon’s threat over the head tax, Facebook announced a new AI lab in the city, which will be led by a professor at the University of Washington.

As the industry booms, will Seattle lawmakers say no to Amazon and other tech companies, or to homeowners resisting changing the fabric of their city? “Good question,” O’Brien said. “I would say neither of those are particularly easy.” Homeowners have been fighting rezoning for years. “The Amazon vocal-ness,” he said of the company’s reprisals, “has just come out in the last week.”

In the end, the council tried to thread the needle, at least a little. In a concession to the homeowners, the council forced itself to evaluate the success of the spending if it wants to renew the tax after five years, and Amazon, despite its dismay at the outcome, said it’s restarting construction planning on one of the offices it had paused. But the council also recommended spending most of the funding to build affordable housing, starting to chip away at the deficit. Ultimately the council stared down opposition from its biggest employers and, unanimously, opted to tax them anyway. Later this year the council will consider rezoning for more housing density, and the big question will be whether it gives change-averse homeowners the same treatment.

## **Bloomberg**

By Karen Weise

May 15, 2018

---

## **Puerto Rico Bonds Rally as Rival Creditors Float Settlement.**

- **Senior sales-tax bonds soar to 71 cents on the dollar**
- **While plan rejected, it moves toward settling major conflict**

Puerto Rico bonds rallied after a group of investment firms and insurers reached agreement on a restructuring plan that would allow them to receive larger-than-expected recoveries on their defaulted debt, marking a first step toward resolving a key clash between creditors who have been fighting in bankruptcy court.

The gains, which pushed some securities up by as much as 22 percent Monday, came despite the plan's rejection by Puerto Rico's federal financial overseers, who said it would leave the government facing budget shortfalls for years and was put together without their input.

But the framework hashed out by the owners of sales-tax-backed debt and general-obligation bonds shows progress toward resolving their disagreement over who has the highest claim to Puerto Rico's cash — an issue at the heart of the government's record bankruptcy. It also offers a baseline that investors could use to estimate what they stand to recover, which has been difficult given the divergent outcomes of previous bankruptcies and the toll on the island caused by Hurricane Maria in September.

"The big argument that everyone is waiting for is who gets the sales-tax money — who has control of that money," said Dan Solender, head of municipal investments at Lord Abbett & Co., which holds \$20 billion of state and local debt, including some Puerto Rico debt.

"That a good number of the bondholders have reached an agreement is pushing this forward," he said. "It's the first positive movement in that direction in a long time."

The plan received support from those who insure or hold about \$11 billion of Puerto Rico bonds, including Aurelius Capital Management, Monarch Alternative Capital, Fir Tree Partners and GoldenTree Asset Management. It also includes a group that represents residents who hold sales-tax debt.

The proposal calls for owners of sales-tax bonds, known as Cofinas, with the most senior claim on the revenue to recoup as much as 95 percent of their investments. Owners of subordinate Cofinas would get up to 43 percent, while general-obligation bondholders would receive almost 59 percent, according to a summary circulated by the group.

The rally was led by Puerto Rico's senior sales-tax debt, which was the most actively traded municipal security Monday, though general-obligations also gained. Senior sales-tax bonds due in 2040 climbed to as much as 72.5 cents on the dollar from 59.5 cents Friday, only to pare those gains by dropping to an average of 68.7 cents later in the day. General obligations due in 2035 rose to an average of 44.5 cents from 41.4 cents Friday.

Some investors expressed skepticism about the run up given that the plan was dismissed by the oversight board set up to oversee Puerto Rico's fiscal recovery. In a statement Monday, the panel said that the restructuring proposal was "completely unaffordable" and out of step with the government's latest fiscal plan because it would still leave Puerto Rico spending more than it brings in. The creditors said it would reduce the government's debt by \$10 billion.

Dora Lee, vice president at Belle Haven Investments, which holds insured Puerto Rico bonds among

its \$7 billion of municipal-debt holdings, said the creditor proposal isn't a viable one for the island.

"It wasn't a sustainable recovery plan," she said. "It neglected the fact that the revenue has to come from a viable economic base. That core issue hasn't been addressed."

"Whenever there's a glimmer of good news, the bonds trade up, reality sets in and people realize that again, we're back at square one," she said. "Whenever there's good news out of Puerto Rico you need to take a deep breath and remind yourself you're dealing with Puerto Rico."

The rally pushed the price of the general-obligation bonds to the highest since early October. The bonds traded for as little as 21 cents in December, before Governor Ricardo Rossello began offering more optimistic assessments of the island's recovery from the hurricane.

The island's government and general-obligation bondholders have been allied against Cofina bondholders, who say sales-tax revenue should be used to repay them before it's spent for other purposes. The commonwealth and the general-obligation owners want U.S. District Court Judge Laura Taylor Swain to throw out a law that transfers the sales taxes to a governmental agency, known as Cofina, whose only responsibility is to use the cash to pay its bondholders.

"Any kind of progress toward resolutions should translate into prices in some way," said Matt Fabian, a partner at Municipal Market Analytics Inc. "It at least gives a theoretical anchor at which bond prices can trade."

## **Bloomberg Markets**

By William Selway and Danielle Moran

May 14, 2018

— *With assistance by Martin Z Braun, and Steven Church*

---

### **[S&P: Puerto Rico Bondholders' Proposed Settlement May Resolve Conflict But Leaves Treatment Of Tax Revenues Unclear.](#)**

DALLAS (S&P Global Ratings) May 16, 2018—S&P Global Ratings believes a proposed settlement announced by a group of Puerto Rico bondholders on Monday could, if executed, lay to rest the conflict over the allocation of pledged general obligation (GO) and Puerto Rico Sales Tax Financing Corp.

[Continue Reading](#)

May 16, 2018

---

### **[Fitch Updates Public Sector Counterparty Obligations in PPP Transactions Rating Criteria.](#)**

Fitch Ratings-New York-17 May 2018: Fitch Ratings has updated its criteria for rating public sector counterparty obligations in public private partnership (PPP) transactions, including several minor

clarifications in the scope of the criteria. The new criteria replace the previous version published on Dec. 13, 2017. There will be no rating changes as a result of the updated criteria.

The changes to the criteria include:

- Clarification of the distinction between international scale and national scale ratings;
- Guidance that PPP counterparty obligations for U.S. public sector enterprises such as a public college or university or a utility enterprise are assessed using the Issuer Default Ratings (or equivalents) of the entities as determined under relevant sector-specific or master criteria;
- References to Fitch's Government-Related Entities Rating Criteria replace prior references to Public-Sector Entities Rating Criteria.

The criteria report is available at [www.fitchratings.com](http://www.fitchratings.com).

Contact:

Eric Kim  
Director  
+1-212-908-0241  
Fitch Ratings, Inc.  
33 Whitehall Street  
New York, NY 10004

Raffaele Carnevale  
Senior Director  
+39 02 87 90 87 203

Tony Stringer  
Managing Director  
+44 20 35 30 12 19

Humberto Panti  
Senior Director  
+52 81 83 99 91 52

Media Relations: Sandro Scenga, New York, Tel: +1 212-908-0278, Email:  
[sandro.scenga@fitchratings.com](mailto:sandro.scenga@fitchratings.com)

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

---

## **[Between A Budget And A Hard Place: The Risks Of Deferring Maintenance For U.S. Infrastructure.](#)**

As the world's fifth-largest economy, California enjoys a strong 'AA-' credit rating on its general obligation (GO) debt. Just seven years ago, California's 'A-' GO rating was S&P Global Ratings' lowest for any state. Better budget management that began in 2011 combined with an increase in personal income taxes—which drive much of the state's revenues—have led to a gradual recovery in California

[Continue Reading](#)

May 15, 2018

---

## **[Report: Facing \\$1 Trillion in Water Infrastructure Costs, States Aren't Leveraging Federal Dollars to Weather Coming Storms.](#)**

With water infrastructure costs expected to exceed \$1 trillion, a new report shows that only a few states are adequately leveraging federal dollars to shrink the infrastructure funding gap. The new report released today by the Natural Resources Defense Council (NRDC), "[Going Back to the Well](#)" highlights cutting-edge financing strategies for states to better fund the water infrastructure serving millions of Americans.

"Despite the looming funding gap, states aren't thinking about how to meet that future need and are essentially funding water infrastructure the way you or I would manage our checking account," said Rob Moore, Director of NRDC's Water & Climate Team. "Each year, they just add up how much EPA gives them, plus a small state match, and that's the amount of assistance they plan provide to help communities fix their drinking water and sewer systems. That's not going to cut it."

"Using more creative financial tools, like issuing bonds and using their SRFs to issue loan guarantees could greatly expand infrastructure funding. Those increased funds could determine which states are prepared to weather the coming storms," said Moore.

[Continue reading.](#)

May 15, 2018

---

## **[EPA Extends Deadline to Apply for a WIFIA Water Infrastructure Loan.](#)**

WASHINGTON -- Today, the U.S. Environmental Protection Agency (EPA) Administrator Scott Pruitt announced at a meeting with water sector associations that the deadline to submit letters of interest for Water Infrastructure Finance and Innovation Act (WIFIA) loans has been extended to **July 31, 2018**. Administrator Pruitt also sent a [letter](#) highlighting the deadline extension to governors of 56 states and territories as well as tribal leadership.

"By extending the deadline to apply for a WIFIA loan, even more entities will be able to bring critical water infrastructure improvements to their communities, including projects that keep lead and other contaminants out of drinking water," said EPA Administrator Scott Pruitt. "These projects create jobs, protect public health, and help ensure that all Americans continue to have access to clean and safe water."

EPA's announcement comes as part of Infrastructure Week and highlights the importance of working together with the water sector on a variety of topics, including affordability, governance, and the Clean Water and Drinking Water State Revolving Funds (SRFs).

Also in conjunction with Infrastructure Week, the Agency released a [new interactive website](#) that showcases leading efforts by states, public water systems, and communities to replace lead service lines.

## Background

Established by the Water Infrastructure Finance and Innovation Act of 2014, the WIFIA program is a federal loan and guarantee program at EPA that aims to accelerate investment in the nation's water infrastructure by providing long-term, low-cost supplemental loans for regionally and nationally significant projects. WIFIA can provide up to 49 percent of the financing for a project and a state SRF could provide additional financing for the remaining eligible project costs. The WIFIA program received \$63 million in funding in the Consolidated Appropriations Act, 2018, which was signed into law by President Donald Trump on March 23, 2018.

On April 4, 2018, EPA [announced the availability of additional WIFIA funding](#) that could provide as much as \$5.5 billion in loans, leveraging over \$11 billion in water infrastructure projects. This year's WIFIA Notice of Funding Availability highlights the importance of protecting public health, including reducing exposure to lead and other contaminants in drinking water systems and updating the nation's aging infrastructure.

On April 20, 2018, EPA [issued its first WIFIA loan](#) to King County, Washington. The \$134.5 million loan will help finance a new wet weather treatment station that will better protect public health, improve water quality, and create more than 1,400 jobs—all while saving up to \$32 million compared to standard financing over the life of the loan.

According to EPA's estimate of drinking water and wastewater needs, over \$743 billion is needed over the next twenty years for water infrastructure improvements. WIFIA financing and the SRFs will play an important part in fulfilling this need. With the latest two appropriations totaling \$93 million, WIFIA loans can be combined with other public and private funding, to finance approximately \$16 billion in infrastructure needs. EPA's FY2018 budget includes \$2.9 billion for the SRFs.

For more information about the WIFIA program and resources to use when applying, visit [www.epa.gov/wifia](http://www.epa.gov/wifia)

05/15/2018

---

## **[The Department of Energy's Loan Guarantee Program Presents a Crucial Opportunity to Fund U.S. infrastructure.](#)**

Now that congressional action on a major federal infrastructure bill is going nowhere fast, the U.S. Department of Energy's (DOE) loan program, with \$40 billion in existing spending authority, is a here-and-now opportunity to address key U.S. infrastructure needs.

I have been making the case, including at a February 2017 House Science Committee hearing, that the tens of billions of dollars available to the DOE Loan Programs Office (LPO) could be a significant down payment on the \$1 trillion investment in infrastructure called for by President Trump. The program has already made infrastructure investments in electricity transmission, carbon capture and sequestration, utility-scale electricity storage, nuclear projects, and advanced vehicle manufacturing.

Now, with the infrastructure bill adrift and the recent "omnibus" spending bill having rejected the Trump administration's efforts to eliminate the loan program, policymakers have a great opportunity to continue this valuable program and reposition it as an important tool for making progress on

innovative energy and transportation-related infrastructure projects that face challenges raising capital.

[Continue reading.](#)

## **The Brookings Institute**

by Dan Reicher, Executive Director, Steyer-Taylor Center for Energy Policy and Finance, Stanford University

May 17, 2018

---

### **[The Road to Economic Revival In the Heartland Runs Through Older Industrial Cities.](#)**

Even as the U.S. economy hits new highs, the political and economic divide between America's coastal cities and the rest of the country remain a focal point of the national debate. Amid this rising regional inequality, the question of how to revive broad-based economic growth in the middle of the country has received substantial attention.

In our [new report](#), we contend that policymakers who are serious about revitalizing the Heartland should focus on the region's older industrial cities (OICs). These places—including large urban areas like Detroit, Pittsburgh, and Cleveland, as well as smaller communities like Albany, Ga., Janesville, Wisc., and Dubuque, Iowa—once formed the backbone of America's manufacturing economy, but have since struggled to transition to a more digital economy. Despite their challenges, these cities and their considerable economic assets could help accelerate that transition for regions of our country at risk of being left behind.

[Continue reading.](#)

## **The Brookings Institute**

by Cecile Murray and Alan Berube

Tuesday, May 15, 2018

---

### **[Charts of the Week: Focus on Infrastructure.](#)**

In a [new blog series for Infrastructure Week](#), the Metropolitan Policy program at Brookings examines infrastructure through the lens of people's expectations: whether infrastructure is accessible, affordable, and safe. Much of this research shows that infrastructure often creates economic barriers and policymakers could do a better job of measuring and meeting people's needs. Below are three charts from the series we found interesting. For more posts on infrastructure, [click here](#).

[Continue reading.](#)

## **The Brookings Institute**

Allison Branca

Thursday, May 17, 2018

---

## **Private Water Utility Shareholders Reject Transparency Proposals.**

The proposals would have required American Water to make new disclosures on political contributions and lobbying.

Investors in the nation's largest publicly-traded water and wastewater utility rejected proposals last week that called for the company to issue reports about political contributions and lobbying activities.

American Water runs utilities in about 1,600 communities, in 16 states, with about 3.4 million customers. The company's "regulated businesses," which include its utilities, recorded about \$2.9 billion in operating revenues in 2017, according to an annual report.

Two asset management firms offered the disclosure proposals during a stockholder meeting in Camden, New Jersey on Friday.

Boston Common Asset Management, LLC, a firm that describes itself as pursuing both financial returns and "social change," requested an annual report from American Water showing policies and payments for lobbying activities, along with other related information.

A description of the proposal says the company has spent over \$1.1 million on federal lobbying since 2010, and that it engages in extensive lobbying at the state level, where disclosure is "uneven or absent."

"Lobbying transparency is in the best interest of American Water and its shareholders," said Kate Monahan, a shareholder engagement associate with Friends Fiduciary Corp., who Boston Common Asset Management authorized to present the proposal during the meeting.

In an opposing statement to the proposal, American Water said it fully complies with federal, state and local lobbying disclosure laws, and that the requirements in the proposal are vague, would be cumbersome to carry out and are not standard among competitors.

The political contribution disclosure proposal was offered by Trillium Asset Management, LLC, which says its investment strategy incorporates environmental, social and governance factors.

The proposal called for American Water to produce reports describing policies and procedures for making contributions to political campaigns or to influence ballot initiatives, as well the amounts, recipients and other details for the contributions.

American Water's opposing statement says its political contributions are subject to federal and state public disclosure rules and that much of the information that would appear in the requested reports is already publicly available.

The company also says it is committed to adopting a policy this year to guide direct political contributions and that it would publish this online. And that, beginning with 2018, it aims to provide information on its website about political contributions, after each fiscal year.

Shareholders shot down both proposals, according to preliminary voting results announced at Friday's meeting.

They also rejected a third proposal, which asked for a report to shareholders tracking American Water's "impacts and responses on the human right to water and sanitation."

The proposal, from NorthStar Asset Management, Inc., suggested the report include information like: whether and how the company identifies business partners with poor track records on human rights and the environment; and the percentage of customers paying water rates exceeding 2.5 to 3 percent of monthly household income.

American Water's board opposed this report, too. The company said it would be duplicative with publications it currently issues (such as its Corporate Responsibility Report), and it said its business is already extensively regulated when it comes to issues like setting rates.

New Jersey, Pennsylvania, Illinois, Missouri, Indiana, California and West Virginia have the bulk of American Water's customers.

The company said in its 2017 annual report that it had plans for \$7.2 billion in capital investment over five years, mainly for upgrading pipes and water and wastewater treatment facilities.

It also said a core part of its growth strategy is to pursue acquisitions of small and medium water and wastewater systems, with between 1,000 and 30,000 customers, that are near where the company now operates.

## **Route Fifty**

By Bill Lucia  
Senior Reporter

MAY 13, 2018

---

## **[Using Asset Recycling as an Infrastructure Funding Mechanism.](#)**

"Where will the funding come from?"

It's a question that had dogged President Trump's infrastructure plan - and more broadly, many U.S. infrastructure improvements in general - from the get-go. And while public-private partnerships (also known as P3s) have been cited as a key to filling the funding gap at the state and local level, how exactly such P3s could - or must work may depend on the specific project and its host municipality's regulations, including bidding, procurement, and other requirements, some of which are decades old.

For the most part, when people think about a typical P3, they picture design, build, finance, operate, and maintain (DBFOM) agreements, such as with [Florida's I-595 Express Corridor Improvements Project](#). At their core, such P3s involve state or local governments partnering with private organizations on the construction of one specific project. While DBFOMs have been successful in bringing some projects to life that otherwise wouldn't have been possible, they do little to replenish the dwindling coffers of local governments.

A separate type of public-private partnership — “asset recycling” can help generate immediate revenue for municipalities while at the same time ensuring infrastructure improvement needs are met. Asset recycling P3s have generated a lot of buzz in other parts of the world (Canada, Australia and the UK, specifically) but such transactions are used less often domestically for a number of reasons, not the least of which are the aforementioned antiquated regulatory hurdles, which often deter investors from pursuing possible asset recycling transactions.

**So, what exactly is asset recycling, how does it work, what are the challenges associated with making it possible in the U.S., and what does the future hold?**

In its simplest terms, asset recycling involves the sale or lease of a government owned asset to a private entity to raise funds for the governmental entity. Such assets are typically unused or underutilized land or buildings, or assets that are more valuable, for any number of reasons, if they are sold or leased to a private entity for an up-front payment. The private entity agrees to assume operation of the leased or sold asset, such as an airport, bridge, toll road, wastewater facility, or parking facility, and to improve or maintain the asset according to predetermined standards.

Also referred to as asset “monetization,” asset recycling enables municipalities to receive upfront proceeds and shifts the operational burden to a private entity, who assumes all operation and maintenance (“O&M”) costs associated with the monetized asset. If applicable, the private entity also collects any revenue generated from such operations. After being sold or leased, the up-front funds received by the governmental entity can be used to finance construction of a new asset, repair or make improvements to an existing asset or to invest in any other way the municipality deems appropriate, such as investing in pension shortfalls or retiring old debt.

For public entities, the first step in the asset recycling process involves taking a full inventory of owned assets to assess which, if any, may be attractive and appropriate to sell or lease to a private operator. Assets ripe for monetization often include those capable of generating predictable revenue so that the private operator can ensure both a sufficient rate of return and identify, at the outset, funds that will be available to improve and maintain the leased or purchased asset. Examples of such revenue-generating assets that we have seen monetized in the recent past include sewer and water treatment facilities, parking garages and meters, school district buildings, courthouses, libraries, and golf courses. In New York City, for example, an audit from the city comptroller’s office revealed more than 1,100 vacant lots that were essentially unused and ripe for asset recycling.

In order to determine the fair market value of the asset and to set reasonable expectations for up-front revenue that could be earned, local officials must collect detailed information regarding revenue generation figures and lifecycle costs. In a majority of cases, this requires assembling experts in the legal and financial fields who have experience in the sale and/or lease of public assets. It is important to note, however, that the only way to extract maximum value from monetization as an asset is often to set in place a competitive bid process whereby multiple potential private owner-operators bid against each other for the right to lease or purchase a revenue-generating municipal asset. In Pittsburgh, for example, local officials set a benchmark for what they hoped to net from the monetization of the city’s parking system. Much to the city’s surprise, its well-executed and designed competitive bid process produced a winning bid that was several times the initial target amount. Although the Pittsburgh parking transaction ultimately cratered for political reasons it is an excellent example of how competition and a well-designed procurement process can flesh out the true market value of public assets.

With a lease agreement, the municipality maintains ownership of the leased asset, and at the end of the lease period can either resume operation of the asset or negotiate a new lease agreement with the same or a different operator. Unlike with an apartment lease, however, the private entity

assumes many (if not all) of the risks of ownership, including unexpected repair and maintenance costs. While up-front proceeds are certainly a “plus” with asset leases, shifting risk and obligation to a private entity can be the true motivating factor for a municipality looking to monetize an asset.

One particularly successful and creative asset leasing example that our team facilitated was the long-term lease of the parking assets of the city of Scranton, Pennsylvania, where the city hoped to lease its parking assets to help shed crippling debt. Facing stiff competition from local parking facilities and fatigue and frustration from taxpayers who for years were called upon to bail out a severely over-leveraged parking system, our team was able to negotiate a lease with a non-profit entity that featured sacrificed lower up-front proceeds in exchange for long-term rate and fee control. Not only did the deal help eliminate the city’s approximately \$3 million in annual parking-related debt, but it appeased taxpayers because the non-profit entity could offer fee and rate increases that were less than what the government operators would have implemented. Moreover, the city of Scranton was able to shift burden away from the municipality to the non-profit.

For many, the benefits of asset recycling, on both the public and the private side, seem obvious. The public gets the chance to raise funds to support infrastructure improvements by selling or leasing often burdensome assets, and private parties get the chance to turn unused property or inefficient operations into profitable assets with predictable returns.

However, asset recycling transactions face regulatory and political hurdles that are sometimes impossible to clear.

From a regulatory standpoint, certain states and municipalities either outright prohibit public-private partnerships, have rules in place that make it extremely difficult for monetization P3s to work as intended, and/or have no concept of how to manage a P3 transaction effectively and in a way that creates benefits for both sides.

Even Pennsylvania, which passed the Public and Private Partnerships for Transportation Act in 2012 to allow P3s for use in transportation projects, has limitations on the extent to which P3s can work. Not only does Pennsylvania’s P3 Act apply only to transportation projects, meaning needs in water and wastewater systems, energy, brownfield sites, and more, are not specifically addressed in the Act, but the Commonwealth’s P3 Act also mandates compliance with Pennsylvania’s Separations Act, which requires the competitive low-bid award of multiple prime contracts for mechanical, electrical and plumbing (MEP) work. The P3 Act is a step in the right direction, and adherence to the Separations Act is by no means impossible, but the limitations imposed by both laws, especially the century-old Separations Act, can add additional layers of complexity and added costs to complex projects that already have thin margins and many other challenges.

Beyond formal regulation, the politics that surround asset monetizations can derail transactions before they even start.

For example, taxpayers may be wary of a private company taking over operations of a public asset with the goal of generating revenue for itself. Even if the private company can show that it will operate the asset more efficiently, save money in the long run, and generate immediate revenue for the public to use on more pressing infrastructure needs, it can still be a challenge to convince the masses that P3s are in the public’s best interest. After all, a taxpayer may reason, the private operator is outside the reach of standard checks-and-balances that police how the current government operates the asset.

Careful thought and planning must go into explaining to constituents the benefits of a P3 as taxpayers – understandably so – often see only that their government is selling an asset to a private

operator. And, along with such sale, the municipality is giving up control over rate setting. Although reasonable, this initial reaction is generally misplaced and could torpedo a P3 that would otherwise be in the best interest of the municipality. Local elected officials should offer transparency and access early and often to avoid the spread of misinformation.

Whether or not an infrastructure bill passes any time soon shouldn't limit asset recycling from becoming more prevalent in the U.S.; when structured properly, asset monetizations work well and should be strongly considered in appropriate circumstances. In the meantime, private entities and municipalities can take action to ensure asset monetization P3s are here to stay.

On the private side, companies should work with federal and state legislators to remove prohibitive regulations that can discourage private investment in public infrastructure. Simply explaining the benefits and international success stories of asset recycling to lawmakers is a good first step.

For state and local governments, officials first need to realize the potential benefit to taxpayers in allowing private companies to lend their expertise and access to capital to more efficiently operate struggling, municipal owned assets. Not only will the up-front windfall help generate new infrastructure or improve existing assets, but asset monetizations can also prevent tax hikes by finding alternate sources of revenue. Finding a way to finance infrastructure improvements without correspondence tax hikes can also be a nice feather in the cap of an official come election time.

**While the country's leaders continue to search for an answer to the question, "Where will the money come from?", one thing appears likely: the existence of valuable municipal assets to sell or lease, when coupled with appropriately tailored regulations, and public-private buy-in, suggests asset recycling will become an even more useful tool for state and local governments struggling to identify sources to fund infrastructure improvements.**

by William P. Conaboy Jr and Terrence Heubert

May 14, 2018

**Buchanan Ingersoll & Rooney PC**

- 
- [MSRB Establishes Advertising Rule for Municipal Advisors and Enhances Dealer Advertising Rule.](#)
  - [U.S. Muni Bond Firms Race to Comply with New Price Transparency Rule.](#)
  - [Not So Great GASB: Accounting Rule Pushes Hospital Near Default.](#)
  - [S&P: What To Know About Contingent Debt In The U.S. Not-For-Profit Health Care Sector.](#)
  - [New BUILD Program Replaces TIGER Grants.](#)
  - [U.S. Tax Reform: Mapping The Potential Winners And Losers By County.](#)
  - [What Municipal Analysts Need to Know about Governmental Accounting.](#)
  - [Orrick Webinar: Advance Refunding Substitutes and Related Issues.](#)
  - And finally, Great Moments in Pedagogy is brought to us this week by [Robinson v. Morrill County School District #63](#), in which the Supreme Court of Nebraska upheld the termination of a school "curriculum and assessment coordinator" whose only minor shortcoming was "refusing to come out of his office at school to meet or interact with other staff members." Jeez, such sticklers. Best of luck coordinating your new surfeit of free time, Mr. Robinson. You'll be missed.

---

## **SCHOOLS - ALABAMA**

### **[Richardson v. Relf](#)**

**Supreme Court of Alabama - May 4, 2018 - So.3d - 2018 WL 2075992**

Taxpaying residents of county in whose schools the state board of education had intervened under the Educational Accountability and Intervention Act (EAIA) brought action against state Department of Education's interim superintendent for breach of fiduciary duty of good faith and fair dealing, and residents brought action against Department's interim superintendent, state board of education's chief administrative officer, and town's mayor for breach of the fiduciary duty of loyalty, all of which related to Department's interim superintendent's decision to sell a middle school to the town. Residents also sought an injunction against Department's interim superintendent to prevent the sale of the school, a judgment declaring that Department's interim superintendent was without authority under the EAIA to sell county board of education property, and a review of the legality of Department's interim superintendent's decision to sell the school.

The Circuit Court entered an injunction staying the sale of the school and the sale of any other real property owned by, or the closure of any other schools operated by, the county board of education. Department's interim superintendent, state board of education's chief administrative officer, and town's mayor appealed.

The Supreme Court of Alabama held that residents lacked standing as taxpayers to challenge the sale since the sale would bring money into the public treasury.

Sale of public middle school to town, which was ordered by the state Department of Education's interim superintendent after the state board of education had intervened in county's schools under the Educational Accountability and Intervention Act (EAIA), was not an "expenditure" and instead would bring money into the public treasury, and thus taxpaying county residents who had brought various actions challenging school's sale and had sought an injunction to prevent the sale lacked standing as taxpayers to challenge the sale.

---

## **PUBLIC RECORDS - CALIFORNIA**

### **[Pasadena Police Officers Association v. City of Pasadena](#)**

**Court of Appeal, Second District, Division 1, California - April 12, 2018 - 22 Cal.App.5th 147 - 231 Cal.Rptr.3d 292 - 18 Cal. Daily Op. Serv. 3365 - 2018 Daily Journal D.A.R. 3242**

After records requesters filed Public Records Act (PRA) request with city seeking disclosure of report regarding officer-involved shooting of unarmed teenager, two individual police officers and their law enforcement union initiated reverse-PRA action seeking to enjoin disclosure of report.

After granting newspaper publisher and other requesters leave to intervene, the Superior Court granted in part officers' and union's request for injunction against disclosure, finding only certain portions of report exempt from disclosure. Officers and union filed petition for writ of mandate, seeking review of disclosure order. The Court of Appeal denied petition and remanded with directions. On remand, the Superior Court conducted additional proceedings, entered amended judgment, and subsequently granted in part publisher's motion for attorney's fees against the city under PRA, but denied publisher's request for fees against officers and union under private attorney general statute. Publisher appealed.

The Court of Appeal held that:

- Publisher was not collaterally estopped from seeking fee award under private attorney general statute;
- Publisher's recovery of attorney fees under private attorney general statute was not barred by exception related to determination of only private rights;
- No substantial causal connection existed between publisher's intervention and city's initial release of redacted report, and thus publisher was not entitled to attorney fees under PRA for that portion of litigation; and
- Trial court acted within its discretion in reducing attorney fee award under PRA for duplicative attorney efforts.

Newspaper publisher was not collaterally estopped from recovering attorney fees under private attorney general statute, in reverse-Public Records Act (PRA) action, in which publisher had intervened, by two officers and law enforcement union seeking to preclude city's disclosure of report regarding officer-involved shooting, by ruling in prior case in which publisher successfully sued to compel disclosure of public records and court in that case denied publisher fees against union under private attorney general act and PRA; prior case was different case involving different union, and conclusion in prior case that fees were unavailable under PRA was entirely consistent with conclusion that such fees were available under private attorney general statute following reverse PRA-action.

Recovery of attorney's fees under private attorney general statute by publisher of newspaper against two police officers and law enforcement union was not barred by exception to fee award applicable when an individual sought a judgment that determined only his or her private rights, in reverse-Public Records Act (PRA) action by officers and union seeking to prohibit city's disclosure of report regarding officer-involved shooting to publisher and other requesters, though officers were private individuals; publisher's opposition directly affected public, officers were public officials, officers' intent in seeking to prevent disclosure was immaterial, union and officers sought expansion of PRA's privilege, and union was public organization that sought judgment determining rights of all of its members.

No substantial causal relationship existed between newspaper publisher's intervention in reverse-Public Records Act (PRA) action, in which two police officers and law enforcement union sought to prevent city's disclosure of report regarding officer-involved shooting, and city's initial decision to release redacted version of report, and thus publisher was not prevailing party entitled to attorney fees under PRA for that portion of litigation, though there was substantial connection between publisher's intervention and city's release of additional pages of report following appellate mandamus proceeding and additional proceedings on remand, where publisher did not seek to compel release of report without city's proposed redactions until approximately two weeks after other parties first requested report under PRA.

Trial court acted within its discretion in reducing prevailing-party attorney fee award to publisher of newspaper by 50% based on duplicative efforts by separate counsel for publisher and other requesters, in reverse-Public Records Act (PRA) action, in which two police officers and law enforcement union sought to preclude city's disclosure of report regarding officer-involved shooting and newspaper and other requesters intervened, though publisher could not more precisely tailor its arguments given lack of access to withheld portions of report; trial court noted that publisher and other requesters raised same unredaction issue, and that both filed separate letter briefs and separately appeared at oral argument, overlapping on multiple arguments, and publisher conceded certain arguments were duplicative.

---

## **EMINENT DOMAIN - CALIFORNIA**

### **[Williams v. Moulton Niguel Water District](#)**

**Court of Appeal, Fourth District, Division 3, California - May 3, 2018 - Cal.Rptr.3d - 2018 WL 2057534**

Homeowners brought putative class action against water districts, alleging copper piping in homes was damaged by water districts' addition of chloramines to tap water.

After bifurcated bench trial on certain legal issues, the Superior Court made findings and entered judgment in favor of districts. Homeowners appealed.

The Court of Appeal held that:

- Districts' addition of chloramines to tap water was done under authority of statute, and thus districts had immunity from homeowners' nuisance claim, and
- Homeowners' theory of liability under purported inverse condemnation claim was in fact a claim for tort liability, precluding recovery under just compensation provision of state constitution.

Water districts' addition of chloramines to tap water was done under authority of statute, and thus districts had immunity from homeowners' putative class action asserting nuisance claim based on alleged damage to copper piping from addition of chloramines to tap water, where districts had permit from Department of Health Services expressly allowing chloramines in water, and regulations issued pursuant to statutory authority expressly authorized the use of chloramines in the amount used by districts.

Homeowners' theory of liability against water districts, though purportedly an inverse condemnation claim, was in fact a claim for tort liability, precluding recovery under just compensation provision of state constitution, in case in which homeowners alleged damage to copper piping from districts' addition of chloramines to tap water; homeowners were among the millions of people receiving the same treated water, and homeowners had invited the water into their plumbing systems.

---

## **HIGHWAYS - CONNECTICUT**

### **[Marchesi v. Board of Selectmen of Town of Lyme](#)**

**Supreme Court of Connecticut - April 24, 2018 - A.3d - 328 Conn. 6152018 WL 1903197**

Homeowner brought administrative appeal from decision of town board of selectmen, determining the lost or uncertain boundaries of highway.

The Superior Court granted summary judgment to owner. Board and town appealed. The Appellate Court affirmed. Board and town appealed. The Supreme Court reversed and remanded with directions. Following trial de novo to determine the length and width of the highway, the Superior Court rendered judgment dismissing owner's appeal, and confirmed the board's findings. Owner appealed.

The Supreme Court of Connecticut held that:

- Board of selectmen had jurisdiction to define highway's boundaries, even absent a prior judicial determination regarding highway's legal status;

- Alleged errors that did not implicate notice to the public were not jurisdictional;
- A jurisdictionally valid petition did not require the signature of every adjoining proprietor; and
- Determination of what contradicting expert testimony to credit was for the trial court at trial de novo.

---

## **INTERGOVERNMENTAL AGREEMENTS - GEORGIA**

### **[City of Union Point v. Greene County](#)**

**Supreme Court of Georgia - March 15, 2018 - 812 S.E.2d 278**

City brought action against county alleging that county had unilaterally discontinued police and fire dispatch and communications services to the city's police and fire departments.

The trial court determined that portion of Service Delivery Strategy Act (SDS Act) was unconstitutional and that sovereign immunity barred remedies not specifically provided for in SDS Act. City appealed and county cross-appealed.

The Supreme Court of Georgia held that:

- Sovereign immunity did not bar city's claims under SDS Act;
- City's claims against county seeking specific performance of intergovernmental agreement concerning police and fire protection were not barred by sovereign immunity;
- Dispute resolution process prescribed by SDS Act did not violate separation of powers provision of state constitution;
- Funding of road and bridge maintenance was not at issue before mediator, such that trial court was not permitted to consider issue;
- Trial court was not authorized by SDS Act to enter permanent injunction; and
- Trial court was not authorized by SDS Act to enter declaratory and injunctive relief regarding funding of recreation and library services.

---

## **HIGHWAYS - IOWA**

### **[City of Des Moines v. Iowa Department of Transportation](#)**

**Supreme Court of Iowa - April 27, 2018 - N.W.2d - 2018 WL 1980476**

Three cities filed separate petitions for judicial review of decisions of Iowa Department of Transportation ordering each city to disable or move certain automated traffic enforcement (ATE) equipment, alleging, inter alia, that each city had previously installed ATE systems along primary roads with Department's written approval, that Department had subsequently promulgated administrative rules regulating and restricting ATE placement and usage on primary roadways, that Department's decisions were made pursuant to such rules, that decision infringed on cities' home rule authority, and that Department lacked statutory authority to promulgate rules.

After actions were consolidated into a single proceeding, the District Court upheld both rules and Department's decisions. Cities appealed.

The Supreme Court of Iowa held that:

- Legislature did not clearly vest Department with interpretive authority to determine its own authority, and

- Department did not have statutory authority to promulgate administrative rules dictating placement and continued use of ATE equipment.

Legislature did not clearly vest Iowa Department of Transportation with interpretive authority to determine its own authority; statutes establishing Department's authority, including statute vesting Department with "[j]urisdiction and control over the primary roads" and statute permitting Department's director to "[a]dopt rules...as the director deems necessary for the administration of the [D]epartment[,]" contained generic terms like "jurisdiction" and "deems necessary," which were widely used in other areas of law besides transportation and were not specialized terms within Department's expertise.

Iowa Department of Transportation did not have statutory authority to promulgate administrative rules dictating placement and continued use of automated traffic enforcement (ATE) equipment; ATE equipment was not "obstruction" under Department's specific statutory authority to remove obstructions from highway rights-of-way, statute giving Department responsibility for transportation and statute authorizing Department's director to "[a]dopt rules...necessary for the administration of the [D]epartment [,]" though broadly worded, incorporated and relied upon other legal sources, and although Department was statutorily vested with "[j]urisdiction and control over the primary roads[,]" ordinary meaning of phrase gave Department authority over establishment, alteration, and vacation of such roads.

---

## **PUBLIC PROCUREMENT - MASSACHUSETTS**

### **[A.L. Prime Energy Consultant, Inc. v. Massachusetts Bay Transportation Authority](#)**

**Supreme Judicial Court of Massachusetts, Suffolk - May 2, 2018 - 479 Mass. 419 - 95 N.E.3d 547**

Fuel supplier brought action against Massachusetts Bay Transportation Authority (MBTA) for breach of contract and breach of the implied covenant of good faith and fair dealing.

The Superior Court Department denied MBTA's motion to dismiss, but reported a question to the Appeals Court. The Supreme Judicial Court granted MBTA's application for direct appellate review.

The Supreme Judicial Court of Massachusetts held that:

- As a matter of first impression, federal law does not supplant Commonwealth law regarding termination for convenience clauses in public procurement contracts;
- MBTA did not breach contract by invoking termination for convenience clause; and
- MBTA did not breach covenant of good faith and fair dealing.

---

## **ZONING & LAND USE - MISSISSIPPI**

### **[Gerald Emmett Beard v. City of Ridgeland](#)**

**Supreme Court of Mississippi - April 19, 2018 - So.3d - 2018 WL 1869589**

Objectors appealed from city counsel's zoning amendment.

The Circuit Court affirmed the amendments, finding they did not constitute rezoning or spot-zoning.

Objectors appealed.

The Supreme Court of Mississippi held that:

- Amending zoning ordinance constituted an illegal rezoning;
- Zoning amendments that focused solely on one commercial development project and its activities constituted impermissible “spot zoning”; and
- Objectors had standing to challenge amendment to zoning ordinance.

Amending zoning ordinance shortly after adopting a new comprehensive zoning ordinance and map, in order to accommodate the proposed construction of a large wholesale store with a service station and drive-through restaurants, substantially changing the previously allowed uses without showing a substantial change in neighborhood character, constituted an “illegal rezoning.”

Zoning amendments that focused solely on one commercial development project and its activities constituted impermissible “spot zoning”; it was only when the commercial wholesaler expressed interest in the site at issue did the city attempt to rezone the proposed location to allow for previously prohibited commercial activities.

Objectors had standing to challenge amendment to zoning ordinance that allowed for the development and construction of a large wholesale store with a service station and drive-through restaurants in a general commercial district, a previously prohibited use; residents owned property near the proposed construction site, and alleged that the development would adversely affect them and other residents, and the development did not constitute a minor variance, and would greatly increase traffic, as well as change the aesthetics of the area.

---

## **EMINENT DOMAIN - MONTANA**

### **[City of Missoula v. Mountain Water Company](#)**

**Supreme Court of Montana - May 8, 2018 - P.3d - 2018 WL 2111928 - 2018 MT 114**

Owner of water delivery system brought motion in condemnation action, seeking post-summons interest from the date that city served owner with summons to the date that city took possession of the system.

The District Court denied motion. Owner appealed.

The Supreme Court of Montana held that:

- City did not obtain interlocutory possession of owner’s water delivery system through statute, which outlined procedures for putting condemnor in possession of condemned property during pendency of condemnation action, and thus, owner was not entitled to post-summons statutory interest, and
- Owner was not completely deprived of all economical use of its system during proceedings in which city sought condemnation of the system, and thus, award of discretionary interest to owner was not warranted.

City did not obtain interlocutory possession of owner’s water delivery system through statute, which outlined procedures for putting condemnor in possession of condemned property during pendency of condemnation action, and thus, owner was not entitled to post-summons statutory interest from the date that summons was served to the date that city took possession of the system, where city took

possession based upon agreed upon method in settlement agreement, city paid amount agreed upon in settlement agreement to owner directly, and owner retained possession of the system until entry of final judgment in condemnation action.

Owner of water system was not completely deprived of all economical use of its system during proceedings in which city sought condemnation of the system, and thus, award of discretionary interest to owner from the date that summons was served to the date that city took possession of the system was not warranted, where city did not take constructive possession of the condemned property, owner was entitled to all economic use, including revenue derived from the property, during the proceedings, and owner was compensated for any improvements made to the property during the proceedings.

---

## **EDUCATION - NEBRASKA**

### **[Robinson v. Morrill County School District #63](#)**

**Supreme Court of Nebraska - April 26, 2018 - N.W.2d - 299 Neb. 740 - 2018 WL 1955475**

School district's former curriculum and assessment coordinator filed petition in error after his employment contract was cancelled by school board.

The District Court affirmed. Appeal was moved to Supreme Court's docket.

The Supreme Court of Nebraska held that:

- School board provided adequate notice of hearing;
- School board's use of attorney to preside over cancellation hearing was not improper;
- Coordinator failed to show that school board was not impartial;
- Evidence supported cancellation of contract for incompetency and neglect of duty; and
- Evidence supported cancellation of contract for lack of professionalism and insubordination.

---

## **TAX - OHIO**

### **[Arbors East RE, L.L.C. v. Franklin County Board of Revision](#)**

**Supreme Court of Ohio - April 26, 2018 - N.E.3d - 2018 WL 1960265 - 2018 -Ohio- 1611**

Following county auditor's valuation of property, which was nursing home, for property tax purposes, city board of education filed valuation complaint, seeking increase in value to full sale price from recent sale. Taxpayer filed separate original complaint seeking reduced valuation.

The Franklin County Board of revision ordered reduction in value for furniture, fixtures, and equipment. Taxpayer appealed. The Board of Tax Appeals reinstated entire sale price as value of real estate. Taxpayer appealed.

The Supreme Court of Ohio held that:

- Board of Tax Appeals was required to exercise its authority to supplement the record with omitted evidence, and
- Lack of allocation documentation contemporaneous with sale did not preclude allocation to real estate and business activities in determining valuation.

Board of Tax Appeals was required to exercise its statutory authority to supplement record with omitted documents from proceedings before county board of revision, as well as any other evidence Board deemed material to its determination regarding valuation of nursing home purchased by taxpayer for property tax purposes, though taxpayer did not ensure record was complete; taxpayer obtained partial reduction in valuation by county board based on evidence that county board failed to transmit to appellate Board, including evidence that sale of property was going-concern sale and that there was sufficient basis for allocating portion of sale price to furniture, fixtures, and equipment, and taxpayer was entitled to reasonably rely on county board's statutory duty to transmit all evidence submitted to it.

Lack of documentation of allocation of sale price contemporaneous with sale of nursing home facility did not prohibit subsequent allocation of sale price among facility's real estate and business activities, including its licenses, furniture, fixtures, and equipment, and business goodwill, in determining valuation of real estate for property tax purposes; appraisal testimony was offered to show that the original report of the total sale price on the conveyance-fee statement did not reflect the property value, and appraisal was particularly incisive under the circumstances, given that its examination of the market involved not merely a valuation of the real estate component, but also a justification for viewing the total sale price as consisting of realty and nonrealty components.

---

## **IMMUNITY - TEXAS**

### **[Fort Worth Transportation Authority v. Rodriguez](#)**

**Supreme Court of Texas - April 27, 2018 - S.W.3d - 2018 WL 1976712**

Daughter of pedestrian who was fatally struck by public bus brought action against regional transportation authority, its contractors, and bus driver.

The District Court granted summary judgment in favor of authority and its contractors, dismissed bus driver, and denied request for attorney fees by authority and contractors. Parties appealed. The Fort Worth Court of Appeals affirmed in part and reversed in part. Defendants filed petition for review.

The Supreme Court of Texas held that:

- The liability of any number of independent contractors performing essential governmental functions for a regional transportation authority is limited to a single damages cap under the Texas Tort Claims Act (TTCA);
- Bus driver was protected from individual liability by TTCA's election-of-remedies provision, disapproving *Castro v. Cammerino*, 186 S.W.3d 671; and
- Authority and its contractors were not entitled to attorney fees from interpleaded funds.

---

## **EMINENT DOMAIN - TEXAS**

### **[Love Terminal Partners, L.P. v. United States](#)**

**United States Court of Appeals, Federal Circuit - May 7, 2018 - F.3d - 2018 WL 2090316**

Lessees of portion of airport property on which they constructed six-gate airline terminal filed suit against United States, claiming Fifth Amendment taking effected by federal Wright Amendment Reform Act (WARA), partially codifying private agreement in which city agreed to bar use of lessees'

gates for commercial air transit and to acquire and demolish their terminal.

The United States Court of Federal Claims granted lessees summary judgment and awarded \$133.5 million to lessees as just compensation for regulatory and physical takings of their property. Government appealed.

The Court of Appeals held that:

- Regulatory taking was not effected by Congress' failure to repeal amendment;
- Regulatory taking was not effected by Congress' failure to extend WARA benefits to lessees;
- Regulatory taking was not effected by WARA preventing lessees' use of property for air service; and
- Physical taking was not effected by WARA, which did not codify portion of agreement to demolish gates.

Congress' failure to repeal Wright Amendment, limiting allowable uses of airport property including leased portion on which lessees' constructed six-gate airline terminal, did not effect Fifth Amendment regulatory taking of lessees' leasehold right to use their property for commercial air passenger service, since government could not be liable for takings by failure to act, but only for affirmative acts.

Congress' failure to extend to lessees, who constructed six-gate airline terminal on leased portion of airport property, benefits of federal Wright Amendment Reform Act (WARA), partially codifying private agreement in which city agreed to permit airlines to sell tickets from airport to any other destination but also agreed to bar use of lessees' gates for commercial air transit, did not effect Fifth Amendment regulatory taking of lessees' leasehold right to use their property for commercial air passenger service, since government could not be liable for takings by inaction or by legislatively favoring one party over another.

Federal Wright Amendment Reform Act (WARA), partially codifying private agreement in which city agreed to permit airlines to sell tickets from airport to any other destination but also agreed to bar use of lessees' gates for commercial air transit, did not effect Fifth Amendment regulatory taking of lessees' leasehold right to use their leased airport property for commercial air passenger service, since lessees' use of their property for commercial air passenger service under pre-WARA regulatory regime had no economic value, as they suffered net income loss of roughly \$13 million between their acquisition of lease and enactment of WARA, and at no time had revenue exceeded lessees' carrying costs so as to constitute economically beneficial use of property.

Federal Wright Amendment Reform Act (WARA), partially codifying private agreement in which city agreed to permit airlines to sell tickets from airport to any other destination but also agreed to bar use of lessees' gates for commercial air transit, did not effect Fifth Amendment physical taking of lessees' property, even though city acquired and demolished lessees' gates at their terminal pursuant to agreement, since WARA did not codify portions of agreement in which city agreed to acquire and demolish lessees' gates, and instead prohibited federal funds from being used for removal of lessees' gates.

Any codification in federal Wright Amendment Reform Act (WARA) of part of private agreement in which city agreed to acquire lessees' gates in terminal they constructed on leased parcel of airport property and then to demolish those gates did not effect Fifth Amendment physical taking of lessees' property, even though city acquired and demolished lessees' gates pursuant to agreement, since WARA's incorporation of that part of agreement at most required city to negotiate with lessees and then, if negotiations were unsuccessful, bring condemnation proceeding allowing lessees to receive

just compensation, but acquisition of lessees' property through negotiation would be voluntary rather than required by government, and compensation would be provided in event of need for condemnation.

Lessees of portion of airport property on which they constructed six-gate airline terminal filed suit against United States, claiming Fifth Amendment taking effected by federal Wright Amendment Reform Act (WARA), partially codifying private agreement in which city agreed to bar use of lessees' gates for commercial air transit and to acquire and demolish their terminal.

---

## **EMINENT DOMAIN - WASHINGTON**

### **[Thun William and Louise Leslie Revocable Trust v. City of Bonney Lake](#)**

**Court of Appeals of Washington, Division 2 - May 1, 2018 - P.3d - 2018 WL 2055686**

Landowners brought action against city, alleging that city's adoption of ordinance rezoning the majority of landowners' property from commercial to residential and conservation was an unconstitutional regulatory taking.

The Superior Court granted summary judgment dismissal of landowners' claim. Landowners appealed.

The Court of Appeals held that:

- Court of Appeals would exercise its discretion to waive the final governmental decision requirement for prudential ripeness, and
- City ordinance did not go beyond preventing real public harm to producing affirmative public benefit, and thus, city's adoption of the ordinance did not constitute regulatory taking of landowners' property.

Court of Appeals would exercise its discretion to waive the prudential ripeness requirement that landowners received final governmental decision regarding permitted uses of their property in action alleging that city's adoption of ordinance rezoning landowners' property from commercial to residential and conservation was regulatory taking; although landowners did not file site development plan or permit application, they estimated that the economic use of their land diminished because of the ordinance, and Court of Appeals would be able to compare the present value of the regulated property and the value of the property before the regulation.

City ordinance, which rezoned the majority of landowners' property from commercial to residential and conservation, did not go beyond preventing real public harm to producing affirmative public benefit, and thus, city's adoption of the ordinance did not constitute regulatory taking of landowners' property; ordinance was adopted to protect tree cover, manage steep areas prone to landslides, and to protect entry to city, city was able to protect public from safety and environmental concern that landslides and erosion presented by restricting high density developments on steep slopes of landowners' property, and fact that public could benefit from preservation of city's entry did not reduce effect of ordinance of safeguarding the public from harm.

---

## **[California Private Activity Bond Market Took a Big Dive in 2017.](#)**

The bond market for affordable multifamily housing in California took a step back in 2017.

A year after the California Debt Limit Allocation Committee (CDLAC), which is responsible for administering the state's tax-exempt private activity bond program, issued \$4.8 billion in 2016 to help fund rental housing developments, the amount dropped to \$3.4 billion in 2017 – a 30 percent decrease. The result was 114 properties funded in 2017, a drop from 179 funded in 2016.

The decrease included significantly fewer apartments. In 2016, there was funding for 20,671 apartments, but that dropped to 12,185 in 2017 – a stunning decrease of 41 percent in apartments created.

The decrease is a reason for concern in the Golden State and reflects a nationwide drop in bond deals in the wake of the 2016 election and tax reform.

[Continue reading.](#)

## **Novogradac & Company LLP**

Published by James R. Kroger on Thursday, May 10, 2018 – 12:00am

---

### **California's Governor Race Has Bond Investors Worried.**

- **Top gubernatorial candidates lack specifics on fiscal plans**
- **Angst mounting about what happens when boom turns to bust**

Saying goodbye to Jerry Brown is tough for the bond market. A progressive with a frugal bent, the Democratic governor won fans on Wall Street. As analyst Ben Woo put it, "He is the one who saved California."

So far, his potential successors aren't making the farewell any easier.

The Democratic frontrunners vying to replace him, Gavin Newsom and Antonio Villaraigosa, have been long on policy promises but, according to bond managers, short on specifics about how they would keep the budget balanced in a state with a \$2.75 trillion economy. That's worrisome to investors eager to avoid a return to deficits, especially given that California's current boom will inevitably cool.

"The state is pretty well prepared right now. Is the next governor going to squander that?" said Jennifer Johnston, a research analyst in San Mateo, California, for Franklin Templeton Investments, which manages more than \$65 billion in municipal debt.

Brown, in his second stint as governor, can be viewed as a tough act to follow from more than just an investor perspective. The 80-year-old has over the last 16 months become the outspoken chief of blue states' resistance to President Donald Trump's policies on everything from immigration to climate change. California has challenged the U.S. government at the pace of two lawsuits per month since Trump's inauguration.

But on Wall Street, Brown is best known for whittling away the \$27 billion budget deficit he faced as he took office in 2011 — a time when pundits were comparing California to debt-ridden Greece — and turning around state finances with spending cuts and voter-approved tax hikes. California's credit rating, once the lowest in the nation, rose to AA-, its best showing since 1999, according to

S&P Global Ratings. Officials are estimating a \$6 billion surplus in the year that starts in July. Meanwhile, the state's economy has become the world's fifth-largest.

Woo, a senior analyst at Columbia Threadneedle Investments in Minneapolis, said his firm bought more California bonds in 2012 thanks to Brown's handling of the financial crisis. Now that the economy is in vastly better shape, he said it's a "tall order" to expect the next governor to share Brown's fiscal discipline.

Voters will pick the candidates in a June 5 primary. As of 2012, the two top vote-getters advance to the general election regardless of party, which could result in an unprecedented match-up of two Democrats for governor. With 27 candidates and many undecided voters, polls have suggested a variety of outcomes.

### **'Dodging Questions'**

The one consistency has Newsom, a former mayor of San Francisco and the current lieutenant governor, holding a comfortable lead for a spot in the general election. Villaraigosa, mayor of Los Angeles for two terms, ranks second in several surveys, with state Treasurer John Chiang next in the running for Democrats. Among Republicans, the leader is John Cox, a businessman who has never held political office.

The Democratic leaders have talked about easing the state's dire housing shortage, alleviating the homeless crisis and boosting the education system. Bond managers' complaint is that they haven't said enough about how they would pay for such initiatives, nor what they would do in a recession, which Brown himself has repeatedly warned is due to come.

"They're all dodging hard questions," said Ksenia Koban, a municipal-credit analyst at Payden & Rygel Investment Management in Los Angeles.

### **Single Payer**

When asked about the criticism, Newsom said his focus on implementing single-payer health care — a goal favored by the most liberal wing of the Democratic party — proves that he's concerned about the bottom line. While municipal bond analysts see such a move as inherently risky to the state's finances, if even possible under a Trump administration, Newsom said it wouldn't be as expensive as the current system that he deems unsustainable.

"If you care about fiscal discipline, if you care about unfunded liabilities and if you care about the growth of government and costs, this issue has to be tamed," Newsom, 50, said in an interview.

Villaraigosa and Chiang have criticized Newsom's push as irresponsible without a detailed funding plan, portraying themselves as the best to carry on Brown's legacy of fiscal conservatism.

Villaraigosa, 65, pointed to his tenure as mayor of Los Angeles from 2005 to 2013, saying he negotiated higher pension contributions from city employees, laid off workers and reduced deficits to avoid bankruptcy. "I have been a strong fiscal steward of taxpayer dollars," he said. (Michael Bloomberg, founder of Bloomberg News parent Bloomberg LP, has donated \$1.5 million to an independent campaign supporting Villaraigosa.)

Chiang, 55, said he's a "progressive who can handle a checkbook." He cited his moves as controller to withhold the pay of lawmakers for failing to settle on a balanced budget on deadline, and issuing IOUs as the state faced a cash crunch during the last recession.

## Spending Criticism

The wild card is Cox, who placed second behind Newsom in two recent polls. He has railed against current fiscal policies, saying in an interview that only compared to the “spendthrifts” in the Democrat-led legislature can Brown be considered frugal.

“Spending in California is out of control,” said Cox, 62. “The tax burden has gone up tremendously. That’s hardly fiscal responsibility.”

Should Cox advance, he’d likely face a serious challenge going against Newsom or Villaraigosa in the general election, considering that 45 percent of California’s voters are registered Democrats and only 25 percent are Republicans. The other likely pairing is Newsom versus Villaraigosa, and both have yet to show the same level of fiscal discipline as Brown, said Matt Fabian, a partner with research firm Municipal Market Analytics.

“Investors in California have to assume that credit quality could erode,” he said.

Payden’s Koban said the main issues the next governor will face, and that the candidates aren’t addressing, are rising pension costs, an aging population and a tax structure that limits the financial flexibility of cities during a downturn. But residents, much less politicians, aren’t focused on them.

“The problems coming down the pipeline are severe,” she said. “We’re not quite there psychologically as Californians because things are looking rosy and the economy is booming.”

## Bloomberg

By Romy Varghese

May 7, 2018, 4:00 AM PDT

— *With assistance by Kartikay Mehrotra*

---

## [Infrastructure Deals Top U.S. Muni Bond Sales Next Week.](#)

May 11 (Reuters) – Highway, airport and other transportation deals will dominate next week’s estimated \$10.7 billion of new U.S. municipal bond and note sales, according to Thomson Reuters preliminary data.

The largest deals hail from Texas, Pennsylvania, New York, California. They represent a big jump from this week, when an estimated \$7.2 billion of new sales came to the municipal market.

Next week’s infrastructure deals are well timed for National Infrastructure Week, when leaders of state and local governments will descend on Washington to raise awareness and enthusiasm for investing in U.S. infrastructure projects.

The largest deal is \$1.5 billion from Grand Parkway Transportation Corp in Texas, which aims to build a proposed 184-mile (296-km) highway, dubbed the Grand Parkway, around Houston. The deal is broken into \$911 million of subordinate tier toll revenue bonds and \$611 million of bond anticipation notes.

The New York City Transitional Finance Authority plans to sell \$1.1 billion of future tax secured

subordinate bonds, broken into a five-part series. The funds will be used to finance various capital projects.

Another infrastructure project, the Airport Commission of the City and County of San Francisco, too, aims to sell \$914 million of revenue and refunding bonds.

From Pennsylvania, the state's turnpike commission will sell \$445 million of oil franchise tax revenue bonds. The Commonwealth of Pennsylvania, is also on the calendar with a megadeal with \$1.25 billion of general obligation bonds slated to sell next week.

(Reporting by Robin Respaut in San Francisco; editing by Jonathan Oatis)

---

## **How Long Beach Found Itself in Financial Crisis.**

The \$102 million in state and federal emergency disaster funds given to Long Beach after superstorm Sandy masked financial problems that, with the relief money now drying up, led the city into a fiscal crisis, officials and analysts say.

Long Beach faces a \$2.1 million shortfall after making retirement and management separation payments, potential layoffs of city staff, police and firefighters, and a budget that proposes a 12.3 percent tax hike to bridge a \$4.5 million revenue deficit next year.

Taxpayers — and state Comptroller Thomas DiNapoli — are asking: How did it come to this?

Long Beach officials in 2017 touted a financial swing from the brink of bankruptcy to being \$9 million in the black — a \$24.2 million turnaround — but current and former city leaders say the previous collapse was never addressed and stayed hidden because of the disaster relief funds after superstorm Sandy.

"We're almost where we were before Sandy," Long Beach City Council President Anthony Eramo said of the current crisis. He also said problems the city faced before Sandy have not gone away. "We knew this would be a tough year and hard decisions would have to be made. . . . I knew the lack of Sandy money would make this a tough year."

Eramo, DiNapoli, and municipal finance analysts say city officials should have made more difficult decisions such as cutting services and making incremental tax increases in previous years to avoid the larger tax increase proposed this year. The City Council passed a 1 percent tax boost last year — an election year.

The proposed \$95 million budget for the fiscal year starting July 1 will mean an average \$400 increase for homeowners.

DiNapoli announced last week that his office would audit the city's finances.

"It is imperative that officials address the city's declining financial condition during the current budget cycle," his office said in the annual budget review.

The Wall Street bond rating agency Moody's Investors Service this month maintained the city's Baa1 rating — considered a moderate credit risk, but issued a negative outlook, citing cash flow challenges "following years of operating deficits and the City Council's failure to approve budgeted

borrowing to pay for operating expenses.”

Lower ratings can mean higher interest rates and costs of borrowing.

“Any time a local government borrows for operating expenses, we view that as a negative,” Moody’s vice president and senior analyst Rob Weber said.

Long Beach has borrowed to cover retirements and other payments for years.

“It’s identical to putting your budget on a credit card,” said Matt Fabian, a partner with Municipal Market Analysts, a municipal research and consulting firm specializing in the bond market. “It’s not a sustainable practice.”

## **Newsday**

By John Asbury

May 10, 2018 5:16 PM

---

### **[Municipal Issuers Log Second Straight Monthly Increase in New CUSIP Request Volume.](#)**

NEW YORK, May 10, 2018 /PRNewswire/ — CUSIP Global Services (CGS) today announced the release of its CUSIP Issuance Trends Report for April 2018. The report, which tracks the issuance of new security identifiers as an early indicator of debt and capital markets activity, found a second straight monthly increase in requests for new municipal bond identifiers, while CUSIP request volume in other asset classes declined. This is suggestive of steady pace of new municipal issuance and a possible decline in corporate issuance in the second quarter of 2018.

CUSIP identifier requests for the broad category of U.S. and Canadian corporate offerings, which includes both equity and debt, totaled 4,357 in April, down 5.8% from March. On a year-over-year basis, corporate identifier request volume for the first four months of 2018 is still 6.5% higher than the same period in 2017, reflecting a strong pace of new request volume in the first quarter of this year. Overall corporate request volume was driven by 843 new requests for U.S. corporate equity identifiers, 853 new requests for U.S. corporate debt identifiers, and 405 requests for combined Canadian corporate debt and equity identifiers.

Municipal CUSIP requests showed steady volume in April. The aggregate total of all municipal securities – including municipal bonds, long-term and short-term notes, and commercial paper – logged a 0.3% increase over March activity. This is the second straight month of growth in the municipal category, following on the heels of a 30.9% monthly increase in pre-market muni activity in March. On a year-over-year basis, total municipal identifier request volume is down 23.4% versus the same period last year. Prior to March, municipal bond issuance had been trending downward following the implementation of the Tax Cuts & Jobs Act, which repeals advanced refunding of municipal bonds.

“The CUSIP request volume we’re seeing in April in the municipal category is noteworthy because it shows that the large increase we saw last month was not a fluke,” said Gerard Faulkner, Director of Operations for CUSIP Global Services. “The increase is likely driven by a combination of factors that include the desire of many municipalities to get new issues funded before further interest rate

increases, and basic funding needs.”

International debt and equity CUSIP International Numbers (CINS) both declined in April. International equity CINS were down 7.8% during the month, while international debt CINS decreased 5.1% during the month. On a year-over-year basis, international equity requests were up 23.8% and international debt requests were up 8.2%, reflecting continued volatility in international markets.

To view a copy of the full CUSIP Issuance Trends report, please [click here](#).

---

## **Aging Baby Boomers: Implications For Munis.**

By 2035, the elderly will outnumber young people for the first time in American history.<sup>i</sup> Or so say new projections released by the U.S. Census Bureau. This graying of the U.S. population is largely attributable to the aging baby boomer generation, which is retiring in ever-increasing numbers. The number of people over the age of 65 is growing by about 3% per year—four times faster than overall population growth.<sup>ii</sup> This developing demographic shift will likely have profound and far-reaching impacts on state pensions, healthcare, education, and more, and consequently on the municipal bond market as well.

### **State Pension Budget Pinch**

As baby boomers retire, state budgets are likely to feel a significant financial pinch when it comes to pension obligations. It is simple math: with a shrinking proportion of working-age adults-to-retirees, there may simply not be enough revenue to support the generous pensions that many states’ defined benefit plans have promised, the unfunded liabilities of which already stood at some \$574 billion as of 2011.<sup>iii</sup> This will probably necessitate a reduction in services, an increase in taxes, pension reforms, or some combination of the three. States could look to address some of these issues by offloading funding obligations to local governments. This, in turn, could prove to be a major problem for municipalities, which, on average, depend on state governments for a third of their revenue.<sup>iv</sup> As state governments grapple with unfunded pension liabilities, local governments may need to raise property taxes to generate additional revenue as they are forced to shoulder an increasingly high share of the cost of delivering essential services to residents.

### **Looming Healthcare Gaps**

Much has been made of the looming funding gaps facing Social Security and Medicare, and rightfully so, as demographic trends point to an eye-popping \$100 trillion shortfall in funding for these federal programs over the coming decades.<sup>v</sup> However, there is another ticking time bomb that may prove far more relevant to state and local governments as the population ages, and has received far less attention: Medicaid, which helps pay for the healthcare of low-income citizens and their children, the disabled, and the elderly. As of 2014, Medicaid spending for those over 65 accounted for around 20% of all Medicaid costs, and this figure will probably grow in the coming years.

Thanks to Medicaid’s status as a joint federal/state program, states’ shares of the spending can range from 17% to a statutory maximum of 50%. However, while Social Security and Medicare are funded out of trust funds, state funding for Medicaid are drawn from the states’ general revenues. It already accounts for roughly 17% of state general budget expenditures, on average, and are already the second-highest spending category.<sup>vi</sup>

## Education Squeeze

Although Medicaid spending today is already a large line item, it is dwarfed by state spending on education. The 50 states devote an average of 35% of their respective budgets to education, making it the largest single category of expenditures in state budgets.vii Some states, such as Utah, where one in five residents is a student, spend upwards of 50%, while others, such as Illinois, with its unfunded pension obligations, spend significantly less than the average (in Illinois' case, just 25%).viii

What happens to education funding when state budgets are squeezed by ballooning Medicaid costs and unfunded pension obligations on a historic scale? After all, the two expenditures have already been chewing up the highest proportion of state budgets since the 1960s.ix States could be forced to cut education spending. Indeed, this is already happening. State funding for higher education and state revenue sharing has been in decline since 2008.x

These cuts to state education spending could also further exacerbate inequality in poor school districts that cannot rely on high property taxes to raise the funds necessary to cover a shortfall. Already, in 23 states, state and local governments are spending less in poorer school districts than they are in more affluent ones.xi In some states, the discrepancy in spending between the poorest and richest districts can reach as high as 33%.

## Opportunities in ETFs

Individual investors in municipal bonds have long basked in the relative “security” of the overall credit quality and reliability of the income stream. But some of the underlying tremors identified here suggest that, without forgoing the opportunity for tax-free income, the allocation of investible resources in a municipal fund, such as an ETF, may offer added protection. Simply, a portfolio of 10 different bonds cannot provide the same level of security as an ETF with 1,000 different bonds. The challenges discussed are most certainly significant to the baby boom generation, as they are to the entirety of those investing in tax-free income, but ETFs can offer investors a way to access potential opportunities.

## Post Disclosure

i NPR. “Projections Show an Aging U.S. Population.” Mar. 14, 2018

ii Fuchita, Yasuyuki, et al. *Growing Old: Paying for Retirement and Institutional Money Management after the Financial Crisis*. Brookings Institution Press, Nomura Institute of Capital Markets Research, 2011.

iii Ibid.

iv Kiewiet, D. Roderick, and Mathew D. McCubbins. “State and Local Government Finance: The New Fiscal Ice Age.” *Annual Review of Political Science*, vol. 17, no. 1, May 11, 2014, doi:10.1146/annurev-polisci-100711-135250.

v Ibid.

vi Ibid.

vii US Census Bureau. “State Government Finances Summary Table.” 2016 Annual Survey of State Government Finances Tables, United States Census, Feb. 2, 2018.

viii Ibid.

ix The Wall Street Journal. "Why Are States So Strapped for Cash? There Are Two Big Reasons." Mar. 29, 2018.

x Ibid.

xi The Washington Post. "In 23 states, richer school districts get more local funding than poorer districts." Mar. 12, 2015.

## **Seeking Alpha | VanEck**

May 9, 2018

---

### **Did The Tax Cuts And Jobs Act Make Treasuries More Attractive Than Munis?**

It seems we can't go a single day without a story about the effects of The Tax Cuts and Jobs Act. And right now, as the GOP takes credit for lower unemployment, a surge in consumer confidence and increased optimism among small businesses and manufacturing, we think it's important to look a little deeper to figure out what the resulting trade is. Whenever an equation is changed substantially in economics, one must always ask, "And then what?"

Every change in the macroeconomic composition of the United States has knock-on effects, and those effects have effects. For example, whenever there's a major change in the tax code, one constituency benefits from a cut, while another constituency picks up the slack to fund the government. In turn, those constituencies who are affected have certain knock-on effects, which get reflected in the real economy, as well as the financial markets.

When The Tax Cuts and Jobs Act was enacted in late 2017, corporate tax rates dropped to 21% at the highest marginal rate. Politics aside, lower rates mean fiercer price competition for goods — this benefit gets passed directly on to consumers. Major companies like AT&T and others announced one-time cash bonuses for their workers as a direct result of this. It is hard to deny that the economy has shown stronger signs of growth since this legislation was passed; corporates have reported strong earnings through Q1 and leading indicators for Q2 look very positive. We would still caution — correlation does not always equal causation.

[Continue reading.](#)

## **Forbes**

by Bob Haber

May 9, 2018

---

### **How Detroit Battled Its Way Out of Bankruptcy.**

Unlike wine, serious municipal financial problems, such as underfunded pensions, do not improve with age.

That was a major lessons learned from the 2013 bankruptcy of the city of Detroit, said Eugene Driker, a mediator during the bankruptcy process, who spoke at a municipal finance session at the 2018 ULI Spring Meeting in Detroit.

“The city failed to grasp the seriousness of the situation,” said Driker, of the Detroit-based law firm Barris, Sott, Denn & Driker. “Every day was Christmas in the eyes of some people who had some kind of unrealistic outlook and failure to grasp problems. They were hoping some savior would come in and save them.” Other U.S. cities have pension shortfalls and retiree health care obligations that dwarf those that were faced by Detroit, he noted.

Driker and other panelists noted that the period of bankruptcy was a major time of upheaval for the city, but Detroit has emerged fiscally stronger and now is poised for greater growth. Detroit filed a voluntary petition for relief under Chapter 9 of the U.S. Bankruptcy Code in July 2013.

“I was one of five mediators who helped mediate the creditor claims in bankruptcy,” Driker said. “When we started, none of us thought it would end in five years, and no one thought it would end in 16 months. Since the end of bankruptcy in November 2014, there’s been a remarkable transformation of the city. You see it every day in the neighborhood I live in—and all other places. Many of you are amazed that what you see doesn’t match the dystopian image the city has had for years.”

In bankruptcy, the city shed some \$7 billion in debt, restructured another \$3 billion in debt, and put an estimated \$1.7 billion into improved services. In the bankruptcy, the city cut \$7.8 billion from payments to its retired workers and \$4.3 billion in retirement health care benefits.

Under the deal dubbed the “grand bargain,” state money was used to support Detroit’s pension funds, and donations from private foundations and the Detroit Institute of Arts were used to protect city-owned art masterpieces from being sold to raise money to pay creditors.

Detroit’s bankruptcy marked a turn in the city’s fate. Along with the city’s economic downfall, however, came rare opportunities for investment, creation, and collaboration. Shortly after filing for bankruptcy, the city began to see major changes in its downtown and Midtown neighborhoods, but more recently Detroit’s resurgence is gaining traction in areas that have been disinvested for decades.

Detroit was insolvent when it filed for bankruptcy protection, said John Naglick, chief deputy chief financial officer and finance director for the city. “The city’s operating strategy had been to issue debt, but the deficit would have been worse,” he explained. “Detroit had gone from 1.8 million residents in 1950 to 700,000 residents at the time of the filing. Legacy costs were consuming 40 percent of the budget and were projected to could climb to 60 percent by 2016. We had three times as many pensioners as workers.”

When the city eliminated \$7 billion in debt and unfunded liabilities, “pensioners and retirees took the biggest hit—\$3.8 billion,” he said. “It was harsh on retirees, but it allowed the city to restore basic service to residents.”

Bankruptcy allowed the city to have another life, said Jed Howbert, group executive for planning, housing, and development for the city. “I joined the city in May of 2014, and my concern was less about how bankruptcy affected the city but more about where do we go from here?” he said. “There was a feeling of confidence in the future of the city. With the finances on a firm footing, it was a huge bonus in attracting business to the city.”

Following the bankruptcy, there was accelerated growth downtown, which in turn created a stronger real estate market and has led to growth now moving beyond downtown.

“The most important thing that has changed is the narrative of the city—how Detroiters are talking about themselves,” Driker said. “People have a bounce in their step now. There’s a buzz about the city worldwide that has changed the outlook of the city.”

The period during bankruptcy was not a fun time to be in the city, said Sonya S. Mays, president and chief executive officer of Develop Detroit, which builds vibrant, resilient communities and expands opportunities for residents. She was working on Wall Street at the time and decided to come home to help.

“It was deeply personal for me because there were some people in my family who were retirees,” she said. “It was a pretty tough environment, but I never lost sight of the human toll. I got focused on the future of Detroit.”

Once Detroit emerged from bankruptcy, Mays decided to stay rather than return to Wall Street. “It was clear that downtown was doing better, but what about the other areas of Detroit?” she said. “We are trying to create development in parts of the city that haven’t seen development in some time.”

## **Urban Land Magazine**

By Mike Sheridan

May 7, 2018

---

### **[MSRB Establishes Advertising Rule for Municipal Advisors and Enhances Dealer Advertising Rule.](#)**

Washington, DC – The Municipal Securities Rulemaking Board (MSRB) today received approval from the Securities and Exchange Commission (SEC) to establish a new advertising rule for municipal advisors and to enhance the MSRB’s existing advertising rule for municipal securities dealers. To assist municipal advisors in complying with [MSRB Rule G-40](#), the MSRB will provide guidance in advance of the effective date of February 7, 2019. [Read the approval notice.](#)

“Preventing misleading advertisements is an important component of a comprehensive regulatory framework for financial services professionals,” said MSRB President and Chief Executive Officer Lynnette Kelly. “The implementation of the new advertising rule is an important piece of the MSRB’s foundational work to create standards of fair practice for municipal advisors. We took this opportunity to revisit and enhance our long-standing dealer advertising rules to build on our fair practice provisions and to align more closely our advertising rules with rules of other financial regulators.”

The MSRB plans to provide guidance for municipal advisors relating to a municipal advisor’s use of case studies and municipal advisory client lists; Rule G-40’s content standards; and a municipal advisor’s use of social media.

The MSRB is hosting a virtual compliance workshop in a question-and-answer format to discuss key provisions of the advertising rules on **Thursday, November 8, 2018 at 3:00 p.m. - 4:00 p.m. ET.** [Register for the workshop.](#)

Date: May 7, 2018

Contact: Jennifer A. Galloway, Chief Communications Officer  
202-838-1500  
jgalloway@msrb.org

---

## **MSRB Report: Municipal Bond ETFs' Impact on Municipal Market Liquidity.**

[Read the MSRB Report.](#)

---

## **Pre-Trade Activity in Corporate and Municipal Bond Markets Show Big Gains in March.**

"The big story this month is the strong growth we're seeing in requests for new muni identifiers," said Gerard Faulkner, Director of Operations for CUSIP Global Services. "While March typically has a higher volume of muni issuance than January and February, this increase in demand for new muni identifiers is noteworthy following the declines we've been seeing ever since the Tax Cuts and Jobs Act was passed."

[Read Press Release.](#)

---

## **2018 GFOA Standing Committee Membership Application Process.**

Applications to become a GFOA standing committee member are being accepted **through July 27, 2018**. Serving on a standing committee is an excellent opportunity for GFOA members to contribute their experience and knowledge to the entire membership. GFOA's seven standing committees meet twice each year and develop best practices, advisories and policy statements for the approval of the Executive Board and membership. GFOA associate members from the private sector may also apply to be advisors to one of the committees.

Please note that GFOA does not provide for the reimbursement of expenses incurred in connection with committee activities. Please review the [Standing Committees Policies and Procedures](#) for other committee guidelines.

The GFOA's seven standing committees are - Accounting, Auditing and Financial Reporting; Canadian Issues; Economic Development and Capital Planning; Governmental Budgeting and Fiscal Policy; Governmental Debt Management; Retirement and Benefits Administration; and Treasury and Investment Management.

- Complete the application [here](#).
- If you are a current GFOA committee member (and at the end of your first term), please complete the application for re-appointment [here](#).

If you have any questions about the committee application, please contact [Emily Brock](#).

---

## **Not So Great GASB: Accounting Rule Pushes Hospital Near Default.**

- **Public hospitals face downgrades due to pension accounting**
- **Government accounting standard puts pensions on the books**

The financial health of Magnolia Regional Health Center, a 200-bed public hospital in northern Mississippi, has gone from fair to serious condition all because of an accounting rule.

Magnolia is in danger of breaching the covenant on a \$74 million municipal-bond issue because the rule requires the hospital, whose employees are members of Mississippi's pension fund, to bring onto its books its share of the retirement system's \$16 billion unfunded liability. The \$127 million obligation has pushed its debts above a limit set by bondholders and may cause a default as soon as early next year — an event that would allow investors to demand immediate repayment or take control of the hospital.

In late March, Moody's Investors Service downgraded Magnolia to junk, saying default is likely if it can't strike a deal with creditors.

The Corinth, Mississippi hospital is an extreme example of how an accounting rule has shaken up the \$3.9 trillion municipal-bond market by requiring the disclosure of pension debts that some borrowers were allowed to keep off the books for years. In December, Moody's downgraded bonds issued by the Spartanburg Regional Healthcare System because operating revenue wasn't keeping up with its increased debt load and said the system's participation the South Carolina retirement system would put "long term pressure" on its credit rating.

Fitch Ratings downgraded Cleveland's MetroHealth to junk last month for similar reasons.

"That additional expense is lowering their margins," said Fitch analyst Kevin Halloran. "It's going to continue to catch people's eyes."

The accounting change has posed particular problems for Magnolia because the hospital agreed to the benchmarks in its bond contract three years before the rule, known as Government Accounting Standards Board Rule No. 68, took effect in 2014. With a technical default now looming, the yield on bonds due in 2031 rose to about 4.8 percent by the end of last month from 3.5 percent in early January.

Magnolia has asked a Mississippi court for a judgment to prevent a technical default or change the bond covenants to remove the effects of GASB 68.

"Magnolia Regional has never defaulted on or failed to timely make any bond payment or other obligation, continues to remain financially viable and, through no fault of its own, is in danger of being placed in technical violation of its bond covenants," the hospital said in a [complaint](#) filed in February.

### **Fund Liability**

In its lawsuit Magnolia cites a Mississippi Attorney General Opinion from March 2017 that individual participants aren't required to fund the liability of the state pension.

Magnolia has met with trustee Regions Bank and is seeking an agreement with investors to amend the bond covenants, said Brian Craven, Magnolia's chief financial officer. The hospital disagrees

with Moody's that it will fall below a debt service ratio required by investors in the current fiscal year, he said.

"It is not out of the question that it could happen, but improved operating performance in 2018 has made this much less likely than in 2017 regardless of the performance of PERS [Public Employees' Retirement System] in 2018," Craven said.

GASB 68 requires that municipalities participating in multi-employer pensions report their proportionate share of the unfunded liability and that net pension liabilities be included on governments' statement of net assets.

There are 956 state and local government community hospitals in the U.S., according to the American Hospital Association, although it's not clear how many of them participate in multi-employer pensions.

The accounting rule is creating credit problems for the hospitals even though their operations haven't changed materially and they're making required contributions to state pensions. Magnolia contributes 15.75 percent of its annual payroll to Mississippi's pension, in addition to employee contributions of 9 percent.

When Magnolia issued the bonds in 2011, investors required the hospital to produce total income for debt service of at least 125% of maximum annual debt service for any fiscal year. If the percentage fell below 125% the hospital was required to hire a consultant to help improve operations. If income fell below 100%, bondholders could declare a default.

Taking into consideration its \$127 million portion of the Mississippi's pension's liability, Magnolia had 117% total income for debt service for the fiscal year ending Sept. 30, 2017. Moody's expects the hospital to fall below 100% debt service coverage in the current fiscal year.

In March, a Mississippi court prohibited Regions from requiring Magnolia to hire a consultant through the conclusion of the case.

The outcome for South Carolina's Spartanburg Regional may be a good sign for Magnolia. When that hospital adopted GASB 68 in 2015, it booked a net pension liability of \$568.6 million, sending its debt as a percentage of assets soaring to 106 percent and exceeding the covenant of below 65 percent.

But bondholders were willing to rescue it from default. They agreed to waive the covenant violation and revise their contract so the pension obligation isn't included in debt-service coverage calculations, said Meredith Moore, a Moody's analyst.

## **Bloomberg**

By Martin Z Braun

May 9, 2018, 8:07 AM PDT

---

## **[What Municipal Analysts Need to Know about Governmental Accounting.](#)**

**May 23, 2018 | New York, NY**

## OVERVIEW

SIFMA has partnered with MAGNY and GASB's Dean Mead to provide an educational seminar on the rules that state and local governments follow when accounting for and reporting their finances.

During this in-depth discussion, participants can expect to hear:

- The basics from the perspectives of the financial statement analyst
- How the accounting standards affect the information that analysts receive
- The significant new changes to government financial reports
- Registration includes a copy of the updated "An Analyst's Guide to Government Financial Statements", 3rd Edition (published March 2018), which will serve as the text for the session.

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

---

## **Counties 'Riding Out' Bump in Tariffs.**

### **Counties with steel production see boost from tariffs, but won't depend on them to save local economies**

County officials in regions supporting steel production are encouraged by recent tariffs on steel and aluminum imports, but others are concerned about the consequences of upsetting the international trade balance, both globally and at home.

President Trump declared that the 25 percent tax on imported steel and 10 percent tax on aluminum would put the industries on an even playing field with international competition, which has prompted talk of a trade war with China. But in northern Minnesota's Iron Range, where most domestic ore is mined, St. Louis County Commissioner Tom Rukavina was pleased with the tariffs.

"For years, I've said that we have to ensure we have a viable steel industry in the United States, whether it's for bridges and buildings or for machinery or ships and tanks," he said. "In that regard, what President Trump has done is something that should have been looked at a long time ago."

Rukavina said protectionism has already paid off for St. Louis County, crediting the Obama administration's 2016 duty on steel imports, aimed at punishing foreign producers from selling steel below cost, with bringing a lot of St. Louis County's workforce back to the mines.

"That's actually what put people back to work around here," he said.

Lake County, Ind., with two U.S. Steel mills in its borders, should benefit, too as well as the five operating integrated steel mills in northwest Indiana. But the tariffs are only a leg up for the county.

"We are aware of the challenges that the steel industry faces due to the onslaught of these steel imports, more importantly, these things are going to provide an even playing field for the steel industry," said Karen Lauerman, president and CEO of the Lake County Economic Alliance.

While the tariffs could provide some temporary support for the steel industry, Lauerman says that's more of a reason than ever to move beyond just steel.

"Even without international trade cutting in, the steel industry is modernizing and becoming more advanced, it's always evolving and changing," she said. "What we can do as a county is build on the

foundation of the steel industry and attract new technology and manufacturing jobs and opportunities.”

In Madison County, Ill., U.S. Steel had announced plans to bring its Granite City mill online after idling it two years prior. County Board Chairman Kurt Prentzler said the tariff bolstered the move and gave residents a sense of security, even though the news about the mill predated the tariff.

“After all of our history of steelmaking in the United States, I think it’s fair to have an American steel industry,” he said, acknowledging the tariff was a signal from the federal government that domestic steel production was important. He stressed that production of materials necessary for domestic energy production, particularly oil and gas drilling, were matters of national security and central to American self-reliance.

While steel producing counties are riding high, that sentiment is not universal, particularly for industries that use the steel, or regions that manufacture products or grow crops that could be targeted in a trade war.

Spartanburg County, S.C. Councilman David Britt worries that protectionism will upset the international market that has integrated itself into counties around the country. Britt chairs the county’s Economic Development Committee and is a member of the Economic Futures Group.

He points to 125 international companies that have taken root in Spartanburg County over the last 30 years, including BMW’s first production facility outside of Germany, which has fueled a lot of the county’s economic growth.

“This is going to put a foot on the throat of economic development, which impacts the citizens of Spartanburg County, the state and this country,” he said.

“My biggest concern is that somebody is not telling the president what he needs to hear: This steel industry that he is concerned about, you’re talking 100,000 employees,” he said. “In upstate (South Carolina) alone, you’re talking that many employees in different industries. It goes up to the millions, when you look at the southeast. that will be affected by this.”

The BMW plant, which opened in 1994, now produces the most BMW car engines in the world. The company contracts out the work on all the other auto parts and the tariffs increase costs for every manufacturer that uses foreign steel and aluminum.

And it might not stop there. The price increases for foreign steel can give domestic producers license to raise prices.

“American steel prices are jacking their prices up to meet almost what is happening with foreign tariffs,” Britt said.

Britt works for a national corporation that produces prefabricated concrete for construction, and he’s seeing the consequences of the tariffs manifested there.

“It’s having a tremendous effect on our customers and our projects,” he said. “Costs are going up at every stage of the game.”

In short, he is worried that the benefits of taking action to protect one industry will have a net loss for U.S. producers and their county economies, particularly if they participate in international trade.

“I am greatly concerned about the jobs and opportunities,” he said. “You got to look at the reciprocal

effect on the industries that are here.”

Reciprocal effects could be felt in commodities markets if other counties impose their own tariffs on U.S. exports.

In Cherokee County, Iowa, the productivity of agricultural land directly affects its valuation, but Supervisor Dennis Bush said the county board is not panicking about drops in demand for corn or soybeans resulting from a retaliatory tariff.

“It’s something we keep on the backburner, it’s pretty early in the game,” he said. “They threatened tariffs but there’s nothing set in stone yet.

“But any drop in the price of either corn or soybeans affects the valuations of the land in subsequent years, so it would directly affect county government in that we wouldn’t have the same tax base.

“We’re just riding this out and watching it unfold.”

NATIONAL ASSOCIATION OF COUNTIES

By CHARLIE BAN

Apr. 27, 2018

---

## **[New BUILD Program Replaces TIGER Grants.](#)**

### **BUILD program will replace DOT’s TIGER grants, has a July 19 application deadline**

The Department of Transportation (DOT) announced April 20 the release of a new transportation infrastructure grant program that will replace the current TIGER Grant program. The Better Utilizing Investments to Leverage Development (BUILD) program will disburse \$1.5 billion for surface transportation infrastructure projects with significant local or regional impacts, including funding for roads, bridges, transit, rail or port support.

As with TIGER grants, county governments may apply directly or jointly with other local or state entities, with an application deadline of July 19.

DOT will evaluate BUILD applications on the following criteria: safety, economic competitiveness, quality of life, environmental protection, state of good repair, innovation, partnerships and additional non-federal revenue for infrastructure investments.

[Continue reading.](#)

NATIONAL ASSOCIATION OF COUNTIES

Apr. 27, 2018

---

## **[BDA Submits Written Comments in Support of Reinstating Municipal](#)**

## **Advance Refundings and Expanding PABs.**

On May 7, 2018, the BDA submitted written comments to the Senate Finance Committee in support of fully reinstating tax-exempt advance refundings, including qualified 501c (3) bonds and expanding the use of private activity bonds (PABs). The comments can be viewed [here](#).

The comments were submitted in response to a hearing titled, “Early Impressions of the New Tax Law”. While municipal advance refundings and PABs were not discussed, project data shared by BDA member firms provides the Committee with an opportunity to see the importance of these financing tools.

The BDA plans to continue lobbying on Capitol Hill in support of reinstating advanced refundings and expanding the use of PABs.

### **Bond Dealers of America**

May 7, 2018

---

## **SEC Approves Delay of Rule 4210.**

On May 7, 2018, official notice was sent stating that the SEC approved FINRA’s request to extend the effective date of implementation of Rule 4210 until March 25th, 2019. As a result of exhaustive advocacy efforts from BDA membership with the SEC, FINRA and Capitol Hill, the delay was granted, in large part, to further study of BDA’s “capital charge” proposal. The FINRA notice can be viewed – [Here](#)

### **Background**

In December 2017, BDA member firms met with FINRA CEO Robert Cook and urged FINRA consider a new solution to the margin requirements under Rule 4210. This BDA-member proposal would allow dealers to either charge margin to counterparties or to take a regulatory capital charge to cover any mark-to-market deficiency in excess of the de minimis threshold. This would allow dealers to remain competitive and still manage any systemic risk in the marketplace.

Additionally, BDA members discussed Rule 4210 Amendments in-person with SEC Chairman Clayton and SEC commissioners in January 2018. In February 2018, BDA received confirmation that FINRA is considering a change to Rule 4210 based on the capital charge idea BDA members brought up during the December 2017 meeting.

### **Next Steps**

The BDA is pleased with this development, and will continue to work with FINRA on of the capital charge proposal in lieu of margin. In the coming weeks, the BDA will conduct outreach to members to further gather empirical data to provide with regulators in advocacy for the capital charge proposal.

### **Bond Dealers of America**

May 7, 2018

---

## **Answers to 3 Key Questions About the Remediation of Superfund and Brownfield Sites Under President Trump's Infrastructure Proposal.**

In addition to addressing the repair of roads and bridges, President Trump's infrastructure proposal addresses a decidedly less popular infrastructure element — Superfund Sites and Brownfield Sites. It is worth looking at how President Trump's proposed changes to Brownfield and Superfund revitalization may impact future infrastructure proposals. Additionally, with the House of Representatives passing the Brownfields Enhancement, Economic Redevelopment, and Reauthorization Act of 2017 late last year, President Trump's infrastructure proposal could impact land revitalization before anything else.

**What are the key questions municipalities and companies should be thinking about as they examine the President's proposed changes to Brownfield and Superfund reform? Here are the top three.**

**What are the biggest changes to current Brownfield and Superfund cleanup funding proposed by President Trump's Infrastructure Plan?**

The overall goal with the President's Infrastructure Plan as it relates to Brownfield and Superfund Sites is to incentivize contaminated property redevelopment and find ways to mitigate legal and financial risks for those seeking to do so.

Currently, the Environmental Protection Agency ("EPA") Brownfields Program has a revolving loan/grant fund that can be used for the cleanup of a variety of projects. But under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Superfund Sites are not eligible to receive funds for the program, and National Priorities List (NPL) Sites are not eligible for Brownfield grants. President Trump's plan would change that by expanding the types of projects eligible for the EPA Brownfields Program grant funding and allowing Superfund Sites to access that money. The plan would also amend the law to allow NPL Sites or portions of them to be eligible for Brownfield grants.

In addition to proposed eligibility changes, part of President Trump's proposal includes the establishment of an Incentives Program, which would receive up to \$100 billion to fund a number of different projects, including Brownfield and Superfund Sites. More funding for Superfund and Brownfield Sites would also come from changes to the Water Infrastructure Finance and Innovation Act (WIFIA) lending program and from \$10 billion of the EPA's portion of the Rural Infrastructure Program, which would provide grants for cleaning up Brownfield Sites.

While it remains to be seen how exactly each of those funds would be divided up to support remediation efforts, Superfund and Brownfield Sites should at least, in theory, have greater access to those types of funds than they did before.

**Will the Infrastructure Proposal's liability relief make Superfund Site cleanups more likely?**

Perhaps the most interesting — and likely the most challenging to navigate — aspect of President Trump's proposed changes to Superfund Site cleanups is the additional liability relief it gives to states and municipalities that acquire contaminated property. Currently, states and local governments may be exempt from CERCLA liability as an "owner or operator" if they acquire ownership or control of contaminated property involuntarily through bankruptcy, tax delinquency, abandonment, or other circumstances under which the state or local government involuntarily acquires the property. But there exists much confusion about what exactly qualifies as "involuntary

acquisition” or who would be free of liability if the property fell into government hands.

President Trump’s plan would clarify and expand CERCLA liability relief and make public entities eligible for grants as long as they did not contribute to the contamination and as long as they meet the obligations imposed on bona fide prospective purchasers (BFPPs) as described in CERCLA.

However, eliminating liability entirely could be a tricky move, especially when the state/municipality plans to sell or transfer ownership of a formerly contaminated site. There may not be enough protections in the proposal as it stands to make purchasing these properties attractive enough for private businesses or investors given third party liability concerns. The full extent to which these liability protections will extend is not yet clear.

### **How will the Infrastructure Plan’s proposed expanded EPA authority impact the cleanup and reuse of Superfund Sites?**

Under existing law, CERCLA provides only the President with the authority to enter into an administrative settlement agreement with any person to perform a response action. Additionally, it requires that when the EPA enters into a settlement for a remedial action with a potentially responsible party, the settlement must be approved by the Department of Justice and entered into the United States District Court as a consent decree.

Along with expediting the permitting process on infrastructure projects overall, President Trump’s proposal would amend the law to give the EPA express authority to enter into administrative settlement agreements with BFPPs or other third parties who wish to remediate and reuse Superfund Sites, including partial and early remedial actions. In theory, this would expand the ability to cleanup and reuse Superfund Sites and eliminate delays due to negotiations in court.

**For the time being, municipalities and companies will want to actively monitor the development of Brownfield and Superfund Site reform proposals. Further, as the Senate considers the House’s version of the Brownfields Enhancement, Economic Redevelopment, and Reauthorization Act of 2017, it is worth keeping a close eye on how the President’s proposal with regard to Superfund and Brownfields Sites will impact any final legislation.**

**Buchanan Ingersoll & Rooney PC**

May 10, 2018

---

### **[U.S. Tax Reform: Mapping The Potential Winners And Losers By County.](#)**

The Tax Cuts and Jobs Act of 2017 (TCJA) dealt an uncertain hand to municipal governments across the U.S., likely with positive impacts for some and negative for others. While it will take time for the effects to become apparent, S&P Global Ratings believes that a close examination of the data reveals some regions may be relatively likely to see their credit quality affected one way or the other.

[Continue Reading](#)

May 7, 2018

---

## **S&P: What To Know About Contingent Debt In The U.S. Not-For-Profit Health Care Sector.**

S&P Global Ratings' criteria defines contingent debt as any debt outside of traditional, fixed rate long-term debt, unless the loan agreement for the non-traditional debt exactly mirrors the issuer's master trust indenture or supporting legal documents.

[Continue Reading](#)

May 7, 2018

---

## **S&P: U.S. Not-For-Profit Cultural Institutions 2017 Medians Are Consistent With Prior Years, Indicating Sector Stability.**

S&P Global Ratings rates 39 cultural institutions, a sector in the nontraditional not-for-profit group. The key financial medians for U.S. not-for-profit cultural institutions were consistent with those from prior years, reflecting the overall stability of the sector.

[Continue Reading](#)

May 9, 2018

---

## **Reflections on US Tax Reform from Our Tax and Public Policy Colleagues: Squire Patton Boggs**

Our tax and public policy colleagues have prepared a newsletter that illustrates some of the key take-home points for businesses based on our experience of the first few months after [US tax reform](#). While [US tax reform](#) may not have been all that the business community hoped for, it has given taxpayers, both in the US and around the world, plenty to ponder, analyze and consider with respect to planning. With the benefit of having seen US tax reform "in action" over the last few months, they set out some of the key issues and challenges, as well as the potential opportunities, most commonly encountered by multinationals with US business interests, such as banks and underwriters of municipal bonds.

While it's not strictly public finance tax, we (grudgingly) acknowledge that there are other tax topics and other aspects of US tax reform worth considering. [Click through to read the analysis.](#)

**By Johnny Hutchinson on May 10, 2018**

**The Public Finance Tax Blog**

**Squire Patton Boggs**

---

## **How Impact Bonds Can Save Taxpayer Dollars: Neighborly**

The Massachusetts Bay Transportation Authority (MBTA), known to its Boston ridership as “the T”, has a history of innovation. As North America’s oldest mass transit system, it was home to the first subway tunnels and underground streetcars. The T formalized the first transit art program and was the first transit agency to offer mobile ticketing. In October 2017, we brought the spirit of innovation to public finance. Our team issued the first ever tax-exempt sustainability bonds, and perhaps more noteworthy, tested the hypothesis that issuing impact-focused as opposed to traditional bonds results in lower borrowing costs.

Sustainability bonds exclusively finance green and social projects. At the MBTA, we identified 74 projects within our [2018-2022 Capital Investment Plan](#) that fit the strict definition of sustainability. These projects make our system more resilient to climate change, more energy efficient and more accessible. They reduce pollution, enhance safety and improve workplace conditions.

To finance the remaining projects, we issued traditional tax-exempt bonds. This created the opportunity to directly compare sustainability and traditional bonds. The two types of bonds were nearly identical: they had the same rating and average life, and both are large maturity size. Through a competitive pricing process, we were able to A/B test our hypothesis that impact-focused issuance translates to a lower cost of capital. These were the results:

1. More banks participated in the sustainability bond offering than the traditional bond offering
2. The banks that participated in both offerings submitted more aggressive bids on the sustainability bonds than the traditional bonds
3. The T’s borrowing cost ended up being lower for its sustainability bonds than its traditional bonds

This is just a single data point, but as with our subway tunnels and mobile ticketing, we hope our sustainability bonds will be the first of many. We believe that being aware of our environmental and social footprint is critical to the long-term success of our organization. We also believe that the new breed of impact-seeking investors who supported our sustainability issuance will continue to do so in the future.

### **Neighborly**

Posted 05/09/2018 by Paul Brandley

### **Important Disclosure Information**

*[Neighborly](#) is providing this for informational purposes only. The information contained herein is believed to be reliable, but cannot guarantee its accuracy, nor can we guarantee past results will not be indicative of future results. Please consult your financial adviser before investing, as investing involves risk, including loss of principal. [Neighborly Securities, Inc.](#) is a member of FINRA and SIPC, and registered with the MSRB.*

---

## **State Tax Revenue Data Comes In Below Recession Levels.**

*These Insights are brought to you by Court Street Group.*

### **State Tax Revenue Data Comes In; Paints a Positive Picture, Though Still Below Recession Levels**

A review of the latest state tax revenue data from the U.S. Census Bureau and comparative data from the end of 2017 is revealing. Fourth quarter 2017 tax revenues for the four largest state and local government tax categories increased 9.5% to \$438.8 billion, from \$400.8 billion in the same quarter of 2016. The estimated total for fourth quarter 2017 state and local property tax revenue increased 9.1% to \$226.8 billion ( $\pm 7.0$  billion), from \$207.9 billion ( $\pm 6.6$  billion) collected in the same quarter of 2016. Local governments collected \$222.2 billion of total property tax revenue in the fourth quarter of 2017. Individual income tax collections in the fourth quarter of 2017 shows an increase of 13.7% to \$101.6 billion ( $\pm 0.4$  billion), from \$89.4 billion ( $\pm 0.3$  billion) in the same quarter of 2016.

Total state tax revenue increased 9.5% to \$242.8 billion in the fourth quarter of 2017, from \$221.7 billion reported in the same quarter of the prior year. Individual income tax, at \$92.5 billion, is up 14.4% from \$80.9 billion in the same quarter of 2016.

The second largest category of state tax revenue is general sales and gross receipts taxes, which accounted for \$77.4 billion, an increase of 6.4% from \$72.7 billion the same quarter in 2016. At \$9.5 billion, corporation net income tax collections are up from \$8.7 billion the same quarter in 2016, an increase of 8.8%. The majority of the nation's state tax revenue came from individual income (38.1%) and general sales and gross receipts (31.9%).

### **So what is the point of all of that data?**

For analysts in and out of government, revenue still remains significantly below pre- and mid-recession levels in spite of 91 consecutive months of positive economic growth.

Fourth quarter 2009 tax revenue for state and local governments totaled \$360.1 billion compared with \$357.4 billion reported for fourth quarter 2008. Total property tax revenue increased 5.8% in the fourth quarter of 2009 to \$169.8 billion. Sales tax revenues were down 7.4% to \$283.6 billion in the 2009 calendar year. Corporate income tax 2009:4 revenue was \$9.1 billion. Those revenues are essentially flat in 2017 versus 2009. Sales tax revenues are only now catching up to 2009 levels.

In a nutshell, this represents the pressure that state and local tax bases find themselves under as demands for spending in the areas of education, infrastructure, healthcare, and pensions — especially the latter — continue to rise. The data shows the basis for the perceived increase in difficulty for states to balance their budgets in recent fiscal years. It also highlights how vulnerable each state budget is to any sign of economic downturn. Hence our attention to the accumulation of reserves as well as the issue of pension funding and investment assumptions in our ongoing analyses.

It is also important to factor in the enactment of federal tax reform in fourth quarter 2017 that may have inflated the the quarter's results. Two recent studies give an indication that taxpayers paid up early to take advantage of two deductions capped under Congress's tax-reform measure. The two deductions capped the amount of state and local tax deductions taxpayers could claim on their federal return at \$10,000, and it capped a deduction on mortgage interest for high-priced homes. Taxpayers who filed before the end of the year — when the caps came into effect — were able to take advantage of the unlimited deductions. The same thing happened in 2012, when Congress and the Obama administration debated whether to extend tax cuts put in place under the Bush administration. Taxpayers who feared those tax cuts would expire raced to pay early, giving states what amounted to a fiscal sugar rush in 2013. But that meant those taxes paid in 2013 would not be paid in 2014, and many states experienced a decrease in tax receipts next year.

### **Harris County, Texas, to Vote on Resilience Bonds**

Harris County, Texas, Commissioners Court voted unanimously recently in favor of seeking a special election on Aug. 25 for what likely will be a multi-billion dollar bond referendum to pay for property buyouts, bayou widening and other flood control projects in the aftermath of Hurricane Harvey. The Aug. 25 date is the one-year anniversary of Harvey. County leaders hope that attention paid to the anniversary will translate into votes for the bond issue.

Requirements to provide matching funds for federal grants being disbursed in Hurricane Harvey's wake threaten to deplete local resources. The referendum would seek approval of the issuance of flood control district debt and authorize increase in local property tax levies to pay for them. One example an application for a \$165 million Federal Emergency Management Agency grant to buy out 1,000 flood-prone homes. That grant, however, would require the flood control district to put up \$66 million in matching funds. FEMA and the U.S. Army Corps of Engineers still are determining how they plan to spend billions of dollars appropriated by Congress in February.

Houston has suffered a 500-year or greater flood, as defined, each of the last three years. The district's budget includes about \$60 million to spend on flood control projects every year, in addition to ongoing maintenance work. Harris County's Budget Officer estimated that if, for example, the bond election was for \$1 billion and the debt was issued over 10 years, that would result in a \$5 increase in property tax bills for the average \$200,000 home in the first year. That number likely would rise to about \$20 in the 10th year. If voters reject a bond referendum, the county cannot put the same issue on the ballot again for two years.

The County has also been authorized to commission a feasibility study of a proposal to build massive tunnels to channel storm water out of several county watersheds and into the Houston Ship Channel. The County Court (the local legislative body) also approved two major flood control projects on White Oak and Hunting Bayou. Completion of the two projects is expected to remove more than 6,000 homes and buildings from the bayous' 100-year floodplain.

## **Housing and Transit — Something Has to Give**

Senate Bill 827 was introduced in the California Legislature by a San Francisco state senator in an effort to address the pressing California issues of housing and transportation. The exponentially growing cost of housing is often cited by those leaving the State as the number one factor driving the decision to move. The growing lack of affordable housing near to urban job centers follows close on the heels of housing. SB 827 would have allowed for the construction of buildings four to five stories tall within half a mile of rail stops in areas, such as parcels zoned for single-family homes, where they are currently not allowed. Additionally, the bill would have eliminated parking minimums in those locations as well as around bus stops with frequent service throughout the day.

Much in the bill makes sense from the perspective of increased housing supply, decreased reliance on cars, and increased demand for capital intensive transportation like BART. It was presented as one element in the state's efforts to reduce carbon emissions to 40% below 1990 levels by 2030. Nearly 2 million households in the state spend more than half their income on rent, and California has the nation's highest poverty rate once housing costs are factored in. The state's median home value of \$535,100 is more than 2½ times the national figure.

So what could go wrong? It turns out to be plenty. The bill received vociferous opposition from current residents in the areas where housing would be developed. They did not see the economic factors of increased supply as a dampener on housing costs. Instead, they viewed the bill as a trojan horse for gentrification. Opponents cited fears of being driven from their homes and neighborhood characters being negative altered. Issues of economics and race were introduced into the debate.

In response, the legislation was revised to reduce allowable height increases to five stories from eight. The sponsor also took away the height increases planned near frequently traveled bus routes. And he added measures, such as mandating that developers set aside a portion of their projects for low-income residents, in an effort to allow people of varying incomes to benefit from the new housing.

None of this answered the opposition's concerns and the legislation lost support. The Senate Transportation and Housing Committee was in the end unable to marshal sufficient votes to move the bill out of committee.

So now the issue of affordable housing remains unanswered, climate issues go unaddressed, demand and usage of mass transit is not stimulated, and access to jobs remains difficult. According to the Census Bureau's American Community Survey, nearly 4 million Americans now qualify as super commuters — a share of the population that has risen almost 16% since 2005. And where are two of the five biggest mega commuting areas in the U.S.? San Francisco and Los Angeles.

**Posted 05/10/2018 by Joseph Krist**

Neighborly Insights

---

### **[Orrick Webinar: Advance Refunding Substitutes and Related Issues.](#)**

The recent tax law changes generally eliminated the ability to issue tax-exempt bonds to advance refund outstanding bonds. Are there substitute structures that can be used without further IRS or Treasury guidance to achieve some of the same results? What about advance refunding taxable bonds and build America bonds under current law? What are the considerations for structuring new bonds in light of the change in law?

Please join Orrick's tax and bond lawyers for a discussion about certain of the options that are available to municipal issuers and borrowers, including the tax and securities law issues for new and revitalized financing tools and techniques and important issues for investment bankers and financial advisors.

[Watch the webinar.](#)

The Bond Buyer | April.19.2018

---

### **[Can People Afford American Infrastructure?](#)**

While the first request most people make of their local infrastructure is one of physical reach—the idea that power lines, roads, broadband, and water pipes all connect to one's home—the next question is usually one of price.

If infrastructure is to function as a shared platform to promote economic prosperity, the price for these services should be readily affordable. In this case, that means every household can pay their water, energy, transportation, telephone, and internet bills—and still leave money left over to purchase other essential items like housing, food, clothing, and healthcare. In a country as wealthy

as the United States, access to infrastructure is a necessity that should be available to everyone. Unfortunately, that's far from the case.

[Accessing American infrastructure](#) is a relatively expensive proposition, creating financial barriers to economic opportunity for many people throughout the country.

[Continue reading.](#)

## **The Brookings Institute**

by Adie Tomer  
Fellow – Metropolitan Policy Program

May 9, 2018

---

### **Fitch: Risk-Sharing Imperative for Light Rail Projects.**

Fitch Ratings-New York-09 May 2018: Traffic congestion, lack of parking and numerous other factors are making what was considered by some to be an outmoded form of transportation desirable again for investors, according to Fitch Ratings in a new report.

Light rail transit systems are being installed again in major cities throughout the world. There are about a half-dozen new light rail projects under consideration by U.S. state and local governments. Meanwhile, light rail projects are proliferating more quickly in Canada with nearly a dozen new projects in various stages of procurement. Various light rail public-private partnerships (PPPs) are also underway in Europe, though most of those are for renovation and updating of existing light rails.

As with other forms of infrastructure, light rail PPPs come with varying degrees of risk as a project makes its way to completion. This is why risk sharing between the public and private sector is key in order for a light rail project to be completed on time and to perform well once it is operational according to Senior Director Scott Zuchorski.

'Transferring vehicle delivery to a proven private counterparty may be prudent, though risk allocated to the private sector comes with an inherent premium cost that must be factored-in,' said Zuchorski. 'Structural flexibility for delays from a timing and liquidity perspective is an important consideration when significant risk is allocated to the private sector.'

In the case of light rail projects, the following factors need to be carefully assessed to ensure that the private sector is holding risks it can manage:

- Right of way;
- Geo-technical;
- Interface with third parties;
- Ridership levels; and
- Energy usage.

Issues such as these are inherent in Maryland's Purple Line project and will need to be taken into account for the upcoming LAX Automated People Mover.

'Assessing Risk in Light Rail PPPs' is available at '[www.fitchratings.com](http://www.fitchratings.com)'.

Contact:

Scott Zuchorski  
Senior Director  
+1 212 908-0659  
Fitch Ratings, Inc.  
33 Whitehall Street  
New York, NY 10004

Cherian George  
Managing Director  
Head of Americas Infrastructure  
+1 212 908-0519

Ian Dixon  
Managing Director  
Infrastructure  
+44 20 3530-1815

Media Relations: Sandro Scenga, New York, Tel: +1 212-908-0278, Email:  
[sandro.scenga@fitchratings.com](mailto:sandro.scenga@fitchratings.com)

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

---

## **Taking on Walmart Is No Easy Fight for Cities.**

***Some towns have tried to force certain big-box retailers to pay higher wages.***

Desert Hot Springs, Calif., is a bedroom community of 28,000 people, 110 miles east of Los Angeles. It's best known for its natural hot springs and spas, which bring in about \$1 million in revenue each year. Otherwise, the city lacks jobs, especially ones that pay much above the minimum wage. Most residents commute out of town to work at nearby casinos, restaurants, hotels, retail stores and hospitals.

Councilman Russell Betts keeps track of the town's economic health through informal barometers. When times are good, the roads are crowded. For quite a while, he says, "there wasn't a traffic jam. People were just sitting at home, having a real hard time, not making money."

For years, officials in Desert Hot Springs have looked for ways to increase the city's median income — about \$34,000 for a three-person household in 2016, roughly \$20,000 less than the national average. They have pursued better-paying jobs not only to reduce poverty, but also to revive spending at local businesses around town. About four years ago, Betts and fellow Councilman Joe McKee proposed a solution: Walmart had bought a parcel of land and planned to open a store in town. Why not require it and other big-box retailers to pay workers a "good wage"? At the time, the minimum wage in California was \$9. Betts and McKee introduced a bill that would inch up the lowest hourly wage at big-box retailers incrementally until it reached \$12.20. After that, pay would be tied to the consumer price index and would rise automatically with inflation.

[Continue reading.](#)

GOVERNING.COM

BY J.B. WOGAN | MAY 2018

---

## **[7 Most Frequently Asked Questions About Opportunity Zones.](#)**

Qualified Opportunity Zones were included as part of the Tax Cuts and Jobs Act which became law in December 2017. The zones were originally introduced as the Investing in Opportunity Act sponsored by South Carolina Senator Tim Scott and are meant to encourage investment in economically distressed communities.

Opportunity Zones have generated a lot of interest and even more questions. This alert attempts to answer the most frequently asked questions we are hearing from clients.

### **1. What is the opportunity?**

The opportunity is for investors with long-term capital gains to defer paying tax on those gains for a period of time while also investing in underserved communities that need capital.

### **2. Where are we in the process? What has happened so far?**

Legislation creating the Opportunity Zones and setting forth the associated tax benefits has been passed. The deadline for state governors to propose the census tracts to be designated as Opportunity Zones was March 21, 2018. On April 9, the U.S. Treasury Department and the IRS [validated census tracts in 18 states and territories](#).

### **3. What's next in establishing Opportunity Zones and Opportunity Funds?**

The U.S. Treasury Department is tasked with promulgating regulations defining and refining certain requirements set forth in the legislation. Those regulations are expected this summer and are anxiously awaited as the deferred tax arising out of the Opportunity Zone investments will come due no later than the tax year ending December 31, 2026. Thus the earlier an investment is made, the longer the tax can be deferred.

### **4. Who should be most interested in Opportunity Zones?**

Anyone with long-term capital gains they want to defer should be interested in Opportunity Zones. Investments in Opportunity Zones are made through Qualified Opportunity Funds. When the legislation was passed, most analysts believed the certification of Opportunity Funds would be performed through a structured process, perhaps administered by the Treasury Department's Community Development Financial Institutions (CDFI) Fund.

However, in a [series of frequently asked questions published by the IRS](#) on April 24, 2018, the Service said a Qualified Opportunity Fund can self-certify and "no approval or action by the IRS is required."

If this holds true, individuals with smaller gains may be able to reinvest them without having to worry about potential costs associated with investing in a larger, institutionally-managed fund. This

process could make Opportunity Zone investing more efficient than similar incentives directed at low-income communities, such as the New Markets Tax Credit program or the Low-Income Housing Tax Credit (LIHTC).

The Tax Cuts and Jobs Act restricted the availability of tax-deferred exchanges under Section 1031 of the Internal Revenue Code to exchanges of real property, which may increase the attractiveness of Opportunity Zone investing to taxpayers holding personal property that would have been eligible for Section 1031 treatment prior to the passage of the Act.

## **5. How is this program not just a vehicle for gentrification?**

The challenge facing Opportunity Zones is there is not necessarily a carrot and a stick in the statute for the investments to benefit anyone other than the investor. Unlike many state-level incentives, there are no requirements included regarding number of jobs, amounts of wages, or a certain percentage of hires of residents within the designated zone. Institutional funds from larger banks do pay attention to local outcomes.

The investments could serve as the seed for transforming these communities but might not, in and of themselves, effect the desired outcomes without additional requirements imposed on the success of such investments.

## **6. How can the impact of Opportunity Zones be maximized for the investor?**

Assuming the investor has the liquidity to pay the tax when it comes due in 2026, the longer she holds the investment, the greater the benefit. Under the Opportunity Zone legislation, if the investor holds her Opportunity Zone investment for at least ten years, she will have a step-up in basis to the fair market value of the investment when it is eventually sold. In other words, while tax will always come due on her initial deferred gain (at least under the statute as currently in effect), the taxpayer could potentially avoid any tax on future appreciation in the investment.

## **7. How should investors begin planning for Opportunity Zones?**

Investors have only 180 days within which to reinvest their deferred gain in a Qualified Opportunity Fund. Investors who are, or think they may be, in a position to have qualifying gains are encouraged to begin active due diligence on designated zones and businesses in which to invest. Opportunity Zone investments do not have to be made in the state where the investor lives. There are a number of states that have set up websites with information on the designated zones; [e.g. South Carolina Opportunity Zones](#).

Opportunity Zones represent an exciting and potentially valuable economic and community development tool. Whether the potential impact comes to fruition remains to be seen. With respect to any individual taxpayer, careful analysis should be done to determine whether an Opportunity Zone investment is the right fit for their portfolio.

**McNair Law Firm, P.A.**

May 10, 2018

---

**[Opportunity Zone Program Opportunities.](#)**

The “Opportunity Zone Program” (“OZP”) was enacted as part of the Tax Cuts and Jobs Act of 2017 and is the first new economic development tax incentive program since the New Markets Tax Credits Program was enacted in 2000. OZP is designed to provide a federal tax incentive for investors to reinvest capital gains generated in 2018 into economically distressed areas. The incentive is two-fold: first the deferral, until December 31, 2026, of taxation of the amount of capital gain realized upon the sale of current original assets, that is reinvested within 180 days in a “Qualified Opportunity Fund” (“QOF”), and second, the potential complete exemption of federal income tax upon the gain, if any, derived from the disposition of the OZP investment if it is held for more than 10 years. The value of the eight-year deferral of the original gain from currently held assets is a function of the discount rate applied and the value of the Opportunity Zone Investment exemption is a function of the amount of gain realized on the disposition of the OZP.

To date, Treasury has approved the designated opportunity zone census tracts for almost 40% of the states and many US territories. Approval of many more state-designated census tracts will be published shortly. The census tracts must be selected from “distressed” census tracts as identified under the New Markets Tax Credit program, plus a small number of census tracts that are contiguous to “distressed” census tracts. Mapping resources to identify designated opportunity zone census tracts may be found [here](#) and [here](#). While many of the designated census tracts are located in urban areas, there are abundant designated rural census tracts as well. The legislative history indicates that the states should consider areas that (1) are currently the focus of mutually reinforcing state, local, or private economic development initiatives, (2) have demonstrated success in geographically targeted development programs, and (3) have recently experienced significant layoffs due to business relocations or closures. There are no restrictions on combining other tax credit or economic incentive programs with the OZP. The remainder of this memorandum will describe the requirements that must be satisfied for investment to qualify for the OZP incentive.

## **II. OZP Requirements**

### **A. Qualified Entities**

To qualify for the OZP incentive, an individual, corporation, S-corporation, partnership or limited liability company taxpayer, must invest capital gains proceeds into a QOF. A QOF is an investment vehicle organized to invest in “Qualified Opportunity Zone Property” (“QOZP”). The fund may be a corporation or, more likely, a partnership or limited liability company that permits the pass-through of losses and avoids double taxation, but in all events the QOF must invest at least 90% of the aggregate basis of its assets in (1) qualified opportunity zone stock, (2) qualified opportunity zone partnership interests, or (3) qualified opportunity zone business property (“QOZBP”). An equity investment in an entity that holds at least 90% of its property in a “Qualified Opportunity Zone Business” (“QOZB”) constitutes qualified opportunity zone stock or qualified opportunity zone partnership interests. A QOZB is an active business that holds at least 90% of its tangible real and personal property within a designated QOZ. Each QOF entity will be tested twice annually to determine compliance with the 90% threshold.

### **B. Active Business**

“Active” business means a business other than a “sin business,” such as a golf course or country club, suntan parlor, massage parlor, hot tub facility, race track or other gambling facility, or a store the principal business of which is the sale of alcoholic beverages for off-site consumption. A passive investment business or holding company would not qualify as a QOZB. A QOZB must hold less than 5% of the aggregate unadjusted basis of its property in the form of “non-qualified financial property” (“NQFP”). NQFP includes liquid financial assets, debt other than accounts or notes receivable from the sale of inventory, stock or partnership interests, warrants, options, future contracts and similar

property, but excludes reasonable working capital.

#### C. QOZBP

The purpose of the OZP is to incentivize investment in tangible property located and used within economically distressed areas and used within economically distressed areas targeted by each state and territory. The property must be acquired by purchase from an unrelated seller after December 31, 2017, the original use of the property must commence with the QOZB, or the QOZB must substantially improve the property, and substantially all of the use of the property must occur within the QOZ. "Substantially Improve" means that the additions to basis of the property must equal or exceed, at the end of any 30-month period beginning after the date of acquisition, its adjusted basis at the time of acquisition by the QOF.

#### D. Restrictions

The original capital gain that is deferred must be derived from a sale of assets of any type to an unrelated person. Moreover, the property purchased with the proceeds of the QOF investment must be from an unrelated person. Both of these "relatedness" tests are measured on a 20 percent standard that is, 20% or more direct, indirect or attributed common ownership constitutes a related party. For example, the OZP capital gain generated by a sale of assets to an entity with 21 percent common ownership would not qualify for the OZP incentives. Likewise, purchase of assets held by a related party would not constitute QOZBP. It is important to note, however, that a 20% or greater owner of the QOF could also own 20% or more of the QOZB, provided that the QOF investment is used to construct or improve tangible property or purchase tangible property from unrelated parties.

#### E. Non-compliance

If a QOF fails to satisfy the 90 percent requirement, subject to a reasonable cause exception, the QOF is subjected to a monthly penalty charge equal to the excess of 90% over the percentage of its assets that constitute QOZBP, multiplied times the IRS underpayment interest rate. In the case of QOFs taxed as partnerships, each partner is required to take into account its distributive share of the penalty.

#### F. Future Guidance

Like any new legislation, the OZP has generated some areas of uncertainty. Future guidance is anticipated with respect to the requirements that may be imposed with respect to entities that will qualify as a QOF. Currently, entities may self-certify as a QOF. We anticipate that any such QOF qualification requirements will not be substantial. The tax treatment of dispositions of a QOF's investments prior to the expiration of the 10-year holding period are not clearly specified. We anticipate that a QOF will be permitted to dispose of an investment in a QOZB without the imposition of federal income tax provided that it reinvests the proceeds of the disposition in another QOZB within a reasonable time. We will be closely monitoring the issuance of any formal or informal guidance with respect to the OZP.

### **III. Investment Structure**

The investment into the QOF must constitute an equity investment, and the QOF investment into the QOZ corporation, partnership or QOZB must also qualify as an equity investment. We note in this regard that the QOF could own active business assets in a QOZ directly, without an equity investment in an intermediary. We anticipate, however, that most investments would be made

through an intermediary entity to isolate the assets of the intermediary located in the QOZ for the purpose of ensuring compliance as a QOF and QOZB.

Moreover, we anticipate that most QOZB will be operated through limited liability companies or partnerships, so that initial period losses and depreciation can be passed through to the investor. The losses would reduce basis and increase the exempted gain ultimately realized upon disposition after the ten year holding period is satisfied. The basis, capital account and allocation rules applicable to a particular investment would need to be analyzed to ensure that the anticipated tax results are achieved.

#### **IV. Investor Appetite**

The OZP can be beneficial for owners of businesses located in QOZ through deferral and, perhaps, ultimate exemption of capital gains, or in the event that the QOZ business owner does not have its own capital gains to invest, through equity investments on a below-market basis from individuals and entities that will subsidize their return under the OZP. It remains to be seen what type of business investments become popular under the OZP.

A number of investors have noted the fit between OZP and the Low-Income Housing Tax Credit ("LIHTC") program. Investors may obtain 100 percent of the anticipated LIHTC and still dispose of LIHTC investments in year 12 without triggering recapture, provided that the purchaser remains in compliance with the LIHTC program. Frequently, the investor's basis is substantially reduced by year 12, and if invested in a QOF, the gain upon disposition would be eliminated, a result which substantially increases the yield for the LIHTC investment. The combination of these programs could double the current market yield from LIHTC investments.

#### **Miles & Stockbridge P.C.**

May 9, 2018

*Opinions and conclusions in this post are solely those of the author unless otherwise indicated. The information contained in this blog is general in nature and is not offered and cannot be considered as legal advice for any particular situation. The author has provided the links referenced above for information purposes only and by doing so, does not adopt or incorporate the contents. Any federal tax advice provided in this communication is not intended or written by the author to be used, and cannot be used by the recipient, for the purpose of avoiding penalties which may be imposed on the recipient by the IRS. Please contact the author if you would like to receive written advice in a format which complies with IRS rules and may be relied upon to avoid penalties.*

---

### **[Laddered Muni Portfolios: A Potential Way to Hedge Interest Rate Risk.](#)**

The current rising interest rate environment, where the Federal Reserve has hinted toward multiple rate hikes per year in upcoming years, has fostered an environment of inflation growth. With an expected decline in purchasing power, fixed income investors are increasingly concerned about the negative impacts of rising rates on their existing, especially long-term, fixed income holdings.

Generally, investors are familiar with the inverse correlation between interest rates and bond values; however, investors with longer maturities are more vulnerable to the current interest rate environment and the forecast of steeper hikes in 2019 and 2020. The rate hikes and rise in inflation are indicative of growth and strengthening of the U.S. economy. Along the same lines, data from the

U.S. Commerce Department indicate that the U.S. international trade gap has widened to \$57.6 billion in February 2018, the largest since 2008, meaning that U.S. exports are growing, but imports are growing even more.

In this article, we will take a closer look at the current interest rate situation and how a laddered municipal debt portfolio can alleviate or help combat the risk of rate hikes on the values of your fixed income instruments.

Check out [this article](#) to determine whether muni bond ladders are right for you.

**municipalbonds.com**

by Jayden Sangha

May 10, 2018

---

## **Tension Bubbles Up Over Water Infrastructure Bill in Senate.**

***The prospect of making changes to federally-backed drinking water and sewer lending programs is proving to be controversial.***

WASHINGTON — The waterworks financing legislation might be known as the “SRF WIN Act” for short, but a trio of groups in the water and wastewater sector are calling it a loser.

The American Water Works Association, the Association of Metropolitan Water Agencies and the Water Environment Federation came out swinging Thursday against the Securing Required Funding for Water Infrastructure Now Act, a bill that would blend elements of two federally-backed water and wastewater lending programs.

A day earlier, Sen. John Barrasso, the Wyoming Republican who chairs the Environment and Public Works Committee, left open the possibility that the bill could be included in a broader package of water infrastructure legislation that the committee hopes to pass this year.

[Continue reading.](#)

ROUTE FIFTY

By Bill Lucia,

MAY 10, 2018

---

## **Every Illinoisan Owes \$11,000 for Pensions With No Fix in Sight.**

- **Three years after court threw out reform, no progress made**
- **State’s five retirement funds are short \$137 billion**

Three years ago today, the Illinois Supreme Court struck down the state’s attempt to cut its employees’ pension benefits to chip away at a retirement-system debt that’s swelled to almost

\$11,000 for every man, woman and child.

Since then, Illinois's credit rating was downgraded to the verge of junk, its bonds have tumbled and its largest city — Chicago — was stripped of its investment-grade status by Moody's Investors Service. And Republican Governor Bruce Rauner and the Democrat-led legislature have made no real progress toward a new plan that doesn't violate the state constitution's ban on reducing benefits.

"Illinois failure to address its pension crisis has resulted in further deterioration of the state and cities' financial condition, exorbitantly high borrowing costs, and an inability to address other critical needs at the state and local level," said Laurence Msall, president of the Civic Federation, a Chicago nonprofit that tracks state and municipal finances. "Time is not your friend when your liabilities are compounding and your revenues are not."

The funding shortfall across Illinois's five retirement systems climbed to \$137 billion by last June, a jump of about \$17.8 billion since 2015, after the government for years failed to make adequate contributions. That pension deficit — more than four times larger than its debt to general-obligation bondholders — is adding hundreds of millions of dollars in costs to Illinois's budget each year as the government plows more money in to catch up.

Illinois has been contending with the issue for decades. In 1994, Illinois passed a law that was supposed to ensure that the state had enough assets to cover 90 percent of its liabilities by 2045, though it went on to skip annual payments or fail to contribute enough. At the same time, investment returns were hammered by last decade's stock-market busts.

"There hasn't been any progress made," Dick Ingram, executive director of the Illinois Teachers' Retirement System, the state's largest pension. "It's a case of the numbers have gotten so big that nobody honestly really knows what to do."

Even as the state is set to pay \$8.5 billion to the five retirement systems in 2019, it's still not enough. Unfunded liabilities keep growing. And the 2019 contribution is more than three times the state's payment a decade earlier: Illinois paid \$2.8 billion to pensions in 2009. By 2045, the projected contribution will be \$19.6 billion, according to a March report, based on actuarial valuations.

Illinois has actually made the problem worse since its highest court's ruling in 2015. In the past, if a pension fund's assumed rate of investment return got lowered, the state would step up its contribution. But last year lawmakers approved so-called smoothing, allowing the state to phase in hundreds of millions of dollars of those increased contributions. It helped the state ease its budget shortfall temporarily but will be costly over the longer term.

The longer the state doesn't address the pension crisis, the closer Illinois gets to taxes that are overly burdensome, to credit downgrades, to not paying pensions or even bond defaults, said Richard Ciccarone, president of Merritt Research Services.

Everyone wants to find a "silver bullet," said Illinois Representative Robert Martwick, chair of the personnel and pensions committee. But he's exploring any way to save money. He's held hearings on everything from reducing the debt by selling more than \$100 billion of pension-obligation bonds to consolidating downstate police and fire pension funds to save money. The state cannot grow its way out of this problem, Martwick said.

"We're in some really, really difficult financial times here," Martwick said in a phone interview.

“We’re still digging a hole for ourselves.”

Rauner supports the so-called “consideration model,” which in part allows state employees to choose lower, delayed cost-of-living adjustments in return for ensuring their future raises count toward pensions. Opponents argue this still violates the ban on lowering benefits. “We need more pressure on the General Assembly,” Rachel Bold, a spokeswoman for Rauner, said in an email.

In 2013, lawmakers tried to enact a solution, approving cuts to cost-of living adjustments and a higher retirement age for some workers. The measure was estimated to save more than \$100 billion over 30 years. But the court struck down the law unanimously, saying it violated the state constitution’s ban on reducing retirement benefits.

In the wake of the court ruling, unions have been emboldened, according to Jeff Johnson, president of the Municipal Employees’ Annuity and Benefit Fund of Chicago. He says members even quote the court decision to him, noting their benefits are protected. Johnson’s own Twitter page includes a screenshot of one of the most famous lines.

“Crisis is not an excuse to abandon the rule of law,” the May 8, 2015 state supreme court decision reads.

Apparently crisis isn’t enough reason for the government to take action either. At least not in Illinois.

## **Bloomberg**

By Elizabeth Campbell

May 8, 2018, 5:57 AM PDT

---

### **TAX - RHODE ISLAND**

#### **[Balmuth v. Dolce for Town of Portsmouth](#)**

**Supreme Court of Rhode Island - May 2, 2018 - A.3d - 2018 WL 2034055**

Taxpayers filed tax appeal from decision of town tax assessment board of review, challenging valuations placed on their real property for certain tax years.

The Superior Court entered judgment in favor of homeowners. Tax assessor appealed.

The Supreme Court of Rhode Island held that statutory ambiguity would be resolved in favor of taxpayers to permit tax appeals based on the fair market value of property each year, rather than the year of last revaluation.

Where conflicting tax statutes created a true ambiguity as to whether property owners were locked in to the value of their properties as of the year of the last revaluation, or had the right to pursue tax appeals on an annual basis using annual valuations, the Supreme Court would resolve the ambiguity in favor of taxpayers to permit real estate property taxpayers to appeal the valuation of their property each year.

---

## **Santa Fe Task Force: Try for State Public Bank, Not a City One.**

SANTA FE, N.M. — Santa Fe is not ready for a public bank, but the city should work with the Legislature and state officials to look into creating a public bank at the state level that Santa Fe and other cities could utilize.

That's one of the recommendations of the city's Public Bank Task Force's final report that was presented to the City Council on Wednesday.

The report concludes that "current legal and regulatory requirements are not conducive to the creation of a State-chartered Public Bank," and would require legislation to change existing laws. If that were to happen, then state officials could consider forming a public bank.

"We believe this more appropriate statewide scale would justify work needed to amend the current legal and regulatory restrictions," the report says. "We also think incurring business planning costs and examining capitalization requirements would be justified."

Several people who spoke during a public hearing on the matter said they were disappointed that the task force determined a public bank wasn't feasible for the city at this time. But they were encouraged by the prospect of a public bank owned by the state.

Glenn Schiffbauer, executive director of the Santa Fe Green Chamber of Commerce, said 95 percent of businesses in the state are small businesses, which often have trouble obtaining loans. He said a state-owned public bank could help rectify that.

"I think it's a great start and since we do a lot of lobbying (at the state Legislature) we are willing to help in any way we can," he said.

City Councilor Renee Villareal, who helped lead the effort to study the possibility of forming a public bank, said she remained encouraged by the report. She promised to introduce resolutions consistent with the task force's recommendations.

"I'm not forgetting about the public bank effort," she said. "We're not done yet."

Mayor Alan Webber said he supported a state-owned public bank when he ran for governor in 2014.

"I still think it's worthy of consideration," he said.

The nine-member task force was appointed by former Mayor Javier Gonzales a year ago to provide information to the City Council about public banking so it could make an informed decision about whether it should take steps to apply for a New Mexico bank charter.

According to the task force's report, the purpose of a public bank is to "maximize the financial and human potential of the community."

"Local investing of economic resources can address critical, locally identified priorities in ways current financial entities are not able to accomplish," the report says.

Benefits of a public bank include keeping public money invested locally, lowering costs for borrowing and lending, and using internal money to finance infrastructure, according to the report.

### **Albuquerque Journal**

By T. S. Last / Journal Staff Writer

## **U.S. Releases Puerto Rico Debt Crisis Report, Offers Solutions.**

SAN JUAN, Puerto Rico (AP) — A [U.S. government report](#) Wednesday detailed how Puerto Rico accumulated some \$70 billion in public debt and suggested ways federal officials could help avoid a repeat of the crisis, such as removing a triple-tax exemption on the island's bonds and requiring local investment companies to disclose risks associated with those bonds.

The report comes nearly two years after Congress enacted a law to help Puerto Rico restructure a portion of its debt and establish a federal control board to oversee the island's finances amid what is now a more than decade-old recession. It also allowed the Government Accountability Office to examine what led to Puerto Rico's crisis and actions the U.S. government could take.

"From highlighting the stifling debt, to identifying the systemic financial malpractice of the Puerto Rico government over the past half century, the GAO report reiterates why Congress passed (the law) two years ago," said U.S. Rep. Rob Bishop, chairman of a committee that has jurisdiction over Puerto Rico affairs.

The report found that the island's public finance problems are partly a result of government officials who overestimated revenue, overspent, did not fully address public pension funding shortfalls and borrowed money to balance budgets.

It said the government overestimated revenue in eight of the 13 years analyzed, by as much as 19 percent in one year. As a result, this allowed Puerto Rico's legislature to increase appropriations to agencies that in turn overspent an average of nearly \$460 million annually in nine of the 13 years.

The report said Puerto Rico's Treasury Department was not always aware of this practice because government agencies used a variety of accounting systems that prevented it from tracking those expenses.

Puerto Rico also made agreements with certain corporations to reduce their tax rates but then did not maintain an inventory on those details, preventing treasury officials from taking them into account when estimating revenues, the report said.

In addition to the recession's impact, the island's economy has been further weakened by a loss of population, the high cost of importing goods and energy and "burdensome" regulations and permitting processes for new businesses, the report said.

The GAO reviewed 20 of Puerto Rico's largest bond issuances over nearly two decades and found that 16 were issued solely to repay or refinance debt and fund operations.

"States rarely issue debt to fund operations, and many states prohibit this practice," the report stated.

As the crisis dragged on, Puerto Rico was still able to borrow money because its bonds were triple tax exempted and featured investment grade ratings, in part because they offered bankruptcy protection. During that period, it took Puerto Rico nearly twice the amount of time than average to release its audited financial statements.

"Untimely financial information made it difficult for ... investors to assess Puerto Rico's financial condition, which may have resulted in (them) not being able to fully take the investment risks into account," the report said.

Puerto Rico still has not released audited statements for fiscal years 2015, 2016 and 2017.

The GAO suggested the Securities and Exchange Commission could be allowed to require timely disclosure of those statements so investors can make informed decisions. If such a measure were already in place, it could have precluded Puerto Rico from issuing a \$3.5 billion general obligation bond four years ago, the report said.

However, the GAO made no formal recommendations and it noted that Puerto Rico's government provided no information on potential progress made on many of the factors identified in the report.

## **The Associated Press**

By Danica Coto

May 9, 2018

---

### **[Puerto Rico's Bankruptcy Advisers Could Get Closer Scrutiny.](#)**

#### ***Oversight board prepares disclosure requests targeting legal and financial advisers***

Puerto Rico's federal supervisors are preparing to scrutinize the U.S. territory's bankruptcy advisers, reflecting broader concerns about potential overcharging and conflicts of interest in public contracting, according to people familiar with the matter.

The federal board overseeing Puerto Rico's finances is considering making new disclosure requests to the law firms and financial experts hired to navigate the largest-ever U.S. municipal debt restructuring, people familiar with the matter said.

U.S. and local lawmakers have criticized the amounts being spent on attorneys and bankers, including the oversight board's own advisers, at a time when pensioners and creditors are facing cuts. Its initiative is aimed at uncovering any undisclosed side deals or subcontracts and whether any third parties act as pay-to-play gatekeepers for public contracts, the people said.

An oversight board spokesman declined to comment.

Going bankrupt has been an expensive affair for Puerto Rico as it struggles against creditors fighting to maximize their claims and secure top priority in a restructuring. Professional fees in Puerto Rico's court-supervised bankruptcy are projected to consume \$1.1 billion over six years, or 1.65% of the amount of government debt being restructured.

Funding the oversight board itself is expected to cost island taxpayers another \$430 million through 2023.

The disclosure requests are expected to cover the oversight board's legal and financial advisers in addition to the island government's, people familiar with the matter said. While the scope of the requests hasn't been finalized, they would go beyond disclosure rules put in place last year after a controversial contract award to power grid construction company Whitefish Energy Holdings LLC.

A federal rescue package approved in 2016 empowers the oversight board to review contracts and to issue subpoenas for documents “relating to any matter under investigation.” Its current policy flags contracts over \$10 million for review.

The oversight board has previously addressed potential conflicts of interest in its work, requiring its seven volunteer members to submit financial disclosures to an ethics examiner detailing their sources of income and business interests.

Disclosures were also required of Gov. Ricardo Rosselló’s former oversight board liaison, Elías Sánchez Sifonte, who was criticized by opposition lawmakers for working for law and government relations firms while serving on the board. Mr. Sánchez, who resigned the position last July, said he did nothing wrong and made all required disclosures of his business ties.

A few of Puerto Rico’s bankruptcy attorneys from Greenberg Traurig LLP and O’Melveny & Myers LLP charge fees of more than \$1,000 an hour, though the average hourly rate for the firms’ restructuring professionals has hovered around \$700, according to court documents.

A Greenberg Traurig spokeswoman said the firm’s contracts require it to disclose any subcontractors it uses to the contracting agency. A spokesman for Puerto Rico’s financial adviser, Rothschild & Co., declined to comment.

In a response three days after this article was published, a spokesman for O’Melveny & Myers said “we do not pay any referral fee or engage in any fee-splitting arrangements with any third-parties for any services provided.”

Rep. Rob Bishop, R-Utah, who chairs a congressional committee with jurisdiction over U.S. territories, has questioned why Puerto Rico needs its own professional teams when the oversight board was designed to represent the island government’s interests in court. The dual representation is partly a function of the rescue law, which hands some policy powers to the board and keeps others with local elected officials.

The bankruptcy at times has pitted the oversight board against Gov. Rosselló, who is defying its mandates to cut pension benefits and eliminate employee protections. Separate legal teams argued over who could control Puerto Rico’s electric monopoly, the board or the governor. His advisers are negotiating repayment terms with bondholders, yet any settlement requires the board’s approval.

Oversight board chairman Jose Carrion told Rep. Bishop in a March letter he would collaborate with the governor to minimize legal fees while suggesting that some duplicative spending was unavoidable “as long as this structure remains in place.”

On a call with reporters last week, oversight board executive director Natalie Jaresko said the best way to cut down on fees was to end the bankruptcy quickly. But she acknowledged that a debt adjustment plan may not be up for court approval for a year or longer.

Creditor appeals could further prolong the legal process if they don’t reach negotiated settlements. The oversight board’s financial framework projects a \$6.7 billion surplus over six years for repaying creditors, assuming other labor, pension and tax reforms are enacted.

The Wall Street Journal

by Andrew Scurria

May 9, 2018 12:06 p.m.

## **Puerto Rico Bonds Rally as Rival Creditors Float Settlement.**

- **Senior sales-tax bonds soar to 71 cents on the dollar**
- **While plan rejected, it moves toward settling major conflict**

Puerto Rico bonds rallied after a group of investment firms and insurers reached agreement on a restructuring plan that would allow them to receive larger-than-expected recoveries on their defaulted debt, marking a first step toward resolving a key clash between creditors who have been fighting in bankruptcy court.

The gains, which pushed some securities up by as much as 22 percent Monday, came despite the plan's rejection by Puerto Rico's federal financial overseers, who said it would leave the government facing budget shortfalls for years and was put together without their input.

But the framework hashed out by the owners of sales-tax-backed debt and general-obligation bonds shows progress toward resolving their disagreement over who has the highest claim to Puerto Rico's cash — an issue at the heart of the government's record bankruptcy. It also offers a baseline that investors could use to estimate what they stand to recover, which has been difficult given the divergent outcomes of previous bankruptcies and the toll on the island caused by Hurricane Maria in September.

"The big argument that everyone is waiting for is who gets the sales-tax money — who has control of that money," said Dan Solender, head of municipal investments at Lord Abbett & Co., which holds \$20 billion of state and local debt, including some Puerto Rico debt.

"That a good number of the bondholders have reached an agreement is pushing this forward," he said. "It's the first positive movement in that direction in a long time."

The plan received support from those who insure or hold about \$11 billion of Puerto Rico bonds, including Aurelius Capital Management, Monarch Alternative Capital, Fir Tree Partners and GoldenTree Asset Management. It also includes a group that represents residents who hold sales-tax debt.

The proposal calls for owners of sales-tax bonds, known as Cofinas, with the most senior claim on the revenue to recoup as much as 95 percent of their investments. Owners of subordinate Cofinas would get up to 43 percent, while general-obligation bondholders would receive almost 59 percent, according to a summary circulated by the group.

The rally was led by Puerto Rico's senior sales-tax debt, which was the most actively traded municipal security Monday, though general-obligations also gained. Senior sales-tax bonds due in 2040 climbed to as much as 72.5 cents on the dollar from 59.5 cents Friday, only to pare those gains by dropping to an average of 68.7 cents later in the day. General obligations due in 2035 rose to an average of 44.5 cents from 41.4 cents Friday.

Some investors expressed skepticism about the run up given that the plan was dismissed by the oversight board set up to oversee Puerto Rico's fiscal recovery. In a statement Monday, the panel said that the restructuring proposal was "completely unaffordable" and out of step with the government's latest fiscal plan because it would still leave Puerto Rico spending more than it brings

in. The creditors said it would reduce the government's debt by \$10 billion.

Dora Lee, vice president at Belle Haven Investments, which holds insured Puerto Rico bonds among its \$7 billion of municipal-debt holdings, said the creditor proposal isn't a viable one for the island.

"It wasn't a sustainable recovery plan," she said. "It neglected the fact that the revenue has to come from a viable economic base. That core issue hasn't been addressed."

"Whenever there's a glimmer of good news, the bonds trade up, reality sets in and people realize that again, we're back at square one," she said. "Whenever there's good news out of Puerto Rico you need to take a deep breath and remind yourself you're dealing with Puerto Rico."

The rally pushed the price of the general-obligation bonds to the highest since early October. The bonds traded for as little as 21 cents in December, before Governor Ricardo Rossello began offering more optimistic assessments of the island's recovery from the hurricane.

The island's government and general-obligation bondholders have been allied against Cofina bondholders, who say sales-tax revenue should be used to repay them before it's spent for other purposes. The commonwealth and the general-obligation owners want U.S. District Court Judge Laura Taylor Swain to throw out a law that transfers the sales taxes to a governmental agency, known as Cofina, whose only responsibility is to use the cash to pay its bondholders.

"Any kind of progress toward resolutions should translate into prices in some way," said Matt Fabian, a partner at Municipal Market Analytics Inc. "It at least gives a theoretical anchor at which bond prices can trade."

## **Bloomberg**

By William Selway and Danielle Moran

May 14, 2018

— *With assistance by Martin Z Braun, and Steven Church*

---

## **[Take It with a Grain of SALT: Jersey's Tax Workaround.](#)**

On May 4, New Jersey Governor Phil Murphy signed into law a provision that attempts to bypass the GOP tax law's cap on the state and local tax deduction (SALT), which imposes a \$10,000 federal limit on state and local tax deductions. The idea was first proposed by Rep. Josh Gottheimer (D-NJ).

Specifically, the provision would allow municipalities to establish charitable funds and give donors property tax credits in exchange for their contributions, which are still fully deductible. This is essentially a roundabout way of allowing residents to retain the tax benefits of the property tax deduction.

New York was the first state to enact this type of provision in response to the GOP's cap on the SALT deduction. Lawmakers in several other states, including Illinois, are considering similar workarounds.

Interestingly, 33 states, including several GOP-led states, already have provisions in place that allow residents to receive a dollar-for-dollar reduction in taxes in exchange for charitable contributions to

certain funds.

Of course, the IRS will have final authority to determine whether donations to these funds constitutes a charitable contribution. Acting Commissioner David Kautter has noted that contributions will only qualify for tax deductions if the donative intent was truly charitable. This might require the IRS to review existing provisions in other states that essentially allow residents to do the same thing as New Jersey's new law. Several experts expect the IRS to rule against the new law, leading Democrats to consider the possibility of a lawsuit.

by Radha Mohan

May 8 2018

**McGuireWoods LLP**

---

## **[New Commission Disclosure Rule Could Alter Bond Market.](#)**

A new rule going into effect Monday will let retail investors see how much money their brokers earn in commissions selling them bonds, the Wall Street Journal reports.

Brokers will be required to disclose their profits on the corporate and municipal bonds they buy and then sell to retail investors on the same day, according to the paper. In addition to markups, brokers will also need to disclose markdowns — the reductions in bond prices investors take when bonds are sold before their maturity, the Journal writes. Retail investors control the largest share of the \$3.85 trillion market in state and local government bonds, according to the paper.

The new rule is a result of a multiyear effort by Finra and the Municipal Securities Rulemaking Board and was in fact ready in 2016, but the industry's two self-regulators delayed implementation until this month to allow brokers time to adjust, the Journal writes. Brokers have complained that automating the process for calculating markups on thousands of trades a day would cause complications, according to the paper. Don Winton, chief operating officer at brokerage Crews & Associates Inc., tells the Journal that the rule cost the firm "well into six figures" to prepare for and will continue eating up "high five figures" annually to implement.

Brokers may have to make further changes still in light of the rule. The new disclosures may cause some investors to try to negotiate their fees, according to the Journal. In addition, the rule could accelerate the current transition from direct ownership of bonds to ownership through managed funds such as mutual funds or exchange traded funds that typically come with lower fees, the paper writes.

Finra and MSRB say the rule is a major transparency improvement in the bond market and will save investors money, according to the Journal. Current and former officials of the two agencies have said that investor testing prior to the rule revealed little understanding of markups and markdowns or how brokers are paid on bond trades, the paper writes. Now, the disclosures on bond trades will be comparable to information provided to investors on stock trades, a spokesman for Finra tells the Journal.

**Financial Advisor**

By Alex Padalka

May 11, 2018

---

## **Why Your Clients May Push Back on Bond Fees.**

For years, retail investors have groped in the dark with respect to the fees they pay to buy bonds. On Monday, the light's going on.

Thanks to a new rule designed to curb abusive sales practices, brokers will have to say how much they earn when they buy corporate and municipal bonds and sell them to retail investors later that day, The Wall Street Journal reports. At issue is the potential for excessive markups that can cut into returns. Regulators currently require dealer markups to be "reasonable" but there's no strict limit.

The new disclosures—which have been in the works for years—could lead some investors to bargain with their broker for lower fees. Some investors may also opt for lower-cost bond funds or ETFs instead.

Of course there are critics. Brokers are understandably concerned about their bottom line. Some industry participants, meanwhile, say the rule doesn't do enough to help investors. For instance, since many brokers will send the details of the markup via snail mail, investors can easily discard the information without a second thought, critics contend. Even if they read the disclosures, investors won't have a viable way to compare fees, opponents say.

"This is an inefficient way of promoting price competition," Larry Harris, of the University of Southern California, who has studied bond-trading costs, tells the Journal. The Municipal Securities Rulemaking Board and Finra prepared the new rule and defend it as necessary to improve bond-market transparency, among other benefits.

### **Barron's**

Cheryl Winokur Munk

May 11, 2018 11:52 a.m. ET

---

## **U.S. Muni Bond Firms Race to Comply with New Price Transparency Rule.**

NEW YORK, May 10 (Reuters) – U.S. municipal bond firms are rushing to comply with a new mandate taking effect on Monday that will force brokers for the first time to disclose how much they charge individual investors on some trades in the tax-exempt debt market.

The so-called markup disclosure rule is aimed at adding transparency to a \$3.8 trillion market where the debt of states, local governments, hospitals, universities is traded through an opaque network of dealers as opposed to a central exchange.

"Everyone has been racing towards this deadline," said Michael Ruvo, president of Wheaton, Illinois-based BondWave, which focuses on fixed income analytics and other services for the financial services industry.

Dealers will now be required to disclose fees, known as markups for selling and markdowns for

buying muni bonds, to retail customers, who owned \$1.57 trillion of the debt last year.

The rule was first proposed by the Municipal Securities Rulemaking Board, the muni market's self regulator, in September 2016 and approved by the U.S. Securities and Exchange Commission later that year.

Trading in some corporate bonds, under an amendment to Financial Industry Regulatory Authority rules, will also be affected.

Under the rule, muni brokers will be required to determine a baseline number, known as a "prevailing market price," in order to show retail investors how much prices for a bond transaction were marked up or down.

With just days left before the rule is rolled out, Ruvo said he is receiving last-minute calls from clients requesting help with the calculation models to determine those prices among other needs related to the rule change.

The process of determining prevailing market prices for individual muni bonds can be particularly arduous because of the diverse, vast and sparsely traded nature of the market in comparison to U.S. Treasuries or equity markets, said Jeffrey MacDonald, head of fixed income strategies for Fiduciary Trust Company International in New York.

Smaller broker-dealers may find it especially challenging to get their systems into compliance by the deadline, MacDonald said. The new rule could also make brokers cautious about adding cost to investors, he said.

Those difficulties, along with heightened investor awareness of the costs, could lead to a shift in the market, analysts said.

Over the longer-term, individual investors could opt to replace their direct muni bond holdings with professionally managed portfolios, such as mutual funds or separately managed accounts (SMA).

"If SMA assets start to grow at an even faster pace as a result of the mark-up rule, we might see demand for 5-10 (year) paper increase, as this part of the curve is preferred by SMAs," Barclays municipal credit analyst Mikhail Foux said in a recent research note. That, in turn, would lead to a steepening yield curve, he added.

Financial advisers for investors, who sometimes buy individual bonds for clients, could also turn to larger investment management firms to handle those transactions due, in part, to the added burden of the new pricing disclosure rule, said Dawn Daggy-Mangerson, director of the muni bond team at McDonnell Investment Management in Oakbrook Terrace, Illinois.

The next step will be explaining and defending the number to investors.

by Laila Kearney

(Additional reporting by Karen Pierog in Chicago; Editing by Daniel Bases and Cynthia Osterman)

---

**[Starting Next Week You Can See Brokers' Profits From Bond Sales.](#)**

***New rule effective Monday is meant to curb abusive practices, but critics say getting the***

## ***details by snail mail means they might be ignored***

WASHINGTON — Starting next week, mom-and-pop investors will learn how much their broker made selling them bonds.

The change in practice is due to a new rule meant to curb abusive sales practices. Beginning Monday, brokers will have to say how much they pocket when they buy corporate and municipal bonds and [sell them to retail investors](#) later that day.

The disclosures are aimed at addressing long-standing concerns that individual investors who buy bonds don't know how much they are paying in fees, known as markups, that can [eat into returns](#). Retail investors pay a variety of different prices for the same securities.

[Continue reading.](#)

### **The Wall Street Journal**

By Andrew Ackerman and Heather Gillers

May 9, 2018

---

## **[Here's How Much Your Broker Makes When You Buy a Bond.](#)**

- **As of May 14, broker-dealers must disclose the “transaction costs” customers pay when buying and selling corporate and municipal bonds.**
- **A 2007 study found that retail investors trading \$20,000 of municipal bonds faced an average transaction cost of 2 percent.**
- **So-called “mark-ups” and “mark-downs” imposed by your brokerage firm are reflected in the price you pay for bonds.**

Let's be honest: Do you actually know much your broker earns when you put in an order to buy a municipal bond?

You'll be able to answer that question today. Starting on May 14, broker-dealers will need to disclose mark-ups and mark-downs they charge on bonds bought and sold to retail investors on the same trading day.

Firms will also have to tell customers the time they executed the trade and provide a reference and a hyperlink to a page detailing the publicly available trading data for the bond.

[Continue reading.](#)

### **CNBC**

BY Darla Mercado

---

## **[Regulatory Changes Put Spotlight On Bond Pricing, Disclosure.](#)**

From Invesco: Effective May 14, 2018, new regulations will be adopted aimed at increasing the transparency of bond pricing. The new rules require dealers of corporate, municipal and agency bonds to clearly disclose bond markups and provide retail investors with relevant price comparisons.

Although this initiative was spearheaded by the Municipal Securities Regulatory Board (MSRB) to cover municipal bonds, the Financial Industry Regulatory Authority (FINRA) has been working in tandem with the MSRB on language that covers corporate and agency bonds as well. Ultimately, the two regulatory agencies came up with similar sets of rules approved by the Securities and Exchange Commission that will be unveiled on the same timeline.

As retail investors discover the real cost of owning individual bonds, we believe these regulatory changes will strengthen the case for both fixed income exchange-traded funds (ETFs) and active fixed income investment managers.

### **What are bond markups?**

When selling bonds, a dealer may acquire the bonds at one price and then sell them for a higher price as compensation for the dealer's services. Markups represent the spread between the price paid for a bond and the price the dealer receives when selling the bond. Seeing the need to "enhance the transparency of costs associated with municipal securities transactions," in November 2016 the MSRB amended existing Rules G-15 and G-30, which cover confirmation, clearance, prices and commissions. Working in concert with the MSRB, FINRA drafted disclosure requirements that are "materially the same" as the MSRB's.<sup>1</sup> The rule changes for both agencies take effect on May 14 and target non-institutional investors.

### **What has changed?**

#### **1. Increased disclosure around bond markups**

In a nutshell, the new rules require bond dealers to disclose any markups (or markdowns) on bonds bought and sold to retail investors on the same day. Markups and markdowns must be expressed both in dollar terms and as a percentage of each bond's prevailing market price.<sup>1</sup>

In order to make these disclosure requirements meaningful, retail investors must understand a bond's prevailing market price. That is the other key component of the rule changes.

#### **2. Determining prevailing market prices**

In the case of municipals, dealers will be required to provide a hyperlink to the MSRB's website, which hosts publicly available trading data for each security.<sup>1</sup> Presumably, the data would allow retail investors to assess the fairness of the prices being charged by bond dealers. Because of its broader regulatory reach, FINRA offers its member firms wider latitude in disclosing prevailing market prices. Regardless of how members choose to disclose prevailing market prices, however, the "timing of the determination must be applied consistently across all transactions in corporate and agency debt securities."<sup>2</sup>

### **Ramifications for retail investors**

US bond trading volume eclipses that of the equity markets by a large margin. Nonetheless, bond markets have long been shrouded in mystery. Unlike stocks, bonds are traded over the counter rather than on standardized exchanges. This means that bond pricing is less transparent and trades are often conducted on a one-off basis through informal networks of dealers. As a result, bond pricing can be confusing, while US bond markets can be inaccessible to retail investors. We believe

these changes should help de-mystify bond pricing.

We believe these regulatory changes also highlight the benefits of managed fixed income strategies. Invesco offers a broad lineup of active and passive fixed income strategies covering municipals, investment grade and high yield asset classes. Our fixed income professionals are experienced in navigating the complexities of the bond markets. In fact, Invesco Fixed Income is a leading global fixed income manager — focused entirely on helping clients meet their investment objectives. And because of Invesco Fixed Income's global scale, we are able to purchase bonds in large blocks and secure institutional pricing.

Investors who currently invest in individual bonds might wish to consider our BulletShares suite of ETFs, which offers the precision and flexibility of individual bonds with the cost and tax efficiency of the ETF structure.<sup>3</sup> BulletShares ETFs encompass both investment grade and high yield corporate bonds, enabling investors to build customized portfolios tailored to specific maturity profiles, risk preferences and investment goals.

Choosing Invesco as your fixed income partner can help simplify fixed income investing.

---

## **Welcome to a Know-Your-Fees World, Muni-Bond Buyers.**

If you don't know how much you're paying, you may be paying too much. That's the idea behind a major change being ushered into the \$3.9 trillion state and local government debt market, a haven for retail investors where the trading fees that securities dealers charge have largely gone undisclosed. That will change on May 14, when brokers will be required to start disclosing some of the fees that are embedded in the prices investors pay — or receive — when they buy and sell their securities.

### **1. What prompted the rule change?**

Securities regulators are trying to inject more transparency into the trading of municipal bonds, which are largely held by individual investors looking for tax-free income. By forcing the disclosure, regulators think it may increase competition among brokers and ultimately drive down costs for investors.

### **2. Will the fees on all trades be disclosed?**

No. A broker will have to break out how much it marked up the price of a bond — or how much they marked it down when buying from a client — to individual investors only in some circumstances. The disclosure will be required when the dealer uses its own money that day to trade the same securities as its customer, unless the volume of that trading is less than what the client bought or sold. For example, if a customer sold \$5,000 of New York City bonds to a dealer that only resold \$1,000 worth that day, the mark-down wouldn't be reported. So the fee reporting will capture cases where the broker soon offloads a bond, rather than taking on the risk of holding it in inventory.

### **3. How many trades are we talking about?**

A sizable chunk. The Municipal Securities Rulemaking Board, the industry's regulator, estimated that it would have covered 8,546, or about 55 percent, of the trades of bonds with a face value of \$100,000 or less made each day during the third-quarter of 2015 when the dealer acted as a principal by using its own money to buy or sell the security. It's possible, though, that some dealers

may report the mark-ups on all their secondary-market trades with individual investors in the interest of transparency or to avoid the hassle of determining whether they need to on a case-by-case basis.

#### **4. How is the mark-up calculated?**

The firm must disclose the mark-up or mark-down in both dollar terms and as a percentage of the prevailing market price. For example, if a dealer went out and bought \$10,000 of New York City bonds from another dealer at 99 cents on the dollar and then resold them to a customer that ordered them at par, the mark-up would be 1 percent, or \$100.

#### **5. What if there was a big mid-day market move?**

If the market was whipsawed by a big price move between the time when a dealer bought the securities and resold them, the broker will have to rely on a more complicated, step-by-step procedure known as “the waterfall.” In such cases, the first step would be to use trades between securities firms as a baseline. If there’s none to go on, they can rely on trades by big institutional investors — like mutual funds — that are made in blocks of \$1 million or more. Absent that, they can turn to the quotes dealers put out for bid on electronic trading platforms. Similar securities or pricing models could serve as benchmarks as a last-ditch option, if all the others aren’t available.

#### **6. What will this mean for investors and brokers?**

Giving buyers the information will help ensure they’re not overcharged and may put some downward pressure on fees. Mutual-fund managers — who would love for investors to invest through them instead of trading in their own accounts — hope they will see an influx of cash from sticker-shocked investors surprised at the size of the fees they’re paying. It cost about 0.54 percent a year to invest through such fee-based accounts in 2016, about half what the average trading fee was, according to figures from the Investment Company Institute and S&P Global Inc. But some brokers are dismissive, saying buy-and-hold investors are better off paying a one-time fee, even if it’s bigger, than paying their fund manager year after year.

### **Bloomberg**

By Martin Z Braun

May 11, 2018

---

### **[SEC Sues Municipal Adviser for Lying to Texas School District.](#)**

- **Hinojosa, his firm didn’t disclose conflicts to district: SEC**
- **SEC says one-time paralegal misled issuers about experience**

The U.S. Securities and Exchange Commission sued a municipal-bond adviser and his firm for lying to a south Texas school district by misrepresenting its experience and failing to disclosing conflicts of interest.

Mario Hinojosa, who set up his firm Barcelona Strategies LLC while working as a paralegal, defrauded the district by creating the “misleading impression” that he and the firm had worked as an adviser on many municipal bond deals and failed to reveal that he had a financial interest in the

district's offerings, the SEC said. Misrepresenting his experience and omitting the conflicts of interest allowed Hinojosa and his firm to reap hundreds of thousands of dollars in fees, according to the SEC.

The lawsuit stems from the powers that the SEC was given to police the municipal-bond advisory business under the Dodd-Frank law, which Congress enacted to address last decade's credit-market crash. Until then, the business had been largely unregulated.

"Undisclosed conflicts of interest can lead to significant investment losses, and prevent municipal entities from making informed decisions in their selection of municipal advisors," Shamoil Shipchandler, director of the SEC's Fort Worth regional office, said in a statement. "Barcelona fell well short of its obligations to this school district client."

Hinojosa and his firm settled with the SEC without admitting or denying the accusations. Both agreed to a cease-and-desist order and must pay \$362,606 for disgorgement and \$19,514 in prejudgment interest. The fraud accusations were connected to three municipal bond offerings between January 2013 and December 2014, the SEC said.

Hinojosa was unable to be reached for comment.

## **Bloomberg**

By Elizabeth Campbell

May 9, 2018, 8:54 AM PDT

---

### **[SEC Charges Texas-Based Muni Advisor With Defrauding School District.](#)**

***The municipal advisor overstated its municipal finance experience and failed to disclose conflicts of interest.***

The Securities and Exchange Commission [charged](#) a registered municipal advisor and its owner with defrauding a south Texas school district in connection with multiple municipal bond offerings.

According to [the SEC's order](#) Mario Hinojosa and his wholly owned municipal advisor, Barcelona Strategies LLC, acted as the municipal advisor to the La Joya Independent School District on three bond offerings between January 2013 and December 2014, earning more than \$386,000 in fees.

During the school district's process of selecting Barcelona as its municipal advisor, Barcelona and Hinojosa overstated and misrepresented their municipal finance experience, according to the SEC.

While working as a paralegal, Hinojosa set up Barcelona, registered it as an SEC municipal advisor, drafted a marketing brochure about the firm, and circulated the brochure to the school district and other municipalities.

The brochure created the misleading impression that Hinojosa and Barcelona had served as a municipal advisor on numerous muni bond issuances and failed to disclose that Hinojosa had a financial interest in the school district's offerings. According to the SEC, Hinojosa was employed by the attorneys who served as bond counsel for all three bond offerings.

By virtue of their misrepresentations and omissions, Barcelona and Hinojosa improperly earned

hundreds of thousands of dollars in municipal advisory fees, the SEC says.

“Municipal advisors owe a fiduciary duty to their municipal clients, who rely on advisors to make important financial decisions,” Shamoil Shipchandler, director of the SEC’s Fort Worth Regional Office, said in a statement. “Undisclosed conflicts of interest can lead to significant investment losses, and prevent municipal entities from making informed decisions in their selection of municipal advisors. As described in today’s order, Barcelona fell well short of its obligations to this school district client.”

The SEC’s order found that Hinojosa and Barcelona engaged in fraudulent, deceptive or manipulative acts and breached their fiduciary duties to municipal clients.

Without admitting or denying the allegations, Barcelona and Hinojosa consented to a cease-and-desist order and are jointly and severally liable for paying \$362,606 in disgorgement and \$19,514 in prejudgment interest.

Barcelona was also assessed a civil penalty of \$160,000, while Hinojosa was assessed a civil penalty of \$20,000.

Hinojosa was barred from association with various regulated entities, including muni advisors.

## ThinkAdvisor

By Emily Zulz | May 09, 2018

- 
- [S&P: Bank Loan Structures Risks Remain, But GASB 88 Is A Positive Step Toward Transparency In Financial Reporting.](#)
  - [Muni Regulator to Seek Comment on ‘Pennyning’ by Dealers.](#)
  - [With Self-Driving Cars on Horizon, Cities Worry About Parking.](#)
  - [Mutual Funds Stand to Gain as Muni Buyers Get First Look at Fees.](#)
  - [Brokers Polish Resumes as New Muni-Bond Rules Threaten Business.](#)
  - [The Muni-Market’s Terrible, Horrible, No Good, Very Bad Year.](#)
  - [Hawkins Advisory: Rev. Proc. 2018-26: Supplemental Remedial Action Rules for Tax Advantaged Bonds.](#)
  - [CDFA // BNY Mellon Webcast Series: Housing Finance 201: Partnerships & the Capital Stack.](#)
  - [Intro EB-5 Finance WebCourse.](#)
  - [Congregation v. Mayor and City Council of Baltimore](#) – Court of Special Appeals holds that stormwater fee that city assessed on religious congregation’s properties was an excise tax rather than a property tax, user fee, or service charge, and thus congregation’s status as a religious organization did not exempt it from the fee.
  - And finally, BCB’s newly-inaugurated Department of Puppies, Rainbows & Bestiality this week proudly brings you [Ochoa v. County of Kern](#), in which a police officer was investigated for “annoying/molesting a child under the age of 18 years old.” Wait. What? Annoy and/or Molest? We highly, highly recommend that you immediately cease any/all contact with children if it is not immediately clear to you which of those is a delightful hobby and which a serious felony.
-

## **Houston v. City of Hot Springs**

**Court of Appeals of Arkansas, DIVISION II - March 14, 2018 - S.W.3d - 2018 Ark. App. 196 - 2018 WL 1312252**

Appearing pro se, landowners in unincorporated area of county, which was annexed by city pursuant to city ordinance, brought suit, seeking a declaration that city did not comply with the statutory requirements for annexation, thereby making city ordinance void, seeking a declaration that statutory annexation procedure violated equal protection, and seeking declaration that annexation procedure violated the Arkansas Constitution by infringing on landowners' rights to representation and to vote.

When city filed motion for declaratory judgment and motion for summary judgment, landowners retained counsel, and thereafter, landowners filed an amended and supplemental class-action complaint for declaratory judgment. The Circuit Court entered summary judgment for city, and landowners appealed.

The Court of Appeals held that:

- Until publication, city annexation ordinance was not valid;
- Statutory annexation procedure did not violate equal protection by denying the right to vote to those who resided in area to be annexed; and
- Statutory annexation procedure was constitutional under the equality sections of the Arkansas Constitution.

When city contacted Arkansas Geographic Information Systems (GIS) office, pursuant to annexation statute, 48 hours after it had passed ordinance, annexing unincorporated area of county into city, the ordinance was not yet valid, and would not be until the day the city published the ordinance and three days after it had contacted GIS, and until such publication, ordinance was not valid; ordinance did nothing and was invalid before its post-enactment publication.

Statutory annexation procedure, by which city sought to annex unincorporated area of county into city, did not violate equal protection by denying the right to vote to those who resided in the area to be annexed; city allowed affected property owners a chance to be heard before passage of annexation ordinance, all who wished to speak were allowed to sign up to do so, and those who signed up were allowed to speak even though annexation statute did not create affirmative duty for city to allow everyone to do so, city employed a simple sign-up process to ensure that those who wished to speak were allowed to do so, and city had no responsibility or duty to force people to sign up and speak.

City's actions to comply with statutory maximum-occupant load at city's board of directors' meeting regarding city ordinance, seeking annexation of unincorporated area of county into city, did not violate due process; crowd exceeded the lawful limits of the hearing room and the excess number were asked by fire chief to stand outside the meeting room, with the door to the meeting room open, no one complained that he or she wanted to speak but was not allowed to do so, and landowners opposing ordinance were entitled to reasonable opportunity to be heard, and they were given that reasonable opportunity.

## **Ochoa v. County of Kern**

**Court of Appeal, Fifth District, California - April 12, 2018 - 231 Cal.Rptr.3d 274 - 18 Cal. Daily Op. Serv. 3429 - 2018 Daily Journal D.A.R. 3297**

Former deputy sheriff filed petition for a peremptory writ of mandate, alleging that county and sheriff failed to complete an administrative investigation of his alleged misconduct and notify him of the proposed disciplinary action within one year of discovery in violation of the Public Safety Officers Procedural Bill of Rights Act (POBRA).

The Superior Court denied the petition, and former deputy sheriff appealed.

The Court of Appeal held that POBRA limitations began when sergeant became aware of harassment claim against deputy sheriff through memorandum and commenced an inquiry.

Limitations period under Public Safety Officers Procedural Bill of Rights Act (POBRA) statute prohibiting punitive action if an investigation is not completed within one year of discovery by a person authorized to initiate an investigation began when sergeant became aware of harassment claim against deputy sheriff through memorandum and commenced an inquiry to determine the nature of the complaint by attempting to contact claimant; although sergeant could not initiate internal affairs investigation, once sergeant launched inquiry, written reprimand could have resulted, and inquiry in fact led to punitive action, due to sergeant's forwarding of interoffice memoranda to commander, who presumably relayed the information to chief deputy who authorized investigation that led to deputy sheriff's termination.

---

## **EMINENT DOMAIN - LOUISIANA**

### **St. Bernard Parish Government v. United States**

**United States Court of Appeals, Federal Circuit - April 20, 2018 - F.3d - 2018 WL 1882913**

Owners of real property in City of New Orleans brought action against United States, under Tucker Act, claiming Fifth Amendment taking, alleging that government was liable for flood damage to their properties caused by Hurricane Katrina and other hurricanes because government had failed to properly maintain or modify the Mississippi River-Gulf Outlet channel and because of government construction and operation of the channel.

Following bench trial, the United States Court of Federal Claims entered judgment in property owners' favor and awarded compensation. Government appealed and property owners cross-appealed, alleging that the compensation award was inadequate.

The Court of Appeals held that:

- Government's failure to properly maintain Mississippi River-Gulf Outlet channel could not be basis for takings liability, and
- Owners failed to establish that government's construction and operation of channel caused damage to their properties.

Government's failure to properly maintain Mississippi River-Gulf Outlet channel or to modify the channel could not be basis for takings liability in action brought by owners of real property in City of New Orleans, alleging that government was liable for flood damage to their properties caused by Hurricane Katrina and other hurricanes.

Owners of real property in City of New Orleans failed to establish that government action, i.e., construction and operation of Mississippi River-Gulf Outlet channel, caused damage to their properties, and thus failed to establish takings claim alleging that government was liable for flood damage to their properties caused by Hurricane Katrina and other hurricanes; property owners failed to consider government's construction of vast system of levees to protect against hurricane damage, which was directed to decreasing the very flood risk that was allegedly increased by the channel project, and which mitigated the impact of the channel and may have placed the owners in a better position than if the government had taken no action at all.

---

## **ARBITRATION - MONTANA**

### **[Lenz v. FSC Securities Corporation](#)**

**Supreme Court of Montana - April 3, 2018 - 414 P.3d 1262 - 2018 MT 67**

Investors brought action against investment advisor and advisor's registered representative, alleging that at representative's recommendation, investors had purchased securities in technology company through advisor, that company failed, causing investors to sustain substantial losses, that advisor failed to adequately supervise representative, and that representative wrongfully induced investors to invest in company on various grounds, including misrepresentation, fraud, and undisclosed self-dealing.

The District Cour found that each investor had received actual notice of arbitration agreement contained in advisor's customer agreement form and granted advisor's and representative's motion to compel arbitration. Investors appealed.

The Supreme Court of Montana held that:

- Investors knowingly, voluntarily, and intelligently assented to arbitration agreements, and thus validly waived their rights to legal redress and jury trial under Montana Constitution, and
- Arbitration agreements were not unreasonably favorable to advisor and representative or unduly oppressive to investors, and thus agreements were not unconscionable.

Investors, who entered into customer agreements with investment advisor, knowingly, voluntarily, and intelligently assented to included arbitration agreements, and thus validly waived their rights to legal redress and jury trial under Montana Constitution, where investors were all highly educated, experienced, knowledgeable, and sophisticated, substantial evidence indicated that investors received, were aware of, and understood arbitration agreements, and although investors alleged that some or all of them did not receive customer agreements, signature page clearly, conspicuously, and unambiguously stated and notified signatory that, by signing, signatory acknowledged receipt of copy of customer agreement.

Securities broker's standard-form arbitration agreements were not unreasonably favorable to broker or unduly oppressive to clients, and thus agreements were not unconscionable, where standard-form arbitration agreements were common, if not pervasive, in securities brokerage contracts, clients were all highly sophisticated and experienced market investors, well aware and accustomed to terms and consequences of standard-form arbitration agreements, no fiduciary or other special relationship of trust and reliance existed between broker and clients, and standard-form agreements were subject to regulatory oversight and approval by Securities and Exchange Commission and Financial Industry Regulatory Authority.

---

## **BALLOT INITIATIVES - OHIO**

### **[State ex rel. Schuck v. City of Columbus](#)**

**Supreme Court of Ohio - April 13, 2018 - N.E.3d - 2018 WL 1872183 - 2018 -Ohio- 1428**

Elector sought writ of mandamus to compel city and county board of elections to remove proposal to amend city charter from ballot, and subsequently sought to amend to name Secretary of State as respondent.

The Supreme Court of Ohio held that ballot summary language regarding change of voting system for city council members conveyed adequate information to voters.

Ballot summary language of proposed amendment to city charter to change voting system for city council members from “at large” to “at-large by-place” system, which stated that members would be “elected from districts by the electors of the city,” conveyed enough information for voters to know what they were being asked to vote on, and thus was adequate, though objecting elector asserted that it did not explain that voters would cast ballots in all council races, including those for representatives in districts where they did not reside; summary language conveyed the important information that members would come from districts, but they would be elected “by the electors of the city,” which would not lead a reasonable reader to believe that members would be elected exclusively by voters in their residency districts.

---

## **BALLOT INITIATIVES - OHIO**

### **[State ex rel. Khumprakob v. Mahoning County Board of Elections](#)**

**Supreme Court of Ohio - April 24, 2018 - N.E.3d - 2018 WL 1960645 - 2018 -Ohio- 1602**

Four electors filed petition for writ of mandamus to compel county board of elections to place proposed amendment to city charter regarding protection of drinking water on ballot.

The Supreme Court of Ohio held that:

- Proposed amendment did not contain provisions that exceeded city’s legislative power, as required for placement on ballot, and
- Electors lacked adequate remedy at law, as required for issuance of writ.

Proposed amendment to city charter regarding protection of drinking water, which included recognizing rights of residents to clean water, requiring city to prosecute violations of amendment, and imposing strict liability on any government or corporation that violated the amendment, did not contain provisions that were beyond the scope of city’s legislative authority, and thus electors were entitled to have proposed amendment placed on ballot, though proposed amendment might not be constitutional or legally enforceable if enacted; proposed amendment did not create private right of action, city retained statutory right to make violation of ordinances a misdemeanor and provide punishment, and proposed amendments were vague and largely aspirational and did nothing without further legislative action by city.

Electors lacked adequate remedy at law, as required for writ of mandamus compelling county board of elections to place proposed city charter amendment regarding drinking water protection on ballot, since electors could not have challenged board’s action until board voted to exclude proposed measure from ballot.

---

## **SPECIAL DISTRICTS - SOUTH CAROLINA**

### **[County of Florence v. West Florence Fire District](#)**

**Supreme Court of South Carolina - March 7, 2018 - S.E.2d - 811 S.E.2d 770 - 2018 WL 1177701**

County filed a declaratory judgment action, alleging act creating a fire district was unconstitutional.

The Circuit Court ruled in favor of county. Fire district appealed.

The Supreme Court of South Carolina held that fire district was not truly a multicounty district, and thus violated home-rule provision of state constitution.

Fire district was not truly a multicounty district, and therefore, legislation creating the district violated home rule provision of state constitution; only three parcels—totaling one-tenth of a square mile—were in neighboring county, home rule precluded legislation enacting fire protection services specific to a county, and General Assembly could not indirectly accomplish the same goal merely by adding a small amount of acreage of another county.

---

## **ELECTIONS - TENNESSEE**

### **[Wallace v. Metropolitan Government of Nashville](#)**

**Supreme Court of Tennessee, at Nashville - April 10, 2018 - S.W.3d - 2018 WL 1726044**

Candidate for mayor filed petition against city's metropolitan government, county, and county election commission, seeking declaratory relief and writ of mandamus ordering commission to set a special election to fill a vacancy in the office of mayor.

The Chancery Court determined that candidate was not entitled to the relief sought. Candidate appealed.

The Supreme Court of Tennessee held that phrases "general metropolitan election" and "general election" in metropolitan charter had distinct meanings for special election purposes.

Phrase "general metropolitan election," as used in metropolitan charter, meant the particular general election at which the mayor, vice mayor, councilmen-at-large, and district councilmen were elected every fourth odd-numbered year, rather than the general election held every year for other officials, and thus, because more than 12 months would elapse between date of vacancy in the office of mayor and the next general metropolitan election in the following year, a special election was required; section governing special elections made a clear distinction between a "general metropolitan election" and a "general election" in specifying when special elections were required to fill vacancies in the offices of mayor and district councilmen.

---

## **PUBLIC UTILITIES - TENNESSEE**

### **[City of Clarksville, Tennessee v. Federal Energy Regulatory Commission](#)**

**United States Court of Appeals, District of Columbia Circuit - April 24, 2018 - F.3d - 2018 WL 1915066**

City in Tennessee petitioned for review of orders of the Federal Energy Regulatory Commission (FERC), asserting Natural Gas Act (NGA) jurisdiction over transportation and sale of natural gas for resale from city to city in Kentucky.

The Court of Appeals held that:

- City had constitutional standing to challenge orders, and
- FERC lacked authority under NGA to regulate city's sales.

City, which operated natural gas facilities, had constitutional standing to challenge orders of Federal Energy Regulatory Commission (FERC), which asserted NGA jurisdiction over city's transportation and sale of natural gas for resale to city in neighboring state; FERC's orders subjected city to data retention requirement under FERC regulations.

City was acting as a municipality when it sold natural gas to city in neighboring state, and thus Federal Energy Regulatory Commission (FERC) lacked authority under NGA to regulate such sales; city acted only within its state of incorporation with respect to its sales to other city, as other city owned and operated pipeline that crossed state border.

---

## **CHARTER SCHOOLS - TEXAS**

### **[Honors Academy, Inc. v. Texas Education Agency](#)**

**Supreme Court of Texas - April 27, 2018 - S.W.3d - 2018 WL 1975025**

Holders of school charters brought action under Uniform Declaratory Judgments Act (UDJA) against Texas Education Agency (TEA) and Commissioner of Education, seeking declaratory and injunctive relief related to charter revocation process.

The District Court issued temporary injunction. TEA and Commissioner appealed. The Austin Court of Appeals vacated and rendered judgment against holders. Holders filed petition for review.

The Supreme Court of Texas held that:

- Commissioner did not act ultra vires in considering charter school's academic performance data during certain school year;
- Commissioner did not act ultra vires in considering charter school's financial accountability performance data based on data from prior fiscal year; and
- Commissioner acted within his authority in conducting informal process for challenging revocation of charter.

In revoking open-enrollment charter school's charter, Commissioner of Education did not act ultra vires in considering charter school's academic performance data during certain school year, even though statute prohibited consideration of school's academic performance during that year, and thus Commissioner's decision was not appealable; Commissioner interpreted statute to prohibit use of academic performance rating from that year, and that interpretation was not arbitrary, capricious, or clearly erroneous.

In revoking open-enrollment charter school's charter, Commissioner of Education did not act ultra vires in considering charter school's financial accountability performance data based on data from prior fiscal year, and thus Commissioner's decision was not appealable.

Commissioner of Education acted within his authority in conducting informal process for challenging revocation of open-enrollment charter school's charter, even if process was not as transparent as charter school would have liked, and thus Commissioner's decision was not appealable; Commissioner identified three unacceptable financial performance ratings and one unacceptable academic performance rating, Commissioner conducted informal review of school's response, and two administrative appeals regarding school's financial rating and subsequent charter revocation indicated that school had opportunity to raise those issues.

---

## **TAX - TEXAS**

### **Tarrant Appraisal District v. Tarrant Regional Water District**

**Court of Appeals of Texas, Fort Worth - April 19, 2018 - S.W.3d - 2018 WL 1865918**

Tax appraisal review board denied regional water control and improvement district an exemption from ad valorem taxation on the part of its property that was leased to a restaurant, and granted an exemption on a smaller part of the property.

District appealed. The District Court granted district's motion for summary judgment. County appraisal district appealed.

On rehearing, the Court of Appeals held that:

- Statute providing tax exemption for public property used for a public purpose did not require that the property be exclusively used for public purposes, overruling *Grand Prairie Hosp. Auth. v. Tarrant Appraisal Dist.*, 707 S.W.2d 281, and
- Portion of property leased to restaurant was used for public purposes and thus was exempt from taxation.

Regional water control and improvement district was entitled to tax exemption under statute exempting from taxation property that was owned by the state or a political subdivision and used for a public purpose, as long as its property was used for a public purpose, and had no obligation to prove that the property was devoted exclusively to use and benefit of the public; overruling *Grand Prairie Hosp. Auth. v. Tarrant Appraisal Dist.*, 707 S.W.2d 281.

Property owned by regional water control and improvement district and leased to restaurant was used for "public purposes" within meaning of statute exempting property owned by the state or a political subdivision from taxation if the property was used for public purposes, and thus district was entitled to tax exemption for the property; the property was used for a public purpose before a portion of the property was leased to the restaurant, and the district had a plan to use the property for recreational purposes for the public, which included a pavilion, common areas, and location adjacent to trail system.

---

### **With Self-Driving Cars on Horizon, Cities Worry About Parking.**

Fleets of shared, on-demand, self-driving cars could be the death knell for parking fees, and that's forcing cities, airports, and the municipal bond industry to devise new ways to extract revenue before it's too late.

The future of transportation in metropolitan areas won't be in individually owned cars, but rather in fleet-based, electric, and autonomous ones, planners and financial analysts told Bloomberg Government. It's a trend with broad city-planning implications, from designing parking garages to tracking traffic patterns at airports.

Credit-rating agencies like Moody's Corp. and S&P Global Inc. are closely watching how bond issuers forecast the consequences of falling income due to self-driving technology produced by Alphabet Inc.'s Waymo, Tesla Inc., Toyota Motor Corp. and others.

"There is going to be disruption," Kurt Forsgren, U.S. public finance sector leader for S&P Global, told Bloomberg Government. "The question is, 'At what rate?'"

[Continue reading.](#)

## **Bloomberg Government**

Shaun Courtney

April 26, 2018

---

### **Brokers Polish Resumes as New Muni-Bond Rules Threaten Business.**

- **Fee disclosures may curb trading by individual investors**
- **'They're expecting their flows to go way down,' firm CEO says**

Employees from banks and securities dealers have flooded investment firm Gurtin Municipal Bond Management with resumes, anticipating that new rules requiring them to disclose what they charge customers on trades of state and local government debt will shake up the industry.

The job hunting reflects anxiety that individual investors, the market's biggest customers, will revolt by shifting their money into mutual funds and other fee-based accounts, said Bill Gurtin, the chief executive officer of the Solana Beach, California-based company, which oversees \$14 billion. His firm is one that stands to gain.

"They're expecting their flows to go way down on the retail side," Gurtin said in an interview.

Starting May 14, brokerages must begin reporting some of the fees they charge on municipal bond trades, which are currently hidden because they're embedded in the price brokers quote when they buy and sell bonds for their customers. Many investors probably don't know what they're paying, but it can be significant: They averaged about 1.1 percent on investment-grade bonds in 2016, or \$1,100 for a \$100,000 bond, according to S&P Global

Analysts are speculating that the revelation could accelerate a shift toward managed accounts by individuals who directly own about \$1.6 trillion, or 40 percent, of the outstanding municipal securities. That's because the fees funds charge will look cheap compared with what it costs for individuals to trade on their own. They also provide diversification and services like credit research.

The shift toward professionally managed accounts is already well underway, in part because the record-setting bankruptcies of Detroit and Puerto Rico heightened investors' awareness of the risks associated with individual bonds. The amount of state and local debt held by mutual funds has nearly doubled since the end of 2008 and individual ownership has dropped, according to Federal Reserve

Board figures.

The further decline in trading by individuals may lead dealers to reduce their already lean municipal-bond inventories and cut jobs dedicated to such trading, including strategist and analyst positions, Gurtin said. As bank inventories decline, it will be harder for them to serve clients because they don't have access to a wide network of bonds.

"It's going to make their job more difficult," Gurtin said.

He declined to name the firms currently employing the job seekers.

The greatest impact may be felt at small, regional brokerages that execute "odd lot" trades of less than \$1 million, said Andrew Clinton, founder of Stamford, Connecticut-based Clinton Investment Management, which oversees \$520 million of municipal bonds. Smaller trades make up the bulk of the market's daily volume.

The new disclosures are "absolutely going to hurt the retail desk at every shop from the biggest to the smallest," Clinton said. "If each time you do a transaction as an individual it costs you two points, you're probably less likely to do a transaction."

## **Bloomberg Markets**

By Martin Z Braun

April 25, 2018, 8:39 AM PDT

---

### **[Money On A Mission: Are Green Bonds Right For You?](#)**

The financial services industry is constantly developing new products to serve the ever-changing wants and needs of a diverse array of investors. While Wall Street financial innovation can lead to problems (e.g., the exotic mortgage debt instruments that helped fuel the 2008 financial crisis), investment banks occasionally launch new products worthy of investors' attention. I think green bonds are an interesting product that is worth considering for many investors.

Green bonds, like traditional bonds, are fixed income instruments that are used by governments, companies, and NGOs to raise capital through the debt markets. Their structure is not fundamentally different from the corporate bonds, government bonds, and municipal bonds with which many investors are familiar.

However, green bonds differ from traditional bonds in that the issuers of green bonds publicly state that the capital raised through the issue will fund projects, assets, or business activities with an environmental benefit. These activities might include renewable energy, sustainable forestry, or energy-efficiency projects, to name a few examples. Also, capital might be used to fund projects with social or community benefits, such as improving social services or increasing accessibility to healthcare.

In order to provide transparency to bondholders, green bond issuers typically provide periodic reporting on the use of funds and project success, though such reporting is not currently a requirement.

While green bonds are a relatively new phenomenon (the first green bond was issued in 2007 by the European Investment Bank), the global green bond market has grown from \$810 million of new issues in 2007 to \$155 billion worth of new issues in 2017. With new issuers and investors continuing to enter the market, the total value of green bonds outstanding was estimated to be as high as \$335 billion worldwide as of the end of 2017.

While there is currently no standardized set of criteria for what qualifies a bond as “green,” I expect this to change as the market develops. Several international organizations have developed guidelines that issuers are encouraged to follow in order to be able to label their bonds as “green.” I expect that a single international green bond standard will emerge in the near future, which should only add to the credibility and size of the green bond market.

As an example, Apple (AAPL) entered the green bond market in 2016, issuing \$1.5 billion in bonds, with the proceeds used to finance renewable energy, energy storage and energy efficiency projects, green buildings, and resource conservation efforts. Apple is undertaking these projects in order to reduce the company’s carbon footprint and the carbon footprint of its supply chain. In issuing these bonds, Apple developed a green bond framework which was reviewed by a third party consultancy, while Ernst & Young was hired to conduct an annual audit to determine how the bond proceeds were used.

The increasing popularity of green bonds has coincided with the rapid development of the broader sustainable investing space, which now comprises nearly \$23 trillion in assets globally. The dramatic growth of sustainable investing (which encompasses ESG, impact, and socially responsible investing), is indicative of an important and accelerating trend in investor interest regarding the way in which firms are impacting and interacting with the environment and society as a whole.

While some might argue that this focus on corporate sustainability and responsibility does little more than make investors feel good, I would argue that it can reduce investment risk over the long term, and the research seems to agree with me. I believe it is important for investors to own investments which align with their personal values, but it is this potential for portfolio risk reduction that makes green bonds, along with other environmentally and socially conscious investments, especially interesting.

Given the multitude of risks that investors face nowadays, it can make sense to seek out investments in firms and projects which not only seek to minimize environmental, social, and governance risks but also actively pursue opportunities to make a positive impact in these areas. I believe green bonds represent such an opportunity, and I expect this to lead to continued growth of the space in the years ahead.

## **Nasdaq**

April 23, 2018, 10:47:54 AM EDT By Matthew Blume, CFA

*The views and opinions expressed herein are the views and opinions of the author and do not necessarily reflect those of Nasdaq, Inc.*

---

## **[Tax Cuts & Jobs Act: Tax Reform Implications For Public Finance: Stoll Keenon Ogden](#)**

The U.S. Congress kept an anxious corporate sector in suspense over the final weeks of 2017, while

efforts by the House and Senate to reach a bipartisan compromise on tax reform left us all guessing as to our financial fates until the very end. Public finance practitioners, including investment specialists, attorneys and other advisors to the municipal bond market, were sent particularly on edge once the news broke that the House Ways and Means committee had proposed the repeal of all tax-exempt private activity bonds.

The relief among public finance attorneys was unanimous when tax-exempt private activity bonds remained intact under the Tax Cuts and Jobs Act (the “Final Bill”), signed into law on December 22, 2017. Some bond lawyers have paused to ask why the House would want to repeal all tax-exempt private activity bonds in the first place (see Johnny Hutchinson’s pointed critique on The Public Finance Tax Blog), while others quickly moved to dissect the coming changes and alter their practices accordingly.

As one possible sign of less-than-favorable changes to come for the public finance industry, U.S. Bank recently slashed its long-term municipal bond desks in New York City by half, and cut banking and other positions across its public finance offices nationwide, citing “anticipated market transformation” as the reason for its proactive strategy.

This article provides a forecast overview of how changes to the tax code under the Final Bill could impact public finance, and the possible ripple effects through other parts of the finance industry.

### **Slashing Corporate and Individual Tax Rates, and Reducing Deductions**

The feature of the Final Bill receiving the most attention from the general public, as well as from tax and finance attorneys, is the reduction of the corporate tax rate. Under the Final Bill, corporations will see a drastic reduction in their tax liabilities beginning in tax year 2018, from a maximum rate of 35 percent down to a single flat rate of 21 percent. Individual tax rates will also decrease for most, with a reorganization of the 2018 tax brackets to accommodate a reduction of the top tax rate from 39.6 percent down to 37 percent. The reduction to individual tax rates is set to expire at the end of 2025, and the new corporate tax rate is permanent.

Complementing the reduced tax rates are reduced deductions, the most prominent of which are the capping of the state and local tax deduction at \$10,000, and a one-quarter reduction of the mortgage interest deduction. Some experts opine that changes to certain deductions available under current law are significant enough to offset the benefits to taxpayers gained by a reduction in individual tax rates.

Finance practitioners anticipate that these changes in tax rates could negatively impact the public finance industry. Lower corporate and individual tax rates will likely decrease the value of tax-exempt interest on municipal and qualified private activity bonds, leading to increased interest rates across the board on tax-exempt bonds in order to attract buyers, especially in the case of institutional purchasers.

While higher interest rates on bonds may be a boon to purchaser returns on investment, they are a burden to issuers, who would be forced to bear greater costs in connection with their bond debt. Moreover, greater expenses for issuers could translate to higher costs to the end consumer in the fields of healthcare, education, and other major industries populated by non-profits. There also exists a likelihood of slowdown in governmental and non-profit issuance of debt, as the higher interest expense may deter issuance altogether in some cases, and even the postponement of major projects that would have otherwise been financed by tax-advantaged bonds.

### **Elimination of Tax-Exempt Advance Refundings**

Although the Final Bill bestowed gifts upon some, it wielded an axe upon others. Under the Final Bill, as of January 1, 2018 governmental issuers and issuers of qualified 501(c)(3) bonds no longer have tax-exempt advance refunding as a tool in their tax-savings belt.

Advance refunding bonds are issued for the purpose of paying off older bonds already issued and outstanding for a past project. The “advance” element of these bonds refers to the fact that they are issued more than 90 days before the outstanding bonds can be paid. The proceeds from the sale of the advance refunding bonds are then held in an interest-bearing escrow account until the date the outstanding bonds are available for redemption.

Issuers have traditionally used advance refunding bonds as a tool to restructure older debt and to take advantage of a current drop in interest rates, while carrying over the tax-exempt basis of the old bonds to the new advance refunding bonds. The elimination of advance refundings imposes significant limitations going forward on issuer and borrower flexibility, particularly in their ability to lock in debt-service savings at current, more favorable rates, lower periodic payments by restructuring debt service over longer periods of time, or escape unfavorable financing terms.

Again, the effects on public finance are likely to revolve around higher costs for issuers, with results similar to those discussed in the section above. And if you’re wondering whether there are any transition rules in place for this advance refundings phase-out, there aren’t.

As practitioners, the loss of advance refundings can necessarily mean the loss of valuable work—the legal expertise needed in such a transaction can involve hundreds of hours of billable time—unless alternative tax-saving measures can step in to take their place. There has been recent renewed interest in “Cinderella Bonds” or “taxable exchangeable bonds” (bonds initially issued on a taxable basis that are later reissued as tax-exempt bonds at a specified time or upon the occurrence of a particular event) as a potential alternative arrangement, but this type of debt financing is still likely to result in higher costs to issuers and, moreover, carry appreciable risk for issuers.

Tax-exempt current refundings (bonds issued less than 90 days before the outstanding bonds can be refunded) were not banned by tax law changes for 2018, and will still be available to governmental and qualified 501(c)(3) borrowers who want to eliminate certain unfavorable financial covenants, or simply restructure their existing debt.

Bond practitioners can also explore negotiation as a technique to achieve certain changes to their outstanding bonds, such as lowering the interest rate or waiving terms like call protection. However, because such renegotiation of material terms could trigger a bond reissuance, practitioners must proceed with caution.

A bond reissuance occurs when significant modifications to the terms of a bond are such that the modified bond replaces the original bond in a deemed exchange for federal tax purposes. A reissuance of a tax-exempt bond generally triggers retesting of all the various federal tax requirements that apply to a new issue. The consequences of a reissuance can range from a change in yield affecting arbitrage investment restrictions, to necessitating new public approval requirements for qualified private activity bonds.

Bond counsel can additionally consider structuring new bonds using make-whole calls, declining redemption premiums, forward-starting swaps, or variable rates. Private placement of bonds with banks, while still an option, may be on the decline, as the new tax law’s reduction of the corporate rate may increase the interest rates charged by banks on the bonds, or heavily reduce demand altogether.

## **Tax Credit Bonds**

All future issuances of “qualified tax credit bonds” have been eliminated under the Final Bill. These types of bonds include qualified school construction bonds, qualified zone academy bonds, qualified energy conservation bonds, and others, which formerly allowed issuers to lower their capital costs for certain infrastructure projects through receipt of a federal tax credit, or in some cases, direct subsidy payments from the federal government. Issuers and holders of tax credit bonds issued before 2018 will continue to receive these benefits.

Although future issuers who would have qualified for tax credit bonds will no longer have that option, many of their projects will still qualify for financing on a tax-exempt basis through either governmental bonds or private activity bonds. The interest on tax credit bonds is not tax-exempt, so a shift in the way these projects are financed to a tax-exempt basis could potentially mitigate the negative effects of losing the tax credit or subsidy.

### **Tax-Exempt Bond Financing for Professional Stadiums**

Professional stadium financings via tax-exempt bonds have almost always been controversial, as both Democrat and Republican legislators have long debated the propriety of granting such favorable tax treatment to private and government-owned facilities used as stadiums or arenas for professional sports. It was reported early on in the process of Congressional debate on tax reform that proposals from the House and Senate would eliminate the tax advantage for professional stadium bonds, but that cut did not make it into the Final Bill.

Bipartisan support continues, however, for the elimination of tax-exempt stadium bonds, propelling some governmental issuers to accelerate financing for their stadium projects before any change in the law could be enacted in the near future.

## **Major Changes to the Alternative Minimum Tax (AMT)**

Under previous law, interest earned by holders of private activity bonds has been treated as tax-exempt for most purposes except for in the determination of the AMT. This meant that any interest earnings on private activity bonds was treated as an item of tax preference includable in alternative minimum taxable income for purposes of determining the AMT for individuals and corporations. To offset this result, bond purchasers have typically demanded higher interest rates for private activity bonds than they would for governmental bonds.

Significant changes to the AMT could change that interest rate distinction, at least temporarily. Beginning in tax year 2018, the AMT has been repealed in its entirety for corporations. For individuals, temporary increases to AMT exemption amounts and phase-out thresholds have been placed into effect for tax years 2018 to 2025, which amounts will also be indexed for inflation. In light of the repeal of the AMT for corporations and the temporary increased exemptions for individuals, public finance practitioners expect to see a reduction in the typically higher interest rates commanded by purchasers of private activity bonds as compared to bonds not subject to taxability under AMT.

## **The Uncertain Survival of Tax-Exempt Private Activity Bonds**

The Final Bill’s greatest gift to bond lawyers and public finance practitioners was that it didn’t eliminate tax-exempt private activity bonds. The House proposal would have ended tax advantaged financing for all categories of tax-exempt private activity bonds which include, among others, airports; docks, wharves, and ports; sewage and solid waste facilities; facilities furnishing water; projects owned by 501(c)(3) organizations like non-profit hospitals and non-profit higher education

institutions; mass commuting facilities; low-income multifamily housing developments; and single-family mortgage bonds.

As is apparent from their descriptions, the above categories of tax-exempt private activity bonds are available to issuers who serve a public purpose. Private activity bonds make up a large percentage of the bond market, accounting for 27 percent of all bond issuance in 2015, and often serve as a first line of financing for large-scale projects belonging to non-profits. Think of the most recent renovation to an important wing of your local hospital or your university alma mater—those are typical of the kinds of projects backed by tax-exempt private activity bonds. All categories of tax-exempt private activity bonds are retained under the Final Bill.

Although bond lawyers were grateful to see private activity bonds off the chopping block in the Final Bill, that relief could be short lived. As Washington looks towards national infrastructure as its next mission, Congress is still considering the placement of new limitations on private activity bonds, questioning whether the scope of projects financed on a tax-exempt basis by private activity bonds should be narrowed to those supporting infrastructure-related efforts. Municipal and non-profit issuers, along with their bond lawyers, will just have to keep holding their breath.

### **On the Horizon**

All finance practitioners should take Washington's lead and turn their attention towards infrastructure and the municipal and conduit bond issuers operating in that sector. New incentives are expected to emerge this year as part of a national infrastructure plan which could jumpstart related public financings and public-private partnerships. Bond lawyers should also pay close attention to any forthcoming technical corrections in the Final Bill that could impact public finance, with a particular eye on a potential narrowing of permitted tax-exempt private activity bonds.

Article by Tara A. McGuire

April 23 2018

**Stoll Keenon Ogden PLLC**

*The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.*

---

### **[Financing The Future of Energy and Transportation in Cities.](#)**

Kristine Babick knows precisely how much work Washington, D.C. has to do to reduce greenhouse gas emissions. It's her job to know, as an analyst with D.C.'s [soon-to-launch green bank](#).

"Seventy-five percent of our carbon emissions are from our built environment," Babick says of D.C. "This is currently close to double what other cities and jurisdictions have as their [built environment's share of] carbon emissions and sources of greenhouse gas."

D.C.'s is the latest on a list of green bank initiatives that are working to harness public and private dollars to transform energy and transportation systems. The city's mayor, Muriel Bowser, has pledged to make the U.S. capital carbon neutral by 2050.

"The amount of money that would be required to achieve a lot of those [climate] goals would be

beyond the public capacity,” Babick says, explaining why the District decided to launch a green investment bank. “There was a recognition that we needed to catalyze private sector investment in order to achieve a lot of these goals.”

[Continue reading.](#)

NEXT CITY

BY ZOE SULLIVAN | APRIL 24, 2018

---

## [\*\*Join Neighborly At This Year's Fintech Awards And Learn How Public Works Can Work For Investors.\*\*](#)

*The [Benzinga Global Fintech Awards](#) are a yearly showcase of the greatest adverts in fintech from leaders and visionaries in the worlds of finance and technology. This year, we have executives, developers and innovators from the likes of Facebook, Amazon, IBM, JP Morgan, Zelle, TD Ameritrade, TradeStation, Fidelity, and so many more.*

*In preparation for its biggest installment yet this May, we’re profiling the companies competing for the BZ Awards. In this feature we focus in on [Neighborly](#).*

### **What does your company do? What unique problem does it solve?**

**Garrett Brinker, product manager:** Neighborly is a mission-driven fintech firm that operates at the intersection of government, technology and municipal finance. We believe that the humble municipal bond is the original impact investment, and we’re committed to reducing the cost and complexity associated with this largely fragmented and often misunderstood market – which has long been dominated by large institutional investors.

Through innovative technology, competitive fee structure and lower denominations, we have created a way to directly connect fiscally responsible issuers with investors who want to generate returns while effecting positive change in the communities where they live, work and play.

### **Who are your customers?**

**Brinker:** Through our two distinct subsidiaries, we’re working to bring issuers and investors closer together to facilitate easier access to impactful public projects, from schools and public parks to next-generation infrastructure such as microgrids:

- **Neighborly Securities:** Our muni broker-dealer, which uses technology to democratize access to impactful public infrastructure projects: from public parks and playgrounds, to municipal broadband or green energy projects. Though Neighborly Securities also serves the advisory community, it has gained enormous traction serving individual investors – in our inaugural (and award-winning) [Cambridge minibond offering](#), 37 percent of participants were first-time bond buyers. The opportunity to invest in meaningful projects in their own backyard resonated strongly with city residents, and continues to do so in municipalities across the country.
- **Neighborly Investments:** Our next-generation technology investment manager focuses on leveraging municipal bonds to maximize after-tax returns through customized impact portfolios. Neighborly Investments predominantly serves: high-net-worth investors who wish to leverage their muni bond allocations to maximal impact; larger RIAs; and institutional investors such as

community banks and university endowments that wish to meet CRA Credit requirements, and foster engagement with their local communities.

### **How long have you been in business?**

**Brinker:** Neighborly was founded in 2012.

### **Where are you located?**

**Brinker:** Neighborly is headquartered in San Francisco, with strategically located offices in New York City and Boston. We consider ourselves to be an integral part of their respective tech, finance and investment communities.

### **Who is your company's leadership? What kind of experience do they have?**

**Brinker:** Jase Wilson is CEO and founder of Neighborly, combining expertise in technology, urban planning and entrepreneurship. Prior to Neighborly, Jase founded and operated Luminopolis, a civic software firm focused on saving local governments millions of dollars annually by replacing legacy enterprise software with modern open source equivalents. A keen technologist and urbanist, he studied city planning at MIT and the University of Missouri-Kansas City.

Kiran Jain is the chief operating officer and general counsel at Neighborly. She is the former Chief Resilience Officer for the City of Oakland, one of the inaugural cities in the Rockefeller Foundation's 100 Resilient Cities network. Kiran has served as a senior deputy city attorney focusing on land use, urban redevelopment and municipal governance; she also founded the Civic Design Lab to focus on building community resilience.

Neighborly's broader team harbors decades of combined expertise across the fields of public finance, civic issues and technology.

### **Who are your investors, if any?**

**Brinker:** 8 VC, Emerson Collective, Bee Partners, Stanford University, Sound Ventures, Fintech Collective

### **Is there anything else Benzinga should know about your company?**

**Brinker:** We are a diverse team with backgrounds in technology, capital markets and government — all on a mission to help build stronger and more resilient cities through the municipal bond.

To meet with the minds behind companies like Neighborly and others testing the cutting edge of fintech, grab a ticket to the Benzinga Global Fintech Awards May 15-16 in New York.

Chris Dier-Scalise, Benzinga Staff Writer

April 24, 2018 2:08pm

---

## **[Infrastructure is Key to Economic Growth.](#)**

Lately, Americans are barraged with news stories about exciting developments in transportation technology or personal mobility that match our on-demand, life-at-our-fingertips society. Smart cities

that monitor vehicle traffic congestion, or driverless cars and trucks that will convey people and goods to their destination on time — these are very compelling.

Yet these stories are missing a major fact: the underlying infrastructure needed to make such advancements in modernization possible is not getting congressional support needed to connect rubber and road, so to speak.

Senior representatives from the nation's cement and concrete companies — the North American Concrete Alliance — are here this week to help make the connection for Congress: you won't have strong, safe and long-lasting transportation networks and cities without taking action on infrastructure.

NACA comprises 12 cement- and concrete-related organizations that collectively represent 600,000 employees and contribute \$100 billion annually to the U.S. economy.

America's cement and concrete industry are joining forces to urge Congress to take action on several fronts. We will be pressing lawmakers to act now — not next year, not in another Congress. How can a below-average national highway system, for example, rise to meet the vision for even greater transportation networks of tomorrow?

The cement and concrete industry is asking Congress to consider several key elements as part of any legislative approach that addresses infrastructure renewal.

The first is funding. Congress should pass a long-term, robust and sustainable funding mechanism that addresses Highway Trust Fund shortfalls, and allows for much-needed increases in highways and mass-transportation investments. Currently, lawmakers pay for highway upkeep through the fund, which is chronically under-resourced. All funding mechanisms should be on the table, including a fuel tax increase, a freight charge, a vehicle-miles-traveled tax and sales tax. Financing mechanisms, such as preserving the tax-exempt status of municipal bonds and lifting the cap on private activity bonds, should also be considered.

The second priority shifts from how you fund infrastructure to how you spend those funds. Our industry is seeking renewed competition for infrastructure projects to promote the best use of limited taxpayer dollars. To accomplish this, Congress should require the use of life-cycle cost analysis (LCCA) for infrastructure projects using federal taxpayer dollars. LCCA levels the playing field among project construction materials and enables competition in the marketplace. It is a long-proven, and widely supported process that helps planners, engineers and policy makers understand the full cost of a project over its lifetime, which results in greater accuracy, better performance and lower costs.

According to an analysis by economists from my organization, the Portland Cement Association, by leveraging LCCA on federally funded infrastructure, Congress can save \$91 million for every \$1 billion spent on infrastructure, or 9.1 percent. That means taxpayers would have saved \$2.6 billion if Congress had included an LCCA provision in the FAST Act passed in 2015. If LCCA is incorporated in the Trump Administration's proposed infrastructure package, American taxpayers could see savings of as much as \$90 billion.

Third, Congress should pass long-term Federal Aviation Administration (FAA) reauthorization legislation that increases funding for aviation infrastructure and critical agency operations. FAA reauthorization should provide robust funding for local agencies to use in improving safety, security and both runway and terminal capacity.

Lastly, Congress should require the reauthorization of the Water Resources Development Act every two years and promote the use of resilient, durable and sustainable materials that protect health, life and property and facilitate commerce. By requiring sustainable materials and resilient construction techniques, water infrastructure will provide the best return on taxpayer investment, while using the latest technology and minimizing risk to life and property.

President Trump has reiterated his call for major infrastructure investment. Americans want strong, safe and smart transportation networks to make their lives, and the lives of future generations, better and more modern. Congress must act soon to pass an infrastructure package. U.S. cement and concrete producers are standing by.

THE HILL

BY MICHAEL IRELAND, OPINION CONTRIBUTOR — 04/23/18

*Michael Ireland is president and CEO of the Portland Cement Association, which represents U.S. cement manufacturers*

THE VIEWS EXPRESSED BY CONTRIBUTORS ARE THEIR OWN AND NOT THE VIEW OF THE HILL

---

### **[Hawkins Advisory: Rev. Proc. 2018-26: Supplemental Remedial Action Rules for Tax Advantaged Bonds.](#)**

Attached is a Hawkins Advisory describing remedial action provisions set forth in Rev. Proc. 2018-26; these provisions are applicable to a change in use of tax credit bonds and direct pay bonds, as well as tax-exempt bonds that occurs on and after April 11, 2018, and may be applied to nonqualified use that occurs before April 11, 2018.

[Read the Advisory.](#)

---

### **[Municipal Bond ETFs: Liquidity Impact on the Municipal Bond Market.](#)**

The Chief Economist of the MSRB examines municipal bond exchange-traded funds' relationship to municipal bond market liquidity.

[Read the analysis.](#)

---

### **[Fitch: US - China Tariffs Could Hurt Some US States In Midterm.](#)**

Fitch Ratings-New York-25 April 2018: The escalating trade dispute between the US and China could lower some state and local tax revenues if China's proposed tariffs on \$50 billion of US goods are implemented, Fitch Ratings says. Several states with substantial agriculture and aircraft exports would likely see localized declines in economic activity and tax revenues.

The relative likelihood of the tariffs actually being enacted is uncertain. Early this month China published a list of 120 US products, amounting to \$3 billion in exports to China, which will be tariffed. China followed its initial announcement with a second published list of 230 US products (\$50 billion worth of exports) that it also threatened with tariffs. President Trump responded by proposing a further \$100 billion in tariffs on imported Chinese goods on top of \$50 billion of Chinese imports the administration already targeted for near-term tariffs. China reportedly intends to respond to the president's proposals in the coming weeks. Whether China's response will take the form of additional retaliatory tariffs, protectionist measures, or some other set of actions, remain to be seen.

Iowa has the highest exposure to losses from agricultural exports to China. Iowa's 2016 soybean global exports were \$3.1 billion, according to the United States Department of Agriculture. Iowa was also the largest exporter of pork and pork products at nearly \$2.0 billion and corn at \$1.7 billion in export value in 2016. This totaled 3% of Iowa's 2016 gross state product (GSP), according to the Federal Reserve Bank of St. Louis.

Other US states are also major exporters of soybeans. Illinois exported the greatest quantity of soybeans in 2016 at \$3.2 billion, while Minnesota exported \$2.1 billion worth of soybeans. However, these state economies are large and diverse and agriculture exports account for a smaller portion of GSP than is true for Iowa.

A broad array of vehicles and vehicle parts would be tariffed if US-China trade disputes accelerate and the tariffs are put in place. Just over half of the state of Washington's global exports is in the US Census Bureau's category, "civilian aircraft, engines and parts." The \$46.4 billion of this category the state exported in 2016 equaled 9.8% of Washington's GSP.

We do not anticipate a loss of imports from China would significantly affect the state economies. US importers have sufficient ability to replace Chinese imports with alternately-sourced products, albeit at a slightly higher expense.

If the tariffs are enacted and are sustained into the medium term, we believe the tariffs could also lower business activity and sales and income taxes derived from both business activity and employment in some places. These negative revenue impacts could coincide with a softening of revenues if this trend continues.

Contact:

Michael D'Arcy  
Director, US Public Finance  
+1 212 908-0662  
Fitch Ratings, Inc.  
33 Whitehall Street  
New York, NY 10004

Robert Rowan  
Senior Analyst, Fitch Wire  
+1 212 908-9159

Media Relations: Sandro Scenga, New York, Tel: +1 212-908-0278, Email:  
sandro.scenga@fitchratings.com

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

---

## **Muni Bonds Drop Most Since February in Slow Reaction to Selloff.**

- **Decline comes a day after Treasury yields breached milestone**
- **30-year municipal yields rise to highest since March 2017**

The municipal-bond market, a haven for buy and hold investors, isn't known for swift reaction times. And the delayed response to the Treasury market downturn this week is no exception.

State and local debt prices posted their biggest drop in more than two months on Wednesday, a day after Treasuries yields reached 3 percent, a milestone that traders have been eyeing for months.

Yields on top-rated municipal bonds climbed across the curve, with those on 30-year debt rising five basis points to almost 3.17 percent, the biggest one-day increase since February 2 and the highest since March 2017, according to Bloomberg indexes. That comes after investors pulled \$766 million out of municipal-bond mutual funds in the week ended April 18, marking the third straight week that funds have seen investors retreat, according to the Investment Company Institute.

Municipal bonds have posted a 1.4 percent loss this year amid concerns the Federal Reserve will raise interest rates at a faster-than-expected pace. R.J. Gallo, senior portfolio manager for Federated Investors, said the securities are tracking broader weakness in the bond market.

"All year long, every major fixed-income asset class is posting negative total returns –munis as well," he said.

### **Bloomberg**

By Amanda Albright

April 25, 2018, 10:09 AM PDT

— *With assistance by Taylor Riggs*

---

## **Mutual Funds Stand to Gain as Muni Buyers Get First Look at Fees.**

- **Markups on some trades will be disclosed starting May 14**
- **Trading costs can consume several months of investment returns**

On May 14, the municipal-bond market's biggest investors may be in for a shock.

That's when new rules will require brokerage firms to start disclosing some of the fees they charge individuals to buy and sell state and local government debt. Those fees, which firms build into the trades by marking the price up or down, can be substantial: They averaged about 1.1 percent on investment-grade bonds in 2016, or \$1,100 for a \$100,000 bond, according to S&P Global. With 10-year AAA bonds yielding 2.5 percent, those transaction costs can eat up several months of a returns.

The revelation could accelerate a shift toward mutual funds and other fee-based accounts by

individual investors who own about \$1.6 trillion, or 40 percent, of the outstanding municipal securities, more than any other group. That's because the fees they charge will look cheap compared with what it costs for individuals to trade on their own.

"Why pay a point to buy bonds when you can pay a few basis points a year to a mutual-fund provider and you get diversification and you don't have to worry about a singular credit risk that comes with munis," said Matt Fabian, a managing director at Municipal Market Analytics.

The new regulation from the Municipal Securities Rulemaking Board is the result of a push to inject more transparency into the state and local market, a haven for individuals seeking a safe source of tax-exempt income.

It comes as the shift toward professionally managed accounts has already gained steam as the record setting bankruptcies of Jefferson County, Alabama, Detroit and Puerto Rico heightened investors awareness of the risks associated with individual bonds. Mutual-fund holdings of state and local debt has nearly doubled since the end of 2008, during the height of the credit-market crisis, according to Federal Reserve Board figures.

But the impact of the fee disclosures may be limited in part by loopholes that regulators left in the new rules. Disclosure of mark ups to retail investors — both as a dollar amount and as a percentage of the prevailing market price — are required only when the dealer trades the same security that day. Moreover, the size of the dealer's trading must equal or exceed the size of the customer's transaction.

If a dealer had a bond in inventory and then sells it to a customer, that markup won't be disclosed. Nor will it be when a customer buys bonds issued on the first day of an initial offering.

Still, the requirements will affect a sizable number of trades. The MSRB, which writes regulations for the market, said it may affect more than 8,000 retail transactions each day.

The exceptions may bring some initial confusion, as markups are disclosed on some trades but not others. Brokers will need to spend time explaining the discrepancy and how the markups are calculated, said Patrick Luby, an analyst who follows the municipal securities industry for CreditSights Inc. And determining the market price used to gauge the markups can be complicated depending on when the trades occur.

"Asking them to take more time to explain a municipal bond trade isn't a welcome proposition, because they're already stretched pretty thin," said Luby. Time pressures on brokers may also lead them to pitch clients fee-based accounts, he said.

Municipal-bond fund managers have welcomed the rule, anticipating that new clients may emerge when they see how costly it can be to build a portfolio of sequentially maturing bonds — a practice known as laddering — on their own.

"The perception up to this point is that laddering a municipal portfolio is 'cheaper' than hiring an active manager," said Andrew Clinton, founder of Stamford, Connecticut-based Clinton Investment Management, which oversees \$430 million of municipal bonds. "The clients never saw the actual transaction costs and assumed, inappropriately, that they were getting that service for free."

Gurtin Municipal Bond Management charges 0.14 percentage point to ladder a portfolio, depending on the strategy, said chief executive officer, Bill Gurtin. His firm oversees \$14 billion municipal assets.

“Not only are you getting proper execution and proper value, you’re also getting ongoing surveillance,” transparency of fees and returns, and a manager that, unlike a broker, is legally required to act in a client’s best interest, said Gurtin.

“It’s hard to argue that the resources behind a professional manager aren’t substantially greater than behind a broker buying bonds on behalf of a client,” he said.

## **Bloomberg Markets**

By Martin Z Braun

April 23, 2018, 8:41 AM PDT

---

### **Muni Brokerage Head Says Pricing Rules Won't Aid Mutual Funds.**

- **‘It’s so much cheaper to pay a one-time charge on a bond’**
- **FMSbonds President Klotz says brokers not worried about rule**

On May 14, new rules will require brokerage firms to start disclosing some of the fees they charge individuals to buy and sell state and local government debt. Those fees, which firms build into the trades by marking the price up or down, averaged about 1.1 percent on investment-grade bonds in 2016, or \$1,100 for a \$100,000 bond, according to S&P Global.

Some analysts have speculated the new disclosures could accelerate a shift by individual investors toward mutual funds and other fee-based accounts. On average, long-term municipal bonds funds charged fees of 0.54 percent in 2016, according to the Investment Company Institute.

James Klotz, president of Boca Raton, Florida-based broker-dealer FMSbonds Inc., disputes that the disclosure of fees will have a big impact on behavior. He said individual investors, who tend to buy and hold municipal securities until they mature, are better off paying a one-time markup than annual fees to professionals to manage their portfolio.

**Q:** Why do you think individual investors will continue to buy individual bonds rather than shift to funds?

**A:** It’s so much cheaper to pay a one-time charge on a bond an investor might hold 10, 15, 20, 30 years with no annual fees. Individual investors are buy and hold investors. They might get [bonds] called, they might sell them, but bonds aren’t intended to be bought and sold every three months. They’re bonds, not stocks.

**Q:** What’s the average mark-up at FMSbonds?

**A:** I can tell you it’s between 1% and 1.5% on a long-term bond. You have different situations. Bonds of a lesser quality may have more markup because of the risk.

**Q:** Isn’t there some value to credit research that funds provide?

**A:** The percentage of defaults on investment grade bonds is less than 1%. 99.5 of 100 bonds are going to mature at par. That’s history. There’s no promise of face value when you invest in a mutual fund. Every bond dealer spends a great deal of money on research and on creditworthiness because that’s our livelihood. If dealers were selling bonds that were defaulting, they wouldn’t be in business

very long. We've been in business since 1978.

**Q:** Are you worried about losing customers because of the markup disclosure rule?

**A:** No bond dealers are scared of this new rule. The only thing we're scared of is the instrumentation to be able to report it properly. Let's say I sell you a Boca Raton 4% bond at par at 10 a.m. and I'm looking at trades that came before me, they were all at par or a little premium. At 4 p.m., somebody does a trade at 98.5. What's the prevailing price? That's the difficulty. You can't just think what preceded your price, you have to think what came after your price, that's what's going to make it difficult. All those trades have to be reviewed the following morning. We're doing 300 trades a day. I don't think the SEC understands how complex it is.

## **Bloomberg**

By Martin Z Braun

April 30, 2018, 8:30 AM PDT

---

### **[A Critical Reflection on Social Impact Bonds.](#)**

***Far from being a win-win financial instrument, SIBs come with significant technical burdens and exemplify an ideological shift in welfare service provision.***

At first glance, social impact bonds (SIBs) appear to be an ideology-free response to a range of social problems. As public resources are not always made available to adequately fund public and social services, SIBs leverage private investment to finance such services so that providers do not have to front the cost of delivery. Investors are rewarded if providers meet agreed-upon outcomes but lose their investment if providers do not meet those outcomes. On the face of it, SIBs might seem like a win-win for everyone involved.

So it makes some sense that SIBs have become so popular. Since their introduction in 2010, 32 SIBs have been set up thus far in the United Kingdom, addressing diverse policy areas such as homelessness, mental health services, education, and unemployment. The UK Government Cabinet Office has established a Centre for Social Impact Bonds. The government also allocated more than \$28 million of public funding to a Social Outcomes Fund in 2012 for the development of SIBs, and augmented this by a further \$113.4 million from the UK Government's Life Chances Fund in 2016—significant amounts of money by any measure. The UK's Minister for Civil Society has said that SIBs will revolutionize the third sector and social service funding, and that a SIBs market in Britain could be worth \$1.4 billion by 2020. Meanwhile, there are at least 10 SIBs operating in the United States and 19 more across 14 other countries, with Goldman Sachs also investing in the model. The development community has also adapted the SIB model in service of so-called development impact bonds (DIBs), primarily for use in the global south.

The ongoing hype around SIBs, their seemingly unstoppable proliferation worldwide, and the significant amounts of money investors are putting into them would suggest that they are widely regarded as the future of impact investing. However, we contend that such uncritical enthusiasm for the SIB model is a worrying trend. There are significant technical challenges to overcome in setting up and operating SIBs, which advocates insufficiently acknowledge. More substantively, however, SIBs fundamentally change the nature of public and social services, effectively reducing citizens to commodities.

[Continue reading.](#)

## **Stanford Social Innovation Review**

By Michael J. Roy, Neil McHugh, & Stephen Sinclair

May 1, 2018

---

### **Tobacco Refundings Erode High-Yield Muni Debt, Squeeze Investors.**

NEW YORK (Reuters) – A series of big tobacco bond refundings is reshaping the U.S. municipal junk bond market, taking what has been a high-yielding staple and slowly turning it investment grade.

The change means that investors are increasingly struggling to find the same high yields in comparable securities, a problem compounded by even more investors flowing into the asset class.

“One of the largest sectors in the high-yield universe is shrinking,” said William Black, senior portfolio manager at City National Rochdale in Chicago.

The specialized bonds stem from a 1998 settlement with cigarette makers, which agreed to make annual payments to U.S. states to cover medical costs of sick smokers.

Over the intervening years, at least 21 states and territories, and separately some cities, securitized that stream of money by selling municipal bonds backed by the expected payments.

Since the start of 2016, states and cities have refunded more than \$6.2 billion of their old tobacco bonds, according to Thomson Reuters data. Some of the deals are transforming junk-rated debt into investment-grade assets and squeezing high-yield investors.

When that money is returned to investors in a tobacco refunding, it is harder for them to find similar places to put it back to work.

“Mutual funds, along with the ETFs... are looking at the likelihood of seeing cash backing into the portfolio when these bonds are called away and not having a lot of choices for replacement,” said James Colby, who manages muni ETFs for VanEck.

In Colby’s custom high-yield reference index, the weight for tobacco is 15.25 percent, down from 20.70 in January 2016. The shrinkage is a direct result of tobacco refundings, he said.

Tobacco bonds comprised 15.5 percent of the S&P Municipal Bond High Yield Index at start of 2016 but have now fallen to 14.4 percent, a 7 percent decline.

Compounding the crunch is strong demand for high yield muni funds, with investors pouring money in for eight straight weeks and causing more people to chase after fewer tobacco bonds.

Flows into high-yield muni bond funds have been positive every year since 2014, with \$7.5 billion of inflows last year alone, according to data from Lipper, a Thomson Reuters unit.

Those investors are likely chasing yield. The S&P Municipal Bond Tobacco Index returned 8.40 percent over the past year, compared with just 3.17 percent for the broader high yield index and 1.64 percent for the overall AMT-free national muni bond index.

For a factbox of refunding deals, click here:

## PHOENIX FROM THE ASHES

In 2007, issuers sold \$16.9 billion of tobacco bonds altogether, the biggest year of issuance on record, according to Thomson Reuters data.

Most bonds are callable after a decade, so some of these deals are coming back for reworking since last year's 10-year anniversary.

Another \$10.4 billion was issued in 2005 and 2006, adding to the pile of tobacco debt now being refunded.

For an interactive graphic of tobacco bond issuance, click here: [tmsnrt.rs/2I3Joph](https://tmsnrt.rs/2I3Joph)

The same firm - Jefferies LLC - has underwritten every tobacco deal since 2016. Jefferies declined to comment.

Over the years, many tobacco bonds have been downgraded as more smokers than anticipated quit. That is because revenues to the states from the 1998 settlement are based on the volume of cigarettes shipped.

But now, the ratings are moving back up as old bonds get reworked.

The high ratings have mostly been driven by new cash flow structures and, in some cases, higher payments from the tobacco companies after the resolution of legal disputes, S&P structured finance analyst Christine Dalton told Reuters.

New Jersey refunded \$3.15 billion of tobacco bonds in April, exchanging speculative 'B' rated debt for investment-grade bonds. The deal will generate \$162 million in present value savings for the state, said New Jersey Treasury spokeswoman Jennifer Sciortino.

The state could use the cash. The second-lowest-rated U.S. state, New Jersey needs nearly \$1.6 billion of tax hikes to cover its spending needs next fiscal year, Governor Phil Murphy has said.

States can benefit from using one-time revenues - like from a refunding - for one-time expenses.

"If there's money on the ground, you can't blame someone for bending over to pick it up," said S&P public finance analyst David Hitchcock.

by Hilary Russ

MAY 2, 2018

---

## **[Increasing Civil and Criminal Enforcement in the Municipal Bond Market.](#)**

*In this Corporate Crime column, Steven M. Witzel and Daniel C. Fishbein focus on recent and novel enforcement actions in the municipal bond space. They survey municipal securities regulatory changes and enforcement innovations geared toward municipal issuers, and look at the future direction for enforcement and regulation in the muni-bond market.*

The historically sedate municipal bond market has been jarred by recent civil enforcement actions and criminal prosecutions. In the past several years, in a focused targeting of the muni-bond marketplace previously afforded “second-class treatment,” the SEC has brought many “first-of-their-kind” actions against municipal bond issuers, underwriters and public officials. As this column went to press, the federal criminal trial of former Town of Oyster Bay Supervisor John Venditto (and former Nassau County Executive John Mangano) on securities fraud charges related to municipal bond sales by the Town of Oyster Bay was heading to conclusion. This trial follows on the heels of the December 2017 sentencing to 30 months’ imprisonment of former Ramapo, New York Town Supervisor Christopher St. Lawrence after his conviction on the DOJ’s first-ever criminal securities fraud trial related to municipal bonds.

In the wake of the financial crisis, disclosure requirements and other regulations protecting the \$4 trillion municipal debt market were strengthened. Despite its importance, the muni-bond market had been substantially less regulated than most others. This regulatory ramp up was the result of an announced effort by regulators to police the muni-bond market and try to make it more transparent for investors.

[Continue reading.](#)

## **New York Law Journal**

By Steven M. Witzel and Daniel C. Fishbein | May 02, 2018

---

### **Fitch: Amazon HQ2 May Have Some Long-Term Credit Impact.**

Fitch Ratings-New York-30 April 2018: The location of Amazon’s second headquarters (HQ2) will not have a near-term impact on local government ratings or the housing market around the eventual winner, says Fitch Ratings.

The jobs brought by HQ2 will only affect the local governments that can capture the attendant property, sales and income taxes. The projected 50,000 jobs the regions will gain varies from a minimal impact on the New York-Newark-Jersey City MSA, which has a labor force of more than 10 million, to a more significant 7.4% of the labor force in Raleigh, North Carolina. The increase in salaries paying more than \$100,000 per year varies as well.

We do not anticipate a change in the local housing markets as the market has enough supply to absorb the increased housing need. The average home price index for the regions rose by 5.9% between first-quarter 2017 and first-quarter 2018. Rents grew more slowly over the period.

Fitch reviewed MSA-level data from the U.S. Bureau of Labor Statistics and the U.S. Bureau of Economic Analysis for the 20 finalist locations from which there are 17 MSAs, as Newark, New Jersey and New York City are in the same MSA, as are Montgomery County, Virginia, and Washington, D.C. Data for Toronto, Canada may not be directly comparable to U.S. data. Fitch believes the MSA is the best measure of overall economic impact, as workers will not necessarily choose to live within the geographic boundaries of the location chosen.

Amazon has narrowed the pool of potential HQ2 locations to 20, and is expected to announce its decision sometime in 2018. There may be a further narrowing of the field before the final announcement.

Contact:

Amy Laskey  
Managing Director, U.S. Public Finance  
+1 212 908-0568  
Fitch Ratings, Inc.  
33 Whitehall Street  
New York, NY 10004

Grant Bailey  
Managing Director, U.S. Structured Finance  
+1 212 908-0544

Robert Rowan  
Senior Analyst, Fitch Wire  
+1 212 908-9159

Media Relations: Sandro Scenga, New York, Tel: +1 212-908-0278, Email:  
sandro.scenga@fitchratings.com

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

---

## **The Feds Outlawed a Key State and Local Refinancing Tool. Now What?**

***Tax-exempt advance refunding helped state and local governments save billions of dollars in recent years.***

Vermont Treasurer Beth Pearce recognizes that the demise of tax-exempt advance refunding bonds, and what it means for state and local public finance, may not be a front-and-center issue for many Americans.

"It's not something that is readily apparent," she told Route Fifty in late April.

But that doesn't mean the change is inconsequential. "It's going to increase borrowing costs for state and local governments, which will ultimately be borne by the taxpayers," Pearce said.

Last year's Republican-led federal tax overhaul put the kibosh on tax-exempt advance refunding bonds. As of Jan. 1 the bonds are banned under federal law. They had served as a tool state and local governments commonly used to refinance and restructure debt.

Figures compiled by the Government Finance Officers Association show that at least 8,353 tax-exempt advance refundings took place across the U.S. between 2012 and 2016. These totaled \$391 billion, and resulted in an estimated minimum savings of \$11.7 billion.

The change in tax law has left finance officials chafing at the loss of an option to reduce borrowing costs. Meanwhile, the municipal finance world is eyeing possible alternatives to advance refunding, some of which could carry added expenses and new risks.

"I'm very disappointed, obviously," Eric Johansen, debt manager for Portland, Oregon, said recently as he discussed the lost exemption. "We were frequent issuers of advance refunding bonds," he added, "and had the opportunity to save hundreds of millions of dollars."

Much of the government borrowing at the state and local level goes to pay for infrastructure, like roads, waterworks and schools.

President Trump has identified public works investment as one of his priorities. And his administration has indicated a preference for funneling federal aid to states and localities that can bring greater shares of non-federal money to the table for infrastructure projects.

Eliminating advance refunding puts a dent in the ability of states and localities to do that, finance officials say. "Whatever we're not saving because they've taken this tool away means less investment in infrastructure," said Florida's director of bond finance, J. Ben Watkins.

Florida executed roughly \$14 billion of advance refundings between fiscal years 2011 and 2017, achieving gross savings of about \$2.8 billion, according to Watkins.

Like other forms of municipal debt, investors' interest earnings on advance refunding bonds were exempt from federal income tax prior to the new tax law taking effect.

By eliminating the advance refunding exemption, the lawmakers who crafted the tax package gained a roughly \$17.4 billion offset over a decade to help pay for tax cuts for corporations and individuals, as well as other changes to the tax code, which are expected to erode upwards of \$1 trillion of federal revenues in the years ahead.

ROUTE FIFTY

by BILL LUCIA

MAY 1, 2018

---

## **[Energy Northwest Tops U.S. Muni Bond Sales Next Week.](#)**

NEW YORK, May 4 (Reuters) - Energy Northwest in Washington State will price \$635 million of electric revenue refunding bonds on May 9, the largest deal in next week's estimated \$7.2 billion of U.S. municipal bond and note sales.

The deal includes \$230.7 million of tax-exempt bonds for the agency's Columbia Generating Station and \$400 million for "Project 3" and about \$5 million of taxable bonds.

The bonds are supported by net billing agreements with the Bonneville Power Administration (BPA), a regional power marketing agency within the federal energy department.

BPA is facing headwinds in the wholesale power market, where prices have been depressed in recent years by low natural gas prices as energy firms pull record amounts of the fuel from shale formations.

From 2013 to 2017, average prices at the Mid Columbia hub near the Oregon-Washington border have averaged \$30.27 per MWh, compared to \$44.33 over the prior 10 years.

Those headwinds, as well as implementation of policies that favor customers, have led to “an erosion of financial strength that weakens BPA’s position in its rating,” Moody’s Investors Service said on Tuesday when it rated the deal Aa1.

BPA’s recent strategic plan laid out objectives that could help its credit rating, including a goal of reducing its debt ratio and maintaining a \$1.5 billion line of credit from the U.S. Treasury.

But the goals may not be enough to stop its credit deterioration if they fail to “translate into robust actions,” Moody’s said.

“The extent of any credit benefits of BPA’s new strategic goals should become evident by the end of this year when BPA files its initial proposal for the FY2020-2021 rate case,” Moody’s said.

Under a regional cooperation debt agreement implemented in 2014, Energy Northwest issues refunding bonds to extend the maturities of outstanding debt so that it more closely matches the lifespan of the facilities it finances, according to an investor presentation.

Energy Northwest, a Washington State joint operating agency, owns and operates the Columbia Generating Station, the only commercial nuclear energy facility in the region.

Project 3 is a nuclear electric generating facility in Satsop that was never fully built, shuttered in 1994, and later transferred to a coalition of local governments for remediation and economic development. Energy Northwest pays to maintain the site.

The deal is led by senior manager JPMorgan.

Reporting by Hilary Russ Additional reporting by Scott DiSavino; Editing by Richard Chang

---

## **MSRB Holds Quarterly Meeting.**

Washington, DC – The Board of Directors of the Municipal Securities Rulemaking Board (MSRB) met April 25-26, 2018, where it discussed numerous initiatives related to its oversight of the municipal securities market, focused on several retrospective rule reviews and advanced the development of a new professional qualification exam for municipal advisor principals.

The MSRB is midway through a fiscal year during which regulated entities are adapting to previously adopted rules aimed at protecting investors and municipal entities. The Board discussed ongoing efforts to assist municipal securities dealers in implementing a mark-up disclosure rule, and the numerous compliance support resources and events the MSRB is providing to assist regulated entities in understanding and complying with rules.

At its meeting, the Board discussed several market practices and agreed to seek public comment on potential rule updates and interpretations in the interest of market fairness and efficiency, and regulatory clarity. For example, the Board agreed to seek public comment on potential guidance or uniform practices for underwriters related to the dissemination of information about new bond issues and refunding transactions. This action is part of a long-term retrospective review of MSRB rules on syndicate practices.

Separately, the Board agreed to seek public comment on draft interpretive guidance for dealers that would clarify existing regulations on the practice of “pennying,” sometimes called “last look,” and

draft revisions to existing guidance on the MSRB's best-execution rule to clarify how dealers can satisfy their obligations without posting bid-wanted on multiple electronic bidding platforms.

The Board also considered regulations governing duties owed by dealers to issuers when underwriting municipal securities that are codified in interpretive guidance under MSRB Rule G-17 issued in 2012 and agreed to publish a request for comment on the merits of any potential changes to the guidance.

"With over five years of experience with the application of our Rule G-17 guidance, we think it is the appropriate time to engage in a retrospective review to determine its effectiveness, as well as any opportunities to improve the guidance," said MSRB President Lynnette Kelly.

Kelly said the Board recognizes that industry responses to requests for comment can be time-consuming and will continue to be cognizant of how it sequences new and planned requests and provide stakeholders with adequate time to respond. "We have multiple initiatives that require public feedback, and we want to ensure that we receive substantive input on the scope and substance of these proposals and their potential impacts," Kelly added. Those initiatives include a proposed consolidation of MSRB requirements related to transactions in discretionary accounts and a proposal to streamline submission of data submitted by underwriters related to new offerings and the potential collection of additional information that could support market transparency.

The Board also discussed the MSRB's ongoing development of a professional qualification examination for municipal advisors, consistent with its mandate under the Dodd-Frank Wall Street Reform and Consumer Protection Act. With a baseline qualification exam for municipal advisor representatives in place since September 2016, the MSRB has been developing a principal-level exam to qualify individuals engaged in the management, direction or supervision of the municipal advisory activities of the firm and its associated persons. At its meeting, the Board approved proposed amendments to MSRB Rule G-3, on professional qualification requirements, and to MSRB Rule A-16, on examination fees, and the filing of the Municipal Advisor Principal Qualification Examination (Series 54) Content Outline to formally establish the Series 54 exam. The proposal includes a 12-month grace period for municipal advisor principals to take and pass the Series 54 exam once the permanent exam becomes available following a pilot of the exam.

Date: April 30, 2018

Contact: Jennifer A. Galloway, Chief Communications Officer  
202-838-1500  
jgalloway@msrb.org

---

## **[New York Tests SALT Deduction Cap Workaround.](#)**

### ***NY, NJ pass SALT deduction workaround, IRS acceptance still unclear***

New York and New Jersey are still in the process of working out a way around the state and local tax (SALT) deduction limits included in the 2017 tax reform bill, while legislation to circumvent the cap has stalled in California.

New York is the furthest ahead, having passed its plan as part of the state budget that was signed by Gov. Andrew Cuomo (D). The plan creates charitable funds to which property owners would pay their property taxes, without the \$10,000 cap on the SALT deduction. Taxpayers could then receive

federal tax deductions and state tax credits from their charitable contributions.

Cuomo's plan includes an option that would convert the state income tax to a payroll tax. Steve Acquario, executive director of the New York State Association of Counties, said the counties were waiting for guidance from both the state and federal government as to how the trusts would be implemented.

"The \$1 million question is whether the Internal Revenue Service will accept the deduction through the use of the locally-enacted charitable trusts," he said. "The state's congressional delegation has formally asked the IRS for an opinion and guidance."

Shortly after Cuomo signed the budget, Jared Walczak from the Tax Foundation suggested that the "legally suspect workaround" could end up increasing tax payments and the likelihood of an audit.

"The IRS is highly unlikely to go along with this charade, as these so-called contributions bear none of the hallmarks of genuine charity," he wrote. "New York could be setting its residents up for a fall. They could face audits; they might be exposed to tax penalties; and their tax liability could actually go up."

He said the payroll tax might be more likely to pass legal muster but would benefit fewer taxpayers, given the variety of contracts and wage laws to deal with.

Cuomo has also announced that New York, New Jersey and Connecticut will sue the federal government, claiming the SALT deduction cap violates the Equal Protection Clause and the 10th Amendment. Walczak wrote that a judge was unlikely to rule that the cap violates either.

Meanwhile, the New Jersey Legislature has passed a bill that creates a similar system of charitable trusts, and it awaits the signature of Gov. Phil Murphy (D), who has championed the bill. But John Donnadio, executive director of the New Jersey Association of Counties, is not holding his breath on the measure's passing muster with the IRS. "We never took a position on the bill, but there are so many other issues (as an association) that we're working on, that we're not worrying about what the real impact of this legislation is going to be," he said. "None of our county officials were asking for this bill, and not many municipalities were clamoring for it."

Former California Senate President Pro Tempore Kevin de Leon had sponsored a similar bill in the state Assembly, but after leaving the Senate leadership to run for the U.S. Senate, he does not have the same political capital to push the bill as he once did, said Dorothy Johnson, a legislative representative for the California State Association of Counties.

"It has pretty much zero legs at this point," she said.

NATIONAL ASSOCIATION OF COUNTIES

By CHARLIE BAN

Apr. 27, 2018

---

**[Fitch: Kentucky Wired Wins Commonwealth Approvals; Funding Hurdle Remains.](#)**

Fitch Ratings-New York-01 May 2018: Although the Kentucky Wired PPP project has won legislative and gubernatorial support for appropriations and bonding authority, securing funding for an \$88 million commonwealth commitment to resolve outstanding project issues remains a key financial hurdle, according to Fitch Ratings.

On April 14, Kentucky's legislature passed SB 200, legislation that authorizes the Kentucky Communications Network Authority (KCNA, a state agency) to borrow up to \$110 million by "leveraging future revenues." The governor signed the bill into law on April 26. The borrowing authorization in SB 200 provides a mechanism for the commonwealth to pay \$88 million owed under a memorandum of understanding (MOU) reached between the commonwealth and various project parties to address outstanding supervening events under the project agreement. However, the specifics of how the commonwealth will use the borrowing authority under SB 200 to raise the necessary funding is not established yet, posing an ongoing risk to the project. The Kentucky Wired project remains on Rating Watch Negative due to the uncertainty regarding the future borrowing. Fitch will continue to monitor the situation and will re-evaluate the transaction upon further details of the plan of finance.

To date, Kentucky has abided by all terms of the project agreement and Fitch anticipates the commonwealth will fulfill its MOU obligations, including the \$88 million funding commitment. A failure to do so could put the ratings of related project debt and the commonwealth itself at risk, according to Fitch. A failure by Kentucky to meet its obligations under the PPP contracts will also create some uncertainty among market participants, including contractors, infrastructure investors and lenders regarding the vitality of PPP finance for infrastructure more generally.

SB 200 authorizes KCNA to borrow up to \$110 million by leveraging future revenues, and KCNA intends to use \$88 million of this to fund the commonwealth's commitment under the MOU. However, the commonwealth has not determined exactly how to raise the necessary funding. Under SB 200, the revenues that could be leveraged are from "provision of government-to-government services and sale or lease of excess capacity." After discussions with the commonwealth and KY Wired, Fitch interprets that to include various options such as higher availability payments from Kentucky reflecting public sector use of KY Wired's infrastructure, or leasing of some of KY Wired's broadband capacity to private vendors. Fitch anticipates the commonwealth, through KCNA, will determine a funding approach within the next several weeks given funding deadlines laid out in the MOU.

Under the MOU, the commonwealth has already paid \$2 million of the \$88 million settlement using available project liquidity. The next payment of \$13 million is due on July 6, with the balance due over the course of a new construction period as outlined in the MOU (ending October 13, 2020 with a longstop date of October 13, 2021).

With SB 200 the legislature also modified the funding for ongoing availability payments for the project over the next biennium. In the separate budget bill, the legislature had designated the availability payments as Necessary Government Expenses (NGEs) without line item appropriations. SB 200 revises that to instead establish specific line item general fund appropriations for the availability payments, as originally requested by the governor.

Failure of the commonwealth to fund the settlement agreement would imperil the MOU and the project itself as Fitch noted in a recent rating action commentary on the project debt ("Fitch Maintains Rating Watch Negative on Kentucky Wired Infrastructure Company's Senior Revs" dated April 10, 2018). It would also raise concerns for Fitch about Kentucky's willingness to abide by terms of the project agreement and could lead to negative rating action on the project debt, the commonwealth's counterparty obligation rating, Kentucky's IDR, and ratings on approximately \$8

billion in appropriation-supported debt. Fitch rated the commonwealth's counterparty obligation for the Kentucky Wired PPP project using our "Public-Sector Counterparty Obligations in PPP Transactions Rating Criteria" and notched it from Kentucky's IDR given the strength of the commonwealth's legal commitments under the project agreement. In Fitch's view, counterparty obligations under PPP project agreements extend beyond simply making availability and milestone payments to also include adherence to all terms of the agreements as well as related commitments such as those in the proposed settlement agreement.

Contact:

Eric Kim (Commonwealth Analyst)

Director

+1-212-908-0241

Fitch Ratings, Inc.

33 Whitehall Street

New York, NY 10004

Sean Su (Kentucky Wired Project Analyst)

Associate Director

+1-415-732-7576

Media Relations: Sandro Scenga, New York, Tel: +1 212-908-0278, Email:

sandro.scenga@fitchratings.com

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

---

## **Fitch: U.S. Pension Contributions Trending Higher but Pace Slowing.**

Fitch Ratings-New York-01 May 2018: Actuarial pension contributions of state and local governments are and will continue to grow over time, though the pace has slowed following the rapid increases that took place immediately after the Great Recession, according to a new report by Fitch Ratings.

Following a high water mark of 8.6% in fiscal 2011, the median actuarially determined contribution (ADC) rose only 3.5% last year. Actual contributions rose marginally quicker (3.7%), as governments continue to pay a larger share of what actuaries target for supporting pension systems. However, pension contribution growth has been far faster than the growth in state and local tax resources. State and local tax resources are about one-third higher than a decade ago, while pension ADCs are 74% higher.

Though the pace has slowed, the contribution burden of pensions is likely to continue rising, according to Senior Director Douglas Offerman. "ADCs must rise further to cover asset performance that over time is unlikely to match the investment return targets that plans set for themselves," said Offerman. "Slower ADC growth is taking place against a backdrop of longer-term unfavorable factors that will continue to push the carrying costs of pension liabilities higher over time."

Actual contributions to pensions have risen faster than ADCs as governments have responded to pension funding concerns by paying a higher share of their ADCs. Two-thirds of major pensions are receiving at least the full ADC in fiscal 2017, the highest level in the last decade. Despite this positive trend, the willingness of states and local governments to make full ADC is generally cyclical.

Fitch sees this as a negative over time. "The damage done by weak contribution practices is higher today compared to decades past because pension systems are more mature, with less favorable demographic and cash flow profiles," said Offerman.

'Slower Growth in Pension Contributions' is available at [www.fitchratings.com](http://www.fitchratings.com).

Contact:

Douglas Offerman  
Senior Director  
+1 212 908-0889  
Fitch Ratings, Inc., 33 Whitehall Street, New York, NY 10004

Media Relations: Sandro Scenga, New York, Tel: +1 212-908-0278, Email:  
[sandro.scenga@fitchratings.com](mailto:sandro.scenga@fitchratings.com)

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

---

## **[Do Taxpayers Know They Are Handing Out Billions to Corporations?](#)**

Every year, states and local governments give economic-development incentives to companies to the tune of between \$45 billion and \$80 billion. Why such a wide range? It's not sloppy research; it's because many of these subsidies are not public.

For the known subsidies, such as Maryland's recent \$8.5 billion incentive bid for Amazon's second headquarters, the support includes cash grants for company relocations, subsidized land, forgiving company taxes on everything from property taxes to sales taxes and investments in infrastructure for the company. Maryland is even offering to give 5.75 percent of each worker's salary back to the company, which is the maximum state income tax rate for individuals. Employees will pay taxes that will be routed back to Amazon.

To be clear, Maryland isn't a model of transparency. Its offer is known not because the state made its bid public, but because these extreme incentives required special legislation. The legislature didn't call it the Amazon Bill. They called it the Prime Act, which is a tortured acronym from "Promoting extraordinary Innovation in Maryland's Economy Program." The bill was revealed only after an initial offer was made to the company.

[Continue reading.](#)

### **The New York Times**

By Nathan M. Jensen

Mr. Jensen is a co-author of *"Incentives to Pander: How Politicians Use Corporate Welfare for Political Gain."*

April 24, 2018

---

## **Fitch: Sports Betting Win Could Bump Revenues for Some U.S. States.**

Fitch Ratings-New York-26 April 2018: An overturn of a two decades-old law banning sports gambling throughout most of the country could position some states for a modest spike in tax revenues, according to Fitch Ratings.

The law in question is the federal Professional and Amateur Sports Protection Act (PASPA), which was enacted in 1992 and rendered sports gambling illegal in all states except for Nevada, Delaware, Montana, and Oregon. New Jersey has challenged the law's constitutionality, saying that PASPA violates states' right to modify or repeal existing state laws, which is protected by the 10th Amendment. A U.S. Supreme Court overturn could allow sports gaming across the U.S. and establish an important precedent according to Senior Director Marcy Block.

'If the courts rule in favor of New Jersey, not only would the ruling immediately position other states to adopt a similar approach to sports betting, but it would affirm states' sovereign right to legislate where the federal government has chosen not to regulate,' said Block. Not surprisingly, many states are watching intently for the final outcome. Connecticut, Mississippi, New York, Pennsylvania and West Virginia have all enacted laws to advance legal sports betting if SCOTUS rules in favor of New Jersey. In addition, 13 other states have had sports gaming legislation introduced in recent sessions.

States are looking to bring in additional tax revenue from legalizing a market that has reached \$150 billion. However, legalized sports gaming will not add to state coffers unless operators and players participate. Fitch believes that Pennsylvania's \$10 million initial operator license fee, 34% state tax on gross gaming revenue (GGR) and 2% GGR local share assessment are likely to deter certain operators' interest and could incentivize them to outsource sports betting operations. By contrast, West Virginia's 10% GGR tax rate and much lower licensing fees are expected to generate greater operator interest.

'States Move On Sports Betting As SCOTUS Decision Nears' is available at '[www.fitchratings.com](http://www.fitchratings.com)'

Contact:

Marcy Block  
Senior Director  
+1-212-908-0239  
Fitch Ratings, Inc.  
33 Whitehall Street  
New York, NY 10004

Colin Mansfield  
Director, CFA  
+1-212-908-0899

Media Relations: Sandro Scenga, New York, Tel: +1 212-908-0278, Email: [sandro.scenga@fitchratings.com](mailto:sandro.scenga@fitchratings.com)

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

---

## **Muni Bonds Stage Biggest Rally in Six Weeks on Fed Outlook.**

- **Long end leads gains, with 30-year yields down 5 basis points**
- **Gains come after munis cheapened last week against Treasuries**

Municipal bonds rallied Thursday, pushing yields down by the most in six weeks, after the Federal Reserve signaled it will allow inflation to run slightly above its target, a less hawkish tone than some investors expected.

The gains were led by the longest-dated securities, with 30-year yields falling 5 basis points to 3.03 percent by 1 p.m., according to Bloomberg's benchmark indexes. Ten-year yields dropped 4 basis points to 2.47 percent.

The move came after municipal debt yields rose relative to Treasuries last week, making state and local bonds more attractive by comparison. Treasuries also gained after Wednesday's Fed meeting.

"Munis underperformed across the curve and looked cheaper," said Peter Block, managing director at Ramirez & Co., a New York-based brokerage. "Supply is low this week, there's a lot of money on the sidelines and we looked attractive."

### **Bloomberg**

By Danielle Moran

May 3, 2018

---

## **Blockchain Municipal Bond Plan Inches Forward With Berkeley Vote.**

- **Council votes to direct city manager to evaluate venture**
- **California city could be first to apply technology to munis**

Berkeley, California, is inching closer to possibly becoming the first municipality to apply blockchain technology to public finance to raise funds for community projects.

In a unanimous vote Tuesday night, the City Council asked the city manager to evaluate the benefits of a pilot venture that may result in the city selling an undetermined amount of municipal bonds with the technology that underpins cryptocurrencies.

The initiative led by vice mayor Ben Bartlett aims to boost the community's participation by offering the municipal debt in minibond securities for less than the typical minimum denomination of \$5,000. Blockchain, which is a platform that uses so-called distributed ledgers to allow digital assets to be traded securely, would record the bonds and subsequent transactions as soon as they're issued.

Coupling minibonds with blockchain is "meant to get around Wall Street," Bartlett said during the meeting before the vote.

A couple members of the council said they needed to know more about the idea. Councilwoman Susan Wengraf questioned the need for using blockchain. "If we're doing mini muni bonds, which I think is a great idea, isn't blockchain overkill?" she said.

### **Bloomberg**

By Romy Varghese

May 2, 2018, 7:30 AM PDT

---

## **The Muni-Market's Terrible, Horrible, No Good, Very Bad Year.**

- **Falling sales squeeze underwriters while investors see losses**
- **'It's a bumpy time when rates are going up,' investor says**

This year is turning out to be one many in the municipal-bond world would rather forget.

Thanks to a federal tax-overhaul that caused a rush to borrow last year and curbed governments' ability to refinance debt, new bond sales have shrunk by 20 percent, cutting deeply into underwriting fees. Trading is down. Demand has dropped from some of the market's major buyers, banks and insurers, because tax rates were lowered. And with interest rates headed higher, the securities have handed investors a loss of 1.4 percent, marking the worst start to a year since 1996.

"We have been stuck in such a low interest rate environment for so long," said Ross Maynard, director of client portfolio management at Ascent Investment Partners, which holds about \$500 million of municipal securities. "We always knew the transition period wasn't going to be comfortable. I think we're very much in that right now."

The municipal market isn't the only one whipsawed by worries about tighter monetary policy, and tax-exempt debt has posted smaller losses than corporate bonds or Treasuries, thanks in part to the drop off in supply. Moreover, higher yields will eventually draw in investors, whose returns have been restrained by a decade of low interest rates.

But for now, that may be little consolation, with investors pulling money out of municipal mutual funds for the past four weeks. Firms including Piper Jaffray Cos., Raymond James Financial Inc. and the Royal Bank of Canada said their investment banking divisions have also been hit by lagging debt sales in the first quarter.

"If rates are going up and good-quality municipals are giving 4 percent or more in tax-free cash flow, over the long term that's going to be good for people in high tax brackets," said Jim Pratt-Heaney, chief investment officer at Coastal Bridge Advisors in Westport, Connecticut. "It's a bumpy time when rates are going up."

Analysts say the market may be bolstered in the next few months as the amount of money investors receive from maturing debt and interest payments outstrips the supply of new bonds. That augurs well for demand, given that bond payments are frequently reinvested. Over the next month, some \$9.3 billion of municipal debt is set to be sold, far less than the \$19.7 billion bondholders will get from securities that are being paid off, according to data compiled by Bloomberg.

Ascent's Maynard, like many investors, is buying shorter-dated debt, which is less sensitive to interest-rate changes and is one of the few niches to deliver positive returns. He said it's a fools errand to try to predict which way the market will shift over the near-term — given that bullish analyst forecasts for January proved off base.

"You might as well be at the craps table," he said.

## **Bloomberg**

By Amanda Albright

May 2, 2018, 10:29 AM PDT

---

### **California City Infamous for Graft Seeks Muni-Market Atonement.**

- **Once corrupt Bell plans to sell general-obligation bonds**
- **Seven city leaders were found guilty after the 2010 scandal**

Bell, California, is returning to the municipal-bond market for the first time since a graft and corruption scandal that reverberated nationally for the breadth of the venality.

The small city just south of Los Angeles plans to sell about \$25 million in general-obligation bonds to refund older securities, according to S&P Global Ratings. The company ranks the debt BBB+, three steps above speculative grade. Bell last sold general obligations in 2007, according to data compiled by Bloomberg. While backed by bond insurance, that debt was also rated BBB+ by S&P.

The bond sale, underwritten by Stifel, is “definitely a good sign” for Bell, said city Finance Director Tineke Norrdin. The offering is expected the week of May 21, said David Brodsky, a managing director at KNN Public Finance, the city’s financial adviser.

In 2010, the Los Angeles Times exposed that politicians and top administrators of the city of about 37,000 people were among the highest paid in the nation even as its residents were among the poorest. The city manager earned nearly \$800,000 a year while part-time city council members received about \$100,000 annually. Criminal investigations ensued. Seven officials were found guilty of multiple charges, S&P said.

After the arrest of the city administrative officer in 2010, Bell defaulted on a \$35 million principal payment on lease-revenue bonds that were privately placed with Dexia Credit Local. The city has since resolved the litigation over the default and has even garnered one-time funds from various settlements related to the bond issue, according to S&P.

Bell’s rating outlook is stable, an indication that the city has “sufficiently reformed its practices and policies and has rehabilitated its finances” since then, S&P said. “The stable outlook also reflects our expectation that, over time, the city’s staff retention will improve and the city’s political culture will continue becoming more transparent and responsive.”

## **Bloomberg**

By Romy Varghese

May 2, 2018

— *With assistance by Sophia Sung*

---

## **S&P Global Toll Road 2018 Sector Outlook: Increasing Traffic Growth Will Largely Support Credit Stability.**

S&P Global Ratings' 2018 outlook for business conditions and credit quality for rated toll road facilities across Canada, Europe, Latin America, and Asia-Pacific is stable. The exception is the U.S., where the toll sector outlook is positive.

[Continue Reading](#)

Apr. 30, 2018

---

## **S&P Credit Conditions: U.S. State And Local Government Are Experiencing An Upswing, But New Risks Could Threaten The Momentum.**

With economic growth accelerating, credit conditions across the U.S. state and local government sector continue to firm. The current expansion, which was already entering the mature phase of the cycle, received additional support in the form of federal fiscal stimulus (tax cuts and increased spending) in recent months.

[Continue Reading](#)

Apr. 26, 2018

---

## **S&P: Bank Loan Structures Risks Remain, But GASB 88 Is A Positive Step Toward Transparency In Financial Reporting.**

BOSTON (S&P Global Ratings) May 2, 2018-In March 2018, the Government Accounting Standards Board (GASB) released Statement No. 88, new accounting guidelines that detail disclosure requirements for a variety of financial instruments.

[Continue Reading](#)

---

## **S&P Live Webcast and Q&A: For U.S. States, A More Positive Tone Emerges For Fiscal 2019 Budget Process; Can It Last?**

**May 15, 2018 | New York**

Please join our leading S&P Global Ratings analysts from the U.S. States' Group for a live interactive webcast on Tuesday, May 15 at 2:30 p.m. Eastern Daylight Time, where they will provide their views on the budget process for the U.S. states as they approach the start of the 2019 fiscal year, which for 46 of the states, begins on July 1.

[Register For This Webcast](#)

---

## **[Amicus Brief: Ambac Assurance Corp. v. Countrywide Home Loans](#)**

### **Court:**

New York Court of Appeals

### **Amicus Issue:**

Whether a financial guaranty insurer asserting common-law contract and fraud claims is required to prove all of the elements of these claims to obtain relief, including justifiable reliance and causation.

### **Counsel of Record:**

Orrick, Herrington & Sutcliffe LLP

Richard A. Jacobsen

Paul F. Rugani

Daniel W. Robertson

[Read the Brief.](#)

---

## **[CDEA // BNY Mellon Webcast Series: Housing Finance 201: Partnerships & the Capital Stack.](#)**

**Tuesday, June 19, 2018**

**1:00 PM Eastern**

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

---

## **[Intro EB-5 Finance WebCourse.](#)**

**May 23-24, 2018**

**Daily: 12:00 - 5:00 PM Eastern**

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

---

## **[Hacking Threat Comes Into Focus for Municipal Finance.](#)**

As computer hackers become more creative in their attacks on government enterprises, different segments of the municipal industry are being forced to react.

“Everyone saw what happened in Atlanta and thinks that could be us,” said Richard Llewellyn, Los Angeles’ chief administrative officer.

In late March, a hacking crew calling itself the SamSam Group froze a wide range of Atlanta city systems for five days and demanded a ransom equal to \$51,000 in bitcoin. The hackers snarled a

broad range of online systems, forcing city workers to swap electronic systems for paper, with computers rendered useless while the city worked for five days to restore service.

The Atlanta hack spared the 911 system, but the story was different in Baltimore, where the automatic dispatch system at the 911 center was shut down for an entire Sunday in March while technicians worked to restore a server breached by hackers.

Colorado's Department of Transportation was recovering from a February attack that froze 2,000 computers when the system became re-infected. The hack, considered a variation of the SamSam ransomware that struck Atlanta, locked computer files and demanded a ransom for their safe return.

Conversations with S&P Global Ratings analysts and an FBI agent made Tom Kozlik, a PNC Bank credit analyst, realize "there isn't much the FBI or other authorities can do to stop those kinds of ransomware attacks."

The issue has become so commonplace that municipalities are being advised to describe the risks in bond offering documents.

Los Angeles Mayor Eric Garcetti launched the LA CyberLab in August to share information about cybersecurity threats with businesses in the city. The lab, a public-private partnership, helps to thwart cyber criminals by disseminating information and intelligence based on the analysis of more than one billion security-related events and over four million attempted intrusions into city networks per day, according to the mayor's office.

The problem has struck close to home; the Port of Los Angeles' largest terminal was closed for several days in 2017 when the NotPetya computer worm struck shipping firm Maersk, slowing its computers' functions to a crawl.

In February, a Houston man was indicted on charges of using the Los Angeles Superior Court system to send phishing emails to direct people to a fake American Express website.

Earlier, Garcetti spent federal funds on efforts like installing Splunk, data management software that centralizes cybersecurity monitoring.

New York Mayor Bill de Blasio announced last week the city would add \$41 million to its fiscal 2019 budget for cyber security projects.

De Blasio pointed to the attack on the United Kingdom's National Health Service, where medical personnel could not access patient records, putting lives at risk.

Cities have to weigh the cost of the ransom against the millions it would cost to fix systems that were electronically torched by cyber criminals.

Colorado didn't pay a ransom, but Atlanta did.

The FBI's advice runs counter to the popular belief perpetuated by movies where authorities instruct victims against ransom payments, Kozlik said.

When FBI special agent Darin Murphy gave a presentation to members of the Philadelphia Area Municipal Society in April, he told them that it was a business decision for each government, Kozlik said.

A city has to weigh paying something like a \$25,000 ransom versus millions of dollars to repair a

corrupted computer system and losing revenue while the system is down, Kozlik said.

Kozlik issued a commentary on the subject in April, and plans to spend the next few months analyzing the threats to municipal credits to offer more detailed guidance.

Orrick, Herrington & Sutcliffe advises clients in nearly every case to include information about cyber security in bond offering documents, said Roger Davis, co-chair of the firm's public finance department.

"It might be a separate section, or it might just be a risk factor, but almost all of the transactions I can think of lately have included some disclosure or advice on cyber security," Davis said.

He said it has been at least a year and a half since Orrick began including information in bond documents.

California had one of the largest examples of a municipal market data breach in 2015, when hackers broke into the UCLA hospital network accessing the records of 4.5 million people. UCLA's hospital network includes four hospitals and 150 offices across southern California.

The trigger for S&P to begin considering the potential credit risk for muni credits came after South Carolina's tax filings were hit in 2015, said Geoff Buswick, an analyst. The amount of taxes paid or returns received were posted to an email group, Buswick said.

Since then, it has become more common to see such online crime happen to cities and school districts, Buswick said.

S&P pulled a group together in January 2017 to draft a reference guide on potential credit risks from cyber attacks, Buswick said.

The analysts looked at what the federal government was advising state and local governments, and the guidelines laid out by the Multi-State Information Sharing and Analysis Center of the Center for Internet Security, a non-profit entity that coordinates the IT industry to safeguard private and public organizations.

S&P has not created a separate criteria for evaluating municipal cyber risk, but advises analysts to start asking municipalities questions about their defenses and how prepared they are in the event an attack occurs. Many of the questions fall under the analysis of how well a municipality is managed. S&P also asks if a municipality has insurance coverage.

S&P has yet to downgrade any municipal credit because of cyber risk, but Buswick said what happened to Lansing, Michigan is a good example of how these attacks can act as a stress test of sorts and reveal other weaknesses.

The Lansing Board of Water & Light paid the ransom of \$25,000. It was insured, but when its system was attacked officials decided it was too vulnerable and replaced it at a cost of \$2 million, Buswick said. The \$800,000 in insurance did not cover that expense. If the city had been facing a liquidity crunch and it had not been able to cover the additional \$1.2 million expense, its ratings could have been impacted, Buswick said.

In Atlanta, residents still can't pay their water bills online, Buswick said. In that attack, he said, the hackers tried every possible combination of password they could until they could get in.

Georgia has a strong system and has worked with Atlanta on protecting its computer network.

"They have done best practices to try to protect themselves, but attackers are getting more sophisticated," he said.

Moody's Investors Service views "cyber risk as event risk – an incident with a low probability, but potentially high impact," said Joe Mielenhausen, a spokesman.

"Our fundamental credit analysis for municipalities incorporates numerous stress tests, and a cyber event could trigger one of those stress scenarios," Mielenhausen said. "Cyber attacks can shut down service and increase near-term costs for local governments, but ultimately they are manageable assuming the government has ample liquidity and other preparation measures in place."

Aravind Swaminathan, a partner in Orrick's Seattle office, said cities have to maintain ongoing surveillance, because as soon as they overcome one tactic hackers find another method of access.

Swaminathan, a prosecutor in the Department of Justice's computer hacking and intellectual property section for six years before joining Orrick, works with Davis in guiding clients on more than bond disclosure. He is also co-chair of the firm's cyber, privacy and data innovation group.

Municipalities that are not public finance clients are turning to the firm for help in creating a defense system against hackers, meeting federal guidelines on such systems, and determining the best way to handle a data security incident, Swaminathan said.

The team also aids clients if they are facing regulatory or class action lawsuits when protections fail.

"Our practice has handled 350 data security incidents in the past four years," he said. He did not know what percentage were municipal versus private industry breaches.

"This is a world that is bound only by the creativity of the bad guy, which seems to be limitless," Swaminathan said. "We are becoming more aware, but the bad guys are evolving just as we are."

Paul Burton contributed to this report.

## **The Bond Buyer**

By Keeley Webster

May 03 2018

---

### **[Muni Regulator to Seek Comment on 'Pennyning' by Dealers.](#)**

WASHINGTON - The Municipal Securities Rulemaking Board, seeking comment on various initiatives and potential guidance, wants feedback on "pennyning" or "last look" practices by dealers, and how they may reduce market liquidity.

MSRB president Lynnette Kelly said Monday that the board agreed at a meeting last week to seek public comment on potential rule updates and interpretations on several market practices.

Pennyning occurs when a dealer places a retail client's bid-wanted out to the market and determines the winning bid, but then, rather than executing the trade with the winning bidder, instead marginally outbids the high bid and buys the bonds for the dealer's own account.

Market participants will be asked to comment on draft interpretive guidance for dealers that would clarify existing regulations on the practice. The MSRB raised concerns about pennyng in a letter to the Securities and Exchange Commission in October.

The MSRB has previously released guidance warning dealers against putting out a bid-wanted solely for the purpose of price discovery so that they can buy the bonds for their own accounts. Pennyng was one of two market practices the MSRB said it was concerned about in last year's letter to the SEC's Investor Advocate.

While the practice is beneficial to the retail customer in the short term, Kelly said Monday that the MSRB remains concerned about the broader implications of the practice.

"If the practice is widespread, that will disincentivize other firms to bid," she said. "It's possible that this practice could negatively impact liquidity."

The board also agreed to publish a request for comment on the merits of any potential changes to 2012 guidance on its Rule G-17 on fair dealing covering duties owed by dealers to issuers when underwriting municipal securities. The guidance laid out a variety of disclosures underwriters are supposed to make to issuers at the beginning of a transaction, including the disclosure that underwriters are not fiduciaries and not required to act in the best interests of issuers. Kelly said the disclosures have largely become boilerplate and extremely lengthy, and that there is probably a lot of "room for improvement" in that practice.

"With over five years of experience with the application of our Rule G-17 guidance, we think it is the appropriate time to engage in a retrospective review to determine its effectiveness, as well as any opportunities to improve the guidance," Kelly said.

The board also discussed other retrospective reviews, including potential guidance or uniform practices for underwriters related to the dissemination of information about new bond issues and refunding transactions.

The board approved proposed amendments to its Rule G-3 on professional qualification requirements and to Rule A-16 on examination fees, related to the filing of the Municipal Advisor Principal Qualification Examination (Series 54) content outline to formally establish the Series 54 exam. The proposal includes a 12-month grace period for municipal advisor principals to take and pass the Series 54 exam once the permanent exam becomes available following a pilot of the exam.

The board also discussed some current topics, such as the fast-approaching effectiveness of new markup disclosure requirements on May 14, and the SEC's proposal earlier this month to require a broker-dealer to act in the best interest of a retail customer when making a recommendation of any securities transaction or investment strategy involving securities to a retail customer. Kelly said discussions about that proposal, known as Regulation Best Interest, were "very preliminary" but could have implications for the MSRB's suitability rule if the SEC were to move forward with the proposal.

The next MSRB board meeting is scheduled for July 18-19.

By Kyle Glazier

BY SOURCEMEDIA | MUNICIPAL | 04/30/18 07:11 PM EDT

---

## **STORMWATER FEES - MARYLAND**

### **[Congregation v. Mayor and City Council of Baltimore](#)**

**Court of Special Appeals of Maryland - April 27, 2018 - A.3d - 2018 WL 1989534**

Religious congregation sought judicial review of city zoning appeals board's rejection of its challenge to stormwater fees assessed on congregation's properties, which congregation made based on arguments on religious freedom and city's powers under state law.

The Circuit Court affirmed. Congregation appealed.

The Court of Special Appeals held that:

- City did not exceed its power under state statute on stormwater remediation fees in ordinance that provided for assessments of stormwater fees;
- Stormwater fee was an excise tax rather than a property tax, user fee, or service charge; and
- Stormwater fee was not a land-use regulation under the Religious Land Use and Institutionalized Persons Act.

City did not exceed its power under state statute on stormwater remediation fees in ordinance that provided for assessments of stormwater fees on property, despite argument that the fee for properties that were non-exempt, non-single-family properties was based on a property's impervious surface area and not based on each property's share of stormwater management services; statute required the creation of a watershed protection and restoration program, which would include a stormwater remediation fee and a local fund, and nothing in the state forbade categorizing different properties and applying different methods for fee assessments based on those categorizations.

Stormwater fee that city assessed on religious congregation's properties was an excise tax rather than a property tax, user fee, or service charge, and thus congregation's status as a religious organization did not exempt it from the fee; fee was not based on a commodity or service consumed, but fee was rather a charge that applied toward the operation of city's stormwater management system and was based on an aspect of the use of the property, i.e., the amount of impervious surface area.

Stormwater fee, which was properly categorized as an excise tax, that city assessed on religious congregation's properties was not a land-use regulation under RLUIPA, and thus city could not maintain an argument that the ordinance was a substantial burden on religious exercise in violation of RLUIPA; ordinance did not impose use restrictions or regulate the use of property, and city was not using fee as a pretext or vehicle to enact or implement a zoning ordinance.

City appeals board could find to be unsubstantiated religious congregation's argument that the stormwater fee that was assessed on congregation's properties, and that was properly categorized as an excise tax, was a substantial burden on the congregation in violation of the First Amendment, the state constitution's free-exercise clause, and RLUIPA, despite argument that congregation initially submitted its water bills to the public-works department, which first considered congregation's challenge, and thus the alleged procedural failure of the board to consider the complete record was not a reason to vacate the board's rejection of congregation's challenge to fee's validity; a water bill indicated one, isolated expense.

---

## **S&P: New Jersey's Pension-Funded Ratios Improve, But Liabilities Are Expected To Remain Large.**

New Jersey's pension-funded ratios have slightly improved from last year, which S&P Global Ratings anticipated when it revised its state general obligation (GO) rating outlook to stable from negative Aug. 25, 2017. Nevertheless, S&P Global Ratings believes state pension liabilities will remain large and a key credit weakness for the foreseeable future.

[Continue Reading](#)

Apr. 30, 2018

---

## **S&P: For U.S. States, A More Positive Tone Emerges For Fiscal 2019 Budget Process; Can It Last?**

With the economy settling into the mature phase of its nearly nine-year expansionary cycle, the approaching fiscal 2019 budget picture for U.S. states is more sanguine than it has been in several years. Not only are revenue collections in most states higher than at this point in 2017, tax receipts are also surpassing fiscal 2018 budget estimates.

[Continue Reading](#)

May 1, 2018

---

### **TAX - OKLAHOMA**

#### **Independent School District No. 54 of Lincoln County v. Independent School District No. 67 of Payne County**

**Supreme Court of Oklahoma - April 24, 2018 - P.3d - 2018 WL 1917401 - 2018 OK 34**

Plaintiff school district brought action against defendant school districts to recover ad valorem tax revenues that had been improperly paid to defendants rather than to plaintiff.

The District Court granted summary judgment to defendants. Plaintiff appealed.

The Supreme Court of Oklahoma held that defendants were not liable to plaintiff to compensate plaintiff for its underpayment.

Defendant school districts, which had improperly received distribution of revenues from ad valorem taxes for properties that were located within plaintiff school district, were not liable to plaintiff school district to compensate plaintiff for its underpayment; districts received State Aid in proportion to their ad valorem revenues, and thus plaintiff did not suffer any monetary loss to its general fund as a result of erroneous apportionment.

---

## **Oyez! The Supreme Court Hears Oral Arguments in Wayfair, and Now We Play the Waiting Game.**

On April 17, 2018, the U.S. Supreme Court heard oral arguments in the case of [\*South Dakota v. Wayfair, Inc.\*](#) *Wayfair* is a direct challenge of the Court's holding in [\*Quill Corp. v. North Dakota\*, 504 U.S. 298 \(1992\)](#), that, under the dormant Commerce Clause, a remote/online vendor does not have to collect and remit sales/use tax on sales made to customers who reside in a given state unless the vendor has a physical presence in that state. Click [here](#) and [here](#) for background on this issue and its importance to state and local governmental units, and click [here](#) for [SCOTUSblog's](#) analysis of the oral arguments in *Wayfair*.

The Court's decision in *Wayfair* is expected by late June. Until then, we are left to speculate as to how the Court will rule. It is clear from the oral arguments that the Court is divided and that *Wayfair* could be a 5 – 4 decision. It most likely will not, however, be a 5 – 4 decision along the ideological lines to which we've grown accustomed, with the Court's liberal justices (Ginsburg, Breyer, Sotomayor, and Kagan) split from the conservative justices (Thomas, Roberts, Alito, and Gorsuch) and Justice Kennedy providing the deciding vote.

The Court's decision in *Wayfair* is expected by late June. Until then, we are left to speculate as to how the Court will rule. It is clear from the oral arguments that the Court is divided and that *Wayfair* could be a 5 – 4 decision. It most likely will not, however, be a 5 – 4 decision along the ideological lines to which we've grown accustomed, with the Court's liberal justices (Ginsburg, Breyer, Sotomayor, and Kagan) split from the conservative justices (Thomas, Roberts, Alito, and Gorsuch) and Justice Kennedy providing the deciding vote.

Based on (i) questions posed and comments made during oral argument (Kennedy, Ginsburg, and Gorsuch), (ii) having openly invited a challenge to *Quill* (Kennedy), and (iii) having previously expressed skepticism of/hostility towards the dormant commerce clause (Thomas and Gorsuch), there are likely four votes in favor of overruling *Quill* – Justices Kennedy, Thomas, Ginsburg, and Gorsuch. It appeared at oral argument that Justices Roberts, Alito, Sotomayor, and Kagan were inclined to preserve the *Quill* decision. These are not the typical Supreme Court blocs.

Justice Breyer expressed at oral argument that he saw the merits of both sides in *Wayfair*, and he has emerged as the swing vote in this case. Which ideologically diverse group will prevail upon Breyer? The fantasy gaming crowd at [FantasySCOTUS](#) (yes, that is a thing) [believes that Justice Breyer will side with Justices Roberts, Alito, Sotomayor, and Kagan to uphold Quill](#). Are the fantasy gamers selling the [Notorious RBG](#) short? We'll find out this June.

**By Michael Cullers on April 26, 2018**

**The Public Finance Tax Blog**

**Squire Patton Boggs**

---

## **Is Selling Tax-Free Liquor Tax Evasion?**

***As out-of-staters flock to New Hampshire to stock up on alcohol, its neighboring states think so.***

New Hampshire doesn't collect sales or excise taxes on the purchase of liquor, yet it relies on liquor sales to keep its budget afloat. That combination has led to a long list of troubles, including allegations of bootlegging, money laundering and tax evasion, to name a few.

The tax-free liquor brings in lots of customers from other states. These aren't just out-of-state visitors looking to save a couple of bucks on a bottle. It's pretty common for people to drive up in trucks with New York license plates and purchase thousands of dollars' worth of booze. These purchases, often made in cash, frequently total just under \$10,000 apiece — the threshold that triggers Internal Revenue Service disclosure requirements.

Andru Volinsky, a member of the state's Executive Council — a sort of advisory governing board for the state — started hearing complaints about such transactions from Liquor Commission employees. "They were being encouraged to turn a blind eye to a number of practices by bootleggers, as well as their superiors at the Liquor Commission," Volinsky says.

He decided to check things out for himself. Hearing that a customer had phoned in a large order one Saturday, he went to the store in question. It was in Keene, just north of Massachusetts, off Interstate 91. Volinsky watched a man and a woman buy \$24,000 worth of Hennessy cognac, splitting up the order into multiple purchases, mostly paid for with cash. "I saw it happen in open space," Volinsky says.

He reported his findings to the governor and the attorney general and then took his allegations public. The Liquor Commission soon sprang into action, firing its own employee at the Keene store, whom Volinsky describes as a whistleblower. Blaming the messenger appeared to be the strongest initial impulse. The state Republican Party called for Volinsky himself to be investigated for running what party spokesman Patrick Hynes calls a "bizarre sting operation." GOP Gov. Chris Sununu suggested that wasn't a bad idea, calling for an investigation "on both sides."

Because Volinsky is a Democrat, this might be dismissed as yet another skirmish in an era of partisan warfare. The reality is that what Volinsky saw was not really news to anyone. There have been complaints for years that the Liquor Commission encourages — or at least fails to discourage — dodgy out-of-state purchases. Back in 2012, House Speaker Bill O'Brien commissioned a report that made serious allegations of impropriety. That year, a couple of drivers in Massachusetts were caught illegally transporting liquor apparently purchased in New Hampshire. One of them carried 1,676 bottles of Hennessy.

O'Brien's report came out just before that year's election, in which he and his fellow Republicans lost their House majority, so they were unable to take further action. "Quite frankly, if I became speaker again, we would have looked at doing away with the commission and privatizing the sale of liquor," O'Brien says. "It's an agency of government that needs greater oversight and maybe the mission could be changed."

Border towns in much of the country feature gas stations, liquor stores or cigarette barns that make it easy for residents of neighboring states to take advantage of lower tax rates just across the line. New Hampshire's Liquor Commission makes it especially easy. Stores are located in places that happen to be convenient to bootlegging routes, and their complete inventories are publicly available online. As a result, you don't have to waste time driving around to find the stores that stock tens of thousands of dollars' worth of cognac.

Patrick Delaney, Vermont's liquor commissioner, says New Hampshire's setup is basically tax evasion. The New Hampshire Liquor Commission insists, however, that there's "nothing illegal or unscrupulous" about selling to out-of-state customers. "Our prices, selection and service are one of

the many reasons more than 11 million customers from around the world spent \$700 million with us last year. We welcome all customers, no matter where they live.”

The New Hampshire Liquor Commission nets \$150 million a year, or about 6 percent of the state’s total revenues. State law makes clear that prioritizing profits is at least as important a purpose for the commission as regulating the distribution of alcohol. As Volinsky has found, pointing out the flaws in this system is more likely to lead to disparagement than change.

GOVERNING.COM

BY ALAN GREENBLATT | MAY 2018

---

## **[Rep. Lofgren Introduces Clean Energy Victory Bond Act.](#)**

[Click here](#) to learn more.

---

## **[USDA Seeking Applications for Community Facilities Program.](#)**

[Click here](#) to learn more.

---

## **[Why Isn’t Muni Tax-Supported Debt Growing?](#)**

*This Special Focus is brought to you by Court Street Group.*

In an article in the Bond Buyer last week, we were asked why net tax-supported debt has virtually stopped growing. As noted in the article, “Total net tax-supported debt (NTSD) grew 1.2% for 2018 Moody’s Investors Service revealed in a report out this week, marking a half-decade in which the number has grown by less than 2% annually. The NTSD numbers are based on 2017 issuance and debt service data. Analysts weren’t surprised by the slow growth, and said that subdued infrastructure spending and other policy decisions would also keep that growth rate slow for the foreseeable future. Total NTSD grew to \$522 billion from \$516 billion last year, Moody’s said, increasing in 24 states. Illinois was a key driver, having the largest increase in debt at \$5.2 billion. That 16.3% year-over-year increase was largely due to issuing long-term debt to finance payment of its bill backlog, Moody’s said. Debt ratios declined for the third consecutive year, as median NTSD per capita fell by 4.3% to \$987. Median NTSD as a percentage of GDP fell to 2.1%, its lowest level since 2006.”

The article included several of our answers, but there is considerably more to cover in the context of the ongoing shortfall in infrastructure spending. The following include our answers, but then we add a few additional notes, especially in light of the [new report by Arthur Laffer](#) and his team that was the subject of an op-ed in the Wall Street Journal last week.

**The key points that we stressed in our discussion with the Bond Buyer included the following:**

1. **Many governments are still catching up, budget wise, coming out of the Great Recession.** In their often-unsuccessful struggle to increase services back to pre-recession levels, room to pay for major projects using tax-supported debt remains limited.
2. **Pension requirements—current and future—tightening available revenues.** The conflict between the need to maintain and/or catch up with growing pension funding requirements will be the single greatest challenge to infrastructure funding capacity for state and local governments, in a great majority of states. We see lots written about infrastructure, and lots about the pension crisis, but not nearly enough about how the two are going to interact.
3. **A Republican-based philosophy: The ideology of reducing taxes versus enhancing services or building/rebuilding infrastructure.** Let's face it, in a very large number of states, budgets have been kept incredibly tight through limits on taxes, and this doesn't leave much room for supporting needed debt for infrastructure maintenance or expansion. It's not the policy choice we would make, given infrastructure needs, but it has been the dominant theme in large parts of the country with Republican governors and one or both houses of the legislature also Republican. The major new Laffer Report, "Rich States, Poor States," discussed below, is directly and aggressively focused on a philosophy that states achieve "success" by gutting taxes—even if that means significantly diminished services (e.g., schools), and inadequate capacity to fund infrastructure.
4. **An increasing political decision at many governmental levels to focus on near-term needs, rather than long-term ones, such as infrastructure.** This has long been an issue: the money that gets spent now to provide services has often had more political "kick" than the money used for 40-year projects. ("If the bridge falls down after I leave office, it's not my problem.") However, the counterweight to public spending as discussed in the Laffer report has actually accelerated in recent years: ribbon-cutting on new projects was once considered a net positive, that stimulated job growth and expanded economic activity. Now, it is often politically something to be avoided, and done in the dead of night with no observers, so that taxing and spending in general can be minimized. We suspect that the pattern may be in the early stages of reversing, but certainly during recent years, when tax-supported debt didn't grow nearly in keeping with GDP growth, it was a key factor.
5. **A need to transition to user fee-supported projects.** Policy-wise, this has always been the case, but getting voters to approve capital spending for these projects has been difficult. The classic case is the Interstate, where the attitude is often "this was already paid for," despite the fact that major maintenance now will cost 10-20 times as much as the original project in its entirety. There are also entrenched political resistances to user-pay strategies, such as from trucking companies on interstate highways, but this is a transition that will have to happen, in our view, and as it does, should lead to a continued transition away from reliance on tax-supported debt.
6. **With tight budgets at the Federal level and little focus on supporting state/local activities, state and local governments are being forced to choose between capital spending and maintenance of services.** As the school/teacher battles suggest, it isn't an easy choice. Yes, we desperately need to pay teachers more, but where do we then get funding for infrastructure?
7. **Very early starts in a transition to a bigger private role.** In future reports we will discuss why, in our view, this transition appears to be imminent—even if a Trump infrastructure plan is never enacted. When that happens, you will see less tax-supported activity, not more? In simplified fashion, the point here is that properly planned P3s in conjunction with a design/build format (as opposed to design/bid/build) will become increasingly important as technological change continues to accelerate. As new examples, we point to the NYS budget which authorizes expanded design/build contracting for the Brooklyn-Queens Expressway and the construction of borough-based facilities to facilitate Rikers prison closure plans.
8. **Lack of leadership toward a stronger emphasis on many parts of the infrastructure**

**“equation.”** Who is making the case for competing effectively on environmental spending, efficient mass transit, implementation of modern technology? China, with a control economy, does lots of wasteful spending, but they can also prioritize modern infrastructure needs, including climate change-related activities and preparation for automated electric vehicles.

9. **Very slow wage growth, despite low unemployment and the tax cut.** This slow growth generates resistance to higher taxes along with slower tax base growth.
10. **Going forward, the limit on state/local tax deductibility will increase resistance to supporting projects with taxes.** In many environments, including many red states, it’s the taxpayers who will be most affected by the SALT limit who have the most influence on many spending decisions.
11. **Detroit.** In the aftermath of the Detroit Bankruptcy, and its resolution, it has become increasingly clear that only the most pristine tax-supported debt is safe in tight budgetary environments, and that special revenue debt (despite Puerto Rico concerns) has credit protection advantages that often lead to lower borrowing costs.
12. **The long-term nature of infrastructure projects.** A last reality for now is that tax-supported debt tends to be shorter in maturity than user-pay funded systems, and this difference means that it is easier to match debt retirement with the useful life of a project by using revenue bonds. This has always been the case, but with budgets so tight, the case for stretching out debt service closer to a project’s expected life has been enhanced.

Now back to the massive new Laffer report entitled “Rich States, Poor States” by the American Legislative Exchange Council. Under the viewpoint espoused in this massive report, the view is largely “lower taxes good, higher taxes bad,” with state by state grades on each state’s tax outlook largely based upon tax levels and trends. Now, most of our readers are, we suspect, aware that most of the positions in the report have been widely discredited.

Our key point is that, in many red states, the philosophy toward cutting taxes, gutting spending, and keeping services and infrastructure spending low remains intact—but that this is a philosophy at the legislative/leadership level that is losing favor at the electorate level.

Nevertheless, the state-level trend toward tight taxing/spending is still a factor in the level of tax-supported bonding, and quality of services.

The teacher demonstrations are good news in the sense of signals for more reasonable levels of state/local services, but the near-term impact in some states will be to respond to this single issue, without increasing available budgetary resources—so that infrastructure capacity will actually decline until budget patterns reverse. Very simply, taxing/spending patterns haven’t moved away from the viewpoint of Laffer-like fiscal conservatism as yet in many states, leaving infrastructure spending capacity at the tight levels that were reached after 1) the Great Recession, and 2) the dominance of fiscal conservatives at the state level after powerful election victories, particularly in 2010 and 2014.

In other words, for many types of infrastructure projects to go forward, they will need:

1. More budget capacity as tax-cutting pressures subside;
2. More reliance on user-fee supported structures;
3. A stronger, more well-defined Federal role; and,
4. A more effective private sector role.

We expect much of this to occur over time, but not overnight.

**Posted 05/03/2018 by George Friedlander**

---

## **Municipal Bonds Weekly Market Report: Strong Wages Data Suggests Fed Could Raise Rates Four Times.**

**MunicipalBonds.com provides information regarding the performance of muni bonds for the past week in comparison with Treasury yields and net fund flows, as well as the impact of monetary policies and relevant economic news.**

- Treasury yields were mixed, while municipal yields all gained.
- Muni bond funds saw inflows, a reversal of three consecutive week of outflows.
- Be sure to review our [previous week's report](#) to track the changing market conditions.

[Continue reading.](#)

by Brian Mathews

May 01, 2018