
IMMUNITY - COLORADO

St. Vrain Valley School District RE-1J v. Loveland by and through Loveland

Supreme Court of Colorado - May 22, 2017 - P.3d - 2017 WL 2224368 - 2017 CO 54

Student, who was injured in fall while using zip line apparatus on public school playground, and her parents filed personal injury action against school district.

The District Court dismissed claims as being barred by Colorado Governmental Immunity Act (CGIA). Student and parents appealed. The Court of Appeals affirmed in part, reversed in part, and remanded. On certiorari review, the Supreme Court affirmed and remanded. On remand, the trial court granted district's motion to dismiss. Students and parents appealed. The Court of Appeals affirmed in part, reversed in part, and remanded. Student and parents sought certiorari review, which was granted.

The Supreme Court of Colorado held that:

- Plaintiffs failed to demonstrate defect in condition of apparatus, and thus apparatus was not dangerous condition warranting waiver of school district's sovereign immunity, abrogating *Longbottom v. State Board of Community Colleges & Occupational Education*, 872 P.2d 1253, and *Hendricks ex rel. Martens v. Weld County School District No. 6*, 895 P.2d 1120, and
- School district's alleged negligence in constructing inherently dangerous apparatus claim of negligent design of playground that did not constitute dangerous condition warranting waiver of immunity.

A non-negligently constructed and maintained piece of playground equipment cannot be a "dangerous condition" under the Colorado Governmental Immunity Act (CGIA) recreation-area waiver, depriving a public entity of immunity in actions for injuries from a dangerous condition of a public facility located in a recreation area.

Student, who was injured in fall from zip line apparatus on public school playground, and her parents failed to demonstrate that there was a physical defect in the construction or maintenance of the apparatus, and thus student and parents failed to establish that zip line was "dangerous condition" warranting waiver of school district's sovereign immunity under recreation-area exception of Colorado Governmental Immunity Act (CGIA) depriving a public entity of immunity in actions for injuries from a dangerous condition of a public facility located in a recreation area.

For waiver of immunity under Colorado Governmental Immunity Act (CGIA) for injuries resulting from a dangerous condition, the physical condition of the public facility or use thereof must be a physical defect caused by some negligent act or omission of the public entity in constructing or maintaining the facility; abrogating *Longbottom v. State Board of Community Colleges &*

Occupational Education, 872 P.2d 1253, and *Hendricks ex rel. Martens v. Weld County School District No. 6*, 895 P.2d 1120.

School district’s alleged negligence in constructing inherently dangerous zip line apparatus on school playground was not dangerous condition for which immunity was waived under Colorado Governmental Immunity Act (CGIA) recreation-area waiver, in negligence action by student and parents following student’s fall from apparatus, but rather constituted claim about negligent design of playground precluded under CGIA provision stating that dangerous condition would not exist solely because design of any facility was inadequate.

STORMWATER UTILITY FEES - FLORIDA

City of Key West v. Key West Golf Club Homeowners'

District Court of Appeal of Florida, Third District - May 31, 2017 - So.3d - 2017 WL 2350129

Landowners on an island that was within city’s boundaries but not the main island brought action challenging the legality of stormwater utility fees for their properties, which included a golf course and a hospital.

After a bench trial, the Circuit Court found in favor of landowners. City appealed, and landowners cross-appealed.

On rehearing, the District Court of Appeal held that:

- City had the authority to charge landowners a stormwater utility fee, and
- Stormwater utility fee bore a reasonable relationship to the benefits conferred.

Landowners on an island that was within city’s boundaries but not the main island contributed to the need for and benefited from city’s stormwater management system, and therefore city could charge landowners a stormwater utility fee, where stormwater discharge from landowners’ properties, which included a golf course and a hospital, would have caused a salt marsh to back up and flood properties were it not for drainage provided by culverts, storm drains, and outlets that were part of city’s stormwater management infrastructure, and city’s stormwater program included anti-pollution services that protected the quality of water surrounding the properties and allowed landowners to avoid the more onerous and expensive treatment of their runoff under state and local laws.

Stormwater utility fee that city charged landowners on an island that was within city’s boundaries but not the main island bore a reasonable relationship to the benefits conferred, and therefore landowners were not entitled to a lower rate than the ratepayers on the main island, even if the stormwater discharge from landowners’ properties did not travel through the stormwater infrastructure located on the main island; the stormwater utility funded more than infrastructure, and substantial, city-wide stormwater anti-pollution measures benefited landowners’ properties.

ZONING & PLANNING - FLORIDA

Hardee County v. FINR II, Inc.

Supreme Court of Florida - May 25, 2017 - So.3d - 2017 WL 2291004

Property owner filed complaint seeking compensation from county pursuant to Bert J. Harris Jr., Private Property Rights Protection Act for county's reduction of mining setback on phosphate company's adjacent property.

The Circuit Court granted county's motion to dismiss. Owner appealed. The District Court of Appeal affirmed in part, reversed in part, remanded, and certified direct conflict of decisions. County's application for review was granted.

The Supreme Court of Florida held that:

- Act does not apply to property that has suffered diminution in value or other loss as result of proximity to the property that is subject to a government action, and
- Setback around mining company's property was not a property right for which adjacent owner could state a claim under the Act.

Bert J. Harris, Jr., Private Property Protection Act does not apply to property that has suffered diminution in value or other loss as result of its proximity to the property that is subject to a government action.

Quarter-mile setback around phosphate mining company's property was not a property right for which adjacent landowner operating neurological rehabilitation center could state a claim under the Bert J. Harris, Jr., Private Property Protection Act when county reduced setback to 150 feet; setback was created by police power as a land use designation for the general welfare.

EMINENT DOMAIN - IDAHO

Ada County Highway District v. Brooke View, Inc.

Supreme Court of Idaho, Boise, February 2017 Term - May 23, 2017 - P.3d - 2017 WL 2247652

In eminent domain proceedings, the District Court entered judgment awarding $148,390.21 plus prejudgment interest and attorney fees to property owner as just compensation for a parcel of property condemned by county. County appealed.

The Supreme Court of Idaho held that:

- Just compensation for property condemned by county did not include compensation for damage to a wall caused by the construction of improvements on the taken parcel, and
- Jury instructions that misstated the law were reversible error.

Damages accruing during construction of project for which property is condemned under the State's eminent domain powers are not properly part of just compensation and must be pursued separately in tort.

Jury instructions in eminent domain proceedings that led the jury to consider physical damages to property caused by construction project on condemned property were reversible error, where instructions misstated the law of just compensation, and the majority of the final judgment amount awarded in the case was for the cost to cure damages occurring during construction.

PUBLIC RECORDS - ILLINOIS

[Better Government Association v. Illinois High School Association]

Supreme Court of Illinois - May 18, 2017 - N.E.3d - 2017 IL 121124 - 2017 WL 2180590

Records requester brought action against association of high schools and one of its member school districts, seeking a declaration that they violated the state Freedom of Information Act (FOIA).

The Circuit Court granted association's and district's motions to dismiss. Requester appealed. The Appellate Court affirmed. Requester's petition for leave to appeal was allowed.

The Supreme Court of Illinois held that:

- As a matter of first impression, association was not "subsidiary body" of governmental unit under FOIA;
- As a matter of first impression, a "subsidiary body" does not necessarily include an entity found to be a state actor under federal civil rights laws; and
- Association had not contracted to perform governmental function on behalf of district.

Voluntary association of public and private high schools was not "subsidiary body" of governmental unit under Freedom of Information Act (FOIA), and thus was not subject to FOIA's disclosure requirement. Even though public schools accounted for majority of memberships in association, association was not created by school district or other public body, no public body had control over how governing board was established or comprised, and association did not receive direct governmental funding.

REVENUE - MISSOURI

[City of Normandy v. Greitens]

Supreme Court of Missouri, en banc - May 16, 2017 - S.W.3d - 2017 WL 2119349

Municipalities and taxpayers filed petition for declaratory judgment and injunctive relief, challenging constitutionality of statutes relating to revenue that municipalities could generate from minor traffic and municipal ordinance violations, and which established reporting requirements for same.

The Circuit Court entered judgment declaring that statutes creating lower cap on revenues were unconstitutional special laws and that statutes relating to financial reporting amounted to unconstitutional unfunded mandate, and it dismissed plaintiffs remaining claims for failure to state claim. State appealed.

The Supreme Court of Missouri held that:

- Statute imposing limits on percentage of operating revenues generated from fines, bond forfeitures, and municipal court costs, based on population classifications, together with statute imposing minimum law enforcement accreditation standards based on population classifications, were presumptively unconstitutional special laws;
- State failed to rebut presumption that statutes were unconstitutional special laws;
- Portion of statute that was unconstitutional special law was severable from remainder of statute that reduced cap to 20% on such revenues that applied to all other counties and municipalities

within State;
- Claim that statutes amounted to unfunded mandate, in violation of Hancock Amendment to Missouri Constitution, was not ripe for review;
- Statutes relating to municipality's financial reporting requirements did not violate separation of powers;
- Statute setting time limits for hearings for defendants in custody pursuant to arrest warrant issued by municipal courts did not impermissibly amend or annul court rule entitling defendants to hearing before judge "as soon as practicable";
- Statute requiring that all fines, bond forfeitures, and court costs ordered or collected for minor traffic violations or violations of municipal ordinances be paid to director of revenue if municipality failed to comply with auditing and reporting requirements did not implicate provision of Missouri Constitution municipal corporation with population of under 400,000 "shall receive and retain any fines to which it may be entitled."

Statute imposing 20% cap on percentage of county's operating revenue from fines, bond forfeitures, and court costs from minor traffic violations and municipal ordinance violations for county with charter form of government, except county with more than 950,000 inhabitants and city, town, or village within that county, which were subject to 12.5% cap, together with statute imposing minimum law enforcement accreditation standards for municipalities located within county with charter form of government and more than 950,000 inhabitants, were presumptively unconstitutional special laws for which State was required to offer evidence of substantial justification for special treatment; classifications applied to only one county in State, other municipalities similar in population to municipalities within affected county were not subject to lower 12.5% revenue cap or to minimum law enforcement requirements, and it was highly unlikely that another county would come within scope of statutes or that population of single affected county would fall below 950,000 in foreseeable future.

State failed to rebut presumption that statute imposing 20% cap on percentage of county's operating revenue from fines, bond forfeitures, and court costs from minor traffic violations and municipal ordinance violations for county with charter form of government, except county with more than 950,000 inhabitants and city, town, or village within that county, which were subject to 12.5% cap, together with statute imposing minimum law enforcement standards for municipalities located within county with charter form of government and with more than 950,000 inhabitants, were unconstitutional special laws, where State provided no evidence of substantial justification for classification.

Provision of statute reducing to 12.5% cap on percentage of operating revenue from fines, bond forfeitures, and court costs from municipal ordinances and minor traffic violations for county with charter form of government with more than 950,000 inhabitants and on city, town, or village within that county, which was unconstitutional special law that applied to only one county within State, was severable from remainder of statute that reduced cap to 20% on such revenues that applied to all other counties and municipalities within State.

Claim by municipalities and residents that statutory scheme reducing from 30% to 12.5% percentage of county's operating revenue from fines, bond forfeitures, and court costs from minor traffic violations and municipal ordinance violations for county with charter form of government and with more than 950,000 inhabitants and on political subdivisions within that county, together with imposition of minimum law enforcement accreditation standards and audit requirements, amounted to unfunded mandate, in violation of Hancock Amendment to Missouri Constitution, was not ripe for review; plaintiffs presented evidence of only potential costs of complying with laws, plaintiffs presented no evidence that General Assembly would not fund accreditation of police departments, and despite potential for increased costs, requirements had not yet become mandate.

Statutes requiring political subdivisions to submit addendum to state auditor with annual financial reports showing figures used in calculating percentage of annual operating revenue generated from fines, bond forfeitures, and court costs for minor traffic violations, requiring municipalities to certify substantial compliance with certain procedures in handling of cases by filing another addendum with state auditor, and requiring director of revenue to send notice to presiding judge of circuit court if any political subdivision failed to comply with addendum requirements or to send excess revenues to director, did not violate separation of powers by shifting Supreme Court's inherent authority to supervise municipal courts to director; it was presiding judge of circuit court, and not director, who ordered clerk of noncomplying municipal court to certify all pending matters until such political subdivision filed accurate addendum and sent excess revenue to director.

Statute granting defendants in custody pursuant to arrest warrant issued by municipal courts right to hearing before judge not later than 48 hours on minor traffic violations or later than 72 hours on other violations, and which required that defendants be released if not given that opportunity, did not impermissibly amend or annul court rule, without identifying rule, requiring that person arrested under warrant for ordinance violation who did not satisfy conditions for release be brought "as soon as practicable" before judge of court that issued warrant, did not violate constitutional provision giving Supreme Court power to "establish rules relating to practice, procedure and pleading for all courts and administrative tribunals"; municipalities could comply with both statute and rule to bring defendants before judge "as soon as practicable," as statute merely imposed time limit within which to do so.

Statute requiring that all fines, bond forfeitures, and court costs ordered or collected for minor traffic violations or violations of municipal ordinances be paid to director of revenue if municipality fails to comply with auditing and reporting requirements relating to calculation of percentage of general operating revenues obtained from fines, bond forfeitures, and court costs did not implicate Missouri Constitution provision that municipal corporation with population of under 400,000 "shall receive and retain any fines to which it may be entitled"; amount of fines, if any, that municipality was "entitled" to keep for ordinance violations was function of statute, not Constitution, and Constitution left determination as amount that municipality was entitled to keep to General Assembly.

UTILITIES - WYOMING

The Tavern, LLC v. Town of Alpine

Supreme Court of Wyoming - May 16, 2017 - P.3d - 2017 WL 2124030 - 2017 WY 56

Campground owners brought action against town, seeking declaratory and injunctive relief arising out of town's financing and construction of new sewer system. Owners also brought action against engineering firm retained by town, after firm reported campground to state Department of Environmental Quality, alleging abuse of process, civil extortion, and civil conspiracy against firm and town.

The District Court consolidated the cases, dismissed owners' claims against town for failure to state a claim, and granted summary judgment to engineering firm on owners' claims against it. Owners appealed.

The Supreme Court of Wyoming held that:

- Owners sufficiently alleged facts establishing that controversy with town was justiciable, as required for declaratory judgment claim;
- Owners established standing on claim against town under Uniform Declaratory Judgment Act;
- Owners stated claim for injunctive relief against town; and
- Engineering firm did not commit tort of abuse of process.

Campground owners sufficiently alleged that they had a tangible interest that had been harmed, as required to establish that controversy with town arising out of town's construction and financing of new sewer system was justiciable, within the meaning of the Uniform Declaratory Judgments Act. Owners alleged that they had private septic system, so if town enforced ordinances requiring connection to town's system, it would make owners' business economically non-viable and would irreparably diminish value of owners' real estate, and town also allegedly required owners to decommission their septic system, which owners estimated would cost over $100,000.

Campground owners sufficiently alleged that a judicial decision in their favor would effectively remedy harm they were suffering, as required to establish that controversy with town arising out of town's construction and financing of new sewer system was justiciable, within the meaning of the Uniform Declaratory Judgments Act. Owners' requested declaration that town's loans from state for new sewage treatment facility were unconstitutional, necessarily implicating town's ordinances and exactions, which owners asserted would have rendered their business economically non-viable.

Campground owners sufficiently alleged that they faced a perceptible, rather than speculative, harm, as required to establish standing under Uniform Declaratory Judgment Act to bring declaratory judgment action against town, arising out of town's construction and financing of new sewer system. Owners alleged that they would be required to decommission their existing, functional septic system, allegedly an expensive task, while also connecting to new sewer facility and paying related connection fees and utility costs.

Campground owners sufficiently alleged that, in constructing and financing new sewer system, town exceeded its constitutional and statutory authority, as required to state a claim for injunctive relief. While town was entitled under statute to charge rates for sewer system services, which could have been used to pay cost of operating and maintaining system as well as paying principal and interest on bonds issued to pay for system, town instead borrowed money to pay for system rather than issuing bonds, so owners asserted that revenues received through sewer system fees and rates could not be applied to alleged illegal loans.

Campground owners sufficiently alleged that they would be irreparably harmed by town's financing and construction of new sewer system, as required to state a claim for injunctive relief against town. Owners alleged that their business and property values would be harmed if town enforced enactments requiring owners to connect campground to new sewer system, even though owners maintained private septic system, and requiring owners to pay for sewer service and to repay loans town received for construction.

Engineering firm retained by town to design town's new sewer system did not commit tort of abuse of process by sending letter to state Department of Environmental Quality, asserting that campground's septic system violated agency's rules. Letter sent by engineer was outside any legal proceeding or process, instead reporting a claimed violation to agency that had authority to investigate complaint, and if appropriate, could have taken administrative action.

[MSRB Adds Exception in Revised Proposal Requiring CUSIPs for Private Placements.]

WASHINGTON – The Municipal Securities Rulemaking Board has recast a prior proposal clarifying that CUSIPs are required for private placements by providing a limited exception in response to market comments.

Comments on the MSRB's revised proposal are due by June 20.

The modified proposal is like the prior version that was released on March 1 in that it clarifies the requirement in MSRB Rule G-34 on CUSIP numbers for dealers to obtain CUSIP numbers for new issue securities sold in private placement transactions, including direct purchases, where the dealer is the placement agent. It also requires that non-dealer municipal advisors be subject to the CUSIP requirement for new issue securities that are sold in a competitive offering.

CUSIPs are groups of six- and nine- numbers and letters that identify an issuer and its securities. They are used for a number of purposes in the muni market, including trading, recordkeeping, clearance and settlement, customer account transfers and safekeeping.

Market groups representing dealers, MAs, and issuers responded to the initial proposal asking that the MSRB include an exemption for private placements that involve a limited number of participants and are not expected to be resold. A number of groups also said they were concerned that the proposed changes and clarifications could adversely impact the municipal market by discouraging banks from pursuing private placements and discouraging issuers from engaging placement agents and municipal advisors.

In response to these comments, the MSRB said that while it believes obtaining CUSIP numbers is a necessary aspect of activities like tracking trading and recordkeeping, it also "is of the view that the increase in the number of direct purchase transactions between municipal issuers and banks as an alternative to letters of credit and other similar types of financings may support an exception from the blanket requirement to obtain CUSIP numbers in all private placements."

The MSRB is proposing an exception in the modified proposed rule under which a dealer acting as an underwriter or a placement agent in a new private placement with a bank could "elect not to apply for assignment of a CUSIP number if the dealer has a reasonable belief that the purchasing bank is likely to hold the securities to maturity or limit the resale of the municipal securities to another bank."

There would also be an exception from applying for CUSIPs for MAs in competitive sales of munis where the securities are purchased directly by a bank and the MA believes the bank will hold the securities to maturity or limit any resale to another bank.

The MSRB said it expects both dealers and MAs to have policies and procedures in place that are reasonably designed to help them come to conclusions about whether to get a CUSIP number and to apply those policies and procedures during any CUSIP number-related evaluations. Dealers and MAs would also be expected to document their findings that play into any ultimate determinations about whether to get CUSIPs.

The board also clarifies that an MA advising an issuer in a competitive sale of new issue securities must apply for the CUSIP number no later than one business day after dissemination of a notice of sale or other such request for bids.

Lynnette Kelly, the MSRB's executive director, noted in a release accompanying the new request for comment that the MSRB modified the draft amendments in light of market feedback and added the MSRB "appreciates the thoughtful participation of commenters in the rulemaking process and invites further dialogue on how to ensure CUSIP number requirements appropriately reduce investor risk and regulatory uncertainty."

The MSRB said it is not setting prescriptive steps to comply with the exception and will not further specify instances where the exception would apply. It also will not define the parameters for how a dealer should craft its policies and procedures. The proposal also does nothing to affect a dealer's obligation to determine whether a transaction should be considered a loan or security, the board said.

Dealers had also been concerned that the first proposal would have been problematic because G-34 requires dealers to apply for depository eligibility and disseminate new issue information, something placement agents may not be able to do because they never purchase the securities.

The MSRB is extending a similar exception to the portion of G-34 that deals with depository eligibility to cover that concern. It proposes the exception cover munis purchased directly by a bank where the underwriter reasonably believes the bank is likely to hold or limit resale of the munis to another bank in a way that makes immobilization in a depository unnecessary. The underwriter would have to make a "principles-based assessment as to whether depository eligibility, and thus, dissemination of new issue information, would be necessary for the particular new issue" and be subject to requirements for policies and procedures and documentation, according to the MSRB.

The MSRB is additionally proposing to make the draft rule amendments prospective after commenters said market participants see the changes as new requirements.

Jessica Giroux, general counsel and managing director of Bond Dealers of America, said BDA is "pleased that the MSRB revised the proposed rule to create an exception for direct purchase transactions," adding it will "provide a major point of needed clarity in the municipal securities market." BDA is still reviewing the proposed changes and plans to comment on other aspects of the proposal in the future, she said.

Leslie Norwood, managing director, associate general counsel and co head of the Securities Industry and Financial Markets Association's municipal securities division, said the group is pleased the MSRB considered industry comments and that SIFMA plans to file a comment letter on the revised proposal.

"Although we are still reviewing the proposal, we believe the addition of an exception to the rule for certain direct placements and the clarification that the rule change will only be applied prospectively are positive changes to the proposal," Norwood said.

Susan Gaffney, executive director of the National Association of Municipal Advisors, said that while the group appreciates the MSRB's work to re-propose the rulemaking, "we remain concerned with the proposal, including having MAs obtain CUSIPs for competitive sales."

"Also, at first glance, the new provision that calls on MAs to 'reasonably believe' that the bank will "likely" hold the security seems to place a burden on MAs to determine the intent of investors, which may conflict with the regulatory limitations that exist with having MAs interface with investors," Gaffney added.

The Bond Buyer

By Jack Casey

06/02/17 07:07 PM EDT

Social Finance Announces Awardees to Develop Nation’s First Outcomes Rate Cards.

Social Finance Announces Awardees to Develop Nation’s First Outcomes Rate Cards, Driving Government Performance through a Focus on Outcomes

Riverside County, CA and Yale Child Study Center with the State of Connecticut will employ pioneering tool to deliver results for at-risk children

May 31, 2017 – Boston, MA – Social Finance today announced the first round of awardees for the Outcomes Rate Card Development Competition, launching two new partnerships to advance outcomes-based contracting and financing in communities across the country. With support through funding awarded last year from the Corporation for National and Community Service’s Social Innovation Fund, Social Finance will partner with the Riverside County Executive Office and the Yale Child Study Center with Connecticut’s Office of Early Childhood to develop the nation’s first outcomes rate cards.

Outcomes rate cards scale solutions to society’s most pressing challenges by allowing government to identify priority outcomes for vulnerable citizens, and enabling service providers to achieve those outcomes through diverse interventions. An outcomes rate card standardizes the Pay for Success approach, by establishing a menu of outcomes a government seeks to “purchase” for a given issue and target population and the amount it is willing to pay each time a given outcome is achieved. With one outcomes rate card, governments can launch multiple projects, directing resources towards outcomes rather than outputs.

“Today’s announcement represents the growing enthusiasm of state and local governments to tackle persistent social challenges through outcomes-based approaches,” said Tracy Palandjian, co-founder and CEO of Social Finance. “Outcomes rate cards will allow us to scale Pay for Success, delivering even greater impact for children and their families in California and Connecticut.”

The Yale Child Study Center and Connecticut’s Office of Early Childhood, a state agency, will build on the state’s history of collaboration and experience with Pay for Success to design an outcomes rate card addressing early childhood outcomes. The partners will work with Social Finance to analyze data from the state’s Early Childhood Information System and identify the issues of greatest need facing the state’s young children and their families. Together, they will develop an outcomes rate card to support outcomes-based projects addressing the identified area of need.

“Connecticut has been a national leader in Pay for Success thanks in large part to the state’s collaboration with Social Finance and the Yale Child Study Center,” said David Wilkinson, Commissioner of the Office of Early Childhood. “We are excited to be selected in this competition to work together again as we seek to make the promise and potential of PFS achieve broader reach more efficiently. Government and service providers share a mission of generating positive outcomes, so it makes sense to align payment with the outcomes we want to see.”

“This award allows us to apply the rigorous research at the Yale Child Study Center on effective interventions for children and their families in our relationships with government and policy partners," said Dr. Linda Mayes, Professor and Director of the Yale Child Study Center, co-Principal Investigator

Riverside County Executive Office will develop an outcomes rate card to improve services for Children of Incarcerated Parents (CIP). Incarceration in county jails and state prisons is a growing challenge in Riverside County, imposing a substantial social and economic burden on the community. Children of Incarcerated Parents face a range of challenging circumstances that put them at a higher risk for adverse health outcomes, low academic performance, and diminished economic opportunity. An outcomes rate card will help Riverside County expand the range of services needed to adequately support CIP, driving resources toward high-quality service providers and meeting the diverse needs of impacted children to help set them up for long-term success.

"The Riverside County Executive Office is honored to be selected as a service recipient. We will use the Outcomes Rate Card to develop a proactive model to reduce the incarceration rate by intervening early in the lives of children who experience risk factors that make them more susceptible to future incarceration," said Brian Nestande, Deputy County Executive Officer, Riverside County.

Outcomes rate cards are one approach to developing Pay for Success projects, which combine nonprofit expertise, private funding, and independent evaluation to transform how government leaders respond to chronic social problems. Over the past six years, over 70 Pay for Success projects addressing chronic social issues have launched in 18 countries worldwide.

The Outcomes Rate Card Development Competition is supported by the Social Innovation Fund (SIF), a program of the Corporation for National and Community Service (CNCS). Social Finance was awarded funding as part of SIF's Round 2 Pay for Success Grants Competition, which seeks to build the pipeline of Pay for Success projects for local governments.

"The Social Innovation Fund is an innovative program that seeks to invest in truly compelling solutions and expand programs that work," said Lois Nembhard, acting director of the Social Innovation Fund. "We are pleased to support the development of the first outcomes rate cards in the United States and believe these projects will represent cross-sector collaboration at its best—laying the groundwork for more governments and nonprofits to follow the lead of the two service recipients announced today."

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About Social Finance

Social Finance US is a 501(c)(3) nonprofit organization dedicated to mobilizing capital to drive social progress. We believe that everyone deserves the opportunity to thrive, and that social impact financing can play a catalytic role in creating these opportunities. As a Pay for Success intermediary, Social Finance has built upon the work of our sister organization Social Finance UK, who pioneered the first social impact bond in the world in 2010.

About the Social Innovation Fund

The Social Innovation Fund (SIF) is a program of the Corporation for National and Community Service, a federal agency that engages millions of Americans in service through its AmeriCorps, Senior Corps and Volunteer Generation Fund programs, and leads the nation's volunteer and service efforts. SIF positions the federal government to be a catalyst for impact—using public and private resources to find and grow community-based nonprofits with evidence of results. The Social

Innovation Fund focuses on overcoming challenges confronting low-income Americans in three areas of priority need: economic opportunity, healthy futures, and youth development. To learn more, visit www.nationalservice.gov/sif

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Deloitte Power & Utilities Quarterly Accounting Update Webinar - Q2 2017

Tuesday, July 11
12:00 – 1:30 p.m. ET

Prepared by Deloitte & Touche LLP's Energy & Resources Group, this Quarterly Accounting update webinar will focus on technical accounting and regulatory issues in the Power & Utilities sector. Participants will learn about new accounting rules and other utility accounting matters, and use this knowledge to prepare for quarterly accounting and reporting requirements.

This event may qualify you for 1.5 CPE credits.

Who should attend: Power & Utilities sector accounting, audit, tax, and finance professionals

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GASB On The Horizon: Debt Disclosures, Including Direct Borrowing.

The GASB is preparing to issue the Exposure Draft, *Debt Disclosures, including Direct Borrowing*. The key question of the project is: *do current disclosure requirements convey the essential information about these transactions to users of financial statements?*

Since the GASB's debt disclosures standards were issued, governments have continued to innovate and diversify their debt portfolios. As a result, related disclosures can be inconsistent. Specifically, concerns have been raised about the adequacy of the disclosures regarding direct borrowings, such a bank loans.

Governments are turning to direct borrowings in lieu of issuing bonds. GASB disclosure requirements for direct borrowings are just as rigorous as they are for other types of debt offerings including bonds; however, direct borrowings contain provisions that often are not associated with other forms of debt, but are essential for users to know about.

One feature of the Board's proposal will be a definition of debt—including direct borrowings—to distinguish it from other types of long-term liabilities in applying disclosure requirements for notes to financial statements.

The Board in this project also considered potential new disclosures that financial statement users need related to debt and is expected to propose the following:

- Unused lines of credit

- Collateral pledged as security for the debt
- Significant events of default or termination events and their significant finance-related effect as specified in the debt agreement, and
- Subjective acceleration clauses.

What's next: An Exposure Draft is expected to be approved in the later part of June 2017. A 90-day comment period will follow after which the Board will consider and then redeliberate due process feedback. A final Statement is planned for spring 2018.

More information about the debt disclosures project.

Coming Soon: New GASB Leasing Guidance.

Later this month, the GASB is scheduled to issue new standards on lease accounting. As many of you know, leasing is an important activity for many state and local governments across the United States. It can be a financing option for obtaining access to certain necessary items—including vehicles, heavy equipment, and buildings—without having to buy them outright.

Through the forthcoming leasing guidance, the Board is seeking to align the accounting and financial reporting of lease transactions more closely with their economic substance. The guidance will be based on the underlying principle that leases are financings of the right to use an underlying asset for a period of time. It will eliminate the current distinction between operating and capital leases by treating all leases as financings.

Board deliberations in the leases project were informed by private-sector lease requirements of the Financial Accounting Standards Board (FASB) and the International Accounting Standards Board (IASB), which recently reexamined their leases standards.

WHY NEW GUIDANCE WAS NEEDED

The Board initiated the project because the current leasing guidance predates the GASB and doesn't take the conceptual framework into consideration—including the definitions of assets and liabilities. Moreover, the existing lease standards allow a lease to be structured in a manner that avoids reporting the economic substance of the transaction. That is, a long-term liability and related asset were not reported as a result of the lease transaction.

LEASE DEFINITION

The definition of a lease will change under the new guidance. The definition focuses on a contract that conveys control of the right to use another entity's non-financial asset, which will be referred to in the new Statement as the underlying asset.

LEASE TERM

The lease term is the period during which the lessee has a noncancelable right to use an underlying asset, adjusted for certain options to extend or terminate the lease.

SHORT-TERM LEASES EXCEPTION

The standard provides an exception for short-term leases, which are lease that, at their beginning, have a maximum possible term of 12 months or less. These leases are recognized based on the payment provisions of the contract.

LESSEE ACCOUNTING

Lessee governments—that is, governments that pay to use another entity's capital asset (the underlying asset) for a given period—will report the following about their leases (except for short-term leases):

- An intangible lease asset that represents the government's right to use the underlying asset
- A corresponding lease liability
- Amortization expense from using up the lease asset during the lease, and
- Periodic interest expense on the lease liability.

LESSOR ACCOUNTING

Lessor governments—that is, governments that lease their capital assets to others—will report the following about their leases:

- A receivable for the right to receive payments
- A corresponding deferred inflow of resources
- Lease revenue, reported systematically over the lease term, and
- Periodic interest revenue from the receivable.

EFFECTIVE DATE AND TRANSITION

The requirements of the leasing guidance are to be effective for reporting periods beginning after December 15, 2019, with earlier application encouraged.

More information about the leases project.

IMMUNITY - TEXAS

Jamro Ltd. v. City of San Antonio

Court of Appeals of Texas, San Antonio - March 15, 2017 - Not Reported in S.W.3d - 2017 WL 993473

On September 8, 2005, the City of San Antonio adopted a resolution expressing an intent to consider the creation of a tax increment reinvestment zone ("TIRZ") to finance public improvements in the Palo Alto Trails Development (the "Project").

On May 18, 2006, the City adopted an ordinance designating the Project area as a TIRZ, noting the City's desire to support revitalization activities for the Project. On June 20, 2013, the City adopted an ordinance terminating the TIRZ.

On December 30, 2015, JAMRO, Ltd. filed the underlying lawsuit against the City alleging claims for breach of contract, quantum meruit, promissory estoppel, fraud, negligent misrepresentation, and negligence. JAMRO alleged it was in the process of developing property when City officials and agents approached JAMRO and asked it to apply to have the area being developed declared a reinvestment zone. JAMRO further alleged it complied with the request and made changes to JAMRO's plans and specifications at the City's request and completed the construction but was never notified the TIRZ had been terminated. JAMRO sought compensatory and punitive damages.

The City filed a plea to the jurisdiction asserting it was immune from the lawsuit because it never entered into a contract with JAMRO and immunity is only waived for contractual claims not for quasi-contractual claims like quantum meruit and promissory estoppel. The City further asserted immunity is not waived for intentional torts like fraud, and immunity is only waived for negligence claims for damages arising from an employee's use of a motor vehicle.

JAMRO responded to the City's plea, asserting the City was not entitled to immunity because the City was performing a proprietary function. JAMRO asserted "the City was acting as a Developer and private citizen seeking to finance for one company and individual a portion of their construction" and the City's actions "could not be more proprietary in nature."

After a hearing, the trial court signed an order granting the City's plea. JAMRO appealed.

In its brief, JAMRO argued that the City's actions were proprietary because it sought out a specific private developer "to spur development in a specific area of town for the benefit of only those inhabitants and the City itself." JAMRO asserted the City "asked [JAMRO] to alter an existing subdivision plan to meet the City's guidelines and [in] return promised tax benefits to [JAMRO]." The City responded that its actions were governmental functions.

The Court of Appeals affirmed the trial court's order granting the City's plea to the jurisdiction, finding that the City's actions with regard to the TIRZ were governmental functions.

The Court noted that the City's actions with regard to the TIRZ met the definition of a governmental function because Chapter 311 enjoined on the City the authority to create the TIRZ to serve a public purpose in the interest of the general public. The City's actions with regard to the TIRZ were directed at financing public improvements which meet the definition of governmental functions.

KBRA Releases Surveillance Report: Chicago Midway Airport

Kroll Bond Rating Agency (KBRA) has affirmed the long-term rating of A with a Stable outlook on the City of Chicago, Chicago Midway Airport Second Lien Revenue Bonds, with the exception of Series 2004C-1 and Series 2004C-2, Series 2004D, and Series 2014 C Bonds, which are backed by direct pay letters of credit.

Please click on the link below to access the report:

City of Chicago, IL Chicago Midway Airport Second Lien Revenue Bonds

If you have any difficulties accessing the report, please contact info@kbra.com or visit www.kbra.com.

KBRA Affirms AA- and Revises Outlook from Stable to Negative on the State of Connecticut's GO Bonds.

Kroll Bond Rating Agency (KBRA) has affirmed the long-term rating of AA- and revised the outlook from Stable to Negative on the State of Connecticut's outstanding general obligation bonds. This rating applies to all of the state's outstanding general obligation bonds, but excludes bonds backed by a letter of credit or liquidity facility. The state has approximately $19 billion of general obligation debt outstanding.

Please click on the link below to access the report:

State of Connecticut General Obligation Bonds

If you have any difficulties accessing the report, please contact info@kbra.com or visit www.kbra.com.

Fewer Muni Bonds have Investors Snapping up Riskier Hospital Deals.

(Reuters) – A lean issuance calendar in the municipal bond market is propping up debt prices for U.S. cities and states and will likely keep a floor under some of the market's wobbly sectors, even hospitals, according to data and analysts.

The scarcity of new deals also provides an opportunity for less credit worthy municipal issuers to come to market when cash levels are high and demand is strong.

Credit traditionally seen as more risky by investors, such as BBB-rated hospitals that rely heavily on government-funded Medicaid and Medicare, are seeing "enthusiastic demand" from the market, said Alan Schankel, municipal strategist at Philadelphia-based Janney Montgomery Scott.

But sweeping changes to the country's healthcare law currently under consideration by Congress has woven uncertainty into hospitals' future revenue streams. Such a tumultuous environment should give caution to investors to beware of debt tied to healthcare, in particular city and safety net hospitals.

"It certainly flashes a yellow light for me, a caution light," said Schankel. But when it comes to new bond issues coming to market, "there is nothing around, so investors are chasing this stuff."

Demand for bond deals will likely surge even more this summer, as billions of dollars worth of municipal bonds exit the market.

"The supply is way down. You have far fewer bonds in the market," said Greg Saulnier, municipal research analyst at Thomson Reuters' MMD. "With so much money and cash pouring back into the market, you have guys flush with cash with no where to put it."

Some $130 billion to $140 billion in bond redemptions will outweigh the $100 billion of new debt expected to be issued in June, July, and August. The extra cash will likely set records, municipal analysts say, driving demand and bond prices up because of a dearth of deals in which investors can participate.

The "wave of cash" will create a "steady if not strong performance for the marketplace going into the end of summer," said Jim Colby, portfolio manager for VanEck's municipal bond investments. "You can see why this is an interesting time."

HEALTHY DEMAND

Demand for hospital credits comes at a time of huge uncertainty and potential upheaval for the healthcare sector. U.S. President Donald Trump and the Republican-led Congress have vowed to repeal and replace the Affordable Care Act, the nation's healthcare law commonly referred to as Obamacare.

A Republican-proposed healthcare bill approved by the House and now under consideration by the Senate would likely reduce federal Medicaid payments to states, a large revenue source for hospitals.

"We have seen incremental rating pressure recently, even among some of our largest and strongest organizations," said Martin Arrick, managing director at S&P Global Ratings. "This pressure could grow, and threaten our stable outlook on the sector, depending on administrative and legislative actions under the new administration," Arrick said.

Tax-exempt 10-year BBB-healthcare bonds on Friday saw a 2.97 percent yield and a 111 basis point spread over the benchmark MMD AAA yield curve. That spread has remained the same since the end of last year, even as the sector's yield has declined from 3.42 percent on Dec. 30th.

Recent examples of the lower rated healthcare sector bonds hitting some high notes include two California hospitals from the BBB-rated category – Children's Hospital Los Angeles sold $275 million and Eisenhower Medical Center in Southern California's Coachella Valley sold $233 million. Both deals, done in May, saw yields reduced after preliminary pricing by 5 to 15 basis points, evidence of stronger-than-expected investor demand.

Cleveland's MetroHealth sold $946 million of revenue bonds in May, even after the system received a three-notch downgrade from all three rating agencies.

The bonds saw strong after-market activity, topping the list of most active issues.

One tranche of the 40-year maturity carrying a 5 percent coupon was initially priced at a slight discount of 99.48, and a 5.03 percent yield. Nearing the end of the day's activity, however, block trade yields fell as low as 4.64 percent, lifting the price to 102.78, according to Schankel. MetroHealth reported that 122 banks, firms, and individuals competed for the bonds.

"I don't know that it's quite in the category of frothiness, but it's getting close," Schankel said.

Reuters

By Robin Respaut

June 05, 2017

(Reporting by Robin Respaut; Editing by Daniel Bases and Diane Craft)

TAX - MISSOURI

Armstrong-Trotwood, LLC v. State Tax Commission

Supreme Court of Missouri, en banc. - May 16, 2017 - S.W.3d - 2017 WL 2118656

Taxpayers sought review of State Tax Commission's dismissal of their challenge to the property tax assessments on their residential properties, which were part of multi-county taxing districts, and sought a declaratory judgment that their assessments were discriminatory and that the State Tax Commission failed to carry out its duty to equalize property assessments as between counties.

The Circuit Court dismissed. Taxpayers appealed.

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

- Taxpayers failed to state a claim that their tax assessments violated the uniformity clause of the state constitution, and
- State Tax Commission lacked jurisdiction to hear taxpayers' appeal.

Taxpayers' challenge to their property tax assessments on the grounds that their assessments were discriminatory and that the State Tax Commission failed to carry out its duty to equalize property assessments as between counties did not concern the "construction of the revenue laws of this state," and thus the Supreme Court did not have exclusive appellate jurisdiction; the constitutional and statutory provisions at issue did not impose, amend, or abolish a tax or fee, and the taxes at issue were paid to a multi-county taxing district rather than the state treasury.

Taxpayers' challenge to their property tax assessments on the grounds that their assessments were discriminatory and that the State Tax Commission failed to carry out its duty to equalize property assessments as between counties presented important questions regarding the application of sections on state constitution concerning the levying of taxes, and thus the Supreme Court could transfer the case on its own motion, even through the Court did not have exclusive appellate jurisdiction; the Court could take transfer of a case before its disposition by the Court of Appeals if it presented a question of general interest or importance.

Taxpayers who alleged that other counties in multi-county taxing districts undervalued properties such that the tax assessments on taxpayers' residential properties caused taxpayers to bear a disproportionate share of the cost of operating the multi-county taxing districts failed to state a claim that their tax assessments violated the uniformity clause of the state constitution; the uniformity clause did not pertain to the valuation of property, and each multi-county taxing district at issue levied a tax rate that was uniformly applied to the same class or subclass of property within the territorial limits of the taxing authority.

State Tax Commission lacked jurisdiction to hear taxpayers' appeal of county board of equalization's denial of their claim that other counties in multi-county taxing districts undervalued properties such that the tax assessments on taxpayers' residential properties caused taxpayers to bear a disproportionate share of the cost of operating the multi-county taxing districts in violation of the uniformity clause of the state constitution; county board did not have the power to conduct intercounty equalization, and the Commission's jurisdiction was derivative of the county board when it reviewed appeals from the county board.

State Tax Commission's intercounty equalization orders affect counties and classes of taxpayers, not the individual rights and interests of specific parties, and, consequently, are not subject to review in either a contested or non-contested case before the Commission on appeal from a county board's decision.

TAX - MONTANA

Mountain Water Company v. State , Department of Revenue

Supreme Court of Montana - May 16, 2017 - P.3d - 2017 WL 2123151 - 2017 MT 117

Property owner brought declaratory judgment action seeking determination that city was responsible for property taxes accruing on property during pendency of city's condemnation action.

The District Court granted summary judgment in favor of property owner. Department of Revenue appealed.

The Supreme Court of Montana held that city was not statutorily responsible for property taxes accruing on property during pendency of city's condemnation action. Statute at issue provided that property taxes were prorated once condemnor actually took possession of property, and property owner continued to possess property during pendency of condemnation action.

S&P: Jacksonville Adopts Pension Reform, But The Ultimate Impact On Credit Quality Remains Uncertain.

Jacksonville, Fla.'s city council unanimously approved legislation finalizing its pension reform package late last month. In our view, the overall reform package represents an improvement to the previous pension framework, but we believe there are still some inherent risks with this strategy that largely cancel out its immediate benefits to Jacksonville's credit quality.

Continue reading.

May 24, 2017

S&P: Dallas' Adopted Pension Reforms Look To Stabilize The System, But More Work Remains To Ensure Long-Term Sustainability.

During its latest session, the Texas legislature formally adopted pension reforms for the City of Dallas (AA-/Negative), which is a first step in stabilizing the city's police and fire pension plan and addressing some of the structural issues that led to rapid declines in the pension's funded ratio over the past year.

Continue reading.

Jun. 1, 2017

Mnuchin: Administration Wants to Preserve Muni Bond Tax Exemption.

WASHINGTON – The administration "strongly" supports the preservation of the tax exemption for municipal bonds, Treasury Secretary Steven Mnuchin said during a Senate Finance Committee hearing on Thursday.

At a hearing on the fiscal 2018 budget and tax reform, committee member Sen. Sherrod Brown, D-

Ohio, on tax reform, asked Mnuchin a series of questions on tax reform, including whether the administration supports the tax exemption for municipal bonds.

“Our preference is strongly to keep the interest deductibility of state and local bonds,” Mnuchin said.

The administration wants to maintain the mortgage interest deduction, he also said in response to Brown’s rapid fire questions. But he declined to answer several other specific questions about what the tax reform plan would or would not include, saying negotiations are still ongoing.

During the hearing, committee Democrats accused the administration of “double counting … Bernie Madoff math … anomalies … and fuzzy math” in its budget, which shows $2 trillion of revenues from 3% economic growth being used to pay down the deficit when administration officials have said those revenues are going to help pay for tax cuts in the forthcoming tax reform plan.

“Your budget assumes 3% growth, which you claim adds $2 trillion to revenues. That’s kind of a dubious proposition to me,” said Sen. Ron Wyden from Oregon, the top committee Democrat. “You told us last week that this economic growth is what pays for tax reform, but the Trump budget doesn’t include tax reform. So, unless you make this clear to us, aren’t you double counting the same $2 trillion to pay down deficits that you claim will pay for tax reform? I mean this is kind of Bernie Madoff math, but maybe I’m missing something. Tell me how it works.”

Mnuchin said, “We’re absolutely not double-counting. When the president’s budget was done, we were not ready to have a full-blown tax reform plan that we could model into the budget.”

Later Sen. Claire McCaskill, D-Mo., made the same point. “You can’t have tax reform paid for by growth and then count that growth against the deficit,” she said. “You can’t have both. That’s beyond fuzzy math, that’s double counting,” she said.

Mnuchin said economic growth comes from lots of things besides just tax cuts, such as regulatory reforms.

“It just defies understanding that you’re going to project what the growth is going to be based on a tax cut but you can’t put anything in the budget about what the lack of revenues are going to be because of the tax cut,” she said. “That doesn’t even make sense. How can this document even be taken seriously?”

Sen Mark Warner, D-Va., said the proposed fiscal 2018 budget would take discretionary funding down to 3% of gross domestic product -- the lowest it has ever been.

He also noted that the bipartisan Committee for a Responsible Federal Budget has projected the tax plan will result in a revenue loss of $5.5 trillion over a decade. If that’s the case, the administration will have to go after most of the big tax preferences, including the deductibility of employer health care plans.

Mnuchin said it is absurd for groups to score the revenue impacts of the tax reform plan since they have no details about it yet.

The Bond Buyer

By Lynn Hume

Published May 25 2017, 12:32pm EDT

Federal Infrastructure Tax Credit Legislation Makes Key Changes from 2015 Proposal.

Sens. John Hoeven, R-N.D., and Ron Wyden, D-Ore., reintroduced bipartisan legislation May 25 to establish a program to spur infrastructure investment through the creation of Move America Bonds and Move America Credits. The major benefit of the Move America Act of 2017 is that it includes the use of public-private partnerships, or P3s, to assist in financing infrastructure. The primary benefits of using P3s include:

- Private equity providers will generally be sophisticated institutional investors exercising a high level of asset management.
- In-depth financial underwriting of projects before development.
- Construction and/or reconstruction risk borne by private equity investors.
- The performance risk transfers to private parties.

The two concepts behind the bill include expanding the available tax-exempt financing for infrastructure and creating credits to harness additional private sector investment. In this bill (revised from a 2015 version), the Move America Bond volume cap will be 50 percent of the state ceiling under cap for tax-exempt private activity bonds. In order to receive Move America Credits, states may elect to trade in all or a portion of their Move America Bonds for Move America Credits at a 25 percent rate. In other words, the credit limitation for each state for each calendar year is a dollar amount equal to 25 percent of the Move America Bond volume cap. For example, if a state has $100 in Move America Bonds, it may trade that $100 for $25 in Move America Credits. According to Sen. Hoeven, about $226 billion would be the annual volume cap for Move America Bonds over the next 10 years. That means that up to $56 billion, or 25 percent of the Move America bond cap, would be available annually for Move America Credits over the next 10 years.

This bill was first introduced by Sen. Wyden in 2015 as the Move America Act of 2015. With the reintroduction, there are a number of changes to the bill, discussed below.

The overall structure borrows heavily from both the Low-Income Housing Tax Credit (LIHTC) program and the New Markets Tax Credits (NMTC) program. Permitting these alternative structures provides greater flexibility in matching the right financing mechanism with the needs of individual infrastructure project.

Summary of Revisions

Expanding a List of Qualifying Infrastructure Projects

The previous version of the bill included airports, mass transit, freight and passenger rail, roads, bridges, flood projects, and inland and costal waterway improvements. The new version includes everything that was previously included, as well as water and sewage projects and rural broadband.

Traditional Investment Credit Structure

The revised provision dealing with Move America Credits would follow a structure similar to the LIHTC for equity investments in infrastructure projects. Investors would be able to directly invest in a qualified project, meaning that the investor's credit would equal the percentage of the direct investment in a qualified project, subject to limitation discussed below. The investors would receive tax credits equal to 10 percent of their equity investment each year over a 10-year tax credit period.

Credit Levels

The credits available for equity investments in an infrastructure project cannot exceed 20 percent of the qualified project's total costs, which is retained from the previous version. However, the cap related to private investment would be eliminated. In the revised draft, designated state agencies are also required to set the credits allocated to each project at the minimum amount for the project to achieve financial viability.

Capitalizing Infrastructure Funds

The 2017 Move America Act also provides that if states wanted to set up a structure that mirrors the NMTC, states would be permitted to use the credits to capitalize a state infrastructure bank or other infrastructure loan funds. States would be permitted to allocate credits to entities (e.g., state infrastructure banks, which are typically difficult to capitalize) and the entities could offer the credits to investors in order raise capital necessary to fund qualified projects. This is similar to the structure of community development entities (CDEs) in the NMTC program, and indeed, if designated by the state, CDEs could receive Move America credits to establish infrastructure funds. Under this option, the investors would be eligible to claim a tax credit equal to 5 percent of their equity investment in the Infrastructure Fund. There would be compliance requirements that share similarities to the NMTC compliance requirements.

Conclusion

This bill provides a mechanism to encourage more P3s to be used for infrastructure investment. President Donald Trump campaigned on using a federal infrastructure tax credit and this bill may also gain additional traction with White House support.

Novogradac & Company LLP is working on a white paper exploring the various design specifics of a federal infrastructure tax program. We have also authored posts related to the reasons to hope for a federal infrastructure tax credit and the benefits of a federal infrastructure tax credit. Additionally, please be sure to keep an eye on our infrastructure credit page.

Novogradac & Company LLP

Published by Owen P. Gray on Thursday, May 25, 2017 – 12:00am

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MBA to House Tax Panel Members: Support Tax-Exempt Bonds.

WASHINGTON – The Municipal Bonds for America coalition is urging members of the House Ways and Means Committee to support tax-exempt bonds, including private activity bonds.

"The investments financed with these bonds have a proven track record to help our economy grow and create jobs," 12 state, local, investor and other MBA groups told committee members in a letter sent to them on Monday after the start of their tax reform hearings.

The groups said that while some have suggested that a surtax or cap on bond interest could raise revenue for the federal government without increasing the interest rates demanded by investors, such a tax or cap, would actually reduce the value of all bonds in the secondary market by as much as $200 billion.

“It would also disproportionately hurt seniors,” they wrote. “About three-fifths of bond interest paid to individuals is paid to those aged 65 years and older and 84 percent is paid to those aged 55 and older.”

In addition, they wrote, investors would demand higher rates of return to: accommodate the surtax; reflect the bond’s loss of value in the secondary market; and compensate for the risk that Congress will expand the tax to hit more bondholders, increase the tax rate imposed, or both.

One need look no further than qualified private activity bonds, most of which are subject to the alternative minimum tax, to see an example of this. The AMT “is effectively a surtax beyond the regular income tax that is paid by taxpayers above a certain minimum income level,” the coalition said, and it costs issuers as much as 50 basis points more in interest rates than another non-AMT similarly rated tax-exempt bond.

The groups pointed to the Dallas/Fort Worth International Airport, which used tax-exempt PABs subject to the AMT to help finance $3.1 billion of its massive terminal improvement project. The airport paid $268 million more than if it had used fully tax-exempt bonds, they said.

During the last decade state and local governments made about $2 trillion in bond-financed infrastructure investments and they are expected to invest $2 trillion to $3 trillion in infrastructure over the next decade, the groups wrote. States and localities build nearly three-quarters of the nation’s core infrastructure, using tax-exempt bonds for most of the financing, they added.

“It is vital that [tax reform] not impose an unprecedented federal tax – in any form – on these investments,” the groups told the lawmakers.

State and local governments issued about $400 billion of muni bonds in 2015. Of those, about $85 billion were used for primary and secondary schools, $39 billion financed investments in colleges and universities, $50 billion were used for roads, bridges, ports, airports, mass transit and other transportation facilities, $38 billion financed water and sewer projects, $27 were used for hospitals and clinics and $18 billion financed electric utility projects, the groups said.

“These are investments that make commerce possible and our communities strong and livable,” they added.

The groups said that private activity bonds were also used to finance public-private projects. In 2015, they said, about $8 billion were used to finance transportation-related projects such as airport terminals and port facilities. Another $6.7 billion was used for rental housing and $4.6 billion for affordable mortgages. In addition $700 million of PABs helped finance state and local student loan programs, and $250 million was used for industrial development projects and farm facilities.

The groups told the lawmakers that while alternatives to tax exempt bonds exist, each has substantial shortcomings — primarily increased borrowing costs, added complexity, and a lack of access for smaller issuers. Public-private partnerships may supplement tax-exempt bonds, but these and other alternatives can’t replace them, they said.

The Bond Buyer

By Lynn Hume

Published May 24 2017, 4:00pm EDT

In Scranton, Pa., Fiscal Progress Comes With Political Costs.

The city is on the brink of making a speedy turnaround. Many worry that the tough financial decisions it took to get there could reverse some of its political progress.

After a quarter-century of being branded by the state as "fiscally distressed," Scranton, Pa., is the closest it's ever been to shedding that label. If its finances remain stable, the city is expected to exit the state's Act 47 distressed cities program — which it entered in 1992 — in the next three years.

What makes the news remarkable is the tailspin that Scranton was in just a few short years ago. When Mayor Bill Courtright took office in 2014, he inherited a city that had balanced its budget for five straight years using onetime revenues and deficit financings. "In early 2014, everyone wrote us off," says Courtright. "It was like we had a disease."

But thanks to what observers are calling a new era of political cooperation between the mayor and council, Scranton has made considerable progress. City officials have approved several tax increases aimed at balancing the budget, including a hike in property taxes and garbage fees. Those, combined with a new commuter tax, have injected $16.2 million in new annual revenue into the $90 million general fund.

Courtright credits a team that stubbornly adhered to a financial recovery plan devised with the help of a financial consultant. The mayor, also a former councilmember, says he and the current council have communicated better and worked to move beyond the infighting that dominated public meetings in previous years. "We knew we had to change the image between past mayor and past council," he says. "We knew we wouldn't get the financial community to go along with us if we couldn't cooperate amongst ourselves."

But this kind of swift financial progress usually comes with a political cost. To understand the political implications, one must first understand how Scranton came to its current state.

Making Tough Choices

Facing a new state law in 2014 that would have placed the city in receivership if it didn't make progress, Scranton conquered several key financial demons in recent years.

For starters, the city reached a settlement with police and fire unions over a multimillion-dollar back pay lawsuit first filed more than a decade ago. The Pennsylvania Supreme Court sided with the unions in 2011, but the city couldn't afford to pay the initial $24 million settlement and instead let the award collect interest.

Last year, Courtright announced the city had agreed to pay the unions most of what it owed — now $30 million — in exchange for reforms to the city's troubled public safety pension. The biggest concessions were that workers would increase their pension contributions over time and that the pension funds would be managed by a third-party professional administrator. The administrative transfer also included more stringent guidelines for determining whether an employee is eligible for a disability pension.

In the name of budgetary stability, the city has unloaded a couple of albatross assets as well.

Officials negotiated a long-term lease of its parking authority, which had gone into receivership after the default in 2012 because of political infighting between the council and previous mayoral administration. Last year, the city entered into a lease concession agreement that turns over the system's day-to-day operations and long-term maintenance to the nonprofit National Development Council and ABM, a parking operator. After they pay off the parking authority's outstanding debt, ownership of the system will be returned to the city.

The final deal has perhaps been the most controversial and may even be responsible for upending the political harmony the city has achieved. Late last year, elected officials approved the sale of the city's sewer authority to the private company Pennsylvania American Water for $195 million. The city expected to net $95 million from the sale, but various costs, such as easement acquisition, reduced the net to $83 million.

To Courtright, the sale is something of a crowning achievement. Selling the system gave Scranton cash to help pay off some of its pension and high-interest debt. It also unloaded an EPA-required $140 million upgrade to the system to protect the Chesapeake Bay onto Pennsylvania American Water. The requirements would have meant a 5 percent rate hike each year for 25 years. Instead, the sale stipulated the private company could raise rates no more than 1.9 percent on average for the first 10 years.

A Political Cost?

That deal, however, has not been cheered by everyone. Councilmember Bill Gaughan says it was ill-advised and lacked transparency. He points to a closed-door meeting in February with Council President Joe Wechsler, Councilmember Wayne Evans and Jason Shrive, the new sewer authority director, that discussed the sewer's lower price tag.

Adding fuel to the fire was a report in early May by local ABC television affiliate, Newswatch 16. The station reported that the sale's fees were a whopping $3.1 million charged by 50 different attorneys.

The controversy has taken its toll: In Scranton's Democratic primary election, Wechsler failed to win nomination while Gaughan sailed ahead easily.

Jean Wahl Harris, a professor of political science at the University of Scranton, said that while the council president voiced concerns about the sale, he wasn't as adamant as others. "I'm not sure why Wechsler was picked out," she says, "except that the other two [incumbents] spoke up a little more against the mayor and called for accountability in the sewer sale."

Many worry that the fallout could affect the political cooperation the city has achieved. Still, most agree that Scranton — politically and financially — is in a much better place than it was just a few years ago. "The times following the political meltdown [in 2012] called for someone willing to look at a different direction and someone with a different style," says Gerald Cross, executive director of the Pennsylvania Economy League, Scranton's recovery coordinator. "I think we have the right people in the right place."

"They used to be insane," Cross adds of those council meetings in which tensions between elected officials and the public got so high that metal detectors were installed at one council meeting in 2007. "But it's hard to argue now with balanced budgets and progress downtown. The budget is stable, now we have to strive for sustainability — and that's all very boring."

GOVERNING.COM

BY LIZ FARMER | MAY 30, 2017

Is It Time for an Infrastructure Garage Sale?

Australia has had success with 'asset recycling.' Maybe turning old into new could work here too.

The Trump administration's proposed federal budget calls for spending $200 billion over 10 years to "incentivize" infrastructure investment by state and local governments. One key to the strategy is reportedly "asset recycling" — selling or leasing infrastructure assets to the private sector and using the proceeds to pay for upgrades, maintenance and new infrastructure. If the administration is indeed embracing this reinvestment mechanism, it deserves our serious consideration.

Asset recycling was developed by the Australian government in 2014. It may have hit the Trump administration's radar screen because Australia's 2016 budget demonstrated that $5 billion in federal funding incentives had stimulated more than $20 billion in infrastructure investments through asset recycling. It also attracted institutional investors by creating project pipelines, the lack of which has long impeded the development of a U.S. infrastructure market. Top Trump administration officials and advisers — including Vice President Mike Pence, Transportation Secretary Elaine Chao, National Economic Council Director Gary Cohn, and Steven Roth and Richard LeFrak, co-chairs of the President's Infrastructure Advisory Committee — have been championing the concept.

Asset recycling also involves another key to the Trump administration's trillion-dollar infrastructure strategy: the engagement of the private sector through public-private partnerships. P3s have received mixed reviews worldwide, and P3 activity in the United States has consistently trailed most countries. To move the debate on P3s forward in Australia, the government of Prime Minister Tony Abbott introduced the concept of asset recycling. Officials reasoned that tapping into a source of funding for needed infrastructure that would not cost taxpayers or add public debt might have the potential to overcome reservations about P3s.

To encourage Australian states and territories to mine their balance sheets for assets that could be divested, the Abbott government offered to contribute 15 percent of the value from the proceeds of divested assets to new infrastructure projects being financed with the proceeds from divested assets. The states and territories had a two-year window to identify the assets to be sold or leased and reach an agreement with the federal government.

Some jurisdictions jumped at the opportunity. New South Wales, for example, netted $3 billion from port leases to a consortium of Australian pension funds and a government-owned investment fund, then used the proceeds to improve roads and transit facilities. Tasmania sold an airport to fund transportation, agricultural water storage and irrigation projects.

Could what worked in Australia — essentially a garage sale of government-owned infrastructure — work in the United States? Maybe, but we've got some big challenges. In addition to the reluctance of local officials to give up control of infrastructure, current tax law provides powerful disincentives to the selling or leasing of assets. Assets that are sold or leased must not only repay associated tax-exempt debt, but state and local governments would also have to finance any new debt that is incurred on a more expensive, taxable basis.

Those challenges aren't insurmountable, as Indiana has shown. In 2006, the state leased the Indiana Toll Road, netting $3.5 billion after repaying $300 million of tax-exempt debt. The state put the proceeds into its infrastructure fund, which has since financed other transportation assets without taking on any additional debt or imposing tax increases.

Estimates of the potential value to be realized in the U.S. through recycling of existing revenue-generating assets — including not only toll roads but also ports, airports, bridges, water systems and parking facilities — exceed $1 trillion. And these estimates do not include the value of providing a reliable source of funding for infrastructure projects requiring “availability payments,” the disbursements to concession-holders based on project or performance milestones.

As with other approaches to selling or leasing public assets to the private sector, any plan involving asset recycling will need much discussion to address risks. How do we guard against assets being sold on the cheap? How can we protect the public from potential misuse of market power by new private owners tempted to boost profits by increasing user charges? Other issues span the need to ensure that adequate regulatory frameworks govern divested assets to the task of assessing the impact of political pressure on market competitiveness. Not trivial issues.

Just as traditional public-private partnerships are not a silver-bullet solution to infrastructure financing, nor is asset recycling. Distinguishing assets most suited for recycling from those that are not will be tough. Resource-strapped governments will be hard-pressed to develop comprehensive asset inventories and master lifecycle management practices. And public pensions could be put under additional pressure to buy assets that don’t fit into their investment strategies.

But it may be worth the work required. A federally driven asset-recycling program could help state and local governments access capital — without incurring debt or raising taxes — to build a new generation of infrastructure assets. More importantly, it would signal that the U.S. infrastructure market is open for business.

GOVERNING.COM

BY JILL EICHER | JUNE 1, 2017

The Week in Public Finance: Pension Reform in Texas, Fitch Lowers Expectations and Illinois Downgraded Again.

A roundup of money (and other) news governments can use.

GOVERNING.COM

BY LIZ FARMER | JUNE 2, 2017

Illinois Budget Crisis Is About to Get Even Harder to Solve.

- **Starting Thursday, three-fifths majority needed to pass budget**
- **State at risk of being first cut to junk since at least 1970**

Illinois leaders will blow past a deadline that will leave the state careening toward the third straight year without a budget.

The Illinois House isn’t voting on a budget on Wednesday, which means the gridlock-prone government won’t pass a spending plan by midnight. That means approving a budget — a usually routine task that has eluded the state for 700 days — will become even more difficult because a three-fifths majority will be required. Democratic lawmakers, who control both chambers, and Republican Governor Bruce Rauner have repeatedly failed to agree on how to solve chronic budget deficits worsened by the expiration of tax hikes in January 2015.

“We are probably approaching that point of impaired ability to function at basic level,” said John Humphrey, the Chicago-based head of credit research for Gurtin Municipal Bond Management, which oversees about $10.1 billion of state and local debt and has steered clear of Illinois. “We’ve already probably passed that point. We haven’t seen this in a modern state before.”

The self-inflicted crisis has left the fifth most-populous state with a record $14.5 billion of unpaid bills, ravaged entities like universities and social service providers that rely on state aid and undermined Illinois’s standing in the bond market. Unless a surprise deal emerged before midnight, it’s increasingly likely that Illinois enters its third fiscal year on July 1 without a budget.

Democratic House Speaker Michael Madigan, who controls much of the legislative agenda, blamed Rauner for “holding the budget hostage” to his agenda, and said in an emailed statement Wednesday that Democrats will keep working on a budget and hold public hearings, starting in Chicago on June 8.

In turn, Rauner criticized the Democrats, calling the failure a “complete dereliction of duty by the majority in the General Assembly” and said there should be no tax hikes without a property tax freeze and local control of those levies.

Bond-rating companies have warned of further ratings cuts, signaling that Illinois could be the first state since at least 1970 to lose investment-grade status.

Investors have long punished the state for its financial woes, and the penalty has only gotten worse amid the impasse. Its 10-year bonds yield 4.4 percent, 2.5 percentage points more than those on top-rated debt. That gap — a measure of the perceived risk — is the most since at least January 2013 and more than any of the other 19 states tracked by Bloomberg.

Rauner, who in 2015 became the first Republican to lead the state since 2003, wants any spending plan to be tied to his key priorities, such as property tax-freeze. The Senate on Tuesday approved measures that would lock most local real estate levies in place for two years, but Republicans said they didn’t go far enough.

In the meantime, Illinois is spending more than it’s taking in because of consent decrees, court orders and other appropriations that have kept the government from shutting down despite the lack of a budget. Its current-year operating deficit is about $6 billion, Moody’s Investors Service said in a March report.

Moody’s and S&P Global Ratings have warned that Illinois could be downgraded deeper if no budget is enacted. The companies rank the state at Baa2 and BBB, respectively. That’s two levels above junk.

The unpaid bills are also adding to the fiscal squeeze. The comptroller has estimated that the state will owe at least $800 million in interest and fees on overdue bills by the end of June.

That backlog is “headed in the direction of being a factor that just by itself really threatens the sort of financial foundations of the state,” Ted Hampton, Moody’s lead analyst on Illinois, said in an interview, citing litigation from those demanding payment. “There is kind of an uncertain but very real legal and political limit to the state's ability to keep deferring payments."

A group of school superintendents from districts statewide held a press conference in the Illinois State Capitol on Wednesday, calling for the passage of a full-year budget, instead of just a temporary stopgap, and changes to the school funding formula. Illinois owes districts $1.1 billion, which is "unconscionable," said Tony Sanders, chief executive officer of the state's second-largest school system, in Elgin.

Despite the gridlock, Illinois hasn't missed any bond payments and state law requires it to continue making monthly deposits to its debt-service funds. Still, the fighting has impeded any progress on bolstering a state retirement system that has more than $129 billion of unfunded liabilities — a source of stress that has helped drive its rating down.

The Clock Is Ticking

State leaders still have the month of June to find an agreement before the start of fiscal year 2018 on July 1. Last year, lawmakers approved a six-month, stopgap budget to keep schools open and operations going.

So far, consensus has proven elusive. The Illinois Senate approved a spending plan on May 23, with only Democratic votes, that raised income taxes and expanded the sales tax levy. It still needed House approval as of Tuesday afternoon.

Rauner has called for freezing property taxes before raising any income tax increase is considered, but he rejected the two-year property tax freeze that the Senate approved Tuesday. Eleni Demertzis, a spokeswoman for Rauner, called the move "a phony two-year freeze riddled with holes." It exempted Chicago, and Rauner had pushed for a lengthier time frame.

The impasse is decimating social services agencies that help the most vulnerable citizens, including school children, the elderly and the mentally ill, according to a coalition of groups including the Civic Federation, which tracks the state's finances.

"Forty-nine other states would never try this experiment," Laurence Msall, president of the Civic Federation, said in a press conference last week. "Only Illinois, which has seen its credit rating crumble, which has seen its social service infrastructure weaken, which has seen its higher education punched into the stomach in terms of what its future looks like, would try this experiment. It's not working. We have to have a state budget to move forward."

Bloomberg

by Elizabeth Campbell

May 31, 2017, 5:23 AM PDT May 31, 2017, 3:13 PM PDT

California's Brown Steers $9 Billion School Bond Into Slow Lane.

- **Voters approved debt issue for school construction in November**
- **It may be more than a decade before some districts get funds**

A potential deluge of bond sales for California schools may be more like a trickle.

Although state voters in November approved borrowing $9 billion for school construction, the sales may span more than a decade, according to the nonpartisan Legislative Analyst's Office. Democratic Governor Jerry Brown, who opposed the debt measure, wants to tighten requirements on eligibility and oversight that kindergartens through high schools must adhere to before bonds are sold for their projects.

To prevent delays, advocates are lobbying legislators to limit the changes to be included in the budget due June 15, said Dennis Meyers, assistant executive director of governmental relations for California School Boards Association. About $600 million of general obligations authorized by the voters would be sold in the fiscal year starting in July, according to Brown's finance department. Supporters of the debt issue want the funds raised at a faster pace.

"The worst-case scenario is that the bond funds would be stalled indefinitely," said Meyers, who argues that it would hurt the creation of construction jobs. "Our goal is to let legislators know the importance of getting these funds out the door under current law and to act quickly."

A subdued approach to the debt sales may help support prices of bonds issued by California, the biggest issuer in the $3.8 trillion municipal market. The state's securities have gained as the booming economy erased once massive budget shortfalls, allowing Brown to pay down debt built up during previous downturns. California's 10-year securities yield about 2.16 percent, or just 0.2 percentage point over benchmark debt, a third of the premium investors demanded four years ago.

The state has seen its credit rating rise to the highest in more than a decade, in part because of the decision to pay down debt and sock away more into its reserves. California's outstanding general-obligation and lease-revenue debt has declined to $84 billion in May from about $86 billion in June 2016, according to the treasurer's office.

Even with rates low, investors have clamored for bonds from issuers in California as the amount of maturing securities outstrips new debt. About $1.3 billion in California bonds are expected to be sold within 30 days, down from about $4.5 billion in the middle of last month, according to data compiled by Bloomberg.

The governor's approach to the school bond sale would prevent a surge in the supply of debt. The regulations would ensure proceeds are being spent appropriately, considering a state audit last year that showed that previous bond funds were used on ineligible items such as golf carts, said H.D. Palmer, a spokesman for Brown's finance department.

"We will be able to put in place a process that provides further guarantees to the taxpayers who approved this multi-billion dollar bond authorization that these dollars are in fact being spent in the manner in which they were told would be spent," Palmer said.

Californians embraced the first statewide education bond in a decade despite Brown's objection that it will benefit richer school districts with stronger tax bases. Under the program, school districts raise local dollars and apply for matching state dollars for projects. Low-income communities can also request grants.

Of the $9 billion, $2 billion is dedicated to community colleges and the rest for K-to-12 schools. A delay in bond funds could see a court challenge from those who seek expeditious action since the voters indicated they want the bonds sold, according to the Legislative Analyst's Office. It encouraged lawmakers to adopt a plan with a quicker pace.

Some of the provisions the administration is proposing are "changing the rules mid-stream" and could set precedent by allowing any funds that the state may seek to claw back from school districts to come from aid for operating costs, said Meyers, the school board association lobbyist.

The measures are clarifications of existing regulations, Palmer said. The passage of the bond didn't "reverse the administration's concerns and focus on adopting additional reforms."

Bloomberg

by Romy Varghese

May 31, 2017, 2:00 AM PDT

Hartford's Credit Rating May Be Cut Deeper Into Junk by Moody's.

Hartford, the beleaguered Connecticut capital, may have its credit rating cut deeper into junk by Moody's Investors Service amid uncertainty over whether the state will extend a lifeline to help the city close a $50 million budget shortfall.

Moody's rates Hartford's $550 million of general-obligation bonds Ba2, two steps below investment grade. The company said Tuesday that it's conducting a 90-day review of the city that will take into account how much Connecticut, which is facing a two-year deficit of about $5 billion, can give Hartford in the budget to be adopted over the next several weeks. Connecticut was downgraded by all three major bond rating companies earlier this month, after plummeting income-tax collections widened the government's deficit.

"Unable to generate significant incremental revenues internally or to cut expenses further, the city is primarily relying on increased state aid to close its budget gap," Moody's wrote in a report. "At the same time, the state of Connecticut's fiscal position has become weaker over the last year."

Hartford's ability to increase property-tax collections, a key source of revenue, is constrained by its already high levies and sluggish real estate market, Moody's said. About half of the property in Hartford is tax-exempt. A proposal by Governor Dannel P. Malloy to allow municipalities to levy a property tax on hospitals hasn't gained traction in the legislature.

Cost-cutting opportunities in the city are limited because the city has already gone through previous rounds and labor negotiations haven't led to concessions, Moody's said.

The city's large deficits are driven by escalating costs for debt service, pensions and health care, without sufficient revenue growth to offset them. The city has considered soliciting proposals from law firms that specialize in municipal bankruptcy, according to the Hartford Courant newspaper.

"While reflecting prudent contingency planning for a shortfall in state funding without a viable alternative solution, we believe it also indicates increased willingness by the city to entertain bankruptcy as a tool to address its growing fiscal pressures," Moody's wrote.

Bloomberg

by Martin Z Braun

May 30, 2017, 4:00 PM PDT

Bloomberg Markets: Manges Sees ‘Smooth Sailing’ for Muni Market.

Bloomberg Markets with Carol Massar and Cory Johnson.

GUEST: Hardy Manges Head of Municipal Dealer Sales MarketAxess Discussing the outlook for muni bond investing. Oliver Renick, Bloomberg News Stocks Reporter, also participates in the discussion.

Running time 08:00

Play Episode

Bloomberg

May 30, 2017 — 12:33 PM PDT

producer: Paul Brennan +1-212-617-8292 or pbrennan25@bloomberg.net

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Muni-Bond Vultures Rethink Risks Lurking in Market's Junk Yard.

- **Puerto Rico bankruptcy rule changes surprised traders**
- **Distressed funds say they’ll demand discounts in the future**

Puerto Rico’s bankruptcy has left distressed municipal-debt traders like Hector Negroni wondering if the old rules still apply — not just in San Juan, but across the U.S.

The island’s effort to shred protections written into its constitution to determine which creditors get paid first has made Negroni reconsider the high-yield, high-risk corner of the $3.8 trillion muni-bond market. “They’re attempting to suspend the constitution,” said Negroni, a principal at New York-based hedge fund Fundamental Credit Opportunities and a member of the general-obligation ad hoc group pushing for full payback.

It’s true that no state has defaulted since Arkansas in 1933 — Puerto Rico is a U.S. territory — and that so far the island’s actions have had no evident effect on the broader muni bond market. But the reverberations could, eventually, reach highly indebted states like Illinois, New Jersey and Connecticut. Puerto Rico’s decision to renege on its constitutional commitment, the argument goes, may trigger a quicker deterioration in investor confidence in the next borrower that gets itself into real trouble.

As part of Puerto Rico’s bankruptcy, made possible by an act of the U.S. Congress last year, a judge will now decide how investors will split repayments of $74 billion in bond debt, and Negroni and others will likely have to take less money than they were promised.

“People are going to start pricing in an increased probability of laws changing” by demanding discounts when they buy distressed debt, Negroni said.

Raise Taxes

Distressed muni-debt traders usually buy when the credit rating of a bond is downgraded to junk status. That's when institutions, such as mutual funds, are forced to sell or otherwise long-term retail investors get spooked.

"Next time around, you bet that they're going to be asking for lower prices when mutual funds want to unload something like Illinois," said Matt Fabian, a partner with Municipal Market Analytics Inc. in Concord, Massachusetts.

When faced with a swelling budget shortfall or a looming default, states are expected to do anything from raising taxes, cutting services or selling off assets to pay creditors. They don't have access to bankruptcy protection. Neither did Puerto Rico until last year, when Congress voted to help the commonwealth restructure its unsustainable debt. Puerto Rico has said it can only cover about $8 billion of $33.4 billion in bond payments due through 2026.

Doubly Protected

The law change came as a shock to some general-obligation bondholders, such as Negroni, who believed they were doubly protected. Not only would there be no bankruptcy, but the commonwealth's constitution said that repaying bondholders was a priority, even ahead of providing citizens with essential services. (That approach may not have thrilled those outside observers worried about worsening living conditions on the island, but it was the law.)

Although there's been no decision yet on how bondholders will divvy up the money, hedge funds holding $1.4 billion of the general-obligation bonds, including Aurelius Capital Management and Monarch Alternative Capital, have already sued to receive overdue principal and interest payments.

Puerto Rico's bankruptcy is the biggest in muni land. About half the states prohibit towns and cities from filing. Michigan isn't one of them. In Detroit, which was the second-largest muni bankruptcy, bondholders didn't do as well as they could have. Pensioners, despite not having first-paid status, were one of the least-impaired creditors, walking away with 82 cents on the dollar. General-obligation bondholders got 73 cents, and some water-and-sewer bondholders received as little as 1 cent on the dollar.

Bailout Packages

"You should know on the front end that laws can change, and that includes bailout packages as well," said Jon Schotz, co-managing partner at Saybrook Fund Advisors, a $250 million private equity firm that invests in distressed and defaulted municipal securities, including Prepa, Puerto Rico's public power utility.

Puerto Rico probably won't be the last U.S. entity to change the rules to cut down on its debt, said Kjerstin Hatch, managing principal of Lapis Advisers, which has about $380 million in assets under management but no Puerto Rico.

"How the country will deal with municipal default is likely in its infancy," Hatch said. "Ideas are forming, from a legislative and judicial standpoint, as to how we'll handle large insolvent municipal entities."

The flouting of constitutional rules may cause distressed muni-bond investors to insist on discounts, but it won't scare them away from the market, Fabian said.

"The ending of this movie might disappoint them, but they'd buy the ticket to watch it again."

Bloomberg Markets

by Kate Smith and Amanda Albright

May 30, 2017, 3:00 AM PDT

Meadowlands Mall Builder Sets the Year's Top Unrated Muni Sale.

- **Goldman Sachs Group Inc. will manage $800 million bond issue**
- **American Dream features indoor water and amusement parks**

The Canadian developer building the long-stalled mega-mall in New Jersey’s Meadowlands plans to sell $800 million of tax-exempt municipal bonds next week to help complete the construction of the complex begun more than a decade ago.

Goldman Sachs Group Inc. is managing the deal, the largest sale of unrated municipal bonds this year, for mall owner Triple Five Group, run by the billionaire Ghermezian family. The bonds are backed by payments in lieu of property taxes and will be issued through a Wisconsin agency, the Public Finance Authority, that specializes in acting as a conduit for risky debt. Borrowers for speculative projects sometimes forgo credit ratings rather than risk the taint of being labeled junk.

The sale may benefit from a rally in the tax-exempt securities market as investors steer money into municipal-bond mutual funds, pushing yields to the lowest since early November. As investors seek bigger returns, high-yield state and local bonds have delivered gains of 6.1 percent this year, compared with 3.6 percent for the overall market, according to Bloomberg Barclays indexes.

Initial construction on the project in East Rutherford, about 10 miles (16 kilometers) west of Manhattan, began in 2004, only to be halted after the initial developers ran short of funds. Triple Five took over the project in 2011 and will receive $350 million in grants from New Jersey if the project meets sales-tax revenue targets.

The 2.9 million square-foot (270,000 square-meter) American Dream, originally called Xanadu, will feature an indoor amusement park and water park, an 800-foot (245-meter) ski slope, a 300-foot Ferris wheel, aquarium, 1,500-seat performing-arts theater, skating rink and a 1,400-seat movie theater with “wind, rain, snow, fog and scents all synchronized to the on-screen action,” the company says. It will also have 500 stores, restaurants and food shops.

The total cost of the project is estimated at $2.8 billion, which will be covered by the tax-exempt bonds, $500 million from the developer, payments from tenants and nearly $1.7 billion in loans from JPMorgan Chase & Co.

Last year, a New Jersey appeals court rejected a non-profit group’s challenge to the bond sale.

Bloomberg Markets

by Martin Z Braun

May 30, 2017, 10:57 AM PDT May 30, 2017, 12:24 PM PDT

Bloomberg Brief Weekly Video - 06/01

Amanda Albright, a reporter for Bloomberg Briefs, talks with Joe Mysak about this week's municipal market news.

Watch the video.

Bloomberg

June 1, 2017

Fitch: Pension Impact Adjusted in U.S. Public Finance Criteria.

Fitch Ratings-New York-31 May 2017: Under Fitch Ratings' updated U.S. public finance tax-supported rating criteria, released today, pension liabilities will be discounted at a fixed 6% investment-return assumption, with the upward liability adjustment determined by newly-reported sensitivity data. The accompanying report discusses the criteria changes related to pension analysis, and the rationale behind them in more detail.

The investment-return assumption had previously been set at 7%.

Pension liabilities and the cost of supporting them remain a source of uncertainty for governments given the generally irrevocable nature of vested benefits, the variable nature of liabilities, and the rising burden of contributions relative to resources.

"U.S. growth has been slower and more incremental over the current economic expansion than over longer time horizons. There is little evidence to suggest the economy will accelerate to previous levels of growth in the near term. Fitch believes that pensions will be hard-pressed to achieve their long-term growth expectations in the current economic context," said Douglas Offerman, Senior Director.

"The 6% return assumption, and increased total pension liability, better reflect the magnitude of the burden posed by pensions."

In another change announced in the new criteria, Fitch will compare its existing metric for the carrying cost of long-term liabilities, which relies on the reported actuarially determined contribution for pensions, to a new, supplemental metric that combines a hypothetical annual pension cost using a level repayment of the Fitch-adjusted net pension liability in a manner similar to bonded debt and an estimate of the cost of newly-accrued benefits.

The supplemental metric highlights outliers where expenditure flexibility can be expected to decrease substantially and unavoidably over time as a result of pensions.

The criteria adjustments will have only limited impact on current ratings because existing through-the-cycle assessments already capture Fitch's expectation for rising pension burdens.

The criteria report released today updates and replaces the tax-supported rating criteria dated April 18, 2016. The only material changes to those criteria relate to the analysis of defined benefit pension liabilities. Other revisions to the report are designed to improve clarity but are not substantive changes to the rating approach for U.S. state and local government credits.

For more information, a special report titled “Revised Pension Risk Measurements” is available on the Fitch Ratings web site at www.fitchratings.com or by clicking on the link.

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Additional information is available on www.fitchratings.com

Fitch Teleconference Replay - North American Airports.

Fitch Ratings held a teleconference discussion on developments in the airport sector over the last decade and future transportation trends.

Key discussion points included:

10-Years in Infrastructure

· Ratings Averages
· 2007-2016 World Airport Traffic Volumes
· Large International Airports vs. O&D
· Airport Resiliency to Airline Volatility
· Airport Sector: Next 10 Years

Transportation Trends

· Solid, but Softening Enplanement Growth
· Fitch-Rated Airports
· Large Hubs
· U.S. Carriers

Canadian Airport Privatization

Speakers:

Seth Lehman, Senior Director, Global Infrastructure & Project Finance
Jeffrey Lack, Director, Global Infrastructure & Project Finance

Listen to the Replay.

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BDA Submits Comments to Department of the Treasury and the Internal Revenue Service on Recommendations for the 2017-2018 Priority Guidance Plan.

The BDA submitted comments to the Department of the Treasury and the Internal Revenue Service on recommendations for items that we believe should be included in their 2017-2018 Priority Guidance Plan. You can view our final comments here.

The Treasury Department's Office of Tax Policy and the IRS use the Priority Guidance Plan each year to identify and prioritize the tax issues that should be addressed through regulations, revenue rulings, revenue procedures, notices, and other published administrative guidance. The 2017-2018 Priority Guidance Plan will identify guidance projects that the Treasury Department and the Service intend to work on as priorities during the period from July 1, 2017, through June 30, 2018.

BDA's letter focuses on the following topics:

- **Political Subdivision:** BDA continues to urge the IRS and Treasury to withdraw the proposed rules and release a new set of proposed regulations that reflect the concerns expressed by BDA and other participants in the municipal bond market.
- **Tax Exempt Bonds & Infrastructure:** The BDA believes tax-exempt bonds can and should continue to play a leading role in infrastructure investment.
- **Issue Price:** We suggest that the IRS and Treasury should monitor the impact of the new rules on the market.

The regulatory notice can be found here.

Bond Dealers of America

June 1, 2017

Empowering the Public and Nonprofit Sectors with Data and Technology.

Abstract

Local government and nonprofit staff need data and technology skills to regularly monitor local conditions and design programs that achieve more effective outcomes. Tailored training is essential to help them gain the knowledge and confidence to leverage these indispensable tools. A recent survey of organizations that provide data and technology training documented current practices and how such training should be expanded. Four recommendations are provided to assist government agencies, elected leaders, nonprofit executives, and local funders in empowering workers with the necessary training to use data and technology to benefit their communities. Specifically, community stakeholders should collectively work to

- expand the training available to government and nonprofit staff;
- foster opportunities for sharing training materials and lessons;
- identify allies who can enhance and support local training efforts; and
- assess the local landscape of data and technology training.

This brief is part of the [Expanding Training on Data and Technology to Improve Communities] project, launched by the National Neighborhood Indicators Partnership and Microsoft's Civic Technology Engagement Group to explore community training on data and technology. Other products include a guide for organizations interested in providing community training, a catalog of trainings from across the country, and a summary of current training content and practices from our survey.

[View the Brief.]

The Urban Institute

by Kathryn L.S. Pettit and Maia Woluchem

June 1, 2017

[Municipalities Grapple With Whether Nursing Homes Should Be Taxpayer-Funded.]

NANTUCKET, Mass.—The 11,000 year-round residents of this summer colony off Cape Cod are confronting an emotional question: whether the island is a place where they can grow old.

Nantucket, a ritzy vacation destination whose permanent community is of more modest means, has one nursing home: Our Island Home, a 45-bed facility that is owned and run by the town and with a history that goes back to 1822. It sits on prime town-owned real-estate where its residents can watch boats on Nantucket Harbor. But it runs an annual deficit of about $3 million, needs major repairs and is pressuring the town's coffers at a time when Nantucket needs other infrastructure to accommodate growth.

"The town is getting to the point where it's just taking on way too much," said Donna Hamel, chairwoman of the Nantucket Republican Town Committee. "Should the town be in the nursing-home business? No. They don't know anything about it."

Our Island Home is one of roughly 1,100 of the U.S.'s 15,600 nursing homes that are government-owned, a vestige of an era when municipalities ran sanitariums and homes for the indigent. Nantucket now joins cities and towns from New Jersey to Tennessee in wondering whether nursing homes are an essential municipal service like fire, sewers and schools.

As baby boomers turn 65 at an estimated pace of 10,000 people a day, communities are increasingly confronting the questions of how and where to care for the elderly.Some are deciding they don't expect nursing homes to befinancially independent.

Over the past five years, most New Hampshire counties have rolled their publicly owned nursing homes from the "enterprise" budget column, where services are supported by user fees, to the general fund, said Nicholas Lehman, an analyst with Moody's Investors Service. In these places, "residents want a nursing-home option for themselves in the future, and they're willing to pay taxes to support that," he said.

In these places, "residents want a nursing-home option for themselves in the future, and they're willing to pay taxes to support that," he said.

But government-owned and -run facilities often have deficits and have outdated institutional styles that don't attract the wealthier private-pay customers that offset Medicaid patients, said Jeff Binder, managing director of Senior Living Investment Brokerage Inc. Medicaid payments also face uncertainty, with the new White House budget proposing heavy cuts to the federal-state health program for the poor.

Financial pressures led New Jersey counties to sell their nursing homes to private companies, a move that saved some facilities, according to John Donnadio, executive director of the New Jersey Association of Counties. Only seven New Jersey counties still run nursing homes, down from 14 about five years ago, and "that number is going to drop more," he said.

But privatizing doesn't always go smoothly. Three years ago, Nashville began to shift two city-owned long-term-care facilities to private operators after deciding it couldn't continue chipping in $10.5 million annually for their operation.

The plan hit snags. Local elected officials heard complaints about the conditions and food, and the city cut ties with the for-profit operator that ran one complex. In January, the city brought in an emergency operator to run the assisted-living center. Officials say that despite challenges, conditions have improved and the shift to private operators ultimately saved millions.

For Nantucket, the debate has extra resonance because without a nursing home on the island, residents might have to move.

While the island has swanky shops lining cobblestone streets and multimillion-dollar vacation homes that sit empty for many months of the year, Nantucket Town Manager Elizabeth Gibson says there are year-round residents who are "really struggling," in part because of the high cost of living.

Elderly year-rounders tend to live at home for as long as possible, but they complain that home-health workers are costly and in short supply. There are fewer options for assisted living or services like memory care. Some seniors move to the mainland, but most don't want to leave their spouses or community. That leads the elderly who need skilled nursing care to seek out the island's only nursing home. Even some well-to-do year-round residents find that Our Island Home is their only option.

When Yvonne DuMont Stelle decided she could no longer care for her husband, Donald, who suffers from dementia, the painful decision was made easier knowing that he would be a five-minute drive away.

"It's a horrible thought to think we wouldn't have this here," said Ms. Stelle, who regularly checks in on Donald, 90, and is part of a local group that bring extras, from art classes to live music, to the nursing home.

Ms. Gibson, the town manager, said she doubts many residents would say the nursing home doesn't belong in the community, but the tension is taxpayers are being asked to support a service that is bleeding money while the community pays heavily for other services.

"It's probably going to come down to, Can we keep affording it?" Ms. Gibson said.

A nearly completed school was a $40 million-plus project, Ms. Gibson said, and the town has appropriated another $40 million toward sewers and $17 million for a fire station. Town officials also are discussing whether they may have to subsidize housing to recruit employees who can't afford Nantucket's high housing prices.

At the annual town meeting in April, taxpayers voted 264-253 against a $30 million proposal to construct a new, modern campus for Our Island Home. Concerns ranged from the cost to the new location to suspicion about a march toward privatization.

But local residents cherish the care that the elderly get at Our Island Home—such as when two staff members drove 91-year-old resident Gladys Soverino and her husband, Malcolm, last October to renew their vows at the Nantucket church where the couple had married 70 years earlier.

"We're an island," said Allison Forsgren, a local real-estate broker whose late father lived in the town-owned nursing home. "You have to sort of watch out for people and not let them fall through the cracks."

The Wall Street Journal

by Jennifer Levitz

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[S&P Downgrade Brings Illinois Debt One Step Closer to Junk.]

Illinois may become the first U.S. state to be given a junk rating

Illinois is on the verge of becoming the first U.S. state with a junk-bond rating following downgrades from two of the world's largest ratings firms.

S&P Global Inc. warned that Illinois could be downgraded to junk status next month if it doesn't solve its partisan gridlock. Illinois hasn't had a budget for two years due to a standoff between the Republican governor and Democratic legislature.

Illinois is one of many cities and states that, despite a generally strong U.S. economy, are struggling to close budget gaps because of pensions and other entitlements. State and local retirement liabilities have ballooned after the financial crisis, and most governments don't have enough assets to cover all future obligations.

S&P on Thursday dropped its grade on the state's general-obligation bonds one level to BBB-minus, the lowest possible investment-grade rating, citing Illinois's inability to pass a budget. Moody's

Corp. also dropped its Illinois rating to one notch above junk. Fitch Ratings has rated Illinois at two notches above junk.

A downgrade to a junk rating would worsen Illinois's financial straits by likely increasing interest rates on all future borrowings.

"By letting the state get downgraded, Illinois's government is only making its own budget problems worse," said Matt Fabian, a partner at Municipal Market Analytics

Gov. Bruce Rauner and the state's Democratic House speaker, Michael Madigan, have been deadlocked over taxes and spending since Mr. Rauner took office in 2015.

"Madigan's majority owns this downgrade because they didn't even attempt to pass a balanced budget, get our pension liability under control, and other changes that would put Illinois on better financial footing," a spokesman for Mr. Rauner said Thursday.

A spokesman for Mr. Madigan couldn't be reached for comment, but a spokesman for Illinois Senate President John J. Cullerton, a Democrat, said "our worst fears are being realized daily as this impasse lingers…I urge the governor to recognize the need for compromise…and end this chaos that has gone on far too long and hurt far too many."

State lawmakers can continue to work toward a budget in the coming weeks, but they will need more votes. After the regular session of the General Assembly ended Wednesday, three-fifths of both houses must support the budget, instead of a simple majority.

Investors didn't react severely to Thursday's actions from the Wall Street ratings firms. Prices on some Illinois general-obligation bonds fell to about 99 cents on the dollar Thursday after trading as high as 105 cents earlier in May.

Even in the face of high pension costs and stretched budgets, most U.S. states maintain high ratings in large part because they have the power to tax residents and lack the ability to declare bankruptcy.

New Jersey, the next lowest-rated state after Illinois, is pegged at four notches above junk by both S&P and Moody's despite burdensome pension liabilities and a persistently imbalanced budget. Moody's also rates Connecticut at that level.

Other states have had their ratings fall nearly as low and been able to engineer a turnaround. California has largely recovered from fiscal distress that drove its rating down to two notches above junk by S&P in 2003 and kept it low for much of the next 10 years.

The state regained the confidence of rating analysts in part by making regular deposits to a rainy-day fund, according to reports from S&P.

Puerto Rico last month was placed under court protection in what amounts to the largest-ever municipal bankruptcy, owing $73 billion to creditors. That dwarfed the roughly $9 billion in bond debt owned by the city of Detroit when it entered what was previously the largest municipal bankruptcy in 2013.

Puerto Rico created problems for itself by borrowing money to buy time while its economy deteriorated.

But no state had gone without a budget for over a year since the Great Depression until Illinois. The stalemate originated with ideological differences between two major political figures in the state.

Gov. Rauner has called for broad changes, including curbs on unions he argues would save the state and businesses money. Democrats, who are led by Mr. Madigan, have said those issues are unrelated to the budget.

In the meantime the state's backlog of bills has swelled to roughly $15 billion, or 40% of the state's operating budget, according to Moody's. The state's budget deficit is more than $5 billion, according to S&P and Moody's.

The current problems are aggravated by burdensome debts that eat into the money available to run the state. Illinois's pension debt last year reached $251 billion, according to Moody's calculations. Retirement and health benefits combined with debt payments now absorb 29% of the state's general fund expenditures, S&P said.

"Legislative gridlock has sidetracked efforts not only to address pension needs but also to achieve fiscal balance," said Ted Hampton, a Moody's analyst, in a release. "During the past year of fruitless negotiations and partisan wrangling, fundamental credit challenges have intensified enough to warrant a downgrade, regardless of whether a fiscal compromise is reached in an extended session."

The budgetary issues in Illinois have rippled well beyond the state capital of Springfield, denting everything from infrastructure spending to the amount of books in elementary schools.

Public universities have been among the hardest hit with many schools pausing on any new construction and forced to stop hiring for vacant positions. Some universities including Northeastern Illinois, Governors State and Southern Illinois are weighing fixes such as raising tuition, cutting academic programs or laying off student workers.

While the state is still funding certain core functions, many nonprofits have had to shut down or reduce operations and lay off staff after going without payments from the state.

If Illinois does get downgraded to junk it would have to make millions of dollars in termination payments on contracts designed to stabilize interest payments on some state debt, according to S&P.

Those penalties would be about $10 million in the event of a downgrade to junk by one rating firm, would reach $19 million if two firms gave the state a junk rating and could reach $108 million in the event of further downgrades, according to estimates by S&P based on current market conditions.

"In our view, the unrelenting political brinkmanship now poses a threat to the timely payment of the state's core priority payments," S&P analyst Gabe Petek said in his ratings report Thursday.

The Wall Street Journal

By Heather Gillers

Updated June 2, 2017 2:54 p.m. ET

Write to Heather Gillers at heather.gillers@wsj.com

Connecticut's Tax Comeuppance.

With the rich tapped out, the state may resort to Puerto Rico bonds.

The Aetna insurance company has been based in Hartford, Conn., since 1853, but this week it said it is looking to move to another state. Governor Dannel Malloy has pledged to match other states' financial incentives, but taxpayer money can't buy fiscal certainty and a less destructive business climate. That's the real problem in Connecticut, which saw GE vamoose to Boston last year and which even Mr. Malloy now seems to recognize.

"As a huge Connecticut employer and a pillar of the insurance industry, it must be infuriating to feel like you must fight your home state policymakers who seem blind to the future," Mr. Malloy wrote in a May 15 letter to Aetna CEO Mark Bertolini. "The lack of respect afforded Aetna as an important and innovative economic engine of Connecticut bewilders me."

Now he tells us. Gov. Malloy has spent two terms treating business as a bottomless well of cash to redistribute to public unions. Now that his state is losing millionaires and businesses, he has seen the light. But the price of his dereliction will be steep.

Last month the state Office of Fiscal Analysis reduced its two-year revenue forecast by $1.46 billion. Since January the agency has downgraded income-tax revenue for 2017 and 2018 by $1.1 billion (6%). Sales- and corporate-tax revenue are projected to fall by $385 million (9%) and $67 million (7%), respectively, this year. Pension contributions, which have doubled since 2010, will increase by a third over the next two years. The result: a $5.1 billion deficit and three recent credit downgrades.

According to the fiscal analyst, income-tax collections declined this year for the first time since the recession due to lower earnings at the top. Many wealthy residents decamped for lower-tax states after Mr. Malloy and his Republican predecessor Jodi Rell raised the top individual rate on more than $500,000 of income to 6.99% from 5%. In the past five years 27,400 Connecticut residents, including Ms. Rell, have moved to no-income-tax Florida, and seven of the state's eight counties have lost population since 2010. Population flight has depressed economic growth—Connecticut's real GDP has shrunk by 0.1% since 2010—as well as home values and sales-tax revenues.

Corporate revenues also took a hit after General Electric relocated to Boston. Mr. Malloy then offered tax breaks to hedge funds and companies to stay in Connecticut, which has further eroded revenue.

The Governor—a slow learner—seems finally to have accepted that raising taxes on the wealthy is a dead fiscal end. Democrats are now proposing higher taxes on tobacco, expanding casinos and eliminating some tax breaks, though they don't want to touch an exemption for teacher pensions. The state teachers union warns that axing the exemption would impel retired teachers to relocate. A quarter of pension checks are currently sent out of state.

Mr. Malloy is also seeking $1.6 billion in concessions from unions, which would be easier to achieve if collective bargaining weren't mandated by law. He's suggested increasing municipal pension contributions and cutting state-revenue sharing, both of which could drive up property taxes and imperil insolvent cities like Hartford. Mr. Malloy's budget includes a $50 million bailout for Hartford to prevent bankruptcy, which might occur in any case if Aetna—its fourth largest taxpayer—leaves.

The state treasurer has advocated "credit bonds" securitized by income-tax revenues to reduce the state's borrowing costs. Investors beware: Puerto Rico tried something similar with its sales tax, and bondholders might not get back a penny. Maybe Democrats should follow Jerry Seinfeld's advice to George Costanza and do the opposite of the instinct that has brought the state so low: Cut taxes.

THE WALL STREET JOURNAL

June 2, 2017 6:52 p.m. ET

U.S. Judge Freezes a Puerto Rico Debt Payment Subject to Competing Claims.

NEW YORK — A federal judge on Tuesday ordered the trustee for Puerto Rico's COFINA bonds not to make a $16 million payment due on June 1, allowing creditors to litigate competing claims to the money that could be central to how the bankrupt U.S. territory restructures debt.

Judge Laura Taylor Swain made the ruling during a hearing in her Manhattan courtroom, putting a freeze on the payments while stakeholders hash out central disputes over who is to be paid first and from which revenue sources.

Puerto Rico, with $70 billion in bond debt and another $49 billion in pension liabilities, is embarking on the biggest financial restructuring in U.S. municipal history. Sorting out obligations of the COFINA sales tax authority, which owes some $17 billion, is arguably the biggest task in the restructuring.

Swain's ruling granted a request by the COFINA trustee, Bank of New York Mellon, for "interpleader," a move authorizing the bank to hold onto the interest payment due on Thursday without fear of liability, while claims over the money are resolved.

Judge Swain did not rule on the underlying claims, a process that could take months, but said "their existence makes it clear that interpleader is warranted."

Senior creditors of COFINA argue the authority has already defaulted, through the Puerto Rican government's indications that it plans to cut debt repayments. They say junior COFINA creditors should therefore stop being paid, to ensure payment for seniors.

Meanwhile, holders of Puerto Rico's $18 billion in general obligation (GO) debt argue that COFINA's assets belong to them, under a constitutional guarantee giving them first claim on all the island's resources.

By freezing Thursday's payment, Judge Swain is giving sides the green light to litigate at least parts of these issues, though the primary dispute is the one between senior and junior COFINA creditors. Judge Swain stressed she was not ruling immediately on whether GO holders would be allowed to intervene.

Separately on Tuesday, Puerto Rico's government said it would make a $13.9 million payment on June 1 to bondholders of the Employees Retirement System, the island's largest pension, settling a lawsuit filed last week.

By REUTERS

MAY 30, 2017, 3:36 P.M. E.D.T.

(Reporting by Nick Brown; Editing by Meredith Mazzilli)

In Texas, Some Rare Good News About Cities With Pension Woes.

Detroit. Stockton. Puerto Rico. The list of places bankrupted by ballooning pension obligations and other debts is growing. But now comes some good news about two cities, Dallas and Houston, that have pulled back from the brink.

Just six months ago, the mayor of Dallas, Michael S. Rawlings, was warning that his city might need to declare bankruptcy after a panic led stampeding retirees to pull half a billion dollars out of its pension fund for police officers and firefighters.

But instead of going to bankruptcy court, Mr. Rawlings went to Austin, the state capital, to lobby for state pension laws that would stop the bleeding. So did the mayor of Houston, Sylvester Turner, who faced other pension problems and had persuaded the city's labor groups to agree to concessions worth $1.3 billion over the next 30 years.

The resulting legislation — which essentially averts crises in Texas' biggest and third-biggest cities — was signed into law by Gov. Greg Abbott on Wednesday.

Each city had its own bill, because each had its own unique problems. But both bills involve measured reductions in pension accruals for workers and retirees — mainly in secondary benefit categories like inflation adjustments and lump-sum payouts. In exchange, the pension funds will receive more money from the cities to protect the core benefits.

Most important, both bills establish financial benchmarks for the coming years. If the pension funds do not meet them, there will be more benefit cuts, some of which could be steep. The point of this is to keep elected officials from giving the can one good kick down the road now, then declaring victory and turning their backs while the same intractable problems are festering under the surface.

"The key to all this is, not one retiree's pension check is going to be reduced one penny," said Ray Hunt, the president of the Houston Police Officers Union. "It just means that future increases are slowed or stopped. I believe the majority of our members think this is the responsible way."

As happy as the resolution may seem, the steps that Texas took are illegal in other places where public pensions are imperiling the finances of cities and states. Illinois, California, Oregon, Pennsylvania and Kansas are among the states where, by law, public pensions cannot be reduced — not even the pensions that current workers hope to earn in the future.

That doctrine, known as the California Rule, explains why California cities like Vallejo and Stockton reduced their payments to other creditors when they went into bankruptcy but did not touch their workers' costly pension plans.

Of all labor groups in the public sector, police and firefighters' unions tend to be the California Rule's most ardent champions. When Memphis recently tried to scale back pensions, for example, half the police force called in sick and hundreds of others resigned.

Police unions in California are now pushing a critical test of the California Rule through the courts, after a lower court ruled that they did not have "an immutable entitlement" to the best pension they could hope for, but "only to a 'reasonable' pension." Final adjudication appears to be many months away.

Against that forbidding backdrop, Dallas and Houston show there is still room for compromise (although Houston's firefighters did withdraw their support for the bill that was just signed into law).

Both cities were spurred to act by the risk of credit downgrades and by a recent accounting change that calls for cities to calculate the number of years before their pension funds will run out of money — a once-unthinkable catastrophe that has come to pass in Prichard, Ala.; Central Falls, R.I.; and now Puerto Rico.

Those developments — and Detroit’s bankruptcy — have shown that Washington will not bail out government pension funds that go bust; officials had to patch together money from other sources, and even then, the retirees of Prichard, Central Falls and Detroit had their benefits cut. Cuts are expected soon in Puerto Rico, too.

Seeing that, and knowing that the doomsday clock was also ticking in Dallas and Houston, made labor leaders in those cities conclude that fighting concessions to the finish would not, in the end, protect their members. The Dallas pension fund was on track to run out of money in 10 years, and Houston’s in less than 15.

And in both cities, the police and firefighters have opted out of Social Security, something state and local workers often do in hopes of avoiding the Social Security payroll tax. Federal law allows that, but if a government pension fund collapses, older adults are left without a backstop.

“We have to have a fair pension system, both for us and for taxpayers,” said Mr. Hunt of the Houston police union. “It’s either that or take a 100 percent pension cut in the future, when you have no pension fund.”

Josh McGee, the chairman of the Texas Pension Review Board, a state oversight body, called Houston’s overhaul “one of the most comprehensive I’ve seen in the country,” and all the more notable because the mayor who pushed it through is a labor-friendly Democrat.

As for the Dallas pension measure, Mr. McGee called it a good first step.

“Dallas waited until they were in crisis before they did anything, so it’s really, really painful, and it’s going to take more actions in the future to solve the problem,” he said.

Dallas’s measure includes raising the retirement age, slowing benefit accruals, ending most cost-o--living increases and raising each worker’s required pension contribution to 13.5 percent of pay, from 8.5 percent.

Importantly, the new law for Dallas also bans the kind of big, one-time withdrawals that caused last year’s run, in which retirement-age police and firefighters stripped about $500 million out of their pension fund, leaving it tattered almost beyond repair.

Such lump-sum withdrawals were allowed under a fairly common program known as a DROP, for deferred retirement option program, but they caused a stampede after workers learned that the pension fund had been overstating its assets.

The workers started to grab cash for fear that it would not be there later if they waited. Hundreds of people qualified for payments over $1 million each, in addition to their regular pensions.

The changes approved Wednesday are not expected to turn the fund around, only to stabilize it. The law calls for Dallas to stress-test the fund in seven years and to make more cuts if it fails. City officials have warned that they may still claw back some of the money people took during last year’s run.

On Thursday, Fitch, the credit-rating agency, said it would review Dallas's rating. The city had been on a watch list for likely downgrades because of pension risks.

Houston had different pension troubles, dating to 2001, when officials decided that the bull market of the 1990s justified big benefit increases. The dot-com crash quickly showed that the decision was a mistake, but instead of revoking the increase, the city coped by not making its yearly contributions to the fund.

"The city was on a path to bankruptcy, and we just realized we were going to have to have some kind of reform," said Mark Watts, the head of the Greater Houston Partnership's municipal finance task force.

Under the new law, Houston reduces certain secondary pension benefits, like a DROP feature and cost-of-living increases, in exchange for better funding.

If costs still keep rising too sharply, the law calls for further reductions. And if that does not work, the system automatically shuts down the defined-benefit plan and switches to a hybrid, called a cash-balance plan.

"That caps the city's downside risk," said Mr. McGee, of the Texas Pension Review Board.

THE NEW YORK TIMES

By MARY WILLIAMS WALSH

JUNE 1, 2017

MSRB Seeks Additional Comment on Requirements for Obtaining CUSIP Numbers.

Washington, DC – The Municipal Securities Rulemaking Board (MSRB) is seeking additional public comment on draft amendments to MSRB Rule G-34, on obtaining CUSIP numbers. Consistent with its previous proposal, the MSRB's revised draft amendments clarify the obligations of municipal securities dealers to obtain CUSIP numbers for new issue securities sold in private placement transactions, including direct purchases, and require all municipal advisors to obtain CUSIP numbers in competitive offerings. However, the MSRB is now requesting input on possible exceptions from each of these requirements in certain limited circumstances.

"In light of feedback from municipal market participants, the MSRB has modified its draft amendments to include a principles-based exception from the proposed requirements," said MSRB Executive Director Lynnette Kelly. "The MSRB appreciates the thoughtful participation of commenters in the rulemaking process and invites further dialogue on how to ensure CUSIP number requirements appropriately reduce investor risk and regulatory uncertainty."

The draft amendments would provide an exception to the requirements of Rule G-34 for municipal securities purchased directly by a bank where the underwriter on the transaction or the municipal advisor advising an issuer in a competitive offering reasonably believes that the bank is likely to hold the municipal securities to maturity or limit resale of the municipal securities to another bank. Dealers and municipal advisors relying on the exception would be expected to have in place policies and procedures reasonably designed to assist in their determinations.

Comments on the revised draft amendments should be submitted no later than June 30, 2017. [Read the request for comment.]

Date: June 1, 2017

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Illinois' Troubled, Tempting Muni Bonds.

Some of Illinois' debt is sliding toward junk status, and that's a wakeup call for muni investors, writes InvestmentNews.

The state's financial troubles are "a reminder that financial advisers should pay extra attention to underlying holdings in muni bond funds," the publication writes.

High-quality muni funds can contain junk, and vice-versa. A recent Citigroup report said Illinois' high-yielding debt could present a buying opportunity, because the state has room to "tax and grow" its way toward safe ground.

But Ronald Bernardi, president of Chicago-based Bernardi Securities, tells InvestmentNews he won't touch the state's 10-year bonds, which yield 4.45%. His reasoning: At twice the yield of the highest-quality muni bonds, they're too dangerous.

Those willing to bet on Illinois can do so through a number of mutual funds with meaningful exposure to the state's munis.

Gurtin National Municipal Opportunistic Value Fund, with $117 million, is 23.7% allocated to Illinois' muni bonds. Hartford Municipal Income Fund and Wells Fargo CoreBuilder Share Series each have a little more than 20% weightings.

Barron's

May 31, 2017 4:30 p.m. ET

Muni Market to Benefit from 'Cash Blast' this Summer.

Demand for munis is rising while supply is set to shrink dramatically starting in June.

There are two big reasons why the muni market is likely to see a flood of new cash this summer, which should lift prices.

First, supply of new munis issued is expected to fall while munis mature at record levels. Peter Block of Ramirez & Co. wrote May 30:

> There is an acute supply-demand imbalance in the Muni market in June, which should

> help the Muni market outperform over the next few months. We estimate that in June alone, about $86 bil. will be available for reinvestment, including June 1 redemptions of $32 bil. and coupon of $54 bil. against the current 30 day visible supply of only $11 bil. New York (-$5.81 bil.), New Jersey (-$2.41 bil.), and California (-$2.37 bil.) will experience the greatest deficits, followed by Florida (-$1.75 bil.), and Georgia (-$1.24 bil.). We reaffirm our long-term new issue gross supply forecast for 2017 at $368 bil., for a decline of about $60 bil., or -14% YoY, which incorporates $204 bil. of new money bonds and $164 bil. of refundings.

Also, investors who fled munis, wary of the "Trump effect," are now coming back, writes Jim Colby, muni portfolio manager for municipal bond exchange-traded funds at VanEck in a Tuesday blog post. That means more demand.

He reports that as of May 23, the 37 municipal bond ETFs had, year-to-date, had collected $1.6 billion in net new assets. They now have $26.0 billion in assets, compared to $21 billion a year ago.

As individual munis become harder to find, Colby believes ETFs make more sense. He writes:

> On the one hand, for those for whom reinvesting (perhaps in individual bonds) in a potentially tighter muni market may pose unwanted challenges, a muni ETF can provide efficient and effective asset class exposure. They also offer the added advantages of both professional stewardship and, equally as important, diversification.

The biggest muni ETF is the iShares S&P National AMT-Free Municipal Bond Fund (MUB), which is approaching $111, after a nice run-up since mid-March. VanEck has a suite of muni ETFs that allow investors to target specific maturity ranges.

Barron's

By Amey Stone

May 31, 2017 3:33 p.m. ET

Senior Municipal Finance Compliance Officer

Confidential Employer

Forget the title! This is an Executive level role that is part of an exciting and eagerly awaited industry relaunch of this Fortune 500's municipal finance business. This position is perfect for someone who is currently a number two in their department (or even a number one seeking a definitive move). You must know munis – inside and out as you will be working closely with bankers and sitting with the traders. We are looking for a confident, quick decision maker who can work with business leaders and who knows how to maintain independence and objectivity.

Compensation range is $175K-$240K with bonus.

Your day-to-day responsibilities include the following:

- provide advice to the municipal bankers and underwriters on topics such as the municipal advisor rules, due diligence requirements, RFPs, etc.
- participate on capital commitment and other committees
- educate the firm on regulatory developments and new rules relating to municipal securities
- review current business practices against regulatory and firm requirements to ensure that discrepancies are proactively identified and addressed
- draft and update policies and procedures relating to municipal underwriting business
- assist in responding to regulatory exams and inquiries

Your team:

You will be working with the Wealth Management Americas Products and Trading team in Compliance. They are responsible for advising on several products, including taxable and municipal securities, equities, options, futures and structured products. The role will be located near Jersey City with some travel to NYC.

Your experience and skills:

You have:

- at least 15 years of experience with municipal finance
- at least a bachelor's degree
- JD a plus
- working knowledge of Word and Excel
- Series 7, 63/66, 53 a plus

You are:

- able to make time sensitive decisions regarding municipal underwriting questions
- capable of completing tasks with very tight deadlines, while also delivering on long term projects
- willing to present regulatory developments to senior management and internal stakeholders
- extremely organizedApply

Illinois GO and MetPier Bonds Fall After Downgrades.

Nuveen's John Miller calls it "stunning" that MetPier's rating can fall so far due to politics when its economics remain healthy.

The muni market can be quite slow moving — for example, Puerto Rico's bonds have been falling pretty gradually for about two weeks since it declared a version of bankruptcy.

But muni investors are pretty swift to sell when there is a major downgrade — which happened with Illinois bonds Thursday.

The state's general obligation bonds and Metropolitan Pier & Exposition bonds were both wider by approximately 25 basis points Thursday afternoon, estimates John Miller, who heads municipal bond investing at Nuveen Asset Management.

MetPier bonds were rated triple-A not that long ago, notes Miller. Plus, revenues (sales and tourism taxes) have actually increased the great majority of years. "Debt coverage is excellent," he adds.

But since the MetPier revenues now essentially pass through the state budget, the bonds have to be downgraded when the state is.

Miller calls it “fairly stunning” to see what dysfunctional politics can do to a bond rating even when the finances of an issuer are healthy. “The economy is moving along and yet the politics are so bad that the bond went from triple-A to double-B-plus purely on politics,” he says.

Barron’s

By Amey Stone

June 1, 2017 2:21 p.m. ET

New York City Suspends Municipal Business with Wells Fargo.

New York City voted on Wednesday to suspend Wells Fargo from its municipal debt issuance operations, citing a rating tied to doing business in low and moderate-income communities as having fallen below a “satisfactory” level.

The commission also cited last year’s scandal, in which the bank was caught creating bogus customer accounts to boost performance measures.

The New York City Banking Commission, in a unanimous 3-0 vote, decided it will give no new bond underwriting mandates or renew existing contracts with Wells Fargo. The decision follows a Federal Community Reinvestment Act (CRA) rating of “needs improvement” for the San Francisco-based bank.

The decision adds New York City to other states and municipalities that have banned the bank from handling their funding operations.

The commission was composed of Mayor Bill de Blasio, Comptroller Scott Stringer and Commissioner of Finance Jacques Jiha.

“What happened at Wells Fargo was fraud – and there must be consequences for wrongful behavior,” Stringer said in a statement.

Wells Fargo, however, was given a conditional designation as a New York City bank. That means it can still hold funds under current contract because it would be too disruptive to immediately disentangle the city from the bank.

“The ban will be revisited only when the bank’s rating is raised,” de Blasio and Stringer said in a joint statement prior to the vote.

The Wells Fargo scandal and the repercussions on its municipal banking operations contributed to a slump in its underwriting business, Reuters reported earlier this month.

Prior to the vote, the bank told Reuters it appreciated the continuing dialogue with the city.

“More than four years have passed since the end of our last CRA evaluation period and we are seeking an expedited review of the 2012-2015 exam,” Wells Fargo spokesman Gabriel Boehmer said in an email.

Wells Fargo holds $227 million of collected city taxes and fees and acts as a trustee to the New York City Retiree Health Benefits Trust, currently holding its roughly $2.6 billion in assets.

The ban will suspend the bank's role as a senior book-running manager for the city's General Obligation as well as Transactional Finance Authority bond sales.

"The only allowable exemption will be for affordable housing financing, which has a direct benefit to New York City residents," the joint statement said.

REUTERS

By Dan Freed | NEW YORK

Wed May 31, 2017 | 6:10pm EDT

(Reporting by Dan Freed; Additional reporting and writing by Daniel Bases, editing by G Crosse and Dan Grebler)

The Effective Date of the New Issue Price Regulations is Near.

On December 9, 2016, the United States Treasury Department published regulations (the "Issue Price Regulations") setting forth new rules for the determination of the issue price of a tax-exempt bond issue. The Issue Price Regulations changed a rule that had been in place for many decades. These new rules become effective for tax-exempt bonds **sold on or after June 7, 2017** and thus will affect bond issues now entering the pipeline.

What Is the Issue Price? The issue price is generally the reoffering price to the public of a tax-exempt bond at which a substantial amount of the bonds of the same maturity are sold. The issue price of the entire issue is the sum of the issue prices of the particular maturities of the bonds of the issue. There are special rules, described in "A Quick Recap of the New Issue Price Rules" below that apply in certain circumstances.

Why Is Issue Price Important? The yield on a tax-exempt bond issue is often relevant to many of the tax determinations made by an issuer with respect to that bond issue during the planning stages and could also affect post-issuance obligations of an issuer with respect to that bond issue. Calculating the yield on a bond issue essentially involves discounting the cash flow (principal and interest payments) on the bond issue back to a target amount, which is the issue price. The discount rate is the yield. Thus, a critical component in determining the yield on a bond issue is the issue price.

When Must the Yield Be Determined and Therefore When Must the Issue Price Be Known? In some cases, the issue price must be known and the yield must be determined on the sale date of the bonds. It is especially important to know the issue price and yield on the sale date in the case of an advance refunding bond issue, where the yield on the reinvestment of the bond proceeds in an escrow fund is limited to the bond yield and the escrow investments must be purchased on the sale date. In other cases, such as a current refunding or a new money bond issue, determining the issue price and the yield is less critical from a timing perspective, but generally still needed for overall compliance.

When Does the Yield on the Tax-Exempt Bond Matter? The yield on a tax-exempt bond issue will matter (i) in an advance refunding, because the escrow yield is restricted to the bond yield, (ii) where arbitrage rebate payments or yield reduction payments may be owed to the IRS, and (iii) where certain moneys derived from or related to the tax-exempt bond issue can only be invested in a fixed relationship to the bond yield (such as conduit bonds and single family mortgage revenue bonds).

What Will Happen Next. We have drafted language that will be included in (i) the Bond Purchase Agreements (for negotiated sales of tax-exempt bonds) and Notices of Sale (for competitively sold tax-exempt bonds) as well as (ii) new Issue Price Certificates that the underwriter or direct purchaser of tax-exempt bonds must sign at closing. The form of the required Issue Price Certificate is included as an exhibit to the Bond Purchase Agreement or the Notice of Sale, as applicable. By executing the Bond Purchase Agreement for a negotiated bond or submitting a bid for a competitively bid bond, the underwriter or direct purchaser is acknowledging the application of the new rules and its duties to sell the bonds, and in some instances hold the offering price of the bonds, in accordance with the new rules and to supply the necessary information to the issuer to properly document the issue price.

What Should an Issuer or Conduit Borrower of Tax-Exempt Bonds Do Now. As issuers and conduit borrowers plan their upcoming bond or bond anticipation note issues, they should consult with their Bond Counsel and, where applicable, their Municipal Advisors (sometimes referred to as Financial Advisors), to review the new language and the implications of the new Issue Price Regulations. For negotiated sales, the issuers and conduit borrowers should also consult with the underwriter and underwriter's counsel regarding the underwriter's responsibilities in establishing the issue price.

A Quick Recap of the New Issue Price Rules. Generally, the issue price is the first price at which a substantial amount (10%) of the bonds of each maturity are sold to the "public." The public is any "person" other than an "underwriter" or a related party to an underwriter. A person is any individual or entity for tax purposes and so would include corporations and partnerships. An underwriter is any person who agrees in writing with the issuer that it will participate in the initial sale of the bonds to the public or an entity who agrees with a lead underwriter to do so.

There are three special rules. First, if the bonds are sold in a private placement, the issue price is the purchase price paid for the bonds. **Second**, if the issuer chooses, the issue price will be the initial offering price to the public (typically the price shown in the Official Statement for the bonds) if the underwriter agrees to offer the bonds at a price no higher than that initial offering price for the first five business days after the sale date. **Third**, if the issuer conducts a competitive sale and receives at least three qualified bids, the issue price will be the reasonably expected initial offering price stated in the winning bid. A competitive sale is (i) a process in which the issuer offers the bond for sale to underwriters at specified written terms where those bid terms are disseminated in a manner reasonably designed to reach potential underwriters, (ii) all bidders have an equal opportunity to bid, (iii) the issuer receives bids from at least three underwriters who have established industry reputations for underwriting new issuances of municipal bonds, and (iv) the issuer awards the bonds to the bidder who submits a firm offer to purchase at the highest price or lowest interest cost.

An issuer can choose any of the permitted methods of establishing the issue price, but the issuer must identify the method chosen not later than the issue date of the bonds. This will typically be evidenced in the Tax Certificate for the bonds.

All of the rules described above apply to bonds sold for money. If bonds are sold for property, such as in the case of certain lease transactions where the vendor performs certain services in exchange for rent payments under the lease, special rules apply that are beyond the scope of this QuickStudy.

Locke Lord QuickStudy

May 31, 2017

JDSUPRA

Retirees, Minimize Your Costs When Buying Bonds.

A new rule will require brokerage firms to disclose the markup or markdown on retail customers' trade confirmations for most corporate- and agency-bond trades.

For investors buying individual bonds, it's time to play "the price is right." Regulators are implementing new rules designed to help small investors get better prices on their bond trades.

Unlike stocks, whose prices are easily tracked on an exchange, bonds generally trade in an over-th--counter market where many small investors simply accept the price that their broker pins on a bond. But that price typically includes a "markup" from the prevailing market price (if you're buying the bond) and a "markdown" if you're selling it. These ups and downs are largely profits for broker-dealers—and they're usually not disclosed.

The new rules will change that. Late last year, the Financial Industry Regulatory Authority finalized a rule requiring brokerage firms to disclose the markup or markdown on retail customers' trade confirmations for most corporate- and agency-bond trades. The Municipal Securities Rulemaking Board also announced a similar rule for municipal-bond trades.

"Hallelujah, it's about time" that markups were disclosed, says Marilyn Cohen, chief executive officer of Envision Capital Management, in El Segundo, Calif. Just as competition has driven down mutual-fund fees and brokerage commissions, "there should be a price war in markups too," she says, and the disclosure rules could make that happen.

Although the rules don't take effect until May of next year, they put a spotlight on the importance of trading costs for bond investors—and recent research shows just how high those costs can be. A 2015 study from the University of Southern California Marshall School of Business found that individual investors pay an average of 0.772% in transaction costs when trading corporate bonds—or $115.80 on a $15,000 bond trade. Meanwhile, investors buying a stock through an online broker might pay a commission of $4.95 plus a penny or two per share in "bid-ask spread"—the difference between buying and selling prices.

Currently, many small investors don't even realize they're paying a markup, much less focus on its size. Investors buying the same bond on the same day and in the same amounts often pay very different prices.

But there are ways to minimize your bond trading costs. Online tools can help you research recent trades in the bond you're considering (or trades in bonds with similar characteristics) and raise your odds of paying a reasonable price. Armed with recent trade information, you may be able to haggle with your broker for a better deal. And when you have a better sense of how much bond trading is costing you, you can weigh the costs and benefits against alternatives such as bond mutual funds and exchange-traded funds.

To see recent trades, go to www.finra.org/marketdata for corporate bonds or www.emma.msrb.org for municipal bonds, and enter the CUSIP numbers of bonds that interest you. By looking at trades between dealers, you can get a sense of the prevailing market price. To figure out how much you should be paying, look for recent customer purchases of similar size to yours.

“If you’re buying small, weeny positions [say 10 or 15 bonds at a time], you’ll probably pay at least half a point,” or a markup of 0.5%, for an investment-grade bond, Cohen says. If you’re buying 50 to 100 bonds at a time, the markup may be closer to 0.25%, she says. Investors should expect to pay higher markups for lower-quality, “junk” bonds and bonds that are thinly traded.

But small investors can incur hefty trading costs even in higher-quality, less-obscure bonds. Research firm Municipal Market Analytics offers this example: Looking at a California general-obligation bond maturing in 2037, there were two inter-dealer trades on the morning of March 17 at nearly the same price: $112.73 and $112.67. Three minutes later, a customer bought $50,000 worth of the bonds at $115.10—2.2% more. Less than an hour after that, a large investor buying $6.9 million worth of the bonds got something much closer to the inter-dealer price: $112.99.

Such price discrepancies can make the muni market “very difficult for an individual investor,” says Thomas Doe, president of Municipal Market Analytics. The market actually resembles a “flea market,” he says, “because you have this eclectic product, very inconsistent supply and demand, and you’re just trying to match the product with a buyer.”

Prepare to Negotiate on Price

As in a flea market, you may have to haggle to get a good deal. Investors “don’t have to be price-takers,” says Lynnette Kelly, the Municipal Securities Rulemaking Board’s executive director. Prices can be negotiable. If you’re offered a bond at a price well above recent trade levels, you can say, ” ‘Why would I pay that? No one has paid that today on this transaction,’ ” says John Bagley, MSRB’s chief market structure officer. Then use comparable customer trades to name a price you think is fair.

In many cases, there may not be any recent trades in the specific bond that interests you. But recent trades in comparable bonds can give you a rough idea of how much you should pay for the bond you want. Use the advanced search on the Finra market data site or the price discovery tool on MSRB’s EMMA site to find bonds with similar credit quality, maturity and other characteristics.

Muni-bond investors may be able to get the best price by buying newly issued bonds during the “retail order period,” when orders are accepted only from small investors. That way, “on 10 or 15 bonds you’ll get the same price as Pimco buying 14 million bonds,” Cohen says.

Another simple way to limit your bond transaction costs: Trade them as little as possible. Hold individual bonds to maturity.

But some advisers question whether small investors buying individual bonds can ever get a fair shake. “I think it’s a sucker’s market,” says Frank Armstrong, chief executive officer of Investor Solutions, an advisory firm in Miami.

When clients come to him with individual bonds, Armstrong says, he generally sells them off and replaces them with bond mutual funds or exchange-traded funds. Some bond funds charge annual fees of just 0.04%, while it can cost 4% or 5% to do a “round trip,” meaning buying and selling reasonably liquid individual bonds, Armstrong says. "That just eats into your total return. In an environment where there's hardly any income in fixed income, why would you want to give that up?"

KIPLINGER'S

By ELEANOR LAISE, Senior Editor

From Kiplinger's Retirement Report, June 2017

Special Assessment Techniques for Transformative Community Improvements.

Special Assessment Techniques for Transformative Community Improvements
July 18, 2017 @ 1:00 PM Eastern

Special assessments are a valuable tool that can be used to finance a wide variety of different projects across myriad sectors. Special assessments raise capital by assessing a prescribed fee on property owners within a geographic district. Based on the state authorizing legislation, the capital can then be used for any number of special purposes depending on what improvements are needed in the district. Over the past decade, special assessment has become one of the driving capital access tools for transformative community improvements. During this installment of the CDFA // BNY Mellon Development Finance Webcast Series, our expert speakers will discuss new and innovative uses for special assessments and how this tool is poised for greater use nationwide.

Register in advance to confirm your participation and receive login information. Registration is free and open to all interested stakeholders.

Register

- When Should an Issuer of Tax-Advantaged Bonds Use the Hold-the-Offering-Price Method to Establish the Issue Price of the Bonds?
- MSRB Webinar: Municipal Advisor Solicitor Guidance.
- SEC and MSRB to Hold Webinar on Series 50 Exam for Municipal Advisors.
- MSRB Files Amendments to Modernize Customer Account Transfers.
- S&P Global Ratings Announces New Green Evaluation Service.
- Local Governments' Hidden Reason to Oppose Tax Cuts: Bank Loans.
- Rising Seas May Wipe Out These Jersey Towns, but They're Still Rated AAA.
- S&P: The Top 10 Management Characteristics of Highly Rated State and Local Borrowers.
- Successful Investing in Charter Schools Part III: Market Advancements
- And finally, the Supreme Court of Colorado this week took up the issue of whether "Blunt Wraps" qualify as "tobacco products" for tax purposes in *Colorado Department of Revenue v. Creager Mercantile Co., Inc.* The court helpfully informed us that, "Like traditional rolling papers, Blunt Wraps are designed to be filled with tobacco, marijuana, or other smoking material and smoked." And then this bombshell: "See generally Redman, How to Roll A Blunt, on Whut? Thee Album (Columbia Records 1992)." Wait, the Blue Book now covers the proper citing of rap artists? Mad props to the clerks who snuck this into a Supreme Court opinion. But what on earth were the

Justices smoking? Oh. Never mind.

BALLOT INITIATIVES - ARKANSAS

Keep Our Dollars in Independence County v. Mitchell

Supreme Court of Arkansas - April 27, 2017 - S.W.3d - 2017 Ark. 154 - 2017 WL 1536480

Local-option ballot question committee sought judicial review of county clerk's determination that local-option petition to allow voters to decide whether to permit manufacture and sale of alcoholic beverages in county was insufficient to be placed on ballot.

The Circuit Court affirmed. Committee appealed and intervenor cross-appealed.

The Supreme Court of Arkansas held that:

- Ten-day appeal period applicable to clerk's certification that local-option petition was sufficient did not apply to clerk's certification that petition was insufficient;
- Fifteen-day appeal period applicable to clerk's certification of any initiative or referendum petition as sufficient or insufficient applied to insufficiency certification of local-option petition; and
- Constitutional challenge to provision of statute governing local-option petitions prohibiting signatures of residents from more than one county was rendered moot by occurrence of election.

Ten-day appeal period applicable to county clerk's certification that local-option petition was sufficient did not apply to clerk's certification that petition was insufficient to deprive circuit court of subject matter jurisdiction to consider appeal from insufficiency certification filed outside of ten-day period. Provision expressly applied only when county clerk had certified that the local-option petition was sufficient and indicated that it would be placed on the ballot, and there was no language in the statute referring to the procedures applicable to a county clerk's determination of insufficiency.

Fifteen-day appeal period applicable to county clerk's certification of any initiative or referendum petition as sufficient or insufficient applied to insufficiency certification of local-option petition. There were no specific statutory provisions providing for an appeal of a finding of insufficiency within the current statutory scheme for local-option petitions or the statutes referenced therein.

COUNTIES - FLORIDA

Gretna Racing, LLC v. Florida Department of Business and Professional Regulation

Supreme Court of Florida - May 18, 2017 - So.3d - 2017 WL 2210389

Applicant for permit to conduct slot machine gaming at its pari-mutuel facility appealed denial of its application by Department of Business and Professional Regulation.

On rehearing, the District Court of Appeal upheld denial of permit, and certified question of great public importance.

The Supreme Court of Florida held that general constitutional and statutory power of non-charter counties to carry on county government does not constitute authorization to conduct referendum to approve slot machine gaming.

A referendum conducted by a non-charter county concerning approval of slot machine licenses at pari-mutuel facilities is not inherent in the power to conduct county government and, thus, is not "authorized," within the meaning of the statute governing issuance of licenses to conduct slot machine gaming, by the general powers conferred on non-charter counties under either the constitutional or statutory home rule powers provided to non-chartered counties.

EMINENT DOMAIN - GEORGIA

Abramyan v. State

Supreme Court of Georgia - May 15, 2017 - S.E.2d - 2017 WL 2106256

Owners of taxicab operating certificates commonly referred to as taxi medallions in city that required such medallions brought action against state alleging that an amendment to statute governing taxicabs and vehicles for hire that permitted the operation of ride sharing services constituted a taking or inverse condemnation under the state constitution.

The Superior Court granted state's motion to dismiss. Medallion owners appealed.

The Supreme Court of Georgia held that amendment did not constitute a taking or inverse condemnation of any property right possessed by medallion owners.

Amendment to statute governing taxicabs and vehicles for hire, which permitted operation of ride sharing services and barred municipalities from adopting new ordinances requiring taxicabs to procure the operating certificates commonly referred to as taxi medallions, did not constitute a taking or inverse condemnation, under the eminent domain provisions of state constitution, of any property right possessed by owners of taxi medallions in city that had an existing ordinance requiring such medallions, even if it reduced the value of the medallions. Any property interest did not include an exclusive right to operate vehicles for hire or a right to a limited number of medallions.

EMINENT DOMAIN - HAWAII

County of Kaua'i v. Hanalei River Holdings Limited

Supreme Court of Hawai'i - May 16, 2017 - P.3d - 2017 WL 2121115

County brought condemnation action against owners of three parcels of land.

The Circuit Court granted county's motion to withdraw part of its deposit of estimated just compensation, granted county's motion for partial summary judgment on issue of severance damages later entered judgment on jury's finding of fair market value, and granted county's motion regarding proper amount of blight of summons damages.

Owners appealed. The Intermediate Court of Appeals affirmed in part. Owners' application for writ of certiorari was accepted.

The Supreme Court of Hawaii held that:

- One owner was not entitled to severance damages;
- Three unities involved in determining entitlement to severance damages are factors, not essential elements;
- County's deposit of estimated just compensation became conditional, for purposes of blight of summons damages, when one alleged owner waived all interests in deposit; and
- County was able to withdraw portion of its deposit of estimated just compensation.

Owner of parcel being condemned by county and of easement over separate area of land to operate boatyard was not entitled to severance damages in condemnation action; owner lacked unity of use, as owner's permits to operate boatyard were revoked year before condemnation action was instituted, physical unity was lacking, as parcel and easement were separated by other lots, and unity of title was lacking, as different individual owned area of land containing easement.

When determining whether a claimant is entitled to severance damages in a condemnation action, the three unities, which are the unity of title, physical unity, and unity of use, should be evaluated and weighed against one another as factors, and should not be viewed as essential elements; a lack of physical unity will not be dispositive of a claim for severance damages.

County's deposit of estimated just compensation became conditional, for purposes of calculating blight of summons damages, when county did not immediately agree to release funds after possible owner of parcels waived all interests in deposit and consented to disbursement of deposit to other two owners involved in condemnation action, rather than when deposit was initially made or when county objected to disbursement to just two owners; county did not enumerate any restrictions when deposit was initially made, possible owner had previously asserted that she owned involved property, and other two owners were entitled to withdraw funds when possible owner had waived her interest.

A deposit of estimated just compensation does not become conditional, for purposes of calculating blight of summons damages, when a condemning authority objects to a condemnee's motion to withdraw funds based on the fact that the condemnee's entitlement to such funds is not clear.

County was able to withdraw $1.03 million from its $5.89 million deposit of estimated just compensation in condemnation action against landowners, where county moved to withdraw funds before funds had been disbursed to landowners, county's motion was made in good faith, as it was based on updated appraisal that one landowner had impliedly requested by challenging county's initial appraisal as being stale, and landowners' burden of having their properties condemned was alleviated because they were able to withdraw $4.6 million prior to final determination of just compensation.

The court in an eminent domain proceeding has the discretion to permit a governmental entity to withdraw a portion of a deposit of estimated just compensation when the deposit has not been disbursed to the landowner, the government acted in good faith in seeking to adjust the estimate to accurately reflect the value of the property on the date of the summons, and the adjustment will not impair the substantial rights of any party in interest.

LIABILITY - MISSOURI

Newsome v. Kansas City, Missouri School District

Supreme Court of Missouri, en banc - May 16, 2017 - S.W.3d - 2017 WL 2119347

School district employee, a purchasing manager, brought action against school district for wrongful discharge in violation of public policy regarding employee's objections to independent consultant's request for payment from school district and school district's purchase of three motor vehicles.

The Circuit Court entered judgment for employee for $500,000. School district appealed.

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

- Endorsement to school district's liability insurance that precluded claims that were covered by sovereign immunity never became part of district's insurance policy;
- Sufficient evidence supported finding that independent consultant's payment request violated public policy;
- Sufficient evidence supported finding that purchase of three motor vehicles violated public policy;
- Instructions that erroneously asked jury if employee reasonably believed that transactions violated public policy did not prejudice school district;
- School district could only waive its sovereign immunity up to the statutory liability limit of $403,139; and
- School district's insurance policy's retention amount of $250,000 did not operate to reduce the $403,139 statutory maximum for liability.

Endorsement to school district's liability insurance that precluded coverage for claims which, absent the insurance, would have been covered by sovereign immunity never became part of district's insurance policy, and thus endorsement did not preserve school district's sovereign immunity per statute on waiving sovereign immunity via liability insurance in employee's action against district for wrongful termination in violation of public policy; endorsement was negotiated several months after policy's issuance, and no authorized agent subscribed to the endorsement as required by statute governing contracts for school districts.

School district could only waive its sovereign immunity up to the statutory liability limit of $403,139, and thus remittitur to that amount from the circuit court's judgment of $500,000 was warranted on school district employee's successful claim against district for wrongful discharge in violation of public policy, despite argument that district waived its sovereign immunity up to its liability insurance policy limit of $500,000; by the plain language of statute on waiving sovereign immunity via liability insurance, the district's liability coverage could not exceed $403,139 for a single claim, and the fact that district purchased liability coverage in excess of $403,139 was immaterial.

School district's insurance policy's retention amount of $250,000 did not operate to reduce the $403,139 statutory maximum for liability on school district employee's successful claim against district for wrongful discharge in violation of public policy; statute on waiving sovereign immunity via liability insurance provided that immunity was waived to the maximum amount of coverage purchased and allowed by law, nothing in statute indicated that retention amount did not count as coverage, and under either liability insurance policy at issue, the limit of liability reduced by the retention amount would have far exceeded $403,139.

EMINENT DOMAIN - NORTH DAKOTA

Cossette v. Cass County Joint Water Resource District

Supreme Court of North Dakota - May 16, 2017 - N.W.2d - 2017 WL 2119428 - 2017 ND 120

Property owners brought action against county joint water resource district requesting declaratory relief and challenging district's resolution of necessity relating to intent to acquire interest in property owners' property through eminent domain.

The District Court dismissed complaint. Property owners appealed.

The Supreme Court of North Dakota held that:

- Property owners were not permitted to assert equitable claim for declaratory relief in administrative appeal, but
- Property owners were statutorily entitled to appeal from resolution of necessity.

Property owners were not permitted to assert equitable claim for declaratory relief in administrative appeal from county joint water resource district's resolution of necessity related to district's intent to acquire interest in property owners' property through eminent domain.

Property owners were "aggrieved" by county joint water resource district's resolution of necessity related to district's intent to acquire interest in property owners' property through eminent domain, and therefore property owners were statutorily entitled to appeal from resolution. Although resolution was only one part of eminent domain process, applicable statute allowed appeal from any water resource board order or decision relating to eminent domain, and resolution described the property and stated that district would proceed with eminent domain to acquire interest in the property.

EMINENT DOMAIN - OKLAHOMA

Stephens Production Company, a division of SF Holding Corp. v. Larsen

Supreme Court of Oklahoma - May 9, 2017 - P.3d - 2017 WL 1900492 - 2017 OK 36

Natural-gas company brought action to exercise eminent domain power on landowner's 80-acre parcel to establish an underground natural gas storage easement and a surface easement to complete an underground natural gas storage facility on 900 acres of land, which included landowner's parcel.

After a bench trial, the District Court set an amount of just compensation. Landowner appealed. The Court of Civil Appeals affirmed. Landowner appealed.

The Supreme Court of Oklahoma held – as matter of apparent first impression – that natural resource, agricultural, and recreational use, rather than use as a natural-gas reservoir, constituted the highest and best use of landowner's parcel.

Natural resource, agricultural, and recreational use, rather than use as a natural-gas reservoir, constituted the highest and best use of landowner's 80-acre parcel at the time that natural-gas company established an easement on the parcel via eminent domain for underground natural gas storage and a surface easement to complete an underground natural gas storage facility on 900 acres of land, which included landowner's parcel, and thus $9,000, rather than $419,000, was just compensation to the landowner; for the reservoir to have been feasible, a combination of the interests of the landowners whose parcels composed the 900 acres was absolutely necessary, and there was no active market in the area for underground gas storage before natural-gas company began its project.

GOVERNMENTAL UNITS - TEXAS

University of the Incarnate Word v. Redus

Supreme Court of Texas - May 12, 2017 - S.W.3d - 2017 WL 1968030 - 60 Tex. Sup. Ct. J. 908

Parents of deceased student brought action against private university and university's peace officer arising out of the officer's use of deadly force following a traffic stop.

University filed a plea to the jurisdiction. The District Court denied the plea. University appealed. The San Antonio Court of Appeals dismissed the appeal. University filed a petition for review, which was granted.

The Supreme Court of Texas held that the private university qualified as a "government unit" as to its policing function for purposes of provision of Tort Claims Act permitting interlocutory appeals from the grant or denial of a governmental unit's plea to the jurisdiction.

University derived its status and authority to commission and employ peace officers and operate a police department from laws passed by the legislature, university's officers had the same power, privileges, and immunities as other peace officers, and law enforcement was uniquely governmental.

Successful Investing in Charter Schools Part III: Market Advancements

Jun. 07, 2017 | 12 PM ET/9 AM PT

Each year, Orrick and the Bond Buyer present an overview of the charter school facilities bond sector, highlighting transaction fundamentals, sector-level research data, and credit and structure trends. This year, in Part III of the series, the webinar examines the expanding array of financial tools used by charter schools to address facilities needs by assembling a roster of experienced market participants to present current trends and analysis on the sector.

The featured speakers, Paul Jasin of Specialized Public Finance, Paula Permenter of BB&T Capital Markets and Oscar Davis of Regions Bank, will provide insights regarding evolving credit structures for both public capital markets and commercial loan facilities financing for charter schools. Todd Brewer and Eugene Clark-Herrera of Orrick will review transaction fundamentals and discuss trends affecting the growth of the sector.

Who Should Attend?

- State and Local Education Finance Officers
- Charter School Leaders, CFOs and Finance Directors
- Institutional Investors and Commercial Lenders
- Investment Analysts
- Education-Focused Investment Bankers

MSRB Files Amendments to Modernize Customer Account Transfers.

The Municipal Securities Rulemaking Board (MSRB) today filed with the Securities and Exchange Commission (SEC) proposed amendments to MSRB Rule G-26, on customer account transfers. If approved by the SEC, the amendments to Rule G-26 would promote a uniform customer account transfer standard for all municipal securities dealers. The MSRB believes the amendments will make the transfer of customer securities account assets more flexible, less burdensome and more efficient, while reducing confusion and risk to investors and allowing them to better move their municipal securities to their dealer of choice.

View the filing.

TAX - COLORADO

Colorado Department of Revenue v. Creager Mercantile Co., Inc.

Supreme Court of Colorado - May 15, 2017 - P.3d - 2017 WL 2106241 - 2017 CO 41

Corporate taxpayer that distributed tobacco and other products to convenience stores sought judicial review of the decision of the Department of Revenue to impose a tobacco products tax on wrappers consisting of pulverized, homogenized tobacco leaves that contained 30% to 48% tobacco.

The District Court affirmed. Taxpayer appealed. The Court of Appeals reversed and remanded. Department petitioned for a writ of certiorari, which was granted.

The Supreme Court of Colorado held that wrappers were a “kind” or “form” of tobacco and were “prepared in such manner as to be suitable … for smoking,” and thus wrappers were a taxable “tobacco product.”

Wrappers consisting of pulverized, homogenized tobacco leaves that contained 30% to 48% tobacco were a “kind” or “form” of tobacco and were “prepared in such manner as to be suitable … for smoking,” and thus wrappers were “tobacco products” that were taxable under statute defining “tobacco products” as “other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or for smoking in a pipe or otherwise”; wrappers were designed and intended to be filled with tobacco, marijuana, or other smoking material and smoked, wrappers were consumed as they were smoked, and each inhalation from a wrapper burned and delivered additional tobacco in the wrap itself to the user.

Municipal Finance Compliance Consultant

Job Description:

Kforce has a client in Weehawken, NJ that is seeking a Municipal Finance Compliance Consultant to assist with Wealth Management Americas Compliance with drafting policies, procedures and training to prepare for a new municipal underwriting business.

Summary:

Team:
The ideal candidate will be working with the Wealth Management Americas Products and Trading team in Compliance. They are responsible for advising on several products, including taxable and municipal securities, equities, options, futures and structured products. The role will be located in Weehawken and New York City.

Duties Include:
Draft and update policies and procedures for the municipal underwriting business relating to topics such as the municipal advisor rules, due diligence requirements, RFPs, and supervision

Create training for newly hired municipal bankers, underwriters and traders

Provide advice to the municipal bankers and underwriters on topics such as the municipal advisor rules, due diligence requirements, RFPs, and supervision

Educate the firm on regulatory developments and rules relating to municipal securities

Review current business practices against regulatory and firm requirements to ensure that discrepancies are proactively identified and addressed

Job Requirements

At least a Bachelor's degree

At least 10 years of experience with municipal finance

Experience drafting policies and procedures with municipal underwriting – at least 5 years

Legal or compliance experience with the municipal underwriting business

Enjoys working closely with the business

Knows how to maintain independence and objectivity

Excellent knowledge of Word and Excel

JD a plus

Series 7, 63/66, 53 a plus

Able to draft policies and procedures regarding municipal underwriting

Capable of completing tasks with very tight deadlines

Highly organized

APPLY NOW

Kforce is an Equal Opportunity/Affirmative Action Employer. All qualified applicants will receive consideration for employment without regard to race, color, religion, sex, pregnancy, sexual orientation, gender identity, national origin, age, protected veteran status, or disability status.

Rising Seas May Wipe Out These Jersey Towns, but They're Still Rated AAA.

- **Cities at most risk from extreme weather still get top ratings**
- **Storms, floods could diminish tax revenue and raise costs**

Few parts of the U.S. are as exposed to the threats from climate change as Ocean County, New Jersey. It was here in Seaside Heights that Hurricane Sandy flooded an oceanfront amusement park, leaving an inundated roller coaster as an iconic image of rising sea levels. Scientists say more floods and stronger hurricanes are likely as the planet warms.

Yet last summer, when Ocean County wanted to sell $31 million in bonds maturing over 20 years, neither of its two rating companies, Moody's Investors Service or S&P Global Ratings, asked any questions about the expected effect of climate change on its finances.

"It didn't come up, which says to me they're not concerned about it," says John Bartlett, the Ocean County representative who negotiated with the rating companies. Both gave the bonds a perfect triple-A rating.

The same rating companies that were caught flat-footed by the downturn in the mortgage market during the global financial crisis that ended in 2009 may be underestimating the threat of climate change to coastal communities. If repeated storms and floods are likely to send property values — and tax revenue — sinking while spending on sea walls, storm drains or flood-resistant buildings goes up, investors say bond buyers should be warned.

"They are supposed to identify risk to investors," said Eric Glass, a fixed-income portfolio manager at Alliance Bernstein, a New York investment management firm that handles $500 billion in assets. "This is a material risk."

Breckinridge Capital Advisors, a Boston-based firm specializing in fixed-income investments, is already accounting for those risks internally: Last year, it downgraded a borrower in Florida due to climate risk, citing the need for additional capital spending because of future flooding.

Rob Fernandez, its director of environmental, social and governance research, said rating companies should do the same. "Either incorporate these factors, or, if you say that you are, tell us how you're doing it," he said.

S&P and Moody's say they're working on how to incorporate the risk to bonds from severe or unpredictable weather. Moody's released a report about climate impacts on corporate bond ratings last November and is preparing a similar report on municipal bonds now.

Fitch Ratings Ltd. is more skeptical.

"Some of these disasters, it's going to sound callous and terrible, but they're not credit-negative," Amy Laskey, managing director for the local government group at Fitch, said in an interview. "They rebuild, and the new facilities are of higher quality and higher value than the old ones."

For more than a century, rating companies have published information helping investors gauge the likelihood that companies and governments will be able to pay back the money they borrow.

Investors use those ratings to decide which bonds to buy and gauge the risk of their portfolio. For most of that time, the determinants of creditworthiness were fairly constant, including revenue, debt levels and financial management. And municipal defaults are rare: Moody’s reports fewer than 100 defaults by municipal borrowers it rated between 1970 and 2014.

Climate change introduces a new risk, especially for coastal cities, as storms and floods increase in frequency and intensity, threatening to destroy property and push out residents. That, in turn, can reduce economic activity and tax revenue. Rising seas exacerbate those threats and pose new ones, as expensive property along the water becomes more costly to protect — and, in some cases, may get swallowed up by the ocean and disappear from the property-tax rolls entirely.

Just as a shrinking auto industry slowly crippled Detroit, leading to an exodus of residents and, eventually, its bankruptcy in 2013, other cities could face the accumulating risks of storms or floods — and then suddenly encounter a crisis.

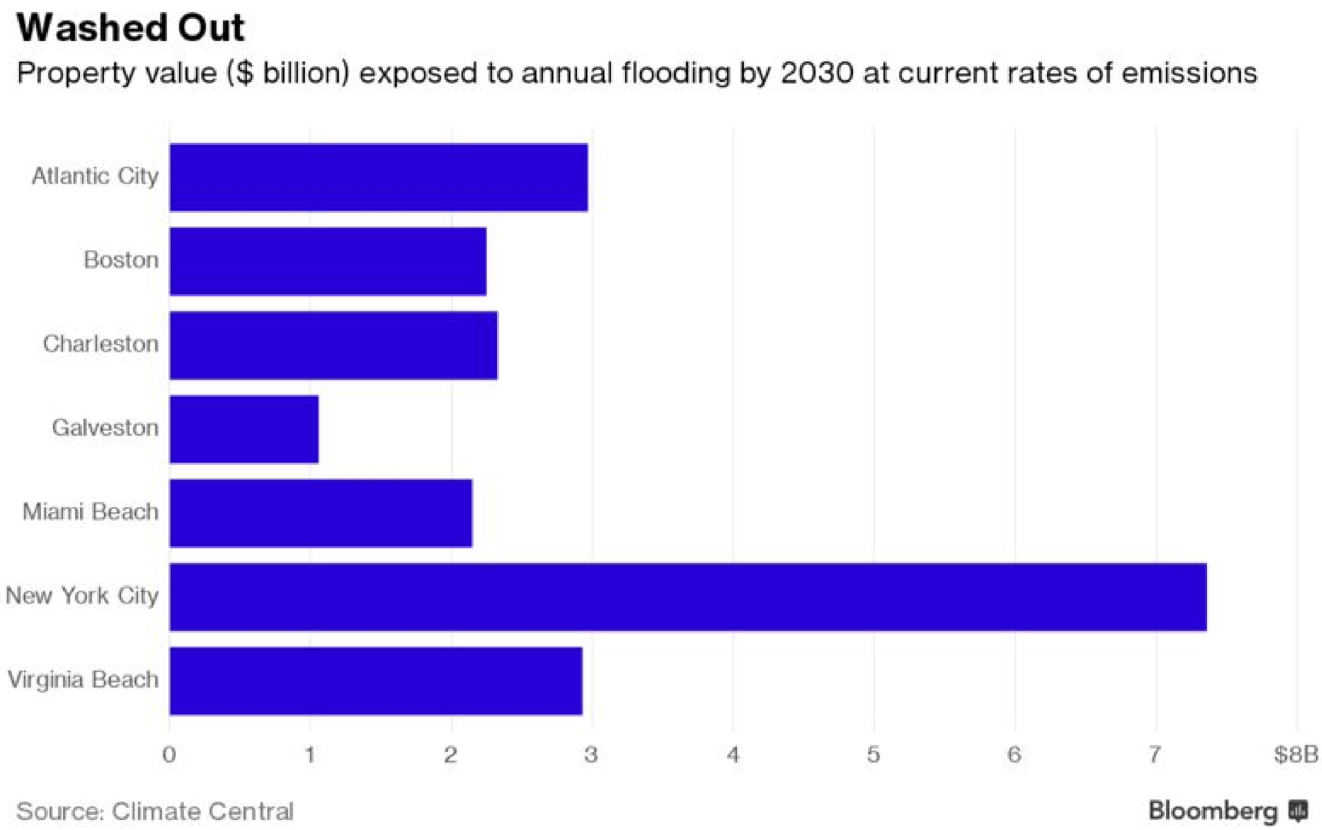
“One of the first questions that we’re going to ask when confronted with an issuer along the coast of Texas, or on the coast of Florida, is: How are you going about addressing, mitigating the impacts of climate change?” Glass, Alliance Bernstein, said. And if local officials don’t have a good answer to that question, he added, “We will not invest, period.”

When asked by Bloomberg, none of the big three bond raters could cite an example of climate risk affecting the rating of a city’s bonds.

Kurt Forsgren, a managing director at S&P, said its municipal ratings remain “largely driven by financial performance.” He said the company was looking for ways to account for climate change in ratings, including through a city’s ability to access insurance.

Henry Shilling, Moody’s senior vice president for environment, social and governance risks, said the company is planning to issue a report this summer that explains how it will incorporate climate change into its municipal ratings. “It’s a bit of a journey,” he said.

Last September, when Hilton Head Island in South Carolina issued bonds that mature over 20 years, Moody’s gave the debt a triple-A rating. In January 2016, all three major bond companies gave triple-A ratings to long-term bonds issued by the city of Virginia Beach, which the U.S. Navy has said faces severe threats from climate change.



The threat isn't limited to smaller cities. The World Bank called Boston one of the 10 cities globally that are most financially exposed to flooding. But in March, when Boston issued $150 million in bonds maturing over 20 years, Moody's and S&P each gave those bonds top ratings.

Of course, predictions are hard, especially about the future. While scientists are generally united about the science of climate change, its pace remains uncertain. And what all of that will mean for communities and their likelihood of paying back bonds is not a simple calculation. Ocean County continued to pay back its current debt load after Sandy, and will still have a lot of oceanfront property if its current coast is swamped. The oceanfront just won't be in the same place.

The storms or floods "might be so severe that it's going to wipe out the taxation ability," said Bob Buhr, a former vice president at Moody's who retired last year as a director at Societe Generale SA. "I think this is a real risk."

In May 2016, 117 investors with $19 trillion in assets signed a statement calling for credit ratings to include "systematic and transparent consideration" of environmental and other factors. Signatories also included rating companies from China, the U.S. and elsewhere, including Moody's and S&P.

Not Experts

Laskey, of Fitch, was skeptical that rating companies could or should account for climate risk in municipal ratings.

"We're not emergency-preparedness experts," she said in a phone interview. "Unless we see reason to think, 'Oh, they're not paying attention,' we assume that they're competent, and they're doing what they need to do in terms of preparedness."

That view is at odds with the picture painted by engineers, safety advocates and insurers. Timothy Reinhold, senior vice president for research at the Insurance Institute for Business & Home Safety, a group funded by insurers, said local officials aren't doing enough to prepare for the threats of climate change.

"While most coastal communities and cities have weather-related disaster response plans, many older, existing structures within these communities are not as durable, or as resilient as they could and should be," Reinhold wrote in an email.

Politically Fraught

The types of actions that cities could take to reduce their risk — including tougher building codes, fewer building permits near the coast and buying out the most vulnerable properties — are politically fraught. And the benefits of those policies are typically years away, long after today's current leaders will have retired.

The weakness of other incentives leaves the risk of a credit downgrade as one of the most effective prompts available to spur cities to deal with the threat, according to Craig Fugate, director of the Federal Emergency Management Agency under President Barack Obama.

"They need cheap money to finance government," Fugate said in a phone interview. If climate considerations meant higher interest rates, "not only will you have their attention. You'll actually see changes."

Fugate also said rating companies were wrong to assume that cities are well prepared for climate change, or that their revenue will necessarily recover after a natural disaster.

As an example, he cited the case of Homestead, a city south of Miami that bore the worst damage from Hurricane Andrew in 1992. The city's largest employer, Homestead Air Force Base, was destroyed in the storm; rather than rebuild it, the federal government decided to include the facility in its base closures.

Fugate said climate change increases the risk that something similar could happen to other places along the coast — and they won't ever be able to bounce back as Homestead eventually did.

"If that tax base does not come back," he warned, "they cannot service their debt." Asked about rating companies' insistence that such risks are remote, Fugate scoffed. "Weren't these the same people telling us that the subprime mortgage crisis would never happen?"

Bloomberg

by Christopher Flavelle

May 25, 2017, 1:00 AM PDT

CDFA // BNY Mellon Development Finance Webcast Series: Financing the Nation's Transportation Needs One Community at a Time.

Financing the Nation's Transportation Needs One Community at a Time

June 13, 2017 @ 1:00 PM Eastern

Federal, state, and local funding for transportation is woefully inadequate to cover the costs of maintenance and improvements needed. Although this subject is often discussed on a national level, it often remains a local issue for local communities to address. From bridges and roadways to water and energy, local communities are developing creative strategies to address their growing infrastructure needs. During this installment of the CDFA // BNY Mellon Development Finance Webcast Series, our experts will discuss financing structures that communities are deploying to fund infrastructure improvements.

You will hear from:

Michael Bonini
Director of Public-Private Partnerships
Pennsylvania Department of Transportation

Fran Rood
Senior Vice President
SB Friedman Development Advisors

Register in advance to confirm your participation and receive login information. Registration is free and open to all interested stakeholders.

Register.

S&P: The Top 10 Management Characteristics of Highly Rated State and Local Borrowers.

U.S. public finance government borrowers are a varied group, but those with the strongest credit profiles have a lot in common when it comes to management practices.

Continue reading.

May 22, 2017

P3 Digest: May 23, 2017

White House Pushes to Leverage Private Sector for Infrastructure Change

As part of its budget rollout this morning, the White House identified public-private partnerships…

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May 23, 2017

When Should an Issuer of Tax-Advantaged Bonds Use the Hold-the-Offering-Price Method to Establish the Issue Price of the Bonds?

Three score and thirteen years (and one day) after D-Day (June 7, 2017, for the non-history-buffs), the new regulations that prescribe the methods for determining the issue price of tax-advantaged bonds take effect. Of the various methods for determining the issue price of tax-advantaged bonds, the hold-the-offering-price method is the only one that allows an issuer of such bonds in an underwritten transaction to know with certainty in advance of the sale date of the bonds that the issue price of the bonds will be established on the sale date. As discussed below, however, this method will come at a cost to issuers of tax-advantaged bonds.

The question thus becomes, which federal tax circumstances warrant the increased cost of the hold-the-offering-price method to be assured that the issue price of the bonds will be established on the sale date? For the answer, read on.

Continue reading.

The Public Finance Tax Blog

By Michael Cullers on May 24, 2017

Squire Patton Boggs

TAX - OREGON

Boardman Acquisition, LLC v. Department of Revenue

Supreme Court of Oregon - May 11, 2017 - P.3d - 361 Or. 440 - 2017 WL 1957144

Taxpayer, a port, sought review of county assessor's denial of its request for a refund of additional taxes paid per sales agreement on land that port sold to a private entity after port and tenant agreed to end a lease on the land and the land was accordingly disqualified from the special assessment as nonexclusive farm use zone farmland.

The Tax Court, Regular Division, granted summary judgment for the Department of Revenue. Port appealed.

The Supreme Court of Oregon held that:

- The date the disqualification from special assessment is "taken into account on the assessment and tax roll" means the date the disqualification becomes effective on the assessment and tax roll, and
- Land was subject to additional taxes, which were based on prior years' taxes avoided via the then-ended special assessment.

As used in the statute governing the assessment of additional taxes on land that has been disqualified from special assessment, the date the disqualification from special assessment is "taken into account on the assessment and tax roll" means the date the disqualification becomes effective on the assessment and tax roll, such that a disqualification that occurs between January 1 and June 30 becomes effective on the assessment and tax roll as of July 1, and a disqualification that occurs between July 1 and December 31 will not affect the taxes due until the following July 1.

Land that had been specially assessed as nonexclusive-farm-use-zone farmland and that taxpayer, a port, sold to a private entity on August 10 after taxpayer and tenant had agreed to end tenant's lease on land a few days prior, was subject to additional taxes, which were based on prior years' taxes avoided via the then-ended special assessment, and thus taxpayer was not entitled to a refund of the additional taxes that it paid via the sales agreement with the private entity. The disqualification from special assessment became effective on the assessment roll on the following January 1, and on that date the land was not "public property that was leased or rented to a taxable owner," as required by statute imposing additional taxes on land disqualified from special assessments.

S&P Global Ratings Announces New Green Evaluation Service.

S&P Global Ratings announced the launch of its Green Evaluation service, a comprehensive approach to measuring sustainability at the asset level. Green Evaluations, which are separate from traditional credit ratings, can be used to assess the green impact of a variety of securities and are independent of credit characteristics.

Continue reading.

Apr. 26, 2017

Beyond Green Bonds: Sustainable Finance Comes Of Age.

Investment of some $90 trillion is needed in the next 15 years to achieve global sustainable development and climate objectives, according to estimates put forward by the Group of Twenty's Green Finance Synthesis Report. Over $800 billion needs to be invested every year to 2020 in renewable energy, energy efficiency, and low-emission vehicles alone, according to OECD estimates.

Continue reading.

Apr. 26, 2017

S&P: We Won't Solve for Green Finance Unless We Solve For Infrastructure.

The green bond market reached an estimated $42 billion of new issuance in 2015 and in excess of $80 billion in 2016. As anticipated, given the magnitude of China's environmental issues, its government has constructed a top-down push to solve the country's environmental issues.

Continue reading.

Apr. 26, 2017

How Much Do States Rely on Federal Funding?

There's a wide range of dependence across and within the states. Here's a state-by-state

look at how welfare, education and roads could be impacted by the next budget that Trump signs.

As Congress debates the budget, states are eagerly waiting to hear how it will affect them.

Updated data from the Census Bureau's 2015 Annual Survey of State Government Finances published last week indicates that federal aid made up nearly a third of all states' general fund revenues in fiscal year 2015. The single largest line items in states' budgets include federal funding for transportation, Medicaid and other social assistance programs.

The survey, which provides a detailed portrait of how states generate and spend money, suggests states' reliance on federal money varies greatly. Even larger discrepancies exist across individual areas of state government.

We've compiled data below showing how much of each state's budget is tied to federal aid across select major spending areas.

Continue reading.

GOVERNING.COM

BY MIKE MACIAG | MAY 22, 2017

The Week in Public Finance: The Trump Budget Edition

A roundup of money (and other) news governments can use.

GOVERNING.COM

BY LIZ FARMER | MAY 26, 2017

Where a Shopping Mall Used to Be, an Opportunity Arises.

The decline of malls in America can mean lost jobs and lower tax revenues for states and municipalities — but not always.

There are threats everywhere to state and local revenues. To that list add this one: The golden age of malls in America seems to be well and truly over. Several of the country's 1,000 enclosed malls and a chunk of the nation's 47,000 shopping centers have either shut down or are emptying out.

Overall investment in retail property assets declined nearly 20 percent last year. Vacancy rates in community shopping centers increased in 30 of 77 U.S. metro areas last year. Rents, which usually increase roughly at the rate of inflation in healthy markets, decreased.

These trends may accelerate. In recent months, department stores such as Sears and Macy's — bulwarks of shopping malls — announced plans to close hundreds of stores nationwide. It will surprise few that this change in the fortunes of shopping malls comes in the wake of the accelerating growth of online shopping. Amazon is expected to surpass Macy's as America's top clothing seller this year, according to Cowen Group Inc., a financial services firm.

The fiscal implications of mall closings for states and localities are significant. Not only are jobs, corporate income tax revenues, and sales and use tax revenues foregone, but so are property taxes. “If a mall closes or goes into decline, you’re going to see declining property values in the area,” says Arthur Nelson, a professor of urban planning and real estate development at the University of Arizona.

The Fort Steuben Mall in Steubenville, Ohio, is an example of what it looks like when a mall starts to fail. A former steel town on the edge of the Ohio River, the community is facing a double whammy of store closures: On one end of its mall is an empty space that used to house a Sears; on the opposite is a Macy’s, which is set to close this spring. The mall went into foreclosure in February 2016 and was sold to the bank that held the mortgage — for roughly two-thirds of its previously estimated value.

But the depopulating of malls doesn’t need to be a negative. One city leader says he sees a significant upside: “It can help hasten the eventual redevelopment of the entire mall site. It’s potentially a big positive for the city’s tax revenues as it makes much closer the day where redevelopment proceeds [start pouring in].”

I have watched this play out in my own city of Alexandria, Va., where the Landmark Mall has both a Sears and a Macy’s as tenants. Seventeen years ago, the mall as a whole and the Sears store that anchored it generated $1.25 million in real estate taxes. Today, they bring in only about $500,000 in real estate taxes. Moreover, to aggravate the fiscal dilemma, the reduction in revenues from sales tax, dining tax and other business taxes has also been dramatic. And now Macy’s has announced it is closing its Landmark store. As Alexandria Vice Mayor Justin Wilson told me, “There is no clearer demonstration of the city’s financial challenges than the predicament that currently faces Landmark Mall.”

But Alexandria is seeing and seizing an opportunity. It has rezoned the site and has encouraged the mall’s owner, the Howard Hughes Corp., to move ahead with its plan to transform the enclosed portion of the mall and the Macy’s parcel into an open-air urban village that has stores, restaurants, housing and entertainment venues.

Wilson notes that the passing of the glory days of malls ought not to be a dirge for times gone by, but rather an opportunity to latch onto a nationwide trend of returning to cities’ historic urban centers both to live and to start businesses.

GOVERNING.COM

BY FRANK SHAFROTH | MAY 2017

Should Struggling Airports Be Turned Over to Companies?

St. Louis International could become the largest airport in the country under private control.

St. Louis has a vexing problem with its airport: It’s too big.

Lambert International today handles only about half as much traffic as it did just over a decade ago.

That’s left the facility with more than enough runway capacity and a lot of empty gates.

Why the precipitous drop in traffic? Airline consolidations. When American Airlines took over TWA, which was based in St. Louis, it stopped using Lambert as a Midwestern hub. The airport has somewhat pulled out of that dive, especially as Southwest Airlines has expanded its operations there. But the city is still faced with the challenge of running an airport that’s much larger than it needs to be.

Now, with the help of a think tank that promotes limited government, St. Louis is exploring whether a private operator might do a better job. Thanks to the Trump administration, which has promoted the value of public-private partnerships, the city can now see whether that plan is feasible.

“This approach to airport management increases productivity, revenue and operating efficiency for airports, creating greater access to capital for infrastructure needs,” U.S. Transportation Secretary Elaine Chao said last month, pointing to the success of a similar effort in San Juan, Puerto Rico. Chao announced that the Federal Aviation Administration approved St. Louis’ request to join a federal program that allows airports to be run by private operators. FAA approval is the first step in that process.

A Clinton-era law allows for airports to be privately managed but sets strict rules for how those deals are carried out. The complicated rules are one reason that not many cities have opted to go that route. St. Louis is the fourth — and largest — airport that currently has FAA permission to use a private operator. (Other airports, such as LaGuardia Airport in New York City, have leased individual terminals to private operators, but, unlike the potential St. Louis deal, all of the proceeds from those arrangements must remain in the airport.)

St. Louis is a long way from handing over the keys to its airport. Mayor Lyda Krewson, who assumed office a week before Chao’s announcement, made that clear. “I appreciate their consideration of our application and look forward to working with the FAA throughout the process, but,” she cautioned, “the key is in the details.”

Krewson’s predecessor, Francis Slay, brought the idea to the federal government, but the main driver behind the effort is Grow Missouri, Inc., a group funded by Rex Sinquefield, an anti-tax activist who is a major force in Missouri politics.

Travis Brown, an organizer with Grow Missouri’s Fly 314 Coalition, says there are many ways a private operator could attract new business, update the airport’s facilities and even generate money for the city.

He says a private operator could take a more strategic approach to running the airport. They could, for example, improve the facilities to attract new vendors, negotiate better flight schedules with airlines or lure more cargo business, Brown says. He points to airports in Memphis, Indianapolis and Louisville that have improved their fortunes by expanding cargo operations.

Brown is confident that private investors would be willing to take on a project like running the St. Louis airport. While the arrangement is seldom used in the United States, it is very common in Europe. Plus, Brown points out, Chicago came close to a similar deal for Midway International Airport in 2013. While that plan eventually sputtered out, it did show that airlines could be willing to go along with a privatization plan, which federal law requires for approval of the deal.

But Chicago’s experience also highlights how tricky it can be to execute a move to a private operator. Mayor Rahm Emanuel pulled the plug on the efforts to lease Midway after nine months of exploring a deal. The mayor said the companies bidding on the airport did not offer enough protections for taxpayers.

“I learned in the private sector that sometimes the best deals are the ones you don’t make,” Emanuel wrote in a Chicago Tribune op-ed. “My most important goal was to protect the interests of the city and its taxpayers in a way that had not been done on previous public-private partnerships.”

In other words, Emanuel wanted to avoid the storm of controversy that followed a 2008 deal authorized by his predecessor, Richard M. Daley, to lease the city’s parking meters for 75 years. The $1.2 billion deal led to skyrocketing parking costs, and the city’s inspector general concluded that the value of the contract was far less than what the private consortium paid for it.

But Daley had tried to lease out Midway, as well. Chicago’s city council approved the 99-year, $2.5 billion deal just eight days after it had been made public. But the arrangement fell apart in 2009 when capital markets froze during the Great Recession, and the private investors could not find enough money for the deal.

Emanuel said the city had learned a lot from those experiences. “While this partnership did not work out, the process was not a waste of time,” he wrote in the Tribune. He continued:

“There are five things we learned over the past six months that should guide any future public-private partnerships: first, a group of outside experts should be impaneled at the start of the process to monitor each step; second, there must be a minimum 30-day review by the City Council before the project is voted upon; third, there should be a clear set of standards so the public can judge a potential partnership when it is presented; fourth, the funds should be invested in infrastructure rather than used as a plug for short-term budget holes; fifth, a true public-private partnership requires that taxpayers maintain control of the asset and share in management decisions and financial profit.”

Those experiences will loom large for St. Louis as it explores its airport lease.

Brown, from Fly 314, says the process will help St. Louis, no matter the outcome. “The worst thing that can happen is that we don’t like the proposals we see, but we learn a lot about ourselves and what we should be doing,” he says. “We think we’re at least as good as Chicago.”

GOVERNING.COM

BY DANIEL C. VOCK | MAY 22, 2017

New Study Identifies the Best Cities for Good Government.

What is good government and which cities practice it? Those are the questions driving a new annual report of U.S. cities.

For the first time ever, the nonprofit Living Cities partnered with Governing to study how cities measure up to their definition of a high-performing government. The authors of the study, which is called “Equipt to Innovate,” hope it will help the best ideas and practices spread.

Cities have long been creative problem solvers, but local officials still have trouble sharing information about their experiences and learning from their peers, says Ben Hecht, the CEO of

Living Cities.

“There are a thousand flowers of innovation that are blooming,” he says, “but they don’t really provide you with a roadmap for how to systemically apply those innovations to the core elements of government.”

The Equipt report is meant to be a first step in providing that roadmap.

Governing, with the help of researchers at our parent company, e.Republic, invited 321 cities to participate in the study. About 19 percent — 61 — completed the 92-question self-assessment. Researchers at e.Republic also conducted an independent review of cities’ performances to make sure the responses squared with publicly available evidence.

The report defines a city as high-performing if it’s dynamically planned, broadly partnered, resident-involved, race-informed, smartly resourced, employee-engaged and data-driven. It sheds light on what local officials think their organizations do well and where they believe they need to improve.

Perhaps the biggest improvements needed (and in some cases, being made) appear to be in race-related policies and issues.

Almost all respondents (92 percent) said their human resources departments have plans and initiatives in place to ensure the local government workforce reflects the racial and ethnic makeup of the city. In addition, a majority of respondents (74 percent) said they have training programs around the importance of race in their workplaces.

But by other measures, cities are behind in enacting race-informed policies. Only 16 percent strongly agreed that there was trust in local government among their immigrant and minority communities. A majority of respondents (77 percent) said their cities needed a more equitable provision of services, such as transportation, education and community policing.

In other areas, the responses suggest that most places already meet the definition of a high-performing city. For example, 80 percent said they have up-to-date long-term strategic plans, and a majority said they collect sufficient input from agencies and residents. Almost two-thirds said city spending is based on evidence and oriented toward results. And almost eight in 10 respondents said their cities have some kind of open data portal.

Steven Bosacker of Living Cities says he was pleasantly surprised by how advanced cities appear to be on some of the operational elements, such as strategic planning.

“The survey actually not only renewed my faith but reminded me of how functional local government is, especially compared to state and federal government these days,” he says.

On Tuesday, Living Cities and e.Republic named Phoenix the best overall performing city, but nine others received recognition as well: Las Vegas, San Diego, Riverside, Calif.; San Jose, Calif.; El Paso, Texas; Fayetteville, N.C.; San Antonio, Philadelphia and Louisville, Ky.

They also identified the highest-performing city in each of the seven categories (in bold) and five additional cities that were high performers:

- Dynamically planned (**Fayetteville, N.C.**; Boston, Cleveland, the District of Columbia, Las Vegas and Riverside, Calif.)
- Broadly partnered (**Las Vegas**, Kansas City, Mo.; Louisville, Ky.; Philadelphia, Phoenix and Riverside, Calif.)

- Resident-involved (**Albuquerque**, N.M.; Atlanta, Minneapolis, Philadelphia, Providence, R.I.; and Seattle)
- Race-informed (**Seattle**, Grand Rapids, Mich.; Phoenix, Portland, Ore.; Richmond, Va.; and San Jose, Calif.)
- Smartly resourced (**El Paso**, Texas; Boston, Knoxville, Tenn.; San Antonio, San Jose, Calif.; and Virginia Beach, Va.)
- Employee-engaged (**San Antonio**, Denver, Fayetteville, N.C., Las Vegas, Louisville and Minneapolis)
- Data-driven (**Kansas City, Mo.**; El Paso, Texas; Long Beach, Calif.; Louisville, Phoenix and San Diego)

Findings from the study are summarized in a 20-page report that can be found here. Cities that participated will receive private written feedback on how they compare to their peers and how they can improve. Living Cities and e.Republic plan to conduct another round of assessments and hope to document how government performance changes over time.

“This was a pilot year. It’s not designed or intended to report perfectly on perfection,” says Rhiannon Gainor, director of research at e.Republic. “It’s meant to stimulate a national conversation on what good governance is.”

GOVERNING.COM

BY J.B. WOGAN | MAY 25, 2017

Where to Park Wall Street's Infrastructure Billions.

President Donald Trump is pushing for $1 trillion in U.S. infrastructure spending over a decade. What will it take to make that happen and where could the money go?

Trump’s proposed budget calls for setting aside $200 billion in federal funding with the aim of attracting an additional $800 billion or more of private, state and local investment in roads, bridges and other public works. An additional six pages released with the budget (noticeably longer than Trump’s one-page tax plan) include proposals that cover everything from allowing tolling on interstate highways to leasing power-transmission assets.

Parts of the infrastructure plan (along with much of the budget) were quickly slammed by Democrats out of concern that some proposals could rack up costs for constituents and because of quibbles over where the money will come from, among other things. Some Republicans have issues, too — but despite all that, there’s widespread recognition that revitalizing infrastructure should be a priority.

The belief that bipartisan support for an infrastructure package will eventually be reached has emboldened private investors — so much so, that newer players in the space like Blackstone Group LP and old hands such as Global Infrastructure Partners have raised or are raising billions of dollars, joining other investors that have long been scoping out the sector:

Building Bricks

Donald Trump’s pledge to facilitate $1 trillion in infrastructure spending has sparked a surge in private fundraising for projects targeting North American infrastructure.

They're counting on the fact that the privatization schemes Trump is touting — which are commonplace in Australia, the U.K. and other nations — will play a key part in any new wave of U.S. investment, even if they haven't to a large degree thus far.

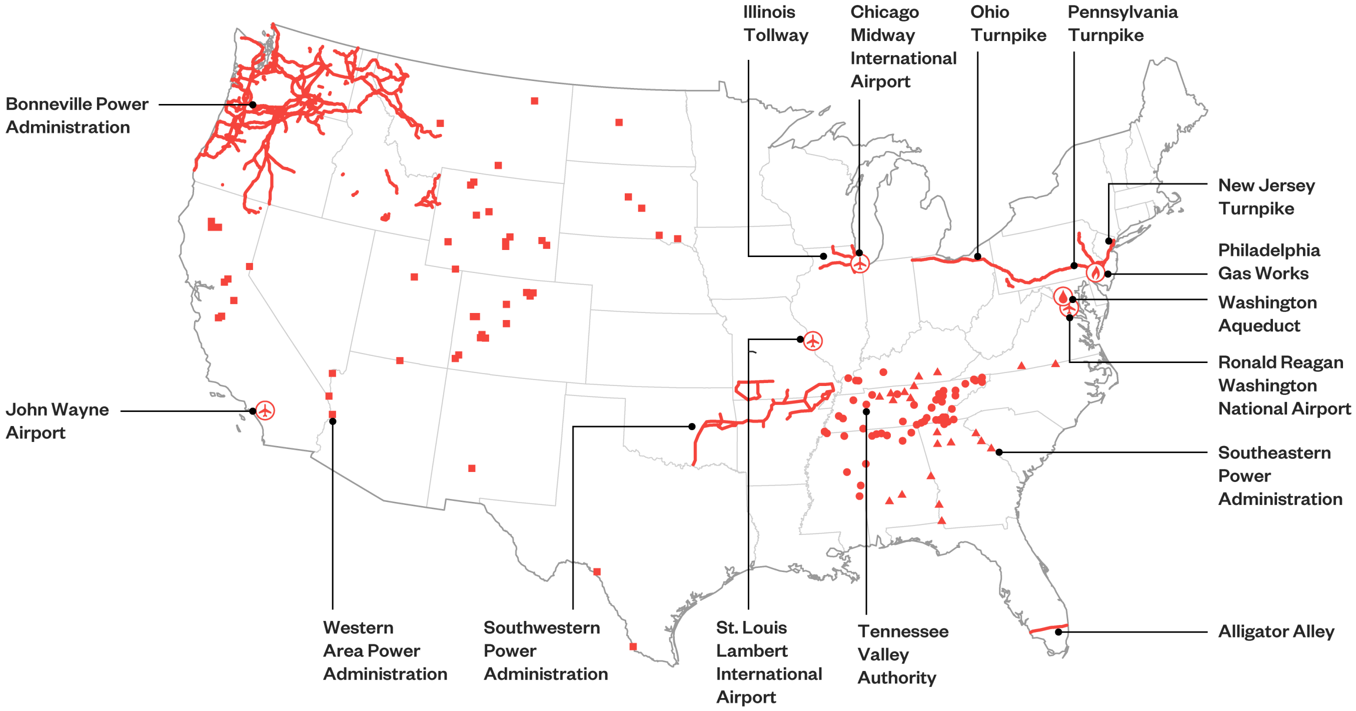
The logic is pretty simple: such programs traditionally involve the sale of long-term leases that give purchasers the right to operate and maintain a project. Sellers of those concessions — often states or municipalities — can then use proceeds and any bonus government incentives to fund additional infrastructure improvements or supplement spending in areas such as health care, transport and education.

Despite the many benefits, these programs haven't been easy sells in the U.S., owing in part to political wrangling at the federal, state and local levels and a general distrust of public assets like roads and airports being run as for-profit enterprises. That's understandable — but there is still merit to the idea of privatizations, and places where they could work:

First on the Runway

First on the Runway

If President Donald Trump's plan materializes, private infrastructure investors may flock toward these potential targets.



Sources: U.S. Census Bureau, U.S. Energy Information Administration, ESRI

BloombergGadfly

Contenders include Chicago Midway International Airport, Philadelphia Gas Works Co. and Pennsylvania Turnpike — all of which have explored privatizations to the point of receiving bids. Then there's St. Louis Lambert International Airport, which last month received preliminary approval to study a privatization plan that would make it the first mainland U.S. airport to be operated by private investors. And other public works that should be taken into serious consideration for privatization include already-tolled roads and federally owned electric utilities such as Bonneville Power Administration.

Beyond traditional infrastructure, Trump has floated the idea of spinning off the U.S. air-traffic system. Other deals that could one day transpire include the possible privatization of businesses such as Amtrak, the U.S. Postal Service (a move that would replicate happenings in Japan and the U.K.) and even state lottery operators (Illinois, Indiana and New Jersey have already paved the way, with mixed success).

Regardless of the specifics, U.S. privatizations will be a political minefield. Ensuring the $200 billion in federal funding incentives are delivered in a way that appeases critics will be key if there's any hope of Trump achieving his lofty $1 trillion goal. But infrastructure does seem to be one place where both parties can come together, even if the rest of his budget is dead on arrival. Private money shouldn't be seen as taboo.

1. To be sure, there have been some notable transactions, including the privatizations of the Indiana Toll Road and Chicago Skyway, but such deals have been few and far between.

2. Under President Bill Clinton, the Alaska Power Administration was privatized. Trump has his eye on other energy utilities, and mentioned Southwestern Power Administration, Western Area Power Administration and Bonneville Power Administration in his budget this week.

Bloomberg

By Gillian Tan

May 26, 2017 7:30 AM EDT

Gillian Tan is a Bloomberg Gadfly columnist covering deals and private equity. She previously was a reporter for the Wall Street Journal. She is a qualified chartered accountant.

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Local Governments' Hidden Reason to Oppose Tax Cuts: Bank Loans.

- **Tax cuts could trigger 'yield maintenance provisions' in loans**
- **Officials ' may not appreciate all the risks,' analyst says**

Some local governments have a hidden reason to root against President Donald Trump's tax-cutting agenda: It could make their bank loans more costly, according to Municipal Market Analytics.

Municipalities have borrowed billions from banks to skirt the expenses associated with public bond offerings. But banks often include provisions enabling them to raise the interest rates if legal or regulatory changes diminish their returns. A cut in the corporate tax rate, for example, would likely result in a lower after-tax yield on a tax-exempt loan, potentially triggering "yield maintenance" provisions, wrote analysts at MMA, a Concord, Massachusetts-based independent research firm.

"Given the current administration's focus on tax-reform and/or tax cuts, borrowers that have these yield maintenance provisions could see their debt service costs rise," MMA wrote.

Direct lending by banks has proliferated in the $3.8 trillion municipal market because states, local governments and non-profits can borrow at rates comparable to those on bonds, without the fees or disclosure requirements associated with securities sales.

Because loans aren't classified as securities, states and cities aren't immediately required to disclose them, despite the risk they can pose to bondholders and taxpayers. For example, banks can demand accelerated principal and interest if a payment is skipped or a government's cash falls below a specific target, which could push the borrower into a liquidity crisis if it can't cover the bills.

MMA estimates that some $180 billion of such loans have been made. But given the lack of disclosure, it's impossible to know how many borrowers might be subject to rate increases if federal taxes are cut, MMA wrote.

The Securities and Exchange Commission in March proposed requiring state and local governments provide information about significant bank loans within 10 days.

A borrower with a $20 million loan could pay an additional $50,000 in annual interest if the rate is increased 0.25 percentage point to compensate for the reduced after-tax return a lower corporate levy would bring, MMA said. By contrast, when municipalities issue fixed-rate debt the risk of future tax changes is shifted to bondholders. President Trump has proposed reducing corporate taxes to 15 percent from the current 35 percent.

Many municipalities that used derivatives such as interest-rate swaps in the mid-2000s to lower borrowing costs weren't aware of the risks and had to pay billions of dollars to get out of the contracts when investors dumped certain types of municipal bonds en masse during the financial crisis.

"Banks that provided interest-rate swaps to municipalities found themselves in a firestorm of negative media stories detailing how they profited on the backs of municipal borrowers, costing taxpayers billions of dollars," MMA wrote. As with interest-rate swaps, "many municipalities may not fully appreciate all the risks inherent in bank loans."

Bloomberg Markets

by Martin Z Braun

May 24, 2017, 10:30 AM PDT

Trump Tax Reform Unlikely to Impact Municipal Bonds, BofA Says.

- **'Price independently of the top federal income tax rates'**
- **Political turmoil in administration may derail tax reform**

Tax reform will have little impact on the value of municipal bonds, according to Bank of America Merrill Lynch strategists Philip Fischer and Celena Chan.

Looming tax reform has some investors worried that slashing the nation's top individual tax rates may send demand for the securities tumbling. Municipal bonds are often purchased by wealthy investors seeking to lessen their tax burdens.

The trend has reversed recently as political turmoil has derailed President Trump's legislative agenda, including tax reform. Yields on state and local bonds hit a 2017 low last week.

An analysis shows that municipal bonds "price independently of the top federal income tax rates and have done so for decades." The strategists said the reason for this is that state and local bonds are not well connected to other capital markets.

Corporate tax reform may happen by year-end, according to the analysts, but it's unlikely "P&C and bank taxes will fall sufficiently to distort muni pricing and flows."

Bloomberg

by Rebecca Spalding

May 22, 2017, 8:38 AM PDT

Bloomberg Brief Weekly Video - 05/25

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

Watch video.

Bloomberg

May 25, 2017

Municipal Bond Sales Poised to Fall, Buttressing Sector's Gains.

- **Slate of sales set for next 30 days hits two-month low**
- **'Enticing technical backdrop' for the market, analyst says**

The pipeline of bond sales from U.S. state and local governments has dropped to its lowest in more than two months, signaling a continuation of the borrowing slowdown that's helped support a rally in the municipal market.

The volume of tax-exempt bonds that are scheduled to be sold over the next month has tumbled to about $8 billion, the least since late March, according to data compiled by Bloomberg. The decline comes as investors continue to pour money into municipal-bond mutual funds while yields, which move in the opposite direction as price, have slid to their lowest since soon after President Donald Trump's November election.

While the number of planned sales typically drops ahead of the Memorial Day weekend, borrowing by municipalities this year has pulled back from last year's record pace amid uncertainty about the direction of interest rates and Trump's policies. By May 19, $141.5 billion has been issued this year, an 11 percent drop from the same period in 2016, according to data compiled by Bloomberg.

Some analysts have predicted that the tax-exempt market will shirk over the summer as bonds mature at a faster pace than they're sold, leaving investors flush with cash to reinvest. Municipal securities have returned 3.5 percent this year, more than twice the 1.6 percent gain for Treasuries, according to Bloomberg Barclays indexes.

"The net negative supply figures are expected to expand into the summer months," wrote Jeffrey Lipton, head of municipal research at Oppenheimer & Co., in a note to investors this week. "We believe that both retail and institutional demand will prove more robust against a more enticing technical backdrop."

Bloomberg clients: We'll be doing a TOPLive Q&A on Tuesday, May 30 at noon ET, moderated by Elizabeth Campbell, in which you can ask Joe Mysak questions about the latest with Illinois and its budget impasse. You can watch it here. If you want to ask a question, please send to TOPLive@bloomberg.net.

Bloomberg

by Rebecca Spalding

May 25, 2017, 9:03 AM PDT

Municipal Bonds Richest in a Year as Supply Dries Up in Summer.

- **New Jersey, New York and California show net negative supply**
- **Muni sector forecast to show robust performance this summer**

State and local debt hit its richest value compared with Treasuries in about a year, as demand for the securities remains robust against shrinking supply.

The index that tracks the benchmark 10-year municipal bond yield as a percentage of U.S. Treasuries sunk to 86.9 percent this week, the lowest since June 2016, according to Bloomberg data. At the beginning of the month, the gauge hovered near 95 percent.

The rally in municipal debt comes as analysts expect supply to continue to shrink in the summer months at the same time that cash-rich investors will have a hoard to invest. Citigroup Inc. analysts predicted that the market will shrink by $39.5 billion between June and August, while investors will receive $44 billion in interest payments.

"Because of the lack of supply relative to demand, and because of the relative height of nominal yields, its going to be hard for munis to project weakness over the summer," said Matt Fabian, a partner with Municipal Market Analytics Inc., in a telephone interview. "Left to their own devices, munis will be prone to rally."

Not all states are created equal. New York, California, and New Jersey show the most extreme net negative supply numbers as of May 25, with the Empire State posting negative $5.3 billion. All but seven of the 50 states posted negative net supply figures during the same time frame.

"We're heading into a period of even more pronounced supply shortage. Unless governments dramatically increase their borrowing for infrastructure, we're heading into a period with a shortage of bonds," Fabian said.

Bloomberg Markets

by Rebecca Spalding

May 26, 2017, 10:11 AM PD

Puerto Rico Seeks Court's Help to Save Public Pension System.

SAN JUAN, Puerto Rico — Puerto Rico is seeking help from federal court to restructure the debt of the U.S. territory's public pension system, which is projected to run out of money this year.

A federal control board overseeing the island's finances said Monday that the move was taken in part to shield the government from a flurry of lawsuits.

"The government's liquidity and solvency problems are massive, and Title III has now become necessary to protect the people of Puerto Rico," the board said in reference to the court-supervised restructuring process.

Gov. Ricardo Rossello said late Sunday that his administration requested the board approve a court-supervised process because it had been unable to reach a deal with creditors to whom it owes some $3 billion.

"Given the system's uncertain situation … its eventual insolvency in upcoming months and the inability to reach a deal with creditors … I have no other option to protect our retirees," he said.

The U.S. territory is increasingly turning to the courts to restructure portions of the $73 billion public debt it holds as it struggles to emerge from a decade-long recession. The board on Monday also said it will seek to restructure via courts more than $4 billion in debt held by the island's Highway and Transportation Authority.

Rossello said retired workers will still receive their pensions, and that the government will dip into its general fund once the pension system itself runs out of money.

Roberto Aquino Garcia, president of the Association of Retired Puerto Rico Government Workers, said he doubts a court-ordered restructuring will bring substantial relief to the more than 150,000 former government workers who depend on a system underfunded by some $50 billion.

"We hold very little hope, because unless the system receives a significant cash infusion to stay afloat, it will collapse," he said in a phone interview.

Aquino said many retirees worry the general fund will not be able to fund their pensions because it is already low on cash.

"We don't know what the government's priorities will be," he said. "Do we fall under essential services?"

The government is Puerto Rico's largest employer, and the overall liability of its three main retirement systems grew by $10 billion from 2009 to 2013, prompting the previous administration to increase retirement ages, reduce benefits and increase employer and employee contributions.

Puerto Rico's average public pension is roughly $1,100 a month, but more than 38,000 retired government employees get only $500 because of the type of job they had and the number of years worked.

A federal control board overseeing the island's finances is now seeking more cuts. It has said the system will switch to pay-as-you-go funding, and that teachers and public safety workers will be enrolled in Social Security by 2020. Currently, teachers and police officers in Puerto Rico do not receive Social Security.

Aquino said a nonprofit group representing nearly 100,000 retired Puerto Rico government workers has hired the same attorney who represented retired workers in Detroit, which had less than $20 billion in debts when it filed for bankruptcy in 2013 in the biggest U.S. municipal bankruptcy ever.

"There's going to be a humanitarian crisis," Aquino warned. "The government made a commitment to us since 1951 when it created the pension system. It's a contract that all of us have held up on our end."

Puerto Rico economist Vicente Feliciano said it's unlikely the government will be able to fulfill that contract.

He noted that retirees in Detroit were hit with a 5 percent cut, and anticipated that those in Puerto Rico will face a similar or worse fate.

"The majority of retirees will get their pensions cut," he said. "Everybody must take a hit."

By THE ASSOCIATED PRESS

MAY 22, 2017, 10:27 A.M. E.D.T.

Single Audit Roundtable Meets.

The Single Audit Roundtable conducted its first meeting of the year to discuss issues surrounding the single audit. The roundtable is a forum established by the American Institute of Certified Public Accountants and hosted by KPMG where federal audit and accountability representatives meet with members of the non-federal and state government audit communities.

In normal fashion the agenda featured updates from the U.S. Office of Management and Budget, AICPA and the U.S. Government Accountability Office, as well as an update on the status of Federal Audit Clearinghouse activities.

OMB did not reveal a lot of new issues but did talk about the themes of this year's budget proposal: effectiveness, efficiency, accountability and cyber security. It is the Trump Administration's goal to look closely at all federal agencies and their functions to determine if there are changes that can be made to address the themes set forth in the budget proposal. In terms of the single audit and the Uniform Guidance, OMB is looking for input from the grants and audit communities on what sort of changes can be made in the short and long term that will address effectiveness, efficiency and accountability.

OMB also stated that several items are being held pending review to determine if the proposed regulation, guidance or initiative would have a cost or burden associated with it. Such items include:

- An OMB proposal that would amend portions of the Uniform Guidance in the procurement and pension cost areas.
- Additional frequently asked questions that would further clarify inconsistencies in the Uniform

Guidance and address minor implementation issues.
- A new schema for the Catalog of Federal Domestic Assistance (CFDA).
- The Single Audit Quality Study.

Representatives from the AICPA Government Audit Quality Center provided an update on center activities. Currently, the center has 230 member firms and 31 state audit offices. Collectively, 93 percent of single audit (dollars) are represented. The AICPA also noted that they are currently working on internal control. Specifically, on what practitioners need to do better work in this area.

Members of the GAO Yellow Book team provided an update on the Yellow Book noting that comments on the exposure are due by July 6 with the final issuance projected for 2018. GAO noted that the new Yellow Book will include a big change in the peer review area specifically with organizations that are not affiliated with a recognized organization. For these organizations, there are several additional peer review requirements.

Additionally, GAO provided that there are quite a few new requirements around performance audits and a new requirement specifically on waste. Auditors are not expected to seek out waste in their audit.

The next roundtable will be held in November.

NASACT

May 15, 2017

Trump's Proposed Budget Could Bankrupt Cities and Towns.

WASHINGTON — May 23, 2017 — This morning, the Trump Administration sent its full budget proposal to Congress. The proposal includes unprecedented cuts that would slash or eliminate crucial programs that invest in cities and create jobs, including the Community Development Block Grants (CDBG), TIGER grants for transportation projects and the HOME Investment Partnership Program. The National League of Cities (NLC) is concerned that small cities would fare the worst under the proposal, since they are less able to compensate for the cuts. Many states limit the amount of additional revenue cities may raise, leading to a real possibility of municipal bankruptcy for some small cities. In response, NLC President Matt Zone, councilmember, Cleveland, released the following statement:

> "The administration's budget proposal would be devastating to cities and towns. No community in America would be better off with this budget, and it could bankrupt smaller cities and towns. It does nothing to create jobs in our communities, and violates the president's core campaign promise to lift up Americans in communities across the nation.
>
> "The White House ignored more than 700 city officials who urged the administration to protect crucial programs, including Community Development Block Grants, TIGER grants and the HOME Investment Partnership Program. These vital programs allow communities to invest in public safety, economic development and infrastructure, and create private-sector jobs.

> “The budget proposal would have a disproportionate impact on America’s small cities and towns, whose budgets are already stretched thin. In these communities, the programs being targeted are a lifeline for maintenance and investment. For those communities, this budget would spell disaster — and, in many cases, bankruptcy.
>
> “As the leaders of America’s cities, we call on Congress to throw out this budget proposal and develop a new plan focused on building prosperity, expanding opportunity and investing in our future. Congress must reject this budget proposal or risk derailing local economies nationwide.”

The National League of Cities (NLC) is dedicated to helping city leaders build better communities. NLC is a resource and advocate for 19,000 cities, towns and villages, representing more than 218 million Americans. www.nlc.org

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Mayors Buttigieg and Dupree Testify on Wastewater and Stormwater Costs Request to Congress – Pass Integrated Planning and Affordability Legislation.

South Bend Mayor Pete Buttigieg testified on behalf of The US Conference of Mayors and Hattiesburg Mayor Johnny Dupree testified on behalf of the National League of Cities before the House Transportation and Infrastructure Subcommittee on Water Resources and the Environment, on the high costs of Clean Water Act (CWA) mandates and the need to create additional tools to assist communities achieve their goals in a cost-effective manner.

The May 18, 2017 hearing was entitled, Building a 21st Century Infrastructure for America: Improving Water Quality through Integrated Planning. Joining the Mayors were: Todd Portune, Commissioner, Hamilton County, Ohio; on behalf of the National Association of Counties; Craig Butler, Director, Ohio Environmental Protection Agency; on behalf of the Environmental Council of the States; William Spearman, Principal, WE3 Consultants on behalf of the American Public Works Association; and Lawrence Levine, Senior Attorney, Natural Resources Defense Council.

Both Mayors talked about the costs of combined and sanitary sewer consent decrees and stormwater regulations for their cities. Mayor Buttigieg said that South Bend’s consent decree will cost his city $861 million. “This is a significant burden for our residents,” Buttigieg said, “with one out of every five households having to pay 10% of their household income just toward their wastewater bill and one of every ten households will pay 14%. As a result, every South Bend household spending $1300 per year for the next 15 years for a total of $19,500.”

Both discussed how integrated planning and affordability legislation would help their cities achieve better results while making the costs more manageable.

The Conference of Mayors worked with Environmental Protection Agency (EPA) to create the concept of Integrated (or comprehensive) Planning to help cities solve their most pressing water and wastewater needs in a more cost-effective way. Joining the Conference of Mayors were the National League of Cities and National Association of Counties in negotiations with EPA. As a result of our efforts, EPA created memorandums on Green Infrastructure, Integrated Planning, and Financial Capability that they distributed to the EPA Regional Offices. However, the Regional Offices have not always been enthusiastic about allowing communities to implement any of these tools. That is why the three local government associations are seeking legislation that would codify Integrated

Planning, define Financial Capability, and encourage the use of Green Infrastructure.

"While the Integrated Planning Framework and the Financial Capability Framework have been positive steps by EPA to address the high costs of meeting CWA regulatory requirements, there is more work to be done to ensure that these policy frameworks are useful tools for our communities across the country," said DuPree.

Mayor Buttigieg outlined the Conference's key priorities for the legislation including: Codifying EPA's Integrated Planning and Permitting Policy; Achieving Long Term Control of Stormwater Through Permits; Renewing Congressional Support for Exercising Flexibility in Existing Clean Water Law; and Eliminating Civil Penalties for local governments who develop an integrated plan and make reasonable further progress into improving their water.

The members of the House are listening and the Mayors thanked them for introducing multiple bills that would address many of our priorities. Mayor Buttigieg expressed gratitude for all the introduced bills but did say that the Conference of Mayors preferred HR 465, the Water Quality Improvement Act of 2017, which was introduced by Representative Bob Gibbs (OH). HR 465 has several unique provisions that would better help communities by defining affordability, asking EPA to determine if their solutions are technically feasible, and allowing cities to solve their long-term wastewater and stormwater needs through permits, rather than through consent decrees.

The Senate has also taken the issue of Integrated Planning, Financial Capabilty, and Green Infrastructure with Lancaster Mayor Rick Gray testifying on April 4. Their bill, S.692 the Water Infrastructure Flexibilty Act, passed out of the Environment and Public Works Committee and is awaiting action by the entire Senate.

Please click here for a copy of Mayor Buttigieg's testimony, click here to download S.692 and click here to download H.R. 465.

The Nation's Mayors Sound Alarm on Trump FY 2018 Budget: Statement by USCM CEO & Executive Director Tom Cochran.

Washington, D.C. – U.S. Conference of Mayors (USCM) CEO and Executive Director Tom Cochran issued the following statement on the release of President Trump's FY 2018 budget proposal, A New Foundation for American Greatness:

"Mayors across the country are deeply troubled by President Trump's brazen attack on the very people he promised to protect. The unprecedented cuts to critical domestic programs would be nothing short of devastating to all our nation's cities, piercing the very soul of America.

"President Trump's proposed budget stands to drastically reduce or eliminate programs that benefit the most vulnerable of our citizens. Instead of assisting those struggling to make ends meet as he promised, the President plans to ax services designed to forge a path for working families into the middle class. In effect, President Trump pulls the rug out from under those who are already living on the edge.

"Specifically, the Community Development Block Grant (CDBG) would be eliminated, a program that OMB Director Mick Mulvaney characterized as one that does not work. Nothing could be further from truth. For the past 40 years, since its inception, this program has a proven track record of revitalizing neighborhoods and creating jobs.

In light of this, The U.S. Conference of Mayors released today bipartisan letters to Congressional leaders in both the House and Senate in strong support of the CDBG program. More than 350 mayors representing all 50 states, the District of Columbia and Puerto Rico, signed the CDBG letter and remain committed to fighting this destructive cut.

“While many of the nation’s cities and metropolitan areas are strong and continue to drive the national economy forward, many have not yet rebounded from the Great Recession. We cannot and will not turn a blind eye to these communities that are hurting from federal disinvestment.

“President Trump’s proposed cuts betray his campaign pledge to the American people to make the country stronger. If Congress allows these cuts to workforce training, education, housing, public safety, the arts, the EPA and other social services to prevail, the impact will be felt far and wide, severely affecting people living in cities large and small; suburban and rural.

“Further, the elimination and phase out of the National Endowment of the Arts, National Endowment of the Humanities and Institute of Museum and Library Services would destroy the cultural infrastructure of the nation.

“Throughout the campaign, President Trump vowed to make the country stronger and to keep all Americans safe. It’s ironic that the morning after the deadly terrorist attack in Manchester, his budget proposes significant cuts to key Homeland Security programs, a direct contradiction to what he repeatedly promised.

“Yesterday the Attorney General issued a memorandum defining sanctuary jurisdictions as those not in compliance with 8 U.S.C. §1373, a narrow definition. Today the Budget proposes a legislative change that would significantly broaden §1373, threatening many more jurisdictions with noncompliance for upholding the law and the Constitution.

“Since 1932, USCM has maintained that there should be a strong federal-city funding partnership to serve the millions that reside in our cities. In the name of devolution, this budget proposal, at the direction of Mulvaney, would turn billions of funds over to states, putting the future of the American people in the hands of governors and state legislators. Mayors are simply asking for the tax dollars that we send to Washington to be directly repatriated home so we can meet the needs of our local residents in a cost-effective manner.

“The nation’s mayors will be on the front line fighting against this draconian vision for America’s cities and metro areas. The U.S. Conference of Mayors stands ready to work with Congress to craft a budget that reflects the truthful needs of this country’s men, women, and children.”

America's Infrastructure: The Time to Build is Now

The case for making infrastructure a priority and the issues that may affect our ability to fix it.

This week marks the 5th annual Infrastructure Week — a clear reminder that strong, resilient infrastructure is critical to our country’s economic growth and vitality; yet we continue to fall behind due to crumbling and outdated roads, bridges, rails, airports and seaports, water pipes and the power grid. This has not gone unnoticed.

A 2016 National Infrastructure Poll, conducted by the Association of Equipment Manufacturers, found that the majority of Americans recognize the declining state of our country's infrastructure and that it should be addressed. The Trump Administration has identified infrastructure as one of the top priorities of the new President's agenda. To underscore the urgency surrounding U.S. infrastructure, there is also growing bipartisan support: Democratic Senator Bill Nelson, ranking member of the Senate Commerce Committee, discussed infrastructure and the role it plays in our economy, telling Vice President Mike Pence in March 2017 that the "time might be right" for a Bipartisan Infrastructure Bill. With heightened recognition across the country, our leaders and citizens, why is infrastructure still in crisis?

At SIFMA, we distinguish between **financing infrastructure** — bringing capital from investors to build projects — and **funding infrastructure**, finding ways to pay the operating and maintenance costs in the long-term, service the debt and provide a return on capital. We believe the infrastructure problem lies in the ability to identify reliable funding sources and recommend:

- Preserving the tax exemption for municipal bonds;
- Expanding Public-Private Partnerships (P3s), including the use of Private Activity Bonds (PABs) without restrictions for publicly accessible projects, promoting private equity investment in public projects, and applying design-build strategies;
- Reviving direct-pay bonds.

These approaches can help. However, as part of Congress' discussions on federal tax reform, there is concern the House of Representatives may consider options that could negatively affect the ability to fund our infrastructure, such as imposing a full or partial federal income tax on municipal bond interest or eliminating PABs, both of which have been proposed by policy-makers before.

In order to bring our infrastructure into the 21st century, we need to invest more without imposing burdens that can weigh down our economy.

I recently discussed this issue in-depth with The Bond Buyer.

For more information, listen to the podcast.

SIFMA

By Michael Decker

May 17, 2017

SIFMA Municipal Division Recognized by National Federation of Municipal Analysts.

Washington, D.C., May 17, 2017 – SIFMA today received an Industry Contribution Award from the National Federation of Municipal Analysts (NFMA). The award recognizes SIFMA's contributions to issues related to municipal securities disclosure, in particular SIFMA's efforts to bring together stakeholder groups to discuss disclosure and advocate where there is common interest.

Michael Decker, managing director and co-head of SIFMA's Municipal Securities Division, received the award at a luncheon today in Washington, D.C. The NFMA specifically noted Mr. Decker's efforts to coordinate and lead an industry working group to author a letter to the Municipal Securities Rulemaking Board which recommended several enhancements to the EMMA system to aid transparency.

“I am honored to receive this award on behalf of our members,” said Mr. Decker. “SIFMA has consistently worked to improve disclosure in the markets, and we support the goals of investor protection and market transparency.”

The NFMA has presented awards annually since 1984. The awards are given to individuals or entities that further the goals of the NFMA for the enhancement and betterment of the municipal bond industry.

Contact: Katrina Cavalli, 212.313.1181, kcavalli@sifma.org

TAX - WYOMING

Brock v. State ex rel. Wyoming Workforce Services, Unemployment Insurance Division

Supreme Court of Wyoming - May 3, 2017 - P.3d - 2017 WL 1710610 - 2017 WY 47

Lien holders, who had a lien on property created by a certificate of purchase for delinquent taxes, filed an action against the Department of Workforce Services and the Internal Revenue Service (IRS) that sought to foreclose on their lien and a declaration that their lien was superior to all other encumbrances against the property.

The IRS removed the case to federal district court. The United States District Court certified a question to the state Supreme Court.

The Supreme Court of Wyoming held that lien held by lien holders, who had a lien on property created by a certificate of purchase for delinquent taxes, was superior to lien held by the Department of Workforce Services for unpaid contributions to the unemployment compensation fund.

Lien holders obtained a certificate of purchase on the property by purchasing the property for the delinquent taxes assessed against the property, after passage of the required time, “Holders of certificates of purchase of real property sold for delinquent taxes” may apply for a tax deed, and thus lien holders’ lien was a claim for taxes, which would give it priority over a claim for contributions to the unemployment compensation fund pursuant to statute.

KBRA Releases Rating Report: City of Chicago’s Second Lien Wastewater Transmission Revenue Bonds.

Kroll Bond Rating Agency (KBRA) has assigned a long-term rating of AA- with a Stable outlook to the City of Chicago’s Second Lien Wastewater Transmission Revenue Bonds, Project Series 2017A and Second Lien Wastewater Transmission Revenue Bonds, Refunding Series 2017B. KBRA has also affirmed the outstanding AA- rating and Stable outlook on the City of Chicago’s outstanding Second Lien Wastewater Transmission Revenue Bonds.

The bonds are limited obligations of the city having a claim for payment solely from Second Lien Bond Revenues that are derived from the net revenues available for bonds in the city’s sewer fund, and deposited into the Second Lien Bond Account, which claim to the net revenues available for bonds is subordinate to the claim of Senior Lien Bonds. The senior lien is open but there are no plans to issue any additional senior lien debt.

Please click on the link below to access the report:

Second Lien Wastewater Transmission Revenue Bonds

If you have any difficulties accessing the report, please contact info@kbra.com or visit www.kbra.com.

KBRA Releases Rating Report: City of Chicago, IL's Second Lien Water Revenue Bonds.

Kroll Bond Rating Agency (KBRA) has assigned a long-term rating of AA with a Stable outlook to the City of Chicago, IL's Second Lien Water Revenue Refunding Bonds, Series 2017. KBRA has also affirmed the outstanding AA rating and Stable outlook on the City of Chicago's outstanding Second Lien Water Revenue Bonds.

The City of Chicago's Second Lien Water Revenue Bonds are limited obligations of the city having a claim on payment solely from Second Lien Bond Revenues derived from net revenues available in the city's water fund, and deposited into the Second Lien Bonds Account, which claim is subordinate to the claim of Senior Lien Bonds. The senior lien is open, but has not been utilized since 2001 and KBRA is comfortable with the city management's assurances that no further senior-lien issuance is contemplated.

Please click on the link below to access the report:

Second Lien Water Revenue Refunding Bonds, Series 2017

If you have any difficulties accessing the report, please contact info@kbra.com or visit www.kbra.com.

MSRB Webinar: Municipal Advisor Solicitor Guidance.

Date: Thursday, June 22, 2017

Time: 3:00 p.m. – 4:00 p.m. ET

Description: During this free webinar, Municipal Securities Rulemaking Board (MSRB) staff will discuss the recently published guidance on the application of MSRB rules to solicitor municipal advisors. Under the MSRB's mandate to protect municipal entities and obligated persons, the MSRB has developed a core regulatory framework for all municipal advisors. The solicitor guidance comprehensively summarizes that framework and specifically addresses how that framework applies to solicitor municipal advisors, which will be discussed during this webinar.

Click here to register.

SEC and MSRB to Hold Webinar on Series 50 Exam for Municipal Advisors.

Washington, DC – The Securities and Exchange Commission (SEC) and the Municipal Securities Rulemaking Board (MSRB) today announced a joint educational webinar to assist municipal advisors with understanding their professional qualification requirements. The live webinar, scheduled for Thursday, **June 15, 2017, from 3:00 p.m. – 4:00 p.m.** ET, will provide information on signing up for the MSRB's Municipal Advisor Representative Qualification Examination (Series 50 exam), preparing to take the Series 50 exam and fulfilling municipal advisor firms' SEC registration obligations.

The MSRB's recent regulatory notice reminded municipal advisor firms that after September 12, 2017, only associated persons who have passed the Series 50 exam can engage in municipal advisory activity on behalf of the firm.

"We hope that this webinar will address questions municipal advisor firms have about the process for enrolling their associated persons to take the exam by the deadline," said MSRB Executive Director Lynnette Kelly. "The webinar should be particularly valuable for those firms that do not yet have a single Series 50-qualified municipal advisor representative associated with the firm nor any individual scheduled to sit for the exam."

The MSRB makes available on its website a list of Series 50-qualified municipal advisor representatives and their associated municipal advisor firms. Qualification information is updated weekly and is dependent on the quality of the data municipal advisor firms submit to the SEC through Form MA-I.

"Providing and maintaining accurate and up-to-date information on municipal advisor firms' initial registration forms and subsequent amendments is essential to ensuring the effectiveness of the municipal advisor registration system," said Jessica Kane, Director of the SEC's Office of Municipal Securities. "In particular, information about associated persons on Form MA-I promotes confidence in the municipal advisor registration regime and helps protect municipal entities, obligated persons, the public and, ultimately, investors. The Office of Municipal Securities is pleased to partner with the MSRB on this webinar."

During the free webinar, staff of the SEC and MSRB will review the standards of professional qualification for municipal advisors, discuss the enrollment process for taking the Series 50 exam and highlight relevant municipal advisor SEC registration obligations. Members of the public interested in viewing the webinar should register here.

Date: May 23, 2017

Contact: Jennifer A. Galloway, Chief Communications Officer
202-838-1500
jgalloway@msrb.org

Fiscal Year 2018 Budget Addresses Infrastructure Initiatives.

President Trump's Fiscal Year 2018 Budget was released on Tuesday and the administration's Infrastructure Initiative Fact Sheet was released on Wednesday. The plans call for $200 billion in outlays, over the next ten years, for infrastructure investment. The $200 billion is to be leveraged, alongside non-Federal funding, to pay for $1 trillion in total infrastructure spending. The proposal also calls for corporatization of the air traffic control system, reform of the Inland Waterways Trust Fund, and a reduction in Federal grants to Amtrak. The transportation plan specifies an expansion of the Transportation Infrastructure Finance and Innovation Act (TIFIA) program, as well as lifting the cap on Private Activity Bonds for highways and liberalizing the use of tolling on Interstates. The budget calls for an elimination of the Transportation Investment Generating Economic Recovery (TIGER) Grant Program, and reduced the Department of Transportation's total budget by 13% from its 2017 level. The administration also called for the regulatory and permitting review to speed the construction of infrastructure projects. At a hearing of the Senate Finance Committee on May 25, on the 2018 budget and tax reform, Treasury Secretary Steven Mnuchin said in response to questioning, "Our preference is strongly to keep the interest deductibility of state and local bonds."

U.S. Administration's Fiscal Year 2018 Budget

Infrastructure Initiative Fact Sheet

King County Achieves Highest Rating for New Green Bond Program.

King County's commitment to environmental protection and sustainability has earned a "dark green" designation – the highest rating awarded by an international research institute – for its environmentally friendly green bond program that was launched this week to fund County projects with multiple benefits.

The County's new certified green bond program offers investors the opportunity to finance public projects that help the County continue its commitment to protecting the environment and confronting climate change.

In crafting its green bond program, the County followed financial market and industry best practices by submitting its program to a review by an internationally recognized leader of second opinions, the Center for International Climate and Environmental Research (CICERO).

As is the case with traditional municipal bonds, King County's green bonds are secured by the County's full faith and credit and benefit from the County's high municipal credit rating. What's unique about green bonds is that the entities issuing them can apply the borrowed funds only toward environmentally beneficial projects, such as green-energy projects, or projects that help respond to climate change impacts.

The County's first sale of green bonds today features Citigroup Global Markets as underwriter. The County is selling limited tax general obligation bonds to provide $35.2 million of funding for the capital program of the King County Department of Natural Resources and Parks' Solid Waste Division, primarily for development and construction of transfer stations and the restoration of closed landfill sites.

The County is anticipating that other projects in the future will also be good candidates for the green bond program. Such projects involve clean transportation conversions to zero-emission buses; habitat restoration to offset greenhouse gas emissions; and design and construction of green-built facilities that include recycled and energy saving materials, improve air quality, reduce water use, and achieve high ratings for sustainable construction.

As an independent, not-for-profit research institute, CICERO has been providing independent reviews of green bonds since the market's inception in 2008. CICERO works with numerous international institutional investors, banks, companies and municipalities.

CICERO second opinions are graded "dark green," "medium green" and "light green" to give investors insight into the environmental quality of green bonds.

The organization, which has been rated as the best provider of independent green bond reviews, gave King County's green bond program its highest certification of "dark green."

"CICERO's 'dark green' rating affirms King County's leadership and commitment to environmental sustainability," said Ken Guy, King County Finance Director. "We expect the green bond program, combined with our historically strong credit ratings, will encourage an increasing number of environmentally-conscious investors to participate with King County in our efforts to create a greener future."

To learn more about King County's unique green bond program, contact Felix Amerasinghe, Chief Financial Officer, King County Department of Natural Resources and Parks, at 206-477-7586.

Illinois Bonds an Opportunity for 'Bold' Investors, Citi Says.

- **Debt paying highest yields over benchmark since at least 2013**
- **Multi-notch downgrade into junk is unlikely, Citi says**

Illinois's nearly two-year budget impasse has created a buying opportunity for municipal-bond investors willing to bear the risks, according to Citigroup Inc.

With the Democrat-led legislature and Republican Governor Bruce Rauner unable to forge agreement on how to close the state's chronic budget deficits, Illinois's 10-year bonds yield 4.43 percent, or 2.45 percentage point more than top-rated municipal borrowers, according to data compiled by Bloomberg. That's the biggest premium since the indexes were started in January 2013.

That may mean it's a good time to buy, according to Citigroup. Despite the governmental gridlock, the fifth most-populous state has "strong fundamentals" and the power to tax and grow its way out of the financial hole, the bank said in a report to clients this week, citing the diverse economy and strong legal security backing its debt. While Illinois hasn't had a full-year budget in place since June 2015, it hasn't missed any bond payments and state law has required it to continue making monthly deposits to its debt-service funds.

"The state's credit rating and bond prices have suffered and may present opportunity for a bold investor," analysts Vikram Rai, Jack Muller and Loretta Bu, said. "We strongly encourage investors to take advantage of the cheapness of the front and intermediate IL GOs."

The crisis stems from a fight between Rauner and the legislative leaders over how to plug budget shortfalls that were worsened by the expiration of income-tax increases in January 2015. With agreement elusive, entities like public universities have been stung by the loss of state aid, triggering cuts to their credit ratings.

Citigroup published its report before Illinois Senate Democrats approved an income-tax hike and spending plan without Republican support, making the outlook for a bipartisan, comprehensive solution even more uncertain. The Senate bills still need approval by the House. The state has until May 31 to approve a budget by a simple majority. Starting June 1, a three-fifths majority is needed, making a deal even more difficult.

Moody's Investors Service and S&P Global Ratings have warned of potential rating cuts if the state enters a third year without a budget. Many of Citigroup's clients expect a one-notch downgrade, and that drop looks like it's already been priced in, according to the bank's analysts. A multi-notch downgrade to junk isn't likely, Citigroup said.

Bloomberg Markets

by Elizabeth Campbell

May 24, 2017, 9:34 AM PDT

- MSRB to Establish Continuing Education Requirements for Municipal Advisors.
- The Countdown to June 7, 2017….. Are You Ready?
- SIFMA: All Bonds Used for Publicly Accessible Infrastructure Should be Treated as GOs.
- SIFMA Submits Comments to the SEC on Proposed Amendments to Rule 15c2-12.
- BDA Submits Comment Letter: SEC Proposed Amendments to 15c2-12.
- Dodd-Frank Rollback Could Hinder Funding of Accounting Standards Board.
- Municipal Bond Market: A Tech Tipping Point Is Here.
- Those of you involved in the dissolution of CA redevelopment agencies should take a look at *City of Santa Maria v. Cohen*.
- And finally, Missing the Forest for the Trees (if by "Trees" You Mean "Sex Offenders") is brought to us this week by *United Union of Roofers, et. al. v. North Allegheny School District*, in which roofers' union sued school districts to enjoin the districts from running standard-issue background checks on roofers. A bold move, to be sure, but some folks might recommend that you instead hang your head and quietly slink away, rather than call attention to the fact that EIGHT members of a single roofing crew failed their background checks. Just a thought.

INDEMNITY - ARIZONA

City of Phoenix v. Glenayre Electronics, Inc.

Supreme Court of Arizona - May 10, 2017 - P.3d - 2017 WL 1929472

Worker sued city and others on theory of negligence after he developed mesothelioma caused by long-term exposure to asbestos while installing and repairing water piping on water infrastructure projects.

Case was converted to one for wrongful death upon worker's death. City filed third-party complaint against eight contractors and 82 developers seeking indemnification from liability.

The Superior Court dismissed third-party complaint, and city appealed. The Court of Appeals affirmed. Review was granted.

The Supreme Court of Arizona held that:

- Eight-year statute of repose governing actions based in contract for improvements to real property applied to city's third-party claims against eight contractors, and
- Eight-year statute of repose did not apply to city's third-party claim against developers.

Eight-year statute of repose governing actions based in contract for improvements to real property applied to city's third-party claims against eight contractors hired by city on water infrastructure projects, seeking indemnification from contractors from liability for wrongful death of worker from mesothelioma caused by long-term exposure to asbestos while installing and repairing water piping for contractors. Statute applied "notwithstanding any other statute" and thus, controlled over general statute exempting state from statutes of limitations and rendered inapplicable doctrine "nullum tempus occurrit regi" that time does not run against the king.

City code providing that developers granted permits for improvements to real property agreed to indemnify and hold city harmless city from suits arising out of any act or omission by permittee that resulted in injury to or death of any person did not create relationship between city and developers "based in contract" for development, sale, or improvements to real property, and thus, eight-year statute of repose governing actions based in such contracts did not apply to city's third-party claim against developers for indemnification from liability for wrongful death of worker from mesothelioma caused by long-term exposure to asbestos while installing and repairing water piping on water infrastructure projects.

BONDS - CALIFORNIA

City of Santa Maria v. Cohen

Court of Appeal, Third District, California - April 25, 2017 - Cal.Rptr.3d - 11 Cal.App.5th 96 - 2017 WL 1458960 - 17 Cal. Daily Op. Serv. 3962

City, in its own capacity and as successor to city's dissolved redevelopment agency, brought action against Department of Finance and its director for declaratory, injunctive, and writ relief challenging Department's determination that redevelopment property tax trust fund could not be used to pay construction bonds for parking facilities.

The Superior Court determined that city as successor was entitled to use the fund to make the bond payments only to the extent the city's lease payments for parking facilities were insufficient to cover the bond payments. City appealed.

The Court of Appeal held that:

- City was not entitled to use its redevelopment property tax trust fund to pay construction bonds for parking facilities;
- Transferring the obligation to pay the bonds to the city did not violate the city's constitutional debt limit; and
- Department's failure to appeal did not preclude the Court of Appeal from reversing the judgment to the extent that it was in the city's favor.

City, as successor to redevelopment agency, was not entitled to use its redevelopment property tax trust fund to pay construction bonds for parking facilities, regardless of whether the bond payments were "required to be paid from former tax increment revenue," since the obligations were payments scheduled to be made on revenue bonds.

Transferring the obligation to pay construction bonds for parking facilities from a dissolved redevelopment agency to the city that sponsored the agency did not violate city's constitutional debt limit, because the bond debt was held by the city in its separate capacity as the successor to the redevelopment agency, and thus the city and its general fund were insulated from direct liability.

Department of Finance's failure to appeal from the trial court judgment partially granting city's petition for writ of mandate challenging Department's determination that city's redevelopment property tax trust fund could not be used to pay construction bonds for parking facilities did not preclude the Court of Appeal from reversing the trial court's judgment against the Department to the extent that it was in the city's favor, on the city's appeal, since the city's appeal raised the issue of the correct interpretation of the controlling statute.

ZONING & PLANNING - IDAHO

Arnold v. City of Stanley

Supreme Court of Idaho, Boise - February 2017 Term - May 12, 2017 - P.3d - 2017 WL 1968326

Property owners filed a petition for judicial review after their building permit application was denied by city council.

The District Court found in favor of city, and denied property owners' petition for rehearing. Property owners appealed.

The Supreme Court of Idaho held that:

- Denial of property owners' building permit application was not subject to judicial review under Local Land Use Planning Act, and
- Neither party was entitled to attorney's fees.

City council's denial of property owners' building permit application was not subject to judicial review under Local Land Use Planning Act (LLUPA); statutory phrase applying Act to "such other similar applications required or authorized pursuant to this chapter," did not include building permit applications, where LLUPA only mentioned building permits in a section related to development of land designated on a future acquisition map.

Neither party was entitled to attorney's fees in action brought by property owners who sought judicial review after their building permit application was denied by city council, where the question of whether building permit decisions were subject to judicial review under Local Land Use Planning Act (LLUPA) had not been previously decided by a court.

COUNTIES - MISSISSIPPI

Tunica County v. Town of Tunica

Supreme Court of Mississippi - May 11, 2017 - So.3d - 2017 WL 2001158

County brought action against town and school district challenging constitutionality of local and private law requiring county to distribute portions of revenue-based gaming fee to town and school district.

The Circuit Court granted summary judgment for town. County appealed.

The Supreme Court of Mississippi held that:

- County did not have standing to challenge constitutionality of law;
- Law did not violate county's due process rights;
- Constitutional prohibition against special or local laws for benefit of individuals or corporations did not apply;
- Law did not violate constitutional prohibition against special or local laws for benefit of individuals or corporations;
- Law's requirement that certain percentages of fee be used for certain educational purposes did not violate constitutional provision requiring that support of school could be accomplished only through general laws;
- Law did not illegally bind county board of supervisors' successors in office by contract;
- Trial court was not required to hold hearing prior to granting summary judgment to town; but
- Town and school district were not entitled to attorney fees.

INVERSE CONDEMNATION - NEBRASKA

Hill v. State

Supreme Court of Nebraska - March 10, 2017 - N.W.2d - 296 Neb. 10 - 2017 WL 952106

Farmers who used water from river basin brought inverse condemnation action against Department of Natural Resources after Department issued orders and sent closing notices to holders of surface water permits in basin.

The District Court dismissed complaint, and farmers appealed.

The Supreme Court of Nebraska held that:

- Farmers did not have property rights superior to interstate Compact;
- Department's actions were not a permanent physical invasion of farmers' property;
- Department's actions did not deprive farmers of all economically beneficial use of their property; and
- Department's failure to curtail ground water pumping that depleted surface waters was not a taking.

Farmers who used water from river basin did not have property rights superior to interstate Compact that allowed diversion of surface water from basin for beneficial use, and thus Department of Natural Resources order and closing notices sent to farmers was not a taking in farmers' inverse condemnation action. Compact was federal law, and as federal law, the allocations set forth under the Compact were supreme law in State, and the Department had to ensure State remained within its allocation under the Compact.

Regulatory actions undertaken by Department of Natural Resources, in which Department sent order and closing notices sent to farmers who used river basin, was not a permanent physical invasion of farmers' property in farmers' inverse condemnation action; farmers' property rights to use the water were subject to Department's enforcement of compliance with Compact between states for use of river basin.

Regulatory actions undertaken by Department of Natural Resources, in which Department sent order and closing notices sent to farmers who used river basin, did not deprive farmers of all economically beneficial use of their property, although farmers showed there was a decrease in production during two growing seasons on the farmers' land, the data indicated there was still production on the land.

Department of Natural Resources did not have authority to administer a river basin's ground water users for the benefit of surface water appropriators, and thus Department's failure to curtail ground water pumping that depleted surface waters that was used by farmers was not a taking to support inverse condemnation action brought by farmers against Department.

EMINENT DOMAIN - NEW YORK

Citibank, N.A. v. Village of Tarrytown

Supreme Court, Appellate Division, Second Department, New York - April 19, 2017 - N.Y.S.3d - 149 A.D.3d 931 - 2017 WL 1394145 - 2017 N.Y. Slip Op. 02981

Property owner brought action seeking review of village's determination that it was necessary to acquire portion of owner's property by eminent domain.

The Supreme Court, Appellate Division, held that owner's assertion that alternate sites would better serve purposes of village, which determined that it was necessary to acquire portion of owner's property for public parking, was not a basis for relief under judicial review provision of eminent domain law. Village, as condemnor, had broad discretion to decide which land was necessary to fulfill its stated purpose.

IMMUNITY - NEW YORK

Olenick v. City of New York

Supreme Court, Kings County, New York - May 4, 2017 - N.Y.S.3d - 2017 WL 1743179 - 2017 N.Y. Slip Op. 27143

Cyclist brought action against city to recover for personal injuries allegedly sustained in a collision with a pedestrian on a bridge.

City moved for summary judgment and to dismiss.

The Supreme Court, Kings County, held that:

- City's development and implementation of plan to update bicycle and pedestrian path markings on bridge to increase visibility was a proprietary function;
- City was not entitled to qualified immunity; and
- Issue of material fact existed as to whether city's failure to conduct safety study contributed to collision.

City's development and implementation of plan to update bicycle and pedestrian path markings on bridge to increase visibility was a proprietary function analogous to roadway planning, design, and maintenance, precluding governmental function immunity in cyclist's negligence claim against city arising from collision with pedestrian.

City was not entitled to qualified immunity in negligence claim brought by cyclist to recover damages for injuries sustained during collision with pedestrian while in bike path on bridge based on its development of a plan to update bicycle and pedestrian path markings on bridge to increase visibility, where city had not conducted a study regarding avoidance of collisions between cyclists and pedestrians before creating the plan.

Genuine issue of material fact existed as to whether city's failure to conduct safety study of collisions between pedestrians and bicycles on bridge before developing plan to update bicycle and pedestrian path markings on bridge to increase visibility was proximate cause of cyclist's collision with pedestrian while he was biking in bike path on bridge, precluding summary judgment in favor of city in cyclist's negligence claim.

CONSTRUCTION - PENNSYLVANIA

United Union of Roofers, Waterproofers, and Allied Workers, Local Union No. 37 v. North Allegheny School District

Commonwealth Court of Pennsylvania - April 18, 2017 - Not Reported in A.3d - 2017 WL 1382227 - 208 L.R.R.M. (BNA) 3607

School Districts appealed an order of the Court of Common Pleas granting a preliminary injunction to United Union of Roofers, Waterproofers, and Allied Workers, Local Union No. 37 (Union). The preliminary injunction enjoined School Districts from conducting background checks mandated by the Public School Code of 19491 (School Code) and the Child Protective Services Law on Union members assigned to roofing projects on School District property because School Districts did not show that the workers will have "direct contact with children." The trial court further ordered School Districts to take corrective action to permit Union's members who had been excluded by the unauthorized background checks to have access to the work sites.

School Districts appealed, arguing that the trial court erred in granting the preliminary injunction because Union failed to establish any of the legal prerequisites for injunctive relief.

The Commonwealth Court agreed, reversing the trial court's order.

"As noted, the trial court granted a preliminary injunction that did two things: (1) allowed previously disqualified Union members access to School Districts' work sites, and (2) prohibited School Districts from doing background checks on Union members unless the position applied for involved direct contact with children. In doing so, the trial court largely focused on the level of interaction between Union members and children at School Districts' project sites and determined that Union was likely to succeed on the merits of its declaratory judgment action because its members do not have direct contact with children."

"We will not address that question. The underlying declaratory judgment proceeding will resolve the legal question of what constitutes "direct contact with children" under the School Code. Likewise, it will resolve the factual question of whether Union members actually have that level of contact with children. Accordingly, we decline to address these matters at this juncture. However, we will reverse the grant of the preliminary injunction because the injunction does not restore the parties to the status quo during the pendency of the underlying complaint."

"By enjoining School Districts from performing their standard background checks, the trial court disturbed the status quo. As established by the evidence, since at least 2011 School Districts have been doing background checks on employees of independent contractors required by Section 111 of the School Code without ascertaining whether those employees will have direct contact with children. Requiring School Districts 'to show a causal connection between any criminal offenses and the position for which employees are to work to justify an exclusion' does not preserve the status quo. Instead, it institutes a new status quo by revising School Districts' longstanding background check practices."

GOVERNMENTAL UNITS - TEXAS

Marino v. Lenoir

Supreme Court of Texas - April 28, 2017 - S.W.3d - 2017 WL 1553095 - 60 Tex. Sup. Ct. J. 832

Patient's mother and father of patient's living child brought medical malpractice suit against resident physician, among others, following the death of patient and her two unborn children.

The District Court granted physician's motion to dismiss under the Tort Claims Act's election-o--remedies provision for employees of governmental units. Mother and father appealed. The Houston Court of Appeals reversed in part and remanded. Physician petitioned for review.

The Supreme Court of Texas held that physician was not an employee of a governmental unit, and thus dismissal under the Act was not warranted.

State university's medical foundation did not have legal right to control resident physician's tasks at clinic, as required for physician to be "employee" of governmental unit, and thus dismissal of medical malpractice action against physician was not warranted under Tort Claims Act's election-o--remedies provision. Even though foundation reserved right to change terms and conditions of employment, clinic's teaching staff and program director assigned responsibility to physician, foundation did not own clinic, and foundation's bylaws stated that it did not control physicians who worked at hospitals it did not own.

TAX - NEW JERSEY

White Oaks Country Club, Inc. v. Township of Franklin

Tax Court of New Jersey - March 7, 2017 - 2017 WL 931393

State Department of Environmental Protection ("DEP") alleged that its property – on which a for-profit entity operated a golf course and related amenities – was exempt from local property taxes.

The Tax Court concluded that the statutory requirements for an exemption set forth in N.J.S.A. 54:4–3.3 were satisfied for the subject property for tax year 2012.

"The exemption at issue here is established in N.J.S.A. 54:4–3.3, and does not require charitable use of the subject property. It is, instead, a public use, consistent with the statutory mandate of the agency that owns the property, that determines whether an exemption applies. The fact that plaintiff does not engage in charitable activity—indeed, there is no dispute that plaintiff is a for-profit business enterprise—does not defeat the exemption in this case. Plaintiff's use of the property furthers the public purpose of the DEP by providing recreational opportunities to the public on land purchased with Green Acres funds."

NCPPP Lauds Pioneers of P3 Transportation Infrastructure.

The National Council for Public-Private Partnerships (NCPPP), the leading association in the field, is proud to announce its inaugural list of the Top 10 P3 Transportation Infrastructure Pioneers.

"Public-private partnerships are as much about the people driving the projects as they are about the projects themselves," said Executive Director Todd Herberghs. "It takes tenacity, creativity and will to incorporate this alternative project delivery method into the traditional financing and procurement model."

A select committee of NCPPP members identified 10 people who have embodied these characteristics while contributing meaningfully to the public or private sector sides of the field. These individuals have seen partnerships as another path forward to improving our national infrastructure network and have overseen the completion of some of the most significant transportation projects and the passage of some of the most groundbreaking P3 laws in the past three decades.

Continue reading.

NCPPP

May 17, 2017

S&P: Stock Market Gains Lift Revenues In California's Revised Budget Plan For Fiscal 2018.

California's revised budget proposal for fiscal 2018 aims to keep the state's finances on a structurally oriented path while adding to its budget reserves, in S&P Global Ratings' view.

Continue Reading

May 15, 2017

Munis in Focus: Guided by Value as the Policy Outlook Brightens.

While we think it's too early to shout "all clear," investors now have more information about policies likely to affect the municipal bond markets this year, and relative valuations are looking more attractive than they did a few months ago.

PIMCO's 2017 Municipal Market Outlook called for greater caution this year due to uncertainty on a number of fronts: From a macro perspective, rising inflation, the potential for large fiscal expansion following the U.S. Republican election sweep, and fears of an imminent trade war painted a potentially volatile picture. Municipals underperformed other U.S. credit asset classes following the 2016 election as tax reform, near the top of the new administration's agenda, loomed over the market.

But so far this year, flows into municipal bond funds have been positive (if only marginally), and recent trends point to further potential upticks as the policy outlook turns more favorable.

Continue reading.

BARRON'S

BY DAVID HAMMER AND MATTHEW SINNI

MAY 22, 2017

The Countdown to June 7, 2017….. Are You Ready?

On June 7, 2017, the Final Issue Price Regulations (the "**Final Regulations**") become effective. More specifically, the Final Regulations apply to bonds sold on or after June 7, 2017 and without regard to the bonds' issuance date. Suffice it to say, if you have read our blog or been practicing in the area of municipal finance for any period of time, you know that June 7, 2017 is a date that is YEARS in the making.

Continue reading.

The Public Finance Tax Blog

By Joel Swearingen on May 19, 2017

Squire Patton Boggs

Saudis' $20 Billion Wager With Blackstone Marks Record Bet on U.S. Public Works.

Trump's infrastructure push cited by Saudis making huge commitment toward Blackstone's $40 billion goal

Saudi Arabia joined the parade of investors into U.S. public works by pledging a record investment with Blackstone BX 6.73% Group LP.

The country's Public Investment Fund agreed to commit $20 billion to Blackstone's new infrastructure fund in the latest push around the world by large investors to buy up airports, pipelines and other public projects, particularly in the U.S.

Blackstone said Saturday the kingdom's money would seed an investment fund that the New York private-equity giant hopes will reach $40 billion and have spending power of up to $100 billion once debt is added to the mix.

The commitment shows how Blackstone continues to distance itself from Wall Street rivals by raising ever larger sums from investors like sovereign-wealth funds, public pensions and rich families. With assets of $368.2 billion as of March 31, it manages nearly twice as much as its closest competitor, Apollo Global Management LLC, and each of Blackstone's four platforms—real estate, private-equity, hedge funds and credit—are among the largest investing businesses of their kind.

Saudi Arabia's planned $20 billion investment alone would be about 25% larger than the biggest infrastructure fund ever raised, a $15.8 billion pool Global Infrastructure Partners completed earlier this year, according to data from industry tracker Preqin. Global Infrastructure Partners, or GIP, is also based in New York and its chief executive, Adebayo Ogunlesi—like Blackstone Chief Executive Stephen Schwarzman —is one of the business leaders President Donald Trump has named to a presidential advisory group.

Last year, investors committed a record of about $56 billion to private infrastructure funds and fund managers collected another $29 billion during the first quarter of this year, according to Preqin. The data provider has said managers of more than 150 other private infrastructure funds are soliciting investors for another $100 billion or so.

Carlyle Group LP and BlackRock Inc. are among other big investment firms that moved recently to beef up their infrastructure investing businesses.

The Blackstone fund will have a broad mandate to find investments, according to a person familiar with the firm's plans, with the ability to invest in things such as hospitals as well as assets that are more typically considered infrastructure, such as pipelines, roads and utilities. Also, unlike most of the private funds the New York firm manages, which lock up investors' cash for 10 years or so, the infrastructure fund will have no expiration date. That structure gives the firm more time to find investments and reduces the pressure to sell them on a deadline.

Both features could help Blackstone circumvent two big issues infrastructure investors have encountered in the U.S.: limited investment opportunities outside the energy sector, and uncertainty over who will eventually buy some assets, such as roads and municipal utilities.

Saudi officials, who are seeking to diversify the kingdom's economy by investing its oil wealth, on Saturday alluded to Mr. Trump's campaign promises to steer $1 trillion into U.S. public works. The Public Investment Fund managing director, Yasir Al Rumayyan, said the pact reflects "our positive views around the ambitious infrastructure initiatives being undertaken in the United States as announced by President Trump."

Yet the flood of cash into infrastructure funds can mostly be attributed to fairly reliable returns that sometimes beat the stock market and often outperform private-equity funds that make arguably riskier investments, such as corporate buyouts, according to Preqin. Still, there have been some prominent flops, including a rash of bankrupt toll roads.

Through late last year, the median annualized return after fees from infrastructure funds launched between 2004 and 2013 has ranged from 5.7% for those that began investing in 2007 to 14.4% for funds launched in 2004, according to Preqin.

Blackstone's foray into infrastructure won't be its first as it once struggled to raise a fund in the wake of the financial crisis. The executives who led the effort left the firm and in 2011 launched their own firm, Stonepeak Infrastructure Partners.

Saturday's pact was announced in Riyadh during Mr. Trump's visit to Saudi Arabia. The president has called boosting private investment in U.S. infrastructure a priority of his presidency.

The Wall Street Journal

By Ryan Dezember

Updated May 20, 2017 4:55 p.m. ET

Write to Ryan Dezember at ryan.dezember@wsj.com

Dodd-Frank Rollback Could Hinder Funding of Accounting Standards Board.

The anticipated rollback of the 2010 Dodd-Frank financial-overhaul law could affect funding the Government Accounting Standards Board receives, according to the not-for-profit organization that oversees it.

The board, known as the GASB, sets financial accounting and reporting standards for state and local governments in the U.S.. The Financial Accounting Foundation is responsible for the oversight and administration of the activities of both the GASB and the Financial Accounting Standards Board, which is responsible for standards of both public and private companies as well as not-for-profit organizations.

A provision in Dodd-Frank allows the foundation to charge a fee for GASB's services. The fee is paid by broker dealers regulated by the Financial Industry Regulatory Authority, or FINRA, that trade in the municipal bond market.

Before the introduction of the provision, the board was voluntarily funded by organizations that are required to follow the standards the GASB writes, creating a potential conflict of interest, said Matthew Broder, vice president of public affairs at the foundation.

"For the past six years, the GASB has enjoyed reliable and independent funding fees to support operations," he said. The funding could be threatened if the Dodd-Frank Act is pared back, Mr. Broder added.

GASB fees made up 18% of the Financial Accounting Foundation's total revenue in 2016. The organization is also funded by fees for FASB's services, that come from a provision in the 2002 Sarbanes-Oxley corporate-governance law. FASB is funded through fees paid by publicly-listed companies and entities in the U.S.. More than half of the foundation's revenue in 2016 came from such fees.

The scaling back of financial regulations faces opposition. The Council of Institutional Investors, an advocacy group, sent a letter to the House of Representatives Wednesday asking them to oppose the Financial Choice Act, a bill that aims to roll back both Sarbanes-Oxley and Dodd-Frank.

THE WALL STREET JOURNAL

By RHEAA RAO

May 19, 2017 7:55 am ET

[Senate Environment and Public Works Hearing on Financing Infrastructure.]

On Tuesday, May 16, the Senate Environment and Public Works Committee held a hearing entitled "Leveraging Federal Funding: Innovative Solutions for Infrastructure." The hearing focused on different funding mechanisms for infrastructure projects. Witnesses discussed the advantages and disadvantages of public-private partnerships (P3s) as compared to direct federal spending from the Highway Trust Fund and various Department of Transportation Grants.

SIFMA Hearing Summary

Hearing with Secretary Chao Held by Senate Environment and Public Works Committee.

On Thursday, May 18, the Senate Environment and Public Works Committee held a hearing with Secretary of Transportation Elaine Chao. Senators asked Chao for information about the Trump administration's infrastructure goals, and provided their thoughts on funding mechanisms for infrastructure projects. Chao said that the administration would release core principles for its infrastructure program in May, with a broader legislative package due in Q3 2017.

SIFMA Hearing Summary

Supreme Court Rules Municipalities Have Standing To Sue Under The FHA, But Raises The Bar On Showing Proximate Cause.

On May 2, 2017, the United States Supreme Court held that a municipality has standing to sue for injuries under the Fair Housing Act ("FHA") for discriminatory lending. However, the Court declined to decide whether the municipality's injury was proximately caused by the alleged FHA violation.

The Proceedings in the Southern District Court of Florida and Eleventh Circuit

The City of Miami, Florida, (Miami) filed complaints in the Southern District of Florida (District Court) against two national banks (Banks) alleging violations of the FHA. Miami alleged that the Banks engaged in discriminatory lending by providing minorities with home loans containing less favorable terms than similarly situated nonminority borrowers. Miami also claimed that the Banks failed to extend fair refinancing and loan modification opportunities to minorities. Miami claimed that as result of these alleged FHA violations, minorities were unable to stay current on their mortgages, resulting in increased foreclosures in minority communities. As a result of these foreclosures, property values in the minority communities supposedly decreased, which affected the amount of property taxes Miami claimed that it could collect. Miami also alleged that the foreclosures resulted in blight within these communities, resulting in increased expenditures of municipal services, such as police and fire departments in those communities.

The District Court dismissed Miami's complaints, finding that Miami's injuries were purely economic and not discriminatory and therefore fell outside the zone of interests that the FHA was intended to protect. The District Court also held that Miami failed to show how its injuries were proximately caused by the Banks' lending practices.

Miami appealed the District Court's decision to the Eleventh Circuit which held that Miami's injuries fell within the zone of interests contemplated by the FHA and that Miami adequately alleged its injuries were proximately caused by the Banks' alleged lending practices. In finding that Miami sufficiently pled its alleged injuries were proximately caused by the Banks in order to survive a motion to dismiss, the Eleventh Circuit focused solely on whether Miami's injuries were a foreseeable result of predatory lending.

The United States Supreme Court's Majority Opinion

The Supreme Court was faced with two questions: (1) whether Miami had adequately alleged standing to bring an FHA claim and (2) whether Miami had adequately alleged that the alleged lending misconduct proximately caused Miami to lose property-tax revenue and spend more on municipal services.

The Supreme Court, in an opinion written by Justice Breyer, conducted its analysis in two parts. First: (1) in a 5-3 vote, the Court agreed with the Eleventh Circuit that Miami had standing to sue under the FHA. In an outcome joined by the entire Court, it decided that alleging "foreseeability alone" is not enough to meet the FHA's proximate cause requirement. The Supreme Court declined to apply its proximate cause formulation to Miami's allegations. Instead, the Court tasked the Eleventh Circuit with determining whether Miami's alleged injuries were proximately caused by the Banks' actions.

In reaching its conclusion, the Court determined that Miami's injuries were within the zone of interests the FHA protects. The Supreme Court focused on the definition of "aggrieved person" as defined by the FHA. Under the FHA, an "aggrieved person" has standing to bring an action. The Supreme Court, citing its previous ruling on the definition of "aggrieved persons" under the prior version of the FHA, noted that "aggrieved person" is broadly defined to include any person who claims to have been injured by a discriminatory housing practice or believes that such injury will occur. Adopting the same broad definition of aggrieved persons under the amended FHA, the Court noted that Congress failed to limit the Court's broad definition of "aggrieved persons" when it amended the FHA and, therefore, acquiesced to the Court's definition of the term. The Court further compared Miami's claims to those made by a municipality in *Gladstone Realtors v. Village of Bellwood*, 441 U.S. 91 (1979) . In *Gladstone*, the Court ruled that the village had standing to sue under the FHA based on alleged injuries due to reduced integration in the community, which resulted in lower tax revenues. The Court noted that Miami's injuries, reduced property taxes and increases in expenditures for municipal services, were sufficient injuries contemplated by the broad definition of "aggrieved persons."

In holding foreseeability alone is insufficient to show proximate cause, the Court cited the well-established common law principle that any injury must be proximately caused by the alleged conduct. The Court noted that although it may be foreseeable that a municipality might be injured by the Banks' alleged practices, the FHA requires a direct relationship between the injury and the alleged violative conduct. Applying common law principles, the Court noted that the injury suffered by Miami must occur within the "first step" of the alleged act. The Court also noted that due to the nature of the housing market and its economic and social implications, nothing in the FHA suggests that Congress intended to allow a suit for injuries merely tangentially related to an alleged violation of the FHA and doing so would result in "massive and complex damages litigation."

The Court, however, declined to dictate the boundaries of proximate cause under the FHA or to apply its ruling to the allegations of the complaints. Instead, the Court vacated the judgments below and remanded to the Eleventh Circuit for that court to apply the new proximate cause formulation.

The Concurrence and Dissent By Justice Thomas

In his Opinion, Justice Thomas stated that he would have held that (1) Miami's injuries fell outside of the FHA's zone of interests and, therefore, Miami lacked standing to bring suit; and (2) that Miami's injuries were too remote to satisfy the FHA' proximate cause requirement. However, Justice Thomas concurred with the majority's decision that foreseeability alone is insufficient to show proximate cause.

In addressing Miami's standing, Justice Thomas distinguished *Gladstone* and the other FHA cases upon which the majority opinion relied on the basis that those cases "at least arguably" involved discriminatory injuries falling within the zone of interests. Justice Thomas described the "quintessential 'aggrieved person'" as "a prospective home buyer or lessee discriminated against during the home-buying or leasing process." Justice Thomas noted that Supreme Court precedent extended "aggrieved persons" status to those who live in a segregated neighborhood, resulting from discriminatory housing practices, and that these cases illustrate the outer limits of protected interests under the FHA. He also noted that Miami's interests are purely economic, unlike those claimed in *Gladstone*, which included both economic injury and changes to the "racial composition" of the community resulting from discriminatory practices. Justice Thomas stated that the FHA was not intended to redress purely economic injuries.

In addressing Miami's lack of proximate cause, Justice Thomas wrote that the causal links between Miami's injuries and the Banks' alleged violations were "exceedingly attenuated," observing that there was a lengthy and "attenuated chain of causation" between the Banks' alleged actions and Miami's injury. Pointedly, Justice Thomas predicted the "Court of Appeals will not need to look far to discern other independent events that might well have caused the [Miami's] injuries."

Practical Impact

The Supreme Court's decision establishes a potentially expansive zone of interests for FHA claims brought by municipalities, thereby recognizing standing for plaintiffs situated similarly to Miami, assuming that they can allege the requisite proximate causation. This portion of the opinion may encourage municipalities to bring claims against mortgage lenders and servicers under the Act.

The Supreme Court's holding that foreseeability alone is insufficient to allege proximate cause raises the bar for alleging proximate cause but does not fully clarify what is required in the FHA claim context. However, Justice Thomas' delineation of the many causal links between the Banks' alleged actions and Miami's injuries shows why it will likely be difficult for Miami and other municipalities to allege proximate cause in attempting to recover lost property taxes and other purely economic damages.

Article by David N. Anthony, Amy Pritchard Williams, Andrew B. Buxbaum and David Long, Jr.

Last Updated: May 12 2017

Troutman Sanders LLP

Green Bonds: Fitch Ratings and Market Overview.

Green bonds are debt securities issued to raise capital specifically to support climate related or environmental projects.

Fitch Ratings provides credit ratings for green bonds based on the underlying credit risk in line with relevant sector criteria. For specific issues, this includes standard credit considerations used to assess credit risk including vulnerability to default and an expectation of relative recovery rates in the event of default. Fitch does not assess the environmental integrity – the "greenness" – of the bond or its stated use of proceeds.

Continue reading.

Donald Trump Signs Measure Ending Safe Harbor for State-Run Private-Sector Plans.

Legislation removing safe harbors for states to implement private-sector retirement programs was signed Wednesday by President Donald Trump, who signed a similar measure against cities and large political subdivisions on April 13.

Rep. Tim Walberg, R-Mich., chairman of the Education and the Workforce Subcommittee on Health, Employment, Labor, and Pensions, in a statement called the safe harbors "a misguided regulatory loophole that would discourage small businesses from providing retirement benefits and put the hard-earned savings of workers at risk."

Mr. Walberg chaired a subcommittee hearing Thursday on regulatory barriers to retirement saving, including what he called the "flawed fiduciary rule" from the Department of Labor that becomes effective June 9. Allowing for more electronic disclosure in retirement accounts and easing federal restrictions on open multiple employer plans, would help improve access to retirement savings programs, Mr. Walberg and several witnesses said at the hearing.

PENSIONS & INVESTMENTS

BY HAZEL BRADFORD · MAY 18, 2017 2:36 PM · UPDATED 4:08 PM

Tax-Exempt Financing For Waste Disposal/Recovery And Wastewater Treatment.

Introduction

Tax-exempt bond financing is available for certain water and sewage, solid waste disposal/recovery project, waste-to-energy projects, and wastewater treatment projects. Bond financing may be available for public, private and public-private partnership projects. Bonds might be issued directly by a city or a county for government-owned project pursuant to Georgia's Revenue Bond Law. A privately owned and operated project might be financeable through Georgia's Development Authorities Law. A government-owned project or a public-private partnership project might be financed with Georgia's Resource Recovery Development Authorities Law or Georgia's Regional Solid Waste Management Authorities Law. In order for the bonds to be issued to qualify for tax-exemption, additional requirements will apply. This memorandum provides a brief overview.

Revenue Bond Law

The Revenue Bond Law authorizes every city and county to issue revenue bonds for the purpose of financing various government-owned undertakings, including projects for the collection, treatment and distribution of water, the collection, treatment, re-use or disposal of solid waste, and for the collection, treatment and disposal of sewage, waste and storm water. Such projects are to be operated by the city, county or authority on a revenue-producing basis, and bonds issued for such purpose may be secured only by revenues of such a project, or other revenue-producing undertakings of the city, county or authority.

Development Authorities Law

The Development Authorities Law creates a development authority that can be activated for any city or county to issue revenue bonds for projects including water pollution control facilities and solid waste disposal facilities. A water pollution control facility is any property used to abate or control water pollution or contamination by removing, altering, disposing or storing pollutants, contaminants, wastes or heat, including the necessary pumping, power and other equipment, sewers, holding ponds, lagoons and related facilities, if such facilities are in furtherance of applicable federal, state or local standards for the abatement or control of water pollution or contamination. A solid waste disposal facility is any property used for the collection, storage, treatment, utilization, processing or final disposal of solid waste, including garbage, refuse, or other discarded solid materials, and also solid waste materials resulting from industrial and agricultural operations and from community activities, but excluding domestic sewage.

No project financed under the Development Authorities law may be operated by a development authority or by any city, county or other governmental subdivision, but must be leased or sold to one or more persons, firms or private corporations. The lessee or purchaser must be required to pay all costs of operating and maintaining the lease or purchased property and pay rentals or installments in amounts sufficient to pay the principal and interest and premium, if any, on all bonds and other obligations issued for the project.

Resource Recovery Development Authorities Law and Regional Solid Waste Management Authorities Law

The Resource Recovery Development Authorities Law and the Regional Solid Waste Management Authorities Law are two similar pieces of legislation creating in each city or county authorities denominated either a resource recovery development authority or a solid waste management authority. Such authorities have power to issue revenue bonds to finance projects for the collection, transportation, management, storage, treatment, utilization, processing or final disposal of solid waste, or the conversion of solid waste or resources contained therein into steam, electricity, oil, charcoal, gas or other products or energy sources, including any property used in connection with the facility for the extraction, collection, storage, treatment, processing, utilization or final disposal of resources contained in solid waste. Such authorities also have power to finance any property used in the extraction, collection, storage, treatment, processing or utilization of water resources and the conversion of such resources into any useful form of energy. A resource recovery development authority expressly authorizes projects similar to those described above for the sewage sledge. A solid waste management authority or a resource recovery development authority can be activated jointly or on a regional basis by any number of cities or counties.

Distinctive to resource recovery development authorities and solid waste management authorities are their ability to enter into intergovernmental contracts with cities and counties, and thus engage in contract revenue bond obligation financing. One or more cities and counties and one of these authorities can finance a project and avoid the requirement for the holding of a voter referendum to authorize general obligation bonds and the requirement that city or county revenue bonds be secured only by revenue-producing undertakings by engaging in a contract revenue bond financing. The intergovernmental contracts provision of the Georgia Constitution permits two or more public bodies to contract for a term up to 50 years for the provision of services which the contracting parties are authorized by law to undertake or provide. Consequently, one of these authorities can issue its revenue bonds for a project and enter into a contract to provide the use of the project to the city or county, and the city or county can pledge its full faith and credit to that contract. That contract can be pledged to the payment of the authority's revenue bonds, which are treated in the financial marketplace, in effect, as the general obligations of the city or county.

Resource recovery department authorities also have power to enter into leases of project or contracts with respect to the use of project with private persons, firms and corporation. Thus, all or any part of the use of a project may be transferred to private parties, enabling private-public partnerships for solid waste disposal and reclamation facilities.

Governmental Projects versus Private Activity Projects

If a waste or wastewater project is owned and operated by a government unit, or owned by a government unit and operated by a private company under a qualifying management contract, tax –exempt governmental bonds may be utilized for the financing. For more information on governmental bonds see our "Overview of Governmental Bond Financing." Such financings are not subject to narrow constraints on the types and amounts of property that can be financed, the necessity to obtain an allocation of a limited amount of bond issuing authority (volume cap) available to the State, the need to publish and conduct a public hearing, the limitation on the amount of issuance costs, the applicability of alternative minimum tax to interest earned on the bonds and, in some cases, the tax disadvantages placed on the purchase of such bonds by banks and other financial institutions. However, if the project is to be owned or substantially utilized by private parties, bonds issued will be treated as "private activity bonds" and subject to these restrictions (except that the need to obtain an allocation of volume cap does not apply to a solid waste facility that is government-owned but used by private parties).

If a facility is privately owned, any bonds issued would be treated as private activity bonds. Also, bonds are private activity bonds if the project financed is to be used more than 10%, directly or indirectly, in a private trade or business and if payments from or property of a private business are to secure or repay, directly or indirectly, 10% or more of the bonds. For example, if a government-owned facility is contracted on a long-term basis to process waste from private companies that would utilize more than 10% of the capacity of the facility, this private use satisfies the "use" portion of the test, and the revenues to be paid under the contract probably satisfy the "security" portion of the test, and bonds issued for the project would be private activity bonds.

Requirements for Private Activity Solid Waste Projects

A solid waste facility must comply with several specific requirements to utilize tax-exempt private activity bonds. Such a facility or portion thereof must be used for the collection, storage, treatment, utilization, processing or final disposal of solid waste. "Solid waste" for this purpose is defined as garbage, refuse, and other discarded solid materials including solid waste materials resulting from industrial, commercial and agricultural operations and from communities activities, but does not include solids or dissolved materials in domestic sewage or other significant pollutants in water resources, such as silt, dissolved or suspended solids in industrial wastewater effluents, dissolved materials in irrigation return flows or other common water pollutants. The solid waste must be useless, unused, unwanted or discarded solid material that has no market or other value at the place where it is located. If a person is willing to remove such property at his own expense, but is not willing to purchase such property at its location at any price, such material is treated as waste. The material may be valuable in the hands of the recycler, but retains its classification as waste if it was valueless in its original location, taking collection and transportation costs in account.

Although any governmental recycling and waste-to-energy project may be financeable with tax-exempt bonds, there are limitation on the types of private activity projects that qualify for tax-exempt financing. A facility that disposes of solid waste by reconstituting, converting or otherwise recycling it into material which is not waste is financeable on a tax-exempt basis as a solid waste disposal facility only so long as the solid waste constitutes at least 65% by weight or volume of the total materials introduced into the recycling process. A recycling facility will not fail to qualify for tax-exempt financing only because it operates at a profit. However, private activity facilities that further process saleable waste-derived products into finished products are not financeable with tax-exempt solid waste bonds (although they might be financeable as tax-exempt manufacturing bonds — See our “Overview of Private Activity Bonds and Incentives). If the facility has both a solid waste disposal function and another function, only the portion of the cost of the property allocable to the solid waste disposal function may be financed with tax-exempt solid waste bonds. For example, metals and glass can be separated from solid waste and then further sorted, sized, cleaned and pulverized. The private activity solid waste bonds cannot be used, however, to finance facilities that would further process the saleable metal or glass into a finished product.

If materials or head are recovered from the solid waste disposal process, the waste disposal function includes processing of such materials or heat into saleable or useable form, but does not include further processing which converts the materials or heat into other products.

Financing for Private Activity Wastewater Projects

A private activity wastewater, pretreatment facility may be financed with tax-exempt bonds only if it is deemed functionally related and subordinate to a government-owned sewage system. Sewage disposal facilities are defined as property used for the collection, storage, treatment, utilization, processing or final disposal of sewage. Facilities tied directly to sewage facilities that pretreat waste, if the waste is required to be treated prior to release into the sewage system, may constitute a functionally related and subordinate facility that is financeable with tax-exempt bonds. Property is not a functionally related and subordinate to a sewage facility if it is not a character size commensurate with the character and size of the sewage facility.

Summary

Georgia law provides a number of issues and methods for issuing tax-exempt bonds for solid waste disposal, recovery, recycling and waste-to-energy projects, and sewage and wastewater treatment and pretreatment projects. However, if the facility is to be privately owned or substantially used in a private trade or business, special federal tax rules come into play to determine whether and to the extent the facility can be financed with tax-exempt bonds. With the proper legal structuring, however, many privately-utilized waste projects, as well as governmental projects, can be financed on a tax-exempt basis.

Article by James P. Monacell

Last Updated: May 4 2017

Smith Gambrell & Russell LLP

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

Transportation Developments In The Trump Administration's First 100 Days: Holland & Knight

In January 2017, Holland & Knight Transportation & Infrastructure lawyers and senior advisors prepared 20 posts for the 20 days leading to President Donald Trump's inauguration regarding what to expect from the Trump Administration, the first session of the 115th Congress and how business planning could be impacted for those in the industry. In this alert, we have prepared updates, if relevant, on transportation-related developments in the Trump Administration's first 100 days, including issues involving Maritime, Motor Carriers, Rail and Antitrust.

Continue reading.

Article by Linda Auerbach Allderdice, J. Michael Cavanaugh, Lawrence J. Hamilton II, David C. Kully, Michael T. Maroney, Andrew J. Steif, Eric Lee and Jameson B. Rice

Last Updated: May 9 2017

Holland & Knight

Why June Is Important For Muni Bond Investors.

While Puerto Rico continues to dominate the muni market headlines, trading in Puerto Rico bonds has totaled less than 3% of muni trading volume so far this quarter (through May 15, according to MSRB data from Bloomberg).

With the bulk of attention focused elsewhere, muni yields have generally moved lower so far this year, lifting most of the muni indices into positive territory. Bond prices rise when yields fall.

Continue reading.

ETF.COM

PATRICK LUBY

May 18, 2017

Patrick Luby is the municipals strategist with CreditSights Wealth.

U.S. Conference of Mayors to Stress Importance of Tax-Exempt Municipal Bonds During Infrastructure Week.

WASHINGTON, DC–(Marketwired – May 16, 2017) – On the heels of President Trump reaching 100 days in office, U.S. Conference of Mayors (USCM) President Oklahoma City Mayor Mick Cornett will add his voice to the need for additional infrastructure investment and the preservation of the tax exemption on municipal bonds at events in the nation's capital during Infrastructure Week (May 15-19).

On Wednesday, May 17, Mayor Cornett will join other local as well as state leaders at two events to emphasize the vital importance of protecting tax-exempt bonds as the key tool in supporting local infrastructure investment. In the morning, at 10 am, he will participate in a joint forum of the National Association of Counties, National League of Cities and The United States Conference of Mayors to discuss infrastructure investment and the pressing need to protect tax-exempt bonds. In the afternoon, at 2 pm, Mayor Cornett will join a "Big 7" state and local government organizations briefing on Capitol Hill, where he will further emphasize the importance of tax-exempt bonds for cities. See schedule below.

For more than a century, municipal bonds have enjoyed tax-exempt status and have been the primary method by which state and local governments finance public capital improvements, mostly infrastructure. These projects are engines of job creation and economic growth.

Over the last decade, tax-exempt municipal bonds have been used to finance critical infrastructure including the construction of schools, hospitals, airports, affordable housing, water and sewer facilities, public power and gas utilities, roads and public transit. According to USCM data, local and state governments financed nearly $1.7 trillion in infrastructure projects through tax-exempt municipal bonds from 2003 to 2012. In the absence of such financing, it would have cost cities up to $500 billion more — dramatically increasing the costs borne by taxpayers for critical infrastructure projects.

"As Congress discusses tax reform measures in the coming months, mayors across the country will fight to preserve the tax exemption on municipal bonds so that we can continue to repair crumbling roads, bridges, water systems, and schools," said Mayor Cornett. "If Congress repeals the exemption, it will strangle infrastructure investment causing economic growth to slow, the elimination of hundreds of thousands of jobs and further deterioration of our national infrastructure. When mayors met with President-elect Trump this past December, he assured us that he supported maintaining the exemption. We were encouraged by that assurance and hope that this successful and irreplaceable financing mechanism remains in place."

Throughout Infrastructure Week, Mayors will challenge Washington to accept the fact that Mayors work with the private sector and the federal government to build infrastructure projects from start to finish faster, with more cost efficiencies than other governments. To prove the point, The U.S. Conference of Mayors has released its "On Task, On Time, On Budget" report. The report features city infrastructure projects, including transportation, water, energy, ports and public buildings, citing their financial structures and the many benefits that resulted from them.

As a national infrastructure package is developed, this new report is intended to inform Administration and Congressional leaders on why more infrastructure dollars should be directed to mayors and other leaders who ensure that such projects are implemented more efficiently, with greater economic impact and timeliness.

Mayors participating in Infrastructure Week Activities in Washington, D.C.:

May 17

Oklahoma City Mayor Mick Cornett, USCM President — "Built to Last: A Discussion on the Importance of Local Infrastructure Investment" | A joint forum of the National Association of Counties, National League of Cities and The United States Conference of Mayors where USCM President Mayor Mick Cornett will emphasize the vital importance of protecting tax-exempt bonds as the key tool in supporting local infrastructure investment | NACo Conference Center: 660 North Capitol Street, NW, Washington, DC (10:00 – 11:00 am)

Oklahoma City Mayor Mick Cornett, USCM President — "State and Local Governments Drive America — A Discussion for the Future of Infrastructure Policy" | A "Big 7" state and local government organizations briefing where USCM President Mayor Mick Cornett will further emphasize the importance of protecting tax-exempt bonds for cities, counties and states | 2154 Rayburn House Office Building, Washington, DC (2:00 – 3:15 pm)

May 18

South Bend Mayor Pete Buttigeg — House Transportation & Infrastructure Subcommittee on Water and the Environment hearing on "Building a 21st Century Infrastructure for America: Improving Water Quality Through Integrated Planning" | 2167 Rayburn House Office Building | Washington, DC (10:00 am)

The U.S. Conference of Mayors is the official nonpartisan organization of cities with populations of 30,000 or more. There are nearly 1,400 such cities in the country today, and each city is represented in the Conference by its chief elected official, the mayor. Like us on Facebook at facebook.com/usmayors, or follow us on Twitter at twitter.com/usmayors.

Municipal Debt Crowdfunding Startup Neighborly Quadruples Capital with $25M Series A Round.

The company's latest investment comes from Emerson Collective, 8VC, Govtech Fund and others.

Neighborly, a San Francisco startup that helps cities crowdsource their bond financing, more than quadrupled its investment backing in one fell swoop.

Before May 16, the company had raised about $5.7 million in seed and grant money. Then the company announced a $25 million Series A round led by Laurene Powell Jobs' impact investing entity The Emerson Collective along with 8VC. Ron Bouganim's Govtech Fund also participated in the round.

In a blog post, the company cited President Donald Trump's push to cut massive swaths out of the federal budget as one reason cities might be looking to use Neighborly more.

"This comes at a time when the current administration is getting ready to roll out a number of spending cuts that will drastically reduce the amount of funding available to the nation's communities," the post reads.

While Trump faces a long-standing promise to spend $1 trillion on infrastructure, he has also proposed budget cuts to many federal programs that work with local government.

Neighborly has financed $25 million in debt for local government customers across the country since the beginning of the year. The company also pointed to increased borrowing rates and an increase in public works backlogs as reasons to expect a growing demand for its services.

"The current financial system is set up in a way that disadvantages and costs communities much more than needed," the blog post reads. "Every basis point in the cost of issuance and borrowing means hundreds of millions of dollars per year that go to paying interest or banker bonuses.

Since the cost of borrowing is so high, municipalities often delay important projects or even forego them entirely. Consequently, our nation's communities are unable to attend to some of the most underserved causes: Schools resort to cutting critical educational programs, communities do without recreation centers, utilities and energy infrastructure remain dilapidated."

The company's solution, as Neighborly pitches it, gives local government access to more capital, allows them to bypass antiquated technology and helps them avoid fees associated with traditional bonds.

This marks the second gov tech investment from the Emerson Collective of the week, with the organization also leading a [$30 million Series C round for OpenGov](). Neighborly's previous backers have included Tumml, 500 Startups and the Knight Foundation.

GOVTECH

BY NEWS STAFF / MAY 16, 2017

[This Startup Wants to Modernize Public Finance.]()

When the city of Lawrence, Kan. wanted to borrow $650,000 to pay for a new fire truck for its local fire department, it didn't use traditional banks and bonds to borrow money. Instead it turned to Silicon Valley upstart [Neighborly](), a two-year old marketplace that connects cities with investors to fund civic projects like schools, parks, and bridges.

Each year, U.S. cities borrow hundreds of billions of dollars to finance civic projects. This debt is typically in the form of municipal bonds, which investors buy for the monthly interest and relative security. Neighborly is a service for marketing these municipal bonds, an estimated $3.8 trillion market.

On Tuesday, Neighborly revealed exclusively to Fortune that it has raised $25 million in additional funding co-led by Palantir co-founder Joe Lonsdale's firm, 8VC; and Emerson Collective, the philanthropic organization started by the wife of the late Apple CEO Steve Jobs, Laurene Powell Jobs. Existing investors including Ashton Kutcher's Sound Ventures, Maven Ventures, Bee Partners, and Stanford University also participated in the funding round. This investment brings the company's total funding to $35 million.

"We're modernizing access to public finance," Neighborly CEO Jase Wilson, said about his company's business.

Traditionally, cities use brokers and underwriters to find traditional institutional investors to buy bonds like large banks and financial institutions, explained Wilson. His company, a registered broker itself, has put that search online.

It's not just large banks that buy the bonds on Neighborly. It's also people who live in the cities asking for funds. For example, with a Cambridge, Mass. project, residents who live in all five zip codes in the Massachusetts town bought bonds.

It's worth noting that that for some projects, Neighborly can only round up a relatively small amount of capital. For example, in March the city of Cambridge, Mass. borrowed $58 million, of which $2 million came through Neighborly. The rest was raised from investors outside its service.

"There's so many better ways that public finance can work using technology," Lonsdale said, in an interview with *Fortune*. "The old processes are a lot more expensive, and only puts the money in the hands of people on Wall Street."

Neighborly makes money by charging a 1% commission based on the deal size. That compares with the average 2% charged by other companies for most public finance projects, said Wilson. The other benefit, Wilson says, is that city residents can participate in funding their own neighborhood's projects.

Neighborly declined to reveal its revenue.

Kutcher echoed Lonsdale's belief about Neighborly's opportunity in a statement to *Fortune*. "They are doing the right thing. They are returning the opportunity of bonds back to the people that stand to gain from them the most." He continued that he "can see a world where this is not only the best way to get things done, but the only way."

In addition to the Cambridge deal and the Kansas fire truck, Neighborly has helped find $5 million for new bike paths in Burlington, VT. Currently, Neighborly is helping finance an affordable housing project in the San Francisco Bay Area.

However, some financial tech startups that are trying to upend Wall Street have stumbled. Lending marketplace Lending Club was roiled by news last year that the former CEO violated internal lending rules and that it would lay off staff. Meanwhile, LendUp, a payday lending company, was forced to pay fines for allegedly deceptive and misleading practices, including charging incorrect fees and interest rates.

Wilson said that working with regulators and complying with all rules is extremely important to Neighborly. The company's challenge is competition from brokers and underwriters that have handled public financing for decades and have a tight grip on the market.

Neighborly also has its fair share of critics, who don't view the bond market as a place that needs or requires change. But Wilson remains optimistic.

"We see ourselves as being more neighborly with your city's capital," said Wilson.

Fortune

by Leena Rao

May 16, 2017

Municipal Bond Market: A Tech Tipping Point Is Here.

The municipal bond market is reaching a tipping point. E-trading is going to push it over.

When I started in this business back when dinosaurs roamed the earth, all you needed to trade bonds was a phone, the Blue List and a Monroe-Trader bond calculator. For those of you already lost, the Blue List was a booklet, printed on blue paper and stapled together, with the municipal bond offerings of Wall Street dealers and, roughly, at the offering price. To determine what you wanted to bid, you punched the various bond attributes like coupon, maturity, call and so forth into your Monroe-Trader. That was about as high tech as it got.

There were no ubiquitous Bloomberg terminals on every desk. You got on the phone and haggled out a price for a bond based on very limited information. No one knew what anyone else was bidding or asking—the phrase 'price transparency' hadn't been invented. It was a truly an over-the-counter market.

Fast forward to today. Technology is radically changing the financial markets. Goldman Sachs is hiring more computer programmers than traders and BlackRock is replacing portfolio managers with computers. In the municipal bond market we're seeing some similar changes. The transition is a bit slow—this is the muni market after all—but it is coming and it's going to come a lot faster than some might realize.

Currently, there are seven electronic trading platforms currently dedicated to municipals: Tradeweb, MarketAxess, MuniAxis, Bloomberg, MuniBrokers, TheMuniCenter and ClarityBidRate. Some have been around since the inception, others are new entrants. I've either spoken with each firm in detail or used them in live trading. Having seen their interfaces and been taken step-by-step through their features, it's really remarkable how these firms have, each in their own unique way, captured, digitized and electronified the municipal bond trading process. It's akin to video poker in Las Vegas–if they just added an animated graphic of a trader to interact with, you'd swear you were dealing with a real person.

These are very powerful tools each with some very distinct benefits. If you're a municipal bond market professional who hasn't had a demonstration of these yet, you are strongly encouraged to absolutely do that.

The overall impact of these platforms is more important than their specific features and functions. Electronic trading platforms are bringing the municipal bond market to a 'tipping point.' This is having immediate consequences and longer-term effects.

Three Drivers

There are three drivers pushing this forward. The first is basic economics. Currently, the markets are in what seems to be a sustained low-rate environment. Combine that with the fact that asset management is a mature industry oversaturated with mutual funds, ETFs and SMAs (separately managed accounts). That means every basis point counts, either to cut costs or add to profitability or preferably both, from management's point of view. E-trading offers efficiencies both in the trading process and in better price discovery in the trade itself.

Second is the trend toward index investing in the market. The MUB, which is a BlackRock-managed ETF that seeks to track the S&P National AMT-Free Municipal Bond Index, now has just a smidge over $8 billion in assets under management. In fact, if you totaled up all the muni ETFs that are managed to track an index, it's more than $25 billion. Add to that mutual funds that either are explicitly or implicitly managed to an index, the number more than quadruples.

Indexing means more standardization in the market, more categorization and ease of automation. Every portfolio manager and muni trader knows that a bond in the index trades better, is more liquid and has tighter spreads. Index bonds are a clearly established category with fairly standardized characteristics. In other words, perfectly suited for an e-trading platform. Where better to get economies of scale for index bonds?

The third driver is regulatory guidance. I covered this in some detail in the companion piece to this article, Muni-Tech And E-Trading: Opportunities And Considerations For Investors. Each is a designated alternative trading system (ATS) under SEC Rule 600(b)(23). But that just meets the legal requirement. There are market rules bringing e-trading into the fore. For example, MSRB Rule G-18 and the SEC Rule 15c3-5 discuss best execution and management controls, respectively. There are others, such as the Volker Rule 619 and a host of SEC liquidity rules for mutual funds and other pooled investment managers. Between capital requirements, best execution, liquidity and trade transparency, suddenly electronic trading platforms, which can address all of those in one fashion or another, become a lot more attractive.

Those are the big three drivers—economics, indexing and regulations—pushing e-trading forward and also pushing the market closer to a tipping point. These are not meant to be the only factors. There are also market factors such as declining new issue supply and the dramatic increase in SMA asset growth.

Detractors and Skeptics

As with anything new, there are detractors and skeptics, as there always have been during periods of great change. People fear change. Some detractors of e-trading—and fight the tide all you want, but it's here and it's growing—detractors say the muni market defies standardization and automation because it is so variegated and compartmentalized. There are retail markets and institutional markets, bank qualified markets, AMT markets, specialty state markets, high yield markets, discrete sector markets, regional markets, specialty credit-name markets. Then there are the almost mind-numbing variables and attributes differentiating each bond—coupon, maturity, call provisions, sinking funds, security features are just a few.

All that is true—for now. What indexing and e-trading are going to do are organize and standardize the market. That's a big forward looking statement. Even Nobel Prize winning Physicist Neils Bohr warned that "predictions are very difficult, particularly about the future."

But as Shakespeare noted, "What's past is prologue." This automating-organizing-standardizing transformation is exactly what happened in other markets—and not just financial markets—that suddenly found technology disruptors changing how they transacted. The muni market will be no exception.

Others point out, with some legitimacy, that none of these platforms have been through a market meltdown like we saw in 2007 -2008. Can the platforms handle it? For those of us who lived through that period, I can tell you first hand, having people on the trading desks didn't function very well either. Nothing does well in a free fall. There's the old adage that it's only when the tide goes out when you see who's wearing a bathing suit and who isn't. The first time the platforms get hit with a wave of selling, we'll find out who is and who ain't.

The Biggest Impediment

The advisor or Wall Street firm thinking about linking up an e-trading platform is caught in a conundrum. No one wants to be the one installing a platform that doesn't become the market standard. It is a big spend when a firm commits to a trading platform. Putting a new system in place takes a lot of resources—the data feeds for uploading inventory, correct pricing, the trade information capture and storage—there is a lot of middle-office work that requires integrating and testing. Staff have to be trained, from front office trading desk staff to the middle office operations and tech staff. It's great to be on the "cutting edge" so long as you don't get cut.

On the other hand, while no one wants to be the first in the pool, no one wants to be last to the party either. If you don't have it and your worthy competitor does, you better get it or risk falling behind. Call it technological peer pressure.

And Winner Is…

To mis-paraphrase Pogo, we have met the winner and it is us. E-trading means better access, liquidity and transparency for all market participants. There is more visibility to find bonds, better price discovery, and more bids on selling bonds. Where better to find offerings than on e-trading platforms where dozens—heck, hundreds—of dealers, institutions, advisors are all listing bonds? Where you can screen for bonds by specific attributes in only a few clicks?

Focusing on liquidity, if you sum up all the trading volume each platform claims, apparently more than 180% of all muni trades clear over e-trading platforms. That's a bit of chest thumping bravado; the real number is closer to 20%. They can't be faulted for a bit of braggadocio—no clear winner has emerged just yet and each wants to claim an early lead. However, the overall point is taken: e-trading improves liquidity.

Another prospective winner is the borrower. E-trading may up-end the entire underwriting process. If you're a big borrower, a high grade borrower issuing into a standardized market with transparent components, do you really need investment bankers to the degree you do now? Research has shown, again and again, that the competitive bidding process for new issues is more efficient for borrowers. Now with an algorithmized (is that even a word?) and electronified market, a forward-looking borrower with even a modicum of tech-savvy can bypass the middleman and go straight to investors in an open-auction process. Those that can, will. They have already. Look at the initial work of Neighborly. That's just one model. Others are coming.

Plus, the more e-trading gets adopted and integrated, the more borrowers in the market—and some municipalities are getting pretty sophisticated in tech—will be advised by their bankers and advisors to conform their structures to market standards set by e-trading and indexing. It is entirely possible the rating agencies will contribute to creating some conforming rules as well.

Last, but hardly least, is the data collection and artificial intelligence applications emerging from e-trading. Data is dollars and big data is big dollars. Yes, big data is everyone's shiny new toy these days. However, as we've seen, big data and statistical analysis can find patterns and relationships that we mere humans with our intrinsic biases just can't see or just don't want to. Using that information to create algorithms to trade or set risk levels or any other number of things is where artificial intelligence comes to the muni market.

One market participant made the snarky comment that this may be the first time "intelligence" and "muni market" were used in the same sentence. He can crack wise all he wants, but it's widely known that at least one top-bracket firm has been collecting retail trade data since the late 1990s. Now their muni retail trading process is fully algorithmic. Every trade in a certain band size gets bid or offered based on the data and the algorithm. No need for a retail desk. It's all done through AI.

The Tipping Point

E-trading and indexing are going to be the drivers that tip the municipal bond market from the old over-the-counter model to what other markets already are and have been—an exchange-based model. No, the municipal bond market is not changing into the New York Municipal Bond Exchange, nor will it become fully automated with everything traded by AI driven bots. The muni market is and always will be a credit risk market. At some level, there will always be a need for a banker, a salesman, a research analyst, a trader and a portfolio manager. But as large parts of the market are going to become far more exchange driven, it's just not likely to need as many of them.

Make no mistake, the tipping point is here: the traditional, over-the-counter market with liquidity by appointment-only simply cannot be maintained in the faster, tech driven investing world we are in.

Forbes

by Barnet Sherman, Contributor

May 16, 2017

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My thanks to Cathleen M. Rittereiser founder/Uncorrelated, LLC, Richard Brasser, CEO/RFactr and Meera Balakumar director/Sterling Analytics for their insights and tech-savvy guidance in the preparation of this article. They were invaluable.

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Fitch: Seventy-Four Percent of Public Finance Issuers Affirmed Under New Criteria.

Fitch Ratings-New York-19 May 2017: Fitch has concluded its review of all credits covered by the new U.S. tax-supported criteria, resulting in 74% affirmations, 18% upgrades, and 8% downgrades, according to a new Fitch Ratings report.

"The high level of affirmation was expected. The criteria revision was focused on communicating Fitch's opinions more clearly, providing tools that facilitate a more forward-looking approach to ratings, and clearly expressing expectations for financial performance throughout the economic cycle," said Laura Porter, Managing Director. "Fitch's ratings continue to be based on the judgement of a team of experienced analysts rather than model-based outcomes."

The most common reason for upgrades was the more focused consideration of the economic base and financial resilience in the revised criteria.

About half of the downgrades were to school districts, most commonly in California and Ohio. The revised criteria highlight the significance of the state school funding and policy framework to the financial prospects and position of school districts in the state.

None of the eight state ratings changed were the result of criteria alone.

Ninety-five percent of rating changes were one or two notches, less than a full rating category.

For more information, a special report titled “US Tax-Supported Criteria Implementation Results” is available on the Fitch Ratings web site at www.fitchratings.com or by clicking on the link.

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Puerto Rico's Bankruptcy: Template For Other Troubled Cities.

“What–Me Worry?” are famous words from the fictitious Alfred E. Newman. It’s great to have a positive attitude in life. But there are times when investors need to observe and grasp the gravity of situations. That’s where we are with Puerto Rico.

Puerto Rico will soon become a legal catfight. It will be a lulu: General obligation bondholders versus sales tax revenue (Cofina) bondholders; AMBAC versus MBIA versus Assured Guaranty. This brawl won’t be a heavy weight fight. It will be a cage match because the hedge funds are vicious, wily beasts.

Even if you don’t invest in municipal bonds, as a taxpayer there are multiple lessons to be learned. First off, remember when we were taught that a state or territory cannot file for bankruptcy? Until it does. Puerto Rico, with help from Congress, filed for Title III, which is an in-court restructuring mechanism modeled after Chapter 9. No matter what you call it, it’s still bankruptcy.

I project this bankruptcy will become the template for all the cities, counties and a few states whose budgets, unfunded pension and health care liabilities are out of control. As a matter of fact, many of us in Bondland have a new word: Illi-Rico.

That’s right. Illinois, the state that is $14 billion in arrears paying its bills, two years without a budget, with under funded pensions like you wouldn’t believe. The Illinois Policy Institute estimates $203 billion total debt for state and local retirement benefits and oh—as the Institute points out, “the $203 billion includes only the unfunded liabilities of the state’s five retirement systems, which ignores bonds issued to tide over the pension funds and debt taken on to provide retired government workers with generous health insurance.” And this doesn’t include all the bonds outstanding that the poor taxpayers are responsible for.

Certainly Illinois, Alaska, Hawaii, New Jersey, Connecticut et al are not carbon copies of Puerto Rico. Yet their crushing debt and liabilities look eerily similar.

So all you conservative municipal bond investors dig into your municipal open-end, closed-end or exchange-traded funds. Study the composition of your portfolio. If it's too laden with general obligation bonds from states and cities that will one day have to actually deal with their problems—get out. Investors had years to get out of Puerto Rico bonds. Bond fund managers did too—yet many of them held on. After all, it was your money, not theirs.

It's true, the worst offenders must pay significantly higher interest on their new bonds but it hasn't yet reached the frenetic levels that concern or scare investors. If they keep up their incompetent bad behavior it will. Then we'll be staring another Puerto Rico in the face. As we learned from the recent bankruptcies like Detroit, bondholders lose to pensioners who vote. Puerto Rico will be a carbon copy.

So reassess your portfolio. Make certain the percent of good quality revenue municipal bonds far outweighs your general obligation holdings. The old rule of a GO issuer having the unlimited ability to tax its electorate no longer holds. We have learned issuers lose their ability and willingness to pay us bond investors. Just watch the Puerto Rico bond carnage to come.

Load up with airport revenue bonds from major hubs, the senior liens only. Names like Atlanta International Airport, Los Angeles, Dallas/Ft. Worth, JFK, San Francisco, Denver, Charlotte Douglas, McCarran International and Miami, to name a few. Stay away from the majority of small regionals. Invest in issues whose revenue stream is easily understood and underfunded pensions are not a consideration.

Keep it simple, keep it safe. Stay on top of the Puerto Rico news. It will matter.

Forbes

by Marilyn Cohen, Contributor

MAY 22, 2017 @ 01:23 PM

Marilyn Cohen is founder and CEO of Envision Capital Management, a Los Angeles fixed-income money manager.

Fitch: US States Taking on Transportation Funding Gap

Fitch Ratings-New York-16 May 2017: States will continue to increase transportation taxes and fees and seek alternative financing mechanisms to meet infrastructure challenges as federal investment remains uncertain, Fitch Ratings says. However, hurdles to realizing the full benefit of such measures include political risk, lower gas consumption, and resistance to creating and raising tolls.

Federal grants play an important role in building and maintaining highways and other transportation projects. However, federal policy inertia on transportation (and infrastructure in general) has been augmented by recent uncertainty about the current administration's funding plans.

States are likely to increase their direct investments in transportation projects by leveraging recent revenue increases. Six states (CA, MT, IN, TN, SC, WY) have raised gas taxes and fees to fund transportation projects in 2017. Six others are considering bills that would increase gas taxes to raise transportation revenues (CO, WV, MN, OR, WI, ME). Most states are only catching up as gas tax revenues have grown more slowly than inflation for decades, according to the U.S. Census Bureau Annual Survey of State Government Tax Collections. Most recently, South Carolina's House voted last week to override the governor's veto of a bill that includes a gas tax hike and some fee increases. This is the first increase in gas taxes in the state in 26 years. The state's inflation-adjusted gas tax revenues have risen by just 4.1% since 2000.

Higher gas taxes and fees could face risk from higher fuel efficiency. The Corporate Average Fuel Economy (CAFE) standards are set to raise the national fleetwide average mpg to 54.5 in 2025 from 35.5 in 2016. The current administration has called for a midterm review of the standards. However, regardless of how the regulations evolve technological advances will likely raise average MPG over the next several years.

Some states are also discussing adding tolls or raising existing tolls to meet capital demands. For example, last month Indiana approved funding to direct $1.2 billion to state roads by 2024 from higher gas taxes and fees. The bill also requires the state to apply to the federal government for a waiver to toll currently un-tolled interstates within. Fitch expects to see other states take similar approaches as tolling the interstates is a viable option.

Tolling and other user fees could be a viable and meaningful component of highway funding if they are carefully implemented. Tolls can be adjusted with inflation with minimal adverse economic or political implications, provided the system is well operated and maintained. For example, the "first-mover disadvantage" can be limited by implementation across the system as raising tolls on one highway near an untolled road can hurt toll revenues.

In addition, PPP-enabling legislation is rising and could be another financing alternative in certain situations. In 2016 three states (KY, TN and NH) enacted PPP legislation, according to the National Conference of State Legislatures. PPPs used in the right circumstances allow governments to effectively transfer many project risks to the private sector and provide certainty in forecast costs, though they aren't a panacea for all funding shortfalls. In addition, issues of public perception, including a perceived loss of public control and a lack of understanding of potential long-term benefits, can make implementation of PPPs challenging.

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The Week in Public Finance: Recalculating Pension Debt, Hartford Discusses the 'B' Word and Prudent Rainy Day Policies.

A roundup of money (and other) news governments can use.

GOVERNING.COM

BY LIZ FARMER | MAY 19, 2017

Fresh Off Another Downgrade, Connecticut Has a Plan to Lower Borrowing Costs.

But observers disagree about whether it will work.

Besieged by budget shortfalls, Connecticut's credit rating was downgraded in recent days by Fitch Ratings and Moody's Investors Service. The downgrades were the state's fourth and fifth in the past year alone. But if State Treasurer Denise Nappier gets her way, that credit hit might not matter the next time Connecticut goes to sell bonds.

Nappier wants the state to start offering investors revenue bonds that are paid back directly from the state's income tax revenues. Called tax-secured revenue bonds, these new bonds would be offered in place of general obligation bonds, which are backed by the state's general revenue collections. Nappier's office believes the dedicated income stream would mean the bonds would fetch ratings as high as AAA, resulting in a better interest rate and lower debt service costs.

The idea has received mixed reviews.While some observers call it a product that will offer comfort to bondholders wary of Connecticut's troubles, others say it's a "financial engineering gamble" designed to game the market. "To create something out of nothing — they're not being more fiscally responsible by doing it this way," says Municipal Market Analytics' Lisa Washburn.

In the past year, Fitch has downgraded the state's credit rating twice, and Kroll, Moody's and S&P Global Ratings have each downgraded it once. The latest action puts the credit rating at A+. It is the result, in part, of the state's third straight budget shortfall. Currently, Connecticut is facing a $2 billion hole over the next two fiscal years. The deficits, caused mainly by weak income tax revenues and burdensome debt costs, have all but drained the state's rainy day reserve and made it difficult to keep up with its mounting pension obligations.

Deputy Treasurer Lawrence A. Wilson says the tax-secured bonds will insulate investors from the budget and pension concerns they have expressed. Instead, the bonds are "focusing on one of our highest credit positives, which is the high wealth of our state."

If approved by the General Assembly, the state would issue about $2 billion in revenue bonds a year. Any interest rate savings would be directed into the state's rainy day fund. Wilson says he expects those savings to total $980 million in fund deposits over 12 years.

When asked if state lawmakers would be tempted to keep raiding the rainy day fund, given the state's deficit struggles, Wilson acknowledged that was a possibility. "This is the part we can control," he says. "It's still a positive contribution."

Revenue bonds are common with lower levels of government and with housing and transit authorities, but are rarer at the state level. In 2001, New York state created a revenue bond program for streamlining purposes. Rather than having a handful of state authorities individually issuing tax-backed debt, New York's program created sales and income tax-backed bonds for them.

When it comes to assuring investors they'll be paid back, most states tend to opt for statutory or constitutional pledges. Illinois, for example, hasn't passed a budget in two years and has also suffered multiple ratings downgrades. But its constitution contains a "non-impairment" clause that prohibits action by the General Assembly that would damage the state's ability to pay back bondholders. State law also allows bondholders to sue the state to compel payment.

Belle Haven Investments' Tamara Lowin says Nappier's proposal is simply another way to assure investors they'll get their money back with interest. "This market loves the transparency of being able to see a direct revenue stream," she says. "It's a way to offer a credit designed with the ratings agencies in mind."

But Washburn isn't so sure that potential investors will be reassured by the new bonds and be willing to take a lower interest rate on the debt. "The likelihood that Connecticut will ever default and be in a situation where you have to test the structural provisions is really, really low," she says. "But would I want to give it a pricing benefit as an investor? It's definitely questionable."

GOVERNING.COM

BY LIZ FARMER | MAY 17, 2017

Hidden Debt, Hidden Deficits: 2017 Edition.

A new analysis by Josh Rauh at Stanford University's Hoover Institution – Hidden Debt, Hidden Deficits: 2017 Edition – says state and local governments' collective unfunded pension liabilities are actually about three times the amount they claim. Rauh, a finance professor who has long been a critic of public pension accounting, arrived at his figure by assigning pension plans a much lower assumed investment rate of return.

Pension plans in 2015 collectively reported about $1.3 trillion in unfunded liabilities. In other words, they have about 72 percent of the assets they need to meet their estimated total liabilities. That figure assumes plans will earn an average of 7.4 percent each year on their investments.

Rauh, pointing to the wild swings of the stock market and the fact that pensions are putting more of their assets into volatile, alternative investments, says that assumption is too risky. He argues it's more responsible to consider a rate of return closer to what long-term bonds earn: slightly less than 3 percent. Under those assumptions, Rauh says unfunded U.S. public pension liabilities would roughly triple to $3.8 trillion, or less than half-funded.

The Takeaway: Rauh is arguing for accounting responsibility. And to be sure, the underwhelming returns of pension plans over the last two years bolster his case. Several pension plans have already acknowledged that their investment return assumptions likely won't hold up in the long term and have lowered their assumed rates of return to 7 or 6.5 percent. But to drastically lower return assumptions would be devastating for governments and impair their ability to provide services to constituents.

Rauh even cites those consequences in his research. In the worst example, Illinois in 2015 put a whopping 11 percent of its own revenue into its pension plan. Even though that's a far higher share than other states, Illinois' payment was still short — it actually needed to contribute more than 16 percent. Under Rauh's approach, Illinois would have to contribute more than 23 percent of its revenue to avoid a rise in liabilities. That would dwarf education spending and make pensions second only to Medicaid as the state's highest single expense.

GOVERNING.COM

BY LIZ FARMER | MAY 19, 2017

Stanford Researchers Create "Living Map" of Out-of-the-Box Water Financing Ideas.

Financing for water projects and aging infrastructure is critically needed but hard to come by. Stanford researchers highlight innovative approaches with a "Living Map" of case studies around the country.

Last month, the American Society of Civil Engineers gave the nation's infrastructure a near failing grade and estimated that the country will need to spend $4.59 trillion by 2025 to bring its infrastructure back up to even a B- level. Water infrastructure is in particular need of renewed investment due to the combined pressures of population growth, urbanization and impacts from climate change.

The problem is finding the money to carry out these critical but expensive projects that include innovative distributed water systems. Now a team of researchers at Stanford has created a "Living Map" of innovative ways to finance water projects in the United States that they hope will help regions finance upgrades.

"We need a new playbook that embraces a holistic view of our water system and offers new ideas and solutions for our aging infrastructure," said Newsha Ajami, director of urban water policy at Stanford's Water in the West program and leader of the map project. "Integrating distributed water projects such as green infrastructure, wastewater recycling and storm- and graywater reuse into our current infrastructure network can enhance the flexibility and reliability of our water systems."

Federal and state funding for these types of projects is limited, and local entities are usually too cash-strapped to meet current maintenance costs, let alone the costs involved with new projects. Private funding can also be difficult to acquire given the small return on investment and perceived risks of many of these projects.

The Living Map shows case studies of successful innovative water financing efforts around the country designed to be implemented at various scales. The case studies feature a wide variety of mechanisms; for example, some are market-based systems like credit and permit trading used to implement “green infrastructure” projects built to manage stormwater runoff.

Case studies

One example looks at the Stormwater Retention Credit Trading Program in Washington, D.C. The program enables property owners who install green infrastructure to generate credits that can be bought and sold on an open market and used to meet regulatory requirements. This ultimately helps capture stormwater and prevent pollutants from entering the Chesapeake Bay and local waterways.

The map builds on work in a 2016 Water in the West report that created a framework for water project financing with lessons from the electricity sector.

“We wanted to show that not only are these options available and possible in the electricity sector as they were laid out in our 2016 innovative financing report, but that various water utilities are already employing them,” said Ajami.

The map will be updated as more case studies of new and different ways of looking at water infrastructure needs come to light, hence the name “Living Map.” Ajami encourages stakeholders, researchers and decision-makers throughout the United States working on inventive water financing efforts to partner with her and the team to add projects to the map.

“The fact that it’s hard to access funding for distributed and unconventional water projects is not an excuse not to act,” Ajami said. “The Living Map gives a visual understanding of what is happening throughout the country and how grants, rebates, fees and other innovative governance structures are used to fund alternative water projects. It supports the view that there is not a one-size fits all approach to funding infrastructure and we as a community need a portfolio of financing tools and options for the water sector.”

Stanford News

By Devon Ryan

May 18, 2017

Newsha Ajami also co-leads the Urban Water Systems & Institutions Thrust at the NSF-ReNUWIt Engineering Research Center, and is a member of the Bay Area Regional Water Quality Control Board.

How Historic Would a $1 trillion Infrastructure Program Be?

“We’re going to rebuild our infrastructure, which will become, by the way, second to none. And we will put millions of our people to work as we rebuild it.” From the very first night of his election win, President Trump was clear about his intention to usher in a new era in American infrastructure. Since assuming office, the president and his cabinet continue to use the figure of $1 trillion over ten years to demonstrate the scale of their vision.

By any measure, one trillion dollars is a lot of money. Given the well-documented maintenance and modernization backlogs in a range of infrastructure sectors, federal attention is welcome. Infrastructure spending has the added benefit of helping to support millions of good-paying jobs.

Continue reading.

The Brookings Institute

by Adie Tomer, Joseph Kane, and Robert Puentes

Friday, May 12, 2017

SIFMA: All Bonds Used for Publicly Accessible Infrastructure Should be Treated as GOs.

WASHINGTON – Preserving the tax exemption for municipal bonds, treating private activity bonds more like governmental bonds without restrictions for publicly accessible projects, and reviving direct pay bonds are some of the infrastructure funding recommendations that the Securities Industry and Financial Markets Association has made to administration officials and members of Congress.

The group also has recommended using tax credits as incentives for equity investors, promoting design-build strategies for public projects, and making infrastructure assets and liabilities more transparent in state and local government financial statements, Michael Decker, SIFMA managing director and co-head of the municipal securities division, said in a recent podcast with The Bond Buyer.

The recommendations were developed by a SIFMA task force led by Chris Hamel, head of U.S. municipal finance at RBC Capital Markets, and Suzanne Shank, CEO and chair of Siebert Cisneros Shank & Co.

"At the top of our list is preserving the tax exemption," said Decker. "Tax exemption for municipal bonds is the single most important tool that public sector infrastructure developers have. Bonds have financed 75% of the infrastructure in this country and there is a real threat, a real risk that in the context of tax reform or through some other legislative vehicle on Capitol Hill Congress could curtail or eliminate the tax exemption. [That] would drive up the cost of infrastructure finance and we'd end up with less, not more, new project investment."

A second recommendation is to expand the use of tax-exempt private activity bonds for public-private partnerships. Most P3s involve layers of capital, Decker said. One approach might be to have some equity as a base-level of investment, then some debt financing, and then perhaps some capital from the public sector partner. But under current tax law, tax-exempt PABs can only be used for certain specified categories of projects and are typically subject to volume cap limitations and private use restrictions. In addition, the interest from PABs is subject to the alternative minimum tax.

"Under our proposal, bonds issued for infrastructure, regardless of whether it is a purely public project or a P3, would be treated as governmental tax-exempt bonds without volume restrictions, no AMT, no private use restrictions, as long as the project being financed falls under the definition of publicly accessible infrastructure," Decker said.

SIFMA wants to revive direct-pay bonds structured similarly to Build America Bonds, which were issued as taxable bonds in 2009 and 2010, where issuers receive subsidy payments from the Treasury Department in lieu of investors receiving tax-free interest. These bonds broaden the universe to corporate investors for munis.

The group suggested tax credits or some other type of incentives to attract equity investors in P3s. “If you look at the story of equity investment in other sectors like renewable energy or low-income housing, tax credit programs in those areas have been very successful in driving capital to those sectors and we think the same could be true for infrastructure,” Decker said.

SIFMA also wants to promote the use of a design-build approach for public projects, where one entity – a design-build team – works under a single contract with the project owner to provide design and construction services.

“That’s a successful procurement strategy in the public-private arena and we think that there are some efficiencies to be gained by using a design-build approach in the public sector development area,” Decker said.

SIFMA also would like some accounting issues addressed so that the full cost and value of developing infrastructure is shown on a state or local government’s annual financial statement to demonstrate the value of infrastructure to the community as well as any accumulated maintenance or expenses the government may be carrying.

“It would help identify, just from a transparency perspective, the true cost of the asset,” Decker said. “From a management perspective, it might help identify the assets or areas of investment at the state or local level that the government might not view as a priority where they might be interested in re-deploying capital that’s invested in one area into new infrastructure.”

It is somewhat ironic that infrastructure advocates are pushing for eased restrictions for the use of PABs in infrastructure or more restrictions for tax-exempt bonds. A few years ago and still today, critics decry the use of tax-exempt PABs to finance professional sports stadiums. Former House Ways and Means Committee chairman Rep. Dave Camp, R-Mich., proposed a tax plan that would have halted issuance of PABs. Former President Obama proposed capping the value of tax exemption for munis.

“Our message on this to policymakers is, ‘You’re digging a hole for yourselves. Why curtail or eliminate an existing successful tool that’s already resulted in trillions of dollars of infrastructure investment when you’re trying to promote infrastructure, not constrain it,’” Decker said.

“I think the current administration thinks infrastructure is, at least in part, part of a broader industrial or economic policy,” Decker said. ”You’re heard the president talk about reviving the manufacturing sector, returning American jobs to this country, getting companies to invest here rather than abroad. So if they’re trying to promote industrial development in a particular area, one way to do that is to ensure there’s infrastructure with sufficient capacity to support the economic development that will arise.”

Asked about critics who complain that the president only seems to be interested in big, shiny, costly P3 projects that may take years to develop, Decker said, “There are needs at so many levels.”

“We do need help with big transformational kind of cutting-edge infrastructure projects,” he said, pointing to proposals to further develop LaGuardia Airport as an example. “Then there’s street light repairs or replacing an on-ramp to a freeway, projects that are much smaller in scope that have a much more local impact,” he said, adding, “I would urge the administration to think about providing funding or enhancing funding for all levels of infrastructure development.”

Asked about projects that don’t have revenue streams, Decker said, “in terms of P3s there’s an emerging model that provides at least one approach to those kinds of projects and that is availability payments."

"The way this works is, for a project that's non-revenue generating, the state or local government would solicit bids from private sector developers under a standard kind of P3 arrangement – finance, build, own, operate, maintain – the full range of turnkey service that P3 infrastructure operators provide," Decker said. "But rather than the developer being paid from revenues derived from the project, the developer is paid directly by the governmental partner-sponsor in the project through availability payments."

The payments would depend on the project continuing to meet operational specifications that were decided at the time the P3 agreement was reached, he said.

"So that means the private developer is responsible for ensuring that the project is operating at capacity and that, in terms of maintenance and repairs, it's in sound condition," he continued. "The developer doesn't get paid unless the project is performing to spec."

"It's an interesting approach," Decker said. "It could potentially reduce the cost to the state or local government, but there are other elements in play too. For example … it allows that local government to lay off some risk of maintaining and operating the project at capacity. It also gives the local government leverage over the developer and avoids the risk that the government might defer operation and maintenance costs in a tight budget situation."

Asked if he can crystal ball the timing for an infrastructure plan and the interplay between it and tax reform or even health care, Decker said: "They're somewhat related in terms of process. Congress' time is somewhat limited.

[Members] can only take on so many very large legislature issues in a given year because they're so time consuming."

"In the discussions we've had with key members of the administration, infrastructure continues to be at the top of their list," he said. "I think the administration wants to be able to point to some legislative wins going into the 2018 congressional election. But I can't tell you in terms of timing how all of this is going to play out."

Asked about the prospects for infrastructure being wrapped into tax reform, Decker said, "It depends on what the infrastructure proposal looks like."

He noted that virtually all of SIFMA's recommendations deal with changes to the federal tax code and said, "I think it's most efficient to deal with tax proposals in a single legislative vehicle, but that may not be how it ends up."

The Bond Buyer

By Lynn Hume

Published May 15 2017, 6:22pm EDT

Pick-Up In Municipal Bond Market Hinges On Government Support.

Two years after the Securities and Exchange Board of India (SEBI) cleared a new set of rules for issuing municipal bonds, India may finally see some activity in this segment with a couple of cities now ready to hit the market. Don’t expect a booming municipal bond market yet, though, as the pick-up in municipal bonds is still linked to government support.

Both Pune and Ahmedabad are ready to go to market, Varsha Purandare, managing director and chief executive officer of SBI Capital Markets, told BloombergQuint, while adding that some regulatory clarifications are awaited. The cities have approached SEBI, asking the regulator to allow them to file their prospectus based on financials that have been audited by an external statutory auditor rather than wait for audited financials from the Comptroller and Auditor General (CAG).

While Pune and Ahmedabad are at an advanced stage of preparedness, a number of other municipal corporations are also hoping to raise money through bond issues as a way to fund their smart city projects.

> In the past, most municipal corporations have depended on state or central government grants for infrastructure development. However, there is now a perceptible feeling that the government wants municipal corporations to have ownership of projects being undertaken. In particular, for smart city projects, municipal corporations have to bring in 40-50 percent of investment upfront.
> **Varsha Purandare, MD & CEO, SBI Capital Markets**

To be able to meet this funding requirement, a number of municipal corporations will need to try and tap the markets, Purandare added.

The first step to this is to get rated. A total of 94 municipal corporations have been rated so far, Subodh Rai, senior director at rating agency Crisil, told BloombergQuint in a phone conversation. The rating profile, however, differs widely.

According to data provided by Crisil, of these 94 rated municipal corporations, only 10 are rated AA or above. About 14 are rated in the A category, while the rest are rated BBB or below.
The AA rated firms can access the market directly but the A and BBB rated firms may need some structured mechanism, said Rai. He added that A rated firms can look at securitising future cash flows or a structure where property taxes are put in an escrow account which is set aside for interest payments.

For municipal corporations rated BBB or below, accessing the market would be tougher and some sort of pooling mechanism or partial guarantee may be required, said Rai.

Subsidised Borrowing Cost

Given the rating profile of municipal corporations, the true market borrowing cost for most of them (in the BBB category) would be close to 10 percent, said Purandare of SBI Caps. However, borrowing at that interest rate may not be a viable way to fund infrastructure development, she added.

That’s where government support will need to come in.

While the government has rejected a demand for tax-free status for these bonds, the urban development ministry has set aside Rs 400 crore to provide interest subsidy for these bonds, the Economic Times reported on May 15.

Both Rai and Purandare said that such a subsidy would make it more viable to fund city infrastructure development through bonds. The difference between tax-free and taxed bonds is almost 2 percentage points, Rai pointed out, while adding that the interest subsidy may help in bridging that gap. The subsidy will help bring down the cost of funds to near 7 percent, which is affordable, said Purandare.

Is There Investor Appetite?

The story of municipal bonds in India has been one of numerous stops and starts. The earliest such bond dates back to 1998 when Ahmedabad raised Rs 100 crore. Others like Hyderabad, Nasik and Visakhapatnam have also tested the market with small issues.

Municipal corporations coming to the market now will also likely start with smaller issues in the 5-7 year tenure bucket, said Purandare, adding that once the market becomes more comfortable with the product, demand may pick up leading to a decline in interest rates. This would allow for larger-sized issues to come to market.

According to Rai, the key issue for investors remains the quality of financials reported by the municipal corporations. Delayed reporting of financials and lack of transparency may concern investors, he said. At present, municipal corporations do not report quarterly or half yearly financials. The issues that come to market in fiscal 2018 will be based on fiscal 2016 financials.

On the flip side, volatility in municipal finances is typically low and expected loss would be low for this category of issuers which may attract investors, said Rai.

BloombergQuint

BY Ira Dugal

May 18, 2017, 10:31 pm

Infrastructure Week: Should Cities Be at the Center of Infrastructure Discourse?

Local government leaders discussed the current administration's trend toward financing infrastructure projects through public-private partnerships and eliminating tax-exempt municipal bonds.

As Infrastructure Week, held May 15-19 in Washington, D.C., began to wind down, local government leaders remained hopeful that the pressure for a renewed interest in rebuilding America's roads, bridges and the rest of the system would persist.

The initiative — a national week of education and advocacy that brought together American businesses, workers, elected leaders and everyday citizens around one message: It's time to build — sponsored several events held in conjunction with local and state government groups that represent shared interests in the federal government. The National League of Cities (NLC) hosted a panel discussing infrastructure financing, successful projects and tools local governments need to maintain and develop infrastructure nationwide.

While the idea of investing resources in infrastructure garner widespread bipartisan support, recent revelations that the Trump administration and Congress' tax reform may scrap the tax-exempt status of municipal bonds has been met with resistance.

"You can't be for infrastructure, if not for tax-exempt municipal bonds," said Oklahoma City Mayor Mick Cornett, who also serves as president of the U.S. Conference of Mayors.

Speaking passionately about the necessity of tax-exempt bonds, all members of the panel expressed their disapproval over the idea of cutting the provision. "The need has never been greater for infrastructure investment," said Cleveland Council Member and NCL President Matt Zone.

In a joint statement released in late April by the National Governors Association, National Association of Counties, NLC, U.S. Conference of Mayors, International City/County Management Association, National Conference of State Legislatures and the Council of State Governments, the organizations urged Congress to preserve the tax-free municipal bonds.

"Tax-exempt municipal bonds were part of the original tax code in 1913 and have long served to meet critical needs in our communities," reads the statement. "These essential components of the tax code support vital investments in infrastructure, public safety and education, encourage economic growth and provide states and local governments with the flexibility to deliver essential services to our residents."

The panel also pushed back on the idea that private investment could help fill the void if local governments would have to spend part of the funding on taxes. The current administration has given several indications that rather than finance most projects through direct federal financing, municipalities are encouraged to utilize a public-private partnership model wherever possible.

While testifying in front of the Senate Environment and Public Works Committee, U.S. Secretary of Transportation Elaine Chao mentioned that the administration is hoping to release by the end of the month a set of principles for the oft-talked-about infrastructure package. The list is heavily anticipated by state and local leaders across the country.

"The proposal will likely include $200 billion in direct federal funds, which will be used to leverage $1 trillion in infrastructure investment over the next 10 years," Chao told senators. She also acknowledged that "not every project … is a candidate for private investment."

Zone still had concerns over the possible reliance on P3s. "Over last two decades, about 93 percent of projects that have been funded would not have been eligible for P3 partnership," he said, adding that focusing on public-private partnerships as a uniform strategy "doesn't really work."

In order for P3s to work, Cornett explained, the conditions have to be just right. The best environment for successful partnerships takes are highly dense cities with extremely busy areas. Private partners are not interested in building rural roads, which are needed in Oklahoma, he explained.

There is also a danger that relying on private partners could leave behind traditionally underserved populations. As local leaders, Zone said, we have "an ethical and moral obligation to make sure that we look out for every citizen we represent." All projects should be looked at with an "equity lens" to make sure the most vulnerable and marginalized populations are provided for.

Although there is a lot of focus on what's happening at the federal level, it is important to keep in mind the role local and state governments play in not only financing transportation projects, but also operating expenses. More than 75 percent of all public roads and 50 percent of bridges are owned by local governments, which also operate 93.7 percent of all public transit agencies.

"Real action is happening outside of Washington in cities, states and metropolitan areas across the country," said Eno Center for Transportation President and CEO Robert Puentes, who moderated the panel.

FUTURESTRUCTURE

BY RYAN MCCAULEY / MAY 19, 2017

Kotok: High-Quality 4% Long-Term Munis Are a 'Gift' to Investors.

David Kotok of Cumberland Advisors is finding high-quality, long-term munis with attractive yields.

David Kotok of Cumberland Advisors wrote an interesting essay Friday titled "Obstruction of Justice and Markets." It's mostly about market reaction to all the uncertainty in Washington.

But there is a nugget near the end where he lays out his investment strategy in this environment that is of particular interest to muni investors. He writes:

> The 4%, high credit quality, tax-free bond is a gift to an investor in any higher tax bracket, whether at its present or future level.

It seems Kotok is talking about buying a muni with a 4% coupon — which would be about a 7% tax-equivalent yield for an investor in the highest tax bracket — a gift indeed.

Truth is, those bonds are hard to find and he isn't saying which ones he has located. The yield for a 10-year A-rated Muni averages 2.5%, points out Thomas Byrne of Wealth Strategies & Management. Go out 30-years gets you to 3.5%, although he doesn't recommend buying longer than 15-year bonds.

But there are higher coupon bonds out there. Byrne writes:

> It makes sense to look for higher coupon bonds, relatively speaking, as they provide some cushion versus rising rates, particularly callable bonds.

Munis have risen as turmoil in Washington has led investors to seek safety in high quality bonds. The iShares S&P National AMT-Free Municipal Bond Fund (MUB) rose to $110 in May from trading between $108 and $109 for about the three months prior. Friday at 10:30 a.m., it was at $110.10.

Barron's

By Amey Stone

May 19, 2017 10:57 a.m. ET

Illinois Punished by Market as Deadline Nears Amid Fighting.

- **State's yields rise to record over benchmark amid gridlock**
- **Less than two weeks remain in regular legislative session**

With less than two weeks left in the regular legislative session, Illinois lawmakers and Governor Bruce Rauner are still divided on how to end the worst-rated state's nearly three-year budget impasse. Investors aren't pleased.

Bondholders are demanding yields of 4.49 percent on Illinois's 10-year bonds, some 2.45 percentage points more than those of benchmark tax-exempt debt. That's the biggest gap since the Bloomberg indexes began in January 2013.

After May 31, a three-fifths majority will be required to pass anything, making a deal even more difficult to reach. Senate Democrats advanced several bills that had been considered part of a bi-partisan compromise on Wednesday, but they were unable to pass a spending plan for lack of Republican support.

"We're two weeks away from the 31st and that's the deadline that's set," said Dennis Derby, a money manager in Menomonee Falls, Wisconsin, at Wells Fargo Asset Management, which holds Illinois bonds among its $40 billion of municipal debt. "They've had substantial time to work on this. So far we haven't seen any substantial progress."

Lawmakers are continuing to push forward legislation in an effort to resolve the stalemate by the end of the month. The unprecedented impasse has left the state without a full-year spending plan since July 2015 as Rauner, the first Republican to lead the state since 2003, and the Democrat-led legislature can't agree on how to plug chronic budget deficits. The gap worsened after temporary income tax hikes expired in January 2015. The gridlock has sunk Illinois's credit rating and forced state-supported entities like public universities and social service providers to slash programs and furlough workers.

Moody's Investors Service and S&P Global Ratings have warned that the state's credit could deteriorate further if it enters a third year without a budget. The rating companies rate Illinois Baa2 and BBB, respectively, which is two levels above junk. Both have a negative outlook on Illinois.

Rauner has called for any spending plan to be tied to structural changes like a property tax-freeze and an overhaul of workers-compensation practices. Without a budget in place, the state is still spending money through consent decrees, court orders and continuing appropriations. Its current-year operating deficit is about $6 billion, Moody's said in a March report, citing the governor's office of management and budget.

"We should never give up in getting a balanced budget," Rauner told reporters in Chicago on Thursday. He said he was encouraging lawmakers to keep working on a deal.

On Wednesday, Senate Democrats approved a plan to allow the state to borrow as much as $7 billion to pay down the state's record $14.5 billion of unpaid bills. Legislation to allow local government consolidation and expand gambling were approved and received some Republican votes. Measures that would change the state's procurement practices and pension system won bipartisan approval. They still need to be approved by the House.

Democrats also passed an overhaul of school funding practices, including giving $215 million to the cash-strapped Chicago school system. The measure received no Republican votes and was immediately rejected by Rauner who called it a “bailout at the expense of every other school district in the state.”

Bloomberg Markets

by Elizabeth Campbell

May 18, 2017, 8:49 AM PDT May 18, 2017, 2:51 PM PDT

Forget Trump. Muni Bond Rally About to Be Driven by Cash Tsunami.

- **Over the summer, supply of cash is projected to outpace sales**
- **‘We are bullish on munis’ through summer: Citigroup analyst**

Municipal bonds got a lift this week as turmoil surrounding President Donald Trump’s administration sparked a flight to safe assets. An even bigger boost will come this summer as investors will receive a flood of cash that will outstrip the sale of new securities, strategists said.

The state and local government debt market will shrink by $39.5 billion over June, July and August as bonds mature faster than they’re issued. At the same time, investors will receive $44 billion of interest payments, according to Citigroup Inc. — resulting in nearly $84 billion available to be reinvested.

“At least over the next three, four months, we are bullish on munis,” said Vikram Rai, head of municipal strategy for Citigroup.

Yields on benchmark 10-year municipal bonds tumbled this week to the lowest since November after reports that Trump disclosed highly-sensitive intelligence to the Russians and suggested then-FBI Director James Comey drop an investigation of former national security adviser Michael Flynn. The revelations caused stock prices to drop on Wednesday on speculation that Trump’s economic policies will be derailed.

While some investors speculated that the developments dampened the prospects that Trump’s tax cuts will advance in Congress, some bond strategists said that reaction is premature.

“People were too aggressive in their time-line of President Trump’s agenda,” said Mikhail Foux, head of municipal strategy at Barclays Plc.

Investors that want to put cash to work will find the most value on the long-end of the muni curve, where the difference between 10- and 30-year yields are close to 12-month highs, said Foux. By contrast, 5-year municipals are more expensive compared with Treasuries than they have been since the end of August 2016.

Investors have shifted heavily into shorter-maturity debt because of concerns about whether the tax break given to bondholders will be rolled back and the prospect of corporate tax cuts, which could cause banks and property and casualty insurers to stop buying long-duration debt, he said.

Those concerns may be overblown. Trump’s push to slash corporate and individual income-tax rates won’t have a dramatic impact on the market. Cutting the top-rate to 35 percent from 39.6 percent would be too small to sap demand, analysts said, while eliminating the Alternative Minimum Tax and state and local tax deduction could actually strengthen demand for tax-exempt securities.

Cutting corporate taxes to 15 percent would markedly crimp demand from insurance companies and banks, but it's more likely the corporate tax cut will be in the 20 to 25 percent range, said Foux.

In the long run, though, changes to the tax code won't be the main driver of municipal returns, said Lyle Fitterer, who oversees $40 billion as head of tax-exempt debt for Wells Capital Management. What's more important is supply-demand trends, the absolute level of rates and the difference between short and long term yields — which is driven by forecasts about the trajectory of the economy.

"Right now, supply is down, foreign demand is up, U.S. demand is strong because rates have been rallying, so people are more comfortable in fixed income again, so you've seen the market outperform," he said.

Bloomberg Markets

by Martin Z Braun

May 19, 2017, 2:00 AM PDT

Bloomberg Brief Weekly Video - 05/18

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

Watch video.

Bloomberg

Trump Budget Said to Include $200 Billion for Infrastructure.

- **Budget first step in Trump's $1 trillion infrastructure plan**
- **Federal funds aim to spark state, local and private investment**

President Donald Trump will propose spending $200 billion in federal funds over 10 years to spur investment in the nation's infrastructure, a senior Office of Management and Budget official said.

The administration's aim for the funds, which will be part of the budget proposal Trump plans to release on May 23, is to provide incentives for at least $800 billion of infrastructure investment by the private sector and state and local governments, said the official, who spoke on condition of anonymity because the plans were not yet public.

Administration officials are examining the use of federal grants and loans as well as other vehicles to spur the investment, much as the existing Transportation Infrastructure Finance and Innovation Act loan program leverages federal funding for state and local spending, the official said.

One option likely to be part of the plan is asset recycling, in which the federal government offers an incentive to encourage a state or municipality to lease a public asset to the private sector in return for an upfront payment that can be used for other projects that lack funding, according to the official.

Most U.S. infrastructure is owned and controlled by states, localities and private entities. Trump's plan, the official said, will be designed to encourage them to secure their own funding and financing rather than relying on the federal government.

Trump promised throughout the campaign and since taking office to invest $1 trillion over 10 years to upgrade roads, bridges, airports and other assets. The $200 billion in the budget being released next week would be mostly spent between years two through six in the 10-year budget window, the official said, adding that it would be offset to avoid adding to the deficit. The official didn't specify how.

The administration also has convened a task force of 16 federal agencies to identify rules, regulations and statues that could be changed to streamline the environmental review and permitting process to accelerate projects.

U.S. Transportation Secretary Elaine Chao has said the administration is providing principles for its infrastructure plan this month, with a complete legislative package expected by the third quarter.

Officials are using a broad definition of infrastructure that includes veterans' hospitals, energy and broadband, Chao said during testimony on Wednesday at the Senate Environment and Public Works Committee. Administration officials also have said the plan will encourage public-private partnerships as a way to tap the estimated trillions of dollars in available private capital worldwide.

Democrats and even some Republicans have said such deals don't work in rural areas that can't support tolls or a revenue stream needed to secure private investment, and Chao said during her Senate testimony that the administration is committed to meeting both rural and urban infrastructure needs.

Chao has said Trump's plan could involve consideration for "special projects" that are not candidates for private investment and need to be funded directly, though the plan probably won't include a list of specific projects, she said.

Bloomberg

by Mark Niquette

May 18, 2017, 6:00 PM PDT

BDA Submits Comment Letter: SEC Proposed Amendments to 15c2-12.

On May 15, 2017, BDA submitted a comment letter in response to the SEC's proposed amendments to Exchange Act Rule 15c2-12 which proposes to add two items to the list of event notices to be included in continuing disclosure undertakings. You can find our final letter HERE.

Letter Overview:

- The BDA generally supports the concept of the Proposed Amendments, but offers suggestions to

streamline the proposal
- The BDA believes that the definition of financial obligations and the new listed event (16) need to be redrafted more narrowly around bondholder concerns related to competing bank debt
- The BDA believes that something more than just the use of "material" is necessary if the Proposed Amendments will actually result in widespread compliance within the municipal securities market
- The BDA believes that the SEC needs to provide interpretative guidance concerning how dealers should due diligence compliance with the Proposed Amendments to ensure that event filings are material for dealers reporting the related event filings under their MSRB Rule G-47 time of trade responsibilities

Additional Links:

- BDA outside counsel Nixon Peabody has created an alert on the proposed amendments that be read here.
- The SEC's press release and Fact Sheet on the proposed amendments can be found here.

Bond Dealers of America

Mayors See Infrastructure Investment As Key To Future As U.S. Metros Lead Nation's Job Growth, But Many Still Lag Behind.

Washington, D.C. — While the nation's metropolitan areas are economically strong with more than 300 metros experiencing job growth in 2016 and accounting for 95% of all the U.S. job gains last year, growth continues to remain uneven, with nearly one-third of metro cities (121) still not having recovered their lost jobs from the Great Recession, according to a report released today by the U.S. Conference of Mayors.

These metros are predominantly older Midwestern communities suffering from the loss of heavy manufacturing jobs and an aging population and infrastructure.

The report further forecasts that by the end of the decade (2020) nearly one in four U.S. metros (88) will have employment levels below their 2008 levels, representing a decade of lost jobs. For some metros, the loss of jobs has been even more prolonged, with 23 cities having fewer jobs today than in 1990. A large number of metros (140 or nearly 37%) for the same period experienced annual job growth of less than 1%.

Issued during Infrastructure Week in Washington, D.C., the mayors' report also points to infrastructure spending as an economic tool that holds the promise of generating job growth across these metros. Such investment, if funneled directly to metro regions, can create jobs faster, relieve congestion, decrease costs to businesses and increase productivity—all of which further accelerates growth. The entire report and its key findings can be found here.

"Some of the oldest infrastructure is in the Rust Belt metros, which our data show have lagged the national recovery and expansion. And while infrastructure investment is not a cure-all, it can provide cities a "shot in the arm" to help jumpstart their local economies," said U.S. Conference of Mayors President Oklahoma City Mayor Mick Cornett.

But increased infrastructure spending is also needed in high growth areas. The report's findings project that over the next 30 years, the U.S. metro population will grow by 66.7 million people, almost all of the nation's total population growth. By 2047, 72 metros will have population exceeding

1 million, compared to only 53 in 2016. In addition, five metros will have over 10 million people by 2047 – whereas only 2 currently meet that benchmark. And as the metro areas grow, so will traffic congestion.

U.S. metros are already the most congested areas in the country. In fact, from 2013 to 2014, 95 of the nation's largest 100 metros saw increased traffic congestion, up from 61 from 2012 to 2013. The price tag associated with this congestion, which is the value of wasted time and fuel, is estimated at $160 billion in 2014 for U.S. urban areas, or $960 per commuter.

Mayors maintain that infrastructure investment in roads, rails, bridges and other forms of transportation will help relieve the bottlenecks impeding economic expansion, noting for example, the 4.8 billion hours of travel delay Americans experienced in 2014.

"Infrastructure dollars should also be directed where the potential returns are greatest. Clearly, population and economic projections indicate that growth in the United States in the coming years will largely be in cities and their metropolitan areas," said Louisville, KY Mayor Greg Fischer, Chair of the Conference's Council on Metro Economies which produced the report. "If we ignore these trends without preparing for future growth, we will face unnecessary challenges to human, environmental, and economic health."

Mayors consistently tout the strength of U.S. Metros that contribute 91% of the production of goods and services that make up the nation's total gross domestic product (GDP). In fact, since January 2009, 315 metros, 83% of all metros, gained jobs. And twelve of those metros, led by Provo at 29% and Austin at 27%, exceeded a 20% growth rate over the 2009-2016 period.

"We need the Administration and Congress to fulfill their pledge to put real dollars directly into the nation's metro cities, which are the engines of our national economy and have the best track record in delivering infrastructure on time and on budget," said U.S. Conference of Mayors CEO and Executive Director Tom Cochran. "As we look toward the release of the federal budget, mayors are hopeful, as the President promised, that an infusion of federal infrastructure dollars to our cities and metro areas is forthcoming. Anything less will be wholly insufficient to meet the infrastructure needs of the country."

U.S. Conference Of Mayors To Stress Importance Of Tax-Exempt Municipal Bonds During Infrastructure Week.

Washington, D.C. – On the heels of President Trump reaching 100 days in office, U.S. Conference of Mayors (USCM) President Oklahoma City Mayor Mick Cornett will add his voice to the need for additional infrastructure investment and the preservation of the tax exemption on municipal bonds at events in the nation's capital during Infrastructure Week (May 15-19).

On Wednesday, May 17, Mayor Cornett will join other local as well as state leaders at two events to emphasize the vital importance of protecting tax-exempt bonds as the key tool in supporting local infrastructure investment. In the morning, at 10 am, he will participate in a joint forum of the National Association of Counties, National League of Cities and The United States Conference of Mayors to discuss infrastructure investment and the pressing need to protect tax-exempt bonds. In the afternoon, at 2 pm, Mayor Cornett will join a "Big 7" state and local government organizations briefing on Capitol Hill, where he will further emphasize the importance of tax-exempt bonds for cities. See schedule below.

For more than a century, municipal bonds have enjoyed tax-exempt status and have been the primary method by which state and local governments finance public capital improvements, mostly infrastructure. These projects are engines of job creation and economic growth.

Over the last decade, tax-exempt municipal bonds have been used to finance critical infrastructure including the construction of schools, hospitals, airports, affordable housing, water and sewer facilities, public power and gas utilities, roads and public transit. According to USCM data, local and state governments financed nearly $1.7 trillion in infrastructure projects through tax-exempt municipal bonds from 2003 to 2012. In the absence of such financing, it would have cost cities up to $500 billion more—dramatically increasing the costs borne by taxpayers for critical infrastructure projects.

“As Congress discusses tax reform measures in the coming months, mayors across the country will fight to preserve the tax exemption on municipal bonds so that we can continue to repair crumbling roads, bridges, water systems, and schools,” said Mayor Cornett. “If Congress repeals the exemption, it will strangle infrastructure investment causing economic growth to slow, the elimination of hundreds of thousands of jobs and further deterioration of our national infrastructure. When mayors met with President-elect Trump this past December, he assured us that he supported maintaining the exemption. We were encouraged by that assurance and hope that this successful and irreplaceable financing mechanism remains in place.”

Throughout Infrastructure Week, Mayors will challenge Washington to accept the fact that Mayors work with the private sector and the federal government to build infrastructure projects from start to finish faster, with more cost efficiencies than other governments. To prove the point, The U.S. Conference of Mayors has released its “On Task, On Time, On Budget” report. The report features city infrastructure projects, including transportation, water, energy, ports and public buildings, citing their financial structures and the many benefits that resulted from them.

As a national infrastructure package is developed, this new report is intended to inform Administration and Congressional leaders on why more infrastructure dollars should be directed to mayors and other leaders who ensure that such projects are implemented more efficiently, with greater economic impact and timeliness.

Mayors participating in Infrastructure Week Activities in Washington, D.C.:

May 17

Oklahoma City Mayor Mick Cornett, USCM President – “Built to Last: A Discussion on the Importance of Local Infrastructure Investment” | A joint forum of the National Association of Counties, National League of Cities and The United States Conference of Mayors where USCM President Mayor Mick Cornett will emphasize the vital importance of protecting tax-exempt bonds as the key tool in supporting local infrastructure investment | NACo Conference Center: 660 North Capitol Street, NW, Washington, DC (10:00 – 11:00 am)

Oklahoma City Mayor Mick Cornett, USCM President – “State and Local Governments Drive America – A Discussion for the Future of Infrastructure Policy” | A “Big 7” state and local government organizations briefing where USCM President Mayor Mick Cornett will further emphasize the importance of protecting tax-exempt bonds for cities, counties and states | 2154 Rayburn House Office Building, Washington, DC (2:00 – 3:15 pm)

May 18

South Bend Mayor Pete Buttigeg – House Transportation & Infrastructure Subcommittee on Water and the Environment hearing on "Building a 21st Century Infrastructure for America: Improving Water Quality Through Integrated Planning" | 2167 Rayburn House Office Building | Washington, DC (10:00 am)

Wells Fargo Suffers Slump in Muni Bond Underwriting.

CHICAGO/SAN FRANCISCO — Wells Fargo & Co is paying a price in the U.S. municipal bond market for the bogus customer accounts scandal that hit the bank last year and led to bans by some cities and states, an analysis of Thomson Reuters data shows.

So far in 2017, Wells Fargo is in sixth place among senior underwriters of municipal bonds with 85 deals totaling nearly $8.13 billion, according to the data. During the same period in 2016, the bank ranked fourth with 134 issues totaling $12.74 billion.

In September, Wells Fargo agreed to pay a $190 million settlement over its staff opening as many as 2 million accounts without customers' knowledge.

California, along with Massachusetts, Chicago, and Ohio, suspended Wells Fargo last fall from pricing their negotiated bond sales due to the scandal.

Municipal issuers typically sell their debt either by hiring underwriters to price their bonds or by setting a date and time for underwriters to bid on the debt, and then choose the lowest bid.

Wells Fargo's ranking for negotiated deals slid to eighth place between Jan. 1 and May 17 from fourth place during the same period in 2016. The bank was the bookrunning underwriter on 45 deals totaling $5.2 billion so far this year, compared to 79 deals totaling $9.25 billion in 2016.

The bank's ranking drop for winning competitively bid issues was not as steep, falling to fifth place with 40 deals totaling $2.92 billion so far this year from third place with 55 deals totaling $3.48 billion last year.

"Public Finance is an important business for Wells Fargo with many opportunities for growth," Philip Smith, head of government and institutional banking at Wells Fargo, said in a statement to Reuters.

"We are continuing to invest in the business. Despite current political challenges affecting league tables, our strong relationships and diversified municipal business model have us growing (revenue) 15 percent year over year," Smith said.

CALIFORNIA DEAL

California sanctioned Wells Fargo over the accounts scandal last year. In April, however, it beat out eight other banks to win a $635 million competitive deal in the state with a 2.811 percent interest rate, according to the California Treasurer's Office.

"We had no choice," said California State Treasurer spokesman Marc Lifsher. California law requires the state to award competitive sales of general obligation bonds to the bidder with the lowest interest cost, Lifsher said.

He added that the state plans to review the sanctions this fall, but as of Monday, the bank was "still in our dog house."

"We're continuing to pressure them to show us that they've cleaned up their act," Lifsher said.

By REUTERS

MAY 19, 2017, 4:54 P.M. E.D.T.

(Reporting By Karen Pierog in Chicago and Robin Respaut in San Francisco; Editing by Daniel Bases and Tom Brown)

FAF Issues 2016 Annual Report: "Better Standards. Better-Informed Decisions."

Norwalk, CT—May 18, 2017 — The Financial Accounting Foundation (FAF) today posted its 2016 Annual Report to the FAF website. The report is available in print, PDF, and interactive digital versions.

The theme of the 2016 Annual Report is "Better standards. Better-informed decisions." It highlights the standard-setting activities of the FASB and the GASB in 2016—and how they contribute to better-informed decisions by investors, lenders, citizens, and others who rely on high-quality financial reporting. The report also looks at what the FAF did to support the Boards' efforts and to ensure a robust, inclusive standard- setting process.

The 2016 Annual Report also features:

- Letters from FASB, GASB, and FAF leaders
- A special "How We're Funded" section that provides a broad overview of FASB, GASB, and FAF funding sources, and
- Complete 2016 management's discussion and analysis and audited financial statements (previously posted on the FAF website in April 2017).

The interactive, tablet-friendly version of the annual report also showcases a new video , "The Importance of GAAP," aimed at non-technical audiences. It also includes listings of all FAF, FASB, and GASB advisory groups and their members, including the Private Company Council and the Emerging Issues Task Force.

Those interested in receiving a print copy of the report may request one by emailing Christine Klimek clklimek@f-a-f.org. Print copies are available in limited quantities and will be distributed on a first-come, first-served basis.

SIFMA US Research Quarterly, First Quarter 2017

About the Report

A quarterly report containing brief commentary and statistics on the U.S. capital markets, including but not limited to: municipal debt, U.S. Treasury and agency debt, short-term funding and money market debt, mortgage-related, asset-backed and CDO debt; corporate bonds, equity and other, derivatives, and the primary loan market.

Summary

Total Issuance Increases in 3Q'16 Quarter-Over-Quarter and Year-over-Year

Long-term securities issuance totaled $1.90 trillion in 1Q'17, a 18.7 percent increase from $1.60 trillion in 4Q'16 and a 13.1 percent increase year-over-year (y-o-y) from $1.68 trillion. Issuance increased quarter-over-quarter (q-o-q) across all asset classes but municipal, mortgage-related and asset-backed securities; y-o-y, growth was positive in all asset classes except municipal debt.

Long-term public municipal issuance volume including private placements for 1Q'17 was $90.5 billion, down 13.7 percent from $104.9 billion in 4Q'16 and down 9.4 percent from 1Q'16.

The U.S. Treasury issued $654.1 billion in coupons, FRNs and TIPS in 1Q'17, up 44.8 percent from $451.6 billion in the prior quarter and 13.1 percent above $578.2 billion issued in 1Q'16.

Issuance of mortgage-related securities, including agency and non-agency passthroughs and collateralized mortgage obligations, totaled $406.5 billion in the first quarter, a 27.3 percent decline from 4Q'16 ($558.9 billion) but a 12.3 percent increase y-o-y ($361.9 billion).

Corporate bond issuance totaled $468.7 billion in 1Q'17, up 79.0 percent from $261.8 billion issued in 4Q'16 and up 17.9 percent from 1Q'16's issuance of $397.4 billion. Of all 1Q'17 corporate bond issuance, investment grade issuance was $381.0 billion (81.3 per-cent of total) while high yield issuance was $87.7 billion (18.7 percent).

Long-term federal agency debt issuance was $151.2 billion in the first quarter, a 49.1 per-cent increase from $101.4 billion in 4Q'16 and a 2.5 percent increase from $147.4 billion issued in 1Q'16.

Asset-backed securities issuance totaled $75.8 billion in the first quarter, a decline of 3.5 percent q-o-q but an 37.5 percent increase y-o-y.

Equity underwriting increased by 23.4 percent to $57.7 billion in the first quarter from $46.8 billion in 4Q'16 and up 29.4 percent from $44.6 billion issued in 1Q'16. Of the total, "true" initial public accounted for $10.7 billion, up 144.8 percent from $4.4 billion in 4Q'16 and up tenfold from $1.2 billion in 1Q'16.

View the Report.

SIFMA Submits Comments to the SEC on Proposed Amendments to Rule 15c2-12.

The Securities and Exchange Commission has proposed rule amendments Rule 15c2-12 with the goal of improving investor protection and enhancing transparency in the municipal securities market. The amendments to Rule 15c2-12 add two event notices to Continuing Disclosure Agreements. First, issuers and obligated persons must disclose information on the incurrence of alternative financings, including bank loans, direct placements, and similar obligations, and terms of such financings. Second, issuers and obligated persons must disclose any default or termination events with regard to those alternative financings.

View Comments.

See also:

- Press Release: SEC Proposes Rule Amendments to Improve Municipal Securities Disclosures
- Federal Register Notice

May 15, 2017

GFOA: Infrastructure Week

GFOA is participating in Infrastructure Week in Washington DC and will be continuing the focus during the Annual Conference.

More

MSRB to Establish Continuing Education Requirements for Municipal Advisors.

Washington, DC – The Municipal Securities Rulemaking Board (MSRB) received approval from the Securities and Exchange Commission (SEC) to establish continuing education (CE) requirements for municipal advisor firms to ensure that individuals providing municipal advisory services to municipal entities and obligated persons remain current in their industry knowledge. Read the approval notice.

The requirements, which are part of the MSRB's regulatory framework for municipal advisors, will be implemented on January 1, 2018. Municipal advisor firms will have until December 31, 2018 to complete a needs analysis, develop a written training plan and deliver training to comply with the annual CE requirements that will be codified in amendments to MSRB Rule G-3, on professional qualification requirements, and MSRB Rule G-8, on recordkeeping. The MSRB plans to provide implementation guidance on how to conduct a needs analysis and develop a training plan and provide other resources to assist municipal advisor firms in developing a CE program. Access resources for municipal advisors.

"Ensuring that municipal advisor professionals are regularly receiving training on current regulations and market activities is in the best interests of the state and local government issuers relying on their advice," said MSRB Executive Director Lynnette Kelly. "The new CE requirements are an important piece of the MSRB's comprehensive regulatory framework for municipal advisors."

The new requirements fulfill the MSRB's mandate under the Dodd-Frank Wall Street Reform and Consumer Protection Act to develop professional qualification standards and CE requirements for municipal advisors. The CE requirements for municipal advisors align with existing CE requirements for municipal securities dealers and seek to reduce regulatory overlap for municipal advisors who may also act as dealers.

The MSRB will host an educational webinar on the CE requirements for municipal advisors on Thursday, October 5, 2017 at 3:00 p.m. to 4:00 p.m. ET. Register for the webinar.

The implementation of CE program requirements by municipal advisors complements the baseline examination of competency for municipal advisor professionals, the Municipal Advisor Representative Qualification Examination (Series 50 exam), which municipal advisor professionals must take and pass by September 12, 2017 to continue to engage in municipal advisory activities.

Date: May 17, 2017

Contact: Jennifer A. Galloway, Chief Communications Officer
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The Future of Economic Development: Using Health Care as an Economic Driver, Public-Private Partnerships as a Platform to Further Development, and Minority Participation as a Path Forward in a More Diverse Mississippi.

The Future of Economic Development: Using Health Care as an Economic Driver, Public-Private Partnerships as a Platform to Further Development, and Minority Participation as a Path Forward in a More Diverse Mississippi.

by Tray Hairston | Butler Snow

Mississippi College Law Review

New York Town Official Convicted in Landmark Bond Fraud Case.

NEW YORK — An elected official of a New York City suburb was convicted on Friday of what authorities have called the first criminal securities charges brought over municipal bonds, a spokesman for federal prosecutors said.

Christopher St. Lawrence, the elected supervisor of Ramapo, New York, was convicted by jurors in federal court in White Plains, New York, of 20 counts including securities fraud, wire fraud and conspiracy. The charges stemmed from actions aimed at securing financing for a stadium in the town.

A lawyer for St. Lawrence could not immediately be reached for comment.

New York federal prosecutors charged St. Lawrence in April 2016 along with Aaron Troodler, former executive director of the town-owned Ramapo Local Development Corp. Prosecutors said the two men defrauded investors who helped finance a controversial minor league baseball stadium.

Troodler pleaded guilty in March under an agreement with prosecutors and testified against St. Lawrence at the trial.

The case followed U.S. regulators’ push in recent years to bring civil actions against those accused of misconduct in the $3.7 trillion U.S. municipal bond market.

Prosecutors said Ramapo and the development corporation sold more than $150 million of bonds while Troodler and St. Lawrence concealed the town's deteriorating finances.

The town's financial woes were largely due to a $58 million minor league ballpark project, prosecutors said. The park is home to the Rockland Boulders.

Ramapo residents rejected a plan to guarantee bonds used to finance the park in a 2010 referendum, and St. Lawrence told residents that no public money would be used to pay for the project. But Ramapo ended up paying more than half the cost, according to prosecutors.

St. Lawrence and Troodler falsified the town's finances to help sell the bonds, including by putting millions in fake receivables on its books, prosecutors said.

St. Lawrence is also facing civil claims by the U.S. Securities and Exchange Commission.

In May 2016, after the charges were filed, Moody's Investors Service downgraded the town's outstanding bonds two notches to A3, still in the investment grade category. In February, Moody's withdrew its rating altogether because the town did not file audited financial statements.

The town, which is 28 miles northwest of New York City and had 126,595 residents as of the 2010 census, has said it significantly reduced its debt and cut its exposure to the development corporation by 62 percent as of Dec. 31.

By REUTERS

MAY 19, 2017, 4:00 P.M. E.D.T.

(Reporting By Brendan Pierson in New York; Editing by Cynthia Osterman)

Santander Becomes Target of Puerto Rican Anger Over Bond Losses.

Carlos Burgos Alvarado sank the $50,000 he inherited from his father into "bonos." He believed they were safe, high-yielding, tax-exempt bonds issued by Puerto Rico.
He was wrong.

According to Burgos, the Santander Securities LLC broker who sold him the investment in April 2013 didn't tell him its credit rating had been downgraded the previous December, making it riskier to own. She didn't tell him that Santander had underwritten the debt, sharing $15.6 million in fees. She didn't tell him that the bank was in the process of selling its own inventory of the bonds.

Burgos said he didn't discover any of this until late last year, when he hired a lawyer, who's trying to figure out whether what Burgos bought came from Santander's own portfolio. Santander Holdings USA Inc. said it was common for broker-dealers to both underwrite and sell the bonds and the bank obeyed all laws and regulations.

"Very bad, very bad," Burgos said in an interview. "It made me very angry."

Puerto Rico's $74 billion debt crisis has been cast as a wrestling match between the government and the hedge funds that bought distressed debt on the cheap. But tens of thousands of bondholders are people like Burgos, Puerto Rico residents who invested a total of $7 billion in bonds, much of them low-rated, to fund their retirements.

“A lot of the stuff that went on in Puerto Rico would not have been allowed on the mainland,” said Craig McCann, founder of Securities Litigation & Consulting Group in Fairfax, Virginia, and a former economist at the Securities and Exchange Commission.

Closed-End Funds

McCann points to the absence in Puerto Rico of what investors in the 50 states take for granted: a conflict-of-interest prohibition for banks. Democratic Representative Nydia Velazquez of New York called this discrepancy “unconscionable treatment of Puerto Ricans as second-class citizens.” She sponsored legislation, which passed the House this month, to close the loophole. Senate approval would make it law.

Unlike Burgos, who owned the bonds directly, many locals bought government debt through closed-end funds — products similar to mutual funds which were purchased by locals who wanted to own government debt. Santander and UBS Group AG’s Puerto Rico unit, among the island’s biggest brokerages, sold closed-end funds. Unlike most mutual funds, however, the funds used as much as 50 percent borrowed money, meaning a downturn would cause amplified losses.

Santander’s funds “complied with all applicable laws, regulations and requirements, including those established by Puerto Rico’s securities regulator, and these requirements were fully disclosed in the funds’ prospectuses,” Ann Davis, a bank spokeswoman, said in a statement. “Each fund’s prospectus also included an extensive discussion of risk factors associated with investing in the fund.”

Peter Stack, a UBS spokesman, said in a statement that despite the island’s economic woes, “these funds have to date paid out over $4 billion in dividends to Puerto Rico investors.”

As much as the island’s situation differs from the mainland’s, there are parallels, too. There’s the timing of ratings companies’ downgrades and the role of retail investors, whose sleep-at-night money fueled a profit machine that benefited everyone — until the island’s dismal economic condition ground it to a halt.

On the island, the May 3 municipal bankruptcy filing, the biggest in American history, pits a half-dozen or so investor classes against Puerto Rico and against one another for a piece of a pie that’s too small to satisfy everyone. The commonwealth says it can only cover about $8 billion of $33.4 billion in bond payments due through 2026.

Bad Advice

There are two types of local bond investors, said Sergio Marxuach, policy director at the Center for the New Economy in San Juan. “There’s a group of people that got bad advice from their financial adviser or their broker,” he said. And then there are those who “decided to go all in on Puerto Rico bonds just to reduce significantly their tax liabilities,” he said. Those people “knew that was a very risky strategy.”

For local bond investors, the wheels began to come off in 2013, soon after Burgos invested the money, which was more than he’d ever made in a year. In August, a Barron’s cover story on the risks of the island’s securities sent prices tumbling. By the end of that year, many of UBS’s closed-end funds lost half or nearly half their value, according to research conducted by McCann.

Something Wrong

Burgos said his broker told him not to worry even as his principal shrank, that he would get his investment back when the bonds matured. According to McCann, Santander should have known the bonds were effectively junk when it sold them to Burgos.

"By the time you get to the end of 2012, sophisticated market professionals, including the ones at Santander, knew that Puerto Rican municipal bonds should be considered junk," he said. "Even though they hadn't been downgraded to junk status yet, they were trading at credit spreads consistent with them being junk bonds."

Between late 2012 and October 2013, Santander marketed more than $280 million in Puerto Rico municipal bonds and its closed-end funds to clients while unloading its holdings of the securities, according to Financial Industry Regulatory Authority documents. UBS and Santander would eventually agree to pay fines through settlements with Finra for inadequately monitoring the risks of closed-end funds. Santander's Davis had no comment on the settlements.

'Protected Themselves'

"They protected themselves and sold their positions but left their clients holding the bag," said Peter Mougey, a Florida-based attorney at Levin Papantonio who represents local investors filing Finra claims against the banks.

Arbitration claims are mounting. More than 1,870 have been filed, according to Securities Litigation & Consulting Group, and more than $200 million doled out as awards. McCann said he expects that the number of claims will rise now that the island has begun a bankruptcy proceeding. Mougey's law firm says it's set to represent 400 clients.

One of them is Burgos, now 65. After the bonds he held stopped paying interest, he said he's had to turn to his partner's children to help pay medical bills.

"I'm always paying the bills late," Burgos said. "We take it day by day, and we're always behind on things each month."

He said he's seen his Santander broker when she appears in newspaper society pages. The bank settled eight arbitration claims filed against her for fraud and breach of fiduciary duty, Finra data show. At least 14 other claims are pending.

"Call me a cynic, but the firms had to find a home for the bonds they were underwriting," said Mougey, the plaintiffs' attorney. "They had to move them out the back door and the funds and the clients were the mechanisms to do that."

Bloomberg Quint

by Rebecca Spalding and Michelle Kaske

May 17, 2017, 6:37 am

Puerto Rico Strikes Second Restructuring Deal with Bondholders.

Puerto Rico reached a restructuring agreement with bondholders invested in the commonwealth's Government Development Bank, officials announced Monday in San Juan.

Parties to the agreement include the Ad Hoc Group of Bondholders, whose members are funds managed or advised by Avenue Capital Management II, Brigade Capital Management, Fir Tree

Partners and Solus Alternative Asset Management. The group's financial adviser, Bradley Meyer of Ducera Partners in New York, said in a statement that the agreement "is fair to all parties."

Puerto Rico's Federal Affairs Administration said in that statement that GDB creditors "have agreed to substantial discounts to the principal," but did not provide further details on the agreement, which calls for bondholders to exchange claims for one of three tranches of bonds issued by a new municipal entity. The new bonds will have varying principal amounts, interest rates, collateral priority, and other payment terms.

Restructuring agreements must be approved by the Financial Oversight Management Board and the U.S. District Court in San Juan. Mr. Rosello said in the statement that the agreement "is an example that the government is regaining the credibility it had lost over the past few years."

PENSIONS & INVESTMENTS

BY HAZEL BRADFORD · MAY 15, 2017 2:55 PM · UPDATED 7:41 AM

Puerto Rico's Bankruptcy Hearing Marks Reset of Asset Scramble.

NEW YORK — Puerto Rico is due to embark on a bankruptcy process on Wednesday that could take years to resolve, as investors scramble to get the highest recovery on their bonds.

The debt is still trading at elevated levels versus what the government has set aside for payment under its financial recovery plan, and creditors worry about whether they will be able to recoup at those prices.

Whether they get that level of recovery is debatable, according to investors and analysts, as the U.S. territory seeks to restructure more than $70 billion in debt, from multiple agencies, and another near $45 billion in underfunded pension liabilities.

"The 25 percent may be what the Commonwealth identified as a available to cover debt service but it doesn't necessarily mean that will be the ultimate recovery," said Shaun Burgess, portfolio manager and lead trader for Puerto Rico strategy at Sarasota, Florida-based Cumberland Advisors.

Puerto Rico, with 3.5 million U.S. citizens, has spent the last ten years in recession with debt piling up to pay for basic services. The poverty rate is at 45 percent, unemployment is at 11 percent and the population is shrinking as islanders emigrate to the mainland United States in search of a better life.

Burgess, who owns insured Puerto Rican debt, did not want to speculate on the final recovery prices, or the potential losses for major mutual funds, but said negotiations could include lowering the coupon rates, reducing principal and extending maturity dates.

"There isn't enough information, especially as it relates to time frame and potential recoveries," he said.

Yet to be worked out is how an $800 million pot of money set aside in the government's certified 10-year fiscal recovery plan will be apportioned between competing claims including those of constitutionally backed general obligation debt (GO) and sales-tax backed bonds known as COFINA.

That pot of money represents less than a quarter of what is needed to service debt annually.

That question will ultimately be settled by U.S. District Judge Laura Taylor Swain of the Southern District of New York when the bankruptcy-like proceeding begins in a San Juan courtroom on Wednesday.

Swain, appointed by U.S. Chief Justice John Roberts on May 5th, is operating under the authority granted by the U.S. Congress, which passed a law last year known as PROMESA (Puerto Rico Oversight, Management, and Economic Stability Act).

PROMESA established a federal oversight board with the authority to negotiate the restructuring of the island's debt. It includes a provision known as Title III that establishes a legal pathway, previously unavailable, for Puerto Rico to settle its obligations through a bankruptcy-like process.

Normally, GO debt is the most senior in a municipality's capital structure and the first to be paid. COFINA creditors are fighting to ensure its revenue stream doesn't get diverted to pay other debt.

"Clearly we don't know what to expect, but it is going to be a lengthy and tortuous process. This is going to take longer than Detroit," said Mikhail Foux, municipal research director at Barclays Capital in New York. Detroit's case took 18 months.

"I would assume the final solution should also address the pensions because if you are bondholder why would you take a haircut knowing the pension liability question could just send you back to square one again," he said.

UNPRECEDENTED

Puerto Rico's bankruptcy dwarfs Detroit's, the previous record holder for municipal bankruptcy at $18 billion in debt and obligations that was ultimately reduced by $7 billion.

"The main take-away I have from the experience of Detroit or GM (General Motors) is that politics trumps contracts. I expect the final result to involve big haircuts, low coupons and long maturities for bondholders, and it probably doesn't matter if its GO's or COFINAS," said Robert Rauch, senior partner and portfolio manager at emerging market asset manager Gramercy.

Currently Puerto Rico's benchmark general obligation debt, an 8 percent coupon bond maturing in 2035, last traded at a bid price of 60, according to Thomson Reuters data. <74514LE86=MSRB>

"Current prices reflect the fact that the muni market doesn't permit shorting. As long as the current core of bondholders is supporting the market it won't go down to a level that reflects realistic recoveries," said Rauch, whose firm specializes in emerging markets and distressed debt.

COFINA bondholders were the first to sue the government after the freeze on creditor litigation under PROMESA expired at Midnight May 1st. They accuse Puerto Rico, Governor Ricardo Rossello and other officials of angling to repurpose the tax revenue earmarked to pay COFINA debt.

"If COFINA is pierced, many people would say it is one-off situation and not precedent setting. But it could have some effect on other municipal credits," Foux said.

Senior COFINA debt carrying a 5.25 percent coupon maturing in 2057 was bid at 57 with a yield of 9.39 percent on Tuesday. <74529JAR6=MSRB>

The 6 percent 2042 subordinated COFINA bond has steadied, last bid at 23.71 with a yield rising to

25.5 percent <74529JHN8=MSRB>. This bond has dropped by more than 50 percent since the board certified the government's fiscal plan in March.

"The fiscal plan only allows for a certain amount of money for debt servicing and it isn't enough. Why are market prices still implying higher recoveries? One factor to remember is there are competing claims between GO and COFINA. They can't both be right. Therefore, in aggregate prices to need to go lower," said David Hammer, head of municipal bond portfolio management at Pimco in New York.

By REUTERS

MAY 17, 2017, 5:30 A.M. E.D.T.

(Reporting By Daniel Bases; editing by Diane Craft)

Puerto Rico Retirees Will Get Bankruptcy Committee: U.S. Trustee.

NEW YORK — The U.S. Department of Justice's bankruptcy watchdog said on Friday it plans to appoint a committee of retirees in Puerto Rico's bankruptcy to negotiate for pensioners facing benefit cuts as part of the island's debt restructuring.

Puerto Rico, carrying some $50 billion in unfunded pension liabilities, "clearly needs a retiree committee and sooner rather than later," the office of the U.S. Trustee said in a filing in federal court in San Juan.

Puerto Rico filed the biggest municipal bankruptcy in U.S. history earlier this month. In addition to its pension debt, the U.S. territory has around $70 billion in bond debt it cannot pay.

While retiree committees are common in bankruptcies with big pension debts, the Trustee in Puerto Rico's case took the rare step of announcing intentions to appoint a committee without waiting for a blessing from the judge in the case, U.S. District Judge Laura Taylor Swain.

"The Trustee typically will refrain from exercising his discretion … to appoint an additional committee until the court has an opportunity to rule," the filing said. "But this case is not like most cases."

Puerto Rico's biggest public pensions are almost 100 percent underfunded, a gap thought to be the largest state-level pension hole in U.S. history.

The federally-appointed board overseeing the island's finances has called for cuts to pension benefits, saying they are necessary to pull the island out of a crisis marked by a 45 percent poverty rate, unemployment more than twice the U.S. average, and near-insolvent public health systems.

The Trustee said it expects to complete the solicitation process for the committee by June 16.

At the island's first bankruptcy hearing this week in San Juan, Robert Gordon, an attorney for an informal group comprising 91,000 retirees, argued "they have earned the right to participate in this process."

The Trustee, however, stressed in its filing that Judge Swain should not grant Gordon's group the right to serve as the official committee. Appointing the committee is the job of the Trustee, the filing argued.

Gordon could not be immediately reached for comment.

By REUTERS

MAY 19, 2017, 4:09 P.M. E.D.T.

(Reporting by Nick Brown; editing by Grant McCool)

- BDA / Nixon Peabody Issue Price Summary Document.
- NFMA Comments on Proposed Amendments to SEC Exchange Act Rule 15c2-12.
- A Requiem for Reasonable Expectations: Squire Patton Bogs
- New IRS Arbitrage Publication and TEB Training Texts Now Available.
- Amid Divestment Protests, More Cities Explore Public Banks.
- Commentary: Advances in Advance Refunding.
- Municipal Bonds 201: A Breakfast Seminar Presented by Municipal Bonds for America (MBFA)
- Any tax nerds out there might want to take a gander at *County of Douglas v. Nebraska Tax Equalization and Review Commission*. *(*The qualifier "might" is deployed due to the fact that we didn't understand a word of it.)
- And finally, the Supreme Court of Connecticut wonders exactly how it got dragged into a landlord/tenant dispute about a dog named "Mellow" this week in *Presidential Village, LLC v. Phillips*. Please note that the Phillips were fighting to remain in the "Presidential Village." Having reported from the front lines of New Haven, we can assure you that naming a New Haven apartment complex the "Presidential Village" is the cruelest of ironies. Then again, perhaps the slightly more accurate "Rat-Infested Hellhole" was already taken.

COSTS - CALIFORNIA

Save Our Heritage Organisation v. City of San Diego

Court of Appeal, Fourth District, Division 1, California - April 27, 2017 - Cal.Rptr.3d - 2017 WL 1505923 - 17 Cal. Daily Op. Serv. 4000

Project opponents brought action for writ of mandamus, seeking to contest city's approval of revitalization project for historic park area which involved converting park to pedestrian only use and re-routing traffic on new bridge bypass.

The Superior Court issued writ. City committee appealed, and opponents cross-appealed, and the Court of Appeal reversed in part. City committee filed motion for attorney's fees under the private attorney general statute. The Superior Court denied the motion, and city committee appealed.

The Court of Appeal held that:

- City committee's status as a project proponent did not categorically bar it from obtaining award of attorney's fees under the private attorney general doctrine, and
- Action was not detrimental to the public interest and thus did not warrant award of attorney's fees under the private attorney general doctrine.

City committee's status as a proponent of revitalization project for historic park area did not categorically bar it from obtaining award of attorney's fees from project opponents under the private attorney general statute as a "successful party" if it otherwise satisfied the requirements for such an award.

Project opponents' action contesting city's approval of revitalization project for historic park area, which involved converting park to pedestrian only use and re-routing traffic on new bridge bypass, was not detrimental to the public interest and thus did not warrant award of attorney's fees, under the private attorney general doctrine, to city committee as the successful party. Litigation did not seek to curtail or compromise important public rights or exonerate a violation of such rights, but sought to correct perceived violations of state and local environmental, historic preservation, and land use laws, and was precisely the type of enforcement action the doctrine sought to promote.

HOUSING - CONNECTICUT

Presidential Village, LLC v. Phillips

Supreme Court of Connecticut - May 9, 2017 - A.3d - 325 Conn. 394 - 2017 WL 1719185

Landlord brought summary process action against tenant of federally subsidized apartment, based on tenant's keeping of "emotional support dog" in violation of pet restriction clause of lease.

The trial court entered judgment in favor of tenant, based on equity. Landlord appealed. Appeal was transferred to Supreme Court.

The Supreme Court of Connecticut held that:

- Appeal was not rendered moot by landlord's commencement of second summary process action against tenant, which was dismissed;
- Trial court could not rely on "spirit" of Department of Housing and Urban Development in exercising equitable discretion to enter judgment in favor of tenant;
- Trial court abused its discretion in applying doctrine of equitable nonforfeiture; and
- Summary process action was "civil action" to which medical treatment report exception to hearsay rule could be applied to allow for admission of letter from physician and social worker of tenant's niece concerning dog's benefit to niece.

HIGHWAYS - KENTUCKY

Collins v. Commonwealth , Transportation Cabinet, Department of Highways

Supreme Court of Kentucky - April 27, 2017 - S.W.3d - 2017 WL 1538165

Widow of school bus driver killed in collision with oversized vehicle on "non-designated" highway sought review of decision of the Board of Claims, denying claim alleging that the Department of Highways was negligent in its failure to enforce length and width restrictions applicable to commercial vehicles.

The Circuit Court reversed and remanded. The Department of Highways appealed. The Court of Appeals reversed. Widow appealed.

The Supreme Court of Kentucky held that:

- Department of Highways was not charged with a statutory or regulatory duty to enforce vehicle size restrictions, and
- The common law duty of Department of Highways to keep highways in a reasonably safe condition did not extend to ensuring compliance with size restrictions.

DEVELOPMENT IMPACT FEES - MARYLAND

Dabbs v. Anne Arundel County

Court of Special Appeals of Maryland - March 30, 2017 - A.3d - 2017 WL 1180542

Property owners brought class action against county, seeking to recover development impact fees.

The Circuit Court entered take-nothing declaratory judgment in favor of county. Property owners appealed.

The Court of Special Appeals held that:

- County council bill codifying procedures for counting impact fee expenditures and encumbrances, for purposes of determining impact fee refunds, could be applied retroactively to calculation of whether impact fee refunds were due to property owners who had paid such fees;
- State laws allowing for imposition of impact fees and defining state rated capacity, for purposes of educational funding, did not preempt ordinance authorizing county to use impact fees for temporary classroom structures provided they expanded capacity of schools to serve new development; and
- Property owners had no vested rights that would preclude prospective repeal of impact fee refund provisions previously set forth in county code.

County was not required to provide actual accounting of development impact fees, without the new accounting procedures of retroactive county legislation, to property owners who sought refund of fees in action against county; discovery was a fully effective means for property owners to obtain information sought in motion for accounting, and county provided property owners with the documents necessary to determine whether impact fees were available for refund.

Property owners had no vested rights that would preclude prospective repeal of impact fee refund provisions previously set forth in county code, which had required county to refund fees that had not been expended or encumbered within six fiscal years following the fiscal year of collection, where effective repeal date was prior to expiry of that six year period.

AUCTION RATE SECURITIES - NEW YORK

Presbyterian Healthcare Servs. v. Goldman Sachs and Co.

United States District Court, S.D. New York - March 17, 2017 - Slip Copy - 2017 WL 1048088

Plaintiffs Presbyterian Healthcare Services and the New Mexico Hospital Equipment Loan Council sued their financial advisor and the broker-dealer for their Auction Rate Securities – Goldman Sachs and Co., – alleging that Goldman Sachs wrongfully failed to disclose material facts about the stability of the ARS market, resulting in the loss of over $10,000,000 when the ARS market crashed in 2008.

Goldman Sachs moved to dismiss and the District Court granted the motion.

"Because the Second Circuit Court of Appeals has repeatedly rejected claims materially identical to the claims here, and because some of Plaintiffs' causes of action are barred by the statute of limitations, the Court grants Goldman Sachs's motion to dismiss."

ECONOMIC DEVELOPMENT LOANS - NORTH CAROLINA

Woods v. City of Greensboro

United States Court of Appeals, Fourth Circuit - May 5, 2017 - F.3d - 2017 WL 1754898

Minority-owned business, which operated television network, brought action against city, asserting claim for race discrimination under § 1981 arising out of city's denial of economic development loan.

The United States District Court granted city's motion to dismiss for failure to state claim. Business appealed.

The Court of Appeals, Davis held that:

- Business was not required to allege that it was certified as minority business enterprise under state law in order to establish imputed racial identity, and
- Business stated race discrimination claim against city.

Business was not required to allege that it was certified as minority business enterprise under state law in order to establish imputed racial identity, as required for business to have standing to assert racial discrimination claim under § 1981 against city, which denied business's application for economic development loan; business alleged that it was entirely owned and led by protected minority group and represented itself as minority business enterprise.

Minority-owned business, which sought economic development loan from city, stated race discrimination claim against city under § 1981. Business alleged that study found that less than 0.2% of economic development loans were distributed to minority businesses despite fact that city was over 40% African-American, that it had sufficient equity to secure the loan, that city was more willing to afford accommodating treatment to non-minority companies, that city had backed out of commitments to other minority companies, and that although it was initially approved for loan under one set of terms and subsequently denied loan under second set of terms, it would have been approved under both sets of terms if it had been a non-minority company.

CUSIP Requests Pull Back in April Signaling Possible Slowdown in Corporate and Muni Bond Issuance Volume.

NEW YORK, NY, MAY 10, 2017 – CUSIP Global Services (CGS) today announced the release of its CUSIP Issuance Trends Report for April 2017. The report, which tracks the issuance of new security identifiers as an early indicator of debt and capital markets activity, found a slowdown in the pre-trade market for corporate and municipal bonds in April. This reduced demand for new CUSIP IDs for corporate and municipal bonds is suggestive of a possible slowdown in new security issuance volume over the coming weeks.

Read Report.

NFMA Comments on Proposed Amendments to SEC Exchange Act Rule 15c2-12.

The National Federation of Municipal Analysts commented to the SEC on proposed amendments to Exchange Act Rule 15c2-12 (File No. S7-01-17).

To view the letter, click here.

BDA / Nixon Peabody Issue Price Summary Document.

BDA and Nixon Peabody have released an Issue Price Summary Document to assist BDA members in engaging issuer clients in conversations about the new issue price rules, which are effective on June 7th.

The BDA / Nixon Peabody document is designed to provide an overview of the new issue price rules, including important new definitions and requirements related to competitive and negotiated deals.

BDA Next Steps on Issue Price

BDA and Nixon Peabody will host an in-depth conference call on issue price during the week of May 22nd. That call will include a more detailed overview of how the obligations and requirements of underwriters will differ for negotiated and competitive deals. It will also provide an opportunity for BDA members to ask questions and discuss priority compliance issues.

Please expect a scheduling email for that call shortly. In the interim, please email jvahey@bdamerica.org with any issue price questions so we can be sure to address common questions on the upcoming call.

Additional Information

The final IRS issue price rule is here.
The SIFMA model issue price documents are here.
The NABL model issue price certificates are here.

Fitch: Not-for-Profit Children's Hospitals Medians High; Medicaid Exposure Presents Risk.

Fitch Ratings-Chicago-10 May 2017: Children's hospitals' strong 'AA-' median rating reflects their unique credit profile characterized by robust liquidity, solid operating profitability, unique market positions, strong philanthropic support, and specialized clinical services, according to a new Fitch Ratings report. However, operating pressures have resulted in some mild profitability contraction in fiscal 2016.

"Children's hospitals' high exposure to Medicaid and supplemental funding, and their inherent vulnerability to governmental funding cuts, constitutes the primary credit concern for this sub-sector of the industry," said Emily Wadhwani, Director.

"Proposed reductions to Medicaid and other supplemental healthcare funding cuts currently contemplated in Congress are likely to pressure these hospital providers over the longer term if enacted."

Median operating EBITDA margin was 12.6 percent against 14.1 percent the prior year. Median debt service coverage by EBITDA also declined to 6.5x against a more robust 7.8x the prior year.

The year-over-year fluctuation is due to a tapering off of volume and funding growth following Medicaid expansion, weaker investment returns in fiscal 2016 and continued capital outlays that have generally outpaced the broader acute care sector.

Despite tightening cash flow, median days cash on hand improved for the fourth consecutive year to 334 days in fiscal 2016, as did median cash to debt, to 269%. Both remain substantially stronger than the respective median ratios for Fitch's general not-for-profit hospitals.

For more information, a special report titled "2017 Median Ratios for Not-for-Profit Children's Hospitals" is available on the Fitch Ratings web site at www.fitchratings.com.

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TAX - LOUISIANA

Jazz Casino Company, L.L.C. v. Bridges

Supreme Court of Louisiana - May 3, 2017 - So.3d - 2017 WL 1787821 - 2016-1663 (La. 5/3/17)

Taxpayer, a casino, petitioned for a writ of mandamus to the Secretary of the state Department of Revenue to compel satisfaction of a judgment by the state Board of Tax Appeals granting it a refund for hotel occupancy taxes paid.

The District Court granted writ. Department appealed. The Court of Appeal reversed and recalled writ. Taxpayer appealed.

The Supreme Court of Louisiana held that:

- Duty of the Secretary of the state Department of Revenue to refund the overpaid taxes was ministerial;
- Taxpayer did not have to show that relief was not available by ordinary means or that the delay involved in obtaining ordinary relief could cause injustice; and
- Writ of mandamus ordering the Secretary to use current collections of hotel occupancy taxes to refund taxpayer did not violate the constitutional prohibition of seizing public funds.

Duty of the Secretary of the state Department of Revenue to refund overpaid hotel taxes to taxpayer in accordance with a judgment of the state Board of Tax Appeals was ministerial, and thus a writ of mandamus ordering the Secretary to refund the taxes was proper. The refund of overpaid taxes was mandatory, and state law expressly authorized the use of mandamus relief to compel the Secretary to promptly make the refund.

Taxpayer, a casino, that was seeking a writ of mandamus to order the Secretary of the state Department of Revenue to refund overpaid hotel occupancy taxes in accordance with a judgment of the state Board of Tax Appeals did not have to show that relief was not available by ordinary means or that the delay involved in obtaining ordinary relief could cause injustice; state law afforded the judiciary authority to issue a writ of mandamus in such a case, and when a writ of mandamus was specifically provided as a remedy by statute, the general rules for a mandamus action did not apply.

The issuance of a writ of mandamus ordering the Secretary of the state Department of Revenue to use current collections of hotel occupancy taxes to refund taxpayer, a casino, for overpaid hotel occupancy taxes in accordance with judgment of the Board of Tax Appeals did not violate the constitutional prohibition of seizing public funds; the legislature specifically authorized a refund procedure out of the current tax collections to provide for the satisfaction of a final judgment against the Secretary to effect the return of money belonging to a taxpayer, and to hold otherwise would have rendered meaningless the constitutional guarantee of a complete and adequate remedy for the prompt recovery of an illegal tax paid by a taxpayer.

TAX - NEBRASKA

County of Douglas v. Nebraska Tax Equalization and Review Commission

Supreme Court of Nebraska - April 27, 2017 - N.W.2d - 296 Neb. 501 - 2017 WL 1532713

County sought review of the decision of the Tax Equalization and Review Commission (TERC) that adjusted the valuation of three areas of residential real property in the county and denied county's motion for reconsideration.

The Supreme Court of Nebraska held that:

- Reappraisal, and not an 8% decrease in area's valuation, was the proper remedy to the lack of uniformity and regressive vertical inequity in one area's property value assessments;
- Sufficient evidence supported TERC's order of a 7% increase in valuations of other two areas;
- As matter of apparent first impression, the abuse-of-discretion standard applies to the Supreme Court's review of the grant or denial of a motion to reconsider by an administrative body; and
- TERC did not abuse its discretion by denying county's motion to reconsider.

Reappraisal, rather than Tax Equalization and Review Commission's (TERC) order of an 8% decrease in valuation, was the proper remedy for the lack of uniformity and regressive vertical inequity in property value assessments in valuation area, and thus TERC's order was arbitrary, capricious, and unreasonable. The median assessment-to-sales ratio for the area of 104.82% and the coefficient of dispersion of 48.43%, which was outside the acceptable range of 15%, meant that a blanket equalization order would not solve the area's lack of assessment uniformity, but would only shift the problem, and the price-related differential of 1.22 showed that the lower-value properties in the area were significantly overassessed while higher-value properties were significantly under-assessed.

Sufficient evidence supported Tax Equalization and Review Commission's (TERC) order of a 7% increase to valuations of areas with median assessment-to-sales ratios of 89.77% and 90.08%, which fell outside the statutory range of 92% to 100%. The quality statistics showed that the median was a reliable indicator of central tendency, the coefficients of dispersion of 15.27% and 12.49% for the areas were within or at the top of the acceptable range of 15%, the price-related differentials for the areas of 1.0571 and 1.0347 were at or slightly above the top of the acceptable range of 0.98 to 1.03, and minor regressive vertical inequity was minimal.

The abuse-of-discretion standard applies to the Supreme Court's review of the grant or denial of a motion to reconsider by an administrative body.

Tax Equalization and Review Commission (TERC) did not abuse its discretion by denying county's motion to reconsider TERC's decision to order the adjustment of three valuation areas of residential real property, despite argument that state Property Tax Administrator's report improperly included sales that county categorized as non-arm's-length transactions and matched sales data to the wrong areas, where county did not allege that the Administrator's report improperly included sales that the county designated in the sales worksheets as non-usable, county could have raised allegations in the show-cause hearing that sales data was matched to the wrong areas, and county provided no information as to the impact of the alleged errors with the mismatched data.

Bloomberg Brief Weekly Video - 05/11

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

Watch video.

Bloomberg

May 11, 2017

New P3s May Finally Bridge the Digital Divide.

Many municipalities are forming public-private partnerships to bring high-speed Internet

to long-neglected places. Their approaches, however, vary widely.

Andrew Dean remembers counting down to “Ting Day.” That was the day in December 2014 when Dean’s Maryland software business was getting hooked up to the kind of high-speed Internet that most Americans only dream about. Ting, the company that would replace Comcast as the office’s Internet service provider, offered a new fiber-optic connection that promised to be incredibly fast: a gigabit per second. That’s about 26 times faster than the average U.S. Internet connection. Gigabit fiber is so fast that users can download a full-length, high-definition movie file in two minutes and can watch five video streams at the same time. A user can upload a file to the cloud faster than she can save it to a thumb drive attached to her computer. For Dean and his co-workers, Ting Day couldn’t come soon enough.

At first blush, Dean’s software company might not seem like the kind of business that would attract such a coveted asset. Open Professional Group, where Dean is the president, employs 19 people and is located in Westminster, Md., a quaint town of about 18,000 people half an hour north of Baltimore. The area was largely rural and blue-collar when Dean grew up there, but these days it’s better known as a bedroom community for commuters to Baltimore or Washington, D.C. In other words, it doesn’t have the kinds of institutions, like a major university or a big corporate headquarters, that would require fiber-optic networks.

But the city of Westminster has struck a deal with Ting that, it hopes, will result in a citywide network of fiber-optic connections to every home and business. Under the terms of their public-private partnership, the city is laying all the fiber itself, which Ting is then paying to lease for customers, whom it is responsible for signing up and serving. The more fiber the city installs, the more customers Ting can reach. The more customers Ting signs up, the more the company pays the city. Eventually, other service providers will be allowed to compete with Ting on the network as well. “We may not be curing cancer,” Dean says, “but the technology provides us with a tool that allows us to do what we do faster, to do what we do better and to be able to do more of it. That means I get to hire more people and we get to grow.”

Right now, the Westminster project is perhaps the nation’s most closely watched public-private partnership trying to deliver high-speed Internet access. Many other local governments are also looking to public-private partnerships for broadband to spur development in places where the private company won’t provide it on their own. The approaches vary widely, and many are still in their early stages. But if they’re successful, these P3s could finally crack the code of how to bring next-generation Internet to people in rural communities and other long-neglected places on the wrong side of the digital divide.

Ever since browsing the Web has required more than a modem and a dial-up connection, vast swaths of the United States have struggled to get the state-of-the-art infrastructure they need to keep up with new technology. While utilities in many big cities offered higher speeds, small towns and rural areas were left behind. The phone and cable companies were reluctant to upgrade existing lines in those areas because they typically can’t turn a profit. The low-density development, low subscriber rates and long distances between customers mean higher upfront installation costs.

As a result, some cities decided to build out their own fiber-optic systems. More than 400 municipalities, mostly ones that already owned their own electric utilities, started offering broadband services. Lots of those efforts were successful, but the most prominent was Chattanooga, Tenn. It became the first city to offer a gigabit Internet connection in 2010, despite legal challenges from Comcast and AT&T. The lightning-fast service helped revive its fortunes, spurred the creation of an “innovation district” downtown and attracted companies like Amazon, OpenTable and Volkswagen to open or expand operations there. Meanwhile, the Obama administration tried to spur the building of “middle mile” networks in its 2009 stimulus package, with the hope that building high-speed networks that connect schools, government buildings and other major institutions would make it easier for private providers to extend those networks to homes and businesses.

But the real game-changer turned out to be Google. The tech giant made a big splash in 2010 when it announced it would provide one city with gigabit fiber service to homes and businesses. It was a bold goal, because it depended on installing a whole new layer of infrastructure on the city grid. For Internet access, most of America still depends on electric signals that travel down copper wires laid decades ago by telephone and cable companies. But Google wanted to build its Internet network with fiber-optic cables, which use laser flashes that race through thin glass wires to convey information at nearly the speed of light. The wires can carry virtually unlimited information, and they can be upgraded as technology improves. Enthusiasts say that makes fiber-optic networks “future proof.”

Google was by no means the first carrier to use fiber-optic networks, which already make up the backbone of the Internet and are used by many big institutions. For example, some Verizon home customers have fiber-to-the-home through the company’s Fios (fiber-optic service) product, but Verizon largely stopped expanding the areas where it offered Fios in 2010.

Still, the Google competition made it seem possible for almost anywhere in the country to make the jump to high speeds. Even better, customers would initially only have to pay $120 a month for Internet and TV service, about the same rates most customers pay for connections a fraction of the speed. Roughly 1,100 cities entered Google’s competition. Many took drastic steps to stand out from the crowd. Topeka, Kan., renamed itself “Google” for a month. The Duluth, Minn., mayor jumped into Lake Superior in February wearing only shorts and a T-shirt. University of Missouri fans waved Google signs during a nationally televised basketball game. In the end, Google chose Kansas City, Kan.

Google Fiber, which is now officially called Alphabet Access, has since expanded across the state line to Kansas City, Mo. It has also added another eight cities and plans to build networks in two more. But last year, the company put all other expansion plans on hold. It hired a new CEO and laid off hundreds of workers, leading some watchers to speculate that Google might be getting out of the fiber business altogether.

Still, nearly everyone agrees that the introduction of Google Fiber was a turning point. It made local officials all around the country think seriously about the benefits of installing super-fast Internet connections in their cities. Municipal leaders quickly realized that broadband could be the backbone for smart cities and connected vehicles, the foundation for advanced telemedicine, or the means for schoolchildren to explore the world far beyond their classrooms. In competing for Google, cities realized they wanted a fiber-optic network, regardless of whether Google provided it. “People got all excited about Google Fiber, which was very useful, because it opened people’s eyes to the country’s need for world-class, cheap data. But Google Fiber was never going to reach every city in America, because it’s not in their company’s interest to build basic infrastructure,” says Susan Crawford, a Harvard University law professor who specializes in Internet and communications law. “It is in the interest of every local government to ensure economic growth and social justice for its citizens. And the only way to do that is for the city or the local government to take matters into its own hands.”

While cities’ appetite for gig fiber grew, they were confronted with a conundrum. On the one hand, building and running a city-owned network is extremely difficult. Those cities that don’t already operate a utility, like a local power company, often don’t have employees with the technological expertise to run an Internet service, says Jim Baller, president of the Coalition for Local Internet Choice. City employees, Baller says, often are “not on a day-by-day basis versed in the industry changes in technology, finance and services that you provide in the communications world." Another limitation: Thanks in part to intense efforts from telecom lobbyists and lawyers, at least 19 states have laws that restrict or prohibit cities from offering municipal broadband services.

On the other hand, as the experiences with cable and phone companies showed, cities had learned they couldn't rely solely on the private sector to provide high-speed connections. And even if private companies brought gigabit speeds to every big city in the country, they'd never be a viable solution for getting faster Internet to the small towns and rural communities that need upgrades the most. That's why so many cities have turned to public-private partnerships, using a mix of public resources and private know-how to achieve what neither sector could do on its own.

So far, the approaches vary markedly. "We are in such early stages of innovation that every project is developing its own model," says Joanne Hovis, the president of CTC Technology and Energy, a consulting firm that has helped states and cities, including Westminster, develop public-private partnerships for broadband. "I think many of them will become models and be replicated by other communities. But there is not yet a standard way of doing this, as there is in, for example, P3s for toll roads, where there's 20 years of experience and lots of data."

At one end of the spectrum are the cities in Mississippi that lured fiber networks built by C Spire, a regional wireless carrier based in the state. C Spire started offering fiber to communities because it was inspired by the example of Google Fiber. It even initially modeled its selection process after Google's by hosting a competition among cities. Like Google, it stressed the importance of streamlining the regulatory process in cities it chose, so it could build its networks with minimum hassle. "We found pretty quickly that was the easy part," says Jared Baumann, a manager who led C Spire's efforts to develop franchise agreements with cities and towns for the fiber networks. "It was far more important to have the city and volunteers within the cities really taking this to the next level."

The mayor of Ridgeland, for example, organized a "Tour de Fiber," with dozens of cyclists riding through neighborhoods to encourage residents to sign up for C Spire's service. The mayor of Quitman, a town of fewer than 2,300 people, went door to door to encourage residents to get the fiber connection. In the town of Clinton, a group of two dozen residents "made it their goal in life" for several years to promote the new service, Baumann says. "In many ways, the mayors of our towns, and their staff members and their volunteers, were more of a sales force for us than our own sales force was. That was key," he says. "Mayors were knocking on doors just like campaign season, saying this is only coming to town or your area if you sign up."

Other states have used more traditional P3 approaches. Kentucky is installing 3,000 miles of fiber-optic lines through a public-private partnership. The new network will link every county in the state to faster Internet connections, although it will be up to local Internet providers to link end users to the new "middle mile" network. Macquarie, an Australian bank, will build and operate the network for 30 years. It will recoup its costs by selling access to universities and state government over the course of the deal, but Kentucky will own the network when the deal is over.

In Minnesota, local governments in two counties are using an old model to deliver new technology. Seventeen townships and 10 cities have formed a co-op to build fiber and wireless Internet connections over a 700-square-mile area, much as rural areas used co-ops to bring electricity to farms during the Great Depression. The co-op RS Fiber got its initial funding when the 10 cities issued bonds for half the cost of the first phase of its project. The co-op built wireless towers to cover farms in the area while it constructs a fiber network in the towns. With the money the co-op generates from providing service in town, it will then start building fiber to the farms. A local Internet provider runs the day-to-day services.

But it’s the public-private partnership between Ting and Westminster that experts are watching most closely these days.

The effort to bring higher-quality Internet access to the Maryland city started more than a decade ago, and the city considered all options, even the idea of installing and offering broadband on its own. Ultimately, it decided to partner with a private provider. Westminster had a few advantages that helped make it more attractive. For one, the city had enough cash on hand to fund a small pilot project. And Westminster found that businesses in town were very excited about getting the service. More than 90 percent of companies signed up when it became available to them. One of the things that distinguishes Westminster’s approach is that the city is building and keeping control over the physical fiber network. The strategy, says Councilman Robert Wack, who has worked extensively on the issue, is “perfect for municipalities. We are in the long time-horizon business,” he says. “We build water treatment plants that have a useful life of 40 years. We dump millions of dollars into pavement and nobody bats an eye because everybody understands how important good roads are for economic development. Why would building fiber be any different? We’re basically building a road for data.”

For Ting, selecting cities to work with comes down to both objective measures, like demographic data, and subjective judgments, like how easy a city is to work with. One thing that stood out about Westminster, says Monica Webb, the company’s director of government relations, was that the town was not just eager for service but also willing to do most of the hard work of financing and then installing the fiber all the way up to buildings.

But Webb cautions that there are not enough private companies like Ting to partner with all the cities that want high-speed Internet. After the Westminster deal went through, Ting received more than 2,000 requests from residents or public officials to come to other communities. Currently, Ting serves just five cities, with a few more in the works. “Sometimes, the best thing cities can do is to do it themselves,” she says. “There needs to be a plan B.”

Wack says communities like his don’t have a choice. They have to find a way to build better data connections. “This is the barebones, basic infrastructure of the 21st-century economy,” he says. “Communities that have this infrastructure will thrive, and those that don’t will wither and die. It’s just that stark.”

GOVERNING.COM

BY DANIEL C. VOCK | MAY 2017

Without More Census Funding, Disadvantaged Communities Risk Being Overlooked Most.

Many predict severe, long-term consequences for the 2020 count and all the programs that rely on it.

Several events in recent months have hinted that the 2020 Census could be in serious trouble.

The latest funding proposals fall far short of what many contend is needed to prepare for the decennial count. In February, the Government Accountability Office added the program to its “high risk” list. And just last week, Director John Thompson surprised Census observers when he announced that he would resign at the end of next month.

Former agency officials and Census advocates are worried that inadequate preparation could potentially spell significant problems for the accuracy of the count. Given that congressional redistricting and funding for hundreds of federal programs all rely on the decennial Census, the reliability of the numbers carry far-reaching consequences.

Continue reading.

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BY MIKE MACIAG | MAY 15, 2017

Why Few Cities Will Take the Supreme Court Up on Their Right to Sue Banks.

Last week's ruling leaves open a key legal question that could make cities unlikely to file suit.

After losing billions in property tax revenue during the foreclosure crisis, local governments notched a win last week when the U.S. Supreme Court affirmed the city of Miami's right to sue big banks under the Fair Housing Act.

But don't expect a flood of lawsuits to follow any time soon. The ruling leaves open a key legal question about the burden of proof cities must present to show they were financially harmed.

In the 5-3 ruling, the court sided with Miami, agreeing that the 1968 act, which prohibits racial discrimination in the lease, sale and financing of property, applied to cities as well as people. But the ruling didn't agree that Miami had provided enough direct evidence linking discriminatory lending practices by Wells Fargo and Bank of America to the financial harms incurred by the city. It also stopped short of saying what a city must do to prove economic harm and remanded the case back to the lower court to answer that question.

"So what it leaves open right now is, can cities who brought this kind of case establish the kind of proximate cause the court has flagged in this decision?" says Joe Rich, a fair housing expert for the Lawyers' Committee for Civil Rights Under Law.

Proximate cause is essentially an event that sets in motion a sequence of events that result in a foreseeable effect, such as an injury, which would not otherwise have occurred. Last week's ruling said Miami would have to prove the banks' practices had a "direct" effect on its finances.

In its complaint, Miami had alleged that Wells Fargo and Bank of America intentionally targeted African-American and Latino neighborhoods for predatory practices by lending to them on worse terms than non-minority borrowers. The banks also failed to extend fair refinancing and loan modifications to those borrowers, the city said, which resulted in a high rate of defaults.

The conduct, according to Miami's complaint, led to a disproportionate number of foreclosures and vacancies in majority-minority neighborhoods. By late 2013, when the suit was filed, Miami had the highest foreclosure rate among the 20 largest metro areas in the country. According to the complaint, loans in majority-minority neighborhoods were nearly six times as likely to result in foreclosure as loans in majority white neighborhoods.

The ensuing crisis not only cut the city's property tax revenue, it strained Miamis' limited resources by creating an increased demand for public safety services in those neighborhoods. An amicus brief filed by the Miami Fraternal Order of the Police (FOP) listed dozens of horrors that played out in these semi-abandoned neighborhoods. Foreclosed homes were used to hide dead bodies and to advertise child sex trafficking, for instance. In one heartbreaking case, a toddler drowned in the swimming pool of his neighbor's vacant house. The FOP even alleged that untended pools in foreclosed homes became breeding grounds for swarms of mosquitos and "created the epicenter for America's first Zika outbreak."

It will be up to the federal appeals court in Atlanta to decide if Miami has shown proximate cause. But the ambiguity of the High Court's ruling, plus the three-year statute of limitations on fair housing lawsuits, makes it unlikely that a slew of localities will use the decision as a license to start suing big banks. There are, however, a number of open cases in places like Los Angeles; Oakland, Calif.; and Providence, R.I., that benefit from the ruling.

Civil rights advocates say the decision is an important win in terms of enforcing the Fair Housing Act. Individuals have been successful at bringing cases against lenders following the foreclosure crisis. But governments have struggled: No case has gone to trial and there has just been one major settlement — a $175 million payment by Wells Fargo to several cities and borrowers across the country.

Ajmel Quereshi, senior counsel for the NAACP Legal Defense and Educational Fund, hopes the ruling will "act as a future deterrent to banks that are thinking about these practices in the future."

GOVERNING.COM

BY LIZ FARMER | MAY 11, 2017

The Week in Public Finance: Revenue Relief in 2018, Good GDP News and the Debt-Shy.

A roundup of money (and other) news governments can use.

GOVERNING.COM

BY LIZ FARMER | MAY 12, 2017

The Growing Threat to Municipal Bonds.

Proposals to cap or eliminate their tax deductibility would be a serious blow to efforts to improve our infrastructure.

Buildings, roads and bridges: These are the Legos that, when snapped together, create the communities we all call home. President Donald Trump has promised to make improving our infrastructure a centerpiece of his administration, and we are eager to work with him to promote infrastructure investment, job growth and community prosperity. This includes defending a key financing tool that for the past several years has faced growing uncertainty.

For more than a century, tax-exempt municipal bonds have been the single most important means for financing new roads, bridges, schools and hospitals. These are a lifeline without which state and local municipalities would find it far more expensive to finance capital improvements and other infrastructure that benefit everyone.

In Maryland's Baltimore County, for example, municipal bonds have financed capital projects ranging from the restoration of a library after a fire to the expansion of several public parks. In Illinois' Will County, the future of a new courthouse and law-enforcement complex hinges on the bonds' tax-exempt status. Nationwide, the National League of Cities estimates that municipal bonds have financed more than four million miles of roads, 500,000 bridges, 16,000 airports and 900,000 miles of water pipes. In all, municipal bonds support more than 1.5 million civic projects.

But in recent years this bipartisan tool has been under attack, with proposals being floated in Washington to cap the bonds' tax deductibility or eliminate it entirely. Then-President Barack Obama's fiscal 2017 budget proposal would have capped the tax deduction at 28 percent. We believe this would devastate municipalities that rely on the tax exemption, especially amid uncertain state budgeting. Reducing the tax benefits of these bonds would be bad for jobs and for taxpayers; higher project costs would shift to taxpayers through increased property taxes, fees and other means.

The American Society of Civil Engineers estimates that state and local governments have about $3.6 trillion in unmet infrastructure needs through the year 2020. In Illinois, a cap like the one proposed by Obama would have cost the state $6.2 billion if it had been implemented in 2012; for Maryland, the figure would have been $2 billion. For states facing steep budget deficits and rising costs, we can't afford to let precious funding go to waste.

The city of St. Charles, Ill., is a prime example. St. Charles' annual interest payment for its debt currently exceeds $3 million, but it could be far more without the tax exemption for municipal bonds, which has saved the city 25 percent, including $619,000 in interest costs when it built the Red Gate Bridge over the Fox River in 2011. This is real money that makes a real difference to local taxpayers — money that could be used to maintain basic services and programs otherwise on the verge of shuttering.

With tax reform and infrastructure legislation now on the table in Washington, the debate over how to best restore our country's aging infrastructure is in full swing. State and local governments' ability to issue tax-exempt debt is now more important than ever. That is why we have sent a letter to the House leadership asking them to reject any proposal to cap or eliminate the deduction on tax-exempt municipal bonds. More than 150 of our colleagues from both sides of the aisle have joined us. We urge President Trump to similarly reject any such proposal.

We have also launched the bipartisan Municipal Finance Caucus to continue promoting the importance of this tax exemption with our colleagues in Congress. The caucus is a valuable platform that ensures any discussion of comprehensive tax reform includes the needs of municipalities throughout this nation. Answering the call for reliable, proven infrastructure financing means we must protect this vital tool for job growth and economic development in our communities.

GOVERNING.COM

BY RANDY HULTGREN, DUTCH RUPPERSBERGER | MAY 11, 2017

Why Tax Credit Bonds Should Be A Key Part Of Any Federal Infrastructure Policy Initiative.

Major infrastructure investments—especially projects and programs of regional and national significance—can generate major "spillover" benefits to the general public—some, like locks and dams, literally so. This article explains why tax credit bonds should be in the mix of federal infrastructure policy initiatives. Previous generations of tax credit bonds, such as Build America Bonds, were highly successful in broadening the market for infrastructure debt but their authority has expired. We propose creating a new generation of qualified tax credit bonds. A separate article in this issue of Public Works Financing outlines a specific proposal to create "Infrastructure Credit Bonds" (page 12).

While some proposals have focused on the role that equity capital can play in advancing infrastructure projects, it is worth noting that P3 projects have represented just a small fraction of total investment in public infrastructure. For example, CBO reports that in 2014, federal, state and local capital outlays for public infra- structure totalled $181 billion. That same year, according to Public Works Financing, P3 project outlays totalled just $4.2 billion—about 2 percent of the market.

Within the P3 sector, financial equity represents, on average, about 15 percent of the capital sources for P3 projects. Debt capital, on the other hand, represents 60 percent of sources on P3 deals—and for governmental projects debt may fund 90 percent or more of the "capital stack." So clearly, the cost of borrowing has a major impact on project feasibility and financial capacity.

Historically, infrastructure project sponsors have raised debt capital from the following sources:

- Tax-exempt financing (both "governmental" and "private activity" bonds);
- Federal credit assistance (such as TIFIA, RRIF and WIFIA, with loans generally made at the U.S. Treasury rate);
- Bank and other taxable rate debt (especially suitable for P3 project financings);
- State-capitalized loan funds (such as Water Revolving Loan Funds and State Infrastructure Banks)

In more recent years, federal legislation has authorized other forms of tax-advantaged debt:

- Partially-subsidized taxable rate bonds (Build America Bonds) designed to replicate the tax-exempt borrowing rate by offsetting a portion of the interest cost (recently proposed to be 28%) through a refund- able (cash) tax credit for the issuer ("direct-pay" tax credit bonds); and
- Fully-subsidized taxable rate bonds designed to have most or all of the annual interest return provided through an annual (non refundable) tax credit for the investor, which can apply the credit against other tax liability ("investor pay" tax credit bonds).

These programs have been either time-limited (Build America Bonds issuable only in 2009 and 2010) or volume-capped (five separate classes of "qualified tax-credit bonds" totaling about $35 billion for specific purposes such as school construction, energy conservation and clean renewable energy projects.)

Of all the existing and proposed debt instruments, the qualified tax credit bonds offer the greatest present value benefit to the project sponsor per dollar of "scored" federal budgetary cost.

This is not to suggest that other debt instruments aren't helpful. PABs level the playing field between P3 and governmental projects, but their purpose is simply to match the municipal bond market rates available to governmental sponsors. Similarly, "direct pay" tax credit bond programs like Build America Bonds can broaden the market by attracting taxable fixed-income investors, but are designed to replicate (but not beat) tax-exempt rates. Federal credit can provide greater structuring flexibility in terms of deferrals and prepayments, but may only reduce the effective borrowing cost by ½% or so for investment grade issuers—a savings to be sure, but not enough to dramatically increase a project's debt capacity. And SRF and SIB loans, while potentially offering very low rates, are severely size-constrained by limits on state capitalization grants.

In contrast, qualified tax credit bonds can more than double an issuer's debt capacity. Stated differently, a given local revenue stream pledged for debt service can support twice the amount of tax credit bond principal as tax-exempt financing or federal credit.

From a federal policy viewpoint, tax credit bonds offer additional advantages. Unlike federal grant spending or credit assistance, tax code measures do not require growing the size of the federal government to administer them. Tax incentives also have the advantage over grants of harnessing the market discipline of private capital (bond investors) to ensure that the pro ject's repayment plan is feasible. Unlike federal credit, a tax credit bond does not require the federal government to take any credit exposure on the borrower or the project.

Tax credits attached to bonds can be simpler and more efficient to market than equity-based investment tax credits, provided liquidity concerns are meaning- fully addressed (as discussed in the follow-on article on "Investment Credit Bonds"). And tax credits attached to bonds are "budget-efficient," since they stretch out the fiscal impact over a longer period of time more commensurate with the economic lives of the assets being financed. The scored cost of the program (effectively the first 10 years of tax expenditures under budget rules) relative to the financial benefit to the project sponsor offers the highest "return on fiscal investment."

For these reasons, a tax credit bond proposal should be a key component of any new federal policy initiative.

Article by Elaine Buckberg

Last Updated: May 11 2017

The Brattle Group, Inc.

S&P: Poised To Strengthen In Fiscal 2018, U.S. State Budget Conditions Remain Under Longer Term Pressure.

Continued slow revenue growth against a backdrop of rising expenditures in a range of less discretionary areas is exerting fiscal pressure across the U.S. state sector. According to S&P Global Ratings' survey of state fiscal conditions, 43 states have projected operating deficits for either fiscal 2017 or 2018 in recent months.

Continue reading.

Amid Divestment Protests, More Cities Explore Public Banks.

Philadelphia City Council Member Cindy Bass was already thinking about how to cut the city's ties with Wells Fargo when bank CEO John Stumpf testified last September before the U.S. Senate. Questioning Stumpf about the bank's fraudulent accounts scandal, Senator Elizabeth Warren said, "So you haven't resigned, you haven't returned a single nickel of your personal earnings, you haven't fired a single senior executive. Instead, your definition of accountable is to push the blame to your low-level employees who don't have the money for a fancy PR firm to defend themselves."

Search the U.S. Department of Justice website for "Wells Fargo" and "settlement" and you'll get a litany of results: a $25 billion settlement for foreclosure abuse (a record), $1.2 billion for improper mortgage lending practices, and $184.3 million in compensation for steering black and Latino borrowers into predatory subprime mortgages. The 2016 hearing was the moment when the wheels fell off the stagecoach.

Continue reading.

NEXT CITY

BY OSCAR PERRY ABELLO | MAY 10, 2017

Why the Road to Trump's $1 Trillion Infrastructure Investment is Marked with Potholes.

- The $1 trillion that President Trump wants to invest in U.S. infrastructure by way of public-private partnerships may not be a slam-dunk for investors.
- Amid a patchwork of decaying U.S. roads, bridges, schools and water systems, an increasing share of municipal debt is being devoted to shoring up these structures.
- Yet experts warn that, for a variety of reasons, most infrastructure projects lack the revenue stream and return on equity needed to attract private investors.

For a variety of reasons, the mixed track record of rebuilding projects suggests that the $1 trillion that President Donald Trump wants to invest in U.S. infrastructure by way of public-private partnerships may not be a slam-dunk for investors.

As several PPPs have demonstrated recently — such as the Chicago Skyway's $2.83 billion sale in 2015 and Westinghouse Electric's high-profile bankruptcy declaration in March — infrastructure funding can swing from success story to cautionary tale.

Amid a patchwork of decaying U.S. roads, bridges, schools and water systems, an increasing share of municipal debt is being devoted to shoring up these structures. According to data from investment management firm PIMCO, about 58 percent of the outstanding tax-exempt municipal debt in the Barclays Muni IG Index is issued for infrastructure purposes.

Yet experts warn that, for a variety of reasons, most infrastructure projects lack the revenue stream and return on equity needed to attract private investors.

"We see a lot of need for infrastructure investment, but the areas where [it's needed] are not necessarily aligned with what public-private partnerships may target, or with what the state and local governments might be willing to turn over to a private operator," David Hammer, executive vice president and head of municipal bond portfolio management at PIMCO, told CNBC in a recent interview.

In view of past experiences, "it's unlikely that you'd see state and local governments use public-private partnerships to address water and sewer needs," for example, Hammer added.

That's true even for cash-strapped cities like Detroit, whose water and sewer system is one of its more valuable assets — making officials reluctant to fully privatize the system, he added.

To be certain, there's still a healthy appetite for public-private investment for massive projects such as New York's $4 billion overhaul of a major terminal at LaGuardia Airport. Meanwhile, a more than $1 billion revamp of John F. Kennedy International's Terminal 8 was considered a success for private investors.

However, Westinghouse's cost overruns for its nuclear power plants show how hard it's become for private entities to ensure an appropriate rate of return when the political or regulatory winds shift against them. Given the long timetable required to birth such projects, roadblocks can be hard to predict.

"These are often generational projects. The idea is that the requirements surrounding those projects, for the safety of all of us, will change as our knowledge base changes," said Nick Venditti, a portfolio manager at Thornburg Investment Management.

With the exception of toll roads and some airports — where forecasting traffic patterns and revenue streams can be easier — Venditti doesn't see the public-private partnership model in municipalities as sustainable over the long term, largely because of how hard it is to project an attractive revenue stream for most infrastructure projects.

George Friedlander, a veteran muni analyst with Court Street Group Research, said that while PPPs don't have a strong track record as a viable financing method, technology may alter the landscape. "Technology drives the case for getting the whole package designed and having a private entity involved earlier in the game than has been the case historically," he said.

'Default rates relatively low'

Meanwhile, a potential wildcard could be the Federal Reserve, which is expected to raise borrowing costs through rate hikes, and tax reform that may dim the benefits of muni bonds, many of which are tax exempt.

PIMCO's Hammer thinks the risks are fairly low given that the asset class historically outperforms other fixed-income asset classes when the Fed hikes rates. He also argued they're less risky than corporate debt.

Lower-rated investment grade munis "actually default less frequently than [higher-rated] corporate bonds despite all the headlines of the last five years, with Puerto Rico, Detroit, [and] Jefferson County, Alabama, all going through bankruptcies," Hammer said, citing data from Moody's Investors Service.

"The cumulative bankruptcy percentage hasn't gone up for the asset class, so we still see default rates as relatively low," he added.

Friedlander noted that rating agencies have made it clear that more states have weakened in credit quality recently, due largely to public pension pressures and slower tax revenue growth. However, the number of actual defaults on rated municipal debt remains low, and he doesn't expect that to change.

David Bogoslaw, special to CNBC.com

Saturday, 13 May 2017 | 9:00 AM ET

Los Angeles School District Is Top U.S. Municipal Bond Sales Next Week.

NEW YORK (Reuters) – The Los Angeles Unified School District, California's largest school district, plans to sell nearly $1.1 billion of general obligation refunding bonds in the biggest U.S. municipal bond offering next week.

The debt, backed by county property taxes, will refund 2007 bonds that have July 1 call dates. Through lead underwriter Morgan Stanley, the district will hold a one-day retail order period on Monday, with institutional pricing on Tuesday, according to a presentation for prospective bondholders.

The second biggest school district in the United States, Los Angeles had 625,434 students enrolled in kindergarten through 12th grade in fiscal 2017 and $10 billion of general obligation bonds outstanding.

It is in the midst of a $25.6 billion to upgrade buildings and construct new schools.

Altogether, issuers plan to offer an estimated $9.4 billion of U.S. municipal bond and note sales next week as investors have maintained a steady interest in the muni market.

Investors have put money into muni funds for the last five weeks straight. Funds had $605 million of inflows for the week that ended May 10, the second-biggest week of inflows since January, according to Lipper, a Thomson Reuters unit.

Other issuers coming to market next week with big deals include the Dormitory Authority of New York, for New York University taxable bonds, and the District of Columbia.

Reuters

By Hilary Russ

May 12, 2017, at 5:41 p.m.

(Reporting by Hilary Russ; Editing by Leslie Adler)

Taxing Muni Bonds: Excuses, Excuses, and More Excuses.

In politics and policy there are reasons and there are excuses.

The American Public Power Association and other stakeholders have been fighting for several years now to explain the reasons why an unprecedented tax on municipal bonds would be bad. There is ample evidence to indicate that:

- The tax exclusion of municipal bonds is far more efficient than opponents suggest;
- Taxing municipal bonds would be hugely harmful to U.S. infrastructure investment; and
- Proposed alternatives to tax-exempt municipal bond financing would increase the cost of financing core infrastructure investments — and state and local residents will pay the price

I also believe a federal tax on municipal bond interest would be unconstitutional.

What we've spent less time discussing are the excuses – implicit and explicit – for imposing a new tax on municipal bonds. These include dire warnings of tidal waves of municipal bankruptcies, breathless tales of state and local financial struggles, hoary anecdotes implying endless abuses, and pat solutions that fail to address the problems.

I discuss the excuses in a recent article for Tax Notes magazine, Logical Fallacies in the Debate of Municipal Bonds.

For example, in Washington, it's common to cite a handful of municipal bankruptcies to imply that many more have happened or are about to. This alleged symptom of fiscal negligence is taken as an excuse to "rein in" state and local spending by imposing a federal tax on infrastructure investments.

As the article explains, though, in the last three decades there have been just 47 municipal bankruptcies or attempted bankruptcies – from a population of 39,000 municipal governments. In the early nineties the rate averaged roughly one per year, and in the last two decades it has averaged roughly two per year. That's not "nothing," but it's also not a tsunami, and it certainly doesn't justify upending more than a century of tax policy by repealing the federal tax exclusion for municipal bond interest.

If anything, economic data shows that state and local governments are doing a far better job of tackling fiscal challenges than the federal government. There are exceptions — again, two bankruptcies a year is not nothing. However, headlines screaming of budget wars may actually be a good sign that state and local governments are actually fighting to make tough budget choices, rather than simply fiddling while their fiscal houses burn down.

My article also debunks the idea that debate over tax-exempt bonds is somehow a debate over tax-exempt bond financing of sports stadiums (or that the debate over private activity bonds has something to do with private activity bond financing of a Corvette museum).

By John Godfrey, Senior Government Relations Director, American Public Power Association

Posted on May 11, 2017 by John Godfrey

Commentary: Advances in Advance Refunding.

An advance refunding is a complex transaction. There are several moving parts, and it is easy to lose track of where the value is. Two recent papers on this topic are Don't Waste a Free Lunch: Managing the Advance Refunding Option in the Journal of Applied Corporate Finance, and Advance Refundings of Municipal Bonds, forthcoming in the Journal of Finance.

As some may recall, the authors of the latter paper made the stunning assertion in their 2013 draft (still posted on the SSRN website) that advance refunding always destroys value. In other words, this widely used transaction can never be optimal. If true, the practitioner community has been universally wasteful. In a Bond Buyer commentary (Advance Refunding: A Misguided View from the Ivory Tower, Sept. 10, 2013), I pointed out the faulty logic of this claim — the authors relied on general economic principles, without understanding the actual mechanics of the transaction.

Fast forward to 2017. After seeing that the paper was accepted by the Journal of Finance, I wondered how the authors handled the flaw of their central claim in 2013. It turns out they made a complete U-turn; the central claim has vanished. In fact, they inserted a counterexample showing that advance refunding can be optimal. Better late than never! However, without the (flawed) original claim, it is unclear that what remains is particularly new or insightful. The paper also displays a lack of familiarity with the muni market in its failure to recognize the dominance of 5% non-call 10 bonds, which are tailor-made for advance refunding. A discussion of what went wrong in 2013 would have been a service to the academic community.

In the “Free Lunch” article Lori Raineri and I examine the value of the advanced refunding option (ARO). To begin with, the ARO is free to issuers — for well-known reasons, investors actually prefer advance-refundable bonds. Quantifying its value is challenging, due to the imperfect correlation between the issuer’s funding cost and Treasury rates; the former determines the refunding rate, and the latter the escrow yield. At the historically low Treasury rates prevailing today, the value of the ARO of a new 20-year 5% NC-10 bond is roughly 1% of face amount. The figure below puts this in perspective – the value of the call option is roughly 5% of face value, with the total optionality being 6%. The option values increase with higher coupons, as expected. But let’s keep in mind that although higher coupons provide more option value (as a percent of par), they also reduce the size of the issue.

The key point of our paper is that an ARO should not be wasted by advance refunding near the call date. The “free lunch”‘ to consider here is the ARO of the replacement issue. Advance refunding is permitted only once in a funding’s lifecycle. Thus the replacement of an advance refunded issue is ineligible for advance refunding, but if an issue is called (current refunded), the ARO remains alive.

The efficiency of refunding is quantified by the percentage of the option value captured by transacting. The figure below shows the effect of including the ARO of the replacement issue. As the darker blue line indicates, it is considerably lower than when the ARO is ignored, signaling that advance refunding close to the call date wastes a free lunch. A preferable alternative is to construct a hedge which locks in savings, while retaining the ARO.

Issuers and their advisors can use these findings to make better advance refunding decisions. Specifically, recognize that you lose advance refunding option of the replacement issue when you pull the trigger close to the call date. And instead of obsessing over negative arbitrage, use refunding efficiency as your signal to transact.

The Bond Buyer

By Andrew Kalotay

May 09 2017, 10:27am EDT

Munis: Downgrades Rise a Percentage of Rating Actions in Q1.

Fitch bumped up its negative rating watch listings, but didn't issue any positive rating watches in Q1.

While the first quarter was the 12th consecutive quarter where upgrades outpaced downgrades, it outpaced them by a smaller percentage than last quarter, according to a new report from Fitch Ratings.

In the fourth quarter of 2016, downgrades were just 25% of all rating actions. In the first quarter of this year, downgrades were 40% (37 of 151 ratings actions).

Jessalynn Moro of Fitch's U.S. Public Finance group also notes that the downgrades were bigger in terms of dollar value this quarter — mostly due to the downgrade of Illinois.

> While upgrades outpaced downgrades, we saw a higher par value on the downgrades this quarter due to the Illinois downgrade of nearly $30 billion. This one downgrade accounted for 68 percent of all downgrades this quarter.

Fitch downgraded Illinois from triple-B-plus to triple B in February. That's the second lowest investment grade rating.

Fitch also notes in its report that there was a pretty big bump in "rating watch negative" listings — to 28 from 20. The average for the last four quarters is 21.75. No securities were listed as "rating watch positive."

Positive rating outlooks (a longer-term measure than a ratings "watch") decreased to 86 from 91 in 4Q16, and negative rating outlooks decreased to 109 from 118.

Barron's

By Amey Stone

Updated May 8, 2017 12:07 p.m. ET

A Requiem for Reasonable Expectations: Squire Patton Bogs

The "reasonable expectations" approach to determining the issue price of a tax-advantaged bond[1] has been the law since 1989. On June 7, it is scheduled to join Betamax tapes and parachute pants as another relic of that bygone decade. Barring intervention (either Divine or as part of the President's executive order to undo recent regulations that "add undue complexity to the Federal tax laws"), the new issue price regulations will take effect for tax-advantaged bonds sold on or after June 7. Though we don't often have to rely on reasonable expectations because underwriters usually actually sell at least 10% of each bond maturity at the initial offering price to the public on the sale date, the reasonable expectations rule has been a useful tool and a dear friend. As it prepares to ride off into the sunset,[2] a eulogy is in order. And bittersweet that eulogy shall be, for the death of the reasonable expectations standard seems senseless.

Continue reading.

By Johnny Hutchinson on May 11, 2017

The Public Finance Tax Blog

Squire Patton Boggs

New IRS Arbitrage Publication and TEB Training Texts Now Available.

Publication 5271, Complying with Arbitrage Requirements: A Guide for Issuers of Tax-Exempt Bonds
This new publication is a basic guide to the yield restriction and rebate requirements (arbitrage requirements) of Internal Revenue Code Section 148 and related regulations. Information in the guide can help issuers and conduit borrowers comply with their obligations and prevent violations of the arbitrage requirements.

Tax Exempt Bonds Phase I Training Text
Basic lessons that examine the rules applicable to tax-advantaged bonds, discuss the appropriate use of bond proceeds and introduce the arbitrage, yield restriction and rebate concepts.

Tax Exempt Bonds Phase II Training Text
Intermediate lessons supplement the basic lessons in Phase I, including advanced topics in arbitrage and rebate.

Tax Exempt Bonds Phase III Training Text
Advanced lessons that examine the rules applicable to refundings, reissuances, pooled financing issues and IRC Section 6700 penalties.

Municipal Bonds 201: A Breakfast Seminar Presented by Municipal Bonds for America (MBFA)

Municipal Bonds 201

An Educational, Breakfast Seminar on Tax-Exempt Municipal Bonds

Bonds are the Original Public Private Partnership (P3): A Deeper Dive into Federal Policy Issues

- The day-to-day impact of the municipal tax-exemption
- The economic efficiency of municipal bond financing
- The role of qualified private activity bonds (PABs) in infrastructure, housing, health and education

Date & Time:
Wednesday, June 7, 2017
8:45 am – Guest arrival and Breakfast

9:00 am – Program Begins
10:00 am – Program Ends

Location:
Capitol Visitor Center
Congressional Meeting Room North

To RSVP or learn more, contact Rebecca Cooke-Rodriguez at rcrodriguez@bdamerica.org. We encourage you to send someone from your office if you cannot personally attend.

Panel:
Stephen Benjamin, Mayor – Columbia, SC and Chair, MBFA Coalition
*Jane Campbel*l, Director, Washington Office – National Development Council and Former Mayor of Cleveland, Ohio
Annie Russo, Vice President of Government and Political Affairs – Airports Council International – North America
Stephen Winterstein, Chief Municipal Strategist – Wilmington Trust

Breakfast will be served (first-come, first-served)

This event is compliant with Congressional Ethics Rules

[KBRA Releases Surveillance Report: San Diego Unified School District GO Bonds.]

Kroll Bond Rating Agency (KBRA) has affirmed the AA+ long-term rating and Stable Outlook assigned to the San Diego Unified School District's (CA) (SDUSD or "the District"):

- 2016 General Obligation Bonds (Dedicated Unlimited Ad Valorem Property Tax Bonds) (Election of 2008, Series J-2),
- 2016 General Obligation Refunding Bonds (Dedicated Unlimited Ad Valorem Property Tax Bonds) Series SR-1 and R-5,
- 2016 General Obligation Bonds (Dedicated Unlimited Ad Valorem Property Tax Bonds) (Election of 2008, Series I), and
- 2016 General Obligation Bonds (Dedicated Unlimited Ad Valorem Property Tax Bonds) (Election of
- 2012, Series F and Series G Bonds) (together "the Rated Bonds").

Please click on the link below to access the report:

San Diego Unified School District GO Bonds

If you have any difficulties accessing the report, please contact info@kbra.com or visit www.kbra.com.

KBRA Releases Surveillance Report: MICLA Lease Revenue Refunding Bonds, Series 2016-A and Series 2016-B.

Kroll Bond Rating Agency (KBRA) has affirmed the long-term rating of AA- with a Stable outlook on the Municipal Improvement Corporation of Los Angeles (MICLA or "the Corporation") Lease Revenue Refunding Bonds, Series 2016-A (Capital Equipment) and Lease Revenue Refunding Bonds, Series 2016-B (Real Property). This rating is based on the City of Los Angeles' long-term general obligation rating and evaluation of the factors discussed in KBRA's U.S. State and Local Government Abatement Lease Methodology. Generally, ratings assigned to the majority of the U.S. state and local abatement lease obligations by KBRA will be one to two notches below the government lessee's general obligation rating.

KBRA has also affirmed the long-term rating of AA with a Stable outlook on the general obligation debt of the City of Los Angeles, California (L.A. or "the City"). This rating applies to all of the City's outstanding general obligation bonds except for bonds backed by a letter of credit or liquidity facility. As of November 1, 2016, the City has approximately $703.8 million of general obligation bonds outstanding. The rating of the City's general obligation bonds is based on KBRA's U.S. Local General Obligation Rating Methodology.

Please click on the link below to access the report:

MICLA Lease Revenue Refunding Bonds, Series 2016-A and Series 2016-B

If you have any difficulties accessing the report, please contact info@kbra.com or visit www.kbra.com.

KBRA Releases Surveillance Report: City of Los Angeles Solid Waste Resources Revenue Bonds.

Kroll Bond Rating Agency (KBRA) has affirmed the long-term rating of AA with a Stable outlook on the City of Los Angeles Solid Waste Resources Revenue Bonds. As of June 30, 3016, the city has approximately $209.3 million in Solid Waste Resources Revenue Bonds outstanding.

This rating is based on KBRA's U.S. Special Tax Rating Methodology, which identifies special tax revenues as taxes or fees levied on the sale of goods and services or other specifically defined activities. The City of Los Angeles Solid Waste Resources Revenue Bonds are secured by a solid waste resource fee, which is collected from certain residential properties in the city of Los Angeles and used by the Los Angeles Bureau of Sanitation to fund portions of the city's solid waste program. The fee is the not considered to be a tax.

Please click on the link below to access the report:

City of Los Angeles Solid Waste Resources Revenue Bonds

If you have any difficulties accessing the report, please contact info@kbra.com or visit www.kbra.com.

U.S. Virgin Islands Utility to Test Bond Market.

Island's power monopoly seeks private bond sale

The U.S. Virgin Islands' public utility is asking Wall Street to help finance an upgrade of its energy infrastructure as unpaid bills pile up and conflict with its regulator escalates.

The Virgin Islands Water & Power Authority, or WAPA, expects to privately sell up to $85 million in debt by next month, according to people familiar with the matter. The sale, managed by Atlanta-based broker-dealer IFS Securities Inc., is open to select investors and won't carry a rating from the major credit rating firms, these people said.

A WAPA spokesman didn't return requests for comment. A spokeswoman for WAPA's regulator, the Virgin Islands Public Services Commission, also declined to comment.

A successful sale would signal that credit markets aren't closed to WAPA despite dwindling cash balances, large capital needs and rocky relations with its regulator. Credit ratings firms have hammered the utility with downgrades into junk status over the past year.

The Virgin Islands has never defaulted on its debt obligations, but its financial standing is top-o--mind for investors in the U.S. municipal bond market following the financial collapse of Puerto Rico, a Caribbean neighbor 80 miles away. The U.S. territories share common fiscal problems including high debt levels, mounting pension costs, outdated infrastructures and shrinking tax bases.

Those troubles extend to WAPA, the power monopoly serving the Virgin Islands' roughly 105,000 inhabitants. The PSC has refused since January to approve a requested rate increase, prompting a public war of words with WAPA, and with cash flows under pressure the utility is behind on its supplier bills. The utility relies on the PSC to approve customer rates that cover the cost of generating and distributing power.

WAPA was forced over the weekend to switch to burning oil at its generation plants after Vitol Group suspended shipments of liquefied petroleum gas, their usual fuel source. After the announcement, the PSC said WAPA had failed to explain why the invoices had gone unpaid when the rates charged to customers should cover the cost of fuel deliveries.

"Those costs are not surprises, and are included in WAPA's rates, but not being paid," the regulator said.

Oil supplier Glencore Ltd. also cut off shipments temporarily in January, according to the PSC. Trafigura Trading LLC, another vendor, recently won a $24 million court judgment against WAPA over unpaid bills.

Proceeds from WAPA's planned bond sale would cover costs associated with the conversion of its generating units to liquefied propane, a cleaner-burning fuel than oil. Yields on the proposed sale have risen during the marketing process to placate prospective investors, and terms may change further before the deal is completed, a person familiar with the matter said.

WAPA owes $253 million in bond debt, according to its financial disclosures.

Twice in the past six months, the Virgin Islands has tried and failed to sell debt amid fears it could wind up under a restructuring proceeding similar to what Congress designed for Puerto Rico. A federal rescue law passed last year allows Puerto Rico to restructure its debts outside the U.S. bankruptcy system, which the U.S. territories can't access.

"It certainly casts a heavy shadow on our approach to the market," said Valdamier Collens, commissioner of the Virgin Islands Department of Finance. "We're very aware of the contagion effects."

Like Puerto Rico, the Virgin Islands isn't funded on an equal basis with U.S. states in federal health-care, highway and tax programs, Mr. Collens said. A five-year plan adopted by the Virgin Islands in December calls for raising property tax levies, timeshare fees and "sin taxes" on cigarettes and alcohol while improving revenue collection and cracking down on past-due taxes.

The Virgin Islands has relied increasingly on bond proceeds to pay operating costs while contributing less to pension plans. That borrowing has increased its debt to a level similar to that of Puerto Rico, on a per capita basis.

Meanwhile, Puerto Rico's creditors are bracing for a potentially lengthy legal fight over how to restructure a $73 billion mountain of debt.

The federal oversight board that placed Puerto Rico under court protection is pushing a fiscal plan that pays creditors less than a quarter of the $35 billion they are owed over the next decade. Creditors are scheduled to face the board in court for the first time on May 17 as its benchmark general obligations tumble to all-time lows in the wake of the oversight board's action.

The Wall Street Journal

By Andrew Scurria

Updated May 11, 2017 10:40 a.m. ET

Write to Andrew Scurria at Andrew.Scurria@wsj.com

California Leads U.S. Economy, Away From Trump.

Whatever the president says, this state does the opposite. It's working.

To justify his executive orders nullifying policies protecting people from climate change, hazardous working conditions and persecution because of their religion or citizenship status, President Donald Trump during a Feb. 16 press conference said: "To be honest, I inherited a mess. It's a mess. Jobs are pouring out of the country." He later told the Conservative Political Action Conference that regulations are "crushing our economy."

That's a claim worth exploring. Look at California, which is one-eighth of the U.S. population with 39 million people and one-seventh of the nation's gross domestic product of $2.3 trillion. Far from being a mess, California's economy is bigger than ever, rivaling the U.K. as No. 5 in the world, when figures for 2016 are officially tabulated.

California is the chief reason America is the only developed economy to achieve record GDP growth since the financial crisis of 2008 and ensuing global recession, according to data compiled by Bloomberg. Much of the U.S. growth can be traced to California laws promoting clean energy, government accountability and protections for undocumented people. Governor Jerry Brown, now in his fourth term, considers immigrants a major reason for the state's success: "39 percent of us are Latino and the majority are from Mexico," he said in a March 2 interview in his Sacramento office.

In the stock and bond markets, where investors show no allegiance to political parties, California has outperformed the rest of the U.S. the past five years, especially since the Nov. 9 election, when Trump became the fifth person to win the Electoral College and lose the popular vote. California's creditworthiness keeps getting better, measured by the declining premium global investors must pay to ensure against depreciation of the state's debt obligations. That premium has diminished more than for any other state since 2012, according to data compiled by Bloomberg. California, whose voters favored Hillary Clinton two to one, outperformed Treasury bonds since the November election. Texas, which is the second-largest state in population and which supported Trump, became cheaper compared to Treasuries and California in the market for state and local debt since the November election. Investors see security in the state with more protections for immigrants and more regulations.

California's borrowing cost is 0.15 percentage points lower than the average for states and municipalities and has declined to just 0.24 percentage points more than the U.S. pays on its debt, down from 1.97 percentage points in 2013.

At the same time, bonds sold by California's municipalities produced a total return of 2.3 percent since November, outperforming the benchmark for the U.S., according to data compiled by Bloomberg. The growing popularity of bonds sold by California issuers is a consequence of the state's more rigorous regulation of the market, specifically legislation signed by Brown last year, creating greater transparency and accountability for issuers of California debt.

No state or country has created as many laws discouraging fossil fuels and carbon while promoting clean energy. That convergence of policy and voter preference is paying off in the stock market.

California is home to 20 of the 130 companies in North America and South America that meet the standard classification of clean energy. These 20 companies produced a total return of 45 percent during the past 12 months, beating the clean energy benchmark's 13 percent, the S&P 500's 19 percent and the S&P 500 Energy Index's 6 percent.

California clean energy companies reported annual revenue growth of 26 percent, almost three times the benchmark, and they turned more revenue into profit with an average gross margin of 46 percent, compared to 41 percent for the benchmark. California companies also spent 13 percent of their revenue on research and development compared to 8 percent for the benchmark. Jobs at clean energy companies in California increased 14 percent last year, double the average rate for the industry. Analysts surveyed by Bloomberg say these 20 stocks will gain only 1 percent during the next 12 months, because they achieved their target valuations much sooner than predicted. Tesla Inc., the Palo Alto-based manufacturer of electric vehicles, appreciated 60 percent since Trump's election and is now worth more than $50 billion, greater than Ford Motor Co.'s $45 billion market capitalization and almost as much as General Motors Co.

"We have a goal of a million and a half electric vehicles by 2025 and that's quite a steep curve to get there," Brown said in the interview in March. "No matter what Trump says, China, the world, the academies of science and all the major countries have all recognized climate change. Certainly, businesses acknowledge they have to make these investments. California is well on its way."

Technology driving the clean energy boom is the reason California companies lead most of their peers in U.S. The 467 California-based firms in the Russell 3000 Index produced a total return of 185 percent since 2012, easily surpassing the 94 percent for the index, according to data compiled by Bloomberg. Analysts also are more bullish on companies in California than the rest of the U.S., predicting a 12-month average total return 12 percent (income plus appreciation) versus 9 percent, according to data compiled by Bloomberg.

Behind such a favorable outlook is the diversity of the California economy, which grew $42.3 billion during the first three quarters last year. That's almost as much as the next two fastest-growing states, New York and Florida, combined.

California's revenue from agriculture, forestry, fishing and hunting totaled $39 billion in 2015, plus $279 billion from manufacturing. The trailing 12-month revenue from California technology companies is $720 billion, or 54 percent of the U.S. industry, according to data compiled by Bloomberg.

The capitalist juggernaut that is California helps explain why the state's per capita income increased 9.5 percent since 2015, the most of any state and the most since 2012, according to data compiled by Bloomberg. Far from losing jobs overseas, California keeps creating them with an unemployment rate declining to 4.9 percent from 5.7 percent in 2016, faster than the national average.

None of this is lost on the residents of California. They are proudly enacting policies in opposition to Trump's. The legislature became the first to vote to become a sanctuary state, and supported raising gas taxes and vehicle registration fees to improve infrastructure. While Trump gets the lowest approval of any new president after 100 days and the Republican Congress does worse, the politics of California are the opposite. A recent University of California Berkeley Institute of Government Studies poll found 57 percent of California's registered voters approve of the legislature's job performance. Brown gets 61 percent approval.

If that's a "mess," Trump could only hope for more of it.

Bloomberg View

By Matthew Winkler

May 10, 2017, 2:00 AM PDT

(With assistance from Shin Pei.)

This column does not necessarily reflect the opinion of the editorial board or Bloomberg LP and its owners.

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Fitch: Puerto Rico's Ratings Unchanged by Title III Bankruptcy Filing.

Fitch Ratings-New York-05 May 2017: The Commonwealth of Puerto Rico's ratings are unchanged following the filing on May 3, 2017 by the Puerto Rico Oversight Board of a petition under Title III of the Puerto Rico Oversight, Management and Economic Stability Act (PROMESA), according to Fitch Ratings.

The sales tax bonds of the Puerto Rico Sales Tax Financing Corporation (COFINA) and the pension funding bonds of the Employees Retirement System of the Commonwealth of Puerto Rico (ERS) are currently rated 'C' by Fitch and are on Rating Watch Negative. The 'C' rating indicates Fitch's belief that default of some kind on the COFINA and ERS bonds appears inevitable due to the

Commonwealth's previously stated intent to restructure its debt.

Although sales tax revenues pledged to COFINA continue to be set-aside per the flow of funds and debt service has been paid, there is significant uncertainty as to the eventual impact of a broader restructuring of the commonwealth's debt on COFINA bondholder protections.

The ERS has begun to draw on the debt service reserve to make debt service payments. A default on the pension bonds is expected once the debt service reserve is depleted, which is expected as early as this month (May 2017). Under the Commonwealth's debt moratorium, enacted in April 2016, the Commonwealth has suspended transfers of employer contributions to the ERS in an amount equal to the debt service payable by the ERS and suspended the obligation of the ERS to transfer pledged funds to the trustee under the bond resolution.

Fitch rates securities on which the Commonwealth has already failed to make full and timely payment 'D'. These securities include the general obligation (GO) bonds and government facilities revenue and revenue refunding bonds, issued by the PR Building Authority and guaranteed by the Commonwealth.

The Commonwealth's Issuer Default Rating (IDR) remains 'RD', indicating that the issuer has defaulted on a select class of its debt.

Other ratings of Commonwealth entities include:

Puerto Rico Electric Power Authority (PREPA): The current rating of 'C' and the Rating Watch Negative continue to reflect Fitch's view that a payment default or restructuring of PREPA's debt obligations is inevitable. A common component of the PREPA restructuring plans being considered is the reduction of existing debt by means of a proposed distressed debt exchange.

Puerto Rico Aqueduct and Sewer Authority (PRASA): PRASA's rating of 'C' and Negative Watch reflects Fitch's view that a payment default or restructuring appears inevitable. PRASA's fiscal plan recently approved by the Oversight Board projects annual shortfalls over the next 10 years absent significant cuts in debt service costs or sizeable rate increases that may be untenable. To date, PRASA has made all payments related to its rated bonds, although PRASA entered into forbearance agreements related to its state revolving fund and rural development obligations in June 2016 and currently owes more than $70 million to contractors.

Housing Finance Authority (HFA): Fitch currently rates two of the Authority's outstanding bond issues; both ratings are on Rating Watch Negative:

–Puerto Rico Housing Finance Authority capital fund modernization program subordinate bonds (Puerto Rico Housing Projects), series 2008 (Non-AMT) 'A'. The capital fund bonds are secured by payments from Puerto Rico Public Housing Administration's public housing HUD capital fund annual appropriations;
–Puerto Rico Housing Finance Authority mortgage-backed certificates, 2006 series A 'AAA'. The certificates are limited obligations of the issuer secured by the revenues and assets of a trust indenture portfolio of GNMA and FNMA MBS.

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[Puerto Rico Strikes Deal With Development Bank's Bondholders.]()

- **Bondholders would exchange debts for newly issued securities**
- **Pact needs broader approval of creditors and U.S. court**

Puerto Rico said creditors of the insolvent government development bank agreed to accept losses by exchanging their bonds for new securities, moving the island another step toward escaping from some of its crushing debts.

Governor Ricardo Rossello said Monday that his administration struck a deal with major bondholders of the bank, which borrowed for the U.S. territory until the island’s fiscal crisis pushed it to default. If approved by others creditors, the financial oversight board and a U.S. court, the bank would be wound down and investors would receive bonds issued by a new entity that would take over its assets, which are worth some $5.3 billion.

Under the agreement, bondholders would exchange their debts at 55 percent, 60 percent or 75 percent of face value, depending on whether they elected to receive higher interest payments or the prospect of a greater recovery through debt with less legal claim to the bank’s cash, according to terms disclosed in a bond filing.

The deal comes less than two weeks after Puerto Rico initiated bankruptcy-like proceedings, giving it power to have debts dismissed in U.S. court if creditors don’t voluntarily agree to accept less than they’re owed. Puerto Rico has already reached a similar agreement with creditors of the government electric company and officials have said they intend to continue negotiating with investors who hold securities sold by other arms of the island’s government.

“This agreement is an example that the government is regaining the credibility it had lost over the past few years,” Rossello said. “We are satisfied with this agreement.”

While imposing losses on bondholders, the agreement will allow them to recoup more of their investment than current trading prices suggest. Government Development Bank bonds due in August, for example, traded Monday for an average of 24.3 cents on the dollar.

Rossello said at a press conference Monday that 45 percent of bondholders have so far consented to the restructuring. Under the federal emergency rescue law that allows for Puerto Rico to legally cut its debts, any voluntary agreement must be approved by a two-thirds vote of bondholders.

The agreement included the so-called ad hoc group — comprised of funds managed or advised by Avenue Capital Management, Brigade Capital Management, Fir Tree Partners and Solus Alternative Asset Management — as well as local bondholders.

“While we are voluntarily accepting to sustain significant losses, up to 45 percent of the savings that Puerto Ricans worked for, it is because we are Puerto Ricans first and we recognize the circumstances in which Puerto Rico is today,” Rafael Rojo, a spokesman for local bondholder group Bonistas del Patio said in a statement.

Under the terms of the deal, the bank’s assets, including municipal loans, real estate and cash, would be transferred to the new entity. The issuer would cover payments on the two senior debt classes first, and holders of subordinate securities wouldn’t receive any principal until those other bonds are paid. If cash isn’t available for interest payments, bondholders would receive more debt instead, according to the term sheet released by the bank.

The bank, which used to borrow for public works, was undermined by the loss of its investment-grade bond rating in 2014, which effectively shut it out of the capital markets. Puerto Rico’s fiscal oversight board, which was installed to help end the island’s crisis, has already approved a fiscal plan that would shut it down.

That plan said the bank had key assets of $6.5 billion and major liabilities of $7.4 billion.

Bloomberg Markets

by William Selway and Alexander Lopez

May 15, 2017, 6:38 AM PDT May 15, 2017, 9:10 AM PDT

Debt Island: How $74 Billion in Bonds Bankrupted Puerto Rico.

- **Billions sunk into grand projects, expenses and bureaucracy**
- **In San Juan, $2.25 billion bought a money-losing train line**

San Juan’s gleaming commuter train seemed like a coup — the kind of big-ticket item many U.S. cities can only dream of.

More than a decade on, the Tren Urbano is a monument to the folly, bloat and abuse that finally bankrupted Puerto Rico. Despite years of planning, it sells only a third of the rides it needs to, and loses roughly $50 million a year. The cost so far: $2.25 billion, $1 billion more than planned.

That, in a nutshell, is Puerto Rico's story. With Wall Street's help, the U.S. commonwealth borrowed tens of billions in the bond markets, only to squander much of it on grand projects, government bureaucracy, everyday expenses and worse. Debts were piled on debts, even as the economy gave way.

Continue reading.

Bloomberg Politics

by Martin Z Braun and Jonathan Levin

May 15, 2017, 2:00 AM PDT May 15, 2017, 7:22 AM PDT

Puerto Rico Bonds That Were Bought Up by Hedge Funds Slide to New Low.

Prices of bonds from Puerto Rico's record $3.5 billion municipal junk offering in 2014 are tumbling to fresh lows. The general obligations due in 2035, many of which were bought by hedge funds when they were issued at 93 cents on the dollar, changed hands at an average of 61.9 cents Tuesday in trades of more than $1 million, with smaller lots sold for as little as 58.4 cents. The territory's decision last week to use bankruptcy-like powers granted by Congress has cast doubt on how much of their investment bondholders will recoup.

Bloomberg Markets

by William Selway

May 10, 2017, 7:34 AM PDT

Hedge Funds Vie With Puerto Rico Workers Over Getting Paid First.

- **Commonwealth's pension systems set to go broke this year**
- **Island's $123 billion bankruptcy biggest in municipal history**

The message in Puerto Rico is blunt: pay us, not Wall Street.

Anger over the biggest municipal bankruptcy in U.S. history has centered on the urgent question of public pensions. Puerto Rico has promised its workers and retirees $49 billion in benefits, but it's guaranteed bondholders even more.

The pension system is scheduled to run out of money as soon as July, and many on the island fear, with benefit cuts already under discussion, that the hedge funds who own one-third of the commonwealth's bonds will wrangle a better deal than ordinary Puerto Ricans.

"The whole situation is unfair," said Maria Rodriguez, a 64-year-old retired employee of the Public Building Administration. "I worked for over 35 years for the government and now it's apparently clear that my pension will be cut by at least 10 percent. This is the result of the actions of multiple administrations from both parties."

It’s a no-win situation for Puerto Rico and its 3.5 million people. Schools are being closed, talented residents are leaving and the economy has been contracting for years.

That’s the mess confronting U.S. District Judge Laura Taylor Swain as the adversaries face off for the first time in federal court May 17 in San Juan. They’ll be tussling over $123 billion owed to retirees and creditors.

‘Don’t Care’

In pre-hearing rhetoric, labor groups are painting rich hedge funds as uncaring vultures looking to extract money from less-wealthy public workers. The creditors say there would be more money for everyone if Puerto Rico improved its revenue collections and thinned its hulking government bureaucracy.

“Hedge funds don’t care what happens to the people, they want to get more profits,” said Emilio Nieves, president of Puerto Rico’s National Union of Educators and Education Workers. “They are our oppressors. We will resist and the government of Puerto Rico must decide if they are in favor of the people or the bondholders.”

Average annual pension benefits are $14,000, according to Puerto Rico’s federal oversight board, and roughly one-third of employees are ineligible for Social Security benefits. Nearly half of island residents live in poverty and the median household income is $19,350, compared with $53,889 in the 50 states, according to U.S. Census data.

The commonwealth’s federal oversight board anticipates a 10 percent cut in pension expenses. That’s more generous than what Governor Ricardo Rossello offered bondholders in his latest public proposal. General-obligation bonds, or GOs, which the island’s constitution says must be repaid before other bills, would receive a best-case recovery of 90 cents on the dollar. Since that estimate depends on an improvement in the government’s finances, the recovery could be as low as 70 percent.

Divide Payments

Rossello’s fiscal plan would pay bondholders less than a quarter of what they’re owed in principal and interest through 2026. The government hasn’t said how they would divide those payments, or which group is first in line.

“As much as there were promises made to various stakeholders on the island — pensioners, current government employees or contractors who work for the government — those are all implicit promises,” said David Tawil, president and co-founder of Maglan Capital LP in New York, who bought Puerto Rico bonds in 2013 but has since sold them. “The bondholders have explicit promises whether they be in offering documentation or whether they be pursuant to the constitution.”

The court hearing comes two weeks after Puerto Rico’s federal oversight board filed a form of bankruptcy called Title III to help reduce its $74 billion of debt and tackle its unfunded pension crisis. It will be the largest restructuring in the history of the $3.8 trillion municipal-bond market.

Title III, a provision in the Puerto Rico relief law that Congress passed last year, is the only way for the island to force pension recipients to accept benefit cuts in court. Puerto Rico needed to pursue Title III in part because of its pension crisis, the board wrote in its May 3 filing. Another negotiating provision called Title VI didn’t include retirement savings.

Official Committee

The various parties have already begun wrestling over repayment. A coalition of retiree groups has asked Swain to appoint an official committee to represent government pensioners in the court battle. Until now, pensioners have been excluded from talks between bondholders and Puerto Rico because the negotiations took place under Title VI.

A court-recognized committee would give retirees an equal footing with other creditors, said Robert Gordon, a lawyer with Clark Hill PLC, who's representing more than half the island's 160,000 public employee retirees.

"We need a voice in the case," said Gordon, who also represented the retirement systems in Detroit's bankruptcy case.

In a separate suit, a labor group representing more than 12,300 commonwealth workers and retirees is asking a court to declare Rossello's fiscal plan unlawful because of its proposed pension cuts, though it doesn't specify the impact on a retiree's monthly check. That lawsuit is on hold while the bankruptcy case goes forward. Other suits directly affecting the restructuring will also likely be put on hold.

Detroit's Example

In Detroit, retired police and firefighters saw no reduction, while general employees got about 95 percent of what they were promised. Cost-of-living increases were cut for police and firefighters and eliminated for general employees. Both groups also saw health benefits cut. The changes were expected to result in a 74 percent reduction in the city's total post-employment benefit costs.

It may be difficult for pensioners to avoid taking losses. Puerto Rico's constitution says that general obligations must be repaid before other bills, and retirement expenses don't have the same repayment pledge, said Ted Hampton, a Moody's Investors Service Inc. analyst in New York.

"Pensions are not up there with GOs," Hampton said. "The judge is going to have to think about what that means."

Sales-Tax Bonds

Another class of creditors, those who own sales-tax bonds, have a dedicated claim on levy revenues. Rossello's plan offers them as much as 58 cents on the dollar, if Puerto Rico's finances improve, and as little as 39 cents on the dollar.

Hedge funds, like public workers, find fault with Rossello's fiscal plan, which estimates annual government expenses, including essential services, will total $17.9 billion this year and reach $22.3 billion in 2026. Creditors want to see a breakdown of which services are deemed essential.

Hedge funds holding $1.4 billion of general-obligation bonds sold in 2014, including Aurelius Capital Management and Monarch Alternative Capital, sued the commonwealth on May 2, seeking overdue payments. Another group of hedge funds holding $1.9 billion of senior sales-tax bonds, including Whitebox Advisors, Merced Partners and Tilden Park Capital Management, also sued the governor on May 2 to stop his fiscal plan from redirecting sales-tax revenue to the island's general fund and away from bond repayments.

Puerto Rico only has roughly $1 billion of the $49 billion promised to current and future retirees. That gap is a result of the commonwealth skipping employer contributions to the system, offering benefits without adequate funding and extending loans to retirement-fund participants.

"Puerto Rico's pensions unfortunately had a history of engaging in practices that were not common elsewhere and that were very threatening to their long-term solvency," Hampton said. "Part of what the court will look at is the legacy of those unusual or ill-advised practices."

Bloomberg Markets

by Michelle Kaske and Steven Church

May 12, 2017, 2:00 AM PDT

[Puerto Rico Menaces Mutual Funds That Resisted Market Exodus.]

- **OppenheimerFunds is top mutual fund holder with $6.3 billion**
- **Mutual funds hold $15 billion of uninsured Puerto Rico debt**

The biggest restructuring in the history of the U.S. municipal-bond market will fall heavily on hedge funds that wagered Puerto Rico wouldn't go broke. But there's plenty of little guys left holding the bag, too.

More than two-dozen mutual funds hold about $15 billion of uninsured Puerto Rico bonds, about 20 percent of Puerto Rico's $74 billion debt, according to the most recent data compiled by Bloomberg. While that's less than what it was more than three years ago — before the island's rating was cut to junk — the figures show that smaller investors who own mutual fund shares still have a significant stake, despite a buying spree by speculators who scooped up about a third of the government's debt when others fled.

OppenheimerFunds Inc., a unit of Massachusetts Mutual Life Insurance Co., is the biggest mutual-fund holder with $6.3 billion. Franklin Resources Inc., the second-biggest, has about $3.1 billion. UBS Asset Managers of Puerto Rico funds hold $1.4 billion, followed by those run by Goldman Sachs Group Inc., which have about $1.2 billion.

Mutual funds bought the island's debt because it offered high-yields and was exempt from taxes across the nation.

While those investments have been jeopardized by the island's decision Wednesday to turn to a U.S. court to restructure its debt after a series of defaults, those mutual funds will likely see little immediate impact. The Caribbean territory's crisis has been building for two years, giving funds plenty of time to pare their exposure. And the court filing — allowed under emergency legislation enacted by Congress last year — had little impact on bond prices, which had already tumbled. One of the island's most active securities, general-obligation bonds that were first sold for 93 cents on the dollar in 2014, traded for 64 cents Friday.

The variety of bond holders, however, underscores the broad reach of the commonwealth's crisis, which will be sorted out under the supervision of U.S. District Judge Laura Taylor Swain after it proved too vast for the government to do out of court. Puerto Rico has issued many different classes of debt backed by different revenue sources: general revenue, sales taxes, utility fees — even rum-tax money.

While analysts say it's impossible to gauge exactly how much of their money various bondholders will get back, they won't be totally wiped out. Before seeking out court protection, Puerto Rico offered general-obligation bondholders at least 70 cents on the dollar, with the possibility for 20 cents more if the island's finances rebound.

Despite its stake in Puerto Rico, OppenheimerFunds' Rochester High Yield Municipal Fund is the top-performing municipal fund over the last three years, returning 8.3 percent annualized, according to data compiled by Bloomberg. The $5.8 billion fund is a large holder of junk-rated tobacco bonds, which returned an annual 11.3% in the three years ending March 31, according to the S&P Municipal Bond Tobacco Index.

"Rochester funds have long believed that a negotiated resolution and restructuring without the expensive delay of protracted litigation is the best way forward for all parties," said Kimberly Weinrick an OppenheimerFunds spokeswoman. "In view of the financial oversight board's Title III filing and its decision to ignore a serious and constructive plan that we put forward in good faith, we are considering all appropriate legal remedies to protect and preserve the rights of fund shareholders."

Franklin has reduced its exposure to Puerto Rico since 2012 because of the government's weakening finances, said Stacey Coleman, a spokeswoman for the company. Its mutual-fund investors are also relatively protected against what was retained: None of Franklin's funds have more than 5 percent of its assets invested in the island, and some have none at all, she said.

"We retained those investments that we believed were in the strongest position and felt had significant legal and constitutional protections by their indentures and the Puerto Rico constitution itself," she said.

Peter Stack, a UBS spokesman, declined to comment, as did Andrew Williams, a spokesman for Goldman Sachs.

Bloomberg calculated fund holdings as face value for non-zero coupon bonds and at accreted value of zero coupon bonds. Derivatives, fully refunded bonds, insured and tobacco debt weren't included.

Bloomberg Markets

by Martin Z Braun

May 8, 2017, 2:00 AM PDT May 8, 2017, 7:21 AM PDT
