
ANNEXATION - ILLINOIS

Shephard v. Regional Board of School Trustees of De Kalb County

Appellate Court of Illinois, Second District - March 28, 2018 - N.E.3d - 2018 IL App (2d) 170407 - 2018 WL 1516878

Property owners sought judicial review of decision of regional board of school trustees denying owners' petition to detach their properties from the boundaries of one school district and annex them to another.

The Circuit Court affirmed. Owners appealed.

The Appellate Court held that:

- Determination that owners failed to establish sufficient educational benefits was not against manifest weight of evidence;
- Board's findings were sufficient for review; and
- Board was not required to consider the will of the people in making its determination.

Determination of regional board of school trustees, that property owners failed to establish significant direct educational benefits to their children if a change in school district boundaries were allowed, was not against the manifest weight of the evidence; owners did not raise any concern about the educational facilities in the district from which they sought to detach their properties, incident at a landfill near a school cited by owners was not likely to reoccur, and, though the speed limit on a road by the school was 55 miles per hour, vehicles passing the school on school days when children were present were restricted to 20 miles per hour.

Regional board of school trustees' findings as to whether property owners' children would have experienced significant direct educational benefits from change of school district were sufficient for review on appeal from board's decision denying owners' petition to detach their properties from the boundaries of one school district and annex them to another; educational benefit was the only issue before the board, and record did not indicate that the board overlooked any evidence favorable to owners regarding that issue.

Regional board of school trustees was not required to consider the will of the people in making a determination on property owners' petition to detach their properties from the boundaries of one school district and annex them to another; the requirement was set out in statute governing petitions for annexation to or detachment of territory from a special charter school district, but the instant case did not concern a special charter school district.

LAND USE & PLANNING - IOWA

[City of Des Moines v. Ogden](#)

Supreme Court of Iowa - March 16, 2018 - N.W.2d - 2018 WL 1357471

City brought action for injunctive relief, seeking to require landowner to cease use of property as mobile home park.

The District Court entered injunction. Landowner appealed, and the Court of Appeals affirmed. Landowner petitioned for review.

After grant of review, the Supreme Court of Iowa held that:

- City failed to establish that discontinuance of nonconforming use was necessary for safety of life or property, and
- As a matter of first impression, intensification of mobile home park, through addition of structures or expansion of homes within park, did not amount to illegal expansion of the authorized nonconforming use established by prior certificate of occupancy for park.

City failed to establish that discontinuance of nonconforming use was necessary for safety of life or property, in city's action for injunction to preclude landowner's use of property as mobile home park, which was a nonconforming use previously granted a certificate of occupancy; fire marshal testified park had never been cited for any fire safety code violations, fire marshal did not testify that current access road to park was dangerous, and city zoning inspector testified that city had never previously cited park for a zoning violation.

Intensification of mobile home park, through addition of structures or expansion of homes within park, did not amount to illegal expansion of the authorized nonconforming use established by prior certificate of occupancy for park; park had not changed in size or form, number and location of mobile homes was approximately the same as when certificate was issued, and addition to mobile home structures was only a marginal change to nature and character of use of property.

HIGHWAYS - SOUTH DAKOTA

[Coester v. Waubay Township](#)

Supreme Court of South Dakota - March 14, 2018 - N.W.2d - 2018 WL 1320235 - 2018 S.D. 24

Landowners sought a writ of mandamus requiring township to maintain roads accessing their property.

The Circuit Court denied the writ. Landowners appealed.

The Supreme Court of South Dakota held that township did not have duty to maintain roads that accessed landowner's property.

Township did not have duty to maintain roads that accessed landowner's property; applicable statute only required township to maintain township roads, there was no evidence township ever impliedly accepted any dedication of the roads, and township supervisor averred that township had never accepted the roads into the township road system or performed any repair or maintenance on the

roads.

IMMUNITY - TEXAS

[City of San Antonio v. Tenorio](#)

Supreme Court of Texas - March 23, 2018 - S.W.3d - 2018 WL 1441791

Motorcyclist, individually and on behalf of decedent, brought action against city for negligence in initiating, continuing, and failing to terminate high speed chase of driver that collided with motorcycle.

The District Court denied city's plea to the jurisdiction based on governmental immunity. City filed an interlocutory appeal. The San Antonio Court of Appeals affirmed. City petitioned for review.

The Supreme Court of Texas held that city did not have actual notice that it was allegedly at fault for fatal collision between motorcycle and vehicle that drove into oncoming traffic to evade police, as was required by Texas Tort Claims Act (TTCA) for city's governmental immunity to have been waived; even though statement in crash report indicated that fleeing police was factor that contributed to collision, nothing in crash report, witness statements, or case report indicated that city's police department subjectively believed its officers acted in error by initiating or continuing pursuit such that they were responsible for injuries.

FINANCE - VIRGINIA

[Aca Financial Guaranty Corporation and UMB Bank, N.A. v. City of Buena Vista, Virginia](#)

United States District Court, W.D. Virginia - February 8, 2018 - F.Supp.3d - 2018 WL 786167

Bank and loan insurer brought action against city and recreational authority, seeking payment of monies allegedly owed under loan arrangement.

City and recreational authority moved to dismiss complaint for failure to state a claim.

The District Court held that:

- Deed of trust was not subject to constitutional requirement that three-fourths of city council approve sale of city's rights to public places;
- Bank and loan insurer could not assert claim for appointment of receiver;
- Lease agreement between city and recreational authority created third-party contract rights in bank and loan insurer;
- City was not under legally-enforceable contractual obligation to make loan payments;
- Recreational authority did not breach trust agreement by failing to ensure that city repay loan;
- Recreational authority did not breach trust agreement by failing to divest city of possession of golf course upon city's failure to make lease payments; and
- Bank and loan insurer failed to adequately plead claim that city breached implied covenant of good faith and fair dealing.

Deed of trust, securing bank's loan to city by putting up city hall, police department, and local

courthouse as collateral, was not subject to Virginia's constitutional requirement that three-fourths of elected members of city council approve sale of city's rights in or to public places, since deed of trust did not constitute sale.

Deed of trust, securing bank's loan to city by putting up city hall, police department, and local courthouse as collateral, was not subject to Virginia's constitutional requirement that three-fourths of elected members of city council approve sale of city's rights in or to public places, since deed of trust did not constitute sale.

In action against city seeking repayment of loan, bank and loan insurer could not assert claim for appointment of receiver for city hall, police department, and golf course, since appointment of receiver, by law, could not stand as independent legal claim.

Lease agreement between city and recreational authority, giving city possession of golf course in exchange for rent payments, created third-party contract rights in bank and loan insurer; agreement expressly recognized loan insurer as third-party beneficiary and provided that recreational authority would, through trust agreement, assign its rights in rent payments to bank.

City was not under legally-enforceable contractual obligation to make payments to bank pursuant to loan arrangement; although city entered into lease agreement and forbearance agreement promising to repay loan, both agreements expressly made payments subject to appropriations by city council.

Recreational authority did not breach trust agreement with bank by failing to make interest and principal payments on bonds; agreement expressly provided that recreational authority's payment obligations were limited insofar as they were payable solely from city's rent payments for golf course, and city failed to make such rent payments.

City's recreational authority did not breach trust agreement with bank by failing to ensure that city repay loan; although trust agreement provided that recreational authority would require city to perform its duties and obligations under lease agreement, city had no legally enforceable obligation to make payments.

City's recreational authority did not breach trust agreement with bank by failing to divest city of possession of golf course upon city's failure to make lease payments; although lease agreement permitted recreational authority to respond to city's nonpayment in this way, it did not require recreational authority to do so, and bank itself had power to evict city from golf course if it so wished.

Bank and loan insurer failed to adequately plead claim that city breached implied covenant of good faith and fair dealing under loan arrangement; although complaint alleged that city unfairly induced bank and insurer to defer exercise of their rights under forbearance agreements, complaint failed to identify which rights were deferred or what specific conduct by city was unfair.

Board of County Commissioners of Teton County v. Mackay Investments, LLC
Supreme Court of Wyoming - March 28, 2018 - P.3d - 2018 WL 1516744 - 2018 WY 34

Campground owner filed declaratory judgment action against board of county commissioners, seeking determination that county's land development regulation prohibiting fractional ownership of campgrounds was unenforceable.

The District Court granted summary judgment in favor of owner. Board appealed.

The Supreme Court of Wyoming held that regulation did not regulate the use of land, only its ownership, and thus, regulation was beyond county's zoning authority and was unenforceable.

County's land development regulation prohibiting fractional ownership of campgrounds did not regulate the use of land, only its ownership, and thus, regulation was beyond county's zoning authority and was unenforceable, where regulation did not alter the length of camp site occupancy, did not control the rate of turnover at campgrounds, and did not control owner's decision to place tents or recreational vehicles permanently on their campsites.

Baltimore Trying New Tack to Pay for Costly Stormwater Projects.

City to issue \$6.2 million in 'environmental impact bonds' to finance runoff-reducing green infrastructure

Baltimore is slated to be the second city in the Chesapeake Bay region to try a novel way of financing its costly water pollution reduction projects under a plan announced Monday by city officials and the [Chesapeake Bay Foundation](#).

City officials said that with assistance provided through the Bay Foundation, they expect to issue up to \$6.2 million in "environmental impact bonds" later this year to help pay for green infrastructure projects aimed at managing stormwater in more than three dozen neighborhoods.

"Baltimore can and, we predict, will be a model for innovation in pollution reduction," declared Bay Foundation President Will Baker at a news conference announcing the deal in West Baltimore by the site of one of the planned projects. "It's a partnership with nature to save dollars and reduce pollution."

The Annapolis-based Bay Foundation hired [Quantified Ventures](#), an "impact" investment advisory firm based in Washington, DC, to work with Baltimore to structure the bond deal.

Rudy Chow, the city's public works director, said officials were looking to diversify the city's borrowing as it attempts to curtail polluted runoff at the source. Baltimore is required by federal and state regulators to reduce and treat polluted runoff from more than 4,000 acres of pavement and buildings across the city by 2019.

Instead of building holding tanks and other hard infrastructure to collect and treat stormwater, city officials hope to use nature — by replacing asphalt and concrete pavement with grassy areas that can soak up rainfall and the pollutants it picks up. They have identified about 90 greening projects they intend to complete by year's end to enhance neighborhood's quality of life while also reducing runoff.

The overall cost is projected to be \$10.3 million, with the rest to be financed through traditional municipal borrowing.

The Baltimore deal is inspired by a much larger, \$25 million environmental impact bond issued in 2016 by the District of Columbia Water & Sewer Authority. [DC Water](#), as the authority is commonly known, was the first in the nation to use the financing tool to reduce chronic problems with rain-driven sewage overflows into the Potomac and Anacostia rivers.

DC Water also hired Quantified Ventures to help it issue the bonds.

“We really think that we’re starting a movement here in the watershed and across the country,” said Carolyn duPont, director of Quantified Ventures. “We believe that environmental impact bonds will be a key part of public finance in the future. Budgets are always squeezed for cities, and there’s also an ever-growing group of impact investors who are really excited to put their money and capital to work into projects like these that have both a financial return as well as environmental and social benefits.”

Environmental impact bonds are a variation on “social impact bonds,” which are familiar to charity-minded investors who focus on issues like chronic homelessness and prison recidivism. These bonds are meant to attract investors who not only expect a modest financial return, but also want to support environmental improvements.

As with conventional municipal bonds — which fund schools or roads, for instance — the bond issuer (the borrowing municipality) makes periodic interest payments on the amount invested, at an agreed rate, until the bond’s maturity date, at which point the borrower pays back the entire principal.

But environmental impact bonds differ from traditional bonds: The municipality and investors share the risk of the investment to some degree, because the payback of the bond is based on the relative success or failure of the project. Given that setup, they are often called “pay for success” bonds.

If the project simply meets expectations, the investor will receive interest payments at the agreed-upon rate. If the project fails to meet expectations, the terms of the bond help the municipality recoup some of the cost by specifying that the investor earns little or no interest. This allows the city to protect its budget and likely channel the money held back from investors toward additional projects that help meet regulatory requirements.

If the project exceeds expectations, by curbing more pollution than anticipated, the municipality saves money by reducing the need for other projects. The investor benefits from these cost savings by receiving interest payments plus a premium – referred to as a “performance payment.”

In DC Water’s case, the authority is working under a consent decree reached with the U.S. Environmental Protection Agency in 2005 to reduce overflows from the combined sewer system into the Anacostia and Potomac rivers. The environmental bonds were issued to pay for installing green infrastructure — such as rain gardens, permeable pavement, green roofs and rain barrels — to soak up rainfall on a 20-acre area that otherwise would drain into the sewer system and overload it. DC Water believes such projects will be a cheaper way to reduce overflows than to build more costly underground tunnels to hold the polluted water until it can be treated at the Blue Plains wastewater treatment plant.

Once DC Water completes the green infrastructure projects, it plans after five years to compare runoff from the “greened” area before and after construction. If the projects reduce runoff by more than 41.3 percent, DC Water will pay investors an “outcome payment” of \$3.3 million on top of what

they would be due on the bonds. And if the project reduces runoff by less than 18.6 percent, investors will owe a “risk-share” payment to DC Water in the form of a reduced payback on their bonds. Any reduction between those benchmarks would not require any extra payments in either direction.

While the bond issuer, under such terms, might get compensated for a project’s failure or low performance, the downside likely would be substantial. DC Water, in this case, would still be liable under the 2005 consent decree to reduce sewage overflows by the promised amount, so they would have to fix the project or come up with another.

On the flip side, a bond issuer could wind up paying more to borrow for a project that does better than expected, but proponents say it saves the issuer from having to spend as much on other projects to reduce pollution. If DC Water learns from the experience that green infrastructure is significantly more effective than originally thought, instead of having to invest in an additional 300-plus acres of green infrastructure, it might be able to do less.

With funding from the [Kresge Foundation](#), the Bay Foundation has contracted with Quantified Ventures to help Baltimore structure its environmental impact bonds and market them to investors, foundation spokesman Tom Zolper said. Third-party funding was needed, explained Quantified Ventures’ duPont, because this type of financing is new and relatively unproven, and it requires some extra work to figure out up front how to measure the projects’ performance.

Despite their novelty, proponents hope the environmental impact bonds will prove attractive to investors. DC Water’s 30-year bonds sold at the same 4.34 percent interest rate that the authority pays on its conventional financing, duPont said.

Details of the Baltimore deal are still being worked out, but the city’s public works director said he hoped that the “pay for success” approach will attract new investors willing to share the risk of trying to reduce stormwater runoff, which is a major source of nutrients, sediment and other pollutants fouling local streams, the harbor and the Bay.

Baltimore has budgeted \$79 million to spend on stormwater projects this fiscal year, and expects to spend \$74 million next year, said Troy Brogden, the city’s chief fiscal officer. City officials opted to finance only a small chunk of its stormwater work with environmental impact bonds to test the concept, he said.

The Bay Foundation-Quantified Ventures partnership also hopes to persuade other municipalities and local governments to try the financing tool. Last summer, the foundation launched a search for municipalities and utilities in Maryland, Pennsylvania or Virginia that might be looking for ways to pay for their stormwater upgrades.

“Stormwater is a pollution source that is not going away. In fact, it’s increasing in the Bay watershed,” said Lee Epstein, lands program director and special counsel for the foundation. “And it’s incredibly expensive to manage... We really want to see if [environmental impact bonds] could be made broadly available for more green infrastructure projects where some other kind of financing cannot. At this point, we’re just not sure.”

The pilot project seeks to help up to four local governments or utilities line up an environmental impact bond. The foundation hosted an informational webinar in September 2017 and shortly thereafter sent out a call for applications from localities that are under a mandate to upgrade their stormwater systems and have the necessary permits in place.

“Ideally, we’re looking for communities that have green infrastructure projects that are ready to go,” said Quantified Ventures’ duPont during the September webinar, “and by that we mean they’re in the planning process and within the next 12 to 18 months would be ready to implement those projects, assuming we can help [them] get the financing lined up.”

Meanwhile, Al Wylie, president of the Harlem Park Neighborhood Council in West Baltimore, said residents were eager to re-green the patch of asphalt where the press conference took place. Over the years, pocket parks like this one in densely developed parts of Baltimore have been paved over and become litter-strewn places to avoid rather than amenities. Wylie said that in addition to grass, he’d like to see playgrounds and biking and hiking trails put in.

“It allows the community to be cleaner and safer,” he said.

Bay Journal

By Donna Morelli and Timothy B. Wheeler on March 28, 2018

Battered by Great Recession, Underfunded Public Pensions to Persist.

CHICAGO — Ten years on from the financial crisis, many U.S. state and local public pension systems are still the worse for wear.

Investment returns have been uneven and funding levels have yet to recover. Many pension funds have meanwhile attempted to boost returns by loading up on alternative investments to levels unheard of a decade earlier.

“Some just cannot grow their way out of it. We have had several years of stellar (stock market) returns and it barely improved the underfunding situation,” said Mikhail Foux, municipal credit analyst at Barclays in New York.

The benchmark S&P 500 U.S. stock index has tripled in the past nine years, driven in part by unprecedented zero interest rate policies and massive monetary stimulus from central banks around the globe aimed at combating the deepest recession in a generation.

But pension returns struggled to match the broad market, and recent wobbles in U.S. equities have fed fears of another downturn.

“Now what happens when markets are falling 10 to 15 percent?” Foux asked.

For an interactive graphic on public pension plan funded levels, click: <http://tmsnrt.rs/2tPyAFf>

In 2007, a year before the crisis began, the median funded level was 92 percent for state retirement and 97 percent for local plans, according to Wilshire Funding Studies. That fell to 68 percent for states and 72 percent for local governments by 2016, the most recent data.

A lower funded ratio indicates the overall soundness of a pension fund is weaker and more money is required to meet future obligations.

EXPOSED

Persistently low post-crisis interest rates meant pension funds could no longer depend to the same

degree on fixed income to help meet withdrawal demands of an aging pensioner population.

“When the crisis hit, it exposed the kind of precarious nature of the status of plans,” said Jean-Pierre Aubry, state and local research director at Boston College’s Center for Retirement Research.

Even with U.S. rates inching higher since 2016 and stocks mounting record highs, pensions still struggled to generate consistent returns.

For an interactive graphic on public pension annual median returns, click: <http://tmsnrt.rs/2tRGptV>

The number of active public sector workers per retiree has been falling. That ratio declined to 1.42 in 2016 from 2.43 in 2001, according to a November 2017 National Association of State Retirement Administrators (NASRA) Public Fund Survey. That can boost pension costs when combined with a poorly funded plan.

For an interactive graphic of state and local government pension plan membership, click: <http://tmsnrt.rs/2oZwAVq>

RISK TAKERS

The sharp economic downturn that accompanied the 2007-2009 financial crisis weighed on core tax revenue, leading governments to pursue an unprecedented amount of reform measures to shore up pensions by boosting contributions and cutting benefits.

“Just as these pension funds required higher contributions as a result of the market decline, the plan sponsors were less able to pay those higher contributions,” said Keith Brainard, NASRA’s research director.

That prompted retirement systems to turn to riskier alternative investments such as hedge funds, private equity, real estate and commodities to pad returns.

U.S. public pension funds became the biggest risk-takers among pension funds internationally, according to one academic study updated in February 2017.

To read the study, click: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2070054

Alternative investment allocations jumped to 24 percent in 2015 from 9 percent in 2005, according to the Center for Retirement Research.

“We know for the most part that alternatives have not been the panacea since the financial crisis,” Aubry, noting that hedge funds and commodities have underperformed equities during that period.

Public pension funds’ assumed rates of investment return have trended lower since the crisis. If a plan’s returns fall below that expected rate, government sponsors need to make up for the loss.

But public plans in general have tended to lag private-sector pension plans in lowering those discount rates, according to data cited by New York’s Rockefeller Institute of Government last year.

Between 1993 and 2012, as 10-year U.S. Treasury yields fell by 4.3 percentage points, large private-sector U.S. plans reduced their discount rates to 4.4 percent from 8.2 percent.

For large public plans for funding purposes, the rate only fell from 7.8 percent to 7.7 percent in the same period, according to the institute’s report.

LEGAL BATTLES

In the years since the crisis it has proven difficult for some governments to modify retirement benefits, and legal wranglings are ongoing.

Legal or political constraints have stymied changes in states like Illinois, Kentucky and New Jersey, where contributions have lagged actuarially required levels for decades.

Lawsuits filed against more than 40 state and local governments since 2008 contested pension changes on constitutional grounds, according to the Laura and John Arnold Foundation, which tracks the litigation.

Courts in 13 states have upheld reductions in cost-of-living adjustments (COLA) for retirees' pension payments, but have struck reductions down in four.

In California, long-standing judicial rulings prohibiting the state and local governments from reducing benefits will be tested in three lawsuits before the state supreme court, according to Stuart Buck, the Arnold Foundation's vice president of research.

By REUTERS

MARCH 26, 2018, 1:17 A.M. E.D.T.

(Reporting By Karen Pierog and Daniel Bases; Editing by Meredith Mazzilli)

Municipal Bonds Were Supposed to Get More Expensive in 2018. Why Didn't That Happen?

A widely followed municipal-bond index had its worst first quarter in 15 years

The first quarter is normally one of the best times of year to be a municipal bond holder. Not in 2018.

A widely followed municipal-bond index fell more in the first three months—1.11%—than any first quarter of the past 15 years. That is because new tax rules and concerns about rising interest rates are pushing down demand for new debt from state and local governments.

"We haven't seen prices drop this much in a long time," said Howard Cure, director of municipal bond research at Evercore Wealth Management.

The last time the Bloomberg Barclays Municipal Bond Total Return Index dropped for the entire first quarter was in 2008.

Bond values usually jump in the first few months of the year as investors look to reinvest cash from stock gains and maturing bonds. Prices were expected to again follow that pattern this year due to limited supply.

But this time, demand turned scarce early in the year, partly because Congress late last year passed new legislation lowering tax rates, making tax-exempt bonds less appealing for banks and insurance companies that traditionally hold a large chunk of the nation's municipal debt. The tax rates paid by these institutions fell to 21% from 35%.

“With the lower corporate tax rate, there is less incentive for banks and property and casualty companies to buy munis,” said Vikram Rai, Head of Municipal Strategy at Citigroup.

At the same time, individual investors became wary about the prospects for inflation and higher interest rates. Inflation undermines the value of outstanding bonds in part by reducing the purchasing power of their fixed payments, and rising rates make newly issued bonds more appealing than outstanding bonds with lower coupons, driving down their prices. Federal officials in March raised interest rates and are forecasting two more rate increases in 2018.

The low bond prices have driven up borrowing costs for state and local governments that have issued debt in recent months. The state of Maryland, for example, is paying yields of 2.54% on 10-year general-obligation debt issued in March. That is up from 2.49% on 10-year general-obligation debt sold in March 2017. These bonds typically pay for schools, hospitals and other public projects.

To be sure, mutual-fund investors did buy bonds in January as nearly \$6 billion flowed into municipal-bond funds, an uptick analysts attributed to efforts to rebalance portfolios following stock gains. That is 58% above the average for the past five first quarters.

But in February and March, investors put \$268 million into municipal-bond mutual funds, according to Lipper data. It was the lowest inflow for the period in the past five years and a 92% drop from the five-year average for the first quarter.

“Investors may want to sell but most buyers would rather wait and see what happens,” said Patrick Luby, senior municipal strategist at CreditSights.

Some bonds bucked the pricing trend: Municipal debt tied to Puerto Rico increased in value during the first quarter because of investor hopes that the island would recover more quickly from Hurricane Maria than previously expected.

The Wall Street Journal

By Heather Gillers

March 31, 2018 8:00 a.m. ET

[Lower Tax Rate Boosts Case for Corporate Bonds Over Munis - Paychex CFO](#)

The U.S. corporate tax overhaul has helped make corporate bonds more competitive with municipal issuance said the finance chief of payroll processor Paychex, Inc.

The Rochester, N.Y.-based company has a roughly \$5 billion investment portfolio that has traditionally been heavily weighted toward municipal bonds, said Chief Financial Officer Efrain Rivera. Munis, as they’re commonly known, typically pay a lower rate of return than corporate bonds, but that income is treated as tax-free. By contrast, the company’s income from the higher-earning corporate bonds falls subject to the corporate tax rate, which was reduced to 21% from 35% previously.

“Now with tax reform, the pricing between corporate and municipal bonds is giving you a little bit more of an advantage on the corporate side, even after paying taxes,” Mr. Rivera said in an interview with CFO Journal. “We’re looking to increase more in corporate (bonds),” he said.

Mr. Rivera said he believes the corporate bond market will be stable over the next 12 months. However, some analysts forecast companies will have less incentive for new borrowing because the tax overhaul has increased the share of profits they get to retain.

"If anything, we are concerned about supply on the municipal side as demand slides," he said.

Mr. Rivera said that the company will make several investments following tax reform. Paychex will pay a bonus to employees and invest in internally developed software. The company will also look to be more aggressive in scouting acquisitions even as the soaring stock market inflates target prices.

"Valuations are very high, especially in anything that is related to fintech," he said. "But if you do your homework and it makes strategic sense...we'll look at other opportunities in the future." He estimates that the company typically strikes 1 to 2 deals annually valued at \$200 million a piece.

Net income for the company's recently completed third quarter rose 29% to \$260.4 million compared to the same period last year. Revenue totaled \$866.5 million for the period, up from \$795.8 million, a year ago.

The Wall Street Journal

By Ezequiel Minaya

Mar 27, 2018 6:30 am ET

[BDA Submits Written Comments in Support of Reinstating Municipal Advance Refundings.](#)

On March 28, 2018, the BDA submitted written comments to the House Ways and Means Committee in support of H.R. 5003, that would fully reinstate tax-exempt advance refundings, including qualified 501c (3) bonds. A copy of the comments can be viewed [here](#).

The comments were submitted in response to a hearing titled, "[Post Tax Reform Evaluation of Recently Expired Tax Provisions.](#)" The hearing focused mostly on the energy and transportation sector, both of which lost long-standing tax credits in the Tax Cuts and Jobs Act last year. While municipal advance refundings were not discussed, project data shared by BDA member firms provides the Committee with an opportunity to see the importance of this cost saving tool.

The BDA plans to continue lobbying on Capitol Hill in support of H.R.5003 and further this effort during "Infrastructure Week 2018" this May. More information on Infrastructure Week and opportunities to participate will follow in the coming weeks.

Bond Dealers of America

March 28, 2018

[Fitch Updates U.S. Public Finance Not-For-Profit Continuing Care Retirement](#)

Communities Criteria.

Link to Fitch Ratings' Report(s): [U.S. Public Finance Not-For-Profit Continuing Care Retirement Community Rating Criteria](#)

Fitch Ratings-New York-30 March 2018: Fitch Ratings has published an updated version of its U.S. Public Finance Not-For-Profit Continuing Care Retirement Community (CCRC) criteria. The updated report replaces the existing criteria (published Aug. 14, 2015) with minor modifications of Fitch's analytical approach. No changes to the ratings of existing transactions are anticipated as a result of the application of the updated rating criteria.

The criteria report describes Fitch's analytical approach and framework to rating U.S. Public Finance Not-For-Profit CCRCs including the introduction of asymmetric risk factors consistent with Fitch's rating criteria for Public-Sector Revenue-Supported Debt (published Feb. 2018). The updated rating criteria also includes a Long-Term Liability Profile key rating driver that focuses on the capability of a CCRC to generate revenues and cash flows to cover debt service and manage its overall debt position.

Contact:

Paul Rizzo
Director
+1-212-612-7875
Fitch Ratings, Inc.
33 Whitehall Street
New York, NY 10004

Gary Sokolow
Director
+1-212-908-9186

Media Relations: Hannah James, New York, Tel: + 1 646 582 4947, Email:
hannah.james@fitchratings.com

Additional information is available on www.fitchratings.com

Any Deeply Indebted City Might Want the Bailout Hartford Got.

- **Connecticut to pay debt service on \$755 million of city bonds**
- **Rare for a state to take over bond payments for localities**

It's a deal that might appeal to any U.S. city struggling with a lot of debt. Hartford, Connecticut, won't be on the hook for its \$755 million in debt payments, helping it avoid bankruptcy.

Hartford officials approved a plan Monday night that authorizes Connecticut to pay off the city's general-obligation debt, part of a lifeline the state extended to the capital city when it enacted its budget last year. While U.S. states have a history of stepping in to help distressed cities, it's rare for a state to take on debt payments for a locality.

"Our goal is to use this period of stability to continue to push for economic growth that will

strengthen the city's financial position down the road," Mayor Luke Bronin said in a telephone interview prior to the vote on Monday.

The Deal

As part of the agreement, the city must provide ongoing financial reports and a rolling three-year fiscal plan to the state treasurer and secretary of the Office of Policy and Management. Hartford's fiscal 2019 budget must be approved by the Municipal Accountability Review Board, which was created by Connecticut in 2017 to help cities experiencing distress.

If the city has a cumulative unassigned general fund balance deficit of 1.5 percent or more than its general fund revenues, then it would trigger higher levels of oversight. Such scrutiny from the state also would be triggered by a default or if the city seeks approval for bankruptcy protection.

The agreement illustrates the lengths that states will go to in order to prevent municipalities from filing for bankruptcy — a rarity in the \$3.9 trillion municipal-bond market and something that can cause higher borrowing costs for other localities nearby.

Connecticut has a history of stepping in to help its localities: In 2001, the state established oversight of the city of Waterbury that lasted five years. Connecticut guaranteed deficit financing bonds issued by Waterbury in 2002 and put in place a control board that could cancel union contracts and renegotiate.

In New Jersey, former New Jersey Governor Chris Christie's administration took control of gambling hub Atlantic City's finances in 2016, a move that local officials resisted at the time.

Hartford got "too good of a deal" because the agreement does not include an emergency manager or any sort of state takeover of the city's management, said Stephen Eide, a senior fellow at conservative think-tank the Manhattan Institute who specializes in municipal finances. Cities losing control of their finances as part of a state intervention acts as a deterrent to them pursuing such agreements, he said.

"Every city wants more aid with very few strings attached to it — that is what Hartford got," Eide said. "I think the state should have taken a firmer hand."

Precedents Set

Since the recession, more states have created mechanisms for dealing with municipal distress, said Michael Imber, a managing director at EisnerAmper who specializes in municipal distress and restructuring.

"This is what states can choose to do, to help stand up troubled municipal governments," he said. "And Hartford is certainly a troubled municipal government."

In 2010, Rhode Island's legislature passed a law that allows the state to appoint a receiver if a locality is undergoing fiscal emergency. It also allows for the state revenue director to make debt payments if an issuer seems unlikely to pay it, according to a 2017 presentation to the National Conference of State Legislatures. Still, the state can charge those costs against any aid due to the locality.

Ohio added designations in 2011 to identify practices that could result in a declaration of fiscal emergency. Michigan, known for a longtime state law that allows for the placement of an emergency manager, passed laws in 2017 that requires municipalities with underfunded pensions to develop

action plans to fix them.

Pennsylvania in 2011 passed legislation establishing a state receivership process to address the fiscal woes of its capital Harrisburg.

Faith and Credit

The Connecticut deal also allows Hartford's debt to be refinanced using the state's full faith and credit backing. That step is more commonly used by states: In 1975, New York allowed for the creation of a corporation to issue debt on behalf of New York City, which was on the brink of bankruptcy at the time. Pennsylvania also created a similar mechanism for Philadelphia in 1991 when its largest city was struggling with a financial crisis.

But few, if any, states have taken on the debt load of their cities to provide relief. And doing so adds to the financial burden on Connecticut, which is on the hook for Hartford's general-obligation bond payments through 2036. The state has been contending with chronic deficits and is ranked as having some of the highest debt on a per-capita basis.

"Strong urban centers are vital to the state's well-being," Denise Nappier, Connecticut's state treasurer, said in an emailed statement. "Declining to help Connecticut's capital city could have adversely affected the financial health and vibrancy of surrounding towns, while helping Hartford actually might make a potential slippery slope less likely."

Bronin said he thinks the plan will be beneficial for the state as well. "If we want Connecticut to be economically competitive, we have to have strong, vibrant cities that can help drive that economic growth," he said.

Rick Mattoon, a senior economist for the Federal Reserve Bank of Chicago, said the state taking on Hartford's debt will help the city focus on providing essential services. The agreement is likely in the state's interest, too, he said.

"You want your capital city to be seen as an attractive place," he said. "Having it continue to decline is certainly not going to help your overall state or regional economy."

Bloomberg Markets

By Amanda Albright

March 28, 2018, 11:19 AM PDT

— *With assistance by Danielle Moran, Martin Z Braun, and Romy Varghese*

TAX - LOUISIANA

[Williams v. Opportunity Homes Limited Partnership](#)

Supreme Court of Louisiana - March 13, 2018 - So.3d - 2018 WL 1310047 - 2017-0955 (La. 3/13/18)

Parish tax assessor brought action challenging Tax Commission's review of assessor's use of market approach for determining the fair market value of affordable rental housing complex for ad valorem taxation and the Commission's acceptance of assessments made by its own staff based on income

approach.

The District Court affirmed the Commission's decision. Assessor appealed. The Court of Appeal reversed. Taxpayer and Commission sought writ of certiorari, which was granted.

The Supreme Court of Louisiana held that:

- Preponderance of the evidence supported Tax Commission's determination that income approach was appropriate method for determining fair market value of complex, and
- Preponderance of the evidence supported Tax Commission's determination that \$1,525,000 was correct fair market value.

Preponderance of the evidence supported Tax Commission's determination that income approach was appropriate method for determining the fair market value of affordable rental housing complex, where written report by Commission's staff appraiser stated that income approach was the most reliable indicator of value for income-producing properties, and that sales-comparison approach was inappropriate in light of inherent restrictions on income return and the inability of property owners to sell without express approval of federal government after certain regulatory requirements had been satisfied and fact that there were no sales of similar complexes found within the entire state which could be used as comparables to complex.

Preponderance of the evidence supported Tax Commission's determination that \$1,525,000 was the correct fair market value of affordable rental housing complex; written report by Commission's staff appraiser in support of that value included location map, subject photograph, neighborhood, site, and demographics statements, statements of project parameters and definitions, effective tax-rate calculation, income analysis, reconciliation analysis, income and expense balance sheets, and a statement of conditions and qualifications, none of the factual data that formed the basis for appraisals was directly contradicted by any evidence submitted by parish assessor, and parish assessor presented no testimony or documentation to explain how he arrived at his assessment values.

TAX - OHIO

[South-Western City Schools Board of Education v. Franklin County Board of Revision](#)

Supreme Court of Ohio - March 13, 2018 - N.E.3d - 2018 WL 1325111 - 2018 -Ohio- 918

City board of education appealed decision of the Board of Tax Appeals adopting county board of revision's valuation of property for property tax purposes, which granted property owner partial reduction in valuation from county auditor's original valuation.

The Supreme Court of Ohio held that:

- *Bedford* rule, precluding board of education from relying only on auditor's valuation in light of owner's evidence of valuation, did not apply, and
- Reinstatement of auditor's original valuation, rather than remand to Board of Tax Appeals, was warranted under the circumstances.

Bedford rule, providing that when board of revision reduced property valuation based on property owner's evidence, that value eclipsed county auditor's original valuation, such that city board of education could not rely on the latter as default valuation on appeal, did not apply to board of

education's appeal of board of revision's partial reduction of auditor's valuation based on comparable-sale evidence provided by owner; board of education directly urged board of revision to disregard comparable sale because of its apparently related-party nature, and uncontroverted evidence that comparable sale was not arm's-length transaction meant that sale price did not, without more, constitute evidence of market value.

Reinstatement of county auditor's original valuation of real property for property tax purposes, rather than remand to Board of Tax Appeals for independent determination of value, was warranted following determination that Board erred in applying *Bedford* rule, under which city board of education could not rely on auditor's valuation as default valuation on appeal after board of revision reduced valuation based on owner's evidence from comparable sale, though property owner also made qualitative statements regarding property; record contained no probative evidence tending to negate auditor's valuation, qualitative statements did not establish actual value, and remand would be futile, as Board had already ruled out comparable sale, which was only affirmative evidence of value.

TAX - TEXAS

[Tarrant Appraisal District v. Tarrant Regional Water District](#)

Court of Appeals of Texas, Fort Worth - January 25, 2018 - S.W.3d - 2018 WL 547777

Tax appraisal review board denied regional water control and improvement district a tax exemption on part of its property it 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. Tax appraiser appealed.

The Court of Appeals held that:

- District was not exempt from taxation under the section of the Texas Constitution exempting taxation on property used for a public purpose;
- Organic statute did not unconditionally exempt district from paying ad valorem taxes; and
- The statute governing tax exemptions on 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.

Property that regional water control and improvement district partially leased to a restaurant was not exempt from taxation under section of the Texas Constitution exempting taxation on property used for a public purpose, even though the district itself had a public purpose; the property was not devoted exclusively to the use and benefit of the public, as required by the Constitution, as part of the land was used to earn revenue for a business, and was not for the benefit of the public.

Organic statute exempting a regional water control and improvement district's property from ad valorem taxes did not unconditionally exempt the district from paying such taxes; legislature did not word organic statute to exempt property that had a public use from paying ad valorem taxes and the organic statute was not worded either conditionally or unconditionally.

Even if portion of the organic statute exempting a regional water control and improvement district's property from ad valorem taxes did so unconditionally, it was an unconstitutional special law; the statute did not concern a matter of statewide interest, did not affect a large group of citizens, legislation exempting property of water control and improvement districts from ad valorem taxes was not common to all such districts, and there was no legitimate reason why the legislature would exempt the subject district, but not all other water control and improvement districts.

Regional water control and improvement district was entitled to tax exemption under statute exempting property owned by the state or a political subdivision and used for a public purpose from taxation, 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.

[A New Way to Finance Green City Projects, With a Boost From Foundations.](#)

Atlanta strikes again! The city continues to be an unlikely environmental innovator, with more than a little help from its philanthropic sector. It's made strides in city parks and trails in recent years, and just secured \$100 million in state funding for transit projects.

Now the city, along with Baltimore, is rolling out a new twist on the municipal bond that will help build green infrastructure projects, while shifting some of the potential risk or benefit onto private investors. Atlanta and Baltimore are among the first U.S. cities that will use "environmental impact bonds" to pay for sustainability and climate resilience projects, with foundations helping to plan and fund the process in both cases. Atlanta's will be the first such bond that will be publicly offered.

EIBs function much like regular municipal borrowing, but they pay back interest in a variable amounts based on projects' environmental performance. So if a project reduces stormwater runoff by a targeted amount, for example, investors get a bonus, and if it underperforms, they pay a penalty. The idea is provide room to experiment as cities embark on untested projects to make their systems more sustainable and resilient to climate impacts like flooding or storm damage.

In Atlanta's case, the city won the [EIB Challenge](#), which was put on by the Rockefeller Foundation in partnership with impact investing firm Quantified Ventures and city bond platform Neighborly. The challenge was issued to the cohort of Rockefeller's 100 Resilient Cities, and the foundation put up \$342,000 toward costs of the program. The bond sale will pay for \$12.9 million in green infrastructure projects in a part of town that experiences regular flooding.

In Baltimore, the city is taking out \$6 million in environmental impact bonds, with the Chesapeake Bay Foundation paying the same impact investment firm, Quantified Ventures, to manage the deal. Funds will go toward \$10 million in planned landscaping projects to reduce stormwater runoff into the Chesapeake Bay.

Both cities are taking a cue from Washington, D.C., which, in 2016, was the first city in the U.S. to try out environmental impact bonds. The water and sewer authority was in the process of building three grey infrastructure tunnels to control stormwater, but used a first-of-its-kind EIB to cancel the third and instead build green infrastructure. The Calvert Foundation was one of the investors in that deal. Other EIBs could go toward energy microgrids, green rooftops, tree canopies, even affordable housing.

Green infrastructure—using advanced landscaping techniques and urban features that absorb stormwater in place instead of channeling it away via filthy pipes and tunnels—is becoming increasingly popular in cities, and among green funders. Some of these infrastructure projects are new territory for municipal departments, which are cautious about where they put tax dollars.

This is just one example of philanthropy trying to close gaps between sustainability projects, including the use of clean energy deployment and private capital. Rockefeller, in particular, is putting a lot of work into creative finance mechanisms, citing trillions of dollars in funds needed to reach sustainable development goals.

Inside Philanthropy

by Tate Williams

April 2, 2018

[Compelling a Muni Indenture Trustee to Arbitrate Before FINRA: Kramer Levin](#)

A recent decision out of the federal district court in Nevada, *BOKF, NA v. Estes* D. Nev. March 2, 2018), addressed the interesting question of whether an indenture trustee for municipal bonds could be compelled to arbitrate bondholder claims in front of the Financial Industry Regulatory Authority (FINRA). The court answered in the affirmative, navigating through a labyrinth of rules of FINRA and the Municipal Securities Rulemaking Board (MSRB). The decision creates precedent in the muni bond world, but because it rests on MSRB regulation, it would not ordinarily extend to trustees for corporate debt instruments.

Background

The *Estes* case is yet another outgrowth of the misdoings at Lawson Financial Corporation, a now-demised municipal bond underwriter that was effectively shuttered by the Securities and Exchange Commission. (See [Debt Dialogue, April 2017](#).) Between 2015 and 2017, the SEC filed complaints against principals of Lawson, Christopher Brogdon and Dwayne Edwards, and issued a cease and desist order against Lawson for fraud and violation of the federal securities laws.

The indenture trustee for the muni bonds underwritten by Lawson was BOKF, N.A., doing business as Bank of Oklahoma, N.A., through its corporate trust department. The SEC also filed complaints against BOKF and the former head of its corporate trust department, Marrien Neilson, for their involvement in the Lawson schemes, with BOKF entering into a consent agreement with the SEC over its alleged role as aider and abettor in the fraud.

In June 2017, a group of holders of bonds underwritten by Lawson initiated arbitration against BOKF under FINRA's Code of Arbitration Procedure (Customer Code; Rule 12000 et seq.), alleging violations by BOKF of the federal securities laws in connection with its service as indenture trustee for the bonds. The bondholders contended that BOKF was subject to FINRA arbitration as a "bank dealer" engaged in municipal securities dealer activities pursuant to the rules of the MSRB.

In November 2017, BOKF brought suit against the bondholders in federal district court seeking a declaration that BOKF was not subject to FINRA arbitration, and also sought related injunctive relief. With the FINRA arbitration set for July 2018, in December 2017, BOKF sought a preliminary

injunction enjoining the bondholders from taking any action in furtherance of the arbitration.

The Decision

The court brought the usual principles to bear on BOKF's preliminary injunction and found that BOKF was unlikely to prevail on the merits.

The court began with the observation that arbitration cannot be compelled absent a contractual basis, and BOKF was not a member of FINRA and not directly subject to its rules. The contractual basis advanced by the bondholders were the rules of the MSRB that import FINRA arbitration procedures. Rule G-35 of MSRB rules provides that "every bank dealer ... shall be subject to the [FINRA] Code of Arbitration Procedure ... for every claim, dispute or controversy arising out of or in connection with the municipal securities activities of the bank dealer acting in its capacity as such."

In turn, under the FINRA Code, "customers can compel registered members of FINRA to arbitrate certain disputes even when no written arbitration agreement exists."

BOKF raised two arguments in its attempt to halt the arbitration proceedings. First, it reasoned that the bondholders were not its "customers" within the meaning of the FINRA Code, such that they lacked standing to commence an arbitration even assuming that the FINRA Code applied to BOKF. Second, BOKF maintained that its corporate trust department was not a "bank dealer" within the contemplation of MSRB Rule G-35. The court rejected both arguments.

Bondholders as "customers" of an indenture trustee

"Customer" is not affirmatively defined in the FINRA Code, but relying on precedent of the Court of Appeals for the Ninth Circuit, the district court held that the term is to be interpreted broadly. The bondholders had, in the court's view, alleged sufficient circumstances to bring BOKF within the ambit of the "customer" concept, liberally construed. BOKF was indenture trustee, bond registrar, dissemination agent and paying agent. It paid bondholders on their investments and provided bondholders information about their investments. It owed fiduciary duties to bondholders and its fees were paid from the "bondholder's [sic] investment proceeds, which shows a direct investment relationship even though [the bondholders] did not specifically buy the bonds from BOKF."

The court therefore found that BOKF was not likely to succeed on its claim that the bondholders were not its "customers."

The indenture trustee as "bank dealer"

MSRB Rule D-8 defines "bank dealer" as "a municipal securities dealer which is a bank or a separately identifiable department or division of a bank" MSRB Rule G-1, in turn, provides that "[a] separately identifiable department or division of a bank ... is that unit of the bank which conducts all the activities of the bank relating to the conduct of business as a municipal securities dealer." Finally, municipal securities dealer activities are defined to include underwriting, trading and sales of municipal securities; financial advisory services in connection with the issuance of municipal securities; processing and clearing activities; related research and investment advice; any other activities involving communication with public investors in municipal securities; and maintenance of related records. BOKF contended that its corporate trust department did not engage in any of these defined activities and therefore was not a "bank dealer."

Rejecting BOKF's contention, the court credited the bondholders' position that BOKF engaged in activities beyond mere ministerial function. Among other things, Ms. Neilson, the former head of BOKF's corporate trust department, allegedly served as the primary contact person between BOKF,

Lawson and the conduit borrowers, and also provided financial advice and consultation regarding the terms, structuring, and timing of the bond offerings. The bondholders also contended that employees within the corporate trust department, including Ms. Neilson, engaged in research activities on behalf of Lawson. The court credited these allegations and found that these functions fell comfortably within the zone of municipal securities dealer activities, as defined.

Other considerations

In rejecting BOKF's request for preliminary injunction, the court also adverted to what it called "the strong policy in construing the scope of arbitrable issues under FINRA broadly and in favor of arbitration." The court noted that other courts had held consistently that "forced participation in an arbitration forum that does not have jurisdiction over the dispute is *per se* irreparable harm." Here, however, BOKF did not establish that FINRA lacked jurisdiction.

Some Thoughts

Reading the decision, there is some sense that the court bootstrapped its way to the conclusion. Its denial of the requested preliminary injunction was premised in large measure on the as yet unproven allegations of the bondholders. What can be said is that the court seemed convinced by the cumulative weight of the allegations in the various SEC complaints, particularly those against BOKF and the former head of its corporate trust department, indicating that BOKF was much more than a passive administrator in the web of fraud woven by Lawson and its principals.

Putting aside the particulars, the case is a cautionary tale of a municipal indenture trustee being hauled before a FINRA arbitration panel despite the fact that it is not a FINRA member and that it would not ordinarily be regarded as engaging in municipal securities dealer activities. While indenture trustees ordinarily view themselves as administrative creatures acting within the four corners of their indenture, a demand for arbitration would necessarily arise in circumstances where the trustee was acting outside the zone of ministerial function. In the *BOKF* case, these activities were alleged to have occurred around the time of issuance of the securities, and not down the road when the trustee was pursuing (or not pursuing) remedies after a default. It is unclear therefore whether the rules of the MSRB could be stretched so thin as to reach even post default remedial activities of the trustee. But the warning light is there.

There are no rules in the corporate bonds arena to bind indenture trustees to FINRA arbitration, analogous to MSRB Rule G-35. There would have to be another contractual lever to compel the trustee to appear in a FINRA or other arbitral proceeding. The case nonetheless suggests that where a hook exists to bring a trustee into a retail-friendly arbitration forum, a court may stretch to do so.

Kramer Levin Naftalis & Frankel LLP

by Abbe Dienstag

March 30, 2018

[Affordable Housing Provisions in Omnibus Bill an Important Down Payment, not a Complete Fix.](#)

It's a great down payment, but don't confuse it with paying the full bill.

When Congress approved and President Trump signed the fiscal year [2018 omnibus spending bill](#) Friday, it was good news for affordable housing: the legislation includes a [12.5 increase for 9 percent low-income housing tax credit \(LIHTC\) allocations over the next four years and an income averaging option for LIHTC properties](#). This is the first substantial LIHTC allocation increase in a decade, coupled with a highly desired new income targeting option for LIHTC properties.

It's an achievement made even more impressive by the political climate: When President Trump and a Republican-controlled Congress were elected in November 2016, few thought that we could see an increase to LIHTC allocations just 17 months later.

We did get such an increase, though it's a down payment, not a complete solution. The allocation increase will partially offset the [drop in affordable housing production caused by changes in tax legislation passed in December 2017](#).

A Novogradac study estimates that the four-year, 12.5 percent increase in 9 percent allocation would [boost production by roughly 28,400 additional homes](#) over the next decade (although the LIHTC allocation increase would be effective over four years only). Unfortunately, the increase applies only to 9 percent LIHTCs, not tax-exempt bond-generated LIHTCs. Novogradac analysis indicates that tax-exempt bond-generated LIHTCs are projected over the decade to finance more than half of affordable housing production. That means the 12.5 percent increase in allocations of the omnibus spending bill helps slightly close the gap for a program that is responsible for less than half of affordable rental housing creation each year. Which means the additional units make up about 12 percent of the roughly [235,000 homes that Novogradac estimates will be lost due to H.R. 1](#), the tax bill. (Note: The 28,400 doesn't include additional homes that will be built due to income-averaging provisions in the omnibus spending bill, but the increase due to that provision isn't projected to be very significant.)

Nearly 90 percent of the lost production remains. And even if the 12.5 percent LIHTC allocation boost was made permanent—which will take an act of Congress in future tax legislation—the increase in affordable homes would still fall short of filling the gap for 9 percent LIHTC properties and still not cover the [19 percent boost needed to fully cover the gap in 9 percent unit production](#).

The 12.5 percent LIHTC allocation increase and the income-averaging provisions are very positive developments about which the affordable housing community should be quite pleased. However, they shouldn't be mistaken for a complete fix for affordable rental housing production lost due to last year's tax legislation, not to mention addressing the large unmet need for affordable rental housing that was the case even before tax reform.

They're a down payment.

Published by Michael Novogradac on Tuesday, March 27, 2018

[S&P: U.S. Not-For-Profit Health Care Pensions: 2017 Funded Ratios Benefit From Robust Returns.](#)

The U.S. not-for-profit health care sector has benefited from a boost in the funded status of its pension plans in fiscal 2017 due primarily to robust investment market returns. This is despite lower assumed discount rates in recent years, which provide a more conservative liability measure.

[Continue Reading](#)

Mar. 28, 2018

S&P: Could Connecticut's Proposed Bond Covenants Lead The Way To A New Financial Management Tool For Other U.S. States?

Unless it's delayed by the legislature in the next month, Connecticut will institute restrictive bond covenants that will turn recent budget reforms into unbreakable bond covenants. The question is: Could other states follow suit?

[Continue Reading](#)

Mar. 28, 2018

S&P: How Changing Accounting Standards Could Affect Higher Ed Credit Analysis.

S&P Global Ratings utilizes audited financial statements directly in its analysis of an institution's credit as well as in the calculations of various metrics and ratios related to that analysis. And as U.S. not-for-profit colleges and universities utilize both Financial Accounting Standards Board (FASB) and...

[Continue Reading](#)

Mar. 28, 2018

What Does "Control" Mean in the Context of Affiliated 501(c)(3) Organizations?

The IRS recently issued [Private Letter Ruling 201811009](#), which provides helpful insight into how the IRS construes the term "control" for purposes of determining whether two affiliated 501(c)(3) organizations are "related" for purposes of the definition of "refunding issue."

The ruling involved a 501(c)(3) university ("Seller") that sold its medical center to another 501(c)(3) organization ("Buyer"). The Buyer was operationally independent of the Seller, but the Seller could appoint 30% of the Buyer's board and the Seller also had approval rights over certain major Buyer decisions, such as major transactions and changes to the mission of the Buyer. If the Buyer and the Seller were treated as related, the proposed bonds ("Proposed Bonds") to be issued for the Buyer to finance the purchase of the Seller's medical center would be treated as refunding bonds, and they therefore could not qualify as tax-exempt bonds. This was because the Seller had previously used part of the proceeds of prior bonds to finance the medical center, and those bonds had previously been advance refunded. As readers of this blog know, post-1985 qualified 501(c)(3) bonds could be advance refunded once and only once until tax-exempt advance refundings were repealed last year. Read below to see how the IRS tackled the analysis of control, which is still relevant even though tax-exempt advance refundings aren't permitted anymore.

[Continue Reading](#)

The Public Finance Tax Blog

By Alexios Hadji on March 30, 2018

Squire Patton Boggs

[Tech Hasn't Hurt Muni Ratings Yet.](#)

Tech Hasn't Hurt Muni Ratings Yet

There is much discussion as to the future of certain municipal credits in an era of fast-changing technology. A lot of the concern revolves around the potential impact of the emerging Transportation as a Service sector (TaaS) on credits backed in some form by current uses of various modes of transportation. One area has been the potential effect on airports that derive significant revenues from parking and car rental facilities.

So it was with interest that we viewed Moody's recent comments about its ratings for outstanding City of College Park (GA) taxable revenue bonds (Hartsfield-Jackson Atlanta International Airport Consolidated Rental Car Facility Project Bonds). Those bonds are rated A3 by Moody's and the outlook was revised to positive from stable. The bonds were issued for construction of a consolidated rental car facility at Hartsfield-Jackson Atlanta International Airport (ATL). The obligor of these bonds was previously the City of Atlanta, GA Airport Enterprise and they have now transferred to the City of Atlanta, GA Airport Enterprise (Consolidated Rental Car Facility Project).

Moody's pointed to the long-term trend of growing transaction days at the facility that has produced a debt service coverage ratio above 2.0x times for the past three fiscal years. It acknowledged that transaction growth turned negative in fiscal 2018 through December. Moody's is sorting through various factors which may have served to turn the trend line negative. One of those factors is clearly TaaS related — increased competition from transportation network companies, such as Uber and Lyft, [as we noted recently](#).

The single-source revenue stream pledged to the payment of bonds is a feature of the credit which must be dealt with should the impact of TaaS become more significant and permanent. The situation highlights the need for issuers to be nimble and flexible and to prepare the legislative and regulatory flexibility necessary to prepare for rapid technological change.

The rating reaffirmation comes as the airport is reevaluating its plans for future development of parking facilities at Hartsfield. Recently, the airport's interim assistant general manager of planning and development said that the airport's \$6 billion master plan including demolishing and rebuilding its aging parking decks is being re-evaluated. Airport officials are considering whether to scale back plans for parking construction, as increased use of Uber and Lyft, and the prospect of self-driving cars, creates uncertainty around future parking demand.

More broadly, we cite three final points on the potential effect of TaaS on airport credits. First, airports serving significant metropolitan areas remain, in effect natural monopolies, that can often apply substitute sources of revenue as parking and car rental fees subside. Second, implementation of TaaS is in its extremely early stages, which will lead to much greater effects on airport net revenues in later years. And finally, while rating agencies are beginning to examine the implications

of technological change for various types of credits, it is as yet too early to see the type of major changes in revenue sources and trends that would lead to dramatic changes in ratings. At this point, it is up to investors/portfolio managers to consider how much they need to extrapolate from current economic and financial conditions to future potential outcomes.

Population Data Tells a Story

The Dallas-Fort Worth-Arlington metropolitan area's 146,000-population increase last year was the most of any metro area, and Maricopa County, Arizona, saw a population increase of nearly 74,000 — the most of any county last year — according to the U.S. Census Bureau's July 1, 2017, [population estimates](#). Among the nation's counties, the top 10 with the largest numeric growth are all located in the South and West. The 10 largest counties in the country all maintained their rank compared to last year. From July 1, 2016, to July 1, 2017, six of the top 10 largest-gaining counties were in Texas — Bexar, Collin, Dallas, Denton, Harris and Tarrant.

The remaining four counties on the list were Maricopa County, AZ.; Clark County, NV.; Riverside County, CA.; and King County, WA.

Many of the top 10 metro areas with the largest numeric increases in 2015-2016 were also in the top 10 in 2016-2017, with the following notable exceptions:

Washington-Arlington-Alexandria, DC-MD-WV., climbed to 5th in 2017 from 11th in 2016, and Riverside-San Bernardino-Ontario, CA, jumped to 7th in 2017 from 13th in 2016. In 2017, the Baltimore metro area was now the 20th most populous metro area, up from 21st place in 2016. Net domestic migration is the driving factor behind all of the top 10 fastest-growing metro areas that rose in rank — St. George, UT; Coeur d'Alene, ID; Greeley, CO.; Lakeland, FL; and Boise, ID.

The St. Louis, MO-IL. metro area dropped out of the top 20 most populous metro areas and swapped places with Baltimore to its new 2017 standing of the 21st most populous area in the nation. In 1960, St Louis was the 9th largest metro area. One consistent factor in terms of population declines was reflected in the fact that all 10 of the largest declines were in rural counties.

A number of "core" counties — those that are substantially made up of a major large city saw small statistical declines (<0.5%) — Chicago, St. Louis, Baltimore, Milwaukee, Cleveland, Pittsburgh, Detroit. The question that is not readily apparent from the data is why are these people moving? In many cases, housing costs in core urban areas have been increasing. This has forced out residents who can no longer afford to buy, or rent, for that matter. That raises the issue of whether the remaining population is actually made up of higher income individuals who can afford to maintain higher property values. In effect a leaner but stronger local economy.

Chicago keeps being at the center of much conversation regarding population trends. A look at recent data shows that values in the City's tonier districts are actually rising and with some consistency. At the same time, the outflow from some of the City's poorer neighborhoods may be what is accounting for city population declines. There is anecdotal evidence that the population of the City's crime ridden South Side is generating the number. The poor housing, underperforming schools, and dangerous conditions lead to a sense of desperation that outweighs the economic risks of moving without being in possession of a job at one's chosen destination.

The theory is also supported by data from other areas. Of all places, Brooklyn, NY experienced a net decline in population. This occurs in the face of mass gentrification which has made it harder and harder for long-time low income residents to hang on in the face of higher housing costs. As those costs approach a greater and greater proportion of income (and a huge shortfall of affordable and/or public housing exists) it is likely that lower income outmigration accounts for population loss.

So the question is, how much of an impact is this population loss on credit? If it results in a higher property value, higher income demographic profile than the change is more of a statistical phenomenon than a real credit negative. It may result in some unfavorable per capita credit rating statistics but this implies that a more sophisticated analysis may be needed. Something to keep in mind as credit analysis becomes more quantitative and ratio based with the proliferation of data providers in the muni space.

Neighborly Insights

by Joseph Krist

03/28/2018

Insights is brought to you by Court Street Group

Disclaimer: Neighborly has entered into a paid agreement with Court Street Group to provide commentary on a regular basis to all customers, users, prospective customers, and prospective users of Neighborly and Neighborly Securities. The opinions and statements expressed in this report are solely those of the author(s), who is solely responsible for the accuracy and completeness of this report. The opinions and statements expressed on this report are for informational purposes only, and are not intended to provide investment advice or guidance in any way and do not represent a solicitation to buy, sell or hold any of the securities mentioned. Opinions and statements expressed reflect only the view or judgment of the author(s) at the time of publication, and are subject to change without notice. Information has been derived from sources deemed to be reliable, but the reliability of which is not guaranteed. Readers are encouraged to obtain official statements and other disclosure documents on their own and/or to consult with their own investment professional and advisors prior to making any investment decisions.

[Municipal Bonds Weekly Market Report: GDP Surpasses Expectations.](#)

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.

- Short-term yields all up this week, while longer-term maturities fell.
- Muni bond funds saw its fourth week of inflows.
- Be sure to review our [previous week's report](#) to track the changing market conditions.

[Continue reading.](#)

municipalbonds.com

by Brian Mathews

Apr 03, 2018

[Puerto Rico Lawsuit Opens Door to Fiscal Plan Talks - Bond Insurers](#)

Bond insurers have urged the judge overseeing Puerto Rico's restructuring to review a recent ruling from a local court they believe could help them get an order allowing them to investigate what was discussed during talks that led to plans for the island's finances, including any cuts to debt service payments.

Assured Guaranty Corp, Assured Guaranty Municipal Corp and National Public Finance Guarantee Corporation in court papers filed on Monday pressed U.S. District Court Judge Laura Taylor Swain to look at the March 16 decision by Judge Lauracelis Roques-Arroyo of Puerto Rico's Court of First Instance in a lawsuit over a draft of the territory's budget.

To read the full story on Westlaw Practitioner Insights, [click here](#).

WESTLAW NEWS

MARCH 27, 2018

Utilizing Political Subdivisions As a Stable Funding Source.

As the economic cycle continues to heat up, financial institutions are accessing additional deposit funding channels. From a deposit strategy, often overlooked sources of deposits are political subdivisions. Most credit unions have a relationship with their local school districts, municipalities, or other public entities such as park districts and libraries, but often stop there. Political subdivisions receive funding throughout the year and then invest to meet obligations. Funding is repeated on an annual basis, making political subdivisions reliable and consistent sources of deposits.

For some financial institutions, there are two perceived challenges with political subdivision deposits. Their balances are cyclical in nature and usually require some form of collateralization.

[Continue reading.](#)

CUInsight

by JAMES LUTTER, PMA FUNDING

March 27, 2018

Nasdaq: Why Munis Will Stay Solid.

One of the most popular fixed income assets for wealthy US investors are municipal bonds. Their tax exempt status has made them continually popular, but what will their fate be during a period of rising rates? There are currently fears that tax cuts and rising rates will wound the sector, but one top financial advisor says the muni sector "will retain its rightful position as a place where wealthy Americans protect their wealth". Despite rising rates there will be lower issuance this year, which will protect the sector. Additionally, tax cuts for the wealthy will be modest, and not really enough to damage munis. "They will still be a relative value compared with other fixed-income, high-grade asset classes".

FINSUM : We suspect munis will continue to have a high degree of demand, and if issuance stays low, then those are two important supportive factors. However, some municipalities are facing big budget and pension issues, which could pose a risk.

By dkorth@finsum.com

March 27, 2018

Puerto Rico Forecasts \$6 Billion Surplus As Bonds Soar.

NEW YORK (Reuters) – Puerto Rico’s benchmark bond surged to a 25-week high on Monday, its busiest trading day since October, after the bankrupt U.S. territory nearly doubled its projected five-year surplus to \$6 billion as it recovers from Hurricane Maria.

While the price rise is being taken as a sign the market is beginning to see a recovery path for the storm-ravaged island, analysts remained wary, taking the spike with a grain of salt.

General obligation bonds maturing in 2035 changed hands more than 100 times on Monday and traded as high as 45 cents on the dollar, the bond’s highest level since Oct. 3. 74514LE86=MSRB

While still down sharply from the 60-cent range the bonds had occupied before Maria struck on Sept. 20, prices are continuing a steady, month-long climb as the island’s recovery prospects improve.

Senior bonds backed by sales tax revenue, so-called COFINA debt, have fared even better, reaching 63.51 cents in light trading on Monday, higher than they were in the weeks before the storm. 74529JAR6=MSRB Bonds issued by the bankrupt Puerto Rico Electric Power Authority (PREPA) also gained ground.

The latest bounce came on the heels of a revised financial outlook – released without fanfare by Puerto Rico’s government on Friday – that projected the U.S. territory to accumulate a \$6 billion surplus over the next five years.

An earlier version of the so-called fiscal turnaround plan, released in February, had forecast the surplus at \$3.4 billion.

“Puerto Rico GO bond prices have more than doubled since their lows earlier in the year and other issues, including COFINAs, PREPAs and even National- and AMBAC-insured bonds, have all participated in this broad rally,” Daniel DiBono, manager of municipal high yield evaluations at Thomson Reuters Pricing Service (TRPS), said, noting the revised surplus projections.

Share prices for insurers of Puerto Rican bonds also rose. MBIA (MBI.N), the parent company of National Public Finance Guarantee Corp, was up 4.4 percent on Monday, while shares of AMBAC Financial Group (AMBC.O) gained 6.56 percent.

The fiscal turnaround plan will serve as a basis for creditor restructuring talks in Puerto Rico’s bankruptcy, which, with \$120 billion of combined bond and pension debt, was already the largest in U.S. government history before Maria trashed the island’s infrastructure and killed dozens.

The plan needs approval by a federal board tasked with managing the island’s finances. The board

was expected to approve the February version of the plan at a meeting on Monday, but postponed the meeting after Friday's revision.

Observers cast a skeptical eye on the rosier projections, unsure the board would go along with them. Puerto Rico Governor Ricardo Rossello and the board have butted heads for months over what the plan should include.

The new plan creates \$3 billion more in cost savings than the February version, including an extra \$1.34 billion in tax measures like changing minimum tax rates and reducing incentives.

"While these headlines appear positive, we continue to think there will be a lot of noise before there is any significant resolution in Puerto Rico," analysts at KBW Research said in a Monday note.

Chris Ryon, a portfolio manager at Thornburg Investment Management in Santa Fe, which does not own Puerto Rican bonds, said he was scratching his head over the spike.

"I guess hope springs eternal," Ryon said. "I don't see the numbers working out in that way, that favorably. You have been losing population, saying the recovery is going to really juice their economy. I don't see that happening."

Such reservations underscore an ongoing credibility gap for Puerto Rico in the eyes of creditors and lawmakers, spanning multiple gubernatorial administrations.

The island has not published audited financial statements in three fiscal years, and absorbed routine accusations from stakeholders and legislators that it is overstating its crisis.

by Nick Brown

Reporting by Nick Brown; Additional reporting by Daniel Bases; Editing by Daniel Bases and James Dalglish

MARCH 26, 2018

Public Finance Associate Wanted for International Law Firm (Orlando, FL)

The Orlando office of an international firm with a truly unique culture seeks a Public Finance attorney with 4+ years of experience to join their growing team. Ideal candidates will have experience in municipal finance, tax and securities law, in addition to having worked with governments, underwriters and banks on municipal finance matters. Must have stellar academics, excellent writing capabilities and big firm experience. Florida bar admission required or willingness to sit for Florida Bar. Relocation candidates are encouraged to apply.

For consideration, please submit your resume to jobs@partners-group.com.

Connecticut Reduces Size of Bond Deal by 15 Percent to \$526 Million.

NEW YORK (Reuters) - Connecticut, one of the lowest rated U.S. states, cut the size of its general obligation bond deal this week by 15 percent to \$526.4 million, according to final pricing

information on Thursday.

The Connecticut Treasurer's office did not immediately reply to a request for comment on why the deal shrank from \$620 million.

Typically, a deal can be reduced because investors wanted more yield than the issuer could pay, or because demand for the bonds was lower than expected.

Final prices on the deal did not change from preliminary levels. The state's spread over top-rated municipal bonds widened since it last issued similar debt a year ago.

That means that the state, which has budget problems and high debt levels despite being one of the wealthiest in the country, had to pay more to borrow in part because of its credit woes.

by Hilary Russ

Reporting by Hilary Russ; editing by Diane Craft

MARCH 29, 2018

Cyberattacks Wakeup Call for Local Governments to Prepare.

ATLANTA — Atlanta police officers initially had to write reports by hand. Residents still can't pay water bills online. Municipal court dates are being reset. All are fallout from a ransomware attack last week that hobbled the city's invisible infrastructure.

Another ransomware attack hit Baltimore's 911 dispatch system over the weekend, prompting a roughly 17-hour shutdown of automated emergency dispatching. The Colorado Department of Transportation suffered two attacks just over a month ago. And the North Carolina county that's home to Charlotte totally rebuilt its system after a December attack.

For cash-strapped local governments, paying for robust protection against the invisible menace of a cyberattack can be a hard sell. But cyberattacks continue to proliferate, and experts say preparation and strong defensive measures are necessary to avoid the crippling effects.

"As elected officials, it's often quite easy for us to focus on the things that people see because, at the end of the day, our residents are our customers," Atlanta Mayor Keisha Lance Bottoms said at a news conference Monday. "But we have to really make sure that we continue to focus on the things that people can't see, and digital infrastructure is very important."

Although it's vital to make sure systems are up to date and have the latest patches, malware evolves so quickly that experts also stress the importance of comprehensive backups and a quick response when an attack does happen.

"I don't think any security is flawless," said Craig McCullough, a vice president at security firm Commvault. "I always approach it from the standpoint of it's not a matter of if but when, and when it happens, are you prepared? Are you going to be able to get your data back?"

Governments, public agencies and companies need to know what data they have and make sure it's backed up. Software and hardware can be replaced, but data is much more difficult, McCullough said.

A quick response can help minimize the damage, said Dmitri Alperovitch, chief technology officer of security firm CrowdStrike. If a threat is detected immediately after it enters the network — for example, when someone clicks on a link in a phishing email or through a vulnerable server — it might be possible to stop before it spreads beyond the initially infected computer, he said.

Atlanta officials won't say whether they'll pay the \$51,000 ransom, though Bottoms has said all options are on the table. Mike Cote, president of Secureworks, a security firm hired by Atlanta, has said they know who's behind the attack but aren't releasing that information.

Cybersecurity experts say the attack is consistent with the SamSam group, which is known as a sophisticated attacker and negotiator, said Jake Williams, founder of security firm Rendition Infosec.

Unlike other ransomware that might raise alarms upon infection, SamSam compromises machines without immediately locking up their files. That access is then used to spread through the network "before they press the encrypt button," Williams said.

"They put you into an extreme pain point position where paying is actually an attractive option," Williams said

He said he regularly tells clients they must make a business decision on whether to pay. He acknowledges that can be more difficult for governments, whose rules might block them from spending public funds on extortion.

Although Atlanta's critical physical infrastructure — including the city's airport, emergency response systems and water safety and treatment — were not directly affected, other departments are operating manually and some services have been suspended. Nuisances at first, issues caused by the outages could have compounded effects if they persist.

The mayor has been cautious, declining to give a timeline for when things might be up and running again after the cyberattack announced March 22. She has repeatedly said the investigation and recovery is "a marathon, not a sprint," and her focus is on making sure the city's network is safe moving forward.

But the road could be long.

The Colorado Department of Transportation was hit by a SamSam attack on Feb. 21 and again on March 1, and it was back to 80 percent functionality by Thursday said Deborah Blyth, the state's chief information security officer. Luckily, they had strong backups so they didn't even think about paying the ransom, she said.

In the weeks since the attack, they've implemented two-factor authentication for remote access and accelerated the implementation of other security measures that were already planned.

In Mecklenberg County, North Carolina, where Charlotte is located, it took a little more than 60 days for things to return to normal after a ransomware attack that began with a phishing email in December.

County officials didn't pay the ransom after consulting with federal authorities and realizing their data was backed up so they didn't need to pay to get it back, County Manager Dena Diorio said. But the process was still tedious as they had to essentially rebuild the system.

The county has taken steps to prevent another attack, including making its email system more secure and limiting employees' internet access. And they have more expensive plans — segmenting

their data and moving to a cloud-based system — that will take about two years to implement, Diorio said.

Remembering the scary early days, Diorio had advice for her counterparts in Atlanta: “All I can say is: Don’t panic and stay focused.”

By THE ASSOCIATED PRESS

MARCH 30, 2018

Associated Press writer Matt O’Brien in Providence, Rhode Island, contributed to this report.

[How Local Governments Can Prevent Cyberattacks.](#)

The recent cyberattack on Atlanta, in which the municipal government’s computers and related services were held hostage by a ransomware attack, is a reminder that local governments are particularly vulnerable to these and other cyberthreats.

Local governments of all sizes and locations now own and operate a wide and growing array of internet-connected technology systems: employee-issued laptops, motion sensors on light poles and under pavement, mapping and informational systems inside police cars, online citizen-engagement tools and much more.

Most local governments in the United States don’t have a strong grasp of the policies and procedures they should implement to protect their technology systems from attacks. This is especially concerning because the threat of a cyberattack is the most important cybersecurity problem they face, according to a survey conducted by the organization I work for, the International City/County Management Association, and the University of Maryland, Baltimore County.

Forty-four percent of local governments report that they regularly face cyberattacks, on either an hourly or daily basis. More troubling is the high percentage of governments that do not know how often they are attacked (28 percent) or breached (41 percent). Further, a majority of local governments do not catalog or count attacks (54 percent).

This is not just an American problem. Last month, at a conference in Tel Aviv, Tamir Pardo, the former head of Mossad, Israel’s national intelligence agency, said that most local government leaders around the world do not fully understand how serious a threat cyberattacks are and have not imaginatively assessed the consequences of inaction. He described cyberthreats as “soft nuclear weapons” that one day may be used to start and finish a war without firing a shot.

So what should local governments do to improve their cybersecurity apparatus to help prevent or mitigate damage from future attacks like the one experienced in Atlanta, or from those contemplated by Mr. Pardo?

First, local leaders must create a culture of cybersecurity that imagines worst-case scenarios and explores a range of solutions to mitigate threats to the ecosystem of local government technology. This should involve prioritizing funding for cybersecurity, establishing stronger cybersecurity policies and training employees in cybersecurity protocols. Success will require collaboration with local elected officials, internet-technology and cybersecurity staff members, department managers and end users.

Cybersecurity is more than just the I.T. department's problem. It must now also be a top priority along the entire chain of elected and appointed officials in and around local governments. Preventing and mitigating the effects of future attacks will require intergovernmental cooperation, because localities work together across state lines and collaborate with the federal government on crucial tasks like running elections, managing transportation and sharing intelligence.

Most technological advances are transforming local governments for the better, moving them from inefficient and costly paper systems to digital systems that allow for better analysis and understanding of policy decisions. The science of analytics and big data promises even greater leaps for local governments in evidence-based policymaking. These exciting developments may one day radically alter the ways that traditional local government services are financed, operated and managed.

But we cannot get lost in the excitement. We must actively prepare for cyberthreats of the sort that have been demonstrated in places like Atlanta. If smart cities and communities are the brightly lit days of the increasingly connected world of local government technology, cyberattacks are the dark and stormy nights. We don't need to halt technological deployments and evolution, but we do need to recognize that cybersecurity is an essential counterpart.

The New York Times

By Tad Mcgalliard

March 30, 2018

Tad McGalliard is the director of research and policy at the International City/County Management Association.

[To Pay or Not to Pay Hackers? Ransomware Poses a Dilemma for Governments.](#)

Baltimore's 911 system and a range of city services in Atlanta were hijacked in the past week.

First it was Atlanta, then Baltimore.

In a matter of days, hackers launched cyberattacks in both cities, hobbling the 911 emergency response system in Baltimore and crippling a wide swath of city services in Atlanta, knocking out Wi-Fi at the nation's busiest airport and forcing city workers to keep records with pen and paper.

No evidence has emerged suggesting the attacks are connected. But in both cases the hackers used ransomware, which encrypts a victim's files and then sends a digital ransom note demanding money to decrypt them.

In Atlanta, hackers demanded \$51,000 in the cryptocurrency bitcoin. City officials declined to say whether they made the payments. Baltimore officials didn't release details on the ransom amount. (One large private company, aircraft manufacturer Boeing, was also attacked on Wednesday, according to a report from Bloomberg News.)

The attacks are part of a fast-growing market in computer hacking. In a 2016, the FBI reported

major uptick in ransomware attacks, with more than \$200 million in payments to hackers in the first three months. That's almost 10 times the amount paid during the same period in 2015. Since the beginning of 2018, the SamSam ransomware — which was used in the recent Atlanta attack and shut down the Colorado Department of Transportation for several days last month — has raked in more than \$1 million from 30 organizations.

Ransomware isn't expensive to design or purchase, and a person with even moderate coding experience can alter it to exploit leaks in a specific system's protective firewall. The odds are on the side of the hackers.

"They only have to be right once. Your anti-malware has to be right 100 times," says Tom Gilbert, chief technology officer at Blue Ridge Networks, a cybersecurity firm based in Northern Virginia.

Ransomware is a boom economy because organizations are often quick to pay.

"The economics of being a bad guy on the internet are just too good," says Oren Falkowitz, who spent seven years with the National Security Agency before co-founding Area 1 Security, a private firm.

But should they pay?

Public entities have sometimes been willing to pay the ransom demands since the hackers tend to ask for a relatively low amount of money. Madison County, Ind., for instance, paid \$21,000 to regain access to its data, and the Los Angeles Community College District forked over \$28,000 to hackers.

But the San Francisco Metropolitan Transit Authority refused to pay \$73,000 to the hackers who froze the agency's computer system on Thanksgiving weekend — one of the busiest travel times — in 2016. By the following Monday, the agency had regained control of its system.

The FBI advises organizations hit by ransomware not to pay. There are no guarantees the hackers will return the hijacked data. And the agency argues that paying off hackers only encourages more attacks.

"Paying a ransom not only emboldens current cybercriminals to target more organizations, it also offers an incentive for other criminals to get involved in this type of illegal activity," former FBI Cyber Division Assistant Director James Trainor said in a statement in 2016.

Government agencies are vulnerable because they're often underprepared.

"What makes the cyberattack on Atlanta so pernicious is the lack of preparation. The facts are, this is a very common phenomenon," says Falkowitz, the cybersecurity expert.

Indeed, city computers in Atlanta were infected in last year's WannaCry outbreak, which also disabled systems across the globe, including the networks of FedEx, Honda and several state-level government agencies in India.

More than 90 percent of ransomware infections come from phishing attacks, in which unwitting users are enticed to open a file or click on a link containing the malware. Falkowitz says training users to fight that impulse is a losing battle, which is why organizations need to invest in better security.

"Humans are curious, and we are talking about organizations that have hundreds of thousands of people," he says. "Someone is going to click on a link."

A virus' impact can be felt along after the initial attack. Worms like SamSam are designed to hide in the system even after a security firm flushes the computer network and patches holes in the firewall. The same worm can mutate and begin to attack other still-unprotected portions of the network.

That's precisely what happened in Colorado: SamSam infected the system in late February and then again, in a mutated form, days later.

Government agencies, says Gilbert, need to do a better job of partitioning their networks. Not every piece of data needs to be shared and not every department needs to be open to the internet.

"The absolute critical aspects of an operation really have no business being directly connected to the internet," Gilbert says.

GOVERNING.COM

BY J. BRIAN CHARLES | MARCH 29, 2018

Fitch: N.J. Exec Budget; New Revenue & Spending; Legacy Costs Remain Driver.

Fitch Ratings-New York-22 March 2018: The New Jersey governor's executive budget delivers on policy goals outlined during his campaign; however, numerous new program and tax credit initiatives, combined with proposed extensive tax policy actions, cannot in the near term materially change the persistent underfunding of retiree liabilities and the elevated long-term liability burden that are the key drivers of the state's below-average 'A' Issuer Default Rating (IDR), according to Fitch Ratings.

The \$2 billion, or 5.7%, proposed revenue growth from fiscal 2018 includes \$1.5 billion from tax increases, supporting 4.2% growth in state appropriations. These increased revenues would go to new spending and leave the state with still slim reserves and reduced flexibility to respond to future economic downturns through revenue raising. Fitch notes that the state has significant spending pressures not only due to the demands of underfunded retiree benefit liabilities but also because natural revenue increases resulting from modest economic growth in recent years have gone primarily towards the phased-in growth in annual pension contributions. This dynamic has led to underfunding of other state needs.

GRADUAL PENSION RAMP UP CONTINUES

If implemented, the budget would continue the state on the path of a gradual 1/10th annual phase-in to the full actuarially determined contribution (ADC) for pensions in fiscal 2023. Despite the \$691 million increase to the pension contribution, Fitch would expect further deterioration in the funded condition of the plans over the near term as the contribution remains well below the ADC. The \$3.2 billion total pension contribution (9% of the budget) is a 28% increase from fiscal 2018 that accounts for 39% of proposed budget growth and funds 60% of the ADC. The contribution meets Fitch's rating expectations given the state's policies in recent years and hews the governor to the same path as his predecessor.

Employee and retiree medical expenses also continue to loom large, representing \$3.4 billion (9%) of the governor's budget. As in most states, OPEB contributions remain well below actuarial recommendations, growing the accrued liability. Escalating pension and OPEB liabilities are

expected to remain negative rating factors absent further policy action that reduces the liabilities, forestalling improvement in the state's IDR.

FISCALLY PRUDENT PROPOSALS

The governor's proposals for increased funding to New Jersey Transit (NJT), greater adherence to full education formula funding, reduced one-time budget balancing actions and an addition to state cash balances to provide greater financial cushion would either address critical state needs or support more sustainable financial operations, in Fitch's view. Further, the suggested return of the state sales tax rate to 7%, lowered as part of the transportation funding agreement in 2016, would provide \$581 million in additional revenue. This is a positive step. At the time of that agreement, which lowered the sales tax rate in exchange for an increase in the gas tax, Fitch noted that the state had replaced a growing revenue source with one with more limited growth prospects and added to the pressure on operating funds.

NEW PROGRAM INITIATIVES

Excluding the operating budget's increased pension contribution, recommended program expense grows by a net \$918 million. Significant increases include \$933 million in additional K-12 education funding, including \$283 million in added formula aid, \$242 million in additional state subsidies for NJT, \$120 million for state and teacher employee and retiree health benefits, \$100 million for opioid addiction programs and \$50 million for assistance to community college students. Medicaid grows by \$244 million, boosting this program's draw on the operating budget to 12% of proposed expenditures although remaining far below the 46% of the budget dedicated to education (including higher education). Offsetting these increases are reductions to various line items, \$46 million in expected state-wide salary and operational savings, and reductions in certain state aid categories and capital construction. In addition to programmatic adjustments, the governor has proposed tax policy changes that reduce revenue to the state, including increases in the earned-income tax credit (\$27 million) and the state property tax deduction cap (\$80 million).

EXTENSIVE NEW REVENUE MEASURES

To fund these initiatives, the governor has proposed a milestone 10.75% personal income tax (PIT) rate for taxpayers earning more than \$1 million, which would provide an estimated \$765 million in fiscal 2019, as well as numerous business tax changes for an additional \$110 million; both in addition to the proposed sales tax changes. The governor's budget also includes the legalization and taxation of marijuana which is estimated to deliver \$80 million in tax revenue. Fitch believes there is uncertain legislative interest in the PIT proposal, particularly given recent passage of federal tax changes in December 2017 that capped the deduction for state and local taxes (SALT) and is expected to increase residents' effective state tax burden. Should the measures fail to be approved, other revenue solutions or expenditure reductions will need to be identified to balance the fiscal 2019 budget.

The state's revenue forecast is premised on 2.4% growth in the sales tax base; 4% and 4.2% growth in personal income in 2018 and 2019, respectively; 4% growth in gross state product in both 2018 and 2019; and 1% and 0.8% growth in nonfarm employment in 2018 and 2019, respectively. Fitch believes these forecasts to be reasonable based on recent quarterly experience but somewhat robust when considering the state's recent annualized growth, while noting that future economic growth is expected to remain below that of the nation.

BALANCED FISCAL 2018 OPERATIONS

Updates to the state's fiscal 2018 financial operations are included in the executive budget and point to anticipated budgetary balance this fiscal year. Current forecast revenue is a 2.2% improvement over the forecast used to enact the budget; however, the improvement largely incorporates a shift of sales tax revenue from non-operating funds to operating funds in addition to expected PIT revenue that is above forecast, offset by shortfalls in other revenue sources. Over 40% of the increase in the PIT is attributable to \$253 million in one-time revenue related to the repatriation of overseas hedge fund profits, a direct effect of Section 457A of the federal Internal Revenue Code passed in 2008. Unexpected growth in the PIT excludes \$200 million collected in December from taxpayers seeking to take advantage of the higher SALT deduction as the state believes this revenue would have been collected in April 2018.

Final, estimated appropriations increase by \$1.2 billion (3.6%) from the enacted budget, partly incorporating appropriations linked to the moved sales tax revenue. The state's estimated year-end budgetary fund balance, which the state views as its budgetary cushion, is projected to be \$738 million (2% of operating fund appropriations) largely incorporating a larger beginning fund balance than anticipated when the budget was enacted.

Contact:

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

Douglas Offerman
Senior Director
+1-212-908-0889

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

Additional information is available on www.fitchratings.com

[Puerto Rico Bondholders Finally See a Big Win.](#)

- **New plan sees six-year surplus of \$6 billion before debt**
- **Most-traded bond jumps by more than 20 percent Monday**

Puerto Rico and its creditors finally caught a break, at least for one day.

Bonds of the bankrupt U.S. territory soared more than 20 percent Monday after the government surprised investors by projecting that a flood of disaster-relief funds will do what officials for years couldn't: revive the moribund economy enough to replace chronic deficits with increasing surpluses, before any debt payments are made.

There's still a big question mark over whether Puerto Rico can actually deliver, given its history of fiscal folly and an exodus of residents. But the bond rally signals optimism that investors may not lose quite as much as initially feared from what has been the largest municipal bankruptcy in U.S.

history, even as residents brace for a new era of fiscal austerity.

The government's latest financial turnaround plan marks the second time in as many months that it's offered a more sanguine outlook for its recovery. It projects that Puerto Rico will have a surplus, excluding bond payments, of \$6 billion over the next six years after implementing plans to steady its finances. That's up from \$3.4 billion projected last month. In January, while still gauging the toll of the storm, it estimated that it would have essentially no money for debts because of the devastation.

"The move is bigger than expected, but it is in reaction to the fiscal plan which has come out more positively than previous ones," said Daniel Solender, head of municipal investments at Lord Abbett & Co., which holds Puerto Rico securities among its \$20 billion of state and local debt. "There still is a long way to go, but there is growing optimism that things have moved better than worst-case scenarios."

Puerto Rico general obligations were the most actively traded municipal bonds Monday. The price of those due in 2035 rose by 7 cents on the dollar to an average 43.8 cents, the highest since early October, after climbing to as much as 45 cents, according to data compiled by Bloomberg. The prices of the territory's sales-tax, electric-company and building-authority bonds also jumped in heavy volume.

The rally wiped out much of the losses that Puerto Rico bondholders suffered after the September hurricane. The bonds due in 2035 — which were sold to hedge funds and other investors for 93 cents on the dollar four years ago — had slipped to around 58 cents before the storm. They then tumbled to as little as 21 cents in December.

Governor Ricardo Rossello's administration's latest plan still needs approval from the federal board that's been installed to oversee the turnaround and requires him to implement steps to wrest savings from the government and increase revenue. The question of how much investors will recover will also be determined in court, where creditors with sometimes competing claims are fighting over the the island's cash — making the outcome highly uncertain.

The improved outlook in the latest road map reflects the federal aid and insurance claims that are coming into the island, promising to boost an economy that had been mired in a recession for years as residents left for jobs on the U.S. mainland. The stagnation culminated in Puerto Rico's fiscal collapse.

As a result of the storm, Puerto Rico is counting on \$21 billion of insurance money and about \$49.1 billion of federal aid, enough to have a major impact on growth. While the economy is projected to shrink about 10.6 percent in the current fiscal year, the government anticipates it will expand 7.3 percent next year and grow for the following four years. A year ago, the island was projecting continued contraction.

The latest plan was set to be considered by Puerto Rico's federal oversight board Monday until the meeting was delayed. If approved, it will be a blueprint for the board, Rossello's administration and creditors during negotiations over how much of the island's \$74 billion of debt it can repay.

Bloomberg Markets

By Danielle Moran

March 26, 2018, 12:47 PM PDT

— *With assistance by Jonathan Levin, and Tatiana Darie*

New Jersey to Refund Junk Tobacco Bonds for \$3.2 billion of High-Grade Paper.

NEW YORK (Reuters) – New Jersey will sell \$3.2 billion of tobacco refunding bonds on April 4 in a deal that effectively strips the debt of its junk rating and elevates it to investment grade.

The deal, the largest of next week's \$8 billion of U.S. municipal bond and note sales, will refinance what remains of \$3.6 billion of bonds issued in 2007 by the state's Tobacco Settlement Financing Corporation.

S&P Global Ratings currently rates those bonds a B, in speculative territory. But the credit agency expects to assign various investment-grade ratings to the new bonds – from BBB to A depending on the seniority and maturity, according to bond documents.

In 1998, big tobacco companies agreed to make annual payments to most U.S. states to cover medical costs for sick smokers.

Many states opted to securitize that stream of money by selling municipal bonds backed by the expected payments from tobacco companies.

However, the payments are tied to smoking rates. Fewer shipments of cigarettes means less money to back the bonds, and smoking rates have been falling.

The New Jersey deal is part of a new generation of refinanced tobacco bonds and takes into account that more smokers are quitting, according to Alan Schankel, managing director at Janney Montgomery Scott.

Like most other tobacco bonds of an earlier era, New Jersey's 2007 bonds "were based on assumptions that cigarette smoking declines would not exceed 4 percent annually."

The new bonds being issued next week are designed around different expectations – that consumption will continue to decline as much as 8.72 percent by the time the 2046 senior term bonds mature.

The deal is "reflective of lower smoking rates and more realistic assumptions," Schankel said.

The state expects to save \$250 million immediately on the refinancing.

Ahead of New Jersey's offering, debt from Ohio's Buckeye Tobacco Settlement Financing Authority traded higher at \$98.75, according to analyzed price data from Markit.

There were more than \$30 million of trades this week in the 2046 maturity of Ohio's 2007 tobacco bonds with a 5.875 percent coupon, according to trade data from the Municipal Securities Rulemaking Board.

Also in New Jersey next week, the fiscally stressed seaside resort Atlantic City plans to price \$49.37 million of taxable bonds rated 'BBB+' through sole manager Morgan Stanley & Co. Inc.

Proceeds from the bonds, which are backed by a state program, will be used to pay pension and healthcare contribution with interest that the city deferred in 2015.

Reporting by Hilary Russ; Editing by James Dalglish

MARCH 29, 2018

Ratings Downgrade: New York's MTA Debt is Getting Riskier.

New York's Metropolitan Transportation Authority (MTA) is the largest public transport authority in the United States, but its budget deficit and lack of liquidity have become a growing crisis for the organization, state and local government and the city's residents.

High leverage and poor operating results have translated to projections that MTA is \$38 billion in debt and may be at risk of further downgrades – thus, bondholders should think twice before buying.

In this article, we will look at the MTA's current situation, what happened to its credit rating and what these factors mean for municipal bond investors.

[Continue reading.](#)

municipalbonds.com

by Justin Kuepper

Mar 29, 2018

Connecticut Borrows at Higher Price as Credit Woes Weigh.

NEW YORK (Reuters) – Connecticut paid a price for its credit woes on Wednesday as it borrowed \$620 million at wider spreads than when it last issued similar debt a year ago, despite strong overall demand in the U.S. municipal bond market.

Connecticut's 10-year bonds priced at 3.39 percent – a spread of 93 basis points over top-rated paper, according to a preliminary pricing sheet.

The New England state is one of the wealthiest in the country. But its credit rating is among the very lowest because of budget problems, underfunded pensions, high debt levels and a dim economic outlook.

When the state last sold similar general obligation debt on March 29, 2017, its 10-year bonds with 5 percent coupons priced at 3.00 percent.

At the time, that level was 77 basis points above general market bonds carrying the highest rating of triple-A, according to Municipal Market Data, a Thomson Reuters company.

Since then, however, state lawmakers and Governor Dannel Malloy hit a budget impasse amid a huge revenue slump that led all three major credit rating agencies to downgrade Connecticut in May.

S&P Global Ratings rates the state A-plus with a negative outlook, leaving Connecticut tied with Kentucky as the third-worst rated state.

Connecticut's spread widened by 16 basis points in the last year, indicating that buyers demanded more yield to take on a slightly riskier investment.

The negotiated deal, led by Loop Capital Markets, consisted of \$250 million in new money bonds with serial maturities from 2019 through 2038, and \$367 million in refunding bonds maturing from 2019 through 2028.

Home to hedge fund billionaires alongside cities mired in poverty, Connecticut's debt load is the highest in the nation by several different measures.

It also has about \$37 billion of unfunded liabilities spread across its teacher and state employee pension funds, with funded ratios of just 52 percent and 32 percent respectively, according to bond documents.

Connecticut has actually borrowed more recently but did so via a private placement. That deal, with just days left in its last fiscal year, came amid a budget stalemate that dragged on for nearly four months.

In late June, the state borrowed \$300 million of new money variable-rate 7-year bonds through a direct placement with Barclays Capital Inc, with another \$135 million of refunding bonds sold privately to JP Morgan Chase & Co.

by Hilary Russ, Reade Levinson

Reporting by Reade Levinson and Hilary Russ; Editing by Daniel Bases and Cynthia Osterman

MARCH 28, 2018

-
- [Hawkins Advisory: Municipal Market Regulatory Update.](#)
 - [Credit Enhancement For Charter School Facilities Program.](#)
 - [How Puerto Rico's Bankruptcy is Roiling the Municipal Bond World.](#)
 - [S&P: How Our U.S. Local Government Criteria Weather Climate Risk.](#)
 - [Introduction to Environmental Impact Bonds.](#)
 - [Infrastructure Series: Cost-Sharing with State and Local Governments.](#)
 - [Public Finance Practices Saw a Huge Boom at the End of 2017.](#)
 - [Despite New Rules to Disclose Corporate Tax Breaks, Just Half of Local Governments Are.](#)
 - [Federal Income Tax Consequences of State Economic Development Incentives After Passage of Tax Cuts and Jobs Act.](#)
 - And finally, [Mississippi Department of Wildlife, Fisheries, and Parks v. Webb](#) this week brings us the charming story of a wheelchair-bound paraplegic – sporting a .25 BAC – who led two fish and game boats on a high-speed chase down the Tchoutacabouffa River that ended with a highly-foreseeable fiery crash. A police officer testified that, “an individual with a .25 BAC has severe impairment of all mental, physical and sensory function” and that “a person with such impairment “couldn’t stand up, couldn’t articulate, no hand or eye coordination.” Or as we call it here at the BCB workplace, a “Tuesday afternoon.”

Ex parte Scrushy

Supreme Court of Alabama - March 9, 2018 - So.3d - 2018 WL 1224237

Electors moved to have the circuit court enforce its prior orders and declare invalid a special election for town council, which was held following a dispute about the results of the general election.

The Circuit Court declared the special election void. After a probate judge then entered an order purporting to void all the orders entered by the circuit court concerning the special election, the Circuit Court reaffirmed its previous order declaring the special election void. Town and apparently successful candidate in the special election sought a writ of mandamus.

The Supreme Court of Alabama held that the circuit court could void the special election for failure to be held in strict compliance with state's election laws, as required by one of the circuit court's previous orders.

Electors' motion for the circuit court to enforce its prior orders and declare invalid a special election for town council, which was held following a dispute about the results of the general election, was not an "election contest," and thus the circuit court could void the special election for failure to be held in strict compliance with state's election laws; electors did not challenge the special election's results, circuit court had expressly stated in two orders prior to the special election that it retained jurisdiction to enforce its orders concerning the disputed general election and the special election, and one of the circuit court orders at issue made clear that the town's governing body had a duty to conduct the special election in accordance with state's election laws.

ZONING & LAND USE - CALIFORNIA

Don't Cell Our Parks v. City of San Diego

Court of Appeal, Fourth District, Division 1, California - March 15, 2018 - 2018 WL 1324601

Residents' group brought declaratory judgment action and petition for writ of mandate, challenging city's approval of project to construct wireless telecommunications facility in city park.

The Superior Court denied petition. Group appealed.

The Court of Appeal held that:

- Under city charter, city had discretion to determine whether a particular use would change the use or purpose of a dedicated park, as would trigger requirement of ratification by two-thirds vote for such a change;
- Project at issue did not change use or purpose of park; and
- Project consisted of the construction and location of a new small facility or structure, and thus project was exempt from California Environmental Quality Act (CEQA).

Under city charter, city had discretion to determine whether a particular use would change the use or purpose of a dedicated park, as would trigger requirement of ratification by two-thirds vote for such a change; this determination necessarily fell within city's control and management authority.

Project for construction of wireless communications facility in city park did not change use or purpose of dedicated park and thus did not trigger requirement, under city charter, for two-thirds

approval by voters; project's footprint would only occupy .14 percent of total ground area of park, project equipment would be painted tan and surrounded by native shrubs, and project would benefit park visitors by providing enhanced wireless communication coverage.

Project for construction of wireless communications facility in city park consisted of the construction and location of a new small facility or structure, and thus project was exempt from California Environmental Quality Act (CEQA), where project entailed an unmanned cell tower disguised as a tree, plus an equipment enclosure, and project would be 534 square feet including above-ground branch diameter of faux tree.

INTERGOVERNMENTAL AGREEMENTS - GEORGIA

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

Supreme Court of Georgia - March 15, 2018 - S.E.2d - 2018 WL 1324184

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.

Service Delivery Strategy Act (SDS Act) waived sovereign immunity only to the extent of the Act, which extended no further than the remedies specifically authorized by Act, to allow city's action under Act against county alleging that county had breached intergovernmental agreement concerning police and fire protection.

City's claims against county seeking specific performance of intergovernmental agreement concerning police and fire protection were not barred by sovereign immunity; state constitution expressly waived sovereign immunity for breach of contract claims against state or its departments and agencies.

Dispute resolution process prescribed by Service Delivery Strategy Act (SDS Act) did not violate separation of powers provision of state constitution; Act did not authorize court to substitute its judgment for that of county and municipalities with regard to creation of service delivery agreement, nor to adopt one party's interpretation to exclusion of another, and enter that in the form of final agreement, rather, court was directed only to receive parties' evidence and resolve disputed issues of fact regarding services provided and funding of such services, and to determine whether such

services and funding complied with the provisions of the law.

Funding of road and bridge maintenance was not at issue before mediator, and therefore trial court was not permitted to consider issue following mediation pursuant to Service Delivery Strategy Act (SDS Act) in dispute between city and county concerning intergovernmental agreement.

Trial court was not authorized by Service Delivery Strategy Act (SDS Act) to permanently enjoin county from imposing fees on city for emergency dispatch services and mandating use of particular technology for delivering those services in dispute between city and county concerning intergovernmental agreement; court was only permitted to employ those remedies provided for by Act, and Act did not permit issuance of permanent injunction as to funding or method of providing services.

Trial court was not authorized by Service Delivery Strategy Act (SDS Act) to enter declaratory and injunctive relief regarding funding of recreation and library services in dispute between city and county concerning intergovernmental agreement; court was only permitted to employ those remedies provided for by Act, and Act did not permit issuance of permanent injunction as to funding or method of providing services.

IMMUNITY - IOWA

[Kellogg v. City of Albion](#)

Supreme Court of Iowa - March 9, 2018 - N.W.2d - 2018 WL 1224514

Homeowner brought action against city, alleging that reoccurring flooding in the basement of her home due to the discharge of rainwater from storm sewer constituted a nuisance and that city was negligent in installing storm sewer pipe.

The District Court granted city's motion for summary judgment. Homeowner appealed. The Court of Appeals reversed. City applied for and was granted further review.

The Supreme Court of Iowa held that:

- City had to offer evidence that conduct immunized under statute was the conduct supporting nuisance claim, and
- City offered evidence that conduct immunized under statute was the conduct supporting nuisance claim.

When a claim against a municipality rests upon negligence in the maintenance of a utility, rather than negligence in the failure to upgrade a utility, neither the literal terms nor the purposes of the statutory immunity for municipalities for tort claims based on claims of negligent design and construction of public improvements and facilities or failure to upgrade public improvements and facilities are applicable.

If a plaintiff can only establish a nuisance claim against a municipality by evidence of immune conduct, the municipality need only raise statute granting immunity to municipalities for tort claims based on claims of negligent design and construction of public improvements and facilities or failure to upgrade public improvements and facilities as a defense; yet, when a plaintiff is not required to prove a claim by evidence of immune conduct, the municipality can still support an immunity defense by offering evidence that the conduct responsible for the condition supporting the nuisance claim is in fact conduct immunized under the statute.

City had to offer evidence that conduct immunized under statute granting immunity to municipalities for tort claims based on claims of negligent design and construction of public improvements and facilities or failure to upgrade public improvements and facilities was the conduct supporting homeowner's nuisance claim against city based on flooding of her basement due to the discharge of rainwater from storm sewer, where homeowner made no claim that city engaged in conduct outside statutory framework, such as a failure to properly maintain and repair the sewer pipe.

City offered evidence that conduct immunized under statute granting immunity to municipalities for tort claims based on claims of negligent design and construction of public improvements and facilities or failure to upgrade public improvements and facilities was the conduct supporting homeowner's nuisance claim against it based on flooding in the basement of her home due to the discharge of rainwater from storm sewer, as required to support city's immunity defense.

IMMUNITY - KANSAS

[Patterson v. Cowley County](#)

Supreme Court of Kansas - March 16, 2018 - P.3d - 2018 WL 1354224

Family members of driver and passenger brought wrongful death action against township, county, and Kansas Department of Wildlife, Parks, and Tourism (KDWP), alleging failure to provide adequate warnings, signs, or barriers between end of road and river.

The District Court granted summary judgment in part to county, and in full to township. One family member and county took interlocutory appeals, and the appeals were consolidated. The Court of Appeals affirmed in part and reversed in part. Family member's petition and county's cross-petition for review were granted.

The Supreme Court of Kansas held that:

- Township did not owe duty to install barricade and sign at end of road;
- County did not owe duty to conduct engineering study regarding traffic-control devices; and
- Kansas Tort Claims Act (KTCA) shielded county from liability for discretionary function.

Township did not owe duty to driver and passenger who died in traffic accident to install barricade and "Dead End" sign at end of unpaved road in location where vehicle drove off road and flipped into a river; township was not located within one of five counties where townships were statutorily required to install traffic-control devices, and imposing such requirement on all townships would have rendered statute listing specific counties meaningless.

County did not owe duty to driver and passenger who died in traffic accident to conduct engineering study to determine whether additional traffic-control devices were necessary for county's paved portion of roadway; even though federal Department of Transportation's Manual on Uniform Traffic Control Devices required that warning signs be based on engineering study, Manual did not obligate county to conduct engineering study on every road within its territorial borders for purposes of considering placement of warning sign.

County had discretion not to consider whether to install advisory speed plaque, a "Dead End" sign, or a "No Outlet" sign on road, and therefore Kansas Tort Claims Act (KTCA) shielded county from liability on all claims resulting from fatal traffic accident; Manual on Uniform Traffic Control Devices did not mandate the signage or trigger need to seek out professional engineering judgment, and Manual did not contain detailed guidance for deciding when the signs were necessary.

IMMUNITY - MISSISSIPPI

Mississippi Department of Wildlife, Fisheries, and Parks v. Webb

Supreme Court of Mississippi - March 15, 2018 - So.3d - 2018 WL 1323824

Deceased boater's survivors brought wrongful death action against Department of Wildlife, Fisheries, and Parks under the Mississippi Tort Claims Act, alleging that conservation officers acted with reckless disregard for the safety of boaters on the river when they failed to effect a stop of boater who was speeding and instead instructed him to move to an allegedly safer location, after which he fled and caused a boating collision.

Following a bench trial, the Circuit Court entered judgment for survivors. Department appealed. The Court of Appeals reversed and rendered. Survivor petitioned for writ of certiorari, which was granted.

The Supreme Court of Mississippi held that there was substantial evidence that conservation officers acted in "reckless disregard" for the safety of other boaters on the river, as required to defeat immunity relating to police protection under the Act.

There was substantial evidence that conservation officers acted in "reckless disregard" for the safety of other boaters on the river when they failed to effect a stop of boater who was speeding and instead instructed him to move to an allegedly safer location, after which he fled and caused a boating collision, and thus immunity relating to police protection under the Mississippi Tort Claims Act did not preclude the wrongful death action brought by survivors of the deceased boater; although officers testified that a "blind spot" existed in the bend of the river where they had detained boater, there was evidence that their testimony was not credible, boater's blood alcohol content was .25 two hours and 15 minutes after the collision, which indicated severe impairment of all mental, physical, and sensory function, and there was evidence that officers, in violation of standard operating procedure, decided to direct boater to continue to operate his boat before determining why he was speeding or whether the use of alcohol could be ruled out.

DAMAGES - NORTH DAKOTA

Larimore Public School District No. 44 v. Aamodt

Supreme Court of North Dakota - March 19, 2018 - N.W.2d - 2018 WL 1371248 - 2018 ND 71

School district and governmental self-insurance pool brought interpleader action and deposited \$500,000 with the district court to satisfy statutory damage cap for personal injury and wrongful death claims arising from an accident involving a collision between a school district bus and a train.

Parents and guardians counterclaimed asserting that the damage cap was unconstitutional. The District Court confirmed deposit and discharged school district and self-insurance pool from further liability. Parents and guardians appealed.

The Supreme Court of North Dakota held that:

- Statutory damage cap does not violate the open court and remedy provision of the State Constitution;
- Statutory damage cap does not violate the right to a jury trial under the State Constitution;

- Statutory damage cap was not facially unconstitutional under the equal protection clause of the State Constitution;
- Statutory cap was not unconstitutional as applied under the equal protection clause of the State Constitution; and
- Statutory cap does not violate the provision of the State Constitution prohibiting local or special laws.

REFERENDA - OHIO

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

Supreme Court of Ohio - March 15, 2018 - N.E.3d - 2018 WL 1325034 - 2018 -Ohio- 966

After county board of elections sustained a protest and decertified a zoning referendum for placement on ballot, petitioner filed a complaint for a writ of mandamus against board of elections. The matter was converted into an expedited election matter.

The Supreme Court of Ohio that:

- Zoning-amendment referendum petition satisfied the number and full-and-correct-title requirements;
- Petition included the name by which the amendment was known; and
- Issue of whether summary contained in petition met statutory requirements was not ripe for review.

Zoning-amendment referendum petition satisfied the number and full-and-correct-title requirements, despite fact that petition did not include exact title of township trustee's resolution and referred to the township case number of the original application instead of the case number of the revised application; zoning amendment had been initiated by application rather than by resolution, only difference between case numbers of original application and revised application was the addition of "(R)," evidence in the record established that the (R) designation was not a part of the application's official title, and it would unjustly interfere with the right of referendum to require petitioner to strictly adhere to a convention that the zoning board and the trustees did not themselves follow.

In referendum petition challenging township's amendment of a zoning plan, petitioner's use of designation by which township trustees referred to amendment in their minutes met the statutory requirement that the petition include the name by which the amendment is known.

Issue of whether brief summary contained in referendum petition challenging a township's amendment of a zoning plan met statutory requirements was not ripe for review; board of elections had disqualified referendum from ballot based on other issues and could not muster a majority to disqualify the referendum based on the summary, and secretary of state had declined to break the tie in writing.

EMINENT DOMAIN - PENNSYLVANIA

[York OPA, LLC v. Commonwealth , Department of Transportation](#)

Commonwealth Court of Pennsylvania - March 20, 2018 - A.3d - 2018 WL 1385848

Condemnee filed petition for appointment of board of viewers, asserting inverse condemnation claim

against Department of Transportation (DOT).

The Court of Common Pleas overruled DOT's preliminary objections and entered judgment in favor of condemnee, finding de facto taking. DOT appealed.

The Commonwealth Court held that:

- Condemnee did not waive its right to bring inverse condemnation action, despite failing to file preliminary objection to declaration of taking;
- Genuine issue of material fact existed as to whether portion of land was owned by township or condemnee; and
- Trial court lacked subject matter jurisdiction to determine title of property.

Condemnee did not waive its right to bring inverse condemnation action against condemnor, despite failing to file preliminary objection to declaration of taking, where declaration misidentified portion of land as existing right-of-way already owned by condemnor rather than land owned by condemnee, resulting in alleged taking of such portion without compensation.

Genuine issue of material fact existed as to whether portion of land was owned by township or condemnee, precluding determination of whether condemnee had standing to bring de facto taking claim.

In inverse condemnation proceeding, trial court lacked subject matter jurisdiction to determine title of property to which Department of Transportation and condemnee claimed ownership, since Board of Property had exclusive jurisdiction over such issue.

MUNICIPAL ORDINANCE - WASHINGTON

[Emerald Enterprises, LLC v. Clark County](#)

Court of Appeals of Washington, Division 2 - March 13, 2018 - P.3d - 2018 WL 1280788

Applicant for retail license to sell marijuana within unincorporated county brought declaratory judgment action against county, alleging that state law legalizing recreational marijuana preempted a county ordinance that banned the retail sale of recreational marijuana.

The Superior Court entered summary judgment in favor of county. Applicant appealed and also filed appeal in a related land use case.

The Court of Appeals held that:

- Ordinance did not prohibit what state law permitted, as element in determining whether ordinance irreconcilably conflicted with state law and thus was preempted by it;
- Ordinance did not thwart the legislative purpose of state law, as element in determining whether ordinance irreconcilably conflicted with state law and thus was preempted by it;
- Ordinance did not exercise authority reserved by state law, as element in determining whether ordinance irreconcilably conflicted with state law and thus was preempted by it;
- State law did not expressly preempt ordinance; and
- State law did not impliedly preempt ordinance.

Credit Enhancement For Charter School Facilities Program.

What's New

On March 21, 2018, the U.S. Department of Education published in the Federal Register a [notice inviting applications](#) (NIA) for the Charter Schools Program (CSP): Expanding Opportunity through Quality Charter Schools Program-Grants for Credit Enhancement for Charter School Facilities (Credit Enhancement). The purpose of the Credit Enhancement program is to award grants to eligible entities that demonstrate innovative methods of helping charter schools address the cost of acquiring, constructing, and renovating facilities by enhancing the availability of loans and bond financing.

For more information about this awards, visit the [Applicant Info and Eligibility page](#).

Program Description

This program provides grants to eligible entities to permit them to enhance the credit of charter schools so that the charter schools can access private-sector and other non-Federal capital in order to acquire, construct, and renovate facilities at a reasonable cost.

Objective

An eligible entity receiving a grant must use the funds deposited in the reserve account to assist one or more charter schools to access private-sector capital to accomplish one or more of the following objectives:

1. The acquisition (by purchase, lease, donation, or otherwise) of an interest (including an interest held by a third party for the benefit of a charter school) in improved or unimproved real property that is necessary to commence or continue the operation of a charter school.
2. The construction of new facilities, or the renovation, repair, or alteration of existing facilities, necessary to commence or continue the operation of a charter school.
3. The predevelopment costs required to assess sites and to commence or continue the operation of a charter school.

Permissible Uses of Reserve Account Funds

An eligible entity receiving a grant shall, in accordance with State and local law, directly or indirectly, alone or in collaboration with others, deposit the funds received, other than funds used for administrative costs, in a reserve account established and maintained by the eligible entity. Amounts deposited in such account shall be used by the eligible entity for one or more of the following purposes:

1. Guaranteeing, insuring, and reinsuring bonds, notes, evidences of debt, loans, and interests therein.
Guaranteeing and insuring leases of personal and real property.
2. Facilitating financing by identifying potential lending sources, encouraging private lending, and other similar activities that directly promote lending to, or for the benefit of, charter schools.
3. Facilitating the issuance of bonds by charter schools, or by other public entities for the benefit of charter schools, by providing technical, administrative, and other appropriate assistance (including the recruitment of bond counsel, underwriters, and potential investors and the consolidation of multiple charter school projects within a single bond issue).

Funds received and deposited in the reserve account shall be invested in obligations issued or guaranteed by the United States or a State, or in other similarly low-risk securities. Any earnings on

funds received shall be deposited in the reserve account and used in accordance with this program.

Impermissible Uses of Reserve Account Funds

Grantees may not use reserve account funds to:

1. Directly pay for a charter school's construction, renovation, repair, or acquisition.
2. Provide a down payment on facilities in order to secure loans for charter schools. A grantee may, however, use funds to guarantee a loan for the portion of the loan that would otherwise have to be funded with a down payment.

[Omnibus Spending Bill Includes 12.5 Percent Boost for LIHTCs, Other Housing Provisions.](#)

Congressional leaders reached agreement today on a fiscal year 2018 omnibus spending bill that includes a 12.5 percent increase in low-income housing tax credit (LIHTC) allocations for four years and a provision from the [Affordable Housing Credit Improvement Act of 2017](#). The 12.5 percent boost applies to the 2018 LIHTC allocations and will be in effect for 2019, 2020 and 2021. Barring an extension, the LIHTC annual allocation would revert to the previous levels (adjusted for inflation) in 2022. Also included in the omnibus bill is a provision to allow income averaging for LIHTC properties on a permanent basis.

The [Notes from Novogradac blog](#) has a more in-depth explanation of the affordable housing provisions.

[How Puerto Rico's Bankruptcy is Roiling the Municipal Bond World](#)

Puerto Rico's debt crisis is taking a toll on the mainland municipal bond market.

Municipal participants say the ripple effects from the biggest municipal bankruptcy have shaken investor confidence in lower-rated states and cities, legal promises, and credit ratings in general. Of particular concern is a ruling by Title III judge Laura Taylor Swain that upset expectations regarding special revenue bonds, which had continued to generate payments in previous bankruptcies.

In her ruling on Jan. 30 in a case involving the bonds of the Puerto Rico Highways and Transportation Authority, Convention Center District Authority, and Infrastructure Finance Authority, Swain said the fact the bonds were special revenue bonds didn't require the issuers to continue paying in a Chapter 9 bankruptcy. Puerto Rico is in a Puerto Rico Oversight, Management, and Economic Stability Act Title III bankruptcy that incorporates the Chapter 9 bankruptcy provisions on these bonds.

"The fact that an automatic stay does not apply to special revenues and that payments should continue to bondholders has been accepted as common knowledge by the investing public," said Wells Fargo Securities managing director Natalie Cohen. Swain's decision has "cast doubt" on that.

Cohen pointed out that a federal website of the Administrative Office of the U.S. Courts summarizes a part of Chapter 9 saying, "Holders of special revenue bonds can expect to receive payment on such bonds during the Chapter 9 case if special revenues are available."

Bond insurers Assured Guaranty (AGO) and National Public Finance Guarantee are preparing an appeal of the Swain ruling and Cohen said this may clarify its impact. For the time being, the “decision has caused concern about the safety of special revenues of distressed borrowers.”

Peter Block, head of municipal credit strategy at Ramirez, said if Swain’s decision is upheld, market participants may not respect special revenue bonds in the future.

Fitch Ratings thought Swain’s decision was important enough to put out a six-page “special report” on the topic, “What Investors Want to Know: The Impact of the Puerto Rico Ruling on Special Revenue Debt.”

On March 9 Fitch said it would include a warning in its commentaries on credits that might be affected by a final court ruling on Swain’s decision. Among other things, the warning comment says about special revenue bonds, “The outcome of the litigation could result in modifications to Fitch’s approach.”

Municipal bond participants have responded to Puerto Rico’s bond meltdown in their U.S. dealings not just since Swain’s January decision but also over the last several years. Some have become more cautious about purchasing bonds from distressed issuers.

On Feb. 13 one of the historically biggest holders of Puerto Rico debt, Franklin Templeton Investments, said it had learned its lessons from its experience of the islands’ slide into multiple defaults. “As a result of lessons recently learned, the Franklin municipal bond group generally does not purchase general fund appropriation debt from cities, counties or states that in our view are facing unsustainable structural budget situations,” two co-directors of the group wrote in “Fundamental Changes That No Muni Investor Should Ignore.”

“As real examples, the Franklin municipal bond group has divested from – and currently won’t invest in – obligations of the State of Illinois, the City of Chicago and Chicago Public Schools, no matter what they offer in terms of security,” Co-Directors Sheila Amoroso and Rafael Costas wrote.

Franklin Templeton managed 24 municipal bond bonds as of November 2016 that held more than \$1.5 billion of Puerto Rico bonds.

“As the financial picture there deteriorated, we began to reduce our exposure,” the authors wrote. “Unfortunately, by the time Puerto Rico made known its intentions to default on its debts we had not completely exited our position.”

The U.S. Virgin Islands, which has its own financial problems, has struggled with the shadow of Puerto Rico’s default. The latter’s default played a role in the Virgin Islands’ inability to sell bonds in the late summer of 2016 and January 2017 for operating expenses.

In August 2017 the Virgin Islands’ Water and Power Authority, also in extreme financial difficulties, had to offer 11% annual interest on a 35 month duration bond to gain a buyer.

In Detroit’s bankruptcy the judge treated general obligation bonds as unsecured debt, Block noted. In Puerto Rico the island has defaulted on its GO debt and now Swain is saying the special revenue bonds don’t have to be paid in bankruptcy either. “People have learned to look more carefully at what they own,” Block said.

On Feb. 5 S&P Global Ratings agreed, titling a commentary, “Puerto Rico Court Ruling Supports Our View That Credit Fundamentals Remain Key To Ratings.” The piece commented on recent Swain rulings on both GO and special revenue bonds.

“The continuing uncertainty surrounding outcomes for Puerto Rico bondholders reinforces that credit fundamentals matter even where legal protections appear strong,” S&P Analyst David Hitchcock wrote. “We have incorporated this approach into all of our GO and revenue bond ratings.”

The Puerto Rico crisis also undercut the market’s faith in credit ratings.

Block said that the market and institutional investors in particular have lost some confidence in ratings over the past 10 years and have bolstered credit staffs to monitor underlying credit quality of holdings. The confidence was shaken by ratings that eroded very quickly on some mortgage-backed bonds prior to the 2008 financial crisis and some ratings that went bad more recently, namely those for Detroit and Puerto Rico.

Block said in hindsight the agencies probably should have rated Puerto Rico speculative grade shortly after the island began to deficit finance the general fund (via COFINA) following the onset of the Puerto Rican recession in 2006.

Prior to the 2008 financial crisis, ratings had a 90% influence on where bonds traded, Block said. Now the influence is closer to 40% to 60%.

By Robert Slavin

BY SOURCEMEDIA | MUNICIPAL | 03/21/18 06:58 PM EDT

[Private Activity Bonds: An Introduction.](#)

[Read the Congressional Research Service report.](#)

[Hawkins Advisory: Municipal Market Regulatory Update.](#)

[Read the Advisory.](#)

[CDEA Announces 2018 Policy Agenda.](#)

[Read the Agenda.](#)

[S&P: How Our U.S. Local Government Criteria Weather Climate Risk.](#)

Extreme weather-related events and climate change place U.S. local governments on the front lines in preparing for acute weather risk events, working to prevent longer term damage and, if necessary, building or rebuilding critical infrastructure.

[Continue Reading](#)

Mar. 20, 2018

Congress' Last-Minute Budget Bill May Actually Prove Good for Cities.

In a midnight vote to avert another looming government shutdown, Congress overwhelmingly approved a \$1.3 trillion spending bill that, for once, didn't shortchange cities.

President Trump threatened to veto the bill the next morning, but ultimately signed it.

While the dollars appropriated to housing, community development, and other urban priorities still fall far short of what's needed, in many cases the bill increased funding to key programs. The bill also included a key change to the low-income housing tax credit program, making it easier to finance units that are affordable for households at lower income levels than typical under the current program.

[Continue reading.](#)

NEXT CITY

BY OSCAR PERRY ABELLO | MARCH 23, 2018

Issuer Brief: The Continued Case for Resilience As a Credit Issue.

his Issuer Brief is brought to you by Court Street Group

The Continued Case for Resilience As a Credit Issue

The American Association for the Advancement of Science released a study of the San Francisco Bay Area which reflects the potential impacts of rising seas from climate change on the region. According to the study, major consequences of exacerbated inundation risk for coastal areas include saltwater contamination of surface and underground waters, accelerated coastal erosion, wetland losses, and increased flooding. The study estimates that by 2100, more than 480,000 people and \$100 billion worth of property in the San Francisco Bay will be exposed to flood risk. It comes from a combination of rising sea levels but also from land subsidence. The study estimates that Portions of Treasure Island, San Francisco, San Francisco International Airport, and Foster City are subsiding as fast as 10 millimeters/year.

And it is not just these factors that are a concern. Storm intensity, associated rainfall, and storm surges affecting the coastal area are likely amplified by the elevated ocean temperature caused by ongoing global climate change. Higher volumes create greater amounts of water to be absorbed which results in higher water tables creating flooding. These create greater localized flood risk in those areas as well. An example is the flooding in sections of Miami due to a rising water table and reduced absorptive capacity.

The credit impact results from the need to install flood mitigation infrastructure, to raise roads or relocate them, and the potential need to relocate significant infrastructure such as airports - as well as the need to find additional revenue sources to support these additional facilities. Significant

airport facilities located adjacent to or extended into the water include Logan in Boston, LaGuardia and JFK in New York, and San Francisco International, just to name a few.

Planning for these impacts at the state and local level will intensify more quickly and issuers will likely need to disclose potential credit implications when issuing new deals.

Airports Moving Forward with Rideshare Fees to Boost Revenues

Tampa International Airport (TIA) has begun collecting a per-trip fee on commercial ground transportation vehicles to be phased in over a three-year period. The Hillsborough County Aviation Authority voted to implement the new fee structure starting last August for transportation network companies (TNCs) — such as Uber and Lyft — through the approval of their use and permit agreements. All other ground transportation vehicles such as taxis, limousines and hotel courtesy buses began the new fee structure in February 2018, when a new tracking technology became available.

Taxis, limos, and TNCs would pay \$3 the first year, \$4 the second year, and \$5 the third year. Rideshare vehicles, off-airport courtesy transport by rental car companies, off-airport parking courtesy vehicles, and hotel/motel courtesy vehicles would pay \$2.50 the first year, \$3.50 the second year, and \$4.50 the third year. Fees would apply for picking up passengers only; customer drop-offs will continue to be allowed at no charge.

The charges were authorized under state legislation signed in May 2017. An automatic vehicle identification system will track taxis, limos, and hotel courtesy vehicles, using a transponder-like device on the windshield like a SunPass. TIA based the commercial vehicle user fees on a study showing use at 14 other airports. It concluded that that TIA's expenses for its operation and maintenance of its ground transportation facilities exceeded the revenue received under prior fee structure. TIA collected \$420,000 from cab companies and another \$87,000 from limos for using the airport. The new structure plus adding TNCs is expected to bring additional revenue to the airport.

Knoxville, along with Nashville and Memphis, have an operating agreement with Uber. When the Uber driver picks up a passenger and drives into the area covered by the airport's geofence, that will trip a \$2.50 charge to Uber.

These sorts of arrangements will allow airport operators to generate revenues from the ride share services to offset lost revenues from decreased demand for parking for private vehicles. The evidence is not clear yet as to whether an equilibrium has been established between revenue gains from ride sharing versus lost revenues from decreased parking demand. The development and increasing implementation of such revenue-generation schemes gives us confidence that airports will adapt over the long run and sustain their ability to finance their operating costs and capital needs.

Most airports generally have certain monopolistic attributes that will enable them to significantly increase fees from passengers who transition from driving in and parking their own cars to using ride sharing, but at some level which may be below the net revenues from such fees, they may run into resistance. It will take considerable time for these patterns to play out, and airports will have to be vigilant and assertive in responding to these transitions.

An Update on the Gateway Project

One of the shortcomings of the Trump administration infrastructure plan is the low level of federal funding. The spotlight was directed on this when the Secretary of Transportation appeared before

the House Transportation and Infrastructure Committee. Secretary Elaine Chao confirmed for members of a House committee that President Trump doesn't want Congress to include any funding for the planned Gateway Tunnel in an omnibus spending bill. Trump's concern, Chao said, is that the project would consume all of the available federal funding.

This position seems to be designed to stoke opposition to the tunnel in the House where members have expressed concerns that financing for the tunnel would compete with the needs of rural areas. New York and New Jersey want to obtain federal loans totaling \$4.29 billion from the Railroad Rehabilitation and Improvement Financing program as well as a federal Capital Improvement Grant. The Railroad Rehabilitation and Improvement Financing (RRIF) Program provides direct federal loans and loan guarantees to finance the development of railroad infrastructure. Other projects seeking loans from the same program include the All Aboard Florida Brightline between Miami and Orlando; the Dallas Area Rapid Transit Cotton Belt line; the Port of Charleston, S.C. intermodal facility; the Port of Everett, Washington terminal upgrades; and the Merchant's Rail Bridge in St. Louis.

New York and New Jersey could apply for loan funding under the federal Transportation Infrastructure Finance and Innovation Act (TIFIA) for the Gateway project. The website for TIFIA says local repayments of federal loans are treated as a state or local share of costs. Chao apparently has not read their own website as she contends that loan proceeds cannot be counted as equity contributions from the two states for the tunnel. Chao rejected suggestions that the federal government made any commitment to the Gateway project in the past contradicting the understanding of two governors and senators from each state.

Now with the government facing a shutdown deadline this coming weekend, funding for the Gateway Tunnel became a major stumbling block in the effort to adopt an omnibus spending bill to fund the government in lieu of a formal budget agreement. House leadership had been reluctant to include anything in a bill that would cause the President to veto the legislation. However, Amtrak will be able to contribute \$388 million to Gateway using its Northeast Corridor Account, while New York and New Jersey will receive another \$153 million from the Federal Transit Administration's High-Density States and State of Good Repair grant programs. In addition, the bill will also provide \$2.9 billion in discretionary grants to DOT that could be used to fund a portion of Gateway. The Gateway builders, which include Amtrak and officials in New York and New Jersey, have already applied for some of those grants. The deadline for passage of the spending bill to avoid a government shutdown is 12 a.m. this Saturday the 24th. Both the House and Senate passed a \$1.3 trillion spending bill and sent it to the President's desk. President Trump has threatened to veto the bill. As of press time, he had not acted.

Issues like this contribute to the pessimism about the timing of Congressional funding for any infrastructure program before year-end.

Neighborly

by Joseph Krist

Posted 03/23/2018

Disclaimer: Neighborly has entered into a paid agreement with Court Street Group to provide commentary on a regular basis to all customers, users, prospective customers, and prospective users of Neighborly and Neighborly Securities. The opinions and statements expressed in this report are solely those of the author(s), who is solely responsible for the accuracy and completeness of this report. The opinions and statements expressed on this report are for informational purposes only,

and are not intended to provide investment advice or guidance in any way and do not represent a solicitation to buy, sell or hold any of the securities mentioned. Opinions and statements expressed reflect only the view or judgment of the author(s) at the time of publication, and are subject to change without notice. Information has been derived from sources deemed to be reliable, but the reliability of which is not guaranteed. Readers are encouraged to obtain official statements and other disclosure documents on their own and/or to consult with their own investment professional and advisors prior to making any investment decisions.

[Examining the Local Value of Economic Development Incentives: Evidence From Four US Cities.](#)

Every year local and state governments in the United States expend tens of billions of dollars on economic development incentives. Under intense pressure to deliver economic opportunity, policymakers utilize incentives to encourage private sector firms to create jobs, invest in communities, and strengthen local industries. Drawing on a detailed literature review and a unique analysis of economic development transactions in four U.S. cities (**Cincinnati, Indianapolis, Salt Lake County, and San Diego**), this report advances a framework for inclusive economic development to help leaders analyze and evolve their incentive policies.

[Executive Summary](#)

[Full Report](#)

The Brookings Institute

by Joseph Parilla and Sifan Liu

March, 2018

[NAST Writes HQLA Letter to Congressional Leadership.](#)

[Read the Letter.](#)

National Association of State Treasurers

March 22, 2018

[Introduction to Environmental Impact Bonds.](#)

Municipal debt markets are made up of a wide array of debt instruments and serve investors from all walks of life. Whether you are a conservative investor looking for principal protection while earning enough to keep up with inflation or a moderate risk taker who might be looking for high returns on your municipal debt portfolio, you'll find many debt instruments to fit your client profile.

The new wave of green municipal debt instruments has many investors talking and potentially looking to make them part of their portfolio. Green munis can be either general obligation or revenue-backed debt instruments that are essentially issued to fund any “green initiative” or project by local and state governments. Many local governments have been focused on reducing carbon emissions in their infrastructure projects or conserving run-off rainwater – all of which could potentially constitute as a green project.

Furthermore, an important branch of green bonds are known as Environmental Impact Bonds (EIBs), which are starting to gain momentum with muni investors. In this article, we’ll take a closer look at EIBs and whether the increased use of these bonds will give muni investors an opportunity to earn higher returns with a risk profile similar to that of current munis.

[Continue reading.](#)

municipalbonds.com

by Jayden Sangha

Mar 22, 2018

[The New Federal Spending Bill Is Flush With Money for Waterworks.](#)

“The new initiatives and funding increases actually make this legislation a new national water infrastructure program,” says a representative for the National Rural Water Association.

WASHINGTON — The massive \$1.3 trillion federal spending bill lawmakers in Congress are racing to pass this week would open the spigot for greater federal grants, loans and other assistance to flow to water and wastewater utilities around the U.S.

Programs within the Environmental Protection Agency and the U.S. Department of Agriculture that support water and sewer utilities would see funding levels boosted by hundreds of millions of dollars.

“The new initiatives and funding increases actually make this legislation a new national water infrastructure program,” said Mike Keegan, a legislative affairs staffer at the National Rural Water Association. “If the president signs it, he and Congress can claim that.”

[Continue reading.](#)

Route Fifty

By Bill Lucia,
Senior Reporter

March 22, 2018

Counties Enmeshed With Federal Lands Score Wins in Spending Bill.

The legislation will rekindle the Secure Rural Schools program and beef-up Payments in Lieu of Taxes.

WASHINGTON — For counties with large tracts of tax-exempt public land and those affected by diminished timber harvest revenues from logging in federal forests, the \$1.3 trillion spending bill President Trump signed on Friday is noteworthy.

The fiscal year 2018 package will up funding for Payments in Lieu of Taxes, or PILT, to \$530 million. That's \$65 million higher than the last budget cycle. It also authorizes the Secure Rural Schools program for two years. For many rural county governments, particularly those in the west, the programs can be an important source of funding.

"A broad coalition of county commissioners, teachers and school administrators got the message across," Karen Skoog, a commissioner in Pend Oreille County, Washington, said in a statement.

"Without SRS and PILT payments, many schools in rural America would not be able to keep their doors open," she added.

Under the PILT program, the feds makes payments to local governments encompassing non-taxable federal lands.

These lands comprise more than 90 percent of the area in some counties, limiting opportunities for generating local property tax revenue. At the same time, public lands can create costs. For instance, a county might be stuck paying the snowplowing and maintenance tab for a road that provides access to a federal area.

Secure Rural Schools was designed to help offset declines in federal timber harvest revenues in jurisdictions located near national forests.

It was enacted in 2000 and in prior years it has funneled money to hundreds of counties. Money from the program goes not only to schools, but also to county governments who use it to pay for roadwork and other basic costs. The program expired in 2015.

"The last payments went out in the spring of 2016," Jonathan Shuffield, associate legislative director for public lands for the National Association of Counties, said by phone Friday.

NACo and other groups have pushed in recent years to get Secure Rural Schools reauthorized.

Finding a budget offset that would allow for the program's reauthorization proved to be a sticking point as the spending bill came together in Congress. But in the run-up to the bill's release, lawmakers solved the problem, offsetting the expense of SRS with oil sales from the nation's Strategic Petroleum Reserve, according to a person familiar with how the legislation took shape.

The spending legislation will provide Secure Rural Schools payments for fiscal years 2017 and 2018. The fiscal 2017 payments are due to go out within 45 days from the time the bill is enacted. Shuffield said that fiscal 2018 payments will likely go out sometime early next year. Counties are not slated to get any SRS payments for fiscal 2016.

For fiscal 2015, Secure Rural Schools provided \$278 million to over 700 rural counties and other jurisdictions, according to NACo.

Shuffield explained that one likely reason for the sizable uptick in PILT funding is that SRS payments have not gone out for two years and there's interplay between the two programs.

Route Fifty

By Bill Lucia,
Senior Reporter

March 24, 2018

[Puerto Rico Bondholders Finally See a Big Win.](#)

- **New plan sees six-year surplus of \$6 billion before debt**
- **Most-traded bond jumps by more than 20 percent Monday**

Puerto Rico and its creditors finally caught a break, at least for one day.

Bonds of the bankrupt U.S. territory soared more than 20 percent Monday after the government surprised investors by projecting that a flood of disaster-relief funds will do what officials for years couldn't: revive the moribund economy enough to replace chronic deficits with increasing surpluses, before any debt payments are made.

There's still a big question mark over whether Puerto Rico can actually deliver, given its history of fiscal folly and an exodus of residents. But the bond rally signals optimism that investors may not lose quite as much as initially feared from what has been the largest municipal bankruptcy in U.S. history, even as residents brace for a new era of fiscal austerity.

The government's latest financial turnaround plan marks the second time in as many months that it's offered a more sanguine outlook for its recovery. It projects that Puerto Rico will have a surplus, excluding bond payments, of \$6 billion over the next six years after implementing plans to steady its finances. That's up from \$3.4 billion projected last month. In January, while still gauging the toll of the storm, it estimated that it would have essentially no money for debts because of the devastation.

"The move is bigger than expected, but it is in reaction to the fiscal plan which has come out more positively than previous ones," said Daniel Solender, head of municipal investments at Lord Abbett & Co., which holds Puerto Rico securities among its \$20 billion of state and local debt. "There still is a long way to go, but there is growing optimism that things have moved better than worst-case scenarios."

Puerto Rico general obligations were the most actively traded municipal bonds Monday. The price of those due in 2035 rose by 7 cents on the dollar to an average 43.8 cents, the highest since early October, after climbing to as much as 45 cents, according to data compiled by Bloomberg. The prices of the territory's sales-tax, electric-company and building-authority bonds also jumped in heavy volume.

The rally wiped out much of the losses that Puerto Rico bondholders suffered after the September hurricane. The bonds due in 2035 — which were sold to hedge funds and other investors for 93 cents on the dollar four years ago — had slipped to around 58 cents before the storm. They then tumbled to as little as 21 cents in December.

Governor Ricardo Rossello's administration's latest plan still needs approval from the federal board that's been installed to oversee the turnaround and requires him to implement steps to wrest savings from the government and increase revenue. The question of how much investors will recover will also be determined in court, where creditors with sometimes competing claims are fighting over the the island's cash — making the outcome highly uncertain.

The improved outlook in the latest road map reflects the federal aid and insurance claims that are coming into the island, promising to boost an economy that had been mired in a recession for years as residents left for jobs on the U.S. mainland. The stagnation culminated in Puerto Rico's fiscal collapse.

As a result of the storm, Puerto Rico is counting on \$21 billion of insurance money and about \$49.1 billion of federal aid, enough to have a major impact on growth. While the economy is projected to shrink about 10.6 percent in the current fiscal year, the government anticipates it will expand 7.3 percent next year and grow for the following four years. A year ago, the island was projecting continued contraction.

The latest plan was set to be considered by Puerto Rico's federal oversight board Monday until the meeting was delayed. If approved, it will be a blueprint for the board, Rossello's administration and creditors during negotiations over how much of the island's \$74 billion of debt it can repay.

Bloomberg Markets

By Danielle Moran

March 26, 2018, 12:47 PM PDT

— *With assistance by Jonathan Levin, and Tatiana Darie*

TAX - MASSACHUSETTS

[Caplan v. Town of Acton](#)

Supreme Judicial Court of Massachusetts, Middlesex - March 9, 2018 - 479 Mass. 69 - 92 N.E.3d 691

Taxpayers brought action against town, seeking injunctive relief and a declaration that town's grants of funds to church under the Community Preservation Act violated the state constitution's anti-aid provision.

The Superior Court denied taxpayers' motion for a preliminary injunction. Taxpayers' application for direct appellate review was granted.

The Supreme Judicial Court held that:

- As a matter of first impression, the anti-aid amendment does not categorically ban the grant of public funds to a church;
- Constitutionality of grants, rather than constitutionality of Act, was at issue;
- Record was insufficient to determine whether town had hidden, improper purpose of aiding church;
- Effects of grants was to substantially aid church;
- Grants risked infringing on liberty of conscience, entangling government with religion, and

threatening civic harmony; and

- Taxpayers were likely to succeed on merits of claim with regard to stained glass window grant, but not master plan grant.

The state constitution's anti-aid amendment does not impose a categorical ban on the grant of public funds to a church solely because it is a church; rather, under the three-factor test, whether a church can receive such a grant depends on the grant's purpose, effect, and the risk that its award might trigger the risks that prompted the passage of the anti-aid amendment.

Constitutionality of town's grants to church was at issue in taxpayers' action against town for a violation of state constitution's anti-aid provision, rather than constitutionality of statutes establishing procedure for municipalities to make discretionary grants for historic resource projects, and thus principle of statutory construction that affords a statute presumption of constitutionality validity did not apply; statutes did not authorize appropriation of public funds to church or other private institution within scope of anti-aid amendment, and taxpayers challenged specific discretionary grants made pursuant to statutes.

Record was insufficient to determine whether town had hidden, improper purpose of aiding church, as element of determining whether town violated state constitution's anti-aid provision by granting funds to church for historic preservation; trial court denied reasonable discovery, including deposition of person designated by town and oral and written communications regarding decision-making process, to ascertain whether there was hidden purpose.

Effect of town's grants of funds to church was to substantially aid church, as element of determining whether town violated state constitution's anti-aid provision by granting funds allegedly for historic preservation; grants were neither minimal nor insignificant in amount, contributing 90% of \$111,930 in costs, and grants would have helped defray costs that church would otherwise have had to shoulder on its own, allowing money saved to be used to support its core religious activities and, in effect, underwriting its function as active house of worship.

Town's grants of funds to church risked infringing on taxpayers' liberty of conscience, entangling government with religion, and threatening civic harmony, as element of determining whether town violated state constitution's anti-aid provision by granting funds allegedly for historic preservation; grants were to be used to renovate main church building where church conducted worship services and stained glass windows featuring explicit religious imagery, and grants limited church's ability to make future alterations without town's approval.

Taxpayers were likely to succeed on merits of claim that town's grant of funds for historic preservation of church's stained glass windows violated state constitution's anti-aid provision, and thus taxpayers were entitled to preliminary injunction; even though there may have been no other motivating purpose besides historic preservation, grants substantially aided church in its essential function, and, in light of explicit religious imagery of stained glass, grants risked dangers anti-aid provision was enacted to avoid.

Further discovery was required before one could determine whether taxpayers were likely to succeed on merits of claim that town's master plan grant to church, allegedly for historic preservation, violated state constitution's anti-aid provision, and thus taxpayers were not yet entitled to preliminary injunction; even though taxpayers were likely to succeed on claim regarding grant for church's stained glass windows, master plan grant was broader in scope and included renovation of two private residences, and restoration of main church building implicated risks different from those arising from restoration of residences.

TAX - SOUTH CAROLINA

[Richland County v. South Carolina Department of Revenue](#)

Supreme Court of South Carolina - March 7, 2018 - S.E.2d - 2018 WL 1177700

County brought action against Department of Revenue (DOR), seeking declaratory, injunctive, and mandamus relief after DOR stopped remitting transportation penny tax funds, and DOR counterclaimed for an injunction and a declaration that county's expenditures of funds were unlawful, or the appointment of a receiver.

The Circuit Court issued a writ of mandamus, denied injunctive relief, and refused to appoint a receiver. County and DOR appealed, and the appeal was certified to the Supreme Court.

The Supreme Court of South Carolina held that:

- DOR had standing to pursue affirmative defenses and raise counterclaims;
- DOR had ministerial duty to remit tax revenues, as required to entitle county to mandamus relief;
- County would not suffer irreparable harm, and thus county was not entitled to injunction;
- DOR was entitled to injunction forbidding county from making further expenditures; and
- DOR was not entitled to appointment of receiver.

Department of Revenue (DOR) had standing to pursue affirmative defenses and raise counterclaims regarding county's alleged misuse of transportation penny tax funds, in county's action challenging DOR's withholding of tax funds; DOR was agency statutorily tasked with administering penny tax program, and expenditure of millions of dollars of tax revenues was issue of wide concern both to DOR and to residents and taxpayers of county.

Department of Revenue (DOR) had ministerial duty to remit transportation penny tax revenues to State Treasurer for disbursement to county, as required to entitle county to mandamus relief, despite DOR's concerns that county was misusing tax funds; even though DOR had broad investigative and enforcement powers, statute indicated that DOR "must" remit revenues.

County would not suffer irreparable harm, and thus county was not entitled to injunction prohibiting Department of Revenue (DOR) from issuing directives, demands, or orders that county adopt and implement appropriate safeguards to ensure that expenditures of transportation penny tax funds were proper; county did not suffer any negative financial consequences in light of writ of mandamus directing DOR's continued remittance of tax revenues, and DOR's actions in auditing county were squarely within DOR's statutory duties.

Department of Revenue (DOR) was entitled to injunction forbidding county from making further expenditures of transportation penny tax revenues until county adopted and implemented appropriate compliance safeguards; Transportation Act required nexus between expenditures and transportation-related capital project, and county had many suspect expenditures of tax funds.

Trial court was not required to grant Department of Revenue's (DOR) request for appointment of receiver over county, even though county made many suspect expenditures of transportation penny tax revenues; trial court could order repayment of any improper expenditures from county's general fund, and county was expected to abide by injunction imposed to prevent improper expenditures.

Opportunity Zones: Maximizing Return on Public Investment.

Background

The Tax Cuts and Jobs Act included a new federal incentive—Opportunity Zones—to spur investment in undercapitalized communities. Local areas (defined by census tracts) are eligible for selection as Opportunity Zones if they are Low Income Communities (LICs) under the high poverty or low median income definitions established for the New Markets Tax Credit program. Also eligible for selection are census tracts contiguous to LICs if median family income does not exceed 125 percent of the qualifying tract. Roughly 56 percent of tracts in the US are eligible for selection as Opportunity Zones.

Governors of the 50 states and 5 territories, and the mayor of the District of Columbia (“governors”) are charged with selecting 25 percent of the eligible tracts (or at least 25 tracts for states and territories with fewer than 100 eligible tracts) as Opportunity Zones. Non-LICs can represent no more than 5 percent of tracts selected. Governors have until March 21 to make selections and can take an additional 30 days if they request an extension. Once selected, Opportunity Zones keep the designation for 10 years. There is no provision in the statute to change which communities are classified as Opportunity Zones.

Apart from the exclusion of a few “sin” businesses, the activities and projects Opportunity Funds can finance are broad. Funds can finance commercial and industrial real estate, housing, infrastructure, and existing or start-up businesses. For real estate projects to qualify, the investment has to result in properties being “substantially improved.”

Given the breadth of eligible investment types, Opportunity Zones must be carefully selected to ensure the return on the public investment is maximized and will lead to gains for low- and moderate-income residents. To guide selection, we prepared a dataset, for all eligible tracts, ranking them in terms of the investment flows they are already receiving and the social and economic change they have experienced.

[Continue reading.](#)

The Urban Institute

by Brett Theodos, Carl Hedman, Brady Meixell & Eric Hangen

The Public Startup Charting Bold New Waters.

Water utilities are struggling to lower their operation costs and simultaneously meet stricter environmental rules. Blue Drop, the brainchild of DC Water’s former leader, wants to help.

Most startups fail. Within the first four years, anywhere from 50 to 90 percent of firms go belly up. Investing in them is risky. It’s easy for things to go wrong.

But Blue Drop LLC isn’t a typical startup. To begin with, there isn’t a hoodie or open-loft office to be found in its modest headquarters in downtown Washington, D.C. And the company’s lone investor, the public utility DC Water, hails from an extremely risk-averse sector.

There's something else unique about Blue Drop: A healthy portion of its revenue plan relies on selling truckloads of what used to be human poop.

Launched in late 2016 with a nearly \$3 million investment in cash and resources from DC Water, which provides water and sewage services to residents of the nation's capital, Blue Drop is the brainchild of George Hawkins, the utility's former CEO and general manager. Hawkins, who stepped down only recently after a nine-year tenure, is credited with not just restoring public trust in the utility but with making it one of the most cutting-edge water enterprises in the country. (Governing named him a Public Official of the Year in 2014.) Now, he and others think the innovative and creative solutions that have emerged from DC Water over the past decade can be repackaged and marketed to others. Blue Drop, a nonprofit consulting enterprise, will do that by connecting potential public utility clients with the experience and know-how of DC Water. The company has two full-time employees — for now — plus five part-timers on loan from the utility.

[Continue reading.](#)

GOVERNING.COM

BY LIZ FARMER | MARCH 2018

Despite New Rules to Disclose Corporate Tax Breaks, Just Half of Local Governments Are.

The regulations that took effect this year let governments decide what's worth reporting, leading many to not report anything at all.

Transparency advocates predicted that new rules for governments would result in a treasure trove of data on tax breaks for corporations. But so far, just half of reporting municipalities have disclosed that information.

Of the local government data collected by the tax break transparency group Good Jobs First and analyzed by *Governing*, a little more than 600 of 1,222 governments did not disclose any revenue lost to tax incentives on their annual financial report. Many of them made no mention of the new accounting rule at all. And while others did, they said their losses were "immaterial" and therefore were not reported. (States are subject to the new rule, too. While most have followed disclosures, their data was not included in the analysis.)

Many of these non-reporting governments are major jurisdictions with populations above 1 million, such as Los Angeles County, Calif.; Montgomery County, Md.; and Pima County, Ariz.

The new requirement, called the Governmental Accounting Standards Board (GASB) Statement 77, mandates that governments report their annual lost revenue due to tax abatement agreements. However, the rule allows governments to decide what's "material" to their bottom lines. That, says Good Jobs First's Scott Klinger, is a problem because it's led to a wide variance in what governments report.

For example, Pima County's total tax abatements amounted to \$340,000, or less than 0.1 percent of the county's \$450 million in revenue, according to Finance Director Keith Dommer. Nearly all of it is due to economic development incentive deals struck by the city of Tucson.

“Pima County doesn’t abate taxes as part of economic development or any other programs,” he says. “And that’s really what the [rule] is about — a lot of governments are using tax abatements as an economic development program, and GASB felt that if you’re impairing your ability to generate revenues, someone should know about that.”

Unlike Pima, Montgomery County makes its own tax incentive deals, including some well-known ones to keep the headquarters of the hotel giant Marriott International and television company Discovery Inc. Still, its [financial report](#) says tax abatement didn’t have a “significant impact” on the county’s more than \$5 billion operating budget.

To be fair, the county does release that information — just not in its annual financial report. It separately produces a [tax expenditures report](#) that addresses business enterprise zones — geographic areas in which companies can qualify for a variety of subsidies — and other programs that promote economic development, as well as tax breaks for residents. According to its most recent expenditure report, the county gave up more than \$2 million in tax revenue in 2015 as a result of its enterprise zones and job tax credit programs.

The Government Finance Officers Association [suggests](#) the enterprise zones are subject to reporting requirements, and indeed other governments have reported them. But Montgomery County spokesman Patrick Lacefield says county officials conducted an internal analysis and consulted with the state and determined that those types of tax incentives don’t meet the criteria for financial reporting.

Other governments have a much lower disclosure threshold. The smallest reported loss for any locality — other than the 79 so far reporting zero losses — was from Austin, Nev. Thanks in large part to the state controller’s effort to promote tax abatement disclosures, Austin [reported it lost \\$4 last year](#) from a state renewable energy program.

Meanwhile, some governments cherry pick what they’ll report. Washington state, for instance, disclosed more than \$333 million in abated tax revenue last year. But those figures are only for incentive programs that topped \$10 million in lost revenue. That, says Good Jobs First’s Klinger, means a lot of abatements in that state did not get reported.

All this variance in reporting isn’t unexpected. After all, it’s a new requirement. For its part, GASB has issued guidance clarifying the approach for governments since the new rule went into effect. The guidance includes what types of expenditures — such as certain kinds of tax increment finance districts — count as abatements. But it has been silent on what is material for reporting.

In Klinger’s opinion, though, more governments should be like Nevada’s Austin. “This is public money,” he says. “All of it should be accounted for.”

GOVERNING.COM

BY LIZ FARMER | MARCH 21, 2018

Additional reporting by Mike Maciag.

[The Week in Public Finance: What's in the Congressional Spending Bill for States and Localities.](#)

Several major programs — some that the White House aimed to eliminate — will get a significant funding boost. President Trump signed the bill hours after threatening to veto it.

In the federal spending bill that President Trump signed on Friday, several government programs are getting funding boosts, including two that the White House sought to eliminate a year ago.

Community Development Block Grants, which help fund an array of local government projects spanning from affordable housing assistance to small business loan programs, are set to see a \$300 million increase in funding. That puts total federal funding at \$3.3 billion for a program that Trump's 2017 budget proposal had targeted for elimination. It's also the first meaningful increase for the program since the early 1990s.

"Every year, it costs more to build roads and homes and to rehab facilities," says the Urban Institute's Brett Theodos. "So a program that's the same dollar value every year is actually a shrinking program in terms of what it can produce on the ground."

[Continue reading.](#)

GOVERNING.COM

BY LIZ FARMER | MARCH 23, 2018

Illinois Candidates Vie to Lead State With Nation's Worst Credit Rating.

- **Gubernatorial primary comes amid budget deficit, unpaid bills**
- **Investors want winner to resolve growing pension crisis**

Up for grabs in Illinois's gubernatorial primary on Tuesday: A chance to compete in a general election that will decide who will lead the worst-rated state — one whose massive financial problems aren't going away anytime soon.

Illinois is contending with \$9 billion of unpaid bills, chronic budget deficits and \$129 billion of unfunded pension liabilities. Its credit rating is only one level above junk, making its borrowing costs the highest of any U.S. state as bond buyers punish Illinois for its fiscal woes. Plus the Land of Lincoln is losing population, dropping to the sixth-most-populous state last year from number 5, U.S. Census data show.

"This is a pivotal election for Illinois, which has been struggling for almost a decade to stabilize its finances," said Laurence Msall, president of the non-partisan Civic Federation, which tracks the state's finances. "With only one notch separating Illinois from non-investment grade credit, the stakes are enormously high for whoever wins the primary and election to identify the financial path forward for the state."

Republican Governor Bruce Rauner, who has repeatedly clashed with the Democrat-controlled legislature during his first term, is seeking re-election, though he's facing a primary challenger, conservative Illinois House Representative Jeanne Ives.

Billionaire J.B. Pritzker, an heir to the Hyatt hotel empire, has invested at least \$69.5 million of his own money so far to take a lead in the Democratic race. State Senator Daniel Biss and Chris

Kennedy, son of late liberal icon Robert F. Kennedy, are also vying for the chance to defeat Rauner in November.

If Rauner, a former private-equity executive who's already put \$50 million of his own fortune into his campaign, and Pritzker win their respective primaries as expected, the Illinois general election could be the most expensive governor's race in the nation's history.

Bondholders are closely watching the race. The yields on the state's 30-year general-obligation bonds have widened to the most over benchmark debt since July. Illinois yields are the highest among all 20 states tracked by Bloomberg. The spread is widening amid concerns that the financial problems facing Illinois, especially the growth in unfunded pension liabilities, won't go away, no matter who is elected, according to Richard Ciccarone, president of Chicago-based Merritt Research Services.

"There's anxiety that we're not going to accomplish much by just having an election here," said Ciccarone of Merritt, which analyzes muni finance. "The market really wants to see action and they want to see progress."

Little headway has been made in addressing what investors agree is the state's biggest challenge: unfunded pension liabilities. After years of skipping payments or not putting enough into the funds, the retirement system is only about 40 percent funded even as more and more of the state's dollars get eaten up by this expense. Pension costs are expected to make up about 22.9 percent of all general-fund spending in the current fiscal year, up from 6.8 percent a decade ago, according to the Civic Federation.

The election comes eight months after the end of an unprecedented two-year budget impasse that drove the state's rating to the edge of junk because of a showdown between Rauner, the first Republican to lead the state since 2003, and the Democrat-controlled legislature. Illinois avoided becoming the first U.S. state to lose its investment-grade rating after lawmakers on both sides overrode Rauner's veto of an income-tax hike in July, enacting a budget and easing the immediate financial threat.

Despite the end of the standoff, whoever wins the governorship will still have to contend with a precarious credit rating. All three rating companies consider Illinois to be in the lowest tier of investment-grade ratings. Moody's Investors Service and Fitch Ratings have a negative outlook on the state, signaling another downgrade is possible, while S&P has a stable view because of the budget passed in July.

"Any drop in their rating would have a big impact on their financing costs," said Dan Solender, head of municipal investments at Lord Abbett & Co., which manages \$20 billion of state and local debt, including Illinois. He pointed out that the state's yields are already trading at a lower rating. "Already the number of buyers is more limited but it would shrink further."

No matter the outcome, municipal investors will be monitoring the election results Tuesday.

"The municipal investor increasingly needs to watch elections because there are ramifications as an investor," said Gabe Diederich, portfolio manager for Wells Fargo Asset Management, which oversees about \$40 billion of state and local debt. "Politics, not necessarily whether a person votes Republican or Democrat, but how different parties working together and those policies are going to impact finances."

By Elizabeth Campbell

Bloomberg Politics

— *With assistance by John McCormick*

Baltimore to Use New Form of Financing for Green Infrastructure Projects to fight water pollution.

Baltimore officials will announce a plan Monday to use a new form of financing to help pay for \$10 million in green infrastructure projects designed to reduce water pollution from stormwater runoff.

The Department of Public Works plans to take out \$6 million in environmental impact bonds to pay for the projects, which use trees, plants and other forms of greenery to absorb rainwater so it doesn't flow into streams and eventually into the Chesapeake Bay, collecting pollutants along the way.

The rest of the money will come from state funds and fees the city charges on water bills.

The public works department already promotes green infrastructure projects, such as rain gardens and green roofs, but was seeking ways to pay for more to meet federal guidelines to decrease stormwater runoff.

"We are always looking for funding options, but also wanted to get a social and economic benefit for it," said Troy Brogden, the department's chief financial officer. "We like to think outside of the box and go with nontraditional funding mechanisms, and this is one that is good for the city of Baltimore and our citizens."

The bonds are different from typical municipal bonds because investors will pay money back to the city if the infrastructure projects do not meet certain metrics. For instance, they could measure if the Chesapeake Bay water is cleaner because of the projects.

Environmental bonds are meant to give cities more incentive to try new innovations by putting some of the risk on investors.

These types of bonds were issued for the first time for green infrastructure projects last year in the District of Columbia. Under the five-year agreement there, stormwater runoff reduction will be measured twice. If runoff flow is reduced, the city will pay full principal to investors at maturity. If runoff is reduced more than expected, DC Water will pay investors a bonus, and if reduction is less than expected, investors will give the city a risk-sharing payment.

Baltimore public works officials have gotten approval from the city finance department to use the funding mechanism, Brogden said, but will still have to get individual contracts approved by the finance board.

The city is working with the Chesapeake Bay Foundation, which has hired the investment firm Quantified Ventures to structure the deals and help find investors for the projects. Quantified Ventures also worked on the financing on the environmental impact bonds in Washington.

"There are investors who care about environmental and social issues," said Eric Letsinger, CEO of

Quantified Ventures. “They want to make money. But they want to invest in things that make us better.”

Municipalities are looking at ways to curb stormwater and sewage runoff to meet federal standards. The old methods of water drainage, including concrete gutters and drains, have led to more pollutants pouring into the water systems. Green infrastructure absorbs the water, but municipalities have been reluctant to invest because it is new and some perceive the results as uncertain.

“They have to do this stormwater work and it is expensive to do,” said Lee Epstein, lands program director and special counsel for the Chesapeake Bay Foundation. “You have to lift up pavement and the nature projects have to be engineered. Now along comes this new idea, this new financing mechanism, that might be beneficial to these local governments.”

Epstein believes the financing could be used in other areas of the Chesapeake Bay region as well.

Bethesda-based Calvert Impact Capital was one of the investors in the Washington project. Beth Bafford, the company’s vice president of syndications and strategy, said they would be interested in investing in environmental impact bonds in Baltimore, but they don’t know details about how the city plans to have its bonds structured.

“All the investments we make have some kind of social-environmental impact as well as a financial incentive,” Bafford said. “We are hardwired to like this kind of investment.”

Bafford said the company will know in 2021 if the Washington investment pays a good return, but said it seems to be on the right track.

The city plans green infrastructure initiatives in neighborhoods throughout the city, including Sandtown-Winchester, Dickeyville, Pigtown, Belair-Edison, Cedonia, Westport and Mt. Winans. Workers are scheduled to plant greenery in the 1200 block of Edmondson Ave. Monday.

by Andrea K. McDaniels

The Baltimore Sun

[Federal Income Tax Consequences of State Economic Development Incentives After Passage of Tax Cuts and Jobs Act.](#)

[Read the Article.](#)

By Burnet R. Maybank III, Lindsay N. Richardson and Sam Johnson

March 18, 2018

Nexsen Pruet

[Infrastructure Series: Cost-Sharing with State and Local Governments.](#)

This is the fifth issue of WilmerHale's 10-in-10 Infrastructure Series. In this series, our attorneys share insights on current and emerging issues affecting infrastructure project developers in the United States. Attorneys from various practice groups at the firm offer their take on issues ranging from permitting reform to financing to litigation, and share their insights from working with clients in a variety of infrastructure sectors, from water infrastructure to energy development to infrastructure development on tribal lands. Read [all issues](#) in this series and our other recent publications.

As discussed in previous issues of WilmerHale's Infrastructure Series, the Trump Administration proposes several initiatives to seek and secure long-term changes in the government's approach to funding infrastructure projects. One significant proposal to help support the Administration's ambitious \$1.5 trillion infrastructure initiative is to encourage cost-sharing arrangements among federal, state and local entities.

[Continue reading.](#)

March 22 2018

Wilmer Cutler Pickering Hale and Dorr LLP

[UMBC Retrievers Tout Publicly-Financed Arena After NCAA Win.](#)

- **University system opened up new \$85 million arena in February**
- **Men's basketball won upset victory over top-seeded Virginia**

The University of Maryland at Baltimore County has a message for the legions of people who became instant fans Friday night with its stunning victory over No. 1 seed University of Virginia in the NCAA basketball tournament: Come to our new municipal-bond financed events center.

"BTW guys, we have a brand new \$85 million Event Center we opened up last month that still doesn't have a corporate sponsor name..." @UMBCAthletics, the social media account for the college's athletic department, tweeted on Sunday.

The new multi-purpose facility was financed through borrowing well before the Retrievers became a household name with their Cinderella victory. In fact, the school is one of many — including Clemson University, the University of South Carolina, and the University of Connecticut — that have taken advantage of the \$3.9 trillion municipal-bond market to build top-of-the-line athletics centers.

The UMBC facility, at 172,000 square feet, will include a practice court, a "state-of-the-art" strength and conditioning gym, and the UMBC Athletics Hall of Fame. It's meant, in part, to help the school recruit and retain student-athletes and will also host concerts, speakers and banquets.

The University System of Maryland listed the event center as one of \$1 billion in facility projects it's authorized financing for as part of four separate bond resolutions, according to offering documents from a bond sale in February. Moody's Investors Service issued its second-highest rating on that sale of auxiliary bonds by the university system, citing strong demand for the system's 11 schools.

While the 16-seeded Retrievers upset Virginia 74 to 54, they went on to lose to Kansas State two days later. Still that hasn't stopped officials from boasting about the Retrievers short-lived March Madness run. The athletic department took to Twitter on Sunday to again tout the new arena with a

link for high school students to apply for admission.

"We hope to see all of you at our brand new \$85 Million Event Center in November for the season opener. Congrats @KStateMBB, good luck the rest of the way!....and for those of you in HS, you can apply right here -> undergraduate.umbc.edu/"

Bloomberg

By Amanda Albright

March 19, 2018, 10:19 AM PDT

[Bloomberg Brief Weekly Video - 3/22](#)

Taylor Riggs, a contributor to Bloomberg Briefs, talks with editor Joe Mysak about this week's municipal market news.

[Watch video.](#)

March 22nd, 2018

Bloomberg

[Fitch: Florida Underscores State Commitment to Toll Projects.](#)

Fitch Ratings-New York-19 March 2018: A bill which would have authorized the Florida Department of Transportation (FDOT) to acquire Garcon Point Bridge (the bridge) did not pass the Florida senate, says Fitch Ratings. The bill would have provided the FDOT with the authorization to purchase the bridge, repay itself for operations and maintenance (O&M) and capital costs previously expended and to purchase the authority's \$135 million in defaulted bonds at a discounted price. Such proposed reimbursement of O&M and capital costs would have been inconsistent with the terms of the original transaction. The lease purchase agreement (LPA) between FDOT and the authority along with the bond resolution had structurally subordinated reimbursements of these costs to payments to senior bondholders, prior to and following any payment default.

The legislature's failure to advance the proposed bill indicates continued institutional support for the arrangement, which is a material rating factor for projects which have LPAs with FDOT (including Mid-Bay Bridge Authority and Florida Turnpike Enterprise, described in detail below).

The authority's revenue bonds, series 1996 (the bonds) are supported by a gross pledge of system toll revenues, entitling bondholders to be paid full principal and interest prior to satisfaction of any other claims on revenues. Pursuant to the LPA with the authority, FDOT is obligated to and has paid bridge O&M and major maintenance costs since inception. To date, FDOT has always stood by its commitment to fund O&M and capital costs, and such support along with the toll facilities' revolving trust fund loans have served as a significant credit enhancement for debt issued by a number of tolling authorities in the state.

While the LPA calls for annual reimbursement of such costs on a subordinated basis to senior debt

service, in the case of the Santa Rosa Bay Bridge Authority toll revenues have been insufficient to pay debt service on the bonds, resulting in payment defaults since July 2011. Consequently, there also have been no funds available to reimburse FDOT for O&M expenses paid. The authority's liability to FDOT has accumulated to approximately \$25 million since opening in 1999 for operating and maintaining the bridge. The authority also owes the state nearly \$8 million from non-interest-bearing subordinate toll facility revolving trust fund loans for initial bridge design costs. The proposed legislation would have authorized the state to deduct from the discounted purchase price the sum of all subordinate loans (\$33 million) effectively making the state obligations senior to bondholders. The net payment to bondholders would have been 50% of \$102 million, or \$51 million. The bill was inconsistent with the feasibility report produced by FDOT and Division of Bond Finance suggesting a solution for the defaulted bonds through the issuance of Florida turnpike revenue bonds to acquire the bridge at a negotiated price.

A point to note is that while the proposed legislation sought to provide authority to FDOT, it would have been up to bondholders to agree to the terms put forward. It is Fitch's view that law strictly limits the ability of a state to amend the legal structure and related contracts legislatively and extinguish bondholder claims without consent of each bondholder. If the bill is reintroduced, ultimately, Fitch expects the purchase price would have to be agreed upon through a negotiation with the bondholders. A non-consensual outcome would raise substantial questions about bondholder rights more generally and would need to be considered even in the context of performing transactions.

Practically, this would be most relevant to Fitch-rated projects with similar lease purchase agreements such as the Mid-Bay Bridge Authority (senior/junior liens rated BBB+/BBB/Stable). The current ratings of other facilities with a gross revenue pledge, like Florida Turnpike Enterprise (rated AA/Stable), which is a division of FDOT and a large and mature enterprise with considerable positive cash flow available for reinvestment, are less driven by the state support. However, in a crisis that support will remain a material credit factor boosting credit quality.

FDOT's commitment over many decades has helped toll agencies achieve and maintain investment-grade ratings, as the gross revenue pledge provides for an additional level of protection particularly during early operating periods, economic downturns and heavy investment cycles.

Contact:

Tanya Langman
Director
+1-212-908-0716
Fitch Ratings, Inc.
33 Whitehall Street
New York, NY 10004

Anne Tricerri
Associate Director
+1-646-582-4676

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

Additional information is available on www.fitchratings.com

Fitch: N.J. Exec Budget; New Revenue & Spending; Legacy Costs Remain Driver.

Fitch Ratings-New York-22 March 2018: The New Jersey governor's executive budget delivers on policy goals outlined during his campaign; however, numerous new program and tax credit initiatives, combined with proposed extensive tax policy actions, cannot in the near term materially change the persistent underfunding of retiree liabilities and the elevated long-term liability burden that are the key drivers of the state's below-average 'A' Issuer Default Rating (IDR), according to Fitch Ratings.

The \$2 billion, or 5.7%, proposed revenue growth from fiscal 2018 includes \$1.5 billion from tax increases, supporting 4.2% growth in state appropriations. These increased revenues would go to new spending and leave the state with still slim reserves and reduced flexibility to respond to future economic downturns through revenue raising. Fitch notes that the state has significant spending pressures not only due to the demands of underfunded retiree benefit liabilities but also because natural revenue increases resulting from modest economic growth in recent years have gone primarily towards the phased-in growth in annual pension contributions. This dynamic has led to underfunding of other state needs.

GRADUAL PENSION RAMP UP CONTINUES

If implemented, the budget would continue the state on the path of a gradual 1/10th annual phase-in to the full actuarially determined contribution (ADC) for pensions in fiscal 2023. Despite the \$691 million increase to the pension contribution, Fitch would expect further deterioration in the funded condition of the plans over the near term as the contribution remains well below the ADC. The \$3.2 billion total pension contribution (9% of the budget) is a 28% increase from fiscal 2018 that accounts for 39% of proposed budget growth and funds 60% of the ADC. The contribution meets Fitch's rating expectations given the state's policies in recent years and hews the governor to the same path as his predecessor.

Employee and retiree medical expenses also continue to loom large, representing \$3.4 billion (9%) of the governor's budget. As in most states, OPEB contributions remain well below actuarial recommendations, growing the accrued liability. Escalating pension and OPEB liabilities are expected to remain negative rating factors absent further policy action that reduces the liabilities, forestalling improvement in the state's IDR.

FISCALLY PRUDENT PROPOSALS

The governor's proposals for increased funding to New Jersey Transit (NJT), greater adherence to full education formula funding, reduced one-time budget balancing actions and an addition to state cash balances to provide greater financial cushion would either address critical state needs or support more sustainable financial operations, in Fitch's view. Further, the suggested return of the state sales tax rate to 7%, lowered as part of the transportation funding agreement in 2016, would provide \$581 million in additional revenue. This is a positive step. At the time of that agreement, which lowered the sales tax rate in exchange for an increase in the gas tax, Fitch noted that the state had replaced a growing revenue source with one with more limited growth prospects and added to the pressure on operating funds.

NEW PROGRAM INITIATIVES

Excluding the operating budget's increased pension contribution, recommended program expense grows by a net \$918 million. Significant increases include \$933 million in additional K-12 education funding, including \$283 million in added formula aid, \$242 million in additional state subsidies for NJT, \$120 million for state and teacher employee and retiree health benefits, \$100 million for opioid addiction programs and \$50 million for assistance to community college students. Medicaid grows by \$244 million, boosting this program's draw on the operating budget to 12% of proposed expenditures although remaining far below the 46% of the budget dedicated to education (including higher education). Offsetting these increases are reductions to various line items, \$46 million in expected state-wide salary and operational savings, and reductions in certain state aid categories and capital construction. In addition to programmatic adjustments, the governor has proposed tax policy changes that reduce revenue to the state, including increases in the earned-income tax credit (\$27 million) and the state property tax deduction cap (\$80 million).

EXTENSIVE NEW REVENUE MEASURES

To fund these initiatives, the governor has proposed a milestone 10.75% personal income tax (PIT) rate for taxpayers earning more than \$1 million, which would provide an estimated \$765 million in fiscal 2019, as well as numerous business tax changes for an additional \$110 million; both in addition to the proposed sales tax changes. The governor's budget also includes the legalization and taxation of marijuana which is estimated to deliver \$80 million in tax revenue. Fitch believes there is uncertain legislative interest in the PIT proposal, particularly given recent passage of federal tax changes in December 2017 that capped the deduction for state and local taxes (SALT) and is expected to increase residents' effective state tax burden. Should the measures fail to be approved, other revenue solutions or expenditure reductions will need to be identified to balance the fiscal 2019 budget.

The state's revenue forecast is premised on 2.4% growth in the sales tax base; 4% and 4.2% growth in personal income in 2018 and 2019, respectively; 4% growth in gross state product in both 2018 and 2019; and 1% and 0.8% growth in nonfarm employment in 2018 and 2019, respectively. Fitch believes these forecasts to be reasonable based on recent quarterly experience but somewhat robust when considering the state's recent annualized growth, while noting that future economic growth is expected to remain below that of the nation.

BALANCED FISCAL 2018 OPERATIONS

Updates to the state's fiscal 2018 financial operations are included in the executive budget and point to anticipated budgetary balance this fiscal year. Current forecast revenue is a 2.2% improvement over the forecast used to enact the budget; however, the improvement largely incorporates a shift of sales tax revenue from non-operating funds to operating funds in addition to expected PIT revenue that is above forecast, offset by shortfalls in other revenue sources. Over 40% of the increase in the PIT is attributable to \$253 million in one-time revenue related to the repatriation of overseas hedge fund profits, a direct effect of Section 457A of the federal Internal Revenue Code passed in 2008. Unexpected growth in the PIT excludes \$200 million collected in December from taxpayers seeking to take advantage of the higher SALT deduction as the state believes this revenue would have been collected in April 2018.

Final, estimated appropriations increase by \$1.2 billion (3.6%) from the enacted budget, partly incorporating appropriations linked to the moved sales tax revenue. The state's estimated year-end budgetary fund balance, which the state views as its budgetary cushion, is projected to be \$738 million (2% of operating fund appropriations) largely incorporating a larger beginning fund balance than anticipated when the budget was enacted.

Contact:

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

Douglas Offerman
Senior Director
+1-212-908-0889

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

Additional information is available on www.fitchratings.com

When California Cities Blur the Line Between Tax Education and Tax Advocacy.

After Stanton residents voted to increase their own sales tax in 2016, the city's finance director crowed to his fellow municipal finance directors about his city's successful campaign. According to his article, the only thing that "went wrong" was that Stanton "didn't suppress the opposition with one-on-one meetings early."

Cities throughout our state have been using Orwellian tactics to "suppress" opposition to tax increases through coordinated and premeditated "education campaigns." These campaigns operate in a grey legal area because each campaign uses public resources to accomplish its goals.

The California Supreme Court in *Stanson v. Mott* stated resolutely that "a fundamental precept of this nation's democratic electoral process is that the government may not 'take sides' in election contests or bestow an unfair advantage on one of several competing factions." The Supreme Court in *Vargas v. City of Salinas* then created its own grey area exception by allowing governmental entities to express publicly an opinion on the merits of a ballot measure so long as the governmental entity "does not expend public funds to mount a campaign on the measure."

Cities undeterred by the *Stanson* prohibition or blinded by their own fiscal desperation of their own making have driven Mack trucks through the *Vargas* limited exception. Cities throughout our state are hiring political campaign consultants or public relations firms to "educate" the public on the cities' opinion. At what point, though, do campaigns move from education to advocacy?

In 2010, for example, the city of Tracy hired political campaign consultant Lew Edwards in connection with a sales tax increase. According to the consultant's presentation, the consultant conducted a poll to determine "campaign messaging," draft the "ballot arguments," and create the "ballot question wording." The city then sent "education materials" to voters through broadcast television and city-created newsletters, presentations, emails, and even sent the materials through utility bill inserts.

Campaign consultants respond to cities' requests for proposal by touting their "wins" or "successes,"

which they define by whether a tax measure passes. One consultant bragged that it has “enacted more than \$30 billion in California revenue measures with a success rate of 94 percent.” Another consultant bragged that its “competitive strength” is that “we WIN.” Where the objective is supposedly public education, though, winning and losing or success and failure cannot be measured by ballot box results.

Enough is enough. Cities must stop using tax dollars to advocate under the thinly veiled guise of education.

The city of Newport Beach recently passed a resolution prohibiting public expenditure on these “education” campaigns. We invite other city leaders to use our resolution as a model. We also invite residents throughout the state to demand that their leaders stop hiring campaign consultants who view tax increases as “wins.”

THE ORANGE COUNTY REGISTER

By WILL O’NEILL | March 19, 2018

Will O’Neill is mayor pro tem of the City of Newport Beach. He will gladly provide anyone a copy of the city’s Resolution and can be contacted at woneill@newportbeachca.gov.

[Public Finance Practices Saw a Huge Boom at the End of 2017.](#)

One public finance practice leader said deal work was triple the normal amount in the fourth quarter.

The end of 2017 came with a short-lived, but sweet surprise for law firms with public finance practices.

Those practice groups saw business explode in the fourth quarter, particularly in the last two months of the year, as legislators in Washington, D.C., debated a tax bill that had big implications for the tax-exempt market. The last such boom was more than 30 years ago, public finance lawyers said.

“It all was in a very compact period of time,” said Emilie Ninan, who chairs Ballard Spahr’s public finance department. “There was this concern that as of the first of the year, we’re not going to be able to do these deals anymore.”

The tax bill put an end to advance refunds for tax-exempt bonds, which was a way for public finance clients to take advantage of lower interest rates and save money. Marc Feller, chair of Dilworth Paxson’s public finance group, said clients were “finding every conceivable bond that could generate savings” at the end of 2017, in anticipation of the tax bill prohibiting that activity in 2018.

[Continue reading.](#)

By Lizzy McLellan | Mar 23, 2018

The Legal Intelligencer

Connecticut to Lead Light Week in U.S. Municipal Bond Issuance.

March 23 (Reuters) – Connecticut and California will supply roughly one-third of a light, \$3.6 billion U.S. municipal bond load in a holiday-shortened week next week, going to market with a pair of deals worth about \$1.2 billion.

Connecticut will issue \$617 million in two series of general obligation bonds on Wednesday in a deal led by Loop Capital. Across the country, California's Health Facilities Financing Authority will price \$606 million in revenue bonds led by Morgan Stanley.

Connecticut's GO issuance received an A1 rating from Moody's Investors Service, which the agency said reflected the state's high income levels and adequate liquidity, while also accounting for high fixed costs for debt service and ballooning pension and debt.

Connecticut's financial crisis reached a crescendo last year when Governor Dannel Malloy slashed spending after he and lawmakers failed to reach a budget deal by a June 30 deadline.

While sides reached a budget deal four months later, the state general fund has a shortfall of nearly \$193 million.

California's Health Financing Authority, meanwhile, will issue \$606 million in revenue bonds to help construct and expand facilities at its Sutter Health system, part of a \$1.29 billion financing plan that is also slated to feature \$684 million in taxable fixed-rate bonds.

Next week's load, which totals \$3.87 billion when accounting for \$184 million in notes, is well below the 2017 weekly average of \$7.3 billion, continuing a trend of light muni issuance in the wake of President Donald Trump's tax reform measures.

Also hampering issuance is next week's early close on Thursday, and full close on Friday, in observance of Good Friday.

Puerto Rico will be back in the news next week, as the bankrupt U.S. territory's federally-appointed oversight board will meet on Monday. It is expected to sign off on the island's fiscal turnaround plan, a financial blueprint that will serve as the basis for restructuring talks with creditors holding more than \$70 billion in debt.

Already bankrupt when Hurricane Maria hit in September, the island is struggling to recover from its most devastating storm in 90 years. [reut.rs/2G5EB2m]

Reuters Graphic

Maria sent Puerto Rico's benchmark general obligation bonds plummeting, from around 60 cents on the dollar before the storm, to as low as 20 cents after.

The bonds have begun to recover as the forecast for Puerto Rico's economic recovery has brightened, though they remain down dramatically from pre-storm levels, closing on Thursday at 35.75 cents on the dollar.

Reporting by Nick Brown Editing by Tom Brown

[City Priorities Shine Through in FY18 Omnibus Spending Bill.](#)

Funding proposal reflects strong federal-city partnership

WASHINGTON — March 22, 2018 — The House and Senate have reached a deal on the omnibus appropriations bill (H.R. 1625), a \$1.3 trillion spending proposal that maintains or increases funding for key programs that cities use to fund infrastructure, economic development and public safety, among others. The bill comes after more than 1,000 city leaders lobbied Congress over the past year to save Community Development Block Grants (CDBG), TIGER grants, workforce development and education programs, and energy efficiency and renewable energy programs.

“The spending bill before Congress shows that our federal partners have heard the thousands of city leaders urging them to reject the severe budget cuts proposed by the administration and that were required under sequestration,” said NLC President Mark Stodola, mayor of Little Rock, Arkansas. “This bill makes clear that city leaders are part of the solution to our country’s greatest challenges. It’s a victory not only for America’s 19,000 cities, towns and villages, but for the more than 250 million residents that rely on safe and reliable infrastructure and strong local economies that contribute 91 percent of the nation’s GDP.”

The bill also includes additional funding for water infrastructure through the U.S. Environmental Protection Agency, including for lead testing and lead reduction in schools, which NLC has been calling for in its Rebuild With Us infrastructure campaign. NLC also supports the bill’s reauthorization of the brownfields redevelopment program, which helps cities clean up contaminated properties, the expansion of Low-Income Housing Tax Credits to make up for losses in affordable housing stemming from tax reform, and the extension of the National Flood Insurance Program until July 31, 2018.

[Continue reading.](#)

National League of Cities

[GASB Outlook E-Newsletter, Q1 2018](#)

[Read the Newsletter.](#)

[Educators, Finance Officers Team Up to Build a Better Budget.](#)

Having a plan to tackle your school district’s critical problems doesn’t mean you have the money to pay for it, and many districts find their best-laid improvement plans can fall apart with just one state budget cut or failed local bond issue.

That’s why a growing number of districts nationwide are working to bring together educators and budget officers early and often, to make sure budgets support the most critical priorities.

“One of the hardest things is when you talk about academic [return on investment], educators are not used to putting a dollar sign on students; they look at quality education and what’s best for the

kids,” said Claire Hertz the Beaverton, Ore., district’s chief financial officer. “And I look at dollar signs, but I don’t necessarily know what’s most important instructionally,” she said. “We each bring a strength and a source of data to each other.”

[Continue reading.](#)

Education Week

By Sarah D. Sparks

March 20, 2018

CUSIP Request Volume Signals Strong Pace of U.S. Corporate Equity & Debt Issuance in Q1.

NEW YORK, NY, February 22, 2018 - CUSIP Global Services (CGS) today announced the release of its CUSIP Issuance Trends Report for January 2018. The report, which tracks the issuance of new security identifiers as an early indicator of debt and capital markets activity, found an increase in CUSIP request volume for new U.S. corporate equities and debt, but sharp decreases in the municipal bond market. This is suggestive of a strong pace of new corporate issuance and a slowdown in new muni issuance in the early weeks of 2018.

[Read the Report.](#)

CUSIP: Municipal Volumes Trending Down Following Tax Reform.

“We’re still seeing fallout from the Tax Cuts & Jobs Act in our muni request volumes,” said Gerard Faulkner, Director of Operations for CUSIP Global Services. “While lawmakers are currently reviewing a new bill that would restore the tax exemption for advance refunding bonds, for now, the marketplace is reacting to the tax reform by dramatically curtailing their pre-trade activity.”

[Read the Press Release.](#)

-
- [MSRB Publishes Issue Brief on Minimum Denominations of Municipal Securities.](#)
 - [S&P: New GASB Statements 74 And 75 Provide Transparency For Assessing Budgetary Stress On U.S. State & Local Government OPEBs.](#)
 - [Compliance Workshop on MSRB Rule G-17: Making Disclosures to Issuers.](#)
 - [Blockchain Basics for Government Finance and Audit Professionals: Webinar](#)
 - [In re February 14, 2017, Special Election on Moses Lake School District #161 Proposition 1](#) - Court of Appeals holds that the 10-day period in which to file election challenge petition seeking to invalidate school district bond election commenced when county canvassing board recertified election result after recount, rather than when board initially certified result.
 - [Kingman Airport Authority v. City of Kingman](#) - District Court holds - as a matter of apparent first impression - that the reserved powers doctrine applies to federal Contracts Clause claims between

two political subdivisions, both of which possess the power of eminent domain.

- And finally, Better Than a Sharp Stick In the Eye? is brought to us this week by DeKalb-Cherokee Counties Gas District v. Raughton, in which a sanitation worker's plan to seek shelter in the leeward side of a dump truck "because the truck shielded him from the wind, which had been blowing dust in his eyes" went just a tad sideways when the sidewall of the truck dislodged, disgorging its payload of bricks and concrete blocks. He arrived at the Pearly Gates just a bit worse for wear, sporting bewildered (yet dust-free!) eyes.

LIABILITY - ALABAMA

[DeKalb-Cherokee Counties Gas District v. Raughton](#)

Supreme Court of Alabama - February 23, 2018 - So.3d - 2018 WL 1024710

City employee brought action against county gas district, alleging negligence relating to injuries city employee sustained when district employee was dumping refuse at city landfill.

After a jury trial, the Circuit Court entered a verdict in favor of city employee, and denied district's motion for judgment as a matter of law. District appealed.

The Supreme Court of Alabama held that, absent evidence of foreseeability, the district could not be held liable for negligence after side wall fell from dump truck and injured city employee.

Absent evidence that it was foreseeable that a side wall of a dump truck could become detached as a result of performing a clutch-release maneuver, truck operator's employer could not be held liable for negligence after employee performed that maneuver and the side wall fell and injured city employee; evidence showed that the maneuver was a common method of dislodging and dumping the contents of dump trucks and that performing the maneuver did not violate any formal safety standards, and there was no evidence indicating that side wall had become detached in the past, that operator's agents knew it might become detached, or that an inspection would have revealed that it might become detached.

EMINENT DOMAIN - ARIZONA

[Kingman Airport Authority v. City of Kingman](#)

United States District Court, D. Arizona - January 16, 2018 - Slip Copy - 2018 WL 418011

The City of Kingman leased its Airport to the Kingman Airport Authority (KAA) - a political subdivision. The lease provided for compensation to be paid in the event the Airport was "condemned, taken or acquired by a body having superior power of eminent domain."

Kingman subsequently passed a resolution authorizing it to acquire the Airport via the state's condemnation statutes.

KAA brought a Federal Court claim against Kingman, alleging violations of the State and Federal Contracts Clauses. Kingman moved to dismiss, arguing that KAA failed to state a Federal Contracts Clause claim under the reserved powers doctrine, which holds that a state may not enter a contract that surrenders an essential attribute of its sovereignty, including its power of eminent domain.

KAA argued that here the contract is between two state actors whose eminent domain powers are

set forth in Arizona statutes. As a result, the lease was not a surrender of eminent domain power and the reserved powers doctrine did not apply.

“The question before the Court is whether one state actor surrenders its eminent domain power by entering into a Lease with another state actor, where the state’s statutes define the actors’ eminent domain powers and the Lease itself provides the terms of compensation when a state actor ‘having superior power of eminent domain’ condemns the leasehold interest.” “Put another way, the question is this: Does a state relinquish its ‘power of self-government and self-preservation’ when one of its subdivisions leases property to another?”

The court noted that the lease is a contract between two state actors that contemplates condemnation by referring the parties to state law for a determination of which party has the superior power of eminent domain and what compensation should be paid in the event of condemnation. It is thus possible to interpret the lease as a bargained-for procedure by which condemnation is to take place, more than a surrender of state eminent domain power. But, in the Complaint, KAA sought to invoke the Contracts Clause to obtain injunctive relief preventing Kingman from condemning KAA’s leasehold interest in any manner, whether through a resolution or otherwise. Thus, regardless of the fact that both parties to the Lease are state actors here, the Federal Contracts Clause cannot be used to enforce a contract that prevents a state actor from exercising its eminent domain power. The court thus opted to apply the reserved powers doctrine and find that Kingman’s condemnation of KAA’s leasehold did not contravene the Contracts Clause.

Because KAA failed stated a claim against Kingman under the Federal Contracts Clause, and that federal question was the sole basis of the court’s subject matter jurisdiction, the court dismissed the action. The court noted that KAA may still raise its defenses to condemnation under Arizona law in state court, including that Kingman does not have superior eminent domain power over KAA and that the public use associated with Kingman’s operation of the airport is not more necessary than the public use associated with KAA’s operation of the airport.

PUBLIC UTILITIES - CONNECTICUT

[Town of Glastonbury v. Metropolitan District Commission](#)

Supreme Court of Connecticut - March 6, 2018 - A.3d - 328 Conn. 326 - 2018 WL 1145947

Non-member town brought action against quasi-municipal corporation formed to provide potable water to member and non-member towns, seeking declaratory judgment to establish that surcharge imposed by the corporation on the town and other non-member towns for water usage was illegal.

The Superior Court denied corporation’s motion for summary judgment and granted town’s motion for summary judgment. Corporation appealed.

The Supreme Court of Connecticut held that:

- Practical relief was available to non-member town, and thus, action was justiciable;
- Prior to enactment of legislation specifically authorizing surcharges for water usage, corporation lacked statutory authority to impose upon non-member town surcharge for water usage that encompassed corporation’s costs in maintaining entire water utility infrastructure; and
- Non-member town’s delay in challenging surcharge was not unreasonable, and thus, special defense of laches did not bar town’s summary judgment motion.

COLLECTIVE BARGAINING - MAINE

SAD 3 Education Association v. RSU 3 Board of Directors

Supreme Judicial Court of Maine - March 1, 2018 - A.3d - 2018 WL 1095782 - 2018 ME 29

Bargaining agent for classroom teachers appealed decision of the Maine Labor Relations Board (MLRB) determining that agent failed to provide school board with notice required by Municipal Public Employees Labor Relations Law (MPELRL) of its intention to negotiate matters involving the appropriation of money during impact bargaining sessions.

The Superior Court affirmed MLRB's decision. Agent appealed.

The Supreme Judicial Court of Maine held that:

- MPELRL's 120-day notice requirement applied to bargaining agent's request to school board to enter into impact bargaining, and
- Bargaining agent's request did not satisfy MPELRL's 120-day notice requirement.

Municipal Public Employees Labor Relations Law's (MPELRL) 120-day notice requirement applied to bargaining agent's request to school board to enter into impact bargaining regarding the change in classroom teachers' working conditions due to transition to system of single bus runs, where subject of the bargaining involved the appropriation of money by school board.

Bargaining agent for classroom teachers did not notify school board in writing of its intention to bargain over matters requiring the appropriation of money, and thus, agent's impact bargaining request, regarding change in teachers' working conditions due to transition to system of single bus runs, did not satisfy Municipal Public Employees Labor Relations Law's (MPELRL) 120-day notice requirement; agent's written notice did not include reference to matters involving appropriation of money, notice only pertained to length of teacher workday, and compensation was not raised until two parties met in person to impact bargain.

PUBLIC RECORDS - MONTANA

Nelson v. City of Billings

Supreme Court of Montana - February 28, 2018 - P.3d - 2018 WL 1078964 - 2018 MT 36

Records requester filed petition against city and Montana Municipal Interlocal Authority (MMIA) for the release of documents relating to a civil judgment MMIA paid on behalf of city.

The District Court granted summary judgment to city and MMIA. Requester appealed.

The Supreme Court of Montana held that:

- As a matter of first impression, documents subject to attorney-client or work-product privileges need not be disclosed under state constitution's right-to-know, and
- Documents that city and MMIA claimed were protected by privileges were not subject to release.

Documents that city and Montana Municipal Interlocal Authority (MMIA) claimed were protected by attorney-client and attorney-work-product privileges were not subject to release under state constitution's right to know, where records requester presented blanket challenge, insisting that no

documents could be withheld on privilege grounds, and requester did not object to claims of privilege on legal grounds that privileges should not have applied to protect particular documents.

EMINENT DOMAIN - NORTH CAROLINA

[Wilkie v. City of Boiling Spring Lakes](#)

Supreme Court of North Carolina - March 2, 2018 - S.E.2d - 2018 WL 1124845

Property owners brought statutory inverse condemnation action after city raised lake level that flooded their properties.

The Superior Court concluded that property owners were entitled to damages from city's taking, and city appealed. The Court of Appeals reversed and remanded due to lack of public use. Property owners sought discretionary review.

The Supreme Court of North Dakota held that inverse condemnation remedy is not dependent upon takings as being for public use.

EMINENT DOMAIN - NORTH DAKOTA

[Owego Township v. Pfingsten](#)

Supreme Court of North Dakota - March 8, 2018 - N.W.2d - 2018 WL 1191414 - 2018 ND 68

Property owner appealed from township's determination authorizing the taking of two acres for relocation of township road, and township's \$9,000 award of damage.

The District Court granted township's motion to dismiss, and property owner appealed.

The Supreme Court of North Dakota held that:

- The 30-day period for period for property owner to appeal from township's determination and property damage award began to run on the date township filed the determination and statement of damages with the township clerk;
 - Statutory provision governing quick take procedures by a county seeking acquisition of a right of way through eminent domain proceedings did not apply to extend the 30-day period for appealing the township's determination; and
 - State constitution's Taking Clause did not operate to extend the 30-day period for appealing the township's determination.
-

PUBLIC RECORDS - PENNSYLVANIA

[Township of Neshannock v. Kirila Contractors, Inc.](#)

Commonwealth Court of Pennsylvania - March 5, 2018 - A.3d - 2018 WL 1144897

In breach of contract dispute between township and contractor, the Court of Common Pleas denied in part township's motion in limine to exclude privileged documents. Parties appealed.

The Commonwealth Court held that:

- Commonwealth Court could not, by stipulation, consider on appeal deposition transcript excerpts and exhibits that were not part of certified record, and
- Township waived its attorney-client privilege and attorney work product claims.

Township waived its attorney-client privilege and attorney work product claims to allegedly privileged documents when it acceded in master delivering documents to contractor involved in action with township for breach of contract; township was aware that master intended to deliver documents to contractor but township voiced no opposition to disclosure and acquiesced in disclosure, and township did not appeal master's decision.

PUBLIC UTILITIES - RHODE ISLAND

[Warfel v. Town of New Shoreham](#)

Supreme Court of Rhode Island - March 2, 2018 - A.3d - 2018 WL 1124158

Residents, taxpayers, and power company ratepayers brought action against town, seeking to enjoin the closing of town's purchase of majority share of stock in power company.

The Superior Court granted town's motion to dismiss. Residents, taxpayers, and ratepayers appealed.

The Supreme Court of Rhode Island held that residents, taxpayers, and ratepayers lacked standing to seek review of town's decision to purchase majority share of stock in power company.

Residents, taxpayers, and power company ratepayers did not suffer particularized injury, and thus lacked standing to seek review of town's decision to purchase majority share of stock in power company; residents, taxpayers, and ratepayers vaguely asserted that they could be held responsible for costs of any contamination remediation, which gave town's purchase only the potential to be extraordinarily harmful to residents, taxpayers, and ratepayers.

SPECIAL DISTRICTS - SOUTH CAROLINA

[County of Florence v. West Florence Fire District](#)

Supreme Court of South Carolina - March 7, 2018 - S.E.2d - 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.

BOND ELECTION - WASHINGTON

In re February 14, 2017, Special Election on Moses Lake School District #161 Proposition 1

Court of Appeals of Washington, Division 3 - March 8, 2018 - P.3d - 2018 WL 1191913

Voters brought action seeking to invalidate results of school district bond election.

The Superior Court granted county auditor's motion to dismiss. Voters appealed.

The Court of Appeals held that:

- 10-day period in which to file election challenge petition commenced when county canvassing board recertified election result after recount, and
- County auditor's failure to telephone voters who failed to sign ballots did not invalidate election.

The 10-day period in which to file election challenge petition commenced when county canvassing board recertified election result after recount, rather than when board initially certified result.

County auditor's failure to telephone voters who failed to respond to mailed notice informing them that they failed to sign their ballots or that their signatures did not match signatures on file with auditor did not void result of school district bond election; although auditor was statutorily required to telephone such voters, statute did not state that election was void if calls were not made, and auditor did mail notice to affected voters, such that they were provided actual notice of defect and opportunity to correct it.

Public Debt Upgrades Top Downgrades in 2017: Moody's

NEW YORK (Reuters) - In the U.S. public finance market, debt rating upgrades topped downgrades for the third year in a row in 2017 as the U.S. economy continued to improve, according to a report by Moody's Investors Service released on Monday.

The ratings agency said the upgrades indicated continued improvement in credit quality across the public finance sector but warned of "pockets of weakness," particularly in the healthcare and higher education sectors.

"While the number of upgrades continued to grow, the amount of upgraded debt declined for the fourth year in a row," the report said.

Despite the economic upswing, the dollar value of downgraded debt was \$201.8 billion last year, double the \$100.3 billion of upgraded debt. This was driven primarily by the downgrade of Puerto Rico and related issuers in the aftermath of Hurricane Maria, which devastated an already fragile economy.

California led in upgraded debt in 2017, helped by an upgrade of Los Angeles County's \$1.6 billion worth of debt.

Nearly 35 percent of upgrades and 14 percent of upgraded debt in 2017 stemmed from a change in Moody's U.S. Local Government General Obligation Debt methodology, which revised the agency's

approach to rating general obligation limited tax (GOLT) debt.

The change drove less than one percent of downgraded debt, and upgrades still topped downgrades when stripping out the effects of the change, Moody's said.

In general, housing and infrastructure bonds performed strongly in 2017. Annual toll increases contributed to a \$2.8 billion upgrade of Central Florida Expressway Authority revenue bonds, and the California Housing Finance Agency's mortgage revenue bonds accounted for \$1.2 billion of upgraded debt in 2017.

Performance was weak in the higher education and healthcare sectors.

Illinois, which accounted for the most credit downgrades last year as the state and local governments continued to face pension challenges, also had a number of downgrades to its public universities

The State of New Jersey marked the largest downgrade last year at \$37 billion, followed by downgrades of over \$20 billion each in Illinois, Puerto Rico, and Connecticut. These four entities accounted for almost 70 percent of downgraded debt in 2017.

Puerto Rico Electric Power Authority (PREPA) accounted for more than half of downgraded debt in the infrastructure space, which overall saw \$9.4 billion worth of credit ratings lowered versus \$19.8 billion of upgrades, Moody's said.

Reporting by Reade Levinson; Editing by Daniel Bases and Diane Craft

March 13, 2018

New School in Brandon to be Built Using Public Funds, Not P3 model.

The Manitoba government will not build a new school in Brandon using the public-private partnership model and will instead use public funds to see the long-awaited project come to fruition.

During its 2018 budget announcement on Monday, the government announced it would set aside more than \$100 million to see five schools built—one more than was previously announced—through the Public Schools Finance Board.

By combining certain phases from each project, such as their design and build, the province says it will be able to build multiple schools at once, reduce duplication, accelerate the process and save at least \$18 million.

"At the end of the day, we're taking an evidence-based approach and we're saying we care about the evidence," Finance Minister Cameron Friesen told reporters via teleconference.

"In this case, the evidence points us to a conventional build."

Last year, the government said it would explore the possibility of building four new schools, including one in Brandon, using the P3 model, a system where the private sector works with government to build and manage projects.

KPMG was commissioned back in August to develop a business case and Friesen said the firm

recommended that government pursue other opportunities.

"We did a study on the P3 methodology, we learned valuable lessons from that investment, we took away new thinking about how to approach the projects, but I assure you, the decision to proceed with this enhanced conventional school construction model is our own," Friesen said.

While the P3 model is still a "good option," Friesen said the approach taken by government was thought to be the best in this case.

With tendering set to begin by the end of the year, he said the schools could take form within a year.

"What we told Manitobans is we were not ideological about the methodology, what we were is interested to know if savings could be gotten at."

The announcement was well received by Brandon School Division chair Linda Ross, who, while against the idea of a P3 school, said she gave the government "kudos" for looking at the data and listening to what people had to say.

"This is a very, very welcome announcement today, so we're just thrilled by it."

The BSD was not consulted by KPMG and Ross said she hopes the board will get to see a copy of the report.

A provincial spokesperson said the KPMG report will be released at the conclusion of the tendering process in order to avoid any potential effect on competitive bids.

Ross applauded the government for not being stuck in an "ideological mode" and said if the school can be built more efficiently, that is a good thing.

"We've got 400 kids who would like to go to school in their own neighbourhood," she said.

The P3 model was heavily criticized by CUPE Local 737, which pointed to cost overruns and poor planning in other provinces that have used the approach for their schools.

The union even put up a billboard on 18th Street to express its opposition to the idea.

"I think the taxpayers of Brandon are lucky the government has changed their mind and going in the right direction," said CUPE Local 737 president Jamie Rose.

Brandon Teachers' Association president Peter Buehler said all things considered, the government's approach looks like a better one than a P3 school.

"Well our first thought is that P3 projects elsewhere have been fraught with difficulty and unexpected expense, or unreported expense," he said, "and if the government hasn't come up with a P3 proposal yet that anybody can look at, then this looks like a better decision."

The school in Brandon will be a K-8 building, located in the southeast corner of the city at Ninth Street and Maryland Avenue, with a capacity for 450 students — 675 upon future expansion — and 74 child-care spaces.

The other projects include a K-5 school in Precinct E of the Seven Oaks School Division, a K-8 school in Waterford Green within the Winnipeg School Division, and both a K-8 and 9-12 school in Waverley West in the Pembina Trails School Division.

Brandon has been in need of a new school for years due to its growing student population as a result of more families moving to the city for work at Maple Leaf Foods.

The former NDP government promised to build a new school in November 2015, but little was heard about the project following the provincial election in 2016.

The Brandon Sun

By: Michael Lee

Posted: 03/13/2018 3:00 AM

[MSRB Publishes Issue Brief on Minimum Denominations of Municipal Securities.](#)

Washington, DC - The Municipal Securities Rulemaking Board (MSRB) today [published an issue brief about historical policy issues and additional considerations related to the use of minimum denominations in the sale of municipal securities](#). The report, intended as a resource for municipal market stakeholders and others, details information drawn from the MSRB's outreach to diverse market stakeholders on minimum denominations.

Minimum denominations for municipal securities are established at issuance to help target their sale to an appropriate category of investors or reduce administrative costs, among other reasons. The MSRB has no rulemaking authority over issuers, including with respect to the use of minimum denominations. However, to help to ensure that municipal securities dealers observe established minimum denominations, MSRB has since 2002 generally prohibited dealers from effecting a municipal securities transaction with a customer in an amount below the minimum denomination of the issue.

In recent years, industry concerns emerged about the limited nature of two exceptions to [MSRB Rule G-15\(f\)](#), on minimum denominations, that were intended to protect customers who hold positions in securities that are below the minimum denomination of an issue. In 2015, the MSRB began to explore possible revisions to the rule that would have created additional exceptions, but in response to strong commenter opposition and an absence of comments from issuers or their representatives, the MSRB in May 2017 decided not to pursue any amendments. Instead, it engaged in formal outreach with bond issuers, their advisors and counsel, dealers in municipal securities and other market participants to more fully understand their perspectives and policy issues raised in the rulemaking process.

The issue brief includes considerations that may merit further discussion among issuers, dealers and other market participants. While the MSRB does not plan to propose changes to its minimum denomination rule, it is providing this resource to support any efforts by market stakeholders to evaluate market practices regarding the use of minimum denominations, particularly in light of developments in technology, a growing interest in small-denomination municipal bonds and the allocation practices of investment advisers.

Date: March 12, 2018

Contact: Jennifer A. Galloway, Chief Communications Officer
202-838-1500

Improving Public Decisionmaking: Local Governments and Data Intermediaries.

Abstract

Local governments should engage with data intermediary organizations, such as the members of the National Neighborhood Indicators Partnership, to more effectively identify priority issues, find new allies, and devise data-driven policies and programs. In addition to their topical, analytic, and community engagement expertise, these organizations bring an understanding of local context, a reputation for impartial analysis, and a set of relationships that spans sectors. Their services build local capacity, including within governments, to use data for better decisionmaking. All local governments should join with area data intermediaries to raise the whole community's ability to regularly share and use data to improve decisionmaking, both inside and outside of government.

[Download PDF.](#)

The Urban Institute

Kathryn L.S. Pettit and G. Thomas Kingsley

March 9, 2018

In addition to this overview brief, three case studies for Baltimore, Columbus, and Oakland demonstrate the range of ways that data intermediaries and their services benefit city and county governments. To read the full series, [click here](#).

BDA Advocacy 1st Quarter - 2018

Federal Regulatory and Legislative Priorities

FINRA Rule 4210

In 2016, the BDA was successful in getting FINRA and SEC to file a last-minute amendment to the rule that significantly expanded the "gross open position" exception from \$2.5 million to \$10 million. BDA had advocated for a more expansive gross open position limit throughout the rulemaking and the \$10 million level expands the universe of counterparties and trades where the transfer of margin will typically not apply.

More recently, the BDA was supportive of a delayed effective date and lobbied FINRA directly for the delay. In September 2017, the rule was delayed to June 2018.

In 2018, the BDA has met with SEC Chair Clayton and each SEC Commissioner in addition to FINRA CEO Cook and senior counsel advocating for excluding from the rule transactions from the "Covered Agency Securities" definition that do not pose systemic risk, such as specified pools and CMOs; transactions from the "Covered Agency Securities" definition that settle on the next or first good settlement date; and/or allowing dealers to take a capital charge instead of requiring them to enter

into margining agreements with customers.

The BDA believes that FINRA should revise the amendments to 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 with money manager accounts, prevent non-FINRA regulated banks from marketing their status as a non-FINRA regulated entity, and still manage any systemic risk. This idea was discussed with Robert Cook and senior FINRA staff in December 2017, and in February 2018, the BDA received word that FINRA is considering this proposal. FINRA has discussed this idea in-depth with BDA member firms, and an update is expected shortly.

Retail Confirmation Disclosure Rules

In the fall of 2017, at the request of Robert Cook of FINRA, a BDA working group submitted an amendment recommendation for the retail confirmation disclosure rules to both FINRA and MSRB. The BDA policy recommendation introduced the concept of “general market liquidity provider” to allow dealers that provide liquidity and offer bonds in support of their network of financial advisors to rebut the presumption that their cost is the best measure of prevailing market price for the purposes of the disclosure. The BDA also continued to advocate for a delay of the rules.

Throughout December 2017, BDA staff continued conversations with FINRA staff, and also reached out to SEC commissioners’ staffs to discuss our concerns in-depth after hearing that SEC commissioners were balking on a delay of the rules.

In January 2018, BDA members met with SEC Chairman Jay Clayton, SEC Commissioner Kara Stein, and senior staff to SEC Commissioner Mike Piwowar in support of a delay of the rule and to make clear to the SEC the numerous compliance problems small firms are facing with vendors, etc. The BDA also explained to the commissioners the “general market liquidity provider” amendment.

The SEC commissioners held their position that the rules should not be delayed. However, the BDA felt that they did leave the door open for an extended timeline without enforcement. During the meeting with Chairman Clayton, he prompted the BDA to draft a “business plan” laying out the framework of steps to be taken if a delay of enforcement were to be granted. The plan BDA presented includes a “conformance period,” in which the regulations would not be enforced if broker-dealers acted in good faith and worked to come into full compliance with the rules by December 31, 2018.

As a follow-up, in March 2018, BDA members met with the two new SEC commissioners, Hester Peirce and Robert Jackson, Jr., regarding the markup rules.

In March 2018, the BDA was notified that regulators are seriously considering the BDA’s conformance period proposal. Currently, the BDA is in communication with member firms, industry groups and regulators to ensure a positive outcome. More information on this issue will be distributed soon.

Municipal Advance Refundings

The BDA is leading the advocacy push for H.R. 5003, legislation that would fully reinstate municipal advance refundings. While disappointed in the elimination of advance refundings in the Tax Cuts and Jobs Act of 2017, the BDA continues to work simultaneously with Capitol Hill, MBFA and the full issuer community and the U.S. Treasury to find a market-based, regulatory no cost solution for municipal bond issuers.

Grassroots lobbying efforts are ongoing with BDA membership contacting their representatives in

Washington. Municipal Bond Division Leadership has provided the BDA with advance refunding project data for Ways and Means comments on “expired tax provisions” in March, showing a wide variety of cost savings lost for state and local governments of all sizes. The BDA also plans to host a member fly-in surrounding “Infrastructure Week 2018” to help raise awareness for municipal advance refundings on Capitol Hill this May.

Private-Activity Bonds

In early 2018, the Trump Administration released an infrastructure guideline that would eliminate the AMT provision, provide change-of-use provisions to preserve the tax-exempt status and allow for the advance refunding of PABs. The BDA continues to work with its partners on Capitol Hill to promote these fundamental pillars in any infrastructure package.

The BDA plans to incorporate PABs into the “Infrastructure Week” fly-in this May.

MSRB Rule G-15 Minimum Denomination Rule

As a result of direct lobbying efforts of the BDA, the MSRB withdrew a proposed rule to amend MSRB Rule G-15 for minimum denominations (Proposed and withdrawn MSRB Rule G-49). The withdrawal of the rule took place after a BDA conversation with MSRB Counsel Mike Post that was supported by Dan Deaton from Nixon Peabody. During that call, BDA highlighted that the rule proposal and the existing G-15 framework was harming the marketplace, especially retail investors. After withdrawing the rule, the MSRB sought additional input from the BDA on a conference call with BDA members. The accomplishment is that BDA advocacy resulted in the rule being withdrawn. The BDA educated the MSRB and they appear committed to updating G-15 in a way that would focus the minimum denomination rule on issuances with minimum authorized denominations of \$100,000 and above, removing a significant burden on the retail municipal market. Pending regulatory discussions will continue in 2018.

DOL Fiduciary Duty / SEC Best Interest Standard

While the DOL fiduciary rule and exemptions are extremely burdensome, the BDA and dealer firms were successful in getting significant changes included in the final rule. Initially the Best Interest Contract Exemption (BIC) and the Principal Trading Exemption (PTE) excluded a series of assets including municipal bonds, UITs, CDs, and mortgage securities.

At present, the DOL fiduciary rule has been partially implemented; but several sections of the rule have also been delayed by the Trump Administration to examine if DOL or the SEC is best suited to take the lead on this issue. In June 2017, SEC Chairman Jay Clayton requested public comments on how the SEC might best approach a “fiduciary” standard. The BDA met with the Chairman Clayton, Commissioner Stein, and senior staff to Commissioner Piwowar in January 2018 and let them know that BDA will submit comments to the SEC soon.

The BDA supports a “best interest standard” and strongly believes that the standard should fit within the existing broker-dealer regulatory regime.

Review and Withdrawal of IRS Political Subdivision Rule

The IRS political subdivision rule was proposed in 2016. The BDA opposed the proposal. Due to market participant feedback the rule was not approved during the Obama Presidency. The Trump Administration reviewed IRS rule proposals and identified the political subdivision rule as a particularly burdensome rule.

The BDA and MBFA wrote to the IRS confirming that the rule was burdensome, unnecessary, and harmful for economic growth. The IRS repeatedly identified the comments of market participants as a reason why it identified this rule as particularly burdensome. The proposal was withdrawn on

October 20, 2017.

SEC Proposes Amendment to 15c2-12 for Bank Loan Disclosure

The BDA supports the disclosure of bank loans and the most effective way to require the disclosure of bank loans would be for the SEC to amend 15c2-12. In 2017, the SEC released a proposed rule to amend 15c2-12 to require the disclosure of bank loans. This proposal is a BDA accomplishment. While the rule is not yet final, the BDA has engaged in direct advocacy with the SEC prior to and after the rule proposal on the subject of bank loans. Discussions are ongoing in 2018.

High Quality Liquid Asset (HQLA) Legislation/Regulation

Working in tandem with state, local and issuer groups, the BDA has supported the introduction and re-introduction in the House and Senate and passage through the House of legislation to define municipal bonds as HQLA under banking liquidity rules.

In early 2018, municipal securities were classified as level 2B HQLA in 2155, the Economic Growth, Regulatory Relief, and Consumer Protection Act, which also is expected to pass the Senate soon.

SEC Fixed Income Market Structure Committee

In 2017, the BDA recommended four candidates (Craig Noble, Brad Wings, Horace Carter, Mike Marz) for the SEC's Fixed Income Market Structure Advisory Committee (FIMSAC). The BDA is pleased that Horace Carter (Raymond James) was selected for the committee, as were BDA members Amar Kuchinad, (Trumid Financial) and Richard McVey (MarketAxess). The BDA continues to monitor FIMSAC activities and will look for ways to actively engage the SEC on these topics.

Additional BDA Priorities 2018

PCAOB Exemption Legislation

The BDA is working with other industry participants and trade groups on potential legislation that would exempt privately-held, non-custodial brokers and dealers from the requirement to have a Public Company Accounting Oversight Board (PCAOB)- registered audit.

The PCAOB requirements do not make sense for privately-held, non-custodial firms. The one-size-fits-all PCAOB audit standards that were designed for public companies, and are priced accordingly, have inflicted substantial harm on small businesses around the country.

Currently, the BDA is waiting to see final bill text, and once the legislation is introduced, the BDA plans to actively advocate for it on Capitol Hill.

MSRB Seeks to Establish Rule for Municipal Advisors/Update Dealer Standards on Advertising

The BDA has been active in submitting comments in opposition to the MSRB's proposed new rule, MSRB Rule G-40, on advertising by municipal advisors, and amendments to MSRB Rule G-21, on advertising by municipal securities dealers.

Most recently, the BDA submitted comments in February 2018 to the SEC in response to the MSRB's proposed new rule. While the rule is not yet final, the BDA continues to be active in direct advocacy with the SEC prior to the implementation of new advertising standards.

Bank Qualified Debt

The BDA continues to support the reintroduction of the Municipal Bond Market Support Act or inclusion of this Act in an infrastructure package. Bank-qualified debt legislation would increase the annual volume limit for bank-qualified bonds from \$10 million to \$30 million and index for inflation. Past legislation has also allowed for the use of pooled financings and calculates the volume cap at the issuer, rather than issuance, level. The BDA has lobbied Congress extensively on the bank-

qualified issue during the past seven years and we will continue to do so in 2018.

FINRA Government Securities Initiative

In February 2018, FINRA issued a request for comment (Notice 18-05) on the application of various FINRA rules to government securities including U.S. Treasury securities and debt securities. The BDA believes that the application of FINRA rules to government securities will place undue compliance burdens and staffing challenges and opposes the proposal. The BDA is working with its various committees to draft comments in response to FINRA 18-05.

Debt Research

The BDA submitted comments to FINRA in mid-2017 concerning the proposed limited safe harbor from FINRA debt research rules for desk commentary. The letter outlined the belief that the best solution to help facilitate the timely flow of commentary to investment managers would be a clear interpretation of “research report” that demonstrates that the vast majority of desk commentary is not fundamental research. The BDA also asked that if and when FINRA proposes rule text for the safe harbor, it should provide clarity on desk commentary content. The BDA continues to monitor this proposed rule.

Update: Municipal Bonds for America coalition (MBFA)

In February 2017, 385 organizations and individuals signed an advocacy letter, representing nearly all-50 states, to House and Senate leaders urging them to retain the current law status of municipal bonds as they began deliberation on comprehensive tax reform. The MBFA Coalition was extremely active in its advocacy efforts to preserve all tax-exempt financing options for municipal bonds, including PABs and advance refundings, in the Tax Cuts and Jobs Act. In 2018, MBFA Executive Chair Steve Benjamin will become the president of the

U.S. Conference of Mayors, and will further advocate for the tax-exemption in this highly-visible position. The Coalition will continue to educate Congressional leaders and staff members through its Muni Bonds 101 seminars on Capitol Hill, meetings with staff members of influence at the White House, and developing and maintaining its relationship with members of Congress to preserve the tax-exempt status of municipal bonds.

Bond Dealers of America

March 15, 2018

[BDA Legislative Update: Senate Approves Financial Regulatory Reform Bill.](#)

After weeks of debate and discussion over 100 amendments, yesterday the Senate passed a financial reform bill by a vote of 67-31. *The Economic Growth, Regulatory Relief, and Consumer Protection Act* (S. 2155) makes bipartisan changes to the Dodd-Frank Act that will right-size post-crisis rules that were imposed on small and regional lenders after the global financial crisis.

Important to BDA members, S. 2155 includes a provision 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 rules. BDA has long supported “high-quality liquid asset” (HQLA) provisions like this one.

BDA will send a thank you letter to all the Senators thanking them for the HQLA provision

and passage of the bill.

The House passed its version of financial reform legislation, the *Financial CHOICE Act* (H.R. 10), last June. Both H.R.10 and S. 2155 have a variety of similar provisions, including a type of regulatory off-ramp, however S. 2155 does not roll back Dodd-Frank regulations to the same degree as the CHOICE Act. Because of these differences, it will be challenging for both the House and Senate to conference a bill together and the future of a financial regulatory bill getting signed into law is uncertain.

BDA will continue to keep you updated as financial regulatory reform proposals advance through Congress.

Bloomberg Brief Weekly Video - 03/15

Amanda Albright, a reporter for Bloomberg Briefs, talks with Joe Mysak about this week's municipal market news.

[Watch video.](#)

Bloomberg

March 15th, 2018

Fitch: Florida Ballot Measure to Limit Tax Increases Could Reduce Future Flexibility.

Fitch Ratings-New York-16 March 2018: A proposed amendment to the Florida Constitution that would raise legislative voting requirements to increase state taxes and fees could reduce the state's flexibility to address future economic volatility, says Fitch Ratings. The amendment, which has been approved by both the state Senate and House in joint resolution HJR 7001, would require future legislatures to reach a two-thirds vote to increase state taxes and fees. There is currently a simple majority requirement for such increases. The amendment would apply to broad based taxes such as the sales tax as well as to the various fees and charges by the state for services, including highway user fees and university tuition and fees. Voters will decide the question on Nov. 6, 2018, with a 60% vote necessary to amend the state constitution.

This amendment would not have an immediate impact on state credit quality (Florida's Issuer Default Rating [IDR] is AAA), although over time, the more stringent requirement for raising revenues could lead to erosion in the state's financial resilience. Fitch assesses the state's revenue framework at the 'aa' level, reflecting in part the economic sensitivity of its largest revenue source, the sales tax. Fitch expects Florida's revenues to grow on a real basis with continued economic expansion, but notes that revenues are likely to exhibit greater weakness during economic downturns. The rating also incorporates the virtually unlimited legal ability the state maintains to raise revenues, despite constitutional restrictions on levying a personal income tax or a state-wide property tax.

The addition of a super-majority requirement to raise taxes would not in and of itself imply a

weakened legal ability to raise taxes since the power to do so would remain within the legislature. However, the higher bar for raising taxes would make it more difficult to utilize one of the key tools that states have to manage financial operations during periods of economic and revenue weakness, potentially lowering the state's resiliency through the economic cycle. Fitch's expectations related to financial resilience through a moderate downturn is a key rating driver, one that has been a credit strength for Florida. While the state has typically first turned to expenditure reductions when faced with budget gaps, it did ultimately raise various fees during the Great Recession when other measures proved insufficient to maintain fiscal balance.

Other states have seen financial operations narrow and credit quality decline at least in part because super-majority voting requirements limited the practical use of revenue-raising as a budget balancing tool. For example, the state of Oklahoma, which has a 75% voting requirement, has struggled to close recent structural budget gaps, relying on deep spending cuts, one-time actions and reserve draws. While it is Fitch's expectation that Florida will continue to exhibit the strong financial management that is one of the underpinnings of its 'AAA' IDR, we will assess the extent to which obstacles to revenue raising affect longer term fiscal balance for the state and the various entities that rely on legislative control over revenues to support credit quality. This would include, for example, transportation infrastructure projects that are supported by gas taxes and tuition and fees charged by public universities. Any impact on fiscal operations would likely only become apparent over time, potentially as the state addresses a future downturn.

The language of the amendment indicates that the super-majority voting requirement would apply to new taxes and fees, as well as to raising existing taxes and fees, but only when there is a requirement for a vote of the legislature. Increases that are incorporated into existing legislation would not be subject to further vote. For example, emergency assessments that can be levied by the Florida Hurricane Catastrophe Fund and Florida Citizens Property Insurance Corp. are incorporated in existing legislation and would not require an additional vote. Further, the amendment specifically does not apply to any tax or fee imposed by a county, municipality, school board or special district.

Contact:

Karen Krop
Senior Director
+1-212-908-0661
Fitch Ratings, Inc.
33 Whitehall Street
New York, NY 10004

Michael Rinaldi
Senior Director
+1-212-908-0833

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

Additional information is available on www.fitchratings.com

[Fitch: West Virginia Employee Wage Dispute Highlights Fiscal Pressures.](#)

Fitch Ratings-New York-09 March 2018: Fitch Ratings believes the recent wage dispute in West

Virginia, which ended with approved salary increases for the state's teachers, service personnel and state employees, is further evidence of the fiscal pressures that underpin our Negative Outlook on the state's 'AA' Issuer Default Rating (IDR).

The state's financial challenges, which have increased with the need to fund the higher salaries, are likely to continue despite recent revenue improvement. The multi-year weakness in the state's key state revenue sources has reflected its struggle with a long-term decline in coal production and related economic turmoil, despite some improvement in fiscal 2018.

The salary increases provide for a fixed-dollar-amount, average 5% raise for all employees effective July 1, 2018. The increases have a \$100 million impact on the \$4.8 billion (General Revenue, Lottery and Excess Lottery) executive budget for fiscal 2019; \$80 million above the 1% average salary increase initially proposed by the governor. The state expects to adjust the governor's recommended budget and apply cash balances in its Medicaid program in fiscal 2019 to accommodate the increases. Fitch believes this additional cost may prove challenging to accommodate in future budgets given vacillating severance, income and sales taxes; prior use of reserves to fund operations; and the cuts the state has already made through a period of revenue weakness. As in most states, education and health and human services spending are the state's largest operating expenses, and the strong employee push for wage increases and health care plan improvement speak to the challenges of cost control efforts in these areas.

Revenues in fiscal 2018 are meeting expectations through February 2018, and the governor has identified an additional \$58 million in resources to fund the fiscal 2019 budget beyond what was incorporated into his budget proposal. The legislative budget that is currently moving through both the House and the Senate does not apply the additional forecast revenue to funding the fiscal 2019 budget.

Revenue growth is forecast in personal income and sales taxes as the state anticipates economic momentum from road construction projects, increased consumer spending related to federal tax cuts and stability in the energy sector. Given fiscal performance prior to 2018, Fitch remains cautious that the state will achieve these targets. Additional resources do not include any direct windfall revenue from the federal Tax Cuts and Jobs Act as the state subsequently decoupled its personal income tax exemption policies from those of the federal government, relinquishing \$140 million in estimated potential tax benefit in fiscal 2019.

The state's 'AA' IDR incorporates the state's economic concentration in natural resource development, strong ability to control revenue and spending policy, and commitment to addressing its liability profile. The rating is supported by a still sizable level of reserves at the state's disposal, and the governor's budget proposal does not appropriate from the rainy day fund for operations. The Negative Outlook reflects the risks associated with the state's cyclical natural resource markets, particularly the longer term decline in coal production, and Fitch's concern that the state will be challenged in providing a durable response to its long-term economic and financial challenges.

For more information on the state, see "Fitch Rates West Virginia's \$44MM School Building Bonds 'AA-'; Outlook Remains Negative" dated Sept. 7, 2017 and available at www.fitchratings.com.

Contact:

Marcy Block
Senior Director
Fitch Ratings, Inc.
+1-212-908-0239

33 Whitehall Street
New York, NY 10004

Karen Krop
Senior Director
+1-212-908-0661

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

Additional information is available on www.fitchratings.com

[Fitch Updates Criteria for US SHFA Single Family Mortgage Program Bond Ratings.](#)

Link to Fitch Ratings' Report(s): [U.S. State Housing Finance Agencies: Single-Family Mortgage Program Rating Criteria](#)

Fitch Ratings-New York-15 March 2018: Fitch Ratings has published an updated criteria report titled 'U.S. State Housing Finance Agencies: Single Family Mortgage Program Rating Criteria.' The report replaces the existing criteria of the same title published on June 28, 2017.

The changes to the criteria mainly relate to the reordering and clarification of key rating drivers and the incorporation of a flow chart to describe the credit review process. In addition, the criteria revisions provide clarity to the FHA-insured loan loss assumption.

No changes to the ratings of existing transactions are expected as a result of the application of the updated rating criteria.

Contact:

Mikiyon Alexander
Director
+1-646-582-4796
Fitch Ratings, Inc.
33 Whitehall Street
New York, NY 10004

Ronald McGovern
Senior Director
+1-212-908-0513

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

Additional information is available on www.fitchratings.com

America's Cities Are Exporting Bonds.

- **Foreign investors have increased holdings steadily since 2012**
- **It may provide lift for taxable debt, Citigroup's Rai says**

America's states and cities have hit on a popular export product: their bonds.

Foreign buyers have expanded their investments in U.S. municipal securities every quarter for more than five years as low — or even negative — interest rates prod European and Japanese investors to hunt for higher yields than can be found in their home countries. That continued during the last three months of 2017, when they boosted their holdings by a record \$4.5 billion to \$104.6 billion, according to Federal Reserve Board statistics.

The steady buying is a welcome development for the \$3.9 trillion municipal market, where demand from banks and some insurance companies may be curbed by the corporate tax cuts that took effect in January. This year, municipal bond prices have slid amid concern about rising interest rates, pushing up yields on top-rated 30-year debt by about half a percentage point to 3.12 percent, the highest in a year.

The overall impact from the overseas spending spree may be limited. Such buyers tend to focus on taxable bonds, which pay higher yields than traditional municipal securities. Tax-exempt municipals aren't as attractive, given that they have no use for the income-tax breaks typical state and local bonds provide.

"Foreign investor demand will drive the richening of taxable munis, but it provides no safety net for tax-exempts," said Vikram Rai, a municipal-bond analyst for Citigroup Inc., the second-biggest underwriter of the securities. "That's not where they choose to invest."

Bloomberg Markets

Amanda Albright

March 12, 2018, 10:04 AM PDT

— *With assistance by Zachary Hansen*

Michigan Reveals Post-Detroit Pension Woes.

- **Over 110 of the 490 reporting so far have underfunded plans**
- **Reports required by new state law aimed at bolstering pensions**

Five years after Detroit became the biggest U.S. city to go bankrupt, leading to cuts in the pension benefits of its retirees, Michigan is learning that the retirement promises made by dozens of other municipalities are far from secure.

Under a new state law, cities, towns and authorities were required this year to submit financial details on the status of their pension and health care plans. The results, so far, are grim: the Michigan Treasury Department found that over 110 — or more than one fifth — have underfunded pension or retiree health-care plans.

The figures underscore the financial pressures facing governments in Michigan, a labor union

stronghold that was hit hard by the loss of manufacturing jobs.

A pension was deemed underfunded if it had less than 60 percent of what's needed to cover the benefits that have been promised and the government's annual required contribution consumed more than 10 percent of its revenues. Collectively, the nearly 500 local governments that have reported so far had a \$6.4 billion shortfall in their pensions, the data show.

Flint, a financially distressed city known for cost-cutting decisions that left residents without access to safe drinking water, reported a \$345.7 million unfunded liability and said required payments totaled 20 percent of revenue. Highland Park, a Wayne County city, reported that the retirement benefits of its general employees were just 2.1 percent funded.

Those with pensions or health care plans identified as underfunded can apply for a waiver that shows the problem has been addressed, state Treasury spokesman Ron Leix said in an email. If the locality isn't given a waiver, it must complete a "corrective action plan" with ideas for addressing the debt. Those plans — which could include changes like reducing benefits granted in the future — will be reviewed by a newly-created state board.

Jordan Stanchina, city manager of Iron Mountain, Michigan, said it's hard to trace the pension shortfall to just one cause, but cited under-performing investments as a factor.

The city owes \$7.7 million to the Municipal Employees' Retirement System of Michigan, making its liability just 38 percent funded, according to the treasury department data. He said it is hard for the city to devote more revenue to pensions thanks to state restrictions on property tax hikes.

"There's not any excess funds to do anything with," he said.

Bloomberg

By Amanda Albright

March 14, 2018, 6:31 AM PDT

[Protons Beams Zap Cancer With Muni-Bonds as Market Strains.](#)

- **Bond sales for the new cancer centers swelled in 2017**
- **'Investors are going to be caught asleep at the wheel'**

Hospitals and health-care centers borrowed more in the municipal-bond market last year for cancer treatment facilities known as proton clinics than they did over the previous decade after private lenders balked following a string of financial failures brought about by the industry's aggressive expansion.

Local government agencies — which sometimes lend tax-exempt bond proceeds to businesses — issued \$418 million of debt last year for such clinics, up from the \$239 million in the prior 10 years, according to data compiled by Bloomberg. The surge is helping to bring new clinics on line, with 18 set to finish construction by 2021, according to the National Association for Proton Therapy. None of the bonds sold last year carried credit ratings, a step that borrowers take to avoid the potential stigma of being labeled junk.

The rapid expansion has concerned some analysts and health-care experts, who say the market for

such clinics is already near saturation and wider expansion of proton treatment overextends the clinical use of the technology. Debt sold by rural hospitals and other types of medical clinics are one of the biggest sources of defaults in the municipal market, a haven for individual investors seeking steady, tax-exempt returns.

[Continue reading.](#)

Bloomberg Markets

By Zachary Hansen

March 13, 2018

Connecticut Won't Default on Pension Bonds, Budget Director Says.

- **Treasurer warned governor's plan would cause technical default**
- **Governor's aide says he won't back plan that would affect debt**

Connecticut bondholders, rest easy.

Whatever plan Governor Dannel P. Malloy proposes to avoid skyrocketing payments to the state's teachers pension, it won't trigger a technical default on Connecticut's pension bonds, his budget director said in an interview.

"We're looking at a whole series of options right now, but none that we pick, unless they carry me out feet first, are going to involve the state defaulting or not honoring its bond covenants," said Benjamin Barnes, Secretary of the Office of Policy and Management.

Connecticut Treasurer Denise Nappier warned that Malloy's proposal to stretch out payments on the teachers' pension's unfunded liability beyond 2032 to sidestep a potential \$5 billion payment increase would trigger a technical default. Municipal Market Analytics, an independent research firm, said last week that such a breach would be a "clear credit negative" and investors should demand higher yields on Connecticut bonds to compensate for the risk.

A covenant in a \$2.1 billion pension bond issue from 2008 requires the state to appropriate the full annual contribution to the pension and amortize its unfunded liability through 2032, the year the bonds mature.

The governor's office has said the legislature can authorize the board overseeing the teachers' pension to change the assumed rate of return and extend the amortization period, meaning the state would continue to make full annual contributions, just over a longer period. But he's also considering alternative proposals.

"We would be better off with a longer amortization period and lower investment return assumption," Barnes said. "We would like to get there, if there's a way to do so, without defaulting on the covenant."

A series of proposals to shore up the teachers' pensions could be released as soon as Wednesday. "I'm certain bondholders won't be harmed by what we're proposing," Barnes said.

The governor, who is set to leave office in 2019 and isn't seeking re-election, is acting because

Connecticut's annual contribution to the teachers' pension is estimated to rise to \$6 billion in 2032 from \$1 billion in 2014 if investments return an annualized 5.5 percent, according to a Nov. 2015 study by the Center for Retirement Research at Boston College commissioned by the state. The teachers' pension had 10-year annualized returns of 5.3 percent as of June 30, 2016.

To make the required payments to the pension, Connecticut's governor has said residents would have to choose between deep cuts to local aid or large tax increases if investment returns didn't meet their benchmark.

Nappier argues that Malloy's "doomsday scenario" won't happen because it was calculated using "inconsistent and inflammatory assumptions."

Last year, the state extended the amortization period for the state employee pension to 2046. The deal, which also reduced the assumed return on the pensions' investments to 6.9 percent from 8 percent, avoided an increase of annual payments to the pension ranging from \$4 billion to \$6 billion annually. Connecticut's general fund budget is currently about \$19 billion.

The move reduced the risk that the pension would consume a growing share of the budget, Barnes said.

"We would like to do the same thing for the teachers' system," he said. "Nobody had done any of this work for 30 to 40 years before us. We're trying to finish this up and put these funds in good order during our tenure."

Bloomberg Markets

By Martin Z Braun

March 13, 2018, 10:50 AM PDT

[A Better Way to Revive America's Rust Belt.](#)

The government should spend money on research, not life support.

Harvard economists Benjamin Austin, Ed Glaeser and Larry Summers think the U.S. government should do more to help the country's struggling regions. It's a great idea, but their specific policies could use some work.

Many economists believe in focusing policies on people, rather than places — essentially, having the government help the poor and disadvantaged, but letting the market sort out where people live and where economic activity is concentrated. There are several arguments for this approach. First, even if aid is aimed at a struggling area, it might benefit some richer individuals — few people want to see their taxes being spent on millionaires, even if those millionaires live in Detroit.

Second, many worry that it's foolish to fight the vast, unstoppable forces of economic geography. Monkeying with the highly complex web of trade, clustering and specialization could prop up cities that have no business existing, causing continued struggle for the people living there, and costing taxpayers a bundle as well. According to this conventional wisdom, if a place is in decline, the best thing the government can do is help people move away. I myself have advocated pro-mobility policies. But those policies can also come with a big downside.

When huge numbers of people flee a region, the people who are left behind suffer. Neighborhoods dotted with empty houses become centers of drugs and crime. A dearth of taxpayers makes it impossible to pay for upkeep on roads, water pipes and other essential local infrastructure. Inadequate tax revenue also makes it hard to pay the pensions of city workers, police and firefighters, requiring painful municipal bankruptcies. Shopping centers without a critical mass of customers become wasting assets. Life in a declining region is not the best, but life in a half-depopulated declining region is far worse.

Thus, more economists are starting to think about place-based policies. The election of Donald Trump was a startling wake-up call: Even though identity issues were a bigger factor explaining why Michigan, Ohio, Pennsylvania and Wisconsin flipped to Trump in 2016, the long-term economic decline of the Rust Belt probably contributed substantially to an overall climate of discontent.

In a paper presented at the Brookings Institution this past weekend, Austin, Glaeser and Summers don't single out the Rust Belt. Instead, they identify the struggling region as the "eastern heartland," meaning non-coastal states admitted before 1840. The authors show that by a number of measures — employment rates, per capita GDP, mortality rates, and self-reported life satisfaction — the eastern heartland has done somewhat worse than either the coasts or the interior west over the last two to four decades.

This regional breakdown is too arbitrary and broad. There's no reason we need to think about the country in terms of three vast regions when focusing on declining places, when we can pick out specific cities and states that are struggling. But the general principle is correct — helping lagging regions is a good and important idea.

The next question, though, is what kind of help to provide. The authors discuss an array of ideas. One that they zero in on, unsurprisingly, is infrastructure investment. Another is the relocation of government offices from coastal enclaves to interior regions. They suggest an array of federal tax credits and wage subsidies for people living in distressed areas. And they call for the strengthening of community colleges to provide targeted training.

These are all ideas worth thinking about. With the exception of relocating government offices, however, most of these would impose large costs on the American taxpayer. This is true even of infrastructure — a road in an economically growing, thriving place will often pay for itself, but a road in a depopulated region with no one to drive on it is a white elephant project. As for tax credits and employment subsidies, these could end up keeping whole regions of the country on permanent fiscal life support.

Committing to long-term expenditures on economically unproductive regions can have dramatic fiscal consequences. Few nations know this better than Japan, where the central government in Tokyo has long pandered to outlying regions with lavish redistribution. Partly as a result, Japan now has the world's highest public debt, which forces it to keep interest rates permanently at zero.

Using direct fiscal lifelines to support struggling places should therefore be a last resort. Instead, governments should focus on trying to make these places as economically productive as possible.

The best approach is to spend more money on research at universities. Evidence shows that such spending boosts local economies. Top institutions like Carnegie Mellon in Pittsburgh are widely credited with industrial revivals in previously hard-hit Rust Belt areas. A flood of research dollars from the federal government, targeted at universities in struggling areas, has the potential to turn the region around. This should be matched with encouragement of immigration to declining areas, which will help shore up local tax bases and keep city services running.

There may come a time when some U.S. regions are doing so badly that they need to be kept on life support. But that time has not yet come. There is still a chance to make struggling American towns productive again.

By Noah Smith

March 13, 2018

Bloomberg View

Noah Smith is a Bloomberg View columnist. He was an assistant professor of finance at Stony Brook University, and he blogs at Noahpinion.

This column does not necessarily reflect the opinion of the editorial board or Bloomberg LP and its owners.

[The Week in Public Finance: 3 Things State and Local Governments Should Know About the Banking Deregulation Bill.](#)

The first major bipartisan banking bill since Dodd-Frank has some potential pluses and minuses for states and localities.

This week, the U.S. Senate passed the first major banking bill since the Dodd-Frank financial overhaul in 2010. If successful, it would roll back and loosen regulations on banking institutions prompted by the 2008 financial market meltdown.

The new bill is the result of a bipartisan effort. More than a dozen Democrats joined the Republicans to pass it. But passage in the House, where it heads next, is not guaranteed as Republican lawmakers there want an even bigger rollback of regulations.

The measure, supporters say, will provide regulatory relief for small banks. Meanwhile, critics argue that it benefits larger institutions more by loosening important consumer protection requirements for lending.

[Continue reading.](#)

GOVERNING.COM

BY LIZ FARMER | MARCH 16, 2018

[S&P U.S. And Canadian Not-For-Profit Transportation Infrastructure Enterprises: Methodologies And Assumptions.](#)

S&P Global Ratings is publishing its methodology for assigning ratings and related credit products to U.S. and Canadian not-for-profit airports, ports, toll facilities, or parking systems (transportation infrastructure enterprises, enterprises, or entities), and for debt secured by specific revenue streams tied to special facility projects or by demand tied to transportation infrastructure.

[Continue Reading](#)

Mar. 12, 2018

Kansas Lawmakers Giving STAR Bonds, Economic Incentives, A Hard Look.

Kansas lawmakers, increasingly skeptical that tax breaks deliver economic wins, looked closely this week at economic incentive programs.

Senators on the Commerce Committee spent several days discussing bills that would add new requirements to sales tax revenue bonds, known as STAR bonds.

STAR bonds allow local governments to borrow money for a building project, and tax collections created by the development are diverted to pay off the loans.

The Topeka Capital-Journal reported last year that more than \$500 million in tax revenue had been used to pay back the bonds since 2001.

One bill would create a panel to study the proposals, including the state's return on the investment, before approving the projects.

The secretary of commerce currently approves STAR bonds. Republican Sen. Julia Lynn, who heads the Senate Commerce Committee, wants more oversight.

"To make a decision on whether to use millions of dollars in taxpayer funds to go to a development project," Lynn said, "there's just nothing in place."

Another bill before senators would restrict the types of projects eligible for STAR bonds. It would allow tourist attractions but put new restrictions on retail developments. Some lawmakers have said shopping centers should be financed by private developers, not state incentives.

Olathe City Manager Michael Wilkes urged lawmakers not to block retail developments.

"From a practical application, (that) really kills your project," he said. "Those kind of things are the only things that generate enough revenue that really make the project worthwhile."

He said large stores such as Cabela's or Nebraska Furniture Mart in Wyandotte County can be critical to an overall development package that works.

Johnson County resident Clint Anderson is a financial advisor with experience in commercial banking and real estate. He told senators that he's opposed to projects, including a soccer stadium and training facility in Kansas City, Kansas, being subsidized with public bonds.

He said there's no shortage of private funding available.

"If there's a good idea that's operationally and economically feasible, there's capital for it," Anderson said. "It shouldn't be paid for by the taxpayers."

Trey Cocking, deputy director of the Kansas League of Municipalities, said that won't always be the case. He used the example of a project being developed in Atchison that would include an aviation museum and updates to the city farmer's market.

"These aren't projects that the private market's going to do, because there are public components to these projects," he said. "There are public goods to these projects."

Amanda Stanley, general counsel for the municipal league, said it's easy to look back at successful STAR bond projects and assume they would have attracted private investment. But she said that's not a guarantee.

"At what point would it have developed? How long is the state willing to wait?" she asked. "There are sometimes projects that just need that push start."

House members also dove into the issue of state tax incentives, advancing a bill Thursday that would make more information publicly available on local and state incentives, including STAR bonds.

It would require state officials to compile and publish information about tax incentives and whether each of the incentive programs is producing a positive return on investment.

Democratic Rep. John Carmichael said the bill will help lawmakers next session as they evaluate whether incentive programs need to be modified.

"We need to know how much these tax benefits are costing the state of Kansas," he said. "Our constituents not only need to know it, they want to know it."

KCUR.ORG

By STEPHEN KORANDA • MAR 8, 2018

Stephen Koranda is Statehouse reporter for Kansas Public Radio, a partner in the Kansas News Service. Follow him on Twitter @kprkoranda. Kansas News Service stories and photos may be republished at no cost with proper attribution and a link back to the original post.

[In the Land of OZ \(Opportunity Zones\) Who Will Benefit?](#)

Proposed Guiding Principles for Opportunity Zones to Fuel an Inclusive Economy and Drive Social Impact

What if economic tax incentives designed to improve the place you call home don't consider your needs? What if tax benefits, instead, focus on high-end projects that don't require a federal tax subsidy to be successful, creating a new economic reality that feels far from the home you know. Opportunity Zones are a brand-new mechanism established by Congress, designed to drive private capital into distressed areas through deferred taxes on capital gains in the United States. How can these Zones and the Opportunity Funds which will invest in them be carefully constructed with the people who are living in underserved communities at the heart of decisions?

Place based strategies are commonly employed by community development practitioners and policymakers to achieve social impact. Opportunity Zones have the potential to enhance and bolster existing place based strategies that currently benefit low-income communities, including Promise Zones, New Markets Tax Credits and Choice Neighborhoods. Opportunity Zones also have the potential to do harm, as Ada Looney contends in his recent Brookings post. And Opportunity Zones, as emphasized in the recent article by Rachel M. Cohen in the Intercept, can sometimes have unintended consequences.

Consistent with our belief that economic policies should be implemented in a way that considers and serves the people in the communities affected, the Beeck Center for Social Impact at Georgetown University, in partnership with the Kresge Foundation, convened an expert group of community development practitioners to explore how Opportunity Zones can drive capital to communities in a way that truly benefits the individuals and families that currently live and work there. We asked ourselves a simple question: How can Opportunity Zones be used as a tool for community development and not solely a tool for financial gains.

In response to this question, we drafted proposed guiding principles for the designation of Opportunity Zones. The principles are intended to serve as a starting place to help guide the designation process and, ultimately, the creation of Opportunity Funds that can best serve the people currently living and working in these areas, which by definition in the statute, must be low-income census tracts. The following principles are presented as a straw-person for discussion. These principles are not meant to be prescriptive; but rather to engage conversation and embrace the opportunity for social impact. We invite feedback by sending an e-mail to me at lisa.hall@georgetown.edu. Comments will be collected and shared with the working group.

Proposed Guiding Principles for Opportunity Zones to Fuel an Inclusive Economy and Drive Social Impact

1. Recognizing that Opportunity Zones will deliver publicly funded tax incentives and subsidy to communities across the US, the state selection process should include as a key objective, the goal of delivering public benefit to a range of stakeholders, not limited solely to private investors, but also benefitting current residents of low-income communities, community development organizations, community service organizations, and social enterprises.
2. Where possible, Opportunity Zones, should be selected in combination with state tax incentives and allocations by states for other government programs that directly benefit low-income households and communities, such as the Low-Income Housing Tax Credits and New Market Tax Credits. Benefits generated in Opportunity Zones should be additive to existing efforts and not cannibalize existing or prospective community development investments like those motivated by the Community Reinvestment Act.
3. Impact objectives for Opportunity Zones should be established and tracked, including but not limited to goals for raising the standard of living for current residents. Examples include output goals like number of new businesses created, living wage jobs created and affordable housing units. Outcome goals, like increased median household income and improvement in health statistics should also be considered.
4. States should adopt methodologies for selecting Opportunity Zones that are consistent with effective evaluation standards and best practices for research design to facilitate ongoing monitoring of zones, leveraging evaluation resources available from academic institutions.
5. The selection process for Opportunity Zones should consider the capacity of neighborhoods to absorb private capital and existing infrastructure needed to enable investments in businesses as well as real estate. States should seek to integrate investments generated by the tax benefit to complement and leverage existing and prospective economic activities in designated Opportunity Zones.
6. Opportunity Zones should be selected with consideration given to environmental issues. States should encourage or mandate that businesses located in Opportunity Zones adhere to environmental best practices.

7. Efforts should be made to ensure that current residents of Opportunity Zones are able to remain in neighborhoods or can benefit from rising property values. Examples include state and local tax abatements for low-income homeowners.
8. A balance of rural and urban neighborhoods should be selected to diversify investment activity and to ensure that rural areas are eligible for investment. Opportunity Zones should be selected in a geographically targeted manner so there can be a sufficient investment of resources in each Opportunity Zones.
9. States should identify and support community development intermediaries, like CDFIs and community banks, that can provide debt financing to support businesses and real estate that will benefit from equity investments from Opportunity Funds.
10. In addition to prohibited business activities like gambling and liquor stores, states should discourage the creation of new businesses in Opportunity Zones which disadvantage low-income communities like payday lenders.

Speed is of the essence to put these principles into practice. Several groups including the Economic Innovation Group and The US Impact Investing Alliance have been advocating for and helping to craft what was originally known as the Investing in Opportunity Act. And many in the community development field and impact investing world have embraced the concept of Opportunity Zones and Opportunity Funds, successfully incorporated with bi-partisan support into the Tax Cuts and Job Acts passed at the end of 2017. State governments and territories have also embraced the new legislation and are already selecting Opportunity Zones, to comply with the legislative requirement that Governors designate low-income census tracts prior to a March 21, 2018 deadline. Some states have hit the ground running, launching websites to solicit input and comments on the designation process. Local and national non profit organizations including Enterprise Community Partners, Council on Development Finance Agencies, and LISC are supporting efforts to raise awareness about the program, providing resources and analysis of the legislation, and by engaging community development organizations in the state by state designation processes.

We believe this new tax benefit creates an opportunity to improve low-income communities in underserved rural and urban areas by attracting more private capital to finance small businesses, community services and social enterprises. But, if Opportunity Zones and Opportunity Funds are designed in ways that solely benefit activities and projects that do not need subsidy to succeed, including high end, real estate based projects, then the legislation will not meet its potential for delivering meaningful impact. Opportunity Zones can and should create living wage jobs, improve community assets, and help build wealth for people in places that have not yet recovered from the global recession.

BeeckCenter

March 13, 2018 | By Lisa Hall, Senior Fellow

Lisa Hall is a Senior Fellow at the Beeck Center for Social Impact + Innovation at Georgetown University, which engages global leaders to drive social change at scale. She has dedicated her 25-year career to economic and social justice, impact investing and community development. Lisa has served in executive roles across multiple sectors in the United States and abroad, including time as CEO at Calvert Impact Capital and Managing Director at Anthos Asset Management. Her area of focus at the Beeck Center is the inclusive economy, exploring how social innovation and access to opportunity can drive prosperity for all communities. She is active on Twitter @lisagreenhall

S&P: New GASB Statements 74 And 75 Provide Transparency For Assessing Budgetary Stress On U.S. State & Local Government OPEBs.

In June 2015, the Governmental Accounting Standards Board (GASB) adopted Statement No. 74 (GASB 74), related to financial reporting for postemployment benefit plans with irrevocable trusts (other than pension plans), and Statement No. 75 (GASB 75), related to accounting and financial reporting for postemployment benefits.

[Continue Reading](#)

Mar. 14, 2018

Insights: How Steel and Aluminum Tariffs Might Impact State Economies; More Negative News on Infrastructure.

How Steel and Aluminum Tariffs Might Impact State Economies

The Brookings Institution [released some very interesting state-specific details](#) on the potential impact of steel and aluminum tariffs. Here is some of what they had to say.

When measured by total volume, the nation's largest states dominate steel and aluminum imports — Texas, California, Illinois, Michigan, Louisiana, Pennsylvania, Ohio, and New York all import more than \$2 billion annually in steel and aluminum products, together accounting for 60% of the nation's total.

Louisiana presents a particularly notable example. Oil and gas drillers, and petrochemical producers in that state, rely on imported steel and aluminum to support their operations. The Port of New Orleans imported 2.48 million tons of steel in 2017, accounting for 30% of its tonnage. Maryland's imports are also disproportionately weighted toward aluminum and steel. As the Baltimore Sun reported, Maryland manufacturers of steel products are concerned that they will be put at a disadvantage, both due to higher input costs and by potentially limiting their access to important export markets should retaliatory measures be put in place.

[Continue reading.](#)

Posted 03/16/2018 by Joseph Krist

Neighboring Insights

Insights is brought to you by Court Street Group.

Philadelphia Schools Deal Tops \$3.1 bln U.S. Muni Bond Sales Next Week.

NEW YORK, March 16 (Reuters) - The Philadelphia School District plans to price \$251.8 million of tax-exempt general obligation bonds on Thursday, the first time the fiscally strained district in Pennsylvania will issue debt since a decision to return it to mayoral control.

The deal is the largest negotiated offering of the \$3.1 billion of U.S. municipal bond and note sales planned for next week.

The state-formed oversight commission that ran the district for the past 16 years began dissolving at the end of last year. Mayor Jim Kenney is selecting a nine-member school board to be in place by July 1.

Financially, the shift could benefit the district but hurt the city. Moody's Investors Service said in December that its negative outlook on the city, rated A2, in part reflects possible challenges in fiscal 2019 in funding the district.

Moody's assigned to the district's forthcoming bonds an underlying rating of Ba2 with a positive outlook and an enhanced rating of A2 with a stable outlook.

Kenney's recent city budget proposals would allocate permanent tax increases to schools, Moody's noted. A Pennsylvania intercept program that funnels state aid to bondholders if the district cannot meet debt service payments lifted the enhanced rating.

Proceeds of the sale will fund capital projects, with the district returning to invest in classrooms "after years of austerity operations," Moody's said.

For the past few years, the district has been trying to stem its fiscal crisis, leading to protests by teachers who were tired of seeing their schools shuttered, colleagues laid off and supplies cut.

But the district has also secured at least \$58 million from the state annually from a cigarette tax that was made permanent and \$2 million of new revenues from ridesharing fees, according to a presentation for prospective bondholders.

It has also refunded more than \$1 billion of high-interest debt to save \$100 million over the next 20 years, leading to Moody's upgrade by one notch to Ba2 in September.

The bonds have serial maturities through 2038 and term bonds due 2043. The lead manager is Bank of America Merrill Lynch.

Next week's largest muni deals are both competitive. Maryland's Anne Arundel County is expected to sell \$263.7 million of bonds for general improvements and water and sewer projects, and the city and county of San Francisco, California will price \$251.3 million of debt for parks and road projects.

(Reporting by Hilary Russ in New York; Editing by Richard Chang)

[Long-Awaited Decision Sets New Jersey Methodology for Municipal Affordable Housing Obligations.](#)

On March 8, Judge Mary Jacobson issued her long-awaited affordable housing decision in Mercer County on the methodology for calculating statewide and municipal affordable housing obligations. The decision also set the numbers for the Mercer County towns that did not settle their litigation, Princeton and West Windsor (Municipalities). The 217-page decision meticulously went through the various (approximately two dozen) components of calculating affordable housing need and the expert testimony on each component on behalf of the Municipalities, Fair Share Housing Center (FSHC), the New Jersey Builders Association (NJBA) and the court-appointed special master,

Richard Reading. In general, the decision is a positive result for developers that are intervenor-defendants or interested parties in other affordable housing litigation throughout the state. However, it will take some time to analyze this decision and its application to other towns in calculating municipal affordable housing obligations.

If nothing else, the decision is positive, as it should shake loose the affordable housing litigation in other counties that have stalled while towns, special masters and the courts waited for the Mercer County decision. With respect to the substance of the decision, the court determined that the overall statewide affordable housing need is 159,630 units. That is more than double the number the Municipalities projected (63,070 units) and about half of what FSHC projected (339,673 units). The court's statewide need projection is also higher than the approximately 115,000 units projected by Reading, the special master. As anticipated on this polarizing issue, neither side "won," and the court found a happy medium. As for Princeton and West Windsor, the court determined their new-construction affordable housing obligation to be 753 units and 1,500 units, respectively. This includes the obligation from the "gap period" (1999 to 2015) and prospective need obligation. Though not referenced in the decision, the below chart compares the court's municipal projection with the projections made by the Municipalities and FSHC in prior reports submitted to the court.

[Continue reading.](#)

by Craig M. Gianetti

March 13, 2018

Day Pitney, LLP

[New Jersey in Trouble: Is Phil Murphy Their Savior.](#)

Whether it was political scandals like 'Bridgegate' under Gov. Chris Christie or the near financial insolvency of Atlantic City due to sharp decline in revenues, New Jersey has had its fair share of financial and political turmoil in recent years.

The newly elected Democratic 56th Governor of New Jersey, Phil Murphy, has had a long career with Goldman Sachs before bringing himself into government and eventually running for governor. During his campaign, Mr. Murphy had made some great promises to the citizens of New Jersey to fix the balance sheet and take the financial strain off with newly revived revenues by introducing new income tax measures for the wealthiest. Retrospectively, under the previous administration of Chris Christie, the state faced over ten credit downgrades, and pension costs have been at higher than normal levels. It is projected that in the next five years the state's pension liabilities will almost double.

In this article, we will take a closer look at the state of New Jersey's financial picture and whether Phil Murphy's guidance and policies will help create a brighter financial outlook for the state.

[Continue reading.](#)

by Jayden Sangha

Mar 15, 2018

Commentary: How Pension Costs Clobbered One Small California City.

When Santa Cruz, a picturesque and funky coastal city, first started to feel the pinch of rising retirement costs for city workers, it took several steps to limit the fiscal pain.

As recommended by the League of Cities and other authorities, Santa Cruz issued a bond to pay down its rising pension liabilities, set aside funds to cover increasing demands from the California Public Employees Retirement System (CalPERS), shifted some employees into lower-benefit pension plans and made sure that its workers paid significant portions of pension costs.

Nevertheless, the impact on the small city's budget continued to grow, leading City Manager Martin Bernal to tell the city council in his 2016 budget message that "our biggest challenge is the skyrocketing increases in health and retirement costs. These costs have gone from 28 percent of general fund salary in 2004 to 43 percent of salary in 2015, to an anticipated 58 percent of salary in 2020."

With operating costs, particularly for pensions, continuing to outpace revenues, even during a generally upbeat economy, city officials projected budget deficits growing to more than \$20 million a year by 2021.

Santa Cruz is not alone. Throughout California, city governments are facing budget shortfalls as CalPERS cranks up mandatory contributions in a somewhat desperate effort to make the gigantic trust fund healthy enough to cover pension promises to millions of state and local government workers.

It has only about 70 percent of the money it says is needed to cover pension obligations - and that assumes that its investments will return profits that many experts believe are unrealistic. CalPERS lost about \$100 billion during the Great Recession a decade ago and has not fully recovered, while payouts to retirees grow due to demographic factors.

City officials have repeatedly appeared before the CalPERS board to seek relief, contending that some cities will be driven to insolvency. But for the most part, CalPERS officials have taken the attitude that making the fund actuarially healthy is their highest priority.

In February, the Santa Cruz City Council unanimously declared a fiscal emergency, preparatory to placing a quarter-cent sales tax increase on the June ballot.

Santa Cruz isn't alone on that approach either. Throughout California, cities have taken, or are planning, sales tax increases.

However, cities rarely cite pension costs as the specific reason for the tax increases, because doing so might generate more opposition. Typically, they just say the money is needed for "police and fire services," which is a half-truth since police and fire pensions are the biggest drivers of rising retirement costs.

Also, a general sales tax increase ballot measure requires only a simple majority vote, while one dedicated to a specific purpose, such as pension costs, would require a two-thirds vote.

"We're in a brave new world of public finance and our community values its municipal services and we do want to be able to fulfill those expectations," Santa Cruz Councilwoman Cynthia Mathews said as the state of fiscal emergency was declared.

Whether those expectations can, in fact, be fulfilled is questionable even if Santa Cruz's voters endorse the sales tax hike.

The \$3 million a year it would generate is just a fraction of the extra \$9-11 million that the city calculates it's paying to cover CalPERS shortfalls and even a smaller slice of the \$20 million annual deficit city officials are projecting.

California's municipal finance crisis is likely to get worse before it gets better – if it ever does.

calmatters.org

By Dan Walters | March 18, 2018

TAX - NEVADA

[Pawlik v. Shyang-Fenn Deng](#)

Supreme Court of Nevada - March 1, 2018 - P.3d - 2018 WL 1121396

Certificate of sale holder brought quiet title action and petition for writ of mandamus. The Eighth Judicial District Court dismissed certificate of sale holder's actions, and he appealed.

The Supreme Court of Nevada held that:

- The 60-day notice and redemption period outlined in statute governing redemption of property sold for default on city tax assessments, under which certificate of sale holder was required to provide notice of intent to demand a deed for the property, ran concurrent to the end of the initial 24 month redemption period, and
- Statute contained mandatory provisions that required strict compliance.

[How Santa Cruz is Going Under, Like Many California Cities.](#)

In February, the Santa Cruz City Council unanimously declared a fiscal emergency, preparatory to placing a quarter-cent sales tax increase on the June ballot.

When Santa Cruz, a picturesque and funky coastal city, first started to feel the pinch of rising retirement costs for city workers, it took several steps to limit the fiscal pain.

As recommended by the League of Cities and other authorities, Santa Cruz issued a bond to pay down its rising pension liabilities, set aside funds to cover increasing demands from the California Public Employees Retirement System (CalPERS), shifted some employees into lower-benefit pension plans and made sure that its workers paid significant portions of pension costs.

Nevertheless, the impact on the small city's budget continued to grow, leading City Manager Martin Bernal to tell the city council in his 2016 budget message that "our biggest challenge is the skyrocketing increases in health and retirement costs. These costs have gone from 28 percent of

general fund salary in 2004 to 43 percent of salary in 2015, to an anticipated 58 percent of salary in 2020.”

[Continue reading.](#)

Solicitor General Asserts that States Can Require Online Vendors to Collect and Remit Sales/Use Tax on Online Retail Sales.

In January, the Supreme Court granted a writ of certiorari in the case of *South Dakota v. Wayfair* (discussed [here](#)). *Wayfair*, which will be argued before the Court on April 17, is a direct challenge to *Quill Corp. v. North Dakota*, in which the Supreme Court held that a vendor does not have to collect and remit the sales/use tax owed on sales made to customers who reside in a given state unless the vendor has a physical presence in that state (we have discussed this issue [here](#) and [here](#)).

[Continue Reading](#)

By Joel Swearingen on March 19, 2018

Squire Patton Boggs

Compliance Workshop on MSRB Rule G-17: Making Disclosures to Issuers.

June 22, 2018

12:30 PM - 1:30 PM ET

As the third of a series of free virtual compliance workshops, MSRB staff will conduct an in-depth discussion about key provisions of [MSRB Rule G-17](#) on Conduct of Municipal Securities and Municipal Advisory Activities related to making disclosures to issuers. This workshop will follow a question-and-answer format based on questions and suggestions from regulated entities and other stakeholders.

[Register](#)

MSRB Chicago Town Hall.

May 17, 2018

4:00 PM - 6:00 PM CT

Join the MSRB, in coordination with Municipal Bond Club of Chicago, for a Town Hall meeting in Chicago, IL. The Town Hall meeting will provide municipal market stakeholders the opportunity to discuss municipal market self-regulation, the MSRB's compliance support initiative and the future of the MSRB. The Town Hall meeting is intended to support the municipal market community by creating a forum to communicate regulatory concerns and capture ideas to inform the MSRB's future activity. The event will be exclusively in-person.

[View the agenda.](#)

[Register](#)

Compliance Workshop on MSRB Rule G-44: Small Firm Municipal Advisor Supervision.

May 24, 2018
3:00 PM - 4:00 PM ET

During this free webinar, staff from the MSRB and the Securities and Exchange Commission (SEC) will discuss considerations for small municipal advisors in tailoring supervisory procedures based on the nature and scope of the firm's municipal advisory activities, and methods of documenting that supervisory controls were implemented and enforced consistent with the regulatory obligations under [MSRB Rule G-44](#). SEC staff will highlight some of their observations from municipal advisor examinations.

[Register.](#)

Blockchain Basics for Government Finance and Audit Professionals: Webinar

Start Date: 4/12/2018 2:00 PM EST
End Date: 4/12/2018 3:50 PM EST

Organization Name: NASACT

Contact:

Pat Hackney

Email: phackney@nasact.org

Phone: (859) 276-1147

OVERVIEW

While many government leaders are actively involved with blockchain prototypes, live pilots, and active use case development, there is still a limited view of what it comprises and how it will impact state organizations. Blockchain's influence in the public sector will evolve over the next several years, but the technology has the potential to bring efficiency and speed to a wide range of services and processes.

By joining this webinar, government finance and audit professionals can gain insights into blockchain dynamics, hear examples of how organizations are using the technology, and understand the potential for ROI around new revenue streams and cost savings.

By reducing dependence on existing intermediary institutions and their accompanying layers and costs, blockchain can potentially eliminate significant resource burdens. And by accelerating transactions and simultaneously lowering their costs, blockchain can help to eliminate layers of redundancy, ease regulatory compliance burdens, introduce recordkeeping efficiency, and generally

smooth government operations across a number of areas.

Join us to learn blockchain fundamentals and how this technology may impact your role and organization.

Click [HERE](#) for full webinar details.

[REGISTER](#)

Murphy's Promises Meet Budget Reality as New Jersey Pension Hole Looms.

- **Democratic lawmakers who would be allies stick to own script**
- **Eagerness to undo Christie agenda, and little money to do so**

Governor Phil Murphy's campaign pledges are about to collide with New Jersey politics, Wall Street skeptics and a massive budget deficit.

Since his term started in January, Murphy has pleased his progressive base with moves on women's wages, health care, climate change, immigration and offshore drilling. On tough fiscal matters, though, he and fellow Democrats who control the legislature — all eager to undo Republican Chris Christie's policies — are following their own agendas.

Murphy's first state spending plan, which he'll introduce Tuesday, will include a millionaire's tax to help generate \$1.3 billion for New Jersey's underfunded schools, transportation and pension systems. That initiative lacks support from Senate President Stephen Sweeney, who says residents are being penalized enough by President Donald Trump's U.S. tax changes, which limit deductions for individuals' state and local taxes.

[Continue reading.](#)

by Elise Young and Michelle Kaske

March 12, 2018

Bloomberg Politics

S&P: Pension Assumption Delay Makes Near-Term New Jersey Budgets More Manageable, But Doesn't Address Long-Term Pension Issue.

NEW YORK (S&P Global Ratings) March 5, 2018—S&P Global Ratings today said that it believes a delay in implementing changes to pension return assumptions, recently announced by New Jersey's acting treasurer, should allow the state more near-term budget flexibility, but does not address the state's long-term pension problems.

[Continue Reading](#)

CIB - Market Risk Coverage - Public Finance - Assoc - NY Job In New York

JPMorgan Chase & Co. (NYSE: JPM) is a leading global financial services firm with assets of \$2.4 trillion and operations worldwide. The Firm is a leader in investment banking, financial services for consumers and small businesses, commercial banking, financial transaction processing, asset management and private equity. A component of the Dow Jones Industrial Average, JPMorgan Chase & Co. serves millions of consumers in the United States and many of the world's most prominent corporate, institutional and government clients under its J.P. Morgan and Chase brands.
www.jpmorganchase.com .

Group Description

CIB Market Risk Management is an independent risk group, reporting to the firm's Chief Risk Officer (CRO), which identifies, measures, monitors and controls market risk. The group forms the key interface for discussing risk issues with the trading desks but retains independent reporting lines through the Risk management chain.

CIB Market Risk performs the following primary functions:

- Independent ongoing identification, monitoring and control of business unit market risk
- Performance of stress testing and qualitative risk assessments
- Analysis of aggregated risks and tail risk exposure
- Facilitation of efficient risk-return decisions
- Regular dialogue with the trading businesses with respect to risk appetite, risk limits and individual large and complex transactions.

Job Description

CIB Risk is seeking a Senior Associate level professional for the CIB Market Risk Public Finance Coverage team, based in New York. The role will be a part of a trading floor based team covering the Public Finance Municipal business which includes Syndicate, Long Term and Short Term Trading desks.

Responsibilities include:

- Act as a key point person for the analysis and integrity of the risk sensitivities that measure the risks taken by the trading desks.
- Liaise with the groups that produce the sensitivities including Risk Reporting, Product Control, and Operations, as necessary.
- Attend meetings with other groups involved with markets to include Research, Finance, and the Trading Desk heads
- Communicate effectively with Senior Management regarding the risk appetite of the Trading Desk Heads
- Escalate concerns when deemed necessary based on independent judgment and/or market scenarios
- Assess the appropriateness of business risk and reward profiles and working with the desk on new large or complex transactions
- Provide in depth analyses for trade approvals, deep dives, and objective assessment on risk appetite
- Understand and lead improvements in VAR and Stress Testing methodologies on the positions taken by the Municipal Trading desks

- Assist in the development of new tools or projects to enhance our risk management capabilities
- Coordinate and prioritize deliverables relating to VaR & Stress enhancements with colleagues in VaR methodology, quantitative research, model review, Risk and technology
- Work with technologists in the business and Risk around strategic and tactical initiatives

A successful candidate will combine strong project management and excellent communication skills, with an understanding of the Municipal markets, risks and technology infrastructure to improve controls, efficiency and consistency across the business.

Qualifications:

Skills/Qualifications

- Market Risk or other risk management experience preferred.
- Knowledge of Municipal products and interest rate markets required. Experience with Credit products a plus.
- Understand Public Finance related headlines and regulatory rules as they are released and ability to synthesize key takeaways for Market Risk.
- Strong project management skills, ability to gain consensus among staff and drive initiatives to completion effectively absolutely critical.
- Ability to multi-task, work well under pressure with commitment to deliver under tight deadlines.
- Ability to work independently, as well as coordinate across a global team.
- Strong analytical & quantitative skills are required.
- Clear oral and written communication in English is required.
- Proficiency in Excel is required. Knowledge of VBA is preferred.
- Experience working with MaRRS, WOPR, Kapital and/or Athena a plus.
- Bachelor's degree required. Advanced degree a plus.

[Apply.](#)

Berkeley To Use Blockchain For Tokenized Bonds.

The City of Berkeley, California will be the first U.S. city to explore blockchain-based financing to tackle social issues such as affordable housing. Mayor Jesse Arreguin and Councilmember Ben Bartlett are collaborating with the UC Berkeley Blockchain Lab and San Francisco-based financial startup Neighborly for the Berkeley Blockchain Initiative ("BBI") to develop a tokenized municipal bond. According to Forbes, Berkeley had a similar idea twenty years ago with a local currency called "Berkeley Bucks." This time, Neighborly explains, "[t]he initiative will explore how to harness the power of blockchain and cryptocurrencies to democratize access to public finance and improve social outcomes." [1]

Termed an "initial community offering" rather than an initial coin offering ("ICO"), municipal bonds will be divided into micro-bonds and sold as a token as a new source of capital that will enable more Berkeley residents to invest directly in their community through various projects at low denominations. According to Coindesk, Councilmember Bartlett claims the offering will be less risky than an ICO because the tokens will be backed by an underlying bond. Residents will be able to choose specific social impact projects of interest compared to the traditional nature of a single bond that may be raising funds for multiple municipal projects. Councilmember Bartlett believes "[b]lockchain's benefits, such as security, efficiency, transparency and speed, are not only applicable, but much needed at the government level to deliver better and more streamlined

services to the people who need it most.”

Details on what this new token will be named and whether it will be issued on a private or public blockchain are up in the air, but the plan is to keep the initiative local to Berkeley. Issuing tokenized micro-bonds through blockchain will fund smaller ventures like purchasing an ambulance at first, but the City of Berkeley envisions the model will eventually fund affordable housing projects and could potentially give the homeless population access to other goods and services in the future.

This project may be a signal that tokenized public finance models could become mainstream in the near future. Local investors may like the flexibility that these municipal tokens allow in investing in smaller investments in specific projects the investors support. Bonds issued by states, cities, and municipalities are exempt from the registration requirements and certain of the reporting requirements under the federal securities laws. Nevertheless, these products are subject to the Securities and Exchange Commission’s (“SEC”) antifraud rules and therefore it is important that issuers make appropriate risk disclosures with respect to the crypto market and nature of the tokens to investors.

Issuers also should carefully weigh the risk of special treatment by the SEC. The agency may more carefully scrutinize bonds issued as crypto tokens out of concern that the issuer chose to issue crypto token bonds rather than traditional bonds to garner attention or to capitalize on the euphoria associated with crypto investments. This offering will test the waters for new security token issuances amid an environment where the SEC is scrutinizing a broad swath of so-called “utility” tokens for being unregistered securities.

[1] The statement can be found at neighborly.com/.

Last Updated: March 15 2018

Article by Herbert F. Kozlov, Kari S. Larsen, Michael Selig and Kelley Chittenden

Reed Smith

[Berkeley Is Turning to the Blockchain for City Funding.](#)

In an effort to reduce their reliance on federal and state funding, the City of Berkeley is turning to a surprising source: cryptocurrency. The idea is to leverage the blockchain — the technology that makes bitcoin and other cryptocurrencies possible — to spur private, crowdfunded investment in affordable housing and other local projects.

Led by Berkeley Mayor Jesse Arreguin and City Councilmember Ben Bartlett, the city is partnering with University of California Berkeley’s Blockchain Lab and finance technology company Neighborly to create an initial coin offering. The offering will allow individuals to buy Berkeley’s cryptocurrency to fund city-issued municipal bonds. The money raised will pay for things such as affordable housing, homeless shelters, ambulances, street trees, even a community theater. Coin owners will potentially be able to spend the cryptocurrency at some Berkeley businesses. As with any municipal bond, investors who get in on the offering will earn a small return on their investment over time as the city pays them back with interest.

The idea grew out of concern over the impact corporate tax cuts (not to mention threats to cut funding to sanctuary cities) would have on their ability to address their affordable housing and homelessness crises. With lower corporate tax rates, corporations have less incentive to buy low income housing tax credits, a key source of affordable housing funding. In addition, big banks raised interest rates on loans to local governments in the wake of the tax cuts.

"We have over a thousand homeless people in Berkeley and expect that to grow by a factor of five," says Bartlett. "We knew we needed to find a way to fund these things. This need is going to grow and it's already a disaster that's affecting our moral and physical integrity as a city."

Beyond that, Bartlett says conventional municipal bonds are expensive, slow and have lots of red tape for investors, making it hard for individuals to invest in them at all, let alone in the small denominations most people might have to invest. With their idea, bonds could be smaller and be issued more quickly.

Neighborly was launched to do just that — to allow individuals to crowdfund municipal bonds. Austin issued a bond on the platform to pay for historic preservation. Cambridge, Mass., used it to fund schools and utility infrastructure.

Berkeley's idea operates on a similar principle, but will use the blockchain technology to improve security and transparency, factors they hope will help spur investment (and provides a bit of flashy tech-factor that Bay Area residents might find appealing).

"You conceive of an idea, get the costs ready, push it out to the community, they can buy it right away," Bartlett explains. "It's more flexible. It doesn't have to be a \$100 million bond for a sewer. It could be smaller projects and with the lower denomination ability...It's projected to be 50 percent less expensive to the issuer [than conventional municipal bonds]."

In simplified terms, a blockchain is a database stored concurrently on a peer-to-peer network of computers, making it less vulnerable than storing everything on a central server. Each copy of the database serves as a permanently available public record of every transaction on the blockchain. The technology keeps every copy of the database updated as people buy and exchange each "coin."

"It's immutable. It's transparent. There might be fewer concerns about misappropriation of funds," explains Stacie Olivares-Castain, who recently became state of California's first ever senior advisor for impact investments and blockchain.

Olivares-Castain says she is encouraged by Berkeley's experiment. "It's very, very early, but what we're starting to see is the blockchain can be used to improve a sense of individual agency and create more opportunity. The Neighborly model is a very interesting partnership. I think it could be used by other communities, too...Through the blockchain, there's more democratization of access to capital."

There are plenty of criticisms of cryptocurrency — coin wallets getting hacked, the wild fluctuation of currency value, the absurd amount of energy bitcoin "miners" consume to run their computers as they continually search for new bitcoin tokens produced somewhat randomly by digital algorithm. Bartlett says none of those issues apply to Berkeley's project. There will be no coin "mining" for Berkeley's coins, so the city's coins "won't be a tool for speculation. It has a set rate of return at darn near public rates," he explains.

There are still plenty of details to work out in the plan, but the city is aiming to launch its initial coin offering in May. Bartlett says he's already fielding calls about it from cities in the U.S. and abroad

and is confident that there's a future for their approach to city funding.

"Digitization, crowdfunding—these are just social impact bonds for the next generation," he says. "For cities to survive this escalating disinvestment in the public trust, we're going to have to start thinking outside the box and creating our own resources."

NEXT CITY

BY JOSH COHEN | MARCH 15, 2018

Citi Analyst / Associate - Public Finance

New York | Full Time
Reference: 18015658

About Citi:

Citi, the leading global bank, has approximately 200 million customer accounts and does business in more than 160 countries and jurisdictions. Citi provides consumers, corporations, governments and institutions with a broad range of financial products and services, including consumer banking and credit, corporate and investment banking, securities brokerage, transaction services, and wealth management. Our core activities are safeguarding assets, lending money, making payments and accessing the capital markets on behalf of our clients.

Citi's Mission and Value Proposition explains what we do and Citi Leadership Standards explain how we do it. Our mission is to serve as a trusted partner to our clients by responsibly providing financial services that enable growth and economic progress. We strive to earn and maintain our clients' and the public's trust by constantly adhering to the highest ethical standards and making a positive impact on the communities we serve. Our Leadership Standards is a common set of skills and expected behaviors that illustrate how our employees should work every day to be successful and strengthens our ability to execute against our strategic priorities.

Diversity is a key business imperative and a source of strength at Citi. We serve clients from every walk of life, every background and every origin. Our goal is to have our workforce reflect this same diversity at all levels. Citi has made it a priority to foster a culture where the best people want to work, where individuals are promoted based on merit, where we value and demand respect for others and where opportunities to develop are widely available to all.

Public Finance Full-time Analyst or Associate

Citi's Institutional Clients Group (ICG) is looking for full-time, experienced Analysts or Associates to join the Public Finance team immediately in New York City and possibly other locations domestically. ICG offers investment and corporate banking services and products for corporations, governments, and institutions around the world.

Responsibilities may include:

- Learn a client's historical financing trends
- Research past uses of debt or derivatives and provide an overview of client's debt position
- Participate with bankers and clients in meetings and conference calls to review current market

conditions and formulate future capital programs

- Apply new financing, optimization, and hedging strategies to financial transactions based on the client's financing needs
- Assist in the execution of transactions.
- Present documentation and pricing to investors and rating agencies
- Credit and internal approvals, policy compliance, client entertainment, and deal closing coordination.
- Research market, credit, tax, regulatory, accounting, legal, policy and issuer-specific issues relating to prior or future transactions

We want to hear from you if...

- You have a Bachelor's degree in any major from a distinguished academic institution, with a solid academic performance
- You have 1-3 years of experience in public finance
- You have strong quantitative and analytics skills; quantitative majors a plus
- Your writing skills are superior

Who we think will be a great fit...

- We're looking for motivated individuals, who are eager to continue their careers, naturally curious, and interested in business. We value diversity and so do you. We'll also be looking for the following:
- Ability to tackle problems with creative solutions
- Ability to juggle multiple tasks simultaneously
- Confidence and comfort with clients and senior executives
- Excellent oral and written communication skills
- Success working on a team

Depending on relevant experience, we will consider the appropriate title to offer qualified candidates (either Analyst or Associate)

[APPLY](#)

[Investing in Water Infrastructure and Workers: Examining the Bay Area's Regional Approach.](#)

Investing in water infrastructure represents a major challenge and opportunity across the United States. As pipes, plants, and other facilities reach a breaking point, utilities and local leaders must plan and pay for increasingly costly repairs. However, many places have responded with innovative approaches, using new management techniques and modern technologies to deliver water infrastructure that is more cost-efficient, durable, and resilient.

Crucially, these challenges and opportunities do not simply end with the infrastructure itself.

The country's water workforce is also undergoing change. Similar to millions of other workers involved in infrastructure nationwide, the water workforce is aging, experiencing rapid turnover, and facing a huge gap to fill in terms of hiring, training, and retention—from operators and engineers to accountants and office clerks. At the same time, these jobs offer competitive wages, have lower educational barriers to entry, and consequently provide a pathway to greater economic

opportunity for all types of workers across all skill levels.

[Continue reading](#)

by Joseph Kane

Senior Research Associate and Associate Fellow – Metropolitan Policy Program

March 7, 2018

The Brookings Institute

[Infrastructure Series: Paying for and Permitting Water Infrastructure.](#)

This is the fourth issue of WilmerHale's 10-in-10 Infrastructure Series. In this series, our attorneys share insights on current and emerging issues affecting infrastructure project developers in the United States. Attorneys from various practice groups at the firm offer their take on issues ranging from permitting reform to financing to litigation, and share their insights from working with clients in a variety of infrastructure sectors, from water infrastructure to energy development to infrastructure development on tribal lands. Read all issues in this series and our other recent publications.

President Trump's February 12, 2018, Infrastructure Plan highlighted the need for investment in the nation's water infrastructure. The Plan included general provisions that could support water infrastructure, and specific provisions intended to increase federal, state, local and private resources for water infrastructure. Implementation of the Plan will depend on whether Congress acts on proposed legislative reforms, which will be challenging in an election year. Nevertheless, there are opportunities and resources available now to assist in developing water infrastructure projects, including streamlined permitting under Title 41 of the Fixing America's Surface Transportation Act (FAST-41), expanded credit assistance programs and state programs.

[Continue reading.](#)

by H. David Gold and Andrew L. Spielman

USA March 15 2018

Wilmer Cutler Pickering Hale and Dorr LLP

[Puerto Rico Could Cut Spending to the Bone - and Still Never Recover.](#)

- **Federal oversight board to consider governor's ideas March 30**
- **A hurricane, a recession and then a regimen of deep cuts**

Puerto Rico's hard times are about to get harder.

Almost six months after Hurricane Maria, Governor Ricardo Rossello is proposing what, for many, might seem unthinkable after a decade of recession: austerity.

His plan to consolidate government departments and reduce municipal and university aid underscores just how bad things have gotten since the September storm. The sober reality: The government was kept afloat by borrowed money for years, and now the spigot is shut off. The U.S. territory is bankrupt, running a deficit and creditors are fighting in bankruptcy court for the \$74 billion they're owed.

If the federal panel that oversees Puerto Rico's finances approves the governor's plan by March 30, self-imposed discipline is bound to increase the pain, much as it did in Greece. For bondholders and the 3.3 million residents, the question is whether the move will do more harm than good, or help Puerto Rico overhaul its economic engine and repay more of its debt.

"It's not like things will magically get better," said Jason Bram, a New York Fed research economist. "Hard decisions are made. People are upset."

Enfeebled Island

Investors, bond-insurance companies, the oversight board and island officials have been discussing how to write down the burden through mediation that's part of the island's bankruptcy. Rossello's fiscal plan estimates the central government may be able to repay almost half the \$41 billion of principal it owes, an amount that has left creditors unsatisfied.

But Puerto Rico's economy has been feeble for years despite the rich diet of debt that, absent vigorous private investment, maintained the island in a recessionary torpor. The bankruptcy and storm brought it to a crisis, but Rossello's cure is no sure thing.

Greece's economy shrank by a quarter after the government slashed spending in 2010, reformed pensions and hiked taxes after the financial crisis. That wasn't enough to prevent the biggest sovereign debt restructuring in history in 2012 — as well as two further bailouts. The last came after Prime Minister Alexis Tsipras swept to power on an anti-austerity wave in 2015, only to agree to more cuts.

Civic Unrest

There were protests and riots as unemployment rose as high as 27 percent in 2013, and more than one in five workers remain jobless. In Puerto Rico, unemployment in January was 10.9 percent, but about a quarter of the commonwealth's workers are employed by governments and agencies that stand to be slashed.

Rossello believes his plan will inspire businesses to invest. It aims to cut and simplify tax rates and structure, and speed sluggish permitting and registration. The governor also wants to lower electricity costs and build a more reliable power grid through private investment.

"It's transformational, based on structural reforms that we're proposing," Rossello said in an interview.

Unspeakable Word

Rossello may not like to call it austerity — "Austerity will never get us out of this situation," he said — but his plan also imposes deep spending cuts.

The goal is to whittle 118 executive-branch departments to 35 and 35 school districts to seven. The central government plans to reduce allocations to municipalities and the University of Puerto Rico by \$1.4 billion through 2023. In all, there would be \$3.4 billion of savings by fiscal 2023, according to

the plan.

“It would make sense if they could get back on their feet in the wake of the hurricane and then engage in the necessary steps to address their fiscal problems,” said Mark Zandi, chief economist at Moody’s Analytics Inc.

Rossello’s proposed savings are more than 3 percent of the projected gross national product, which could create an economic drag of more than 4 percent, according to Brad Setser, a former Treasury Department official who worked on a Puerto Rico rescue law enacted in 2016.

“The fiscal plan doesn’t just assume a near-term rebound, it assumes a sort of almost permanent change in Puerto Rico’s growth trajectory, which seems overly optimistic,” said Setser, a senior fellow at the Council on Foreign Relations.

Driven Away

Puerto Rico stopped repaying bondholders in 2016 to free cash for other operating expenses. Rossello’s plan doesn’t include principal and interest payments until 2020. In the past few years, the commonwealth has consolidated schools, boosted the retirement age, increased workers’ pension contributions and raised taxes.

“There have been cuts in health care and education, in all kinds of social services,” said Mark Weisbrot, co-director of the liberal Center for Economic and Policy Research in Washington, and an austerity opponent. “They lost a lot, and that’s why so many people have left the island as well.”

“The recession and the hurricane together have destroyed a great deal of the economy’s productive capacity, so the priority has to be actually returning to growth first,” Weisbrot said.

The commonwealth’s economy has been a shambles for years. It fell into recession in 2007 after federal tax breaks for pharmaceutical and other manufacturers ended, prompting companies to leave or reduce operations. It’s posted only one year of growth since. More than 400,000 residents left even before Hurricane Maria struck on Sept. 20, and the exodus has only grown.

While Puerto Rico needs to stop spending money it doesn’t have, reducing that sharply now will hurt, Zandi said. “It will be a negative for the economy, at least when the cuts are taking effect,” he said.

Half Measure

But Rossello’s plans may not go far enough, said Natalie Jaresko, executive director of the federal oversight board. The board will seek a 10 percent cut in pension costs by reducing payments in the face of a \$49 billion unfunded liability, she said. The panel also wants Puerto Rico to transfer teachers and judicial workers into a 401(k)-like retirement plan.

The system, she said, must be “affordable, but predictable and transparent.” It also could mean less support for the economy at large.

Puerto Rico has requested \$94.4 billion of federal assistance that would restore homes, rebuild infrastructure, provide services — and help offset Rossello’s cuts. Washington has approved about \$50 billion, although Congress doles out the relief in portions and the U.S. Treasury has yet to extend disaster loans.

“Without help, it’s hard to see Puerto Rico finding a bottom at least anytime soon without just

tremendous pain and without the island's population being hollowed out," Zandi said.

Jaresko said pain strengthens. With the right plan, the commonwealth will emerge "with a different ground for businesses to operate in, with a different set of conditions. If we do not do the structure reforms, you can't come out of this."

Bloomberg

By Michelle Kaske

March 15, 2018, 5:00 AM PDT

— *With assistance by Marcus Bensasson, and Yalixa Rivera*

[Why Puerto Rico Is Proving to Be 2018's Top Bond Investment.](#)

Rally prompted by data showing earlier estimates of hurricane's financial impact were too pessimistic

Debt from Puerto Rico is the top-performing bond investment of 2018, reflecting an unexpected improvement in the island's economy and budding hopes for a settlement with creditors to resolve its continuing bankruptcy.

Most U.S. bonds have lost value this year because of rising interest rates, but an index of Puerto Rico municipal bonds has returned 14% year to date, the top performer out of 323 bond indexes maintained by S&P Dow Jones Indices. Prices of certain Puerto Rico bonds have more than doubled since the end of December.

The rally began in January, when Puerto Rico's government revealed economic data showing previous estimates of the financial impact of Hurricane Maria were overly pessimistic. More recently, investors have been buying bonds in anticipation of substantive talks with bondholders to reach a consensual restructuring, bondholders and people involved in the negotiations said.

Despite signs of progress, living conditions remain difficult in Puerto Rico. The U.S. territory was contending with economic decay, government mismanagement and excessive debt even before two hurricanes struck the island last year. About 60% of children on the island lived below the poverty line in 2015, according to data from the Pew Research Center.

The bond rebound this year rewards fund managers who stuck with Puerto Rico even when prices fell as much as 60% after the September storms damaged much of the island's infrastructure and real estate.

With roughly \$70 billion of debt outstanding, Puerto Rico is one of only a few large trades available to hedge funds seeking investments that don't move in lockstep with the broader markets.

GoldenTree Asset Management owns nearly \$600 million in face amount of Puerto Rico's subordinated bonds backed by sales-tax receipts, some of which jumped about 133% in value this year, according to data from the Municipal Securities Rulemaking Board.

That windfall comes as Treasury bonds have lost 1.8% since Jan. 1 and the below-investment-grade loans GoldenTree specializes in have returned about 1.3%, according to S&P Dow Jones Indices.

Not all Puerto Rico bondholders benefited equally from the reversal. Some bond prices rose more than others as traders bet that the island's various debt categories would recover different amounts in the restructuring. Senior bonds backed by Puerto Rico's sales-tax collections rose by about 63% this year to 57 cents on the dollar, while bonds issued through the commonwealth's general account climbed about 40% to around 31 cents on the dollar.

Hedge funds Baupost Group LLC, GoldenTree and Tilden Park Capital Management LP own about \$3 billion in face value of the sales-tax bonds and are arguing in bankruptcy court that their bond documents give them repayment priority in the restructuring. Hedge funds Autonomy Capital, Aurelius Capital Management LP and Fundamental Advisors own about \$2 billion of the general obligation debt combined and are suing to establish their own primacy. A crucial hearing in these factions' legal battle is scheduled for April 10.

The recovery in Puerto Rico bonds contrasts with an even sharper decline last fall, when Hurricane Maria struck and President Donald Trump suggested the island's debts should be wiped out to help it rebuild. Baupost's owner, Seth Klarman, publicly opposed Mr. Trump's idea, drawing criticism from nonprofit groups that support debt forgiveness for Puerto Rico and have pushed Baupost clients to divest from the firm.

Investor sentiment started to improve in late December, when Puerto Rico announced \$6.8 billion in previously undisclosed government bank accounts. Sentiment strengthened further as economic activity recovered more quickly than expected and Congress in February approved \$12.8 billion in federal rescue funds. In February, the island's government revised its maximum debt capacity forecast to \$27 billion from about \$14.5 billion.

"The construction boom after the hurricane is fueling an increase in bond prices, but that's going to be short lived," said Eric LeCompte, executive director of Jubilee USA Network, one of the activist groups seeking debt forgiveness for Puerto Rico. "We should be focused on long-term economic growth for Puerto Rico and that includes debt relief."

Bondholders say Puerto Rico is still being too conservative in its economic forecasts in order to maximize debt forgiveness in upcoming restructuring talks.

"The reality diverged greatly from the cataclysmic economic contraction that was being projected by the commonwealth," said Hector Negroni, co-founder of Fundamental Advisors.

A spokesperson for the Puerto Rico Fiscal Agency and Financial Advisory Authority didn't immediately return a call seeking comment.

Puerto Rico and the federal oversight board supervising it held mediation talks with creditors in New York this month, people involved in the process said. Formal restructuring negotiations are expected to start in April after the board certifies the Commonwealth's long-awaited fiscal plan for the next five years, the people said. A crucial hearing is also scheduled to start April 10 in the lawsuit between general obligation bondholders and sales-tax bondholders, possibly spurring the parties toward settlement. The oversight board hopes to reach a restructuring plan in less than a year, one of the people said.

Some remain pessimistic about the likelihood of a rapidly negotiated resolution, in part because of the many different types of bonds Puerto Rico must reach deals on, ranging from highway and electric utility-related debt to the sales-tax and general obligation bonds.

"We think the litigation will go on and on," says Joe Rosenblum, head of municipal bond research at

AllianceBernstein Holding LP.

The Wall Street Journal

By Matt Wirz

March 15, 2018 8:00 a.m. ET

Write to Matt Wirz at matthieu.wirz@wsj.com

-
- [Fitch to Include Disclosure on PR Special Rev Ruling in Related Issuer Research.](#)
 - [GASB Invitation to Comment on Revenue and Expense Recognition.](#)
 - [California Shows Bond Buyers Willing to Jettison Industry Staple.](#)
 - [S&P Global Trade At A Crossroads: U.S. States And Localities May Take Another Look At Budget Forecasts.](#)
 - [First Municipal Bond ICO Is in the Works.](#)
 - [Combining Tax-Exempt Bonds with Public-Private Partnerships under Current Law: Squire Patton Boggs](#)
 - And finally, Dare to Dream is brought to us this week by [Cormier v. City of Lynn](#), in which the Supreme Judicial Court of Massachusetts held that the injuries to a student who had been pushed down a flight of stairs were the result of the “failure of school district and its employees to act, rather than from an affirmative act.” The affirmative act of pushing an elementary school student down the stairs? We’re gonna go out on the proverbial limb here and suggest that that just ain’t cool. Yet what teacher hasn’t at some point fantasized.... Might make one hell of a fundraiser, no? Kinda like that carnival dunk tank thing. But with more paralysis.

IMMUNITY - ALABAMA

[Ex parte City of Muscle Shoals](#)

Supreme Court of Alabama - February 23, 2018 - So.3d - 2018 WL 1025039

Worker for contractor brought action against city, alleging city was negligent in failing to safeguard worker from defective grate in park, and asserting a claim for workers’ compensation.

City filed a motion for summary judgment. The Circuit Court granted the motion with regard to the workers’ compensation claim, but denied the motion with respect to the negligence claim. City filed a petition for writ of mandamus.

The Supreme Court of Alabama held that:

- City was entitled to challenge trial court’s ruling by petitioning for a writ of mandamus, and
- City was entitled to municipal immunity.

City was entitled to challenge trial court’s denial of its motion for summary judgment in negligence action by petitioning for a writ of mandamus, as city had asserted it was entitled to municipal immunity.

City was entitled to municipal immunity in negligence action brought by contractor’s worker for

injuries he suffered after falling through broken drain grate in park, even if city had a duty to keep the park in a safe condition for invitees; worker did not present substantial evidence of neglect, carelessness, or unskillfulness by city personnel, and there was no evidence that city had any notice that the grate was, in fact, defective.

EMINENT DOMAIN - CALIFORNIA

[Weiss v. People ex rel. Department of Transportation](#)

Court of Appeal, Fourth District, Division 3, California - March 1, 2018 - Cal.Rptr.3d - 2018 WL 1100944

Property owners brought inverse condemnation and nuisance action against Department of Transportation and county transportation authority, alleging that a freeway sound wall built directly across the freeway from their homes increased noise and dust, interfered with enjoyment of homes, and diminished property values.

The Superior Court granted defendants' motions to dismiss. Property owners appealed.

The Court of Appeal held that procedure for pretrial resolution of issues affecting the determination of compensation in eminent domain cases does not apply to inverse condemnation actions.

Statutory procedure for pretrial resolution of issues affecting the determination of compensation in eminent domain cases does not allow a trial court to adjudicate any companion causes of action in an inverse condemnation complaint.

IMMUNITY - CALIFORNIA

[Area 51 Productions, Inc. v. City of Alameda](#)

Court of Appeal, First District, Division 4, California - February 20, 2018 - 2018 WL 948499 - 18 Cal. Daily Op. Serv. 1641 - 2018 Daily Journal D.A.R. 1612

Licensee of event space on city property brought action against city, city officials, and employees of city's licensing manager arising out of city's decision to cease doing business with licensee.

Defendants filed general demurrer and moved to dismiss under law prohibiting strategic lawsuits against public participation (anti-SLAPP law). The Superior Court granted demurrer but denied motion under anti-SLAPP law. Defendants appealed.

The Court of Appeal held that:

- Licensee's claims against city for breach of contract, interference with contracts and economic relations, and unfair competition did not arise from protected activity and thus were not subject to dismissal under anti-SLAPP law;
- Licensee's claims against city officials and the employees of licensing manager arose from protected activity; and
- Licensee failed to show probability of prevailing on those claims.

Claims by licensee of city property event space against city, alleging breach of contract, interference with contracts and economic relations, and unfair competition based on city's termination of

licensing arrangement, did not arise from protected activity and thus were not subject to dismissal under law prohibiting strategic lawsuits against public participation (anti-SLAPP law); claims arose from alleged act of reneging on a commitment to license certain property, and communication conveying refusal to license was merely incidental to asserted claims.

Claims by licensee of city property event space against city officials and employees of license manager, alleging breach of contract, interference with contracts and economic relations, and unfair competition based on termination of licensing arrangement between licensee and city, arose from statements made in connection with an issue under consideration or review by a legislative, executive, or judicial body, or any other official proceeding authorized by law, as could support dismissal under law prohibiting strategic lawsuits against public participation (anti-SLAPP law), where licensee did not allege that defendants were themselves contracting parties to the license, and conduct providing sole basis for alleged liability was expressive in nature, including e-mail statements announcing end of licensee's contract with city.

Claim by licensee of city property event space against city officials and employees of license manager, alleging negligent misrepresentation based on termination of licensing arrangement between licensee and city, arose from statements made in connection with an issue under consideration or review by a legislative, executive, or judicial body, or any other official proceeding authorized by law, as could support dismissal under law prohibiting strategic lawsuits against public participation (anti-SLAPP law), where claim was based on e-mail statements by defendants as to whether or not confirmed event reservations for licensed property would be honored.

Licensee of city event space property failed to show probability of prevailing on its claims against city officials and employees of license manager, alleging breach of contract, interference with contracts and economic relations, and unfair competition based on termination of licensing arrangement between licensee and city, supporting dismissal of claims under law prohibiting strategic lawsuits against public participation (anti-SLAPP law); defendants were not parties to contract between city and licensee, there was no basis for an agency theory, defendants all asserted immunity on various grounds, and licensee merely offered conclusory assertion that defendants were not immune.

INVERSE CONDEMNATION - CALIFORNIA

[Rio Linda Elverta Community Water District v. United States](#)

United States Court of Federal Claims - January 31, 2018 - Fed.Cl. - 2018 WL 651659

Community water district sued United States, claiming \$289,535,380 in damages for alleged inverse condemnation resulting from manufacturing activities on Air Force base that purportedly caused chromium contamination of aquifer from which district supplied public drinking water.

Government moved to dismiss for lack of subject matter jurisdiction.

The Court of Federal Claims held that claim was not ripe for adjudication.

Community water district's inverse condemnation claim seeking \$289,535,380 in damages, for expenses incurred in shutting down two wells and installing pollution equipment on other wells to safeguard public drinking water from chromium contamination of aquifer allegedly caused by manufacturing activities on Air Force base, did not present case or controversy, and thus, claim was not ripe for adjudication, since state regulations limiting amount of chromium contamination in

district's water source were not currently in effect and would only become effective, if at all, two years later, so any possibility that district's water source could be damaged in future was speculative, and district's expenses were voluntarily incurred.

EMINENT DOMAIN - MAINE

[Bayberry Cove Children's Land Trust v. Town of Steuben](#)

Supreme Judicial Court of Maine - February 27, 2018 - A.3d - 2018 WL 1056204 - 2018 ME 28

Land trust brought eminent domain action challenging town's taking of road.

The Superior Court entered judgment in town's favor. Trust appealed.

The Supreme Judicial Court held that:

- Taking arose from public exigency, and
- Taking was for public use.

Town's taking of road arose from public exigency in eminent domain action, and thus taking was not result of bad faith or abuse of power, where eminent domain process began in response to legal challenges concerning use and ownership of road, town issued public notice of meeting to address taking, no argument was made that taking exceeded what was necessary to align road's record description with its physical location, and road was suitable for current use as public way.

Town's taking of road was for public use in eminent domain action, although private party stood to benefit from taking, where public had used road for nearly 190 years, and town maintained road during that time.

ZONING & LAND USE - MAINE

[Olson v. Town of Yarmouth](#)

Supreme Judicial Court of Maine - February 22, 2018 - A.3d - 2018 WL 10043022018 ME 27

Residents sought review of town planning board's approval of a site-plan application for the installation of wireless-communication equipment on a tower and site owned by town water district. The Superior Court affirmed. Residents appealed.

The Supreme Judicial Court of Maine held that:

- Presumption of unsuitability under town ordinance on wireless-communications towers did not attach to proposal, and
- Sufficient evidence supported planning board's determination that application met ordinance standards.

Presumption of unsuitability under town ordinance on wireless-communications towers did not attach to proposal to place wireless-communication equipment on tower and site owned by town water district; one purpose of ordinance was to permit the construction of new towers only where all other opportunities had been exhausted, no language in ordinance stated that its provisions applied

to co-location applicants, and interpreting the ordinance to have the presumption of unsuitability attach to the proposal would have produced the illogical result of decreasing the number of sites available to co-location applicants and ultimately would have resulted in the construction of more new towers.

Sufficient evidence supported town planning board's determination that application to place wireless-communication equipment on tower and site owned by town water district met ordinance standards, despite argument that applicant did not investigate other technically feasible sites as required by ordinance; although applicant's written submissions to the planning board did not contain information about alternative sites that it had considered, application included detailed information about applicant's site-selection process, and planning board twice asked applicant's representative about alternative sites.

IMMUNITY - MASSACHUSETTS

[Cormier v. City of Lynn](#)

Supreme Judicial Court of Massachusetts, Essex - February 27, 2018 - 91 N.E.3d 662

Parents of student who was permanently injured when he was pushed down stairs by another student brought action against school district and district employees.

The Superior Court Department dismissed all claims. Parents appealed. The Appeals Court affirmed. Parents sought further appellate review.

The Supreme Judicial Court of Massachusetts held that injuries to student originated from failure of school district and its employees to act, rather than from affirmative act.

Injuries to student who was pushed down stairs by another student originated from failure of school district and its employees to act, rather than from affirmative act, and thus they were exempt from liability under provision of Tort Claims Act eliminating government liability for a public employer's act or failure to act to prevent harm from the wrongful conduct of a third party unless the condition or situation was originally caused by the public employer; alleged policy of school's staff to have students line up in particular order outside school each morning without guidance or supervision was not an affirmative act that caused injuries.

ATTORNEYS' FEES - MONTANA

[Davis v. Jefferson County Election Office](#)

Supreme Court of Montana - February 27, 2018 - P.3d - 2018 WL 1064237 - 2018 MT 32

Mayor and town council members filed application for injunctive relief seeking to prevent recall election.

The District Court granted injunctive and declaratory relief but denied request of mayor and council members for attorney fees and costs. Mayor and council members appealed.

The Supreme Court of Montana held that:

- Award of attorney fees to mayor and council members pursuant to Uniform Declaratory Judgments

Act (UDJA) was not warranted;

- County's defense was not frivolous or pursued in bad faith; and
- Award of attorney fees to mayor and council members was not warranted pursuant to statute that permitted award of fees to prevailing party in action for injunction.

Award of attorney fees to mayor and town council members, as prevailing parties, was not warranted pursuant to the Uniform Declaratory Judgments Act (UDJA), in action that sought injunctive and declaratory relief to prevent recall election; mayor and council members could have sought the same relief under the Montana Recall Act and, since the Recall Act did not allow for an award of attorney fees in the case, it would have been inequitable to permit an award under the UDJA.

County's defense was not frivolous or pursued in bad faith, and therefore award of attorney fees to mayor and town council members, as prevailing parties, was not warranted pursuant to statute that allowed recovery of fees in certain circumstances in actions against political subdivisions in action that sought injunctive and declaratory relief to prevent recall election; county official relied on counsel's certification that recall petitions were statutorily sufficient when she permitted their filing.

Award of attorney fees to mayor and town council members, as prevailing parties in action seeking injunctive and declaratory relief against county and resident who filed recall petitions to prevent recall elections, was not warranted pursuant to statute that permitted award of fees to prevailing parties in actions seeking injunctive relief; injunction was never sought or granted against resident who filed recall petitions, rather mayor and council members only sought injunctive relief against county.

PUBLIC UTILITIES - NEBRASKA

[Aksamit Resource Management LLC v. Nebraska Public Power District](#)

Supreme Court of Nebraska - February 23, 2018 - N.W.2d - 299 Neb. 114 - 2018 WL 1023653

Public-records requesters, two limited-liability companies (LLCs) that were potential competitors with a public power district, petitioned for a writ of mandamus to compel the district to fulfill their requests for particular records as to the district's costs and revenues.

The District Court dismissed petition. Requesters appealed.

The Supreme Court of Nebraska held that the district was not entitled to withhold the records at issue absent evidence that the information would serve no public purpose.

PUBLIC UTILITIES - NEW YORK

[Connolly v. Long Island Power Authority](#)

Court of Appeals of New York - February 20, 2018 - N.E.3d - 2018 WL 942321 - 2018 N.Y. Slip Op. 01148

Property owners brought separate actions against public power authority and its operator, seeking to recover damages for negligence arising out of damage to their properties that allegedly occurred as result of negligent preparation for and reaction to a hurricane.

The Supreme Court, Queens County, separately denied defendants' motion to dismiss for failure to state a cause of action. Defendants appealed. The Supreme Court, Appellate Division, affirmed, and certified consolidated appeal to the Court of Appeals.

The Court of Appeals held that owners sufficiently alleged that operator was acting in a proprietary, rather than a governmental capacity, in failing to preemptively de-energize electrical grid.

Allegations in property owners' negligence action against public power authority and its operator, that operator failed to preemptively de-energize or otherwise suspend the provision of electricity before arrival of a hurricane, that operator received repeated warnings that the hurricane would cause a massive surge creating a risk of fire when salt water came into contact with electrical equipment, and that storm surge caused fires that damaged owners' property, sufficiently alleged that operator was acting in a proprietary, rather than a governmental capacity, as would preclude governmental function immunity, where the provision of electricity had traditionally been a private enterprise.

MUNICIPAL CORPORATIONS - TEXAS

[C. Borunda Holdings, Inc. v. Lake Proctor Irrigation Authority of Comanche County](#)

Supreme Court of Texas - February 23, 2018 - S.W.3d - 2018 WL 1021394 - 61 Tex. Sup. Ct. J. 432

Following pecan orchard's payment to governmental irrigation authority to remove irrigation authority's lien and lis pendens on orchard's realty, irrigation authority nonsuited its claims, and the District Court granted summary judgment in favor of irrigation authority regarding orchard's counterclaims for offset. Orchard appealed, and the Eastland Court of Appeals affirmed. Orchard petitioned for review.

As matter of first impression, the Supreme Court held that nonsuit did not negate orchard's right to pursue counterclaims.

Governmental irrigation authority's nonsuit of its claims did not negate defending pecan orchard's right to pursue offset counterclaims regarding amount irrigation authority recovered from orchard to remove lien and lis pendens; orchard paid amounts to irrigation authority without further litigation specifically to remove the lis pendens, and it would have been fundamentally unfair to preclude orchard's opportunity to seek offset damages after allowing irrigation authority to recover on its affirmative claims.

COLLECTIVE BARGAINING - VERMONT

[Negotiations Committee of Caledonia Central Supervisory Union v. Caledonia Central Education Association](#)

Supreme Court of Vermont - February 23, 2018 - A.3d - 2018 WL 1026170 - 210 L.R.R.M. (BNA) 3453 - 2018 VT 18

School board negotiations committee brought declaratory judgment action against labor union chapter, alleging that under Open Meeting Law, committee was required to hold collective bargaining negotiation meetings in public, rather than in executive sessions.

The Superior Court granted labor union chapter's motion to dismiss for lack of subject matter jurisdiction, and committee appealed.

The Supreme Court of Vermont held that:

- The trial court had jurisdiction to hear the parties' claims, and
- Collective bargaining negotiations between school board negotiations committee and labor union were not "meetings" under the Open Meeting Law.

Trial court had jurisdiction to hear declaratory judgment action brought by school board negotiations committee against labor union, arguing that labor negotiations were meetings under the Open Meeting Law that had to be held in open session, because the issue was ripe, in that the parties' positions were concrete, clear, and adverse, and squarely raised the applicability of the Law, which was within the purview of the court.

Collective bargaining negotiations between school board negotiations committee and labor union were not "meetings" under the Open Meeting Law, and thus, were not required to be open to the public; while school board was a public body, and as such, committee meetings were subject to the Open Meeting Law and negotiations between a school board committee and a labor union were not expressly listed in the Open Meeting Law exemption, labor negotiations require joint participation from parties in equal bargaining positions, and if negotiations were construed as "meetings" the committee would have unilateral authority to determine when and if executive sessions would occur and who could attend, upending any intended parity of bilateral negotiation.

Patience Is Not A Virtue When Reviewing Municipal Bond Credit.

Municipal bond market innovation continues to lag most other major financial markets - the sector is arguably light years behind the equity market in transparency, timely reporting, electronic trading and analytics. The sector's history of low default rates against corporate bonds is likely one of the reasons why investors are somewhat blasé about lagged financial reporting, thin disclosures, and the reluctance to include alternative data in the investment process.

It is safe to say that corporations with publically traded debt and/or equity provide more transparency to their investors than municipal bond issuers, albeit not necessarily by choice. Indeed, there are several reliable vendors that aggregate historical corporate financial data, versus relatively few for municipal bonds.

The municipal bond market should consider leveraging some of the same innovation that equity markets have already adapted, including technology that rapidly identifies sound investments, analyzes credit and monitors positions in a cost effective manner. As the hedge fund sector demonstrated in the past, some investors will turn a blind eye to higher management fees, if a money manager produces above average returns over peers or pertinent index benchmarks.

Many of those outperformers in the equity market have successfully deployed a "quantamental" approach - which takes the sector expertise of an analyst and improves investment decisions through a combination of machine learning and alternative data which identifies "diamonds in the rough" and avoids "landmines". That same approach can be applied to high yield and unrated municipal bonds to potentially enhance a portfolio's performance and accurately price risk.

In the case of more plain vanilla strategies and certain SMAs, investors will bargain shop based on

fees, which has been driving down fees and profitability across the wealth management industry. This drive to more of a low cost asset accumulation model will require AI based tools and not the hiring of more analysts to rapidly analyze new issue and secondary credits, create accurate and comprehensive marketing material for pitching bonds to their clients, and automated surveillance tools to identify local or regional economic/financial distress using financial statement and public/alternative data sources.

The holy grail of municipal bond analytics will likely mimic that of an industrial supply chain, where every source of revenue and expenses will be identified or estimated through a non-traditional data proxy. These metrics can then be compared to changes in liabilities and the tax paying population (citizens and corporations).

An investor would begin with an aggregate view of every potential bond offered by the dealer community – coupled with MSRB trade price history and government bond yields – and supplemented with accurate evaluated bond prices/yields to fill in the days where a round lot did not trade.

The next layer will use natural language processing (NLP)-driven news-to-CUSIP mapping applications, and alternative datasets – such as US port ship traffic and US Customs bill of lading data – to proxy revenue through the flow of goods in and out of a state, while mining through publicly available bespoke data from data.gov to enhance standard economic data releases.

The biggest leap will be made when the performance of the largest private employers for the issuer is added to the credit picture, enabling the identification of a growing or shrinking tax base. Lastly, all of the aforementioned elements will be combined with financial statement data to model which factors drive the issuer's assets and liabilities the most – with the end goal of determining its performance outlook.

The successful implementation of AI and alternative data in the investment process will benefit asset managers and issuers by modernizing investment and due diligence processes. The investment community has the resources and expertise to discover an issuer's tax revenue base shift through advanced data, with those same findings having the potential to help guide municipalities' financial and policy decisions.

Machine learning has been used by credit card companies for fraud detection for decades, and can potentially be used to identify discrepancies and errors in financial statements, when compared with data sourced outside of the issuer.

Deploying these types of technologies may eventually be a matter of pure survival for money managers, because clients will likely gravitate towards money managers that successfully combine alternative datasets, AI, and sector expertise to identify real-time shifts in credit.

Those who are patient enough to wait until the issuer's next quarterly or annual report is released will not fare as well.

Seeking Alpha

Mar. 6, 2018

California's \$83 Billion of Bond Debt Isn't Enough for Some.

- **Golden State is selling \$2.1 billion of bonds this week**
- **California has \$31 billion of unissued bonds still pending**

California's sale of \$2.1 billion in bonds this week isn't enough for some buyers and interest groups.

The state is sitting on \$31 billion of unsold bonds, about a fifth of the \$149 billion approved by voters over the decades, according to a financial report by the state treasurer. And the state hasn't matched recent voter enthusiasm for billion-dollar measures with immediate sales: most of the \$17 billion added to the authorized pool since 2014 haven't been issued.

Proponents of initiatives approved by voters, such as school construction and water infrastructure, would like to see California sell those bonds sooner. State officials, on the other hand, have focused on paying down outstanding debt and timing sales more closely to when those projects get started.

The subdued pace demonstrates the fiscal restraint that along with the state's economic rebound has helped boost California bond prices. But California isn't seizing the opportunity to tackle its significant capital needs such as water projects at low costs, said Dora Lee, vice president at Belle Haven Investments, which manages about \$7 billion of municipal bonds.

"They're not only missing out in terms of lower interest rates, they're missing out on future economic growth and they're limiting their choices down the road," she said.

Sitting Idle

California has about \$83 billion in outstanding general obligation and lease revenue debt, down by \$3 billion from 2016, according to state treasurer reports.

Governor Jerry Brown's administration doesn't want to sell bonds before the proceeds are needed for different stages of construction, said H.D. Palmer, a spokesman for the finance department. Otherwise, "you start racking up debt service costs for cash that's sitting idle," he said.

Indeed, a large increase in outstanding bonds could pressure California's rating, which at AA- from S&P Global Ratings is lower than the company's average AA rating for states but is at the highest in almost two decades.

"They could afford to issue a bit more debt than they're currently amortizing and maintain their current credit profile but not a significant amount," said Bernhard Fischer, senior fixed-income analyst at Principal Global Investors, which oversees about \$8 billion in munis. Fischer said the state could probably sell about \$1 billion more than it is now.

Those chafing at the pace include the California School Boards Association, which wants quicker sales of \$7 billion on bonds for construction projects at elementary and high schools and \$2 billion for community colleges. Brown, who opposed the measure, had wanted tighter accountability requirements before selling the debt.

So far about \$433 million have been sold for the schools and about \$17 million for community colleges, excluding what will be allotted from the proceeds of this week's deal. If the current pace continues, it would take more than a decade to sell the bonds, said Nancy Chaires Espinoza, a lobbyist for the association.

"The bond sales aren't keeping pace with demand," she said.

Bloomberg Markets

By Romy Varghese

March 6, 2018, 6:55 AM PST

[U.S. Stands Ready to Extend Loans to Puerto Rico, Mnuchin Says.](#)

- **Treasury Dept. will ‘make sure they have the necessary funds’**
- **Puerto Rico governor has criticized disaster loan delays**

The U.S. Treasury Secretary Steven Mnuchin said the federal government is prepared to extend Puerto Rico the loans approved by Congress to help it recover from Hurricane Maria, disputing assertions from island officials that the funds have been needlessly delayed.

“We have a team that stands ready to help them,” Mnuchin told lawmakers during a hearing convened by a House of Representatives subcommittee. “We are ready to lend and we are monitoring their cash flows to make sure they have the necessary funds.”

The comments came after Puerto Rico Governor Ricardo Rossello said the Treasury was acting “recklessly” by delaying the territory’s access to a share of a \$4.9 billion loan package that Congress passed in October. The storm exaggerated the financial crisis that had already tipped the territory into a record-setting bankruptcy after a decade of economic decline, population loss and years of borrowing to keep the government afloat.

Puerto Rico, an island of 3.4 million American citizens without a vote in Congress, in November said it will need \$94.4 billion from the federal government to deal with the storm damage.

The community disaster loans are aimed at covering only a small share of the toll by helping Puerto Rico make up for tax and utility revenue lost since the storm. Treasury has estimated that amount at about \$2 billion for the 180 days after the hurricane.

In January, the Treasury told Puerto Rico it has too much cash to qualify for a loan, given the amounts that the island government had in various bank accounts. The Treasury has said that a loan will be quickly available if Puerto Rico’s cash balance drops below \$800 million. Puerto Rico had \$1.7 billion of available funds in mid February and has since extended a loan to the Puerto Rico electric company to keep it running.

Mnuchin has said little about Puerto Rico, except when prodded during Congressional testimony. Treasury and the White House’s budget office declined to name who in the respective agencies is in charge of the Puerto Rico issue, and the January letter to Puerto Rico was signed by deputy assistant secretary for public finance Gary Grippio, a career staffer, instead of one of the top political appointees.

Mnuchin said there’s been no decision on whether Puerto Rico’s loans will be forgiven, as is common for those extended after natural disasters.

“We’re not making any decisions today on whether they will be forgiven or not,” Mnuchin said.

Bloomberg Politics

By Saleha Mohsin and Michelle Kaske

March 6, 2018, 8:51 AM PST

— *With assistance by Yalixa Rivera*

Commercial & Public Finance First - Year Associate

Thompson Hine LLP Cleveland, OH

LLP's Cleveland office seeks an Associate to join its Commercial & Public Finance practice. The ideal candidate will have a strong interest in commercial finance law and 0-1 years of experience. The successful candidate will be involved in complex domestic and international transactional finance matters. Outstanding academic credentials, a strong work ethic, and excellent drafting, client relations and negotiation skills are required.

[Apply here.](#)

U.S. Muni Bond Market Inches Up to \$3.851 trln in 4th Quarter - Fed.

NEW YORK, March 8 (Reuters) – The U.S. municipal bond market inched up to \$3.851 trillion in the fourth quarter of 2017 from \$3.809 trillion the previous quarter, according to a quarterly report from the Federal Reserve released on Thursday.

Households, or retail investors, held \$1.570 trillion of debt sold by states, cities, schools and other muni issuers in the latest quarter, slipping from \$1.573 trillion in the third quarter, the Fed report said.

U.S. banks' muni bond buying spiked after dwindling the previous three quarters. Financial institutions added \$37.4 billion in the fourth quarter, compared with \$8.6 billion in the third quarter.

Property and casualty insurance companies took on \$7 billion of munis in the fourth quarter after adding \$3.4 billion in the third quarter. Life insurance companies picked up \$5.1 billion of the bonds.

U.S. mutual funds bought \$25.3 billion of munis in the fourth quarter, down from \$40.7 the previous quarter, while exchange traded funds added \$7.6 billion, up from \$4.8 billion.

Foreign holdings of munis rose to \$104.6 billion.

(Reporting by Laila Kearney in New York Editing by Matthew Lewis)

US Green Finance: A Clearer Year Ahead.

The US green finance surge continues regardless of federal government, argues S&P

Global Ratings' Michael Ferguson

The American green bond market has been stepping up. Last year, dollar-denominated green issuance grew substantially: self-labelled US municipal bonds reached \$10.4bn, a 43 per cent increase on 2017. Importantly, American municipal issuance alone accounted for 34 per cent of the global sub-sovereign issuance, and included 10 first-time issuers, according to the Climate Bonds Initiative (CBI).

This expansion of the marketplace could just be the beginning. Forecasts suggest that issuance by US municipalities could top \$15bn in 2018 - representing an increasingly diverse and proactive group of sub-federal actors, which also extends to large corporations. On this evidence, state-level climate action is significantly bolstering the country's green marketplace even amid uncertainty at the federal level.

In turn, this is driving forward a decarbonisation agenda, despite the current federal disinclination to pursue comprehensive carbon reduction policies. Indeed, uncertainty about US regulatory policy may have hitherto contributed to limited growth in corporate green bond issuance. The US' revised tax code, however, has provided some market clarity, at least for now.

It ensures that both the production tax credit (supporting wind) and the investment tax credit (supporting solar) will continue. So, corporate taxpayers can still benefit from the credits, which have propelled investment in renewable assets in the past. And though the credits' retention was a surprise to many, it has revealed a clear bipartisan support for renewable energy in the US, possibly contributing to a continuing a surge in green finance.

Continuing tax credits

The production tax credit (PTC) has historically supported wind power generation. With its help, America's wind capacity quadrupled between 2007 and 2014. Then, in 2015, the market suspected (incorrectly, with hindsight) that the PTC would be excluded from future budgets. As a result, installed wind capacity surged to capture the credits before expiry. When the credit was omitted from early versions of the 2017 federal budget - along with the investment tax credit (ITC) for solar - the market gave pause.

However, the final version of the tax reform bill signed into law by President Trump in December 2017 continued the credits. Many believe that the bill could substantially increase the federal deficit, based on non-partisan estimates. Yet, in a bill passed without a single democratic vote, the preservation of both the PTC and the ITC speaks to the enduring value of the credits as tools for spurring renewable development.

With the phase-out of the tax credit temporarily avoided, S&P Global Ratings expects that renewable financing, especially corporate power purchase agreement (PPAs), will continue to grow. Although growth will be spurred in part by diminished costs, we don't expect an immediate surge in financings as experienced in 2015. But with a clearer outlook ahead, the US renewable energy market will likely enjoy a steadier growth trajectory through the beginning of the next decade.

Worth a little less?

That being said, the revised tax code may have an indirect impact on the value of the PTC and ITC, thereby presenting a possible new market dynamic. A lower corporate tax rate - with the marginal percentage down to 21 per cent from 35 per cent - could undermine the value of some tax equity investments. In turn, this may influence issuers' decisions about whether to use tax-exempt

municipal issuances, corporate debt, or project finance debt.

Further, in the absence of a federal policy on climate change, we're not likely to see the pricing signals associated with a carbon tax or emissions trading, and consequently the financeability of projects could be dependent on both state level policies (including RPS) and the value of these tax credits. Given the limited pool of equity investors, revisions to the tax code may also have ramifications for the green marketplace – and alter how such projects are funded.

Infrastructure goes green

Regardless, the funding will have to come from somewhere. America's infrastructure needs are vast – with green finance increasingly used to fund improvements. According to the US Environmental Protection Agency, the country's water, wastewater and irrigation systems require over \$630bn of investment through to 2033 in order to bring them up to modern standards. And there is broad consensus on Capitol Hill that the country's aging infrastructure, which has been underfunded for decades, is in need of an overhaul.

The White House has recently proposed over \$1tr in infrastructure investments, in addition to the \$200bn included in the 2018 budget. However, much of the funding for these projects – about 75 per cent according to the Council on Foreign Relations – will have to come from state and municipal budgets, as it has done for most of the past century. This, coupled with heightened sub-federal decarbonisation and adaptation initiatives, makes more green financings possible nationwide.

In turn, S&P Global Ratings anticipates another banner year for US green bond issuance – and the wider green finance marketplace. Propelling the market will likely be a mixture of renewable-backed issuances and others to repair, or even replace, some of the country's infrastructure. While estimates for green bond issuance vary wildly, and can hinge on a bevy of market and political conditions, it is clear that green instruments have firmly secured their place within the US financial landscape, and their prominence will only grow as investors become more sensitive to climate concerns.

businessgreen.com

Michael Ferguson, S&P Global Ratings

09 March 2018

Michael Ferguson is director of US energy infrastructure at S&P Global Ratings

[Here's Why Muni-Bond Demand Could Get a Lift from Bank Legislation.](#)

Banks own close to 15% of the municipal bonds outstanding

As municipal bondholders continue their struggle to make sense of last year's tax legislation, Congress is set to knock down one argument against participating in the \$3.8 trillion market.

Investors are expecting the Senate to pass a bipartisan bill that would include municipal debt in the coveted category of high-quality liquid assets as part of a bid to roll back some elements of the Dodd-Frank law put in place after the financial crisis. The proposed legislation would stoke appetite for municipal bonds among banks, steadying a market still reckoning with the recent tax cuts.

"It takes one of leg of the argument against the muni market as it goes through a shake-up," said John Mousseau, director of fixed-income strategy at Cumberland Advisors.

It was only a few months ago when President Donald Trump's revamp of the tax code threatened to sink the viability of municipal debt by eliminating private activity bonds and advanced refunding paper, two key pillars of the \$3.8 trillion market. That led local governments to issue billions of dollars in bonds in December in order to front-run the tax changes. But since then, municipal bonds have largely recovered.

The bill would put municipal bonds in the company of high-grade corporate paper and government debt in the eyes of financial watchdogs.

Rules elevating corporate bonds above munis in the regulatory environment has been a chip on the shoulder of market participants. The National Association of State Treasurers blamed the absence of municipal debt from the high-quality liquid assets designation, or HQLA, for contributing to higher borrowing costs for local governments.

Regulations mandating banks hold a minimum amount of HQLA to handle market turmoil were designed with the intention of avoiding a repeat of the 2008 financial crisis when banks found much of the investments on their books were difficult to off-load and less creditworthy than they had initially seemed.

On that front, analysts point out municipal debt features a lower default rate than their private-sector peers at every rung of the credit ladder as they are backed by the full taxing authority of local governments. According to a Moody's historical study stretching from 1970 to 2015, the frequency of defaults among BBB-rated municipal bonds was lower than that of AAA-graded corporate bonds.

"Why wouldn't you want better credit collateral than you're getting with existing legislation on corporation debt," said Mousseau.

Moreover, municipal debt could hold good value for banks with extra cash. The yield difference between municipal bonds and comparable Treasuries have widened, with the tax-free yield on a 10-year municipal bond slipping to around 85% of the taxable yield on a 10-year Treasury TMUBMUSD10Y, +0.00% for most of this year, well below the 95% seen in early 2017. A lower ratio implies munis are cheaper relative to Treasuries.

Though the revamped bank legislation should boost their investment in municipal paper, its unlikely to return Wall Street to their previous role as the linchpin of the market.

Nonetheless, Mousseau says the bill, if passed, is an under-appreciated step that could prove a boon to smaller financial institutions and commercial banks that have few avenues for long-term investments.

In 1975, banks owned close to half of the municipal bonds outstanding. Their share hit a low in 2004, shrinking to 5%, before making a comeback to 15% in 2017 after former President Barack Obama expanded the allowance for banks to qualify for tax exemptions on interest payments, a key appeal of the municipal bond market.

"If individual investor ownership is the bedrock of municipal holdings, then bank ownership is the topsoil," said Thomas Kozlik, municipal strategist for PNC Capital Markets, in a January note. He added that "bank buying patterns have historically been sensitive to tax reform and government incentives."

Their role as a backstop against weakening demand for municipal paper has come to the fore in recent years. Bank holdings of municipal paper rose close to \$120 billion from 2015 to 2017, even as households sold around \$110 billion of municipal bonds, according to the Federal Reserve data.

But some investors are still waiting for the dust to settle from the Republican tax legislation before making up their minds on how much of a boon a renewed Dodd-Frank bill would be for the municipal bond market.

“Right now the market is trying to figure out what bank activity will be as a result of the tax-cut legislation. Banks very well could find relative value elsewhere,” wrote Kozlik.

Market Watch

by Sunny Oh

Published: Mar 9, 2018 2:12 p.m. ET

[Read About EMMA's Upcoming 10-Year Anniversary and the Enhancements We're Launching Later This Spring.](#)

[Read the MSRB Bulletin.](#)

[CFPB and NASBA Continuing Education Credits.](#)

Interested in earning @CFPBoard or @NASBA continuing education credits?

The MSRB offers CE credits through live and on-demand webinars and online MuniEdPro® courses.

[Learn more here.](#)

[MSRB Compliance Corner.](#)

Read about mark-up disclosure implementation, upcoming compliance dates and resources for municipal bond dealers and municipal advisors in the MSRB's latest [Compliance Corner](#).

[GASB Invitation to Comment on Revenue and Expense Recognition.](#)

[Read the Invitation to Comment.](#)

[03/07/18]

[GASB 2018 Request for Research: The Gil Crain Memorial Research Grant.](#)

[Read the Request for Research.](#)

[Big Banks Get a Big Win in Senate Rollback Bill.](#)

Nation's largest banks would gain incentive to buy more municipal bonds in legislation targeting smaller banks

WASHINGTON—Bipartisan legislation expected to clear the Senate as early as this week has just one provision that is set to directly benefit the nation's megabanks: a section aimed at making it easier for them to buy state and local bonds.

The provision, championed by Citigroup Inc. and other large banks, would ease a new rule aimed at ensuring banks can raise enough cash during a financial-market meltdown to fund their operations for 30 days, requiring them to hold more cash or securities that are easily salable.

Under federal banking rules approved in 2014, those "high quality liquid assets" included cash, Treasury bonds and corporate debt—but not municipal debt. Banks historically like to hold municipal bonds because of their safety and tax advantages.

The Senate on Tuesday voted 67-32 to formally begin debate on the bill, which primarily benefits small and medium-size banks, easily reaching the 60 votes needed and signaling that the measure has enough support from Democrats to pass by a comfortable margin. The legislation was backed by 16 Democrats and one independent, Maine Sen. Angus King, bucking Massachusetts Sen. Elizabeth Warren and 31 other Democrats who opposed the procedural vote.

Including the municipal-bond provision in the deregulatory bill was a priority for the nation's biggest banks that buy a lot of municipal securities as investments. A Citi lobbyist recently told a Senate staffer that the firm would be pleased if easing the treatment of municipal debt under the bank-funding rule was the one thing it could accomplish during the current Congress, according to a person familiar with the conversation.

State and local officials have praised the move, saying their securities could suffer if banks begin to shun them.

A Citi spokesman said the bond provision "is supported by a wide array of groups focused on helping cities and states address critical infrastructure needs."

While the provision is a victory for Citi, the biggest U.S. banks haven't lobbied extensively on the Senate bill, according to congressional aides. Big firms have spent billions to comply with a gamut of postcrisis rules and generally aren't eager to tear them down.

Analysts have said changing the rule for municipal products would be a mistake because it would erode the core of a bank-safety rule put in place after the 2010 Dodd-Frank law. While municipal securities have relatively low default rates, they are traded thinly and shouldn't count as liquid assets, critics say.

"It's an outrageously bad idea," said Phillip Swagel, a professor at the University of Maryland who

served in the George W. Bush Treasury, characterizing the provision as an implicit federal guarantee of the municipal market. In the next crisis, banks will have trouble selling their municipal securities, freezing up the market for them and requiring the government to step in to backstop it, he predicted.

While lawmakers agreed to include the municipal debt measure, they rebuffed Citi and JPMorgan Chase & Co. efforts to water down a separate postcrisis capital requirement known as the supplementary leverage ratio. That regulation effectively restricts banks from making too many loans without adding new capital, forcing firms to maintain a proportion of capital to fund their assets—including loans, investments and even the collateral clients post on derivatives transactions.

The legislation includes a provision to diminish the leverage ratio in a way that lawmakers say would only benefit financial institutions primarily engaged in “custody services,” in which they hold assets on behalf of other banks. Citi and JPMorgan, global banks that don’t fit the definition but still offer custody services, have argued it is unfair to carve out certain banks from the provision and not others.

“As Congress has sought to make a common sense change to the way capital rules treat custody assets, we have asked that they apply that change to all custody banks to maintain a level playing field in this important business,” a Citi spokesman said.

Senate aides said lawmakers crafted a delicate compromise that can pass the chamber and don’t want to broaden the bill with more provisions helping big banks—which became a target of criticism during the crisis—and risk having the bill fail. “That is not happening,” said one Senate Democratic aide.

Federal Reserve Chairman Jerome Powell said on Feb. 27 that the Fed would prefer that Congress allow regulators to rewrite the leverage ratio rule. Instead, the bill directs regulators to exclude certain assets from the calculation of the leverage ratio for custody banks such as Bank of New York Mellon Corp. and State Street Corp.

The Wall Street Journal

By Andrew Ackerman

Updated March 6, 2018 2:49 p.m. ET

—*Ryan Tracy contributed to this article.*

[Fitch: West Virginia Employee Wage Dispute Highlights Fiscal Pressures.](#)

Fitch Ratings-New York-09 March 2018: Fitch Ratings believes the recent wage dispute in West Virginia, which ended with approved salary increases for the state’s teachers, service personnel and state employees, is further evidence of the fiscal pressures that underpin our Negative Outlook on the state’s ‘AA’ Issuer Default Rating (IDR).

The state’s financial challenges, which have increased with the need to fund the higher salaries, are likely to continue despite recent revenue improvement. The multi-year weakness in the state’s key state revenue sources has reflected its struggle with a long-term decline in coal production and related economic turmoil, despite some improvement in fiscal 2018.

The salary increases provide for a fixed-dollar-amount, average 5% raise for all employees effective July 1, 2018. The increases have a \$100 million impact on the \$4.8 billion (General Revenue, Lottery and Excess Lottery) executive budget for fiscal 2019; \$80 million above the 1% average salary increase initially proposed by the governor. The state expects to adjust the governor's recommended budget and apply cash balances in its Medicaid program in fiscal 2019 to accommodate the increases. Fitch believes this additional cost may prove challenging to accommodate in future budgets given vacillating severance, income and sales taxes; prior use of reserves to fund operations; and the cuts the state has already made through a period of revenue weakness. As in most states, education and health and human services spending are the state's largest operating expenses, and the strong employee push for wage increases and health care plan improvement speak to the challenges of cost control efforts in these areas.

Revenues in fiscal 2018 are meeting expectations through February 2018, and the governor has identified an additional \$58 million in resources to fund the fiscal 2019 budget beyond what was incorporated into his budget proposal. The legislative budget that is currently moving through both the House and the Senate does not apply the additional forecast revenue to funding the fiscal 2019 budget.

Revenue growth is forecast in personal income and sales taxes as the state anticipates economic momentum from road construction projects, increased consumer spending related to federal tax cuts and stability in the energy sector. Given fiscal performance prior to 2018, Fitch remains cautious that the state will achieve these targets. Additional resources do not include any direct windfall revenue from the federal Tax Cuts and Jobs Act as the state subsequently decoupled its personal income tax exemption policies from those of the federal government, relinquishing \$140 million in estimated potential tax benefit in fiscal 2019.

The state's 'AA' IDR incorporates the state's economic concentration in natural resource development, strong ability to control revenue and spending policy, and commitment to addressing its liability profile. The rating is supported by a still sizable level of reserves at the state's disposal, and the governor's budget proposal does not appropriate from the rainy day fund for operations. The Negative Outlook reflects the risks associated with the state's cyclical natural resource markets, particularly the longer term decline in coal production, and Fitch's concern that the state will be challenged in providing a durable response to its long-term economic and financial challenges.

For more information on the state, see "Fitch Rates West Virginia's \$44MM School Building Bonds 'AA-'; Outlook Remains Negative" dated Sept. 7, 2017 and available at www.fitchratings.com.

Contact:

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

Karen Krop
Senior Director
+1-212-908-0661

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

Fitch: Los Angeles' FY 2018 Operational Deficit Remains Solvable, But Challenges Continue.

Fitch Ratings-San Francisco-09 March 2018: Los Angeles (Issuer Default Rating AA-/Stable) recently issued its midyear financial status report for fiscal 2018, highlighting the city's ongoing operational deficit. Based on recent years' experience, Fitch Ratings expects that the majority of the small projected general fund shortfall of \$35 million (less than 1% of fiscal 2018's budgeted \$5.83 billion in revenues) will likely be solved during the course of the year. Despite numerous past projected deficits that have varied widely in size, the city added to its unrestricted general fund balance every year between fiscal years 2011 and 2016. This was achieved in the face of increasing expenditures. However, ongoing expenditure pressures did result in an unrestricted general fund balance drawdown in fiscal 2017.

The city's recently released fiscal 2017 audit results show that general fund expenditures increased by almost 6% year-over-year, largely driven by increased employee remuneration and contractual service costs. Such ongoing expenditure pressures are anticipated by Fitch's 'a' expenditure framework assessment. By contrast, general fund revenues increased by just over 2%, largely due to increased receipts for most taxes given ongoing economic growth. Fitch's 'aa' revenue framework assessment incorporates the city's ability to capture revenues from across its wide range of economic activity.

In fiscal 2017, large transfers out of the general fund to support debt service obligations, capital costs, and non-general fund departmental operations, as well as a decrease in the reserve for inventories, resulted in a \$142 million total general fund balance drawdown. Nevertheless, fiscal 2017 ended with a still strong total general fund balance of \$886 million (16% of spending), down from \$1.03 billion (20%) the prior year. The unrestricted general fund balance declined to a still healthy \$841 million (15%) in fiscal 2017, from \$903 million (19%) in fiscal 2016.

The city lists various revenue and expenditure concerns for fiscal 2018, most of which had previously been cited in fiscal 2017. These include local and federal funding uncertainties, a HUD settlement payment, and potential unbudgeted expenditures for liability claims. The city's multiyear projections (last published in June 2017 and due to be updated in April) indicate that structural balance could be achieved by fiscal 2022. However, this assumes that the city will solve each year's deficit with ongoing solutions, rather than general fund reserve drawdowns. This will likely be challenging given rising employee costs (particularly related to retirement benefits) and service expansion pressures.

The city measures reserves in terms of its emergency, contingency, and budget stabilization reserves, plus its unappropriated general fund balance. Currently, the city estimates these cumulative reserves at just under 8%, a slight drop since the last financial status report due to recommended expenditures from the unappropriated general fund balance to offset citywide shortfalls, unbudgeted expenses, and proposed loans. Cumulative reserves remain below the fiscal 2016 peak of 10%. Fitch measures reserves in terms of unrestricted general fund balance, which remain healthy at 15% of spending in fiscal 2017. Fitch would be concerned if the city continued to draw down its reserves to meet operational expenses, particularly during this period when the city's economy is performing well. Lower reserves could constrain the city's financial flexibility when it needs it most during a future economic downturn.

Contact:

Alan Gibson
Director
+1-415-732-7577
Fitch Ratings, Inc.
650 California Street, Suite 2250
San Francisco, CA 94108

Amy Laskey
Managing Director
+1-212-908-0568

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

Additional information is available on www.fitchratings.com

[Fitch: Internet Sales Tax Ruling May Slow Declines for US States.](#)

Fitch Ratings-New York-07 March 2018: US states and local governments could benefit from a pending Supreme Court ruling on internet sales taxes, but long-term stagnation of sales tax revenues are likely to continue, Fitch Ratings says. Sales tax collections have fallen steadily over the past 20 years as a proportion of total state tax revenues due to the growth of internet commerce and other changes in consumer spending patterns. If the Supreme Court rules to extend state sales taxes to internet purchases it would have a modest effect on sales tax collections nationally, but would not be sufficient to reverse the long-term credit challenge arising from diminished sales tax growth.

Oral arguments on *South Dakota v. Wayfair* are scheduled for April 17. A ruling in South Dakota's favor could help state and local governments extend taxes to all internet sales, providing up to \$13.4 billion in new revenue annually according to the US Government Accountability Office. This amounts to 3.6% of state and local government general sales tax collections in 2015, and less than 1% of total tax collections. Other estimates have been higher. The actual amount is likely to increase over time as internet sales grow.

The importance of sales tax revenues for state and local government budgets varies widely. Five states do not impose sales taxes while 20 rely on sales taxes for more than one-third of their total tax revenues. States with a high reliance on sales tax have the greatest stake in the court's review of this case.

[Continue reading.](#)

[Fitch: WV Strike Shows Janus May Have Little Impact on US Locals.](#)

Fitch Ratings-New York-05 March 2018: The ongoing work stoppage by teachers in West Virginia indicates that local governments may not gain much expenditure flexibility should the U.S. Supreme Court make a decision that would loosen collective bargaining requirements in the case of Janus v.

American Federation of State, County and Municipal Employees, Fitch Ratings says. At issue in the Janus case is whether public-sector workers should be able to opt out of required fees related to negotiating and enforcing union contracts, effectively conferring right-to-work status on all states.

Salaries and benefits comprise the majority of spending for most local governments, making the ability to adjust these costs, if needed, an important element of Fitch's evaluation of expenditure flexibility. We include a workforce evaluation in all local government rating analyses that considers both the formal bargaining relationship between labor and management and the practical ability to adjust spending. The inflexibility of pension contributions, which can be a sizable component of labor spending, makes the ability to adjust headcount, salaries and current benefits the primary focus of the analysis.

Currently, 28 states have right-to-work laws, which prohibit compulsory union dues by non-union members. Federal law prohibits compulsory union membership. Right-to-work laws do not control union membership or union negotiation and enforcement of labor contracts.

West Virginia adopted a right-to-work law in 2016 but it was stalled by litigation and did not go into effect until late 2017. A work stoppage by teachers and other West Virginia school employees is in its second week. Governor Jim Justice's proposal for a 5% pay raise beginning in July, instead of the previously-proposed 2%, was passed by the House of Delegates on Feb. 28. The senate approved a smaller 4% increase on March 3 that was not adopted by the House. Even if the raise were approved, issues regarding health care insurance costs remain unresolved. News reports indicate that teachers in Oklahoma, another right-to-work state, are considering a work stoppage.

The West Virginia state Attorney General has asserted that the work stoppage was unlawful, but did not indicate that any action will be taken against striking employees. This demonstrates that the legal framework governing the labor-management relationship is not the only indicator of labor-related spending pressure. An outcome of the Janus case that loosens collective bargaining requirements would therefore not yield an automatic improvement in local governments' levels of expenditure flexibility, a key consideration in Fitch's rating criteria.

Contact:

Amy Laskey
Managing Director, U.S. Public Finance
+1 212 908-0568
Fitch Ratings, Inc.
33 Whitehall Street, New York

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

[Fitch to Include Disclosure on PR Special Rev Ruling in Related Issuer Research.](#)

Fitch Ratings-New York-09 March 2018: On March 12, 2018 Fitch Ratings will begin inserting a

comment into its rating action commentaries (RACs) for credits the agency believes could be affected if a final ruling upholds a recent decision on the interpretation of a section of Chapter 9 of the U.S. bankruptcy code. A Jan. 30, 2018 district court ruling dismissed claims regarding payment of Puerto Rico Highways and Transportation Authority (PRHTA) debt. The ruling states that section 922(d) was included in the code as permission for a municipality to continue paying special revenue obligations if it chooses to do so during bankruptcy rather than as relief for bondholders from the constraints of the code's automatic stay provisions.

A final ruling in the case that is consistent with this approach would create uncertainty about full and timely payment of special revenue obligations including those of utilities, transportation, and other enterprises of local governments as well as some dedicated tax bonds in the event the related government files for a Chapter 9 bankruptcy. Fitch's Rating Criteria for Public Sector, Revenue-Supported Debt already consider the influence on enterprise debt of the credit quality of the general government, including common management and service area characteristics as well as legal, financial and operational connections. Restrictions on the use of pledged revenues for other municipal purposes, such as federal law prohibiting diversion of airport revenues to other municipal uses, is another strong credit consideration.

Fitch will insert the following comment in RACs it believes are subject to uncertainty in the event of a final ruling in the PRHTA case that is consistent with the district court ruling:

"A Jan. 30, 2018 district court ruling that dismissed claims regarding payment of Puerto Rico Highways and Transportation Authority debt has raised questions about the scope of protections provided by Chapter 9 to bonds secured by pledged special revenues. Fitch's rating criteria treat special revenue obligations as independent from the related municipality's general credit quality. The outcome of the litigation could result in modifications to Fitch's approach. For more information, see 'What Investors Want to Know: The Impact of the Puerto Rico Ruling on Special Revenue Debt' (February 2018)."

Fitch will not include this comment in RACs of bonds rated based on the pledged special revenue definition described in section 902(2)(E) of the code. In these cases, Fitch believes the possibility of a payment interruption due to an automatic stay would remain remote even if the recent ruling were to stand. Fitch sets a high bar to consider tax-supported debt to be secured by pledged special revenues under section 902(2)(E) and thus unaffected by the operating risk of the related municipality. Among the elements required for Fitch to rate such bonds without regard to the government's issuer rating is a statutory requirement that a governmental official outside the municipality collects and remits the tax revenues to the paying agent, placing the funds outside the control and direction of the municipality.

Fitch has most commonly applied this analysis to bonds issued by school districts in California. In Fitch's opinion, this structure places the bond security outside the scope of the Puerto Rico decision. The court's opinion notes that section 922(d) permits third parties to continue to apply special revenues held by them to debtors, free from the automatic stay.

Contact:

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

Seth Lehman
Senior Director
+1-212-908-0755

Dennis Pidherny
Managing Director
+1-212-908-0738

Doug Scott
Managing Director
+1-512-215-3725

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

Additional information is available on www.fitchratings.com

Bloomberg Brief Weekly Video - 03/08

Taylor Riggs, a contributor to Bloomberg Briefs, talks with editor Joe Mysak about this week's municipal market news.

[Watch video.](#)

Bloomberg

March 8th, 2018

California Shows Bond Buyers Willing to Jettison Industry Staple.

- **State opted for shorter call dates after U.S. tax change**
- **Deputy treasurer says didn't pay up for different structure**

Since the Great Recession, the \$3.8 trillion municipal-bond market proved adaptable as the debt insurance industry collapsed, derivatives disappeared and the federal government created a new type of taxable security to stoke the economy by encouraging spending on public works.

If California's bond sale this week is any guide, it seems just as willing to embrace the latest change: Shorter call dates, in response to provisions in the U.S. tax overhaul that curbed governments' ability to refinance debt before it can be repurchased from investors.

When the most-populous U.S. state sold \$2.2 billion of general-obligation debt, it gave itself the option to call back most of the bonds in five or eight years, meaning bondholders could be forced to part early with what they expected to be a long-term investment. But that did little to deter demand, with buyers placing orders for twice as many bonds as were being sold and some maturities six-times oversubscribed, Tim Schaefer, California's deputy treasurer, said in an interview.

"The fact that we did this and got such good reception on it is confirmation that the market has

grown to a much more sophisticated place,” he said.

The sale marked the biggest test yet of whether investors would be willing to embrace the shorter call dates, though demand may have been stoked in part by the dearth of new municipal bond issues this year. Wisconsin and Utah’s Davis School District sold similar securities on a smaller scale this year, and analysts anticipate that more borrowers will follow suit.

Investors accepted yields of 2.74 percent on a 5 percent coupon bond due October 2029 with an eight-year call, while the same maturity with a five-year call yielded 2.42 percent. The price of the securities edged up in subsequent trading.

The state didn’t appear to pay a price for the call-option shift because the difference between the state’s yields and top-rated securities was similar, or lower, than during its debt sale a year ago, Schaefer said.

While some other governments may have to pay higher yields to compensate buyers for the risk the securities will be paid off ahead of schedule, the earlier calls will preserve their ability to save money if interest rates fall.

“It’s a good compromise for issuers who want that flexibility going forward, don’t want to wait 10 years, and are willing to accept modestly higher rates on a yield to maturity basis and in a rate environment that is still historically quite low,” said Jay Wheatley, head of Citigroup’s municipal syndicate desk. “It’s going to become more of the norm, especially in a low issuance environment.”

Bloomberg Markets

By Romy Varghese

March 9, 2018, 6:07 AM PST

— With assistance by Danielle Moran

[If You're Fleeing Volatility, There's Refuge in the Muni Market.](#)

- **10-year yield has budged 0.01 percentage point in three weeks**
- **Muni prices haven’t been this steady in nearly three years**

Quick: What are the most commonly used adjectives when describing the \$3.8 trillion municipal-bond market?

If you said, “sleepy,” or “boring,” you win.

Over the last three weeks, it has lived up to that reputation, with yields on 10-year AAA municipal bonds moving exactly one basis point, to 2.49 percent from 2.48 percent. The difference between the daily high and low yield over that period is nearly as minuscule — a range of a mere 2.6 basis points, a difference that amounts to about \$26 on a \$100,000 investment. The price volatility over the past 20 days is the lowest since mid-2015, according to data compiled by Bloomberg.

Treasury yields haven’t moved much either since Valentines Day, just 3 basis points. But there’s been a 15 basis point difference between the three week high of 2.95 percent on Feb. 21 and the 2.81 percent low on March 1.

So why has trading municipal bonds become about as exciting as working as the Maytag repair man?

New offerings of long-term, fixed-rate state and local government debt is down 40 percent, compared with last year, because municipalities rushed to market in December before the federal tax overhaul sharply limited their ability to refinance debt. The issuance drought helped support the market amid the selloff in January triggered by speculation that the Fed will raise interest rates more aggressively than expected, leaving munis with a smaller loss than Treasuries so far this year.

“The lack of supply has kept the market from sort of falling off a cliff,” said Nicholas Venditti, who oversees \$11.5 billion of municipal bonds at Thornburg Investment Management in Santa Fe, New Mexico.

What’s more, retail investors, who drive the muni market, haven’t been spooked — yet — by the losses showing up in their month-end statements. Munis lost 1.5 percent through the end of February, their worst start to a year since the 2008, during the early pangs of the credit crisis.

The market may get more volatile as mom and pop investors start selling and signs emerge that banks and insurance companies are gradually paring tax-exempt bonds and buying taxable bonds instead because corporate tax cuts have made tax-exempt debt less attractive, Venditti said.

Add a pick-up in issuance by municipalities and that could lead to a bearish market, Venditti said, making his job — and maybe yours — more interesting.

Bloomberg Markets

By Martin Z Braun

March 7, 2018, 11:29 AM PST

[Trump Can't Derail Renewable Energy Push](#)

Public-private partnerships at the state and local levels are stepping in for federal funding.

When President Donald Trump entered office, it was clear that policies boosting energy production would take precedence over those protecting the environment.

The administration’s 2019 budget and its addendum proposed sweeping rollbacks to programs designed to limit environmental pollution and mitigate the effects of climate change, while slashing funds devoted to research on renewable energy.

Yet despite this setback, these policies should not leave investors in renewable energy holding the short end of the stick. Instead, this sector is showing signs of a revival thanks to public-private partnerships at the state and local levels.

[Continue reading.](#)

Bloomberg View

By Shelley Goldberg

March 9, 2018

Mayors and Governors Urge Congress to Pass Legislation Expanding Public-Private Partnerships (P3s) for Public Buildings.

The Performance Based Building Coalition calls for rebuilding America's unsafe and dilapidated public buildings

WASHINGTON, March 2, 2018 /PRNewswire/ — March, 1 2018, A bipartisan group of 14 mayors and 10 governors have sent letters to Congressional leadership expressing their strong support for the Public Buildings Renewal Act (S. 3177/ H.R. 5361) or PBRA, which will spur private investment in rebuilding America's unsafe and dilapidated public buildings.

<http://www.p3buildings.org/wp-content/uploads/2018/02/PBBC-Letter.pdf>

The bill would permit state and local governments to access \$5 billion in private activity bonds (PABs) for the financing of critical construction and infrastructure projects for qualified public buildings, such as schools, hospitals, courthouses, universities, police stations, and prisons.

"Infrastructure across our country is in desperate need of investment; and that includes our nation's public buildings. Providing services to our citizens depends on it," said Colorado Governor John Hickenlooper. "This proposed legislation needs to be a part of the conversation that brings us a comprehensive solution to our infrastructure needs."

Currently, the use of public-private partnerships (P3s) to deliver public buildings is extremely limited because unlike the transportation sector, public buildings are not eligible for private activity bonds. This inhibits public building P3s from combining tax exempt financing with private financing, resulting in an increased cost of financing.

"Private Activity Bonds for buildings are a triple win for governments, taxpayers, and the economy," said David Tuerck of Beacon Hill Institute which authored a study on the economic benefits of the PBRA. "Our findings show that, in the short run, every dollar of new infrastructure investment made possible by the PBRA will add \$2.80 to the U.S. economy. At the same time, taxpayers save nearly 25 percent over the life of these projects compared to traditional building methods, while these projects are delivered on time with guaranteed long-term performance."

Nearly every U.S. transportation P3 project has utilized federal financing, at least 75% of which have accessed Private Activity Bonds. Over \$36 billion in transportation P3 projects have been undertaken since 2010 with a cost savings of more than 20 percent on most projects.

This bill will catalyze the use of P3s in public buildings just as PABs have for transportation. By empowering the private sector to tackle these projects, the bill would make these projects more cost effective, stretching every public dollar further.

The Joint Committee on Taxation provided a very low score for this legislation, which shows it will have a minimal impact on the Federal budget- estimating a cost of only \$18 million over five years and \$48 million over 10 years.

The PBRA bill has bi-partisan support in Congress. It is sponsored by Senators Dean Heller (R-NV) and Bill Nelson (D-FL) in the Senate and by Representatives Mike Kelly (R-PA) and Earl Blumenauer (D-OR). There are 10 Senate co-sponsors and 28 House co-sponsors. The bill includes more

bipartisan Ways and Means support than nearly any other bill pending before the Committee.

About the Performance Based Building Coalition: Founded in 2012, the Performance Based Building Coalition is the nation's only non-profit industry coalition exclusively dedicated to developing the market for social infrastructure public-private partnership (PPP) projects in the United States. The PBBC's mission is to pass federal tax legislation that will create a new category of exempt facility bonds for government owned buildings, while simultaneously educating the public sector on all aspects of executing a P3 project. PBBC leadership & roster of over 90 members. www.p3buildings.org

[IRS Releases Adjusted 2018 Caps for LIHTCs, PABs](#)

The Internal Revenue Service (IRS) today issued [Revenue Procedure 2018-18](#), which includes updated low-income housing tax credit (LIHTC) and private activity bond (PAB) state cap numbers based on a chained consumer-price index introduced by tax legislation that passed in December. The LIHTC per-capita amount is \$2.40, unchanged from October, and the small state minimum is \$2,760,000, just \$5,000 less than announced last year. The PAB per-capita amount is \$105, also unchanged from October, and the small-state minimum is \$310,710,000, a decrease of \$665,000 from the cap set last year.

Friday, March 2, 2018 - 4:15pm

[Will Opportunity Zones Help Distressed Residents or Be a Tax Cut for Gentrification?](#)

States are fast approaching a deadline set by the new tax law to designate low-income neighborhoods as "Opportunity Zones"—a designation that will unlock favorable capital gains treatment for investments in those areas. Supporters say this will help revitalize distressed communities, but there is a risk that instead of helping residents of poor neighborhoods, the tax break will end up displacing them or simply provide benefits to developers investing in already-gentrifying areas.

Unfortunately, the evidence on the benefits of existing place-based policies is inconclusive. To understand whether Opportunity Zones are effective—and worth extending when key benefits come up for renewal as soon as next year—states have only a short window to act to incorporate evaluation mechanisms into their selection process. States and the District of Columbia must select qualified neighborhoods for Treasury's approval by March 21. Only one in four low-income areas in any state can be designated as an Opportunity Zone, so states must reject more neighborhoods than they select. This is a perfect opportunity to build in a rigorous comparison of places that made the cut to those that did not, to see whether the program helps residents of low-income communities, which elements are effective, and whether it should be renewed.

For background, Opportunity Zones offer favorable capital gains treatment for taxpayers who invest in designated high poverty neighborhoods. Invest in real estate or businesses located in a qualified zone, hold it for ten years, and not only can you sell your investments free of capital gains tax, but you also get a tax break on untaxed capital gains rolled into an Opportunity Zone investment. Individuals in a high-tax state and with short-term capital gains can avoid \$7.50 in taxes for each

\$100 they invest, even before considering any return on their Zone investments. It's very favorable treatment.

[Continue reading.](#)

The Brookings Institute

by Adam Looney

Monday, February 26, 2018

Why the Rust Belt Economy will Suffer in a Trade War.

President Trump's unanticipated announcement of steel and aluminum tariffs has sent markets reeling, and stoked trade war fears. The president appears motivated in part to deliver on his promise to voters in the industrial Midwest, where many responded positively to his anti-trade rhetoric and pledge to dismantle what he called the NAFTA "disaster."

But Trump's proposed tariffs, which many see as his latest negotiating tactic to make Mexico and Canada accept his demands on NAFTA, are unlikely to help these Midwestern voters and their communities. The early consensus is that the tariffs would cost many more jobs than they will keep or create. As Economic Outlook Group chief economist Bernard Baumohl put it, "More workers in the U.S. make products that are made from steel, than make steel itself."

[Continue reading.](#)

The Brookings Institute

John C. Austin

Tuesday, March 6, 2018

IRS Rules Solar Energy-Storage Upgrade Is Eligible for Tax Credit: Ballard Spahr

In a new letter ruling (PLR 201809003) issued on March 2, the IRS ruled that a residential behind-the-meter solar energy storage device—a battery—meets the definition of "qualified solar electric property expenditure" under section 25D(d)(2) of the Internal Revenue Code of 1986 (the Code), as amended, if 100% of the energy used by the battery is derived "from the sun," therefore allowing the 30% tax credit for the energy-storage device. The new policy could lead to an increase in the amount of upgrades and retrofits to existing residential solar energy systems.

In a 2013 letter ruling (PLR 201308005), the IRS had ruled that a commercial, behind-the-meter battery included in the original installation of a solar system will be considered part of the "energy property" within the meaning of section 48(a)(3)(A)(i) of the Code, and, therefore, an investment tax credit could be claimed on its full cost. The 2013 ruling also provided, however, that the battery's eligibility as energy property is subject to a "cliff" that eliminates all investment credit for the device

if less than 75% of the energy stored in the device during an annual measuring period is from the solar energy source, and to a “haircut” that may reduce the investment tax credit pro-rata, if less than 100% (yet more than 75%) of the energy stored in the device during an annual measuring period derives from the solar energy source. See Treasury Regulation § 1.48-9(d)(6).

This more recent IRS letter ruling is of interest in the following respects:

- The new ruling allows the tax credit for an energy storage device that was installed *one year after* the installation of the original solar system, while the 2013 ruling was applicable to an energy storage device *installed as part of the original solar system*. Although the 2018 ruling addresses a residential behind-the-meter energy storage application, the holding in that ruling suggests that it would be possible to have commercial after-installed storage devices qualify for the 30% investment tax credit as well.
- The later ruling makes clear that a residential behind-the-meter storage device has a solar energy storage “cliff” of 100%, unlike a commercial solar-connected energy storage device, which, by regulation, is subject to the 75% cliff rule described in the 2013 ruling.
- The use of the term “derived from the sun” in the 2018 ruling regarding a residential solar system, as opposed to a reference to the on-site solar system as a source for battery charging, prompts the question whether a behind-the-meter energy storage device (residential or commercial) could qualify for the 30% tax credit, if the solar energy stored in the battery was generated remotely, e.g., in a community solar project or contracted through a corporate power purchase agreement, assuming the subscriber/offtaker receives the renewable energy certificates from its subscription or offtake from the remotely-installed solar system.

Like all IRS private-letter rulings, the 2018 ruling is binding only on the taxpayer who received it and may not be used or cited as a precedent. It may provide guidance, however, as to the thinking of the IRS on the issues presented, and may indicate the likelihood that a proposed letter ruling involving similar facts will be approved. It will be interesting to watch the evolution of this topic in future IRS letter rulings and other IRS guidance.

Ballard Spahr’s Energy and Project Finance Group assists clients in developing strategies to thrive in the fast-changing regulatory, technological, and financing environment of the energy industry.

Attorneys in Ballard Spahr’s Public Finance Group have extensive experience with the rules and regulations set by the IRS.

Ballard Spahr’s Tax Credits Group has experience with all the major governmental tax credit programs, including renewable energy production and investment tax credits.

by the Energy & Project Finance, Public Finance, and Tax Credits Groups

Copyright © 2018 by Ballard Spahr LLP.

www.ballardspahr.com

(No claim to original U.S. government material.)

All rights reserved. No part of this publication may be reproduced, stored in a retrieval system, or transmitted in any form or by any means, including electronic, mechanical, photocopying, recording, or otherwise, without prior written permission of the author and publisher.

This alert is a periodic publication of Ballard Spahr LLP and is intended to notify recipients of new developments in the law. It should not be construed as legal advice or legal opinion on any specific

facts or circumstances. The contents are intended for general informational purposes only, and you are urged to consult your own attorney concerning your situation and specific legal questions you have.

S&P Global Trade At A Crossroads: U.S. States And Localities May Take Another Look At Budget Forecasts.

In its 2018 sector outlook for U.S. states, S&P Global Ratings cited the potential for policy missteps as a leading risk to its baseline economic forecast for the year. President Trump's recent decision to impose import tariffs of 25% on steel and 10% on aluminum is an example of this type of risk.

[Continue Reading](#)

Mar. 9, 2018

S&P: Odds Are Favorable For Continued Strong Credit Quality For U.S. Lottery Revenue Bonds Despite Slower Future Growth.

Consistent with S&P Global Ratings' long-held view, we anticipate that the highly rated U.S. lottery bonds sector will remain stable, despite expectations of slower lottery revenue growth. S&P Global Ratings maintains ratings on lottery bonds issued by four states, with all but one rated 'AAA' (our highest rating).

[Continue Reading](#)

Mar. 6, 2018

S&P: Pension Assumption Delay Makes Near-Term New Jersey Budgets More Manageable, But Doesn't Address Long-Term Pension Issue.

NEW YORK (S&P Global Ratings) March 5, 2018-S&P Global Ratings today said that it believes a delay in implementing changes to pension return assumptions, recently announced by New Jersey's acting treasurer, should allow the state more near-term budget flexibility, but does not address the state's long-term pension problems.

[Continue Reading](#)

Combining Tax-Exempt Bonds with Public-Private Partnerships under Current Law: Squire Patton Boggs

On February 13, the Trump Administration released its proposal to finance improvements of the nation's infrastructure. This proposal promotes the use of public-private partnership ("P3")

arrangements to fund these improvements by expanding exempt facility bonds (a type of tax-exempt private activity bond that can be used to finance a list of specific types of projects, such as airports, sewage facilities, etc.) so that tax-exempt bonds can be used more easily in conjunction with P3 arrangements. For example, many public infrastructure projects, such as convention centers, courthouses, and fiber optic networks, do not fit within the patchwork list of projects that qualify for private activity bond financing, and so they cannot be financed with tax-exempt bonds if the bonds would exceed the private activity limits.

The day after the Trump Administration released its proposal, House Ways and Means Chairman Kevin Brady [made it clear that he does not support an expansion of tax-exempt private activity bonds](#)(\$). If the scope of exempt facility bonds is not expanded to facilitate the more ready use of tax-exempt bonds in P3 financing structures, and Chairman Brady's resistance could make this a likely outcome, P3 arrangements that wish to include tax-exempt bond financing will need to satisfy current law. One way to accomplish this objective is for the private party in the P3 arrangement not to be the owner or long-term lessee of the tax-exempt bond-financed property but instead to use this property under a management contract that complies with [Revenue Procedure 2017-13](#) (which we have analyzed [here](#), [here](#), and [here](#)).

What if the P3 arrangement contemplates that the private party will hold attributes of ownership in the subject property that will result in excessive private business use of the bonds that would finance that property, so that the qualified management contract approach is not a solution? One technique, which is often used to allow the use of tax-exempt bonds to finance professional sports stadiums (which, since the Tax Reform Act of 1986, have not been among the list of projects that can be financed with exempt facility bonds), presents a potential alternative solution.

The Public Finance Tax Blog

By Michael Cullers on March 6, 2018

Squire Patton Boggs

[Issuer Brief: A New Microgrid in Chicago and What It Means for Governments Moving Forward.](#)

Microgrid Approved in Illinois — A Case Study

The Illinois Commerce Commission has approved ComEd's plan to construct one of the nation's first utility-scale microgrid clusters in the Bronzeville neighborhood on the South Side of Chicago. The project, which has received more than \$5 million in grant funding from the U.S. Department of Energy, will enable the study of how microgrids support the integration of clean energy onto the grid and increase grid security to keep power flowing even during extreme weather or a catastrophic event.

A microgrid is a small power grid with defined boundaries which can operate both when connected to the larger electric grid and as an "island" when there's an interruption on the main grid. It draws on distributed energy resources, such as solar power or cogeneration facilities, to serve customers within the microgrid footprint.

In this case, the project will serve an area that includes 10 facilities providing critical services, including the Chicago Public Safety Headquarters, the De La Salle Institute, and the Math & Science

Academy, a library, public works buildings, restaurants, health clinics, public transportation, educational facilities, and churches. It will also be connected to an existing microgrid at the Illinois Institute of Technology. The completed project will serve about 1,060 residential, commercial, and small industrial customers. It will be constructed in two phases and will include battery storage and solar photovoltaic cells. It is scheduled for completion in 2019.

Our interest here is the technological improvement. Although it is being undertaken by an investor-owned rather than a municipally owned and operated utility, there are clearly many municipally operated utilities which could potentially use and benefit from this technological step, by reducing peak capacity requirements and carbon footprints. So we will look with interest at the results of the project as they impact, cost, efficiency, and reliability for this major urban electric distributor.

Privatization Takes a Hit

From the earliest days of the Trump Administration, Rep. Bill Shuster R-PA has been pursuing an effort to privatize the federal air traffic control (ATC) system. For a while, the ATC privatization plan was the only thing that the Trump Administration could cite as its infrastructure program. Since then, the Administration has put out an infrastructure plan weighted in favor of private interests. Over that same period, the Shuster privatization legislation has met bipartisan resistance, and Rep. Shuster has announced that he will retire at the end of his term in January.

So it is with real interest that we received the news that “despite bipartisan support among lawmakers, industry and labor groups, there isn’t enough support to approve the proposal this year,” Shuster said. He also said that instead he would work with his counterpart, Sen. John Thune, R-S.D., to approve FAA legislation without air-traffic control privatization.

General-aviation advocates feared that the corporation would favor airlines at busy airports and would have charged higher fees than the government. Groups including the Aircraft Owners and Pilots Association, the General Aviation Manufacturers Association, the National Air Transportation Association and the National Business Aviation Association issued a joint statement opposing the effort.

The moral of the story is that privatization is not the answer for all infrastructure situations. A successful process will concentrate on the best result rather than the method used to accomplish it.

Is the NY-NJ Gateway Tunnel Project Hitting a Wall?

There have been concerns since the unveiling of the Trump administration infrastructure “plan” in mid February about whether funding commitments to the Gateway Tunnel project by the Federal government would be adhered to. In December, the acting administrator of the Federal Transit Administration, K. Jane Williams, said in a letter to officials in New York and New Jersey that any such agreement was “nonexistent.” The signals this week were not very encouraging. First, Transportation secretary Elaine Chao told transportation advocates that federal loan funds provided to participants in the Gateway project would not be counted as part of the states’ equity contributions. This would require N.Y. and N.J. to come up with even more locally generated funding. At a Senate Environment and Public Works hearing Sens. Kirsten Gillibrand (D-N.Y.) and Cory Booker (D-N.J.) pressed Chao about why the administration doesn’t consider federal loans as equity, she said it’s simply not the way things have been done. Gillibrand and Booker disagreed, and at one point Booker cited a DOT webpage he said seemed to invalidate her position. Chao said that wasn’t her understanding, but promised to “look at it.”

The Secretary ran into additional pushback during a hearing held by the House Transportation and

Infrastructure Committee Tuesday. Chao said the concern is that the project would consume all of the available federal funding. "If they absorb all of these funds, there would be no others left for the rest of the country," Chao said. That does echo fears some rural legislators have expressed.

The project is also getting caught up in the maelstrom of chaos engulfing the White House. President Trump is pressing congressional Republicans to oppose funding for a new rail tunnel telling Speaker Paul Ryan this week not to support funding for the \$30 billion project. The stance is likely fueled by Trump's animus toward N.Y. Sen. Chuck Schumer. The project is widely considered to be among the most pressing and most expensive infrastructure needs in the country, making up 20% of the nation's GDP. A document issued by Trump's transition team listed the Gateway project as the No. 1 national infrastructure priority.

Congressional appropriators are looking to spend at least \$950 million in federal funds on the Gateway project in the coming omnibus spending bill. Lawmakers are expected to pass the legislation ahead of a March 23 government shutdown deadline. The chairman of the House appropriations subcommittee on transportation, said the project was among the top priorities to be funded in the new bill. On the Omnibus funding, if the money is added to the New Starts program or State of Good Repair program for it, then it has to be signed off in by Chao which could present problems if Trump is super dug in. However, if the money goes through the Amtrak account, it goes straight to the Amtrak board who then can get it out without DOT signoff.

Posted 03/08/2018 by Joseph Krist

This Issuer Brief is brought to you by Court Street Group.

Neighborly Insights

[Tax Court Denies Church's Property Tax Exemption.](#)

The New Jersey Tax Court, in *Christian Mission John 316 v. Passaic City*, recently issued a decision refusing to allow a property tax exemption for a commercial property under construction for a new religious use. The Tax Court strictly construed N.J.S.A. 54:4-3.6 and found a religious nonprofit corporation's limited use of its property, which was under construction as of the assessing date, did not meet the requirements for a local property tax exemption.

At issue was whether the subject property was available for religious services absent a temporary or final certificate of occupancy and whether the plaintiff actually used the subject property for religious purposes. The plaintiff is a religious nonprofit corporation and owns and operates a church with an adjacent parking lot. The church and parking lot are both exempt from local property tax. In September 2009, the plaintiff purchased the adjoining property in order to expand its facilities. Between 2009 and 2012, the property was not exempt from local property tax, and the plaintiff did not appeal the decision. In late 2011, the plaintiff began significant renovations of the property to convert it from a commercial warehouse into a large sanctuary, offices and meeting space. During the construction, the plaintiff conducted 20-minute prayer sessions on the property for church members and their spouses who were part of the construction team. In 2012, the defendant city denied the plaintiff's application for a local property tax exemption for the subject property for the 2013 tax year. The plaintiff appealed the decision and moved for summary judgment.

In its decision, the Tax Court concluded the property was not exempt from local property taxes for the 2013 tax year. The court held that the 20-minute prayer sessions did not constitute "actual use"

as contemplated under N.J.S.A. 54:4-3.6 because neither the public nor a majority of the plaintiff's congregation derived a benefit from the property as of the assessing date. In support of its decision, the Tax Court explained that the prayer sessions were not available to the public and were incidental to the prayer services offered by the plaintiff, and that formal religious services commenced several weeks after the assessing date of October 1, 2012. It did not matter that the goal, intent or objective was to furnish a tax-exempt purpose (religious activities), because the subject property was not in a position to provide its services or benefits to the public as of the assessment date.

The Tax Court also found that the subject property could not be considered actually in use or fully available for use under N.J.S.A. 54:4-3.6, because a temporary certificate of occupancy was not issued until April 14, 2013, roughly six months after the assessing date. The Tax Court noted that the Uniform Construction Code (UCC) "strictly prohibits use or occupancy of a structure until a certificate of occupancy has been issued." The court stated that it could not envision the New Jersey Legislature condoning a taxpayer, in order to qualify for tax exemption, attempting to make actual use of a property prior to the property having an occupancy permit. In holding that the subject property did not qualify for exemption, the Tax Court circumscribed its opinion to "properties that: (1) have not previously been granted tax exemption; (2) are experiencing new construction or renovation to permit an intended use of the property for an exempt purpose; and (3) have not been the subject of an added assessment."

The Tax Court also, in a matter of first impression, narrowly construed the Appellate Division's decision in *Society of the Holy Child Jesus v. City of Summit*, 418 N.J. Super. 365 (App. Div. 2011), which holds that tax assessment statutes and construction and zoning laws are not to be read in *pari materia*, and municipalities have separate avenues of enforcement with regard to those laws. The Tax Court here relied substantially on the UCC as strictly prohibiting the use or occupancy of a structure until a certificate of occupancy has been issued as a basis for the denial of the tax exemption. However, under *Society of the Holy Child*, that would have been a non sequitur vis-à-vis the tax exemption. Even though the *Society of the Holy Child Jesus* opinion is governing legal precedent, the Tax Court took great pains to narrowly construe its holding. It is possible this extremely narrow reading may be subject to further challenge or appeal.

In light of the Tax Court's decision, exempt taxpayers should not assume property being converted to tax-exempt purposes will qualify for a tax exemption prior to the completion of construction. They therefore may wish to establish a reserve to cover the period of nonexemption. Also, tax-exempt religious entities such as churches, synagogues or mosques may want to allow the public, not just a select few, to attend or take part in any services held on the property during its construction or reconstruction, if safely or reasonably possible. Obtaining a temporary certificate of occupancy as soon as possible could be an important first step toward perfecting the exemption. Last, exempt taxpayers may want to weigh the costs and benefits of a renovation of a property that has not been previously tax-exempt if the cost of temporary taxes will be particularly significant.

by Christopher John Stracco Katharine A. Coffey Alyssa R. Musmanno

March 7, 2018

Day Pitney Alert

TAX - PENNSYLVANIA

In re Appeal of Springfield Hospital Folio No. 42-00-06625-01

Commonwealth Court of Pennsylvania - February 13, 2018 - A.3d - 2018 WL 828284

Following entry of order adopting payment in lieu of tax (PILOT) agreement between taxing authorities and non-profit corporation, which operated hospital, sale of hospital property from non-profit corporation to tax-exempt entity, and sale of hospital property from tax-exempt entity to limited liability company (LLC), taxing authorities filed petition to enforce order adopting PILOT agreement, which exempted property from real estate taxes so long as it was used solely for hospital purposes by non-profit corporation or by any entity exempt from federal tax.

The Court of Common Pleas granted petition and ordered property's status to be changed to taxable non-exempt. LLC appealed.

The Commonwealth Court held that:

- LLC failed to file its motion to remand, for assignment to different judge, at earliest possible moment, and thus LLC waived such motion, and
- LLC waived for appellate review its argument that Consolidated County Assessment Law (CCAL) prohibited trial court from enforcing PILOT agreement.

Limited liability company (LLC), which purchased hospital property from tax-exempt entity, which in turn had acquired hospital property from non-profit corporation, failed to file its motion to remand, for assignment to different judge, at earliest possible moment, and thus LLC waived such motion, in taxing authorities' action to enforce prior court order exempting non-profit corporation and its successors from real estate tax on hospital building, where LLC knew over four months before filing motion of alleged conflict of interest arising from judge serving on board of directors for foundation of tax-exempt entity.

Commonwealth Court would deny motion for remand filed by liability company (LLC), which purchased hospital property from tax-exempt entity, which in turn had acquired hospital property from non-profit corporation, in taxing authorities' action to enforce prior trial court order adopting payment in lieu of tax (PILOT) agreement exempting non-profit corporation and its successors from real estate tax on hospital building, since LLC failed to allege any facts or present any evidence tending to show bias, or even the appearance of bias, of any trial court judge.

Limited liability company (LLC), which acquired hospital building from tax-exempt entity, which in turn had acquired hospital property from non-profit corporation, waived for appellate review its argument, that section of Consolidated County Assessment Law (CCAL) governing tax assessment role and interim revisions prohibited trial court from enforcing payment in lieu of tax (PILOT) agreement between taxing authorities and non-profit exempting non-profit corporation and its successors from real estate tax on hospital building, in taxing authorities' action to enforce such order, since argument was not raised in LLC's answer to taxing authorities' petition to enforce order, nor was argument raised in LLC's statement of errors complained of on appeal.

TAX - MISSOURI

City of Kansas City v. Cosic

Missouri Court of Appeals, Western District - February 27, 2018 - S.W.3d - 2018 WL 1061358

City filed petition against taxpayer, seeking to recover delinquent earnings taxes and requesting penalties, attorney fees, and other costs.

Following bench trial, the Circuit Court entered judgment against taxpayer, awarding city unpaid earnings taxes and other costs, but failing to award penalties and prejudgment interest. After city's motion to reconsider the judgment was denied, city appealed.

The Court of Appeals held that record on appeal did not contain evidence necessary to determine city's claim that trial court erroneously failed to award prejudgment interest under city ordinance.

Record on appeal did not contain evidence necessary to determine city's claim that trial court erroneously failed to award prejudgment interest under municipal ordinance that purportedly imposed prejudgment interest on unpaid earnings taxes when trial court entered judgment against taxpayer in city's action to recover delinquent earnings taxes, and thus review of claim on appeal was not possible; success of claim depended on ordinance, record did not establish the ordinance was introduced into evidence at trial, and ordinance was not part of the record on appeal.

What's the Outlook for Munis as HQLA?

PHOENIX – A bill that would allow banks to count municipal bonds among their high-quality liquid assets appears to be headed towards eventual passage, potentially alleviating a situation that some market participants have said has hurt demand for munis.

Provisions that would allow banks to treat readily-marketable, investment-grade municipal securities as high-quality liquid assets under federal banking rules is included in S. 2155, the Economic Growth, Regulatory Relief, and Consumer Protection Act sponsored by Sen. Mike Crapo, R-Idaho. The provisions, the same as were included in a previously-introduced bill backed by Sen. Mike Rounds, R-S.D., is a response to rules adopted in 2014 by the Federal Reserve Board, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corp.

These rules require banks with at least \$250 billion of total assets or consolidated on-balance sheet foreign exposures of at least \$10 billion to have a high enough liquidity coverage ratio – the amount of HQLA to total net cash outflows – to deal with periods of financial stress.

The regulators did not include munis as HQLA under the rule because they felt the securities were not liquid enough. The Fed later amended its rules to include some munis as HQLA but muni market participants said the amendments were still too restrictive and, in any case, would mean little if the other banking regulators did not follow suit.

Banks have emerged as major buyers of munis in recent years, with their holdings rising to about \$537 billion in 2016 from about \$191 billion in 2006 according to the Municipal Securities Rulemaking Board, a trend many in the market were concerned would be curtailed by the rules.

If passed into law, banks would be able to treat some munis as level 2B HQLA, the same level as for mortgage backed securities. That's a level down from the level 2A securities the market was hoping munis could belong to, the same level applied to sovereign debt.

The Senate voted March 6 to proceed to debate on the bill, which is broad and touches on not only munis but also mortgage lending and credit standards. The bill has 12 Democrat cosponsors and should be able to pass through the Senate and the House fairly smoothly and be signed into law

within a few weeks, according to a source on Capitol Hill.

Emily Brock, director of the Government Finance Officers Association's federal liaison center, said she is "confident in the bill's progress."

"It's the bottom of the totem pole of what issuers could support," she said, noting that issuers had really hoped for a level 2A classification. "It's time to have a bipartisan, bicameral conversation about keeping the bond market strong," she added.

John Mousseau, executive vice president and director of fixed income at Sarasota, Fla.-based Cumberland Advisors said he believes the bill would be a win for the muni market if it becomes law, because it would help cement banks' important place as buyers of municipal debt.

The bill is unpopular with the more progressive Senate Democrats, who view it as largely a rollback of the Dodd-Frank provisions enacted in the wake of the 2007/2008 financial crisis rather than the effort to help the smaller regional and community banks that Republicans say the bill will help. Sen. Elizabeth Warren, D-Mass., has criticized her colleagues for supporting the bill and vowed to fight it.

By Kyle Glazier

BY SOURCEMEDIA | MUNICIPAL | 03/08/18 06:52 PM EST

Opportunity Zones.

Included in the Tax Cuts and Jobs Act and passed in December 2017 was a set of provisions to incentivize new investment in low-income communities throughout the United States. Under the law, governors are given the opportunity to nominate qualifying census tracts to receive a new designation, "Opportunity Zones."

Importantly, there is only a short window for governors to nominate Opportunity Zones. They must submit their recommendations to the Department of Treasury by March 21, 2018, or else they must request a 30-day extension. For more information about this process, visit the [CDFI Fund Opportunity Zone Resource Page](#).

Once Opportunity Zones have been designated, individual and corporate investors are then given the opportunity to defer capital gains taxes when they reinvest the earnings in these communities. Additional incentives accrue over five, seven and ten years if the investment is maintained - thereby promoting the kind of patient capital that distressed communities so often lack.

There are currently **trillions of dollars'** worth of unrealized gains in the capital markets. If even a portion of those gains are moved to invest in distressed communities, it could have a transformative impact.

The Economic Innovation Group, a bipartisan public policy and research organization, spearheaded the effort to draft and pass the legislation that authorizes Opportunity Zones.

For the past year, the U.S. Impact Investing Alliance has been engaged with investors, communities and policymakers to understand how the Opportunity Zone program could catalyze private impact capital.

Resources

- **What are Opportunity Zones?** Opportunity Zones are made up of low-income community census tracts (and a small number of adjacent census tracts). Each state's governor may nominate up to 25% of its low-income community tracts to receive the Opportunity Zone designation.
- **Enterprise has developed [dynamic state mapping tools](#) to assist governors and stakeholders in this decision-making process.**
- **What are the benefits to investors?** Investors are able to defer capital gains on earnings that are reinvested in "Qualified Opportunity Funds" - special purpose entities that exist to invest in businesses located in Opportunity Zones. Long term investors receive an additional step-up in basis, cancelling out some of their original tax bill (10% after five years and rising to a total 15% increase in basis after seven years). Investments maintained for ten or more years are not subject to any additional capital gains tax on earnings from Opportunity Zone Investments.
- The Economic Innovation Group has prepared a [fact sheet](#) **outlining the benefits of Opportunity Zones for investors.**
- **What types of investments will be available?** In general, the statute is written to promote equity investments in new businesses. The U.S. Impact Investing Alliance is currently working with investors, communities and regulators to understand how investment capital can best be deployed to deliver impact to Opportunity Zone communities. If you would like to be involved, please contact us at info@impinvalliance.org.

[First Municipal Bond ICO Is in the Works.](#)

Investors can't seem to agree on the value of cryptocurrency, but when it comes to blockchain, there's a strong consensus: the public ledger has the potential to transform the investment world. As it turns out, blockchain technology might offer an innovative method for cost savings and transparency in the municipal bond market.

Berkley, California and underwriting firm Neighborly will make history this spring when they launch the first initial coin offering (ICO) backed by municipal bonds. The city plans to hold the ICO in May, giving investors an opportunity to purchase municipal bonds in tokenized form. ICO is a controversial but extremely popular crowdfunding model that startups have used to generate billions of dollars in financing over the past 14 months.

However, unlike typical ICOs that generate cryptocurrencies, Berkley plans to implement a "tokenized system for creating, distributing, storing and relaying bonds denominated in USD," according to Neighborly chief executive, Jase Wilson. The company has already set up the technology to issue the tokens and has a proven track record in delivering to non-traditional markets. In 2017, Neighborly took home the Bond Buyer Deal of the Year award in the non-traditional assets category for the mini-bond sale it executed for Cambridge, Massachusetts.

[Continue reading.](#)

municipalbonds.com

by Sam Bourgi

Mar 08, 2018

A Change to the Lobby Tax: Venable

A little-noticed provision tucked away in the recently enacted Tax Cuts and Jobs Act (TJCA) will affect associations that lobby at the local level. Under the TJCA, expenses incurred in connection with attempting to influence legislation at the local or municipal level (including Indian tribal governments) will no longer be deductible. For associations, this tax code change means that such local lobbying expenses will need to be counted as part of the association's lobbying tax calculations.

In general, since 1993, the tax code has required associations recognized as exempt under Section 501(c)(6) to either:

1. Tell their members what portion of their dues is spent on lobbying and is therefore nondeductible, or
2. Pay a proxy tax on the amount the association spends on lobbying.

The tax code contained a specific exception for expenses incurred in connection with influencing local legislation. The TJCA eliminates this exception immediately, effective for any such expenditures incurred on or after December 22, 2017.

For associations involved in local lobbying as well as state and/or federal lobbying, this means that the percentage of dues they report to their members as nondeductible may increase. Associations that are involved only in local lobbying—such as a local chamber of commerce—will now have to report to their members the portion of dues that is nondeductible. This could be a big shift in how such associations operate, since they may not have been accustomed to capturing staff time, expenses, and fees to outside lobbyists and reporting that as a percentage of their dues to members.

Another change to the tax code will likely have a positive effect on some associations affected by the lobbying nondeductibility rules. Specifically, those associations that choose to pay a flat proxy tax rather than estimate the portion of the membership dues allocable to lobbying expenditures and report such nondeductible amounts to their members will benefit from the reduced corporate rate—the proxy tax amount decreases from 35% of lobbying expenditures to 21%. As such, the lower corporate rate may reduce the tax liability for associations that elect to pay the proxy tax.

The requirement to report the percentage of membership dues allocable to lobbying does not apply to Section 501(c)(3) organizations, which are generally prohibited from devoting more than a substantial part of their activities to influencing legislation.

As a reminder, the rules on deductibility of lobbying are completely unrelated to lobbying disclosure rules. Many states require registration and reporting at the state level for local lobbying (such as New York). In addition, many localities have their own lobbying registration systems (such as New York City, to name just one of many).

Venable LLP

by Ronald M. Jacobs, Lawrence H. Norton, George E. Constantine and Christopher N. Moran

USA March 7 2018

Paul Ryan Says House Infrastructure Action Will Happen in 'Stages'

The House speaker's remarks come one day after he ruled out the idea of raising the gas tax.

House Republicans will move ahead with a series of infrastructure bills in the coming months, Speaker Paul Ryan said Thursday.

The Wisconsin Republican's comments came a day after he ruled out the possibility of hiking the federal gas tax, and as the Trump administration is promoting a public works plan that calls for \$200 billion of federal spending, mostly for new grant programs.

Until legislation starts to emerge, it will be unclear how closely the efforts Ryan described will hew toward the plan Trump has proposed. Some of the bills the speaker referenced were due to arise in Congress even without any extra prodding by the president.

[Continue reading.](#)

Route Fifty

By Bill Lucia,
Senior Reporter

MARCH 8, 2018

City Leaders Prepare for an Infrastructure Lobbying Push.

The effort will take place this week as part of the National League of Cities 2018 Congressional City Conference.

WASHINGTON — City leaders from across the U.S. vowed Monday to keep pressure on Congress to advance infrastructure legislation.

Infrastructure is the marquee issue at the National League of Cities 2018 Congressional City Conference taking place here this week. Over 2,000 city officials are attending the event and more than 200 NLC delegates have about 150 meetings planned on Capitol Hill.

"It's no secret," Little Rock, Arkansas Mayor Mark Stodola, the current president of the National League of Cities, said at a press conference Monday, "America has an infrastructure problem."

[Continue reading.](#)

Route Fifty

By Bill Lucia,
Senior Reporter

MARCH 12, 2018 10:16 PM ET

U.S. DOT Announces TIGER Grants Totaling Nearly \$500 Million.

The White House has called for axing the grant program in each of the two budget plans it has sent to Congress.

The White House has called for axing the grant program in each of the two budget plans it has
WASHINGTON — Nearly a half-billion dollars is set to flow to 41 infrastructure projects in 43 states through grant awards the U.S. Department of Transportation announced on Friday.

The grants come via the Transportation Investment Generating Economic Recovery program, commonly referred to as TIGER. President Trump has proposed ending the competitive, Obama-era grant program in each of his last two budget requests.

Even so, the White House touted last week's awards in an email to media outlets on Friday, linking them to the Trump administration's ongoing push for greater infrastructure investment.

[Continue reading.](#)

Route Fifty

By Bill Lucia,
Senior Reporter

MARCH 11, 2018

-
- [Tax-Exempt Advance Refunding of Taxable Bonds \(Including BABs\)? A Report from the Tax and Securities Law Institute.](#)
 - [SIFMA Comments on Amendments to MSRB Rule G-21 and New Rule G-40.](#)
 - [Insights: Threat to State Tax Revenues, What's Next for Advanced Refundings?](#)
 - [Insolvent "On Behalf Of" Municipal Bond Issuers: Chapter 9, Chapter 11, or Ineligible?](#)
 - [Yes, Special Revenue Bonds Remain Special: Mintz Levin](#)
 - [Follow the Money: How to Track Federal Funding to Local Governments.](#)
 - [S&P: When Analyzing Municipal Utility Credit Quality, Strong Management Is Often An Asset.](#)
 - And finally, Thanks For Nothing is brought to us this week by [Kelly v. DiNapoli](#), in which police officer was ordered not to enter a home that had collapsed during Hurricane Sandy until a "technical response unit" could be dispatched. The cop - responding to the "blood-curdling" screams coming from the residence - ignored the order and fought his way into the building where he rescued a woman who had been impaled and pinned to the floor. In the process, he sustained devastating physical injuries. His reward? The denial of disability benefits because the incident hadn't been an "accident" and the guy was just engaged in the ordinary course of his duties. Let that be a lesson to all you would-be heroes (a disproportionate number of which, of course, practice public finance law.)

Kelly v. DiNapoli

Court of Appeals of New York - February 13, 2018 - N.E.3d - 2018 WL 828098 - 2018 N.Y. Slip Op. 01016

Police officer and firefighter filed individual applications for accidental disability retirement benefits.

The Supreme Court, Appellate Division denied police officer's application, and the Supreme Court, Appellate Division, granted firefighter's application. Upon appeal, the cases were consolidated.

The Court of Appeals held that:

- Police officer's injuries to neck and back were not result of an "accident," and
- Firefighter's injuries to heart were not result of an "accident."

Police officer who sustained neck and back injuries when roof beam fell on him while he was rescuing trapped homeowners after hurricane was not injured as a result of an "accident," as would permit him to receive accidental disability retirement benefits, since there were no precipitating accidental events occurring that were not a risk of the work he performed; police officers were expected to assist injured persons, and responding to emergencies was among their ordinary duties.

Firefighter who sustained disabling heart injuries when he was exposed to toxic gasses while performing cardiopulmonary resuscitation (CPR) for approximately 25 to 30 minutes on an individual inside a commercial freezer was not injured as a result of an "accident," as would permit him to receive accidental disability retirement benefits, since there were no precipitating accidental events occurring that were not a risk of the work he performed; exposure to toxic chemicals was a risk for which firefighter had been trained, he had responded to a gas leak in the past, and his job duties specifically required working with exposure to fumes, explosives, toxic materials, chemicals and corrosives.

PUBLIC UTILITIES - CALIFORNIA

Goncharov v. Uber Technologies, Inc.

Court of Appeal, First District, Division 1, California - January 29, 2018 - Cal.Rptr.3d - 19 Cal.App.5th 1157 - 2018 WL 580714 - 18 Cal. Daily Op. Serv. 1007

Licensed taxicab drivers filed putative class action lawsuit against operator of ride-sharing service, which utilized GPS-enabled smartphone application to connect consumers with its partner drivers, alleging operator failed to comply with the Public Utilities Commission licensing requirements for charter-party carriers and asserting claims for violation of the Unfair Competition Law (UCL) and other causes of action.

The Superior Court granted operator's demurrer to second amended complaint and subsequently entered judgment in its favor. Drivers appealed.

The Court of Appeal held that:

- Operator was not required to comply with statute governing reconsideration motions when it filed demurrer to second amended complaint, and
- Superior Court's resolution of taxicab drivers' claims would interfere with CPUC's exercise of regulatory authority, and thus action was barred under statute limiting review of CPUC actions.

Superior Court resolution of claims by licensed taxicab drivers alleging that operator of ride-sharing service, which utilized smartphone application to connect customers with drivers, operated as unpermitted and unlawful charter-party carrier would hinder or interfere with exercise of regulatory authority by California Public Utilities Commission (CPUC), and thus action was barred by statute limiting review of CPUC actions to Supreme Court and Court of Appeal, though CPUC had issued permit for one of operator's transportation options; CPUC was actively involved in addressing questions of whether operator was charter-party carrier and which regulations applied, judicial determination of those issues would infringe on CPUC's rulemaking, and issuance of permit preserved CPUC jurisdiction over that transportation option.

REFERENDA - CALIFORNIA

[Lafayette v. City of Lafayette](#)

Court of Appeal, First District, Division 4, California - February 21, 2018 - Cal.Rptr.3d - 2018 WL 991451

City residents petitioned for peremptory writ of mandate to require city to submit referendum to public vote.

The Superior Court denied petition. Residents appealed.

The Court of Appeal held that city had mandatory duty to submit referendum to public vote.

Local governments are not empowered to exercise discretion in determining whether a duly certified referendum is placed on the ballot; if the local government believes an initiative or referendum is unlawful and should not be presented to voters, it should file a petition for a writ of mandate seeking to remove it from the ballot.

City had mandatory duty to submit residents' referendum, which placed city's enacted zoning ordinance on a ballot, to a public vote, even though referendum, if successful, would have resurrected former zoning ordinance which was inconsistent with amended general plan; referendum itself did not create any inconsistency, and it did not seek to enact a new or different zoning ordinance but rather simply sought to put existing ordinance before voters.