

## Atlanta Raises \$410M from Impact Bond Sale.

### **Issuance follows rocky period for social, sustainability, and municipal fixed income markets**

The City of Atlanta, Georgia, has raised \$410 million in an impact-linked municipal sale, the city announced last week.

The bonds were significantly oversubscribed, reflecting high levels of investor demand for social bonds. The proceeds of this sale will go towards funding the city's 'Moving Atlanta Forward' package, which will invest as much as \$750 million in various infrastructure projects across Atlanta, including transportation, public safety and recreational facilities.

Mohamed Balla, chief financial officer of the City of Atlanta, said: "This bond sale shows that the City of Atlanta is able to attract strong investor demand based upon the strong credit quality of the City.

"Additionally, we were able to tap into the growing investor demand for social and sustainable investments, while providing an attractive cost of capital for these vital capital projects."

In the third quarter of this year alone, municipal bonds with ESG links raised \$13.3 billion, more than 13% of total municipal issuance for the quarter, according to S&P Global Market Intelligence. Of this total, social bonds raised \$6.6 billion.

Sustainability bonds worldwide have taken a hit as a knock-on effect from the Russia-Ukraine conflict as well as rising inflation, and the municipal market has also been affected. Longer-term, however, bonds with a social link have attracted significant interest due to Covid-19 issues.

Research from S&P Global published in August forecast that global sustainable bond issuance was set to exceed \$1.5 trillion this year, driven by investor demand and the rise of climate-related finance and other ESG-related investment themes.

### **Banking Exchange**

11/29/2022

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## N.Y. Public Service Commission Approves Pole Attachment Rental Rate Increase for Municipally Owned Utilities: Davis Wright Tremaine

The New York Public Service Commission ("Commission") entered an [Order](#) this month authorizing municipally owned electric utilities to significantly increase the annual rental rates charged to cable

system operators and telecommunication carriers for the attachment of communications infrastructure to their utility poles. Specifically, the Order allows municipally owned electric utilities to increase annual pole attachment rental rates by 23 percent, from \$13.62 to \$16.75,[1] which will increase pole attachment expense for communications service attachers by a like amount.

The Commission approved such an increase based upon its “proxy rate approach,” which it adopted in 2007 for municipal electric companies in lieu of the Federal Communications Commission’s (FCC) cable pole attachment formula to establish pole attachment rates.[2] The Commission explained that its “proxy rate approach” works better for municipal electric companies because it is the “simplest and most cost-effective method for a municipality to establish a pole attachment rate, without detailed analysis and accounting.”[3] In practice, under the Commission’s “proxy rate approach,” municipalities establish pole attachment rates equal to the lowest attachment rate currently in effect among investor-owned electric utilities.[4] Through the Commission’s Order, it has aligned municipal electric companies’ pole attachment rates with the lowest currently in effect among investor-owned electric utilities in New York. In doing so, the Commission has allowed municipal electric companies to nearly double their rental rates since 2017, when they were \$8.51.[5]

This new Order comes at a time when cable system operators and telecommunication carriers across the country are making considerable investments to expand broadband access, both in New York State and nationwide, to underserved and unserved areas where utility poles are often owned by municipalities. Cable system operators and telecommunication carriers have consistently invested in expansive broadband deployment, both through private investment and in connection with various government grant initiatives; however, pole attachment rate increases like that approved here could dampen or impede operators’ and carriers’ expansion plans and lessen their investment in providing video, voice, and broadband services to underserved or unserved communities.

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[1] Case 22-E-0435, Tariff Filing by the New York Municipal Power Agency to Modify Its Electric Tariff Schedule P.S.C. No. 1 - Electricity, to Update the Pole Attachment Proxy Rates Used by Its Municipal Utility Members, [Order Establishing Updated Pole Attachment Rates](#) (issued November 18, 2022) (Order).

[2] Case 06-E-1427, Municipal Pole Attachments, [Order on Municipal Pole Attachment Rates](#) (issued May 9, 2007) at p. 4.

[3] Id.

[4] Case 06-E-1427, Municipal Pole Attachments, [Order Denying Petition for Rehearing](#) (issued May 28, 2008).

[5] Case 17-E-0243, Petition of the New York Municipal Power Agency to Determine Pole Attachment Rates for Municipal-Owned Poles, [Order Approving Municipal Pole Attachment Rate Increase](#) (issued August 4, 2017).

**Davis Wright Tremaine LLP** - Matthew R. Tuchman

November 29 2022

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## **California Infrastructure & Economic Development Bank: Fitch New Issue Report**

**Key Rating Drivers Sufficient Financial Structure:** Fitch's cash flow modeling demonstrates that the ISRF program can continue to pay bond debt service even with hypothetical loan defaults in excess of Fitch's 'AAA' liability rating stress hurdle, as produced by the Portfolio Stress Model (PSM).

**Adequate Pool Credit Quality:** Pool quality is average to slightly below average in comparison to other 'AAA' sector peers. In addition, approximately 67% of the pool is considered investment grade versus Fitch's 'AAA' median of 73%, which drives pool quality down slightly lower.

**Favorable Pool Diversity:** The largest borrower and top-10 borrowers represent less than 10% and 50% of the pool total, respectively. Each of these metrics is more favorable than Fitch's equivalent 'AAA' medians for the sector.

**Sound Program Management:** Program management adheres to a formal underwriting policy that includes, among other things, minimum coverage requirements for most borrowers. To date, there have been no pledged loan payment defaults in the ISRF program.

### **ACCESS REPORT**

Fri 02 Dec, 2022

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## **Fitch to Take Actions on Triborough Bridge and Tunnel Authority, NY Series 2018E Bonds.**

Fitch Ratings-New York-02 December 2022: On the effective date of Dec. 8, 2022, Fitch Ratings will downgrade the Long-Term rating to 'AA+' from 'AAA' and affirm the 'F1+' Short-Term rating assigned to the \$148,470,000 Triborough Bridge and Tunnel Authority general revenue variable rate refunding bonds, series 2018E (federally taxable). The Rating Outlook for the Long-Term rating will be Stable.

The rating action is in connection with: (i) the substitution of the irrevocable direct-pay letter of credit (LOC) currently provided by Bank of America, N.A. (AA/F1+/Stable) with a substitute LOC to be provided by UBS AG (UBS, AA-/F1+/Stable), acting through its Stamford branch; (ii) the mandatory tender of the bonds on Dec. 8, 2022; (iii) amendment of the related bond documents; and (iv) replacement of U.S. Bank, N.A. as trustee, tender agent and paying agent, with Bank of New York Mellon.

### **KEY RATING DRIVERS:**

The Long-Term rating will continue to be determined using Fitch's dual-party pay criteria and will be based jointly on the underlying rating assigned to the bonds by Fitch (AA-/Stable) and the rating assigned by Fitch to UBS (AA-/Stable), the provider of the substitute LOC supporting the bonds. The Short-Term 'F1+' rating will be based solely on the Short-Term rating of the provider of the substitute LOC. For information about the underlying credit rating see Fitch's press release dated Sept. 22, 2021 and available at 'www.fitchratings.com'.

Fitch's dual-party pay criteria consider the likelihood of the failure of both a rated obligor and a bank LOC provider. The methodology results in a Long-Term rating that is up to two notches higher than the stronger of the two credits if the following conditions are met: (1) both entities have a rating of 'A' or higher; (2) the transaction is structured such that payments from both the municipal issuer and the bank are in the flow of funds and both entities would have to fail to perform before the bonds defaulted; and (3) the interest rate modes to be covered by Fitch's rating provide for

either a mandatory purchase at the end of each interest rate period, or a purchase demand option. A one- or two-notch uplift will apply to the Long-Term rating depending on the frequency of the purchase demand option or the duration of the interest rate period which concludes with a mandatory tender.

The bonds provide holders with a tender option with no more than seven days' notice in the interest rate modes rated by Fitch. Fitch has applied a two-notch uplift, which results in a Long-Term rating of 'AA+' for the bonds.

Pursuant to the substitute LOC, the bank will be obligated to make regularly scheduled payments of principal of and interest on the bonds in addition to payments due upon maturity, acceleration and redemption, as well as purchase price for tendered bonds. The substitute LOC will have a stated expiration date of Dec. 5, 2025, unless extended or earlier terminated, and provide full and sufficient coverage of the principal amount of the bonds plus an amount equal to 53 days of interest at a maximum rate of 11% based on a year of 365 days and purchase price for tendered bonds, while in the weekly and daily rate modes. UBS Financial Services will serve as remarketing agent for the bonds.

#### RATING SENSITIVITIES

Factors that could, individually or collectively, lead to positive rating action/upgrade:

-The Long-Term rating will be tied to the underlying Long-Term rating assigned to the bonds and the Long-Term rating that Fitch maintains on the bank providing the LOC. Changes to one or both of these ratings may affect the Long-Term rating assigned to the bonds;

-The Short-Term rating assigned to the bonds will be at the highest rating level and cannot be upgraded.

Factors that could, individually or collectively, lead to negative rating action/downgrade:

-The Long-Term rating will be tied to the underlying Long-Term rating assigned to the bonds and the Long-Term rating that Fitch maintains on the bank providing the LOC. Changes to one or both of these ratings may affect the Long-Term rating assigned to the bonds. Additionally, if either the underlying bond rating or the bank rating were downgraded to 'A-' or lower, the dual-party pay criteria could no longer be applied, and the Long-Term rating assigned to the bonds would then be adjusted to the higher of the bank rating and the underlying bond rating;

-The Short-Term rating assigned to the bonds will be adjusted downward in conjunction with the Short-Term rating of the bank providing the LOC.

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## **[Dallas College, Texas: Fitch New Issue Report](#)**

Revenue Framework: 'aaa': The district's natural revenue growth prospects are strong, and Fitch expects that revenue growth will continue to equal or exceed U.S. GDP. The superior ability of the district to raise property tax and tuition/fee revenues in the event of a normal cyclical decline supports the 'aaa' assessment. Expenditure Framework: 'aa': The pace of spending growth should remain more or less aligned with revenues over time. Modest carrying costs and the district's ability to adjust its labor costs, if needed, provide solid expenditure flexibility. Long-Term Liability Burden: 'aa': The long-term liability burden is about 8% of 2021 per capita personal income and largely consists of overlapping debt. Fitch expects the burden to increase but remain moderate. Operating Performance: 'aaa': Fitch expects the district to maintain the highest level of financial flexibility throughout the economic cycle given the various budgetary tools at its disposal. Modest expected revenue volatility, as indicated in the Fitch Analytical Sensitivity Tool (FAST), underpins the assessment.

### **[ACCESS REPORT](#)**

Fri 02 Dec, 2022 - 4:47 PM ET

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## **[Carolina Panthers' Owner Tepper Under Investigation for Scrapped NFL Facility.](#)**

- **Investigation focused on public dollars sent to Tepper company**
- **The company building facility went bankrupt earlier this year**

Billionaire David Tepper and his real estate company are facing a criminal investigation into the now-scrapped plans to build a training facility for his Carolina Panthers football team.

Tepper, who bought the NFL franchise for \$2.3 billion in 2018, had proposed constructing an \$800 million facility in South Carolina's York County, near the team's stadium in Charlotte, North Carolina. But the plans were ditched after disputes between local officials and Tepper over the project.

The South Carolina Law Enforcement Division and the York County Sheriff's Office opened an investigation into the use of public funds for the project earlier this month, according to a joint statement from York County Sheriff Kevin Tolson and Solicitor Kevin Brackett.

[Continue reading.](#)

## **Bloomberg**

By Madlin Mekelburg and Amanda Albright

December 2, 2022

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### **[Orrick Public Finance Team Served as Bond Counsel in the First Flood Prevention P3 Project in North America.](#)**

[P3 Awards 2022 Winner](#) - Best Financial Structure-Fargo-Moorhead Metropolitan Area Flood Risk Management P3 Project

Orrick advised the Public Finance Authority, a nationwide governmental entity, as bond counsel in the first flood prevention public private partnership (P3) project in North America. The US\$2.1 billion Fargo-Moorhead Metropolitan Area Flood Risk Management P3 includes the design, construction, financing operations and maintenance of a proposed diversion channel that will protect the Fargo-Moorhead-West Fargo metro area in times of extreme flooding.

The project features 30 miles of channels, a 20-mile embankment, as well as two aqueducts, two river inlets, four railroad bridges, four interstate highway bridges and 10 county road bridges and the channel outfall. This project is also the first in U.S. Army Corps of Engineers' (USACE) history to use a P3 structure that could benefit other federal projects and is the inaugural pilot project under its Revolutionize USACE Civil Works initiative to demonstrate the viability of new delivery methods that significantly reduce the cost and duration of project delivery. Funding for the \$2.75 billion Fargo-Moorhead Area Diversion combines revenues, including \$1.1 billion from voter approved local sales taxes in the City of Fargo and Cass County with critical funding and financing support from the states of North Dakota (\$870 million) and Minnesota (\$86 million) and the Federal Government (\$750 million).

The project also included a \$273 million tax-exempt "green" bond issued through the Wisconsin-based Public Finance Authority to help fund the \$2.75 billion P3.

One key to the advancement of the Fargo Moorhead P3 was the "split procurement" model, which had three different sales taxes dedicated revenues to the project. This innovative model is being used as a template for future projects such as the LA River P3 Project and the Brazos Island Harbor Channel Improvement Project.

This first-of-kind project signals many more to come using the P3 model which streamlines delivery, shares risk and provides significant life-cycle cost savings. This first-of-kind project signals many more to come using the P3 model which streamlines delivery, shares risk and provides significant life-cycle cost savings.

November.18.2022

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## **[The Bond Buyer Announces its Annual Municipal Finance Deal of the Year Award Finalists for 2022.](#)**

**The national Deal of the Year winner will be selected from the ten finalists at the annual gala, which will also celebrate two winners of the Freda Johnson Award for Trailblazing Women in Public Finance**

NEW YORK, Nov. 22, 2022 /PRNewswire-PRWeb/ — The Bond Buyer, Arizent’s essential resource serving the municipal finance community, has announced its 2022 Deal of the Year award finalists. This marks the 21st year the program has recognized outstanding achievements in municipal finance, and the 12th year the Deal of the Year event will include the presentation of the Freda Johnson Award for Trailblazing Women in Public Finance.

The Deal of the Year finalists span ten categories: five awards in regional areas and five in additional categories. The winning deals helped deliver relief to a battered electric utility provider, assisted a school district in Arizona’s Navajo Nation and helped a city manage a dwindling water supply, among other projects:

**SOUTHEAST REGION:** Louisiana Utilities Restoration Corp.’s \$3.2 billion offering sought low-cost financing to give relief to a battered electric utility provider and its ratepayers.

**FAR WEST REGION:** The San Diego County Regional Airport Authority’s \$1.94 billion transaction pays for the replacement of Terminal 1, roadway and parking improvements and a new administration building.

**NORTHEAST REGION:** The District of Columbia’s \$309 million long-term P3 agreement with Plenary Infrastructure DC is the nation’s largest urban streetlight modernization project to use the public-private partnership model.

**MIDWEST REGION:** The city of Joliet, Illinois’ \$76.6 million offering kicked off the first leg of financing of the city’s preliminary 100-year agreement with Chicago to purchase treated Lake Michigan water to stave off a looming drinking-water crisis.

**SOUTHWEST REGION:** A \$21.7 million deal for Apache County, Arizona’s Window Rock Unified School District No. 8, which serves more than 390 square miles of the Navajo Nation in Arizona.

**ESG/GREEN FINANCING:** The commonwealth of Massachusetts’ nearly \$2.7 billion social bond deal — the largest social bond deal yet in the ESG space of the muni market — repaid federal dollars for the commonwealth’s Unemployment Insurance Trust Fund for benefits given to people affected by the COVID-19 pandemic.

**PUBLIC-PRIVATE PARTNERSHIP FINANCING:** The deal financed a portion of the \$2.75 billion Fargo-Moorhead Metropolitan Area Flood Risk Management Project, a public-private partnership between Red River Valley Alliance and the Metro Flood Diversion Authority to reduce local flooding risk.

**INNOVATIVE FINANCING:** The Alabama Federal Aid Highway Finance Authority’s \$1.5 billion offering introduces a new credit structure that helped the Authority garner credit ratings that remain among the highest in the nation.

**HEALTH CARE FINANCING:** The University of Louisville Health’s \$411 million deal helped fund their critical mission to reach its underserved community.

**SMALL ISSUER FINANCING:** Gallatin County, Montana's \$65 million transaction helped fund its Bozeman Fiber project, which brings lightning-fast internet speeds to an area underserved by internet service providers.

"This year's lineup is reflective of the full range of communities and public purposes this market comprises," said Mike Scarchilli, Editor in Chief of The Bond Buyer. "The deals recognized here embody the creativity and resourcefulness of this industry, brought to bear on projects that advance the infrastructure and quality of life in the nation's municipalities."

All award winners will be honored at an invitation-only ceremony at Guastavino's in New York City on Dec. 6. The winner of the Deal of the Year award will be announced at the close of the gala. For the 12th year, the Deal of the Year ceremony will also include the presentation of the Freda Johnson Award for Trailblazing Women in Public Finance. This year marks the eighth in which the organization is honoring two public finance professionals; one from the public sector and one from the private. The 2022 honorees are Deborah Goldberg, treasurer of the commonwealth of Massachusetts, and Emilie Ninan, public finance partner at Ballard Spahr and co-chair of the firm's finance department.

Along with Ninan and Goldberg, whose awards will be presented by Freda Johnson, 12 other honorees from the public and private sectors will be recognized as Trailblazing Women in Public Finance by the Northeast Women in Public Finance at the Dec. 6 gala.

The full list of Deal of the Year winners and profiles of the transactions can be found [here](#).

### **About The Bond Buyer**

Since 1891, The Bond Buyer has empowered issuers, investors and other municipal finance professionals to navigate the complexities of policy, regulation, market activity, infrastructure, public/private partnerships and more. Across its journalism, events, research and benchmarking, The Bond Buyer provides insight into the most relevant topics — from ESG to innovative deal structures. As the only independent resource serving the complete municipal finance community, The Bond Buyer's authoritative content connects leaders online, in person and in print every day.

### **About Arizent**

Arizent is a business information company that advances professional communities by providing insights and analysis and convening industry leaders. The company uses deep industry expertise and a data-driven platform to deliver its services, which include subscriptions, marketing services, live events and access to Leaders, an executive forum. Arizent also connects business communities through leading financial services brands like American Banker, The Bond Buyer, Financial Planning and National Mortgage News, as well as professional services brands like Accounting Today, Employee Benefit News and Digital Insurance.

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**[Squire Patton Boggs Advises on \\$4.2 Billion John F. Kennedy International Airport Terminal 6 Project.](#)**

Squire Patton Boggs utilized a multi-practice approach to provide legal advice on the bond and commercial financing for the construction of a new Terminal 6 at John F. Kennedy International Airport. The Squire team served as co-bond counsel to the New York Transportation Development Corporation (NYTDC), a local development company and affiliate of Empire State Development, which is the umbrella organization for economic development for the State of New York.

The deal was part of the public-private partnership between the Port Authority of New York and New Jersey and JFK Millennium Partners (JMP), a consortium of investors which included: Vantage Airport Group, an industry leader in developing and managing airport projects, including LaGuardia Airport Terminal B financing (which the Squire legal team was part of in 2016); American Triple I, a minority-owned investor, developer and manager of infrastructure assets; RXR, a New York real estate operating company; and JetBlue Airways. The construction of Terminal 6 is the final component of the \$18 billion JFK Vision Plan which also consists of \$9.5 billion development of a new Terminal 1, and the \$1.5 billion expansion of Terminal 4, led by Delta Air Lines and JFK International Air Terminal (which the Squire team also served as bond counsel earlier this year).

The JMP consortium will develop the new, world-class, 1.2 million-square-foot Terminal 6 at the airport in two phases, with the first new gates opening in 2026 and project completion anticipated in 2028. The new Terminal 6, with capacity for 10 gates - including nine wide body gates - will connect seamlessly to JetBlue's Terminal 5. British Airways, Terminal 7's current primary tenant, will move to a modernized and expanded Terminal 8 later this year, and the 60-year-old Terminal 7 will be demolished after the first phase of Terminal 6 is completed. The development of Terminal 6 is expected to create more than 4,000 jobs, including 1,800 union construction jobs, and direct wages of \$1.9 billion.

The project financing for the new Terminal 6 was structured to combat headwinds due to current market conditions. Originally contemplated with a mix of tax-exempt bonds, taxable bonds and taxable term loans, the structure evolved to include over \$3 billion in taxable term loans and \$435 million in privately placed tax-exempt bonds with RBC Capital Markets.

Squire Patton Boggs's female dominated team was a key member to both the project and finance teams, providing insights on tax-exempt and taxable municipal finance. To seamlessly support the bond and term loan tranches of the transaction, the firm utilized a multi-practice approach. The team was led by Alethia Nancoo, and included public finance partner Catie Romanchek, principal Lauren Trialonas, of counsel Laurie Schwartz, counsel Gregory Johnson, and associates Jessica Ice, Ben Tobias and Ellen Steinmetz; together with public finance tax experts, led by senior associate Taylor Klavan and advised by senior partner Bob Eidnier; financial services partner Jim Schneider and of counsel Mona Ma; and real estate partner John Thomas.

Ms. Nancoo commented: "It was my pleasure to lead a primarily female team to advise NYTDC on such a complex, cutting-edge transaction. The complexity of the transaction gave us an opportunity to demonstrate our expertise on many fronts - and which will likely serve as a blueprint for similar projects in the future."

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## **[Bankruptcy Filing Filed for Sale of Senior Living Facilities in Oklahoma.](#)**

A Texas nonprofit that defaulted on bonds sold to purchase two Oklahoma senior living facilities intends to sell those assets through its recent bankruptcy filing.

Leading Life Senior Living, Inc., which filed for Chapter 11 bankruptcy with the U.S. Bankruptcy Court for the Northern District of Texas on November 18, sold \$30.275 million in tax-exempt and taxable bonds through the Oklahoma Development Finance Authority in 2017, around the memory care facilities.

It defaulted on payments as of 2020. Berkeley Alternative Income Fund I, LLC, is the largest known holder of the Series A Notes in the issue, according to court documents.

US Bankruptcy Judge Mark Mullin granted initial motions in the case, including an interim motion authorizing Leading Life to access post-petition financing and use cash collateral to keep its Oklahoma City and Edmond memorial care facilities operational.

“The debtor brought this case with the intent to market and sell its assets with the knowledge and cooperation of the bond trustee and Berkeley,” Leading Life attorney Rachael Smiley said at a court hearing Tuesday.

She added that while the debtor is seeking “the highest and best value for its assets through a court-sanctioned sale,” it is also seeking to keep the two facilities running without disruption in the quality of care it provides to its residents to keep.

Judge Mark Mullin granted initial motions in the case, including one on an interim basis authorizing Leading Life’s access to post-petition funding and the use of cash collateral to keep the Oklahoma City and Edmond facilities operational.

The financing is a senior secured loan from a Berkeley-affiliated special purpose vehicle, which Smiley also said intends to place a “stalking horse bid” to purchase the debtor’s two facilities. Such bidders are used to set a purchase price floor for other bidders.

Smiley said Leading Life filed for bankruptcy after experiencing “serious liquidity problems” ahead of the appointment of a new board and manager this spring.

“Although the situation has improved under the new board and the Debtor’s new management and facilities are operating at approximately 80% capacity, the Debtor still faces significant liquidity problems,” she added.

In May, Leading Life and bond trustee UMB Bank entered into a forbearance agreement that avoided foreclosure proceedings based on a transition to new management and other conditions. The termination of the agreement has been extended to December 2nd.

As of November 17, the principal outstanding was \$29.68 million and accrued and unpaid interest was nearly \$3.25 million.

S&P Global Ratings, which rated senior bonds A-Plus and second tier bonds BBB in 2017, has downgraded the ratings since 2019, according to disclosure filings in the Municipal Securities Rulemaking Board’s EMMA system. In July 2020, S&P downgraded ratings from CC to D after defaults.

## **Oklahoma Local Today**

by Morgan Mccarthy

November 23, 2022

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## **Tuscaloosa, Alabama: Fitch New Issue Report**

Key Rating Drivers Revenue Framework: 'aaa': Fitch believes revenue growth prospects are strong, reflecting favorable historical trends and expectations for growth in population, property appreciation and continued new development. The city has a high independent legal ability to raise revenues via increases to its sales taxes and other locally generated revenues such as business licenses and fees. Expenditure Framework: 'aa': Fitch expects the pace of spending to generally align with revenue growth trends. The city maintains significant expenditure flexibility, benefitting from the absence of collective bargaining and moderate fixed carrying costs for debt and retiree benefits. Long-Term Liability Burden: 'aa': The city's long-term liabilities (overall debt and pension) are currently moderate at about 13% of personal income but are expected to increase moderately over the next few years as the city undertakes several infrastructure and quality of life initiatives. The combined pension asset-to-liability ratio remains low notwithstanding recent reform efforts and full actuarially-based contributions.

### **ACCESS REPORT**

Tue 22 Nov, 2022

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## **Transbay Transit Center Community Facilities District, California: Fitch New Issue Report**

The 'AA+' rating on the San Francisco CFD No 2014-1 (Transbay transit center) bonds is based on the city's inclusion, by resolution, of the Transbay CFD special taxes on the Teeter Plan roll, under which the city guarantees 100% remittance of the levied taxes, thereby eliminating collection risk. As such, Fitch Ratings believes the security for the bonds is essentially the same as city general obligation (GO) bonds. The 'AA+' rating on the city's GO bonds reflects the city's exceptionally strong reserve position relative to Fitch's near-term expectations for weak economic and revenue performance. Fitch expects the city's revenues to return to pre-pandemic levels, albeit over several years. The city benefits from solid spending flexibility and long-term liabilities at the low end of the moderate range. The ratings also consider the city's superior financial management, which includes strong budgetary and financial policies and practices that help maintain ample reserves and financial flexibility throughout economic cycles.

### **ACCESS REPORT**

Tue 22 Nov, 2022

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## **Philadelphia Charter Schools: Unexecuted Charter Contracts Are A Unique Risk**

### **Key Takeaways**

- Brick-and-mortar charter schools in Pennsylvania are authorized by local school districts. Among our rated charter schools that are authorized by the School District of Philadelphia (SDP), 70%

currently have unexecuted charter contracts, compared with 11% for the schools operating elsewhere in the commonwealth.

- Unresolved charter agreements have historically been driven by a range of disagreements around charter contract terms, which have included: enrollment caps, academic standards, and relationships between schools and third-party management organizations.
- Though risks persist, we have not taken rating action for most of the schools, given that charter schools in Pennsylvania can legally continue to operate pursuant to the most recently executed charter contract, as long as the school remains in compliance with its terms.
- Frequent and ongoing conversations with the SDP Charter School Office (CSO) support S&P Global Ratings' view that compliant charter schools are not presently at risk simply for having unsigned and/or unexecuted charter contracts.

[Continue reading.](#)

17 Nov, 2022

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## **[S&P Second Party Opinion: Build NYC Resource Corp. \(EHSA Charter School\) Series 2022](#)**

Build NYC Resource Corp., a non-for-profit local development corporation, will issue the Series 2022 bonds in the amount of \$72 million, the proceeds of which it will loan to East Harlem Scholars HS LLC (EH Scholars) and East Harlem Center LLC (EH Center); together with EH Scholars, the Borrowers. The Borrowers will use the proceeds to refinance construction loans related to the EHSA campus located at 2050 Second Avenue, New York, N.Y. (EHSA I Campus) and the new High School Facility, finance the remaining construction costs of the High School Facility, and cover transaction costs.

[Download](#)

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## **[Montgomery County, Maryland: Fitch New Issuance Report](#)**

The WQPC rate is established annually by resolution of the county council and is unlimited as to rate or amount. The county council frequently has approved increases in the WQPC rate in support of its stormwater management program. Fitch analyzes the security as a dedicated tax bond. Economic Resource Base: Montgomery County borders Washington D.C. and northern Virginia. As such, the county's employment base has a significant presence of the U.S. government and contractors within the information, intelligence, biotechnology, and high-tech manufacturing industries. Employment growth has outpaced labor force growth and unemployment rates have historically been below the region, state and national levels. The county has an estimated population of over one million, its residents are highly educated, and it remains one of the wealthiest counties in the country. Rating Sensitivities Factors that could, individually or collectively, lead to positive rating action/upgrade: • The WQPC bonds are capped at the county's Issuer Default Rating. Factors that could, individually or collectively, lead to negative rating action/downgrade: • Sustained weakening of revenue growth prospects outside Fitch's expectations for growth levels exceeding inflation. • A demonstrated unwillingness to increase the WQPC sufficiently to support annual debt service.

[ACCESS REPORT](#)

Tue 22 Nov, 2022

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## [Annapolis, Maryland: Fitch New Issuance Report](#)

Key Rating Drivers Revenue Framework: 'aaa': The city derives the bulk of its revenues from property taxes and there is no legal limit on the tax rate or levy. General fund revenues have generally exceeded CPI levels over the last decade, reflective of tax base growth and periodic increases in tax rates and charges. Changes in tax base values continue to reflect moderate 3%-4% annual growth and additional new development is occurring, supporting Fitch's expectations for continued solid levels of natural revenue growth. Expenditure Framework: 'aa': Fitch expects expenditure growth to be in line with, to slightly above, natural revenue growth in the absence of policy action. Total carrying costs for debt service, required pension payments and other post-employment benefits pay-as-you-go were close to 20% of fiscal 2021 total governmental spending and are expected to remain close to this level based on projected increases in debt service and pension contribution costs. Annual pay-go spending for capital and a reasonably flexible workforce environment support a solid level of expenditure flexibility. Long-Term Liability Burden: 'aa': The combined burden of long-term debt and Fitch-adjusted net pension liabilities is a moderate 11% of personal income. Fitch expects the liability burden to remain fairly stable even with potential new direct city and county overlapping debt to be issued over time based on expectations for continued growth in economic resources. The city's tax-supported debt amortization is rapid.

### [ACCESS REPORT](#)

Mon 21 Nov

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## [San Francisco Sees Risk of Lost Revenue as Remote Work Prevails.](#)

- **Economist forecasts \$200 million loss by 2028 in worst case**
- **Tech industry embraced flexible work and is now doing layoffs**

San Francisco could lose around \$200 million by 2028 in property tax revenue because of offices emptied as people work from home, under the worst case scenario detailed in a report from the city's chief economist Ted Egan.

The hub of the technology industry is experiencing record office vacancies. They could rise to about 31% by the fourth quarter next year in the most pessimistic case, warned Egan in the presentation for a board of supervisors's committee hearing Wednesday.

Commercial property values would fall, and that would mean less revenue for the city from property taxes. In the short-term, the risk is lessened by long-term leases and the fact that under a California law known as Proposition 13, valuations for property tax purposes are often well below market prices. That cushions municipalities during downturns.

[Continue reading.](#)

**Bloomberg**

By Romy Varghese

November 16, 2022

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## **[Sun Belt Cities Hit the Big Time.](#)**

**Cities in the South and Southwest aren't just luring new residents. They're growing their role as corporate headquarters towns.**

The Sun Belt has long been known for its constellation of hypergrowth metros. The big global cities on the coasts, in contrast, have seen less growth in population and jobs.

The expansion of the Sun Belt has come primarily from an infusion of mid-level jobs, often back-office jobs, or the headquarters of older, workaday corporations. Meanwhile, the coastal cities, even the sluggish ones, have remained the key locations for the highest value employment and the highest skilled people, and have been the places with the greatest blend of innovation, cultural power and wealth.

But things are starting to change in the Sun Belt, as cities such as Miami, Austin and Nashville have started moving up the food chain. The pandemic, rising crime and homelessness, and dysfunctional governance have caused a number of high-end businesses further north to rethink where they should be located.

[Continue reading.](#)

**governing.com**

by Aaron M. Renn

Nov. 18, 2022

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## **[S&P: Florida And South Carolina Local Governments' Credit Quality Remains Sound Despite Damage From Hurricane Ian](#)**

### **Key Takeaways**

- We have surveyed and analyzed 21 local government issuers in Florida and South Carolina that were in the path of Hurricane Ian.
- For most, costs from storm-related damage were minimal.
- We believe credit quality for all 21 issuers remains consistent and is supported by very strong financial profiles and disaster recovery planning initiatives.

[Continue reading.](#)

10 Nov, 2022

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## **[Upper Occoquan Sewage Authority, Virginia: Fitch New Issue Report](#)**

The authority services four-member jurisdictions in northern Virginia. The largest members are the counties of Fairfax (sewer revenue bonds rated AAA/Stable) and Prince William (sewer revenues not rated by Fitch but assessed to be of extremely strong credit quality), at approximately 38% each of fiscal 2021 total revenue. The remaining member cities, Manassas and Manassas Park, account for approximately 24% of total revenues. Key Rating Drivers Revenue Defensibility: 'aa'; Very Strong Purchaser Credit Quality, Limited Step-Up Provisions: The authority's largest members are of very strong credit quality, resulting in a very strong 'aa' PCQ subassessment. Replenishment mechanisms for the DSRF and RMF in light of certain member defaults provide for full repayment of UOSA's bonds. Operating Risk: 'a'; Very Low Operating Cost Burden, Elevated Capital Needs: Depreciation has outpaced capital spending the past five fiscal years, leading to an elevated life cycle ratio. Positively, the authority's five-year capital plan allocates the bulk of spending to asset-management projects. The operating cost burden is expected to remain very low for at least the next five years. Financial Profile: 'aaa'; Exceptionally Strong Financial Profile Based on PCQ: The financial profile assessment is based principally on the very strong PCQ subassessment, supplemented by the operating risk assessment.

[View the Fitch New Issue Report.](#)

Wed 16 Nov, 2022

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## **[Milwaukee, Wisconsin: Fitch New Issue Report](#)**

Revenue Framework: 'bbb': Fitch Ratings expects the city's two largest sources of revenue, state aid and property taxes, to remain stagnant or grow below the level of inflation. The city's independent legal ability to raise tax revenues is constrained by state law but is partially offset by the city's ability to independently increase nontax revenue sources. Expenditure Framework: 'a': Fitch believes the city's flexibility of main expenditure items is adequate. Carrying costs for long-term liabilities claim a large and growing percentage of governmental fund spending given the expectation for increasing pension contributions. Long-Term Liability Burden: 'aa': Milwaukee's long-term liabilities are a moderate burden on the city's resource base. Future capital needs are manageable, and debt is rapidly repaid. Operating Performance: 'a': The city had significantly drawn down on available reserves prior to receiving significant stimulus funds in 2020 and 2021, which has provided a temporary boost in resilience.

[ACCESS REPORT](#)

Thu 17 Nov, 2022

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## **[Monmouth County Improvement Authority, New Jersey: Fitch New Issue Report](#)**

Revenue Framework: 'aa': County revenue growth should generally trend in line with historical inflation levels based on expectations for moderate levels of new construction activity and demand for various revenue-generating services. Fitch views the county's revenue raising flexibility, within the framework of various state tax cap laws, as high relative to potential revenue losses in a

moderate economic downturn. Expenditure Framework: 'aa': Fitch expects spending levels to remain marginally above revenue growth, driven by annual moderate increases in salaries and benefits. The county retains solid capacity to make expenditure reductions centered on the legal ability to control workforce size, manageable carrying costs and very rapid amortization of county direct debt. Long-Term Liability Burden: 'aaa': The county's long-term liability burden associated with overall debt and adjusted net pension liabilities (NPL) is low at 5% of personal income. Fitch expects the burden to remain below 10% of personal income (the high end of the range for a 'aaa' assessment) based on the rapid amortization of outstanding debt and our expectation of future capital needs and debt issuance plans.

#### [ACCESS REPORT](#)

Fri 18 Nov, 2022

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### [Greenville Utilities Commission, North Carolina: Fitch New Issue Report](#)

GUC's rating reflects continued very strong financial performance, bolstered by stable operating costs and a diversified revenue base supported by a combined utility system. Revenue defensibility remains strong, but GUC's midrange service territory assessment, which is based on weaker income and unemployment metrics, remains a limiting factor. The utility continues to make substantial capital investments in its utility systems. Fitch Ratings expects borrowings, including the proposed series 2022 bond issuance to finance capex, will contribute to higher leverage during the next five years. However, Fitch expects leverage ratios to remain supportive of the rating. Capex is expected to total \$279 million over the next five years, and major projects include the continued expansion of a water treatment plant and installation of new peak shaving generators. Other projects include substantial water-distribution system improvements. Approximately half of capex will be funded with planned debt issuances.

#### [ACCESS REPORT](#)

Fri 18 Nov, 2022

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### [Alaska's Economic Performance Among the Worst in Nation.](#)

**A report from the University of Alaska Center for Economic Development found that, for the last seven years, the state has performed "at or near the bottom" in employment growth, unemployment, net migration and GDP.**

(TNS) — For the last seven years, the Alaska economy has performed "at or near the bottom" nationally in four key measures of economic health, according to a report released Thursday by the University of Alaska Center for Economic Development.

Taken together, the state's poor performance between 2015 and 2021 — in employment growth, unemployment, net migration and gross domestic product — place Alaska's economic health at the bottom of all 50 states and the District of Columbia, said Nolan Klouda, the center's executive director and lead author of the 10-page report.

“You could make a case that Alaska is the bottom-performing state going back to 2015,” Klouda said in an interview Thursday. “I think it is.”

[Continue reading.](#)

## **governing.com**

Alex DeMarban, Anchorage Daily News

Nov. 18, 2022 •

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### **[Crippled by Pension Debt, Pennsylvania City Seeks Bankruptcy.](#)**

- **Receiver files for Chapter 9 bankruptcy, a rare move by cities**
- **Step comes after decades of fiscal distress, population loss**

Chester, Pennsylvania, a city near Philadelphia that’s been contending with financial distress for decades, filed for bankruptcy protection because of a massive debt to its employee pension funds.

Michael Doweary, a state-appointed receiver empowered to oversee the city’s finances, filed the petition under Chapter 9 of the US Bankruptcy Code in the Eastern District of Pennsylvania. The filing will protect the city from creditors while it works on a plan to steady its finances.

The one-time industrial city, whose population has tumbled since the 1950s, joins a rare group of local governments that have filed for bankruptcy. Vallejo, California, Detroit and Puerto Rico all did so in the wake of the Great Recession, in part because of obligations to retirees they couldn’t afford to pay.

[Continue reading.](#)

## **Bloomberg CityLab**

By Hadriana Lowenkron and Steven Church

November 10, 2022

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### **[New Yorkers Back \\$4.2 Billion Bond to Fight Climate Change.](#)**

- **Measure is largest borrowing referendum on 2022 US ballots**
- **Will fund climate change mitigation in disadvantaged areas**

New York voters approved a \$4.2 billion environmental bond on Tuesday, one of the biggest wins for environmental, social and governance infrastructure in eight years and a sign of the sector’s growth in the municipal bond market.

The ballot measure was backed by 59% of voters, according to results posted by the New York State Board of Elections. The results were called by the Associated Press. The plan was widely expected to pass, following a long history of successful environmental bond acts in New York.

The New York financing plan is designed to strengthen climate and flooding resiliency in a state still recovering from weather-related disasters. The new debt will pay for green-building projects, water quality improvement and shoreline restoration.

[Continue reading.](#)

## **Bloomberg Green**

By Marvis Gutierrez

November 9, 2022

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## **[Chicago Wins Moody's Upgrade, Exiting Years in Junk Status.](#)**

- **Investment-grade rating may lead to lower borrowing costs**
- **Ratings lift comes as Lightfoot seeks re-election next year**

Chicago has shed its junk status for the first time in more than seven years marking a major win for Mayor Lori Lightfoot as she seeks re-election.

Moody's Investors Service on Tuesday raised the city's rating by one notch to Baa3, freeing Chicago from its one non-investment grade rating for the first time since 2015. The upgrade may allow the city to borrow at lower rates, saving taxpayers money. Moody's downgraded the city to junk in May 2015 amid rising pension costs.

The move "reflects the city's substantial increase in pension contributions, including an upcoming boost to comply with the city's new pension funding policy that targets contributing an amount sufficient to keep reported net pension liabilities from growing," David Levett, senior analyst at Moody's, said in a statement. Moody's also has the city's debt on a stable outlook.

[Continue reading.](#)

## **Bloomberg CityLab**

By Mackenzie Hawkins and Shruti Singh

November 8, 2022

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## **[Los Angeles Unified School District, California: Fitch New Issue Report](#)**

The upgrade of the Issuer Default Rating (IDR) to 'A' from 'A-' reflects the district's improved expenditure flexibility as well as operating performance, which has outperformed expectations over the past several years. The 'A' IDR remains below Fitch Ratings' median rating for the local government sector, reflecting the likely structural budget imbalances that will require ongoing budget adjustments so long as enrollment trends remain negative. The 'A' IDR also reflects the district's currently strong reserve position, moderate liabilities burden, and track record of compliance with state and board reserve requirements within the context of strong state oversight. The upgrade of the GO bond ratings to 'AAA' from 'AA+' reflects the upgrade of the IDR as well as

the large, growing and diverse tax base supporting bond repayment.

[ACCESS REPORT](#)

Mon 07 Nov, 2022 - 5:02 PM ET

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**[Hawai'i Pacific Health, Hawaii: Fitch New Issue Report](#)**

Hawai'i Pacific Health's (HPH) 'AA-' Issuer Default Rating (IDR) and revenue bond rating reflect HPH's consistent and sound operational performance demonstrated by a 7.4% operating EBITDA margin and balance sheet strength equating to approximately 256 days cash on hand (DCOH) and 192% cash-to-adjusted debt as of fiscal 2022 (YE June 30; unaudited). The rating also reflects HPH's solid market position as one of the two largest healthcare providers in the state of Hawaii. Fitch Ratings believes HPH has recovered from operational pressure observed in fiscal 2020 when the organization recorded a low operating EBITDA margin of 3.3%. Since then, HPH has posted two consecutive years of positive operating and operating EBITDA margins, respectively, which Fitch views favorably. Improved inpatient and outpatient volumes, coupled with careful expense management, have helped support HPH's consistent profitability over the past two years.

[ACCESS REPORT](#)

Mon 07 Nov, 2022 - 5:42 PM ET

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**[Duval County School District, Florida: Fitch New Issue Report](#)**

Key Rating Drivers Revenue Framework: 'bbb': District general fund operations are reliant on state aid funding and enrollment. Revenue prospects are expected to continue to trend below inflation as traditional enrollment (excluding charters) is projected to be relatively flat, offset by expectations for moderate increases in per pupil state aid. The district has limited legal ability to raise revenues. Expenditure Framework: 'aa': Instructional costs are the main driver of expenditures, and overall spending is expected by Fitch to grow above the pace of revenues absent policy action. The district has strong legal control over workforce decisions and low-to-moderate carrying costs related to debt service and retiree benefits obligations. Long-Term Liability Burden: 'aaa': The district's long-term liability burden associated with direct and overlapping debt and Fitch-adjusted net pension liabilities is low at 7.5% of residents' personal income. Fitch expects the burden to remain low based on the district's lack of additional planned debt and moderate changes in overlapping debt of Jacksonville, which comprises the bulk of the overlapping governmental debt. The district participates in the adequately funded Florida Retirement System. Operating Performance: 'a': The district's financial resilience had weakened considerably between fiscal years 2011 and 2017 due to changes in state aid and policies and declines in enrollment. Administrative changes and improved budget actions led to improved reserves, but they remain below historical levels.

[ACCESS REPORT](#)

Tue 08 Nov, 2022 - 3:20 PM ET

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## **[Missouri Joint Municipal Electric Utility Commission: Fitch New Issue Report](#)**

The 'A' bond rating reflects the strong credit quality of the MEC's Missouri Public Energy Pool #1 (MoPEP), which is the obligor on the MEC power supply system revenue bonds. MoPEP is an all-requirements power supplier to 35 of MEC's 71 total municipal electric systems located throughout Missouri. Credit characteristics include the very strong contractual framework underpinning each member's obligation, the low cost of power supplied by MoPEP's resources and the pool's financial leverage. MoPEP's financial profile reflects a very strong leverage profile, but is constrained by weaker liquidity and contractual debt that exceeds the imputed leverage value under Fitch Ratings' standard leverage calculation.

### **[ACCESS REPORT](#)**

Wed 09 Nov, 2022 - 3:55 PM ET

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## **[Missouri Highways & Transportation Commission: Fitch New Issue Report](#)**

Fitch Ratings' upgrade of MHTC's outstanding second and third lien state road bonds to 'AAA' from 'AA+' reflects the security structure's improved resilience, as pledged revenues have expanded modestly and debt service on senior and second lien bonds has declined. Fitch expects the third lien bonds' resiliency to remain very high, even as debt service increases in the short term as a result of the current issue. The upgrade includes the ratings of series 2019 B and 2021 A third lien bonds, as Fitch views these bonds as being on parity with all other third lien bonds backed by SRF revenues. Although these two series carry a distinct security structure that also relies on annual appropriations of state general revenues to support debt repayment, in addition to residual SRF revenues, Fitch regards them as possessing the same underlying credit strengths as other bonds carrying the same lien.

### **[ACCESS REPORT](#)**

Tue 08 Nov, 2022 - 4:01 PM ET

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## **[Danville, Virginia: Fitch New Issue Report](#)**

The 'AA-' Issuer Default Rating (IDR) and GO bond rating reflect the city of Danville's long history of ample reserves and superior budgetary flexibility, which combine to establish a high level of fundamental financial resilience, and a long-term liability burden at the low end of the moderate range. These strengths temper risks associated with an overall trend of population and employment declines that have yielded stagnant revenue growth. Revenue growth as well as employment trends may be bolstered by the opening of a casino and related facilities in late 2024, although this may introduce a higher level of volatility to the city's revenue stream. Economic Resource Base: The city of Danville is located adjacent to the Virginia-North Carolina border about 45 minutes north of Greensboro, NC. The city's population has steadily declined for multiple decades after sustained employment losses in the textile and manufacturing industries.

### **[ACCESS REPORT](#)**

### **[Fitch: Storms Test Florida Cat Fund, Citizens Ins., Eroding Liquidity](#)**

Fitch Ratings-New York-11 November 2022: Florida's state-owned property insurer, Florida Citizens Property Insurance Corp. (Citizens, bonds rated 'AA'), and reinsurer Florida Hurricane Catastrophe Fund (FHCF, bonds rated 'AA'), do not face near-term risks to their capacity to service debt as a result of expected losses from Hurricane Ian, Fitch Rating says. However, increasing storm frequency and severity will erode liquidity and may place a greater burden on the assessment base that supports the debt issuance of each of these entities.

Ample liquidity, built partially through the issuance of pre-event bonds during a period of limited storm activity in the 11 years prior to Hurricane Irma in 2017, will likely allow both Citizens and FHCF to cover Hurricane Ian claims and reimbursements without needing to issue bonds and/or levy an emergency assessment. However, additional claims as a result of Tropical Storm Nicole that made landfall in Florida late Wednesday as a Category 1 Hurricane, or other storms through the end of the season, will further reduce liquidity and could potentially necessitate borrowing.

Citizens and FHCF are obligated to levy emergency assessments or issue bonds if claims and reimbursements exceed liquid resources, including reserves and premium collections, until obligations are fully met. Even if FHCF and Citizens do not need to tap the market this year, they will have exhausted much of their liquidity, leaving them more likely to have to borrow in the future to rebuild liquidity.

[Continue reading.](#)

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### **[Sugar Land, Texas: Fitch New Issue Report](#)**

The 'AA' revenue bond rating and 'aa' SCP assessment reflect the Sugar Land, TX waterworks and sewer system's very strong revenue defensibility and operating risk profiles, both assessed at 'aa', as well as a financial profile that is rebounding after several years of weak results. The system's revenue defensibility assessment is supported by its monopolistic provision of water and sewer services to a growing service area with strong income levels. The city has independent legal ability to raise rates, and rates are affordable for the vast majority of the population. Despite cost pressures associated with water supply conversion to surface from ground sources, the system's operating cost burden is very low. The system's age of plant is rising as annual capex has been well below annual depreciation expenses and is reflected in a life cycle ratio that approximates 48%, signaling growing needs for capital reinvestment.

[ACCESS REPORT](#)

Fri 11 Nov, 2022 - 1:14 PM ET

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## **Boston Proposes Zero Net Carbon Building Zoning Initiative.**

The City of Boston and the Boston Planning and Development Agency (“BPDA”) have put forward a new proposal, known as the zero net carbon building zoning initiative, which would require that newly constructed buildings over 20,000 square feet — including labs, offices, and housing projects with more than 15 units — immediately hit net zero emissions goals. The proposal would also require the new buildings to be certifiable as LEED Gold, a higher bar for sustainability than the City’s current requirement.

Boston’s proposed zoning changes follow the Massachusetts Department of Energy Resources (DOER)’s release of final code language for its [Stretch Energy Code and Specialized Municipal Opt-in Code regulations](#), which is the specialized building code standard targeting net zero emissions in new construction by 2050 “primarily through deep energy efficiency, reduced heating loads, and efficient electrification.”

Last year, Boston passed an updated version of the Building Emissions Reduction and Disclosure Ordinance (“BERDO”) requiring larger existing buildings to reach “net zero” by the year 2050. As presently written, the proposal would require projects to be built to minimize emissions “to the maximum extent feasible” with performance targets that vary depending upon the type of building. The proposal accelerates the city’s push to reduce buildings’ reliance on fossil fuels by several years, as the City is also seeking to join a state pilot program enabling ten Massachusetts cities and towns to ban natural gas hookups, but there is no guarantee that it will be one of the municipalities chosen to participate.

Existing buildings are responsible for almost 70% of the City’s greenhouse gas emissions. While many in the commercial development industry recognize the importance of cutting emissions, some fear that a fossil fuel ban could lead to a drastic increase in governmental process and building costs, further complicating and deterring new construction.

The BPDA has begun holding public meetings on the proposed changes to the Zoning Code, with the public comment period ending on October 28, 2022.

**Bowditch & Dewey LLP** - Joseph R. Duquette

October 28 2022

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## **Fitch: State of Oregon**

Revenues Constitutionally Dedicated for Transportation: Highway user taxes are constitutionally dedicated for transportation purposes, but not debt service, while pledged revenues and apportionments thereof are subject to legislative changes and voter initiatives, thereby capping the rating at the state’s ‘AA+’ IDR. The state has a solid track record of raising transportation-related fees and taxes in support of its capital program. Historically Stable Revenue Stream: The bonds are secured by taxes and fees levied on the use and ownership of motor vehicles and motor carriers, as well as fuel taxes. Net pledged revenues have shown stability over time, and Fitch Ratings expects solid growth in aggregated pledged revenues that exceeds long-term inflation. Sound Coverage Cushion: Debt service coverage is high and well above the ABT levels. Issuance of additional senior and subordinate lien bonds requires 3.0x and 2.0x coverage of MADS, respectively. Issuance of additional second subordinate lien bonds requires 1.75x coverage of MADS. The bond structure can

withstand a moderate decline or one equal to the largest historical decline and still maintain sum sufficient coverage on all liens leveraged to their respective ABTs, warranting the 'aaa' resilience assessments on the senior, subordinate, and second subordinate lien bonds.

#### [ACCESS REPORT](#)

Fri 04 Nov, 2022

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### **[Fitch New Issue Report: South Carolina Public Service Authority \(Santee Cooper\)](#)**

The 'A-' rating reflects the authority's financial profile and leverage ratio, measured as net adjusted debt to adjusted funds available for debt service (FADS), which rose to over 11.0x in 2021 as expected, and remains elevated for the rating. Santee Cooper made steady progress in reducing its debt burden and leverage in 2017-2020, but weaker than expected operating performance in 2021 reversed the improving trend. The revision of the Outlook to Negative from Stable reflects uncertainties related to accumulating costs the authority is unable to recover following its agreement as part of a legal settlement to lock rates through January 2025. The authority will seek to recover a large portion of these costs once the agreement expires, but these efforts are being challenged in court and the recovery provision is untested.

#### [ACCESS REPORT](#)

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### **[Fitch New Issue Report: Albany College of Pharmacy and Health Sciences, New York](#)**

Revenue Defensibility: 'bbb'; Vulnerable Enrollment and Demand Profile: ACPHS's revenue defensibility remains somewhat challenged with continued, albeit slowing, declines in enrollment and a highly tuition dependent revenue base. Rising levels of applications have allowed ACPHS to become more selective since fall 2017, lowering the acceptance rate to 65%; however, matriculation remains weak near 10%, which has limited the incoming freshman class size. Total FTE enrollment has fallen in each of the past five years and was down over 13% yoy for fall 2022. Pharmacy enrollment, which makes up about 70% of the total, fell nearly 17%. ACPHS increased tuition 3% for fall 2022 following a 2% increase prior year. The termination of the accelerated PharmD program and subsequent closure of the Vermont campus in concert with opening of the Center for Biopharmaceutical Education and Training is expected to increase graduate enrollment in Albany, and management reports that applications are tracking ahead of prior year. ACPHS will continue to develop its collaboration with corporate partners in biopharmaceuticals as well as articulation agreements with medical schools. The Masters in Medical Science and the Masters in Biopharmaceutical Manufacturing programs were recently introduced and ACPHS expects these programs will help support goal to diversify further into health sciences to offset continued pressures in pharmacy enrollment. With a January 2023 launch, these programs could add 40 students to ACPHS's base. A solid philanthropic base provides consistent gift revenue, and ACPHS recently closed its Discovery for Life Campaign, raising nearly \$20 million in cash and pledges through CYE2021, well ahead of its \$11 million initial goal.

#### [ACCESS REPORT](#)

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## **[Fitch New Issue Report: Brewster Place, Kansas](#)**

The 'BB+' Issuer Default Rating (IDR) and revenue bond rating reflect Brewster Place's somewhat soft independent living unit (ILU) occupancy (mid-80% range) as it moves forward on its \$16 million Redwood project, which includes converting smaller studio and one-bedroom ILUs into larger units. This is balanced against Brewster Place's history of operating ratios consistent with Fitch's midrange operating risk assessment and moderate debt burden for the rating level, inclusive of the new debt. The Redwood project will be funded by about \$15 million in permanent debt and \$3.25 million in short-term debt. The short-term debt will be paid down by the pool of new ILU entrance fees; only 60% of the new units need to sell to fully repay the short-term debt, which mitigates the fill up risk of the project. The Redwood project, within Brewster's five-story main building, includes the addition of a penthouse floor on top of the existing structure with six new spacious ILUs; renovations to existing ILUs on the fifth floor, including reducing the number of units to 13 from 19; and renovations to the first floor, including the dining area, game area, art studio and four ILUs.

[ACCESS REPORT](#)

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## **[Fitch New Issue Report: Charles County, Maryland](#)**

Key Rating Drivers Revenue Framework: 'aaa': General fund revenues consist primarily of property and income taxes. Fitch expects future revenue growth to be above the level of inflation but below national GDP, consistent with past performance. The county has the independent legal ability to raise property tax revenues without limitation. Expenditure Framework: 'aa': The county maintains solid control over spending. Fixed carrying costs related to debt and retiree benefits are moderate. Education makes up about half of the county's spending and any reduction would require state approval. Fitch expects spending growth to be marginally above revenue growth in the absence of policy action. Long-Term Liability Burden: 'aaa': The county's long-term liability burden is low. Future debt needs are manageable and amortization of existing debt is rapid. Aggregate net pension liability, when adjusted to Fitch's standard 6% investment rate of return, stands at a low 2% of personal income. Operating Performance: 'aaa': Fitch expects the county to maintain a high level of fundamental financial flexibility throughout economic cycles, supported by solid revenue growth prospects, expenditure and revenue flexibility and sound reserve levels. Key Rating Drivers Revenue Framework: 'aaa': General fund revenues consist primarily of property and income taxes. Fitch expects future revenue growth to be above the level of inflation but below national GDP, consistent with past performance. The county has the independent legal ability to raise property tax revenues without limitation. Expenditure Framework: 'aa': The county maintains solid control over spending. Fixed carrying costs related to debt and retiree benefits are moderate. Education makes up about half of the county's spending and any reduction would require state approval. Fitch expects spending growth to be marginally above revenue growth in the absence of policy action. Long-Term Liability Burden: 'aaa': The county's long-term liability burden is low. Future debt needs are manageable and amortization of existing debt is rapid. Aggregate net pension liability, when adjusted to Fitch's standard 6% investment rate of return, stands at a low 2% of personal income. Operating Performance: 'aaa': Fitch expects the county to maintain a high level of fundamental financial flexibility throughout economic cycles, supported by solid revenue growth prospects, expenditure and revenue flexibility and sound reserve levels.

[ACCESS REPORT](#)

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## **Fitch New Issue Report: State of Nevada**

Revenue Framework: 'aaa': Nevada's revenues, primarily sales and gaming-related taxes, have historically reflected its tourism-based economy, demonstrating some economic sensitivity. Fitch anticipates Nevada's revenues will grow in line with national GDP growth over the longer term. Expenditure Framework: 'aa': The state maintains solid expenditure flexibility with a low carrying cost burden and the broad expense-cutting ability common to most U.S. states. Education and Medicaid remain key expense drivers and continued budget management is expected to be necessary to keep spending within projected revenues. Long-Term Liability Burden: 'aaa': Nevada's liabilities are low and below the median for states. GO debt is either self-supporting or funded by a dedicated property tax levy and does not place a burden on the general fund. Operating Performance: 'aa': Nevada's conservative management of financial operations has supported relative fiscal stability even in times of economic weakness.

### **ACCESS REPORT**

Thu 03 Nov, 2022 - 4:22 PM ET

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## **Fitch New Issue Report: Shelby County, Tennessee**

Revenue Framework: 'aa': Fitch expects natural revenue growth to at least track the rate of inflation, reflective of the county's continued development activity, which should support tax base and job growth. Expenditure Framework: 'aa': Fitch expects the natural pace of spending to be slightly above the rate of revenue growth. Overall expenditure flexibility is solid as reflected by management's strong control over workforce decisions and a manageable level of fixed costs related to debt service and retiree benefits. Long-Term Liability Burden: 'aaa': Long-term liabilities for overall debt and retiree benefits are low at 8% of personal income. Additional debt plans appear manageable and should not notably affect the assessment given expected changes in the resource base and an above average pace of principal amortization. Operating Performance: 'aaa': Fitch expects the county to manage through future periods of economic decline while maintaining a substantial financial cushion based on its superior inherent budget flexibility and history of sound financial management.

### **ACCESS REPORT**

Thu 03 Nov, 2022 - 5:40 PM ET

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## **Fitch New Issue Report: State of Oregon**

Revenues Constitutionally Dedicated for Transportation: Highway user taxes are constitutionally dedicated for transportation purposes, but not debt service, while pledged revenues and apportionments thereof are subject to legislative changes and voter initiatives, thereby capping the rating at the state's 'AA+' IDR. The state has a solid track record of raising transportation-related fees and taxes in support of its capital program. Historically Stable Revenue Stream: The bonds are secured by taxes and fees levied on the use and ownership of motor vehicles and motor carriers, as

well as fuel taxes. Net pledged revenues have shown stability over time, and Fitch Ratings expects solid growth in aggregated pledged revenues that exceeds long-term inflation. Sound Coverage Cushion: Debt service coverage is high and well above the ABT levels. Issuance of additional senior and subordinate lien bonds requires 3.0x and 2.0x coverage of MADS, respectively. Issuance of additional second subordinate lien bonds requires 1.75x coverage of MADS. The bond structure can withstand a moderate decline or one equal to the largest historical decline and still maintain sum sufficient coverage on all liens leveraged to their respective ABTs, warranting the 'aaa' resilience assessments on the senior, subordinate, and second subordinate lien bonds.

## [ACCESS REPORT](#)

Fri 04 Nov, 2022 - 5:17 PM ET

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### **[Protectionism is Costing Texas.](#)**

**Laws banning the state from doing business with banks that are dubbed anti-fossil fuel or anti-gun will likely cost hundreds of millions in higher interest rates.**

Republicans' moralizing, "anti-woke" crusade has entered the arena of fiscal governance, and it's likely to cost taxpayers, pensioners, municipalities, and everyday Texans a big chunk of change.

Last fall, new state laws went into effect that prohibit governmental entities from engaging with financial institutions that the state deems to be anti-fossil fuel, anti-gun, and, thus, anti-Texas.

These laws, passed overwhelmingly by the Republican-controlled Legislature, are the latest and most expansive in a suite of legislation that makes the state the ultimate arbiter of all that is good and bad. In effect, the power of the purse is weaponized to protect the interests of the conservative cause and punish its enemies. Namely, what the right has cast as the Woke of Wall Street—the big banks and investment firms like Citigroup and BlackRock that ostensibly engage in socially conscious investing, which includes pledges and specialized investment funds that may exclude gun manufacturers or oil companies.

[Continue reading.](#)

TEXAS OBSERVER

by JUSTIN MILLER

NOVEMBER 4, 2022

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### **[On One Beale Project, Strickland Says Memphis 'Cannot Be An ATM For Developers'](#)**

Memphis Mayor Jim Strickland did not take kindly to developer Chance Carlisle blaming the city for the Grand Hyatt at One Beale's \$5 million funding shortfall.

"City government cannot be an ATM for developers. And if it's \$5 million short, he needs to come up with that \$5 million," Strickland said Thursday at a groundbreaking for the new Frayser Branch

Library.

Strickland's comments come after Carlisle, the principal developer of One Beale, first told The Commercial Appeal Wednesday that plans for a 300-plus room Grand Hyatt at the development were dead because of a \$5 million funding shortfall.

On Wednesday, Carlisle blamed an October delay from the city for the project's municipal bonds not pricing high enough in an erratic bond marketplace. He said the city's need to bring the project back before the Memphis City Council on Oct. 18 caused the bonds to fetch several million dollars less than they would have weeks earlier.

Last week, Carlisle asked the city, which had already agreed to give the project a \$10 million loan, for a further \$5 million. Strickland responded Wednesday and said the city would not be contributing further cash. The mayor, for his part, put the blame for the project's delay on Carlisle Thursday.

"We dropped everything in March of this year, drove up to Nashville, cleared our schedule while the developer was on spring break in Colorado. We were meeting with state officials to try to approve this deal, got approval in early April by City Council and they did nothing, nothing for almost three months," Strickland said. "That's the delay and delay cost the deal. The delay is 100% the responsibility of that developer who was on spring break when we were trying to get the deal done."

Carlisle said Thursday that he did not go to Colorado for spring break.

The comments from Strickland and response from Carlisle Thursday likely further escalated the public kerfuffle between the city's most powerful politician and a member of one of the city's most prominent families. Chance Carlisle's brother, Chase, is a member of the City Council.

The back-and-forth between Strickland and Chance Carlisle illustrates bad blood brewed by more than a year of negotiations between Carlisle and the city administration, a feud that has long simmered and now, with the deal apparently dead, is spilling over into public view.

"I hear Colorado is wonderful. I haven't been in over 10 years. I am not surprised Mayor Strickland is attacking me personally or getting the facts wrong. He has nothing else. His administration is covering up and misleading the public," Carlisle said. "Today, I sent the Mayor the following letter reminding the Mayor that his team had not approved the Development Agreement in May 2022. We were ready. These emails prove it. Like in May, the Administration caused delays that prevented us from moving forward."

## **Memphis Commercial Appeal**

by Samuel Hardiman

Nov 3, 2022

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## **[State of Hawai'i Sells \\$800 million of General Obligation Bonds.](#)**

The State of Hawai'i successfully closed on a sale of \$800 million of general obligation bonds. Proceeds of the bonds will provide critical funding to support new and existing infrastructure projects.

“We are very pleased with the results of the bond sale,” said Gov. David Ige in a press release announcement. “Despite challenging conditions in the broader bond markets this year, Hawai‘i was able to generate strong demand for its bonds. This demonstrates the market’s continued confidence in the State’s ability to prudently manage its long-term financial responsibilities.”

Before the sale, Gov. Ige and senior State administrators met with analysts from Moody’s Investors Service and S&P Global Ratings to review the State’s credit quality. Following these presentations, Moody’s and S&P affirmed the State’s bond ratings of Aa2 and AA+, respectively, with stable outlooks. Both agencies cited the State’s robust economic performance coming out of the COVID-19 pandemic, healthy financial position, and long track-record of careful fiscal management as key strengths that support the State’s strong bond ratings.

“The state has a long track record of conservative debt management practices,” noted Moody’s in its report. “Hawaii’s recent rebuilding of its rainy day fund, and steps taken to increase its pension and OPEB contributions also evidence prudent management.”

Under Governor Ige, the State of Hawai‘i has significantly increased its financial reserves and paid down its long-term liabilities, while simultaneously supporting critical investments in workforce housing, education, and infrastructure, along with other important priorities.

Director of Finance Craig Hirai and the Department of Budget and Finance led an extensive marketing campaign in preparation for the bond sale that took place on October 19. Officials meet with local on-island investors and held a live virtual presentation to investors representing some of the largest institutions across the country that buy municipal bonds. The State also released an online presentation to further reach investors. As a result, local, national, and international investors collectively placed over \$1.5 billion of orders for the bonds.

Morgan Stanley served as the lead managing underwriter for the bond sale, with BofA Securities and Citigroup as co-senior managers, and Jefferies and RBC as co-managers. A Hawaii-based selling group was also utilized to further market the bonds to local retail investors.

**mauinow.com**

November 3, 2022

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## **[S&P: California Community Choice Aggregators Provide Consumer Choice, But Not Without Risk](#)**

### **Key Takeaways**

- The unique operational structure of community choice aggregators (CCAs) provides both credit challenges and opportunities.
- We have public ratings on five of California’s 25 CCAs that have adopted this developing business model. The CCAs we rate exhibit low customer outmigration, favorable customer economic indicators that support ratemaking flexibility, and the absence of direct debt and favorable liquidity.
- Some CCAs have experienced financial distress when faced with the challenges of retaining customers, remaining competitive relative to the incumbent investor-owned utility, and managing volatile price and volume movements of their power supply arrangements.

[Continue reading.](#)

2 Nov, 2022

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## **[S&P U.S. Local Governments Credit Brief: Massachusetts Municipalities Means And Medians](#)**

### **Overview**

Massachusetts municipalities (or local governments [LGs]) maintained generally stable credit quality through the pandemic and recession. S&P Global Ratings expects continued stability in the near term, despite macro-level economic pressures. Projected stability is supported by high economic metrics relative to national peers, Massachusetts LGs' high reliance on property taxes, and a stable state-aid environment. Debt-funded infrastructure needs and underfunded retirement liabilities could pressure credit quality over the long term if local governments are unable to balance competing priorities within financial and political constraints.

S&P Global Ratings maintains ratings on 235 Massachusetts municipalities. Since November 2021, there were 13 total rating actions affecting 11 LGs, with one negative rating action and 12 positive actions on the LGs' respective general obligation (GO) bonds. Currently, 99% of the 235 Massachusetts LG GO ratings have a stable outlook, two LGs have a negative outlook, and none on positive.

[Continue reading.](#)

28 Oct, 2022

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## **[NYC Paid \\$49 Million in Bond Fees to Minority and Women-Run Firms.](#)**

- **Comptroller report reveals underwriting data since fiscal 2018**
- **Lander says NYC still has a 'long way to go' on representation**

New York City paid minority- and women-owned bond firms about a third of the \$152 million spent to underwrite new debt sales over the past four fiscal years, a sign of rising inclusion in one of the biggest municipal issuers in the nation.

Investment banks run by women or minorities served as book-running senior manager for more than \$13.8 billion of the general obligation and Transitional Finance Authority bonds issued between fiscal years 2018 and 2022, according to a Tuesday report from city Comptroller Brad Lander. They earned \$48.7 million in takedown over the period.

The increasing segment of diverse underwriters stands in stark contrast to the city's pension funds, where minority and women-owned firms have commitments totaling only about 7% of \$240 billion in assets as of June 30, 2022.

Lander ascribed diversity in bond underwriting to a series of policies to attract and then promote minority- and women-owned firms, which he said have been replicated by other major municipal issuers. To boost pension allocations to underrepresented firms, Lander has appointed Taffi Ayodele

as director of diversity, equity and inclusion to the Bureau of Asset Management.

In 2002, New York City created a “special bracket tier” for bond underwriters designed to hire more diverse bankers as co-senior managing underwriters on city bond issues. The bracket has played a key role in promoting these firms to serve as book running senior manager, according to the report.

The city also changed its policy in 2016 on compensation to create a “special designation” in underwriting syndicates that gives the firms at least 10% of the total takedown.

The comptroller shares responsibility for issuing bonds with the mayor. New York City and its financing agencies is among the biggest bond issuers in the US. The city sold more than \$13 billion of new debt in fiscal 2022, according to the report.

## **Bloomberg**

By Martin Z Braun

November 1, 2022

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### **[Denver Selling \\$850 Million of Muni Bonds for Airport Terminal Revamp.](#)**

- **Capital improvement projects will accommodate more passengers**
- **Issuance for airports in the US is up 34% year over year**

Denver sold \$1.2 billion of municipal bonds in an upsized deal, joining a slew of airports tapping the capital markets this year to finance infrastructure projects.

The sale increased from a marketed total of \$850 million, signaling strong demand for the securities. Sales of airport debt are up more than 30% in 2022, compared to the same period a year ago, bucking the 17% decline in long-term state and local government bond issuance, according to data compiled by Bloomberg. Major hubs like Chicago O’Hare International Airport and Dallas Fort Worth International Airport have also borrowed this year.

“For the last two years, they hit the pause on capital programs,” said Jason Appleson, head of municipal bonds at PGIM Fixed Income. Now, with rebounding air travel and the outlook for more demand, airports are getting back to tidying up terminals and continuing expansion, he said.

[Continue reading.](#)

## **Bloomberg**

By Jennah Haque

November 3, 2022

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### **[Hoboken School Board Faces Voters After January Bond Flop.](#)**

**The New Jersey district, like others across the US, is grappling with overcrowding.**

Voters in Hoboken will head to the polls to elect three school board members on Tuesday as the district grapples with a space crunch in the square-mile New Jersey city.

The contentious nonpartisan school board election in the city popular among Manhattan's young workforce is unfolding as schools across the US struggle with overcrowding and teacher shortages. In January, Hoboken voters overwhelmingly rejected a \$241 million bond proposal to build a state-of-the-art high school to help address the capacity issues. Tuesday's winners must work with the rest of the board to find a solution.

"Space and facilities are probably the biggest issue," said Christine Johnson, Hoboken Public School District's superintendent. "We don't have room in the elementary schools anymore."

[Continue reading.](#)

## **Bloomberg CityLab**

By Nic Querolo and Marvis Gutierrez

November 4, 2022

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## **[New York Voters to Decide on \\$4.2 Billion of Bonds to Fight Climate Change.](#)**

- **Measure to help coastal communities seen winning approval**
- **Green debt of widely held issuer could spur ESG muni investing**

New Yorkers on Tuesday will vote on whether to help their neighbors most affected by climate change by approving a measure that would also boost ESG investing in the \$4 trillion municipal bond market.

On the state ballot is a \$4.2 billion environmental bond, the largest borrowing referendum in the nation this Election Day and if it were to pass would be one of the biggest for environmental, social and governance purposes since California approved a \$7.5 billion plan for water-related projects eight years ago. Voters in New York historically have backed such ballot measures, and a recent poll showed this one is likely to pass.

[Continue reading.](#)

## **Bloomberg Green**

By Marvis Gutierrez

November 4, 2022

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## **[Fitch: California Property Taxes Buffered from Home Price Declines](#)**

Fitch Ratings-New York/San Francisco-29 September 2022: Slower home price growth or price declines in California will have a limited effect on local government property tax revenues, Fitch Ratings says in its report California Property Taxes Buffered from Residential and Commercial

## Valuation Swings.

California tax assessment calculations serve to smooth volatility in home values so that changes in tax revenues are not equal to home price swings. Home prices in California have been increasing for the past decade and jumped by nearly 43% since the pandemic began in 2020. However, rising interest rates are tempering home prices and sales.

Since 2000, TAVs have not fallen nearly as much as the largest home price decline for any county. The largest average one-year decline in home prices for all counties was 21%, while the largest average one-year TAV decline was only 3%.

[Continue reading.](#)

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## **Hurricane Ian: Public Assistance Funding Extended For Certain Health Care Facilities In Florida - Foley & Lardner**

Health care facilities and certain other nonprofits have new opportunities for Federal public assistance funds, but they must act quickly. On October 4, 2022, President Biden [amended](#) the Hurricane Ian Major Disaster Declaration for the State of Florida, increasing the level of Federal public assistance funding available for debris removal and emergency protective measures. The amendment further extends the availability of such funding without cost-share for an additional 30 days. Now, eligible applicants have **60 days from September 23, 2022** to file applications for Federal public assistance.

If your health care facility is recovering from the effects of Hurricane Ian, consider whether you may be eligible to apply for the Federal Emergency Management Agency's (FEMA's) Public Assistance Program:

### **FEMA Public Assistance Program**

The FEMA Public Assistance Program (the PA Program) is available to assist State, Local, Territorial or Tribal (SLTT) governments and certain types of private nonprofit (PNP) organizations quickly respond to and recover from Presidentially declared major disasters and emergencies, through the provision of Federal grants for eligible projects.

### **Health Care Facilities Eligible for FEMA Public Assistance**

Both public (facilities run by state, local, tribal, or territorial governments) and certain PNP health care facilities are eligible FEMA Public Assistance applicants. For a private nonprofit health care facility to be an eligible PNP applicant for Federal public assistance funding, it must show that on the date of disaster declaration, it had an effective ruling letter from the U.S. Internal Revenue Service granting the health care facility tax exemption under section 501(c)(3) of the Internal Revenue Code,<sup>1</sup> or documentation from the State substantiating that the health care facility is a non-revenue producing, nonprofit entity organized or doing business in accordance with State law. 44 C.F.R. § 206.221(f).

To be eligible for Federal public assistance funding a PNP health care facility must also show that it provides emergency medical care, including diagnosis or treatment of mental or physical injury or disease in:

- clinics,
- dialysis facilities,

- in-patient care facilities for convalescent or chronic disease patients,
- hospices and nursing homes,
- hospitals and related facilities (such as central service facilities operated in connection with hospitals, extended-care facilities, facilities related to programs for home-health services, laboratories, self-care units, and storage, administration, and records areas),
- Long-term care facilities,
- Outpatient facilities,
- Rehabilitation centers.<sup>2</sup>

Furthermore, certain PNP facilities that provide alcohol and drug treatment and other rehabilitation services, assisted living, or custodial care may also be eligible to apply for Federal public assistance funding, even if they do not provide direct medical care.<sup>3</sup>

### **Categories of Work Eligible for FEMA Public Assistance**

If an applicant is eligible to receive Federal public assistance funding, FEMA may pay the applicant for emergency work or permanent work that is required as a result of the declared incident, located within the area designated in the Presidential emergency or major disaster declaration, and the legal responsibility of the eligible applicant. 44 C.F.R. § 206.223(a). Emergency work projects address immediate threats resulting from the declared incident including debris removal and emergency protective measures. Emergency protective measures are work necessary to immediately protect public health and safety or to eliminate or lessen an immediate threat of additional damage, including medical care and transport. Permanent work, on the other hand, addresses damage caused by the declared incident and is intended to restore a facility to its pre-disaster design and function in accordance with applicable codes and standards, including facility repairs and mold remediation. FEMA may also provide public assistance funding for hazard mitigation. Stafford Act § 406(e), 42 U.S.C. § 5172; 44 C.F.R. § 206.226(e).

The Major Disaster Declaration for Hurricane Ian in Florida approves both emergency work and permanent work for public assistance funding, in certain counties. A list of the categories of work eligible for Federal public assistance funding in each county is available [here](#).

### **Cost Share**

FEMA currently funds public assistance eligible debris removal and emergency protective measures in response to Hurricane Ian at 100% of the total eligible costs and all other authorized public assistance eligible projects at 75% of the total eligible costs. As such, FEMA will pay the full cost of any public assistance eligible debris removal and emergency protective measures. FEMA will pay 75% of the cost of all other authorized public assistance eligible projects, including authorized permanent work projects, with the expectation that the public or PNP health care facility will pay 25% of such costs.

If you think you may be eligible to apply for Federal public assistance funding and have eligible emergency or permanent projects, we recommend that you submit your application as soon as possible. As of the date of this writing, applications for Federal public assistance to respond to damage from Hurricane Ian in Florida are due 60 days from September 23, 2022.

### **Footnotes**

<sup>1</sup> Facilities may also be eligible if they are tax exempt under 26 U.S.C. § 501(d) or 26 U.S.C. § 501(e). If State law does not require non-revenue producing, nonprofit entities to obtain 501(c)(3) or tax-exempt status, a non-revenue producing, nonprofit health care facility will need to provide documentation indicating that it is an organized entity and a certification that the entity is compliance with 26 U.S.C. § 501(c)(3) and State law requirements.

2 FEMA Public Assistance Program and Policy Guide, v.4, FP 104-009-2, Table 1 (Jun. 1, 2020).

3 Id. at Table 2.

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by Lawrence W. Vernaglia and Megan Chester

19 October 2022

### **Foley & Lardner**

*Foley is here to help you address the short- and long-term legal impacts of disasters on your facility. We have the resources to help you navigate the important legal considerations related to business operations and industry-specific issues. Please reach out to the authors, your Foley relationship partner, or our [Health Care Practice Group](#) with any questions.*

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## **[Climate Change Is Strangling the Mighty Mississippi. So Try Saving It.](#)**

**The US must move faster to protect 200 years of shipping history on the nation's most crucial inland waterway.**

Two weeks ago the supply chain almost ran aground in the Mississippi River. Thanks to drought and low water, more than 2,000 barges were backed up, delaying shipments of products ranging from corn to coal. The impacts were large: during the first week of October, barge shipments of corn were down 50% compared with the same time in 2021. Meanwhile, barge shipping rates reached their highest levels on record, pushing shippers to seek out more expensive and polluting rail cars and trucks. Consumers, already reeling from inflation, will pay the tab.

Fortunately, the barge jam eased in recent days. But users of the US's most important inland waterway can't simply sail on. Thanks to climate change, the Mississippi's natural cycles of drought and flooding are becoming more volatile, and weather events are becoming more extreme. Reversing these trends is as difficult as reversing the river itself. Adapting to them should be a national priority.

[Continue reading.](#)

### **Bloomberg Opinion**

By Adam Minter

October 21, 2022

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## **[As Pension Goes Broke, Bankruptcy Haunts City Near Philadelphia.](#)**

- **Chester let unpaid retirement debt pile up year after year**
- **Casino, stadium failed to revive city near Philadelphia**

Decade after decade, Chester, Pennsylvania, has fallen deeper and deeper into a downward financial spiral.

As the city's population dwindled to half its mid-century peak, shuttered factories near the banks of the Delaware River were replaced by a prison and one of the nation's largest trash incinerators. A Major League Soccer stadium and casino did little to turn around the predominantly Black city just outside Philadelphia, where 30% of its 33,000 residents live below the poverty line. Debt piled up. The government struggled to balance the books.

Now, with its police pension set to run out of cash in months, a state-appointed receiver is considering a last resort that cities rarely take: filing for bankruptcy.

[Continue reading.](#)

## **Bloomberg CityLab**

By Hadriana Lowenkron

October 17, 2022

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### **[Fitch: Prolonged Drought Could In Time Pressure Some California Water Agencies](#)**

Fitch Ratings-San Francisco/New York-24 October 2022: Drought conditions across California have not triggered rating changes thus far for water agencies, though Fitch Ratings says in a new report some agencies could be susceptible to rating pressure over time.

Despite its second, severe, multiyear drought in a decade worsened by the Colorado River drought, California utilities are well-positioned to take on more debt to finance water reliability or other resiliency projects. The main reasons are low leverage, robust liquidity and, according to Shannon Groff, Director at Fitch, history on their side.

“California utilities successfully weathered a similar set of circumstances during the 2012-2016 drought by increasing rates, changing rate structures to capture higher fixed costs and prioritizing water reliability projects,” said Groff.

That said, the capacity for additional debt is not unlimited. Over time, California utilities will lose cushion necessary to take on added debt if rate pressures and affordability concerns begin to limit revenue defensibility, and skyrocketing water supply costs increase operating risk.

“As the need for more debt to implement necessary capital projects grows, ratings could be pressured”, said Groff. “This may leave agencies with already high rates that rely on imported water for a large portion of their water supply particularly susceptible to negative rating actions.”

The full report “Drought Augurs Risks for California Water Agencies” is available at ‘[www.fitchratings.com](http://www.fitchratings.com)’.

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## **Capital One Announces Two Executive Hires for Municipal Lending.**

Capital One announced that Mark Killingsworth and Mark Brown have joined Capital One Public Funding as Senior Vice Presidents. In these roles, Killingsworth and Brown will be responsible for originating municipal transactions for Capital One's direct lending portfolio.

"We are excited to expand our senior leadership bench with these two strategic hires who will allow us to continue our specialized focus on state and local government transactions," Jonathan Lewis, president of Capital One Public Funding, LLC said. "Mark and Mark are experienced originators with deep relationships throughout the industry. Their access to additional pathways for new business is a perfect complement to our existing strategy. We're thrilled to have them join the team."

Capital One Public Funding, LLC—a subsidiary of Capital One, National Association—focuses on the direct lending segment of the public finance market. Formed in 2004, the team has grown its portfolio to more than \$7 billion, including transactions to large and small state and local governmental borrowers across the U.S.

Killingsworth and Brown come to Capital One from Crews & Associates, Inc., of Little Rock, Arkansas. At Crews, Killingsworth was involved in the origination and syndication of public finance transactions nationally, from business development to credit underwriting and investor distribution.

"COPF is a known leader in the universe of municipal transactions," Killingsworth said. "I'm excited to join this dedicated team as they continue to execute their strategic objectives for this business."

Brown previously had a 25-year career as an investment banker at Crews and Associates, where he focused on sourcing municipal leases and private placement transactions and developing funding partner relationships with energy, transportation and equipment companies that contract with state and local governments.

"COPF is an established group and I'm pleased to join the team," Brown said. "I look forward to hitting the ground running and helping the team continue to grow the portfolio."

**[abladvisor.com](http://abladvisor.com)**

October 21, 2022

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### **Fitch Rates California's \$1.2 Billion GO Bonds 'AA'; Outlook Stable.**

Fitch Ratings - New York - 13 Oct 2022: Fitch Ratings has assigned a 'AA' rating to \$1.2 billion of various purpose general obligation (GO) refunding bonds to be issued by the state of California:

The bonds are scheduled to price by competitive bid on Oct. 26, 2022. Proceeds of the bonds will be used to refund outstanding GO bonds of the state for debt service savings and refund variable rate GO bonds to effect a favorable reorganization of the debt structure of the state.

The Rating Outlook is Stable.

[Continue reading.](#)

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### **California Wildfires Spur New Real Estate Development Guidelines.**

- **State attorney general unveils guidance to mitigate fire risk**
- **'The climate crisis is here, we must adapt to that,' AG says**

California Attorney General Rob Bonta announced guidelines for local governments weighing real estate development proposals to protect against the growing hazard of wildfires, telling municipalities his suggestions could help them avoid costly litigation and save lives.

At a news conference on Monday, Bonta outlined best practices and mitigation measures to help municipalities shape projects while taking into account wildfire ignition and emergency access and evacuation to protect residents and the environment.

[Continue reading.](#)

#### **Bloomberg CityLab**

By Joel Rosenblatt

October 10, 2022

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### **Texas School Asks UBS for Refund After Energy Boycotter Label.**

- **School had to reissue debt after hiring UBS on bond deal**
- **Texas attorney general's office warns of lawsuit against bank**

Weeks after a Texas school district dropped UBS Group AG as its municipal-bond underwriter because state Republicans labeled it unfriendly to the oil industry, it's now demanding the bank cover the costs of having to redo the sale.

The Normangee Independent School District was forced to redo an \$18 million bond sale that had

already been underwritten by UBS Financial Services after the bank's parent company in August was added to a list of firms that the GOP state comptroller considers to "boycott" the fossil fuels industry.

The district is demanding UBS refund it for the costs it incurred after it had to resell the debt as a result. Municipal-bond yields surged dramatically and made it more expensive to reissue the debt. But the school district blames UBS — not the Republican attorney general's office that is enforcing the law. In fact, the attorney general's office is representing the district in its effort to recoup the costs incurred from having to resell the debt, according to a document provided through a public records request.

"NISD resold the bonds and hired a different underwriter, at a loss to NISD," Lauren Downey, assistant attorney general and public information coordinator, said in the Oct. 12 dated document. "In the event the OAG is unable to successfully negotiate a resolution with UBS, our office anticipates filing suit."

UBS was set to receive compensation of \$222,747.04 in connection with the bond sale, according to initial sale documents. It's unclear how much money the school district is seeking to recoup.

Under a 2021 GOP law, companies must verify that they don't engage in what the legislation describes as boycotts of the oil and natural gas industries if they want to work with state and local municipalities. Republicans in the state and nationwide have lashed out against ESG investing strategies, enacting new laws like the one in Texas.

The school district had accepted a bid by UBS to manage the bond deal sold via auction Aug. 8, before that blacklist was published, according to bond documents. But bond deals in Texas typically close weeks later and UBS was added to the list before the sale was finalized. The attorney general's office told the district it wouldn't approve UBS's purchase of the debt, so the district was forced to reissue the bonds in mid-September with RBC Capital Markets as underwriter.

Benchmark 10-year munis yielded about 2.8% on Sept. 15, compared with about 2.2% on Aug. 8, the date of the original bond sale.

It's unclear how much money the school district is seeking to recoup from UBS. Mark Ruffin, the district's superintendent, did not respond to a request for comment. Representatives for the Texas attorney general's office did not respond to a request for comment.

A spokesperson for UBS said in a statement that the company has met with the comptroller and reiterated the importance of the energy industry and Texas to the bank. UBS said it provided more information showing, "it is both our policy and practice to do business with energy companies, including those in the fossil fuel industry."

It's just the latest example of UBS's lost public finance business in the state. Last week, UBS was left out of the group poised to handle the biggest-ever municipal-bond transaction from Texas. Board members of the issuer, the Texas Natural Gas Securitization Finance Corp., announced a newly configured underwriting syndicate for the \$3.4 billion transaction that didn't include UBS.

## **Bloomberg Green**

By Amanda Albright and Danielle Moran

October 13, 2022

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## [\*\*NJ Taxpayers May Have to Foot \\$350 Million Bill After Health-Care Hikes.\*\*](#)

- **Homeowners' property taxes at stake with insurance changes**
- **Republicans ask for hearings on what's behind premium increase**

New Jersey's 20% premium increase in public workers' health-care costs caught lawmakers by surprise and left them criticizing a potential \$350 million bill to homeowners who already pay the nation's highest property taxes.

The increase for local employees and retirees "was never disclosed, unfortunately, by Treasury when they came before us" during budget hearings earlier this year, said Democratic Senator and budget chairman Paul Sarlo.

"It's put on the backs right now of municipalities and the local unions," including sanitation workers, police and firefighters, said Sarlo, who also is Wood-Ridge mayor. His remarks came during a committee hearing in Trenton.

[Continue reading.](#)

### **Bloomberg CityLab**

By Elise Young and John Tozzi

October 13, 2022

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## [\*\*Florida Cities Crushed by Ian Face Highest Borrowing Costs in Decade.\*\*](#)

- **Federal, state aid expected to ease much of the financial blow**
- **But localities choosing debt face struggling muni-bond market**

Florida cities looking to rebuild from the devastation of Hurricane Ian will be financing their efforts during the worst environment for municipal borrowing in more than a decade.

Washed-out roads and bridges are only the most glaring examples of urgent infrastructure repairs that the state and its localities are grappling with after the storm tore through, leaving insured losses approaching \$60 billion. Debt to fund the recovery will probably start hitting the municipal market as soon as this quarter, according to Barclays Plc, which said local leaders will need to offset declines in Florida's vital tourism and agriculture sectors.

Federal and state aid will likely ease much of the financial blow. But officials looking to issue debt to rebuild and also bolster infrastructure against the risk of increasingly severe weather will be doing so during a brutal juncture for the bond market: Ten-year benchmark municipal yields are near the highest since 2011, and the Federal Reserve is signaling further interest-rate hikes to combat rampant inflation.

Local authorities may have little choice but to factor in that additional expense, although some may choose to wait for stability in the bond market and tap federal or state funding first before issuing debt in 2023, said Clare Pickering, a municipal strategist at Barclays Plc.

“Ultimately, they need to rebuild, especially those assets that were completely destroyed,” she said. “The market timing may not be the best for that given the higher cost of issuance.”

## **Latest Event**

Hurricane Ian is just the latest punishing weather event to force municipalities to tackle an infrastructure overhaul focused on rebuilding roads, airports, bridges and utility systems. Houston-area voters approved \$2.5 billion of debt for flood-control measures in 2018, the year after Hurricane Harvey pummeled the region. And New York City is embarking on a \$1.5 billion project to construct a system of walls and floodgates to protect against rising seas after Superstorm Sandy struck in 2012.

These projects and the latest storm underscore how the \$4 trillion municipal-bond market will be crucial to how cities in Florida and nationwide harden their infrastructure to prepare for severe weather, said Tom Doe, president of Municipal Market Analytics.

“The muni market is on the cusp of a tremendous number of projects to defend against climate change,” he said. “With higher rates, it’s going to be that much more difficult.”

Florida localities won’t be starting from scratch. Last year, Republican Governor Ron DeSantis created the Resilient Florida program to provide grants to local governments to address flooding, intensified storms and the threat of rising sea levels.

The initiative was expected to fund about \$400 million in the fiscal year through June for a host of projects, such as elevating roadways in Miami-Dade County and drainage improvements in the city of St. Augustine. The state’s most recent budget allocated more than \$500 million for resiliency including for statewide flooding and sea level rise plan.

Still, with infrastructure already stressed by Florida’s booming population, the new costs from the latest storm could lead to higher taxes, said Jesse Keenan, associate professor of sustainable real estate at Tulane University.

Most of the roughly 70 Florida cities and counties that Moody’s Investors Service rates and were affected by Ian “have robust available reserves and liquidity” to support recovery work until they receive state and federal reimbursement, the ratings company said in a report.

It highlighted some entities that will face more severe pressure, including the tolling authority that runs the partially collapsed bridge extending to Sanibel Island on Florida’s southwest coast. That causeway generates a third of the entity’s toll revenue.

S&P Global Ratings placed some transportation debt issued by Lee County, which encompasses Cape Coral and Fort Myers, on credit-watch negative due to the damage to the causeway. Typically during severe weather events there’s a temporary suspension of services and damage where a storm strikes, but the destruction Ian caused to infrastructure like the causeway is in a different category, said Joe Pezzimenti, a director at S&P.

“This isn’t something that will be fixed in weeks,” he said. “It’ll take months, potentially years.”

## **Bloomberg Markets**

By Danielle Moran and Nic Querolo

October 3, 2022

## **Agencies Announce Hurricanes Fiona and Ian Disaster Relief Guidance: Buckley**

On September 29, the FDIC, Federal Reserve Board, NCUA, OCC, and the Conference of State Bank Supervisors [issued](#) a joint interagency statement covering supervisory practices for financial institutions affected by Hurricanes Fiona and Ian. Among other things, the agencies informed institutions facing operational challenges that the regulators will expedite requests for temporary facilities, noting that in most cases, “a telephone notice to the primary federal and/or state regulator will suffice initially to start the approval process, with necessary written notification being submitted shortly thereafter.” The agencies also called on financial institutions to “work constructively” with affected borrowers, noting that “prudent efforts” to adjust or alter loan terms in affected areas “should not be subject to examiner criticism.” Institutions facing difficulties in complying with any publishing and reporting requirements should contact their primary federal and/or state regulator. Additionally, the agencies noted that institutions may receive Community Reinvestment Act consideration for community development loans, investments, or services that revitalize or stabilize federally designated disaster areas. Institutions are also encouraged to monitor municipal securities and loans impacted by Hurricanes Fiona and Ian.

HUD also [announced](#) disaster assistance for areas in Puerto Rico affected by Hurricane Fiona. The disaster assistance follows President Biden’s major disaster declaration on September 21. According to the announcement, effective immediately, HUD is issuing 29 regulatory and administrative waivers intended to provide flexibility and relief to impacted communities. The waivers cover the following HUD programs: The Community Development Block Grant Program, HOME Investment Partnerships Program, Housing Opportunities for Persons with AIDS Program, Continuum of Care Program, and Emergency Solutions Grant Program. HUD is also providing an automatic 90-day moratorium on foreclosures of FHA-insured home mortgages for covered properties effective September 21, as well as for mortgages to Native American borrowers guaranteed under Section 184 Indian Home Loan Guarantee program and home equity conversion mortgages. HUD is also making various FHA insurance options available to victims whose homes require repairs or were destroyed or severely damaged. HUD’s Section 203(h) program allows borrowers from participating FHA-approved lenders to obtain 100 percent financing, including closing costs, for homes in which “reconstruction or replacement is necessary.” Additionally, HUD’s Section 203(k) loan program will allow individuals to finance the purchase of a house, or refinance an existing house and the costs of repair, through a single mortgage. The program also allows homeowners with damaged property to finance the repair of their existing single-family homes. HUD will also share information on housing providers and HUD programs with FEMA and the state, and will provide flexibility to public housing agencies. Similar disaster assistance measures were also announced (see [here](#) and [here](#)) for areas of Alaska affected by severe storms, flooding, and landslides from September 15-20, and areas in Florida impacted by Hurricane Ian.

The FDIC also [issued](#) FIL-42-2022 to provide regulatory relief to financial institutions and help facilitate recovery in areas of Puerto Rico affected by Hurricane Fiona from September 17 and later. The FDIC acknowledged the unusual circumstances faced by institutions affected by the storms and suggested that institutions work with impacted borrowers to, among other things: (i) extend repayment terms; (ii) restructure existing loans; or (iii) ease terms for new loans to those affected by the severe weather, provided the measures are done “in a manner consistent with sound banking practices.” Additionally, the FDIC noted that institutions “may receive favorable Community

Reinvestment Act consideration for community development loans, investments, and services in support of disaster recovery.” The FDIC will also consider regulatory relief from certain filing and publishing requirements.

Additionally, the OCC [issued](#) a [proclamation](#) permitting OCC-regulated institutions, at their discretion, to close offices affected by Hurricane Ian in Florida “for as long as deemed necessary for bank operation or public safety.” The proclamation directed institutions to [OCC Bulletin 2012-28](#) for further guidance on actions they should take in response to natural disasters and other emergency conditions. According to the 2012 Bulletin, only bank offices directly affected by potentially unsafe conditions should close, and institutions should make every effort to reopen as quickly as possible to address customers’ banking needs.

NYDFS also [issued](#) an [industry letter](#) advising state-regulated financial institutions to take reasonable and prudent measures to assist consumers and businesses affected by Hurricane Fiona in Puerto Rico. The guidance recommends that financial institutions (i) waive ATM and overdraft fees; (ii) increase ATM withdrawal limits; (iii) ease restrictions on cashing out-of-state and non-customer checks; (iv) ease credit terms for new loans; (v) increase credit card limits for creditworthy customers; (vi) waive late fees on credit card and other loan balances; (vii) work with customers to defer payments or extend payment due dates on loans to help prevent delinquencies and negative credit reporting caused by disaster-related disruptions; and (viii) work with money transmitters and money services businesses to facilitate and expedite the transmission of funds. The actions are intended to help ease financial burdens for New Yorkers seeking to support individuals located in Puerto Rico, as well as consumers in Puerto Rico who hold New York bank accounts.

September 30 2022

## **Buckley LLP**

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## **[California, Flush With Cash, Snubs Muni-Bond Sales for Projects.](#)**

- **Issuance has slumped about 35% to \$37 billion so far this year**
- **Golden State falls to No. 3 in US for muni bond sales in 2022**

California’s municipal-bond market is typically the busiest in the nation. But this year, activity has quieted dramatically.

The Federal Reserve’s campaign to tame inflation by raising rates has dampened debt sales in the muni-bond market, especially bond sales used to refinance debt with higher interest rates. In California, the drop is especially notable. That’s because federal aid and better-than-expected tax

collections are allowing the Golden State and its municipalities to eschew bond sales and pay for infrastructure projects with cash.

Debt sales from California-based municipal-bond issuers are down about 35% to approximately \$37 billion year-over-year in 2022, over two times more than the broader US muni market's 15% decline in issuance this year, according to data compiled by Bloomberg. As a result, California, typically the biggest state for municipal-bond sales each year, has fallen behind Texas and New York to No. 3 in the ranks of muni issuers in 2022, data compiled by Bloomberg show.

"With all the stimulus and recovery funding over the last several years, many issuers have had cash to finance projects," said Andy Nakahata, regional head of public finance, West region at UBS Group AG. "That's allowed them to cash fund a lot more versus fund projects with debt."

Earlier this year, California officials announced a \$98 billion budget surplus — about half of which the governor said was available to spend for any purpose. California has been implementing measures to reduce its outstanding long-term debt by using cash for infrastructure projects, according to the state budget. Financing for about \$3.2 billion worth of capital projects through fiscal 2024 will be funded through the state's general fund — those projects were initially set to be financed through the sale of revenue bonds, the budget detailed.

The Los Angeles Department of Water and Power reduced its capital budget by 15%, so there isn't a need to sell bonds for new projects, according to Ann Santilli, chief financial officer. The agency has been spending less than expected on capital projects as a result of changes in planned work and challenges with supply chain and hiring.

Meanwhile, issuance to refinance outstanding debt has dwindled. Some issuers have had to scale back refinancing plans because higher rates have reduced potential savings.

The San Diego Unified School District, for example, decided not to sell nearly \$50 million of debt for a refinancing in September as part of a larger bond sale, Jodie Macalos, executive director of financial planning and development for the school district, said in an interview. But it was still able to sell about \$500 million of debt for new projects.

Though increasing bond yields have stung borrowers, it may be welcome news to wealthy Californian investors who now have a chance to earn much higher yields on new investments in the tax-free securities. By investing in state muni bonds, individuals in California's highest tax bracket aren't obligated to pay the 13.3% state income tax and a 37% federal levy on the income generated from their investments.

Municipal-bond yields have surged in 2022 and the yield on an index of California general-obligation bond debt due in 10 years stands at 3.3%, compared to as little as 0.7% in 2021, according to Bloomberg BVAL.

Margaret Hay, a director at Kore Private Wealth, said more debt issuance from California issuers would give investors and traders more insight into pricing levels, especially considering how volatile the muni market has been this year. The more debt issuance there is, the more clarity there is around what bonds are worth, she said.

"We need issuance, we need more," she said.

## **Bloomberg**

By Amanda Albright

October 6, 2022

— *With assistance by Marvis Gutierrez, Natalia Lenkiewicz and Jennah Haque*

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## **[Cal Cities-Sponsored Bond Agency Issues \\$57.6 million in Tax-Exempt Bonds for Housing in Santa Maria.](#)**

The California Statewide Communities Development Authority (CSCDA) announced the issuance of \$57,618,528 in affordable housing bonds for Centennial Square Apartments in Santa Maria.

The funding will finance the construction of 184 affordable housing units. The affordable housing project will provide one-, two-, and three-bedroom apartments to very-low and low-income residents. Units will be reserved for households earning less than 30%, 50%, and 60% of the area median income.

CSCDA partnered with the city of Santa Maria and others to provide tax-exempt housing bonds for the Centennial Square Apartments. The financing for the apartments will maintain the affordability of units for low and very low-income tenants for 55 years.

### **About CSCDA**

CSCDA is a joint powers authority created in 1988 and is sponsored by the League of California Cities and the California State Association of Counties. More than 530 cities, counties, and special districts are program participants in CSCDA, which serves as their conduit issuer and provides access to efficiently financed, locally approved projects.

Visit the organization's [website](#) to learn how CSCDA can help your city.

Oct 5, 2022

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## **[UBS Dropped From \\$3.4 Billion Texas Muni Deal in Latest Blow.](#)**

- **Texas named bank among firms it deems hostile to energy sector**
- **Record Texas muni transaction may price as soon as Nov. 9**

UBS Group AG's underwriting arm has been left out of the group that is poised to handle the biggest-ever municipal-bond transaction from Texas after the state listed the bank as one of the firms it considers to "boycott" the fossil-fuel industry.

Board members of the issuer, the Texas Natural Gas Securitization Finance Corp., announced a newly configured underwriting syndicate for the \$3.4 billion transaction without UBS at a meeting on Thursday, according to Lee Deviney, executive director of the Texas Public Finance Authority, the state agency overseeing the sale.

"Yesterday, the Corporation board adopted a resolution reconstituting the underwriting syndicate for the upcoming natural gas utility securitization bond sale," Deviney said in an email. "UBS will not be part of that syndicate. There were no other changes made to the previously appointed underwriting syndicate."

Underwriters on the deal were initially approved in May by the issuer, and UBS was among them. But then UBS Group was included on a list published on Aug. 24 by Texas Comptroller Glenn Hegar, a Republican, along with nine other companies he deemed to be hostile to the energy industry. The release of the list followed a months-long probe his office conducted into companies' energy policies to determine whether they were shunning the oil and gas industry in favor of sustainable investing and financing goals.

A spokesperson for UBS in New York didn't have an immediate comment.

## **Muni Business**

The loss of the deal is a blow for the Zurich-based bank's US municipal-bond business. Laredo, Texas, dropped the firm from a \$119 million revenue-bond transaction in August, and the bank withdrew from a Kerrville, Texas, bond sale that month, according to the city's finance director.

UBS is the 20th-biggest underwriter in the Texas muni market this year, down one slot from the same period a year ago, according to data compiled by Bloomberg.

The bank was the only US muni underwriter included on the Texas comptroller's list of so-called boycotters. A Texas law enacted in 2021, Senate Bill 13, bars the state and its local governments from entering into contracts of \$100,000 or more with companies unless the firms verify that they don't boycott the energy industry.

In Texas, most municipal-bond transactions have to be approved by the state's attorney general, Republican Ken Paxton, before deals can close, and the inclusion of UBS on Hegar's list may have disrupted that clearance.

The \$3.4 billion transaction will raise money to bail out natural gas utilities stung by financial losses from the deadly storm that struck the state in February 2021. The financing is designed to spread out the sky-high energy costs over decades to avoid burdening residents with abnormally high energy bills.

The transaction could price as early as Nov. 9, Paul Jack, an Estrada Hinojosa & Co. financial adviser working on the deal, said at a Texas Public Finance Authority board meeting this week.

"We would probably avoid pricing the first week in November which is an FOMC meeting week," which suggests a pricing window shortly after the November election, Jack said at the meeting, according to a recording of the session provided by Deviney, the Texas Public Finance Authority official.

## **Bloomberg Markets**

By Danielle Moran and Amanda Albright

October 7, 2022

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## **[Chicago's Improved Finances Reflected in Bond Investor Sentiment.](#)**

- **City's bonds among top one-third in US since March, data show**
- **Mayor plans to pay \$242 million to four underfunded pensions**

Investors are more bullish on Chicago now than they have been in years as the city's fiscal outlook brightens, causing their outstanding bonds to perform better than those of other big cities.

The third-largest US city has long struggled with a poor credit rating, dragged down mostly by its underfunded pensions. But the city's financial picture has begun to turn around, with stronger-than-expected revenue and progress on payments to retiree benefits.

As Chicago gears up for a \$700 million to \$900 million bond sale later this fall — including its first ESG issuance — pricing data from secondary market trading bodes well for investors in Windy City debt. According to an index from the University of Chicago Center for Municipal Finance, in March 2022 Chicago's bonds moved into the top one-third of all large cities after lagging behind their peers from 2019 to 2021.

[Continue reading.](#)

## **Bloomberg Markets**

By Mackenzie Hawkins

October 7, 2022

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## **[Judge Dismisses Charges Against Seven Former Officials in Flint Water Crisis.](#)**

### **Michigan Supreme Court had canceled a lower court's indictments earlier this year**

A Michigan judge dismissed indictments against several former state officials related to their handling of the Flint water crisis.

The decision followed an earlier opinion from the state Supreme Court that canceled a lower court's ruling due to concerns over how the indictments were handled.

Genesee Circuit Court Judge Elizabeth Kelly issued an order Tuesday dismissing criminal indictments for seven former officials, saying the indictments were invalid.

[Continue reading.](#)

## **The Wall Street Journal**

By Jennifer Calfas

Oct. 4, 2022 5:30 pm ET

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## **[Fitch: California Property Taxes Buffered from Home Price Declines](#)**

Fitch Ratings-New York/San Francisco-29 September 2022: Slower home price growth or price declines in California will have a limited effect on local government property tax revenues, Fitch Ratings says in its report California Property Taxes Buffered from Residential and Commercial Valuation Swings.

California tax assessment calculations serve to smooth volatility in home values so that changes in tax revenues are not equal to home price swings. Home prices in California have been increasing for the past decade and jumped by nearly 43% since the pandemic began in 2020. However, rising interest rates are tempering home prices and sales.

Since 2000, TAVs have not fallen nearly as much as the largest home price decline for any county. The largest average one-year decline in home prices for all counties was 21%, while the largest average one-year TAV decline was only 3%.

According to our most recent U.S. RMBS Sustainable Home Price Report, California home prices are 10%-14% overvalued. We assessed a 14% home price decline across counties, which resulted in an average TAV decline of only 0.9%. Under this hypothetical scenario, tax revenue will be mildly affected for the vast majority of counties. Generally, governments anticipate lower assessed values and the resulting effects on property tax revenues and adjust budgets accordingly.

Pressures on commercial properties, such as lower occupancy at offices and urban retail spaces due to hybrid work, could also affect TAVs but to a lesser extent. Commercial property TAVs, while more variable than residential TAVs, are a smaller component, 17% on average, of counties' total TAVs. Counties with greater exposure to commercial properties or homes purchased at, or near, peak market value could see slower property tax growth in the next two years.

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## **[Chicago Mayor Nixes Property Tax Hike in Budget Proposal.](#)**

- **Lightfoot initially sought 2.5% increase entirely for pensions**
- **Tax hikes possible for future pension funding, city says**

Chicago Mayor Lori Lightfoot abandoned a property tax increase in her 2023 budget proposal because revenue is rising more than expected, offering a reprieve to households that were facing a 2.5% hike in a year of red-hot inflation.

“As a result of this strong improvement in revenues, we have determined it is important to give our taxpayers some additional relief,” Lightfoot said in an emailed statement on Thursday. The budget “that I will propose to city council on Monday will not include a CPI increase on the property tax levy.”

Chicago expects to post a \$128 million budget gap next year, the lowest in recent memory, with revenue forecast to be \$200 million higher than earlier projections, according to the statement. In a Twitter post last month, the city’s Office of Budget and Management indicated that recreation and business tax receipts are expected to beat 2022 levels.

The improved fiscal picture allows the city to avoid levying a property tax increase during a period of high inflation, Lightfoot said. She had initially proposed a 2.5% increase for 2023, which is half what Chicago could enact under a 2020 ordinance that ties property taxes to inflation with a cap of 5%.

“In the recent past, the decision to not increase property taxes would have almost certainly meant spending cuts, increases to other taxes and fees, or extracting savings from debt refinancings,” said Justin Marlowe, a public finance research professor at the University of Chicago, in an email. “In FY23 the Mayor has the luxury of not making those trade-offs.”

Chicago residents already pay one of the highest property tax rates in the country, with the Windy City ranking the 13th highest in the nation and Illinois second among US states. And many residents don’t directly see the benefit of their payments, as more than 80% of property taxes went toward city employee pensions in the 2022 fiscal year, according to an analysis from the watchdog Civic Federation.

That share, which has nearly doubled since 2013, makes Chicago “unique” among US cities, Marlowe said. The entire \$42.7 million levy that would have come from a 2.5% hike in 2023 was slated for pensions.

Chicago’s public pensions are chronically underfunded, which has contributed to its lower credit rating. As of last year, the city’s pension for firefighters was funded at about 21%, municipal employees at 23%, police at 24% and laborers at 46%, according to Chicago’s annual financial report.

Lightfoot recognized those challenges and committed to “never” shrinking from its obligations. The coming fiscal year will mark the second that Chicago makes its statutorily required pension contribution – a signal to taxpayers, business leaders and investors that City Hall takes its fiscal responsibilities seriously, Marlowe said.

“Our pension obligations are real and continue to grow in the out years,” she said. “We will use all tools at our disposal, including the CPI, in future years, as necessary to meet those obligations.”

## **Bloomberg Markets**

By Mackenzie Hawkins

September 29, 2022

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## **Lumesis Introduces Debt Analysis Tool.**

Lumesis introduced a Debt Analysis tool being integrated into its Pricing Platform to provide clients with more configurable information in the market.

The tool, launched on Sept. 16 which provides summaries of outstanding debt, maturity profiles, and debt service schedules for the entire public finance market, is an outgrowth of the company's legacy Debt Maps.

"Over time the feedback that we heard from clients is, 'Can you make the data that's included within there more robust and more configurable,'" said Gregg Bienstock, Lumesis CEO.

He said users within the public finance community look at outstanding debt in different ways for different clients.

"We know that there is a market need," he said. "Whether it's responding to an RFP or exploring different solutions for a client or presentations, this gives them the ability to utilize that information."

"We know that there's a market need," said Lumesis CEO Gregg Bienstock of the Debt Analysis tool, which launched on Friday, Sept. 16.

Lumesis is expanding its data services in the municipal market harnessing technology to create more efficiency with the digital platform, which also provides users the ability to refine parameters and comparable securities to reflect their own professional judgment. This is another expansion of technology-based products in the municipal space, adding to a growing list of tools.

In May, Lumesis introduced DIVER New Issue Pricing and Scales service, designed to help bankers, underwriters and municipal advisors create new-issue scales and pricing analyzes in a transparent platform.

"We have addressed the demand for flexible debt search and selection and combined it with configurable outputs based on the unique requirements of market participants," said Tim Stevens Lumesis' President, in a press release. "We know that one size does not fit all, so enabling our clients to easily search for and generate a custom listing of debt, along with the ability to select the data elements of interest to them, empowers our clients to efficiently generate reports and analyses. to drive their work."

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## **Colorado Treasury Launches New Bond Investor Transparency Website.**

DENVER, CO / ACCESSWIRE / September 27, 2022 / Today, the Colorado Department of the Treasury announced the launch of its new investor relations (IR) website, [www.stateofcoloradofinancings.bondlink.com](http://www.stateofcoloradofinancings.bondlink.com), to enhance transparency.

The new IR website is focused on potential investors and is accessible to all who want to learn more about the State, its finances, and the capital program that funds public infrastructure across Colorado.

The website is powered by BondLink, a financial technology company that has set the standard for investor transparency in the \$4 trillion municipal bond market. BondLink also powers the investor transparency of a host of other states across the country, including California, Ohio, Virginia, Georgia, Oklahoma, and Rhode Island. Within the Centennial State, BondLink also partners with the University of Colorado.

“We’re excited to leverage technology for better transparency. Developing a strong investor relations program is a cornerstone of Colorado’s fiscal health,” said Dave Young, State Treasurer. “This investor relations website disseminates information effectively, while also engaging current and prospective bondholders.”

“Investor transparency is absolutely essential for any issuer looking to finance its public infrastructure at low costs,” said Colin MacNaught, Co-Founder and CEO of BondLink. “Given how turbulent the capital markets have become over the last six months, it’s even more important. We look forward to partnering with the State and advancing its financing programs.”

Academic research shows that better, more accessible disclosure can lead to lower costs for municipal issuers and investors. Enhanced issuer transparency has also been a continued point of emphasis from market regulators.

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## **[Illinois Federal Court Joins Line of Decisions Rejecting Attempts to Impose Municipal Franchise Fees on Streaming TV Providers: Duane Morris](#)**

We [previously addressed](#) a recent series of cases across the country in which municipalities sought to impose franchise fees, like those that apply to cable TV, on streaming TV providers like Netflix and Hulu. The latest decision in this string was issued last week in the Eastern District of Illinois, *City of East St. Louis v. Netflix, Inc. et al.*, Case No. 3:21-CV-561 (S.D. Ill., Sept. 23, 2022). The judge dismissed a suit by the City of East St. Louis against streaming TV providers, finding that the Illinois Cable and Video Competition Law of 2007 (220 ILCS 5/21-100 et seq.), which requires video service providers to register with the state and pay service provider fees to local units of government, does not contain an express or implied right of action for local governments. Rather, it contains only an express right of action for the state attorney general. The court added that it would not make sense to leave enforcement to individual cities, since they may interpret and apply the law differently. The court also dismissed the City’s claims for trespassing, unjust enrichment, and ordinance violations. It held that, under Illinois law, trespassing requires a physical act of entering or causing someone else to enter land owned by a third person, without permission, and that the transmission of video streaming services doesn’t do that. Dismissal of the City’s claims is in line with most decisions in other states, as discussed in our prior posts.

**Duane Morris LLP** – J. Tyson Covey

September 29 2022

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## **[Texas’ ESG Attack Sweeps Up Some Funds That Aren’t Really ESG.](#)**

**Almost 40% of the funds targeted by state comptroller have investments in fossil-fuel stocks.**

A Texas statute targeting perpetrators of “ESG” includes a significant number of investment funds that don’t have a genuine environmental, social or governance focus.

Of the 348 funds singled out by Texas Comptroller Glenn Hegar, 14% don’t qualify as ESG, according to an estimate by Morningstar Inc. What’s more, almost 40% invest in the oil and gas industry they’re accused of boycotting, data compiled by Bloomberg show.

It’s the latest counter-intuitive moment in an unlikely battle that has thrust a once obscure financial acronym into the center of American politics. Ironically, many of the firms and funds targeted by the GOP for sidelining oil and gas have been criticized by climate activists for their continued support of the fossil-fuel industry.

“The fact that many funds on the banned fund list hold companies involved in the oil and gas industry raises questions about the research done by the Texas comptroller on these investments,” said Hortense Bioy, global director of sustainability research at Morningstar. “Clearly, these funds aren’t boycotting energy companies.”

The state’s position hasn’t changed since the decision was announced last month, said Chris Bryan, director of communications for the Texas comptroller. The test isn’t that the funds are ESG focused, the test is on whether the funds boycott energy companies based on state statute, which is broader than just having oil and gas investments, he said.

“If new information is provided to us about the funds, we will actively consider whether to update the list and we will do this on a regular basis,” Bryan said.

Hegar denounced Wall Street and “environmental crusaders” in August for creating a “false narrative” that the economy “can completely transition away from fossil fuels, when, in fact, they will be part of our everyday life into the foreseeable future.” Aside from 348 investment funds, the state targeted 10 asset managers and banks, including BlackRock Inc. and Credit Suisse Group AG. Texas Attorney General Ken Paxton also has joined a multistate investigation, questioning Morningstar’s use of “ESG factors.”

BlackRock, which has since been slammed by Democratic states for appearing to backtrack on its pledge to cut CO2 emissions, said GOP attacks ignore the fact that it holds more than \$100 billion in Texas energy companies. It would therefore be “inaccurate” to accuse it of boycotting fossil fuels, Dalia Blass, BlackRock’s head of external affairs, said on Sept. 7.

Applying an ESG investment approach generally entails screening for environmental, social and governance opportunities and risks. Some fund managers apply exclusion policies, while others adopt so-called engagement strategies, whereby they continue to hold sectors such as oil and gas with a view to helping the companies adapt to a low-carbon world. ESG often faces criticism from activists for being too focused on financial performance.

The fund managers boycotted by Texas have failed “to provide assurance that they are taking sufficient steps to address the climate crisis,” said Pete Uhlenbruch, director of financial sector standards at sustainability nonprofit ShareAction.

Funds targeted by Hegar include BlackRock’s iShares ESG Aware MSCI USA ETF (ticker ESGU), which holds shares of Exxon Mobil Corp., Chevron Corp., ConocoPhillips and Halliburton Co.; CREF Social Choice Account, which has stakes in Kinder Morgan Inc., Schlumberger NV and Southwestern Energy Co.; and Vanguard ESG US Stock ETF (ESGV), which has investments in companies including Murphy USA Inc.

Vanguard Group's "only objective is to maximize investment returns for our clients and help them achieve their financial goals," said spokesperson Emily Ferrell.

Over the past decade, Morningstar estimates US investors exposed to ESG strategies saw investment returns that were consistently between one and seven percentage points higher than those of conventional funds.

Others note that fund managers have increasingly limited investment options because more and more companies incorporate ESG considerations into their business models.

"So many companies are now setting science-based emission reduction targets and embracing bold climate action that large investors would struggle to build any kind of profitable portfolio that excludes such businesses," said Maria Mendiluce, chief executive of the We Mean Business Coalition.

That said, Republican Party concerns that the oil and gas industry isn't getting enough money from big finance appear overdone. Banks have loaned \$302 billion to fossil-fuel companies this year, compared with \$268 billion in the same period of 2021 and \$256 billion in 2020, according to Bloomberg data.

At the same time, there are signs that ties are continuing between the financial firms vilified by the GOP, and the states publicly attacking them.

Five firms targeted in a pair of anti-ESG statutes passed by Texas a year ago led to the initial departure of Goldman Sachs Group Inc., JPMorgan Chase & Co., Fidelity Capital Markets, Bank of America Corp. and Citigroup Inc. Their absence caused borrowing costs for Texas municipalities to rise by as much as \$530 million, one study shows.

Since then, a number of those same banks appear to be back in. JPMorgan, for example, wasn't included in an updated version of Texas' list, and now intends to begin bidding on public contracts again.

Meanwhile, regulators policing the finance industry are taking steps to set up guardrails around what asset managers can call an ESG investment. In May, the US Securities and Exchange Commission proposed tougher disclosure requirements, while asset managers targeting EU clients face a January deadline to provide investors with more information.

## **Bloomberg Green**

By Frances Schwartzkopff

September 30, 2022

— *With assistance by Amine Haddaoui, and Wladislaw Kobzar*

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## **[Doreen M. Frasca Thrived in Muni Bonds and Funded Airports.](#)**

**Advisory-firm founder, who has died at age 68, made early mark by defeating Sonia Sotomayor in high-school election**

The 1972 race for student body president at Cardinal Spellman High School in the Bronx pitted

Doreen M. Frasca against Sonia Sotomayor. Ms. Frasca won, but things worked out quite well for both of them.

“That defeat convinced me to refrain evermore from participating in electoral politics,” said Ms. Sotomayor, now a U.S. Supreme Court justice, who described Ms. Frasca as a special person.

Though Ms. Frasca remained fascinated by politics, a summer job led her to Wall Street. She became a star in the municipal bond market as a managing director at Merrill Lynch and later as an independent adviser to public entities seeking to raise money. Her specialty was airport projects. She was an early advocate of public-private partnerships.

[Continue reading.](#)

## **The Wall Street Journal**

By James R. Hagerty

Sept. 30, 2022

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### **[NYC Preps Inaugural ‘Social’ Bonds as Part of \\$1.4 Billion Debt Sale.](#)**

- **Deal includes \$400 million of taxable debt for housing**
- **Investors bought \$50 billion in new muni ESG debt last year**

New York City plans to sell about \$1.4 billion of debt next month, in part to address its deepening housing crisis. The deal includes \$400 million of taxable debt that will be the city’s first-ever issuance of bonds explicitly earmarked to tackle social issues.

Proceeds from these social bonds are expected to finance more than 3,000 units of affordable housing, according to a press release Tuesday from Mayor Eric Adams’s office. The remaining \$950 million will be sold as tax-exempt debt, and will be used for general capital purposes.

The city, like many other issuers in the \$4 trillion municipal-bond market, hopes to seize on growing investor appetite for environmental, social and governance — or ESG — bonds. Investors snapped up \$50 billion in new-issue municipal ESG debt in 2021, up 79% from the previous year, the release said. Driven by sales of affordable housing bonds, the sector is already ahead of the pace last year, when it set a record.

“This groundbreaking sale of the city’s first social bonds will ensure we are tapping a rising source of investor demand to promote a stronger, more resilient city,” said Mayor Adams.

The proposed bond sale comes at a precarious time for the city as it grapples with the consequences of insufficient homebuilding. Between 2011 and 2020, New York City produced only 27 new housing units for every 1,000 residents, below the national average of 34. And the New York City Housing Authority currently faces a \$40 billion backlog in capital needs, according to Adams’s housing blueprint.

Proceeds from the social bonds will finance a slew of projects currently under development through programs run by a different agency, the New York City Department of Housing Preservation and Development. More than 80% of the money are for projects in the Extremely Low- and Low-Income Affordability program, which finances the construction of low-income multifamily rentals.

Additionally, about 70% of the units will be designated for residents earning below a certain income threshold: 60% or less than the median area income, which is about \$72,000 for a family of three, the release said. More than 900 of the units will be for individuals and families who formerly experienced homelessness.

The taxable portion of the deal is slated to price on Oct. 4, via negotiated sale led by Citigroup Inc. and Morgan Stanley as joint lead managers. The tax-exempt portion is led by Citi, and is expected to price the same day, according to roadshow documents.

Other cities have also made similar moves. In August, Chicago Chief Financial Officer Jennie Bennett said the city plans to sell its first ever ESG-labeled municipal bonds in the fall. The city will sell between \$100 million and \$150 million of debt, with proceeds slated for environmentally and socially beneficial projects as part of the Chicago Recovery Plan, a \$1.2 billion economic development initiative that uses federal aid alongside municipal borrowing.

While selling social bonds, or any ESG bonds, helps issuers tap a broader base of potential investors, the muni market still hasn't seen evidence of a pricing advantage for such debt, said Ruth Ducret, senior research analyst at Breckinridge Capital Advisors.

Still, "it's pretty low-hanging fruit to do it," she said.

## **Bloomberg CityLab**

By Nic Querolo and Marvis Gutierrez

September 21, 2022 at 11:04 AM PDT

— *With assistance by Mackenzie Hawkins*

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### **[S&P Second Party Opinion: City of New York's Social Financing Framework](#)**

The City of New York (the City) established the Department of Housing Preservation and Development (HPD) in 1978 to handle the development and maintenance of its affordable housing. HPD's mission is to promote the quality and affordability of the City's housing and the diversity and strength of its neighborhoods.

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### **[S&P Second Party Opinion: City of New York's \\$400 Million Taxable General Obligation Social Bonds](#)**

The City of New York (the City) established the Department of Housing Preservation and Development (HPD) in 1978 to handle the development and maintenance of its affordable housing. HPD's mission is to promote the quality and affordability of the City's housing and the diversity and strength of its neighborhoods.

[Download](#)

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## [Texas Pushes Back With Municipal Bonds.](#)

Political push-back comes in many forms. In a September 12, 2022 amendment to a municipal bond Official Statement for bonds issued by the City of Anna, Texas, they drew a giant line in the sand for the lefties. In bold caps just two paragraphs into the Official Statement Amendment was this paragraph (irrelevant boiler plate removed):

***Further state law compliance:*** *The city reserves the right to reject any bid or bidder...who is...on a list maintained by the Texas Comptroller or has received a letter or other inquiry from...the Texas Comptroller or the Texas Attorney General related to its inclusion on any list of financial companies boycotting energy companies or companies that have...a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association.*

As President George W. Bush said, “Don’t mess with Texas.” Politics has always played a part in issuing municipal bonds. This usually focuses around a new city hall, water and sewer system improvements, or school districts that want a new school. As the bond issue gains support, underwriters swarm to scrutinize the city’s numbers. Once the underwriter(s) is selected, a selling group forms—usually consisting of a dozen or more firms. For the Anna, Texas Certificates of Obligation, Robert W. Baird & Co. was the underwriter. The bulge bracket, left-leaning New York firms either didn’t bother applying or were summarily rejected if they did.

[Continue reading.](#)

### **Forbes**

by Marilyn Cohen

Sep 20, 2022

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## [UBS Loses Texas Muni Deal After It’s Named an Energy-Industry Boycotter.](#)

- Texas school district planned to work with UBS unit on bond
- State AG’s office told district it wouldn’t approve the sale

UBS Group AG’s municipal-underwriting subsidiary lost out on a Texas bond deal after the state comptroller included the parent company on a list of firms he deems “boycott” the fossil fuels industry.

Normangee Independent School District, about 140 miles (225 kilometers) south of Dallas, had accepted a bid by UBS Financial Services Inc. to underwrite a bond deal sold via auction Aug. 8, according to bond documents.

But two weeks later, state Comptroller Glenn Hegar, a Republican, included UBS Group on a list of 10 companies that his office considers boycott the energy business. There’s typically a weeks-long gap between when a muni deal prices and when it closes.

The district wound up reselling the bonds last week, hiring RBC Capital Markets as underwriter instead, at a time when yields were broadly higher than levels that prevailed for the first borrowing.

The school district took that step after the Texas attorney general's office said it wouldn't approve the sale that UBS had underwritten, Aaron Reitz, the state's deputy attorney general for legal strategy, said in an email.

The state comptroller published his list on Aug. 24. His probe was triggered by a GOP-backed state law that took effect in September 2021, and which limits Texas governments from entering into certain contracts with firms that have curbed ties with carbon-emitting energy companies.

### **Removal Request**

A UBS spokesperson said in an emailed statement that the bank has asked the comptroller to remove the company from the list.

"We recently met with the Texas Comptroller's Office to better understand the rationale for our inclusion on its list and reinforce the importance of the energy industry and Texas to our business with the aim that UBS be considered for removal from the list," the statement said.

Last month, a spokesperson for the firm said it was assessing the situation, and was looking into whether the parent company's inclusion on the list would preclude a subsidiary from contracts.

The outcome of this deal suggests UBS may face difficulty working in the Texas municipal-bond market, one of the nation's most lucrative, after the parent was named an energy boycotter.

The attorney general's office, led by Republican Kenneth Paxton, approves most bond sales in the state, making its approval of the school district's deal crucial.

Reitz said a representative from the district contacted the Texas attorney general's office to ask about the impact on the bond sale following UBS's inclusion on the list.

"We told Normangee that OAG agreed with the comptroller's analysis and conclusions set forth in the list and, as a result, could not approve the bonds with UBS as a purchaser," Reitz said. "Normangee then decided not to move forward with the UBS-backed bond sale."

### **Higher Yields**

The school district returned to the market on Sept. 15, selling \$18.4 million of bonds in a competitive auction won by RBC, according to data collected by Bloomberg.

The school faced a tougher market backdrop in September, suggesting it may have had to pay additional interest costs as a result of the delay. Benchmark 10-year munis yielded 2.8% on Sept. 15, compared with about 2.2% on Aug. 8, the date of the original bond sale.

Mark Ruffin, the district's superintendent, declined to comment.

The school district isn't the only Texas locality to see its financing decisions swayed by a GOP-backed state law. A Texas city saw its borrowing costs climb after it declined to award a bond deal this month to Citigroup Inc. even though the bank submitted the most competitive bid.

Citigroup has been contending with a separate GOP law limiting Texas governments' work with companies unless the firms verify that they don't "discriminate" against gun entities.

The municipality chose the second-best bid, which it said will cost it an estimated \$277,334 additionally over more than 25 years.

## **Bloomberg Markets**

By Amanda Albright and Danielle Moran

September 21, 2022

— *With assistance by Dan Wilchins*

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### **JPMorgan Wins Texas Muni Deal in Key Step After Year-Long Pause.**

JPMorgan Chase & Co. won a competitive auction for a municipal-bond deal sold by a Texas school district, marking a major step for the bank after it paused most public-finance work in the state because of a new Republican law targeting Wall Street's gun policies.

Frisco Independent School District, about 30 miles (48 kilometers) north of Dallas, awarded a roughly \$13 million bond issue to the bank on Tuesday, according to data compiled by Bloomberg.

JPMorgan hasn't underwritten any municipal obligations sold by the state or its schools, cities or counties since at least August 2021, although it has handled deals by entities that are unaffected by the gun law, such as a health system, the data show. Texas is one of the nation's most lucrative public-finance markets.

The biggest US bank published a letter last week stating its interest in underwriting municipal securities for the state and its myriad issuers, including cities, counties and school districts. The letter amounted to a formal assertion by the bank that it doesn't "boycott energy companies" or have "a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association."

The gun law took effect in September 2021 with the backing of state GOP lawmakers. It says Texas governments can't work with companies unless the firms verify that they don't "discriminate" against firearms entities. JPMorgan doesn't finance companies that make military-style weapons for civilians.

JPMorgan, the No. 2 underwriter in the \$4 trillion market for US municipal debt, has long argued that it can comply with the firearms law. Back when the measure went into effect, the bank said its business practices should permit it to certify compliance with the firearms law, but that the legal risk from the "ambiguous" law prevented it from bidding on most business with Texas public entities.

A spokesperson for the school district didn't immediately respond to a request for comment. A representative for the bank declined to comment.

## **Bloomberg Markets**

By Amanda Albright and Danielle Moran

September 20, 2022

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## **[S&P Charter School Brief: Texas](#)**

[View the Brief.](#)

22 Sep, 2022

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## **[Arizona Sports Park's Early Cash Crunch Squeezes Bondholders.](#)**

**Some projects that launched when muni junk debt surged during the pandemic's borrowing boom have struggled in a time of rising rates, slowing growth**

The pandemic was a few months old when a two-year-old nonprofit sold municipal bonds to build a \$280 million privately owned recreational sports complex on the edge of the Arizona desert.

Yield-starved mutual funds snapped up the tax-exempt debt. Bond payments were slated to come from parking and admission fees, a 670-seat sports bar and tournaments, festivals and after-school programs renting the park's stadium, fields and courts.

The 320-acre park opened in February in Mesa, Ariz.

After projecting first-year revenue of \$125 million, the park brought in \$15 million in its first six months and is relying on an emergency cash infusion to pay bondholders. Bond prices have slipped, relations with funds have soured and the Securities and Exchange Commission is asking questions.

[Continue reading.](#)

### **The Wall Street Journal**

By Heather Gillers

Sept. 15, 2022

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## **[S&P U.S. Local Governments Credit Brief: Illinois Counties And Municipalities Means And Medians](#)**

### **Overview**

Illinois counties and municipalities (or local governments [LGs]) have demonstrated stable or improved credit characteristics during the past year despite the effects of the pandemic because of the receipt of substantial pandemic relief aid, strong revenue patterns, and generally conservative budgeting, that enabled many Illinois LGs to outperform expected forecasts. S&P Global Ratings expects credit quality for Illinois LGs will remain stable in the near term. Credit pressures remain, though, with macroeconomic trends, particularly higher inflation and the risk of recession, presenting new challenges for Illinois LGs in the coming year. Continued increases in annual pension contributions to address large unfunded liabilities could create budget pressure leading to weaker credit quality for some.

S&P Global Ratings maintains ratings on 253 LGs in Illinois-22 counties and 231 municipalities. The credit trajectory was mostly positive over the past year with one county and four municipalities upgraded since November 2021, following a sustained period of improved reserves. Over the same period, we revised the outlook on one county and eleven municipalities to stable from negative and downgraded two municipalities (Granite City and Palos Hills), both due to structural imbalances due to poorly funded pension plans. Currently, 95% or 242 of our ratings on Illinois counties and municipalities have a stable outlook, while seven municipalities and one county carry negative outlooks, with two counties and one municipality having positive outlooks (see rating distribution table below).

[Continue reading.](#)

20 Sep, 2022

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## **[Delays in Obtaining Permits Leading to Property Foreclosure Not a Regulatory Taking - New Jersey](#)**

Federal Court Judge Cheryl Ann Kraus was ‘riding the Circuit’ and decided a regulatory takings case while sitting in the District Court, District of New Jersey captioned *James v. Vornlocker*. Full opinion here [2022-8-31 Vornlocker](#).

The case was decided on motions for summary judgment, and it appears that Plaintiff admitted most of the facts and failed to genuinely contest the remaining facts set forth in the motions.

In 2007, Plaintiff purchased two adjacent lots in Franklin Township intending to subdivide them into three residential building lots. “Although she had no direct experience with construction or home-building, she declined to hire a construction company or general contractor for the construction of her home. Instead, Plaintiff opted to serve as her own general contractor ... and had family members do “a lot of the work” to keep the cost of construction down.” Plaintiff’s plan was to live in the house while she obtained approvals and then construct the two additional houses and sell at a profit. “But for myriad reasons, Plaintiff’s plan to complete the construction herself quickly ran into trouble. For one, there were wetlands on her property, and she faced repeated delays, stop work orders, and violations arising out of her improper dumping and failure to comply with other wetlands-related requirements of the NJDEP.”

To make a long story short, Plaintiff was not adequately capitalized for the project and intended on borrowing money to finance the project. Serial and complex real estate transactions were effectuated over the years in a “strategy of robbing Peter to pay Paul” which “eventually caught up with Plaintiff, and she was unable to make payments on her various loans” and, in 2014, the lender foreclosed on the unimproved land, and in 2018 another lender foreclosed on her residence. Plaintiff lost the properties and sued the municipality and various officials, alleging that the delay in obtaining a Certificate of Occupancy was a “taking” and further that the delay itself was caused by unlawful discrimination by municipal officials.

The Court found that there was not a “per se” taking or a regulatory taking arising from the undisputed facts presented on the motion for summary judgment. The court further found that there was no unequal treatment or discrimination to be found within the alleged facts.

The Court quickly dispatched the takings claim simply because there was no ‘state action.’ (“Fatal to

her takings claim, however, Plaintiff does not establish any connection between the alleged “taking”- i.e., the foreclosures-and Defendants’ actions. The “purely private” foreclosure by third-party banks on Plaintiff’s property is not state action, much less government action for public use.”) Even so, the Court went on to analyze whether Plaintiff’s claim established a taking under the familiar (and complicated) Penn Central analysis, and found, “in fact, none of the Penn Central factors weigh in favor of Plaintiff.”

I will leave you to read the entirety of the opinion, but add the following as perhaps a cautionary reminder -

“In advancing her takings and due process claims, Plaintiff points only to the straightforward application of garden variety local and state land use regulations as violative of her Constitutional rights. The Court declines Plaintiff’s invitation to “convert[] federal courts into super zoning tribunals” and will therefore grant summary judgment to Defendants on Counts 1 and 4.”

**McKirdy, Riskin, Olson & DellaPelle, P.C.** - Anthony F. Della Pelle, Joseph W. Grather, Allan Zhang, Michael Realbuto, Thomas M. Olson, Matthew Erickson and John H. Buonocore, Jr.

September 19 2022

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## **[Citigroup Snubbed on Muni Deal Over Gun Law, Costing Texas City \\$277,334.](#)**

- **Bank had best bids on muni sales by city of Anna, Texas**
- **City said the decision followed discussions with state AG**

A Texas city declined to award a bond deal this week to Citigroup Inc. even though the bank submitted the most competitive bid, showing how Wall Street is still contending with a Republican-backed state law that punishes financial firms for taking on gun policies.

The bank was rejected after submitting the best bid among firms that sought to underwrite two bond sales totaling almost \$100 million this week by Anna, Texas. It’s unusual for a municipality to reject a bank’s winning bid on a municipal-bond deal.

Frances La Rue, a spokesperson for Anna, said in a statement that officials chose the second-lowest bid after discussions with the office of the state’s Republican attorney general and the municipality’s legal counsel and financial adviser. The attorney general’s office, which oversees most bond sales in Texas, said Friday that it is still reviewing Citigroup’s ability to comply with the state’s gun law.

The firearms measure was one of a pair of laws that took effect in September 2021, limiting Texas governments’ work with companies unless the firms verify that they don’t “discriminate” against gun entities or boycott the fossil fuels industry.

Citigroup initially suspended muni underwriting in the state for a few months after September 2021 as it worked to verify compliance. It resumed underwriting Texas muni deals in November and closed a deal as recently as last week.

In 2018, Citigroup announced policies that set restrictions on the firearms industry after the mass shooting at a high school in Parkland, Florida. Citigroup said it would prohibit retailers that are customers of the bank from offering bump stocks — devices that let semiautomatic rifles fire even more rapidly — or selling guns to people who haven’t passed a background check or are younger

than 21. The bank's policy does include caveats, including an exemption to the under-21 age restriction if a person has military training, for example.

### **Additional Cost**

Anna, a city of about 20,000 people roughly 50 miles (80 kilometers) northeast of Dallas, awarded the sale to Robert W. Baird & Co., which hasn't been affected by the new laws. It will cost the city an estimated \$277,334 additionally over more than 25 years to work with Baird instead of Citigroup, according to the city spokesperson.

The city's decision signals that Texas municipalities are still hesitant to work with banks affected by Texas Republicans' fight against Corporate America for wading into social issues.

Early this year, the National Shooting Sports Foundation, a national trade association, told Texas Attorney General Kenneth Paxton that Citigroup can't certify compliance with the Texas law. The bank has repeatedly said it doesn't see its policies as violating the law.

In an emailed statement Friday, Paxton said the office had received a complaint that Citigroup's policies would constitute discrimination against the firearm industry, violating the gun measure, known as SB 19.

"As a result, we engaged with representatives of Citi to discuss their policies," the statement said. "More recently, Citigroup and the City of Anna recently contacted my office and asked us if we were still reviewing Citi's eligibility to contract with Texas under SB 19. We confirmed that we were."

Mark Costiglio, a Citigroup spokesperson, said the bank has certified that it complies with both laws and continues to participate in numerous public-sector transactions in Texas.

"We do not believe the claims made by a third-party organization have any merit and we continue to support our clients in this important market," he said in a statement.

Citigroup offered a true interest cost of 4.215% on a roughly \$60 million portion of the offering, while Baird offered 4.24%, according to the Anna spokesperson.

"The City Council is confident in Robert W. Baird's ability to ensure the sale of the bonds will close in October with the lowest possible costs and ascertain the City's important public projects move forward efficiently," the city's statement said.

A Baird representative didn't respond to a request for comment.

A [paper](#) published earlier this year found that Texas municipal borrowers have been hit with as much as \$532 million of extra debt costs because of the two new laws, which have led some of the nation's biggest banks to pause muni underwriting there.

Citigroup has been underwriting deals in Texas for months, most recently pricing \$223 million of sustainability bonds for the Harris County Flood Control District last week. The bank is slated to underwrite almost \$1 billion of bonds for a state water board later this month.

The bank is the fifth-biggest underwriter of Texas municipal-bond deals in 2022, compared with 8th-biggest for all of 2021, according to data compiled by Bloomberg.

### **Bloomberg**

By Amanda Albright and Danielle Moran

September 16, 2022 at 9:53 AM PDT

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## **JPMorgan Takes Formal Step to Resume Muni Banking in Texas.**

JPMorgan Chase & Co. is ready to resume its public-finance business in Texas after being largely absent from that lucrative market for more than a year, following the enactment of two local laws that aim to punish banks for their firearms and energy policies.

The biggest US bank posted a letter on Wednesday with the Municipal Advisory Council of Texas, an industry association, which it also addressed to the public-finance division of the Texas attorney general's office. The letter stated the firm's interest in underwriting municipal securities for the state and its myriad issuers, including cities, counties and school districts.

The letter is a key step to participate in the Texas underwriting market, one of the nation's largest. It amounts to a formal assertion by the bank that it doesn't "boycott energy companies" nor does it have "a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association."

The Texas gun law, backed by local GOP lawmakers, says the state's governments can't work with companies unless they verify that they don't "discriminate" against firearms entities. JPMorgan doesn't finance companies that make military-style weapons for civilians.

JPMorgan, the No. 2 underwriter in the \$4 trillion market for US municipal debt, has long argued that it can comply with the firearms law, which took effect on Sept. 1, 2021. At the time, the bank said its business practices should permit it to certify compliance with the firearms law, but that the legal risk from the "ambiguous" law prevented it from bidding on most business with Texas public entities.

A spokesperson for JPMorgan declined to comment. The Texas attorney general's office didn't immediately respond to a request for comment.

In May, Foley & Lardner LLP, a law firm representing JPMorgan, sent a letter to officials with the attorney general's office stating it believes the bank can verify compliance with the two new laws, marking a key step for the bank to return. In Texas, the office signs off on almost all muni bond sales before they can close.

The latest step comes less than a month after JPMorgan avoided being listed among 10 companies named as energy boycotters by Texas Comptroller Glenn Hegar. With that cloud lifted, the bank intends to begin bidding on public contracts again, including municipal underwriting, according to a person familiar with the matter.

Hegar produced that list as mandated in a separate GOP-backed Texas law that took effect on Sept. 1, 2021, which limits the state or its local governments from entering into certain contracts with firms that boycott energy companies.

### **Bloomberg Markets**

By Danielle Moran and Amanda Albright

## **Fifth Circuit Condemns Texas Transmission ROFR Law on Constitutional Grounds: Bracewell**

On August 30, 2022, the Fifth Circuit issued an [opinion](#) condemning a far-reaching Texas law on electric transmission right-of-first-refusal (“ROFR”). The decision concerns a 2019 Texas law that restricted the ability to build, own, or operate new transmission lines to only those entities already owning transmission facilities in the same region of the state (for example, MISO or SPP). Prior to Texas adopting the law, NextEra sought to construct the Hartburg Sabine transmission project, a transmission project planned in Texas (but outside of ERCOT) pursuant to MISO’s Order No. 1000 process. MISO awarded NextEra the rights to construct the project as part of that competitive process, and those rights were subsequently “derailed” by the new Texas ROFR law.

The court’s action rested on Dormant Commerce Clause grounds. Siding with NextEra and the U.S. Department of Justice’s Antitrust Division, the court found that the lower court erred in dismissing NextEra’s dormant commerce clause arguments—according to the court, such arguments could withstand a challenge of failure to state a claim.

In the thorough decision, the court reviewed FERC’s efforts in Order No. 1000 to balance federal and state jurisdiction, discusses intrastate versus interstate utility facilities, and addresses Texas ROFR law’s discriminatory effect on those not doing business within Texas. The court reasons that because the “electricity grid is on its own an interstate market, state protectionist measures regulating its instrumentalities run a much greater risk of harming out-of-state interests—the ability of companies to compete, the prices consumers pay—than regulations on” other entities like retail wine stores, dairies, or waste processing facilities.

### **Dormant Commerce Clause and Other State ROFR Laws**

The lower court had dismissed the case for failure to state a claim and the Fifth Circuit decision reverses the lower court’s determinations, in part, and sends the case back for further litigation to determine whether Texas “has no other means to ‘advance[] a legitimate local purpose.’” The decision includes a discussion comparing the Texas ROFR to state transmission ROFRs in Nebraska, Oklahoma, North Dakota, Minnesota, and South Dakota. According to the Fifth Circuit, the Texas ROFR is far more restrictive than those found in other states.

In particular, the Fifth Circuit distinguishes between the Texas ROFR and the Minnesota ROFR law that was at issue in a previous Eighth Circuit decision in *LSP Transmission Holdings, LLC v. Sieben*, 954 F.3d 1018 (8th Cir. 2020). According to the Fifth Circuit, the Minnesota ROFR law upheld in *LSP Transmission* “does not go nearly as far as the Texas law in banning new entrants outright.” Specifically, the Fifth Circuit explains that the Texas ROFR provides no time limit on the incumbent transmission owner to exercise its rights. In contrast, the Minnesota ROFR law provides the incumbent provider 90 days to exercise its ROFR rights. In addition, the Texas ROFR law requires competing developers to own existing certificated facilities in the relevant market to the proposed transmission project, something that is not present in the Minnesota ROFR law.

The relevant statute, Tex. Util. Code § 37.-56(e), provides:

A certificate to build, own, or operate a new transmission facility that directly interconnects with an

existing electric utility facility or municipally owned utility facility may be granted only to the owner of that existing facility. If a new transmission facility will directly interconnect with facilities owned by different electric utilities or municipally owned utilities, each entity shall be certificated to build, own, or operate the new facility in separate and discrete equal parts unless they agree otherwise.

### **Recent, Related FERC Action on ROFRs**

The Fifth Circuit's decision comes at a time when FERC has been considering making significant changes to its treatment of ROFRs. In its April 21, 2022 Notice of Proposed Rulemaking on transmission planning ("Transmission NOPR") in Docket No. RM21-17-000,1 FERC appears to concede that its earlier elimination of the federal ROFR in Order No. 1000 may have been counterproductive and served to reduce investment occurring through the regional planning process. As a result, the Transmission NOPR proposes to allow incumbent transmission providers to retain a federal ROFR conditioned on a demonstration that the incumbent has established a qualifying joint ownership arrangement with an unaffiliated non-incumbent transmission developer or other unaffiliated entity. The deadline for initial comments in the Transmission NOPR proceeding was August 17, 2022. The ROFR proposal in particular attracted significant attention from commenters, including many supporting the proposal and many opposing the proposal. Among opponents included the U.S. Department of Justice and Federal Trade Commission (the "Agencies"). The Agencies submitted joint comments and expressed concern about the proposed reinstatement of a federal ROFR: "By its nature, a ROFR, conditional or otherwise, limits who can build transmission projects and is thus a regulatory barrier to entry. Although at this time competition may not be feasible in transmission planning due to the unique characteristics of the industry, recent experience in some RTOs underscores that competition in the design and construction of specific projects can work and benefits customers." Agencies Comments at p. 11(Aug. 17, 2022). Reply comments in the proceeding are due on or before September 19, 2022.

**Bracewell LLP** - Catherine P. McCarthy, Rachael Novier Marsh, Tyler S. Johnson and Boris Shkuta

September 6 2022

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### **[First Circuit Holds that Fifth Amendment Takings Claims Must be Paid in Full: Dechert](#)**

**The U.S. Court of Appeals for the First Circuit recently ruled in the Puerto Rico bankruptcy case that Fifth Amendment takings claims cannot be discharged or impaired by a bankruptcy plan. As a matter of first impression in that circuit, the Court disagreed with the Ninth Circuit and held that former property owners affected by prepetition takings must be paid in full.**

*In re Fin. Oversight & Mgmt. Bd., 41 F.4th 29 (1st Cir. 2022)*

The Puerto Rico restructuring is one of the largest and longest-running public bankruptcy cases. After nearly five years of litigation, the Financial Oversight and Management Board of Puerto Rico (the "**Board**") secured the confirmation of a plan of adjustment (the "**Plan**") for the Commonwealth of Puerto Rico (the "**Commonwealth**") under Title III of the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA).

In confirming the Plan, however, the District Court for the District of Puerto Rico ruled against the

Board in holding that prepetition claims arising under the Takings Clause of the United States Constitution cannot be impaired or discharged. The Board appealed that ruling. On July 18, 2022, as a matter of first impression, the First Circuit affirmed.

## **Background**

Former property owners filed proofs of claim in Puerto Rico's bankruptcy cases seeking just compensation for prepetition takings of their private property (the "**Takings Claimants**"). Some of those claims arose from proceedings under the Commonwealth's "quick take" eminent domain statute, which allows the Commonwealth to acquire private property by depositing the estimated compensation amount in a Puerto Rican local court and permits the former property owner to sue for additional compensation. Other claims arose from the Commonwealth's takings made without a deposit.

In its plan, the Board proposed to treat Takings Claims as general unsecured claims. Claims for which the Commonwealth had made a prepetition deposit would be considered secured up to the amount of the deposit and entitled to full recovery of that amount. Any difference between the deposited amount and the yet-to-be-determined just compensation would be considered unsecured.

The Takings Claimants objected to that construct, and the District Court held that their treatment in the Plan violated the Takings Clause. The Court ruled that the Takings Clause creates an "irreducible entitlement to just compensation," and thus the impairment of prepetition takings claims was impermissible.

The Board amended the Plan to comply with the District Court's ruling, while preserving its right to appeal the confirmation order on the grounds that prepetition takings claims may be impaired and discharged.

The First Circuit denied the Board's appeal, holding that just compensation guaranteed by the Takings Clause may not be adjusted by a bankruptcy plan.

The Court noted that the Takings Clause itself establishes the quantum of compensation that must be provided in the event of a taking. It referenced Supreme Court cases holding that "just compensation" means the "the full monetary equivalent of the property taken" to "put [the owner] in the same position monetarily as he would have occupied if his property had not been taken." The Court held that this constitutional guarantee of "the full monetary equivalent" cannot be altered in bankruptcy.

The First Circuit rejected the Board's argument that takings claims may be impaired because the ability of a debtor in bankruptcy to restructure its debts itself has a constitutional basis, flowing from the Bankruptcy Clause of the Constitution. The Court explained that most laws are passed by Congress pursuant to some constitutional authority, but this does not authorize acts of congress to trump other constitutional provisions. The Court held that "[t]he bankruptcy laws are subordinate to the Takings Clause," and the express constitutional authority to enact uniform laws on the subject of bankruptcies cannot overcome the requirements of the Fifth Amendment.

The Court also rejected the Board's arguments that payment of just compensation is a mere monetary remedy for a constitutional violation, similar to any other monetary award given as compensation for constitutional violations and, thus, subject to adjustment. Unlike with other constitutional violations for which compensation may be an appropriate remedy, "in the case of the Takings Clause, the Constitution clearly spells out both a monetary remedy and even the necessary quantum of compensation due. Accordingly, the denial of adequate (read: just) compensation for a

taking is itself constitutionally prohibited.”

Accordingly, the First Circuit declined to follow the majority opinion in *In re City of Stockton*, 909 F.3d 1256 (9th Cir. 2018), where the Ninth Circuit held that takings claims are not different to other claims arising from constitutional violations that are routinely adjusted in bankruptcy proceedings. The First Circuit found Judge Friendad’s dissent in *City of Stockton* more persuasive. Judge Friendad concluded that the Takings Clause afforded just compensation special protection, such that “claims for just compensation should be excepted from discharge, so that they survive any bankruptcy intact.”

The First Circuit also rejected the Board’s arguments that takings claims may be modified by operation of law in other ways, as when they are judged to be time-barred or are waived or settled, all without violating the Fifth Amendment. The Court clarified that the enforcement of a statute of limitations and the settlement or waiver of claims are litigation decisions under the control of the takings claims holder. The same cannot be said for bankruptcy impairment or discharge. In addition, the Court explained that the Board was conflating what makes the denial of just compensation substantively unlawful with what may make a claim unavailable for procedural reasons.

The Court also refused to accept the Board thesis that a payment-in-full rule would pose significant challenges for future municipal bankruptcies. The Court reasoned, to the contrary, that allowing the impairment or discharge of takings claims, would create a perverse incentive for municipalities or the government to take private property and then restructure the related claims.

### **What’s Next?**

The First Circuit may not have had the last word. Given the split between the First and Ninth Circuits’ decisions, the Board recently announced its intention to file a petition for writ of certiorari to the United States Supreme Court.

**Dechert LLP** - Shmuel Vasser, David A. Herman and Isaac D. Stevens

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## **[S&P U.S. Local Governments Credit Brief: California Counties And Municipalities Means And Medians](#)**

### **Overview**

California counties and municipalities (or local governments [LGs]) have maintained or improved credit quality during the past year through a combination of conservative budgeting practices, better-than-expected local revenue performance, and the receipt of stimulus funds to aid recovery from the COVID-19 pandemic. However, macroeconomic conditions—including high inflation and the rising risk of recession—are headwinds for rated issuers, and S&P Global Ratings is focused on labor negotiations as employees face the prospect of negative wage growth in real terms absent larger-than-typical compensation increases. We expect growing tax bases and very strong budgetary flexibility stemming from recent positive operating results to partly mitigate these challenges.

S&P Global Ratings maintains ratings on 259 LGs within the state. Overall, LG credit quality remained stable, with 5% experiencing rating actions since October 2021. During this period, we took seven positive rating actions and revised six outlooks to positive on general obligation or general-fund-secured bonds with no negative rating actions. In addition, almost 99% of the ratings have a stable outlook. We have negative outlooks on our ratings for one county (Madera County) and

two municipalities (Anaheim and Torrance), and a positive outlook on the ratings for one municipality (Vallejo). Although we revised the outlook to negative on 3% of our ratings on California LGs in 2021, we revised most of those outlooks to stable in 2022 based on the LGs' resilience through the pandemic and the credit pressures that we anticipated at the outset either not materializing or being mitigated by the receipt and use of stimulus funds.

[Continue reading.](#)

7 Sep, 2022

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## **[Recently Enacted Laws Provide Financial Assistance to Municipalities in Maine: Bernstein Shur](#)**

### **What You Need to Know**

There have been two recent updates to Maine state law that provide financial assistance to municipalities engaged in specific activities related to adult-use marijuana and affordable housing.

#### ***Adult-Use Marijuana***

The Maine State Legislature recently enacted a law that added a provision to the Adult Use Marijuana Public Health and Safety Fund (the fund). This new provision allows money credited to the fund to be used to reimburse municipalities for qualifying expenses incurred as a result of opting into the Adult Use Cannabis Program. This means that municipalities that permit the operation of some or all adult-use marijuana establishments are eligible for up to \$20,000 in reimbursement.

For an expense to qualify for reimbursement, it must meet two requirements:

1. The expense must have been incurred within three years of the date that the municipality voted to opt into the Adult-Use Cannabis Program.
2. The expense must be associated directly with the municipality's process of opting into the Adult-Use Cannabis Program.

In the new provision, a "qualifying expense" is defined as: "legal fees and costs associated with the drafting and adoption of a warrant article or the adoption or amendment of an ordinance, including the conduct of a town meeting or election, by a municipality that opted to permit the operation of some or all adult-use cannabis establishments within the municipality.

In order for the Office of Cannabis Policy to make a determination that the expenses qualify for reimbursement, municipalities will need to provide thorough records of the expenses incurred. The Office of Cannabis Policy has recently launched a portal for municipalities to request reimbursement, which will be processed on a first-come, first-served basis.

#### ***Affordable Housing***

The recently enacted affordable housing law— often referred to as L.D. 2003—provides financial assistance to municipalities to support municipal ordinance development, technical assistance, public input, community engagement, and regional coordination between municipalities.

The process to allocate these funds will involve a competitive grant application, which has not yet

been released by the Maine Department of Economic and Community Development (“DECD”). Based on the most recent publication from DECD, the rulemaking process will begin in Fall 2022.

### **Next Steps**

Municipalities should consider taking the following steps to take advantage of these recent updates in Maine state law:

- Create a profile in the Office of Cannabis Policy portal. As noted above, requests will be processed on a first-come, first-served basis.
- Prepare a list of your municipality’s qualifying expenses under both programs.
- Continue to watch for the release of the housing opportunity fund application.

We will update municipalities as we learn more about both of these opportunities for financial assistance.

**Bernstein Shur** – Amanda Methot, Philip R. Saucier and Shoshana Cook Mueller

September 7 2022

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### **[Morgan Stanley’s Haskell Steps Down as Head of Muni Business.](#)**

- **Bank is the fourth largest municipal bond underwriter**
- **Haskell had overseen US state and local debt business**

Morgan Stanley’s Patrick Haskell has stepped down from his role leading the municipal securities business at the bank, according to a memo seen by Bloomberg.

Haskell oversaw the US state and local debt business at the New York-based bank, which is one of the biggest underwriters in the market. Jared Mesznik will assume Haskell’s responsibilities, according to a person familiar with the matter.

Morgan Stanley is the fourth-biggest municipal underwriter in the US this year, according to data compiled by Bloomberg.

“Since 2013, Pat has led the Municipal Securities Business and built a top franchise while managing through structural shifts in the municipals market,” the Aug. 26 memo said. “Key to his success was effectively bringing together the new issue, trading and lending businesses while building out structured solutions to better align with our clients’ evolving needs.”

A spokesperson for the bank declined to comment. Haskell, who joined Morgan Stanley in 2009, declined to comment.

### **Bloomberg Markets**

By Amanda Albright

August 30, 2022

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## **California Law Lets Cities Eject People Who Disrupt Public Meetings.**

**As city-council and school-board events across the country grow rowdier, the Golden State has new rules for dealing with the most aggressive offenders.**

The heckling, threats and insults had gone on for months, but it was at a town meeting last fall that a personal nightmare finally became a public scandal for Marico Sayoc. As the first Filipina mayor of the small Silicon Valley city of Los Gatos, California, Sayoc had been targeted throughout her term for her race, gender and policies by a small group of locals who disagreed with her.

The group of protesters, some of whom allegedly had affiliations with white supremacist groups, had showed up to her house, promised to hurt her, and accused her of being a Marxist. Her son, a high schooler, had also become politically active during the pandemic, raising awareness about George Floyd's killing by police, anti-Asian hate and gay rights. This made him a target, too. In October 2021, protesters showed up to the Los Gatos town council meeting to complain about mask mandates and progressivism run amok — and to spread “lies” about her son, Sayoc said.

“No elected official should ever have to worry that their children’s personal, private lives will be brought into a town meeting,” she said. According to first-hand accounts and a video of the meeting, Sayoc — audibly shaken — called for a recess. The public was removed, the Zoom feed was cut, and her husband and the protesters got in a heated argument outside. The meeting restarted nearly an hour later.

[Continue reading.](#)

### **Bloomberg CityLab**

By Sarah Holder

September 1, 2022

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## **Jersey City Short Term Rental Regulation Not a Regulatory Taking.**

A week ago, the U.S. Third Circuit Court of Appeals decided that Jersey City’s regulations limiting the ability to use private property for short-term rentals was not a taking. [2022-8-16 Nekrilov v Jersey City Third Circuit](#). Our associate Michael Realbuto detailed the lower court’s decision - here - so I’ll get right to why the Third Circuit’s affirmed and reasoned there was no taking. Quite unlike my last post about the Texas Appellate Court affirming a regulatory taking’s [case](#). (“Because we conclude the evidence supports the trial court’s findings and conclusions on the *Lucas* theory, we do not discuss the *Penn Central* theory”), the *Nekrilov* case is all about *Penn Central*’s heightened (and ever-shifting) standard of proving that an owner’s ‘investment-backed expectations’ were so frustrated as to render its property valueless.

In short, the owners purchased investment property intended to be used for short-term rentals after Jersey City passed an ordinance that broadly permitted said use (circa 2015) but prior to a subsequent municipal ordinance substantially curtailing that use (circa 2019). The owners alleged that the subsequent ordinance effected a regulatory taking of its property and was politically motivated because the Mayor was retaliating against AirBNB for failure to support his re-election

campaign.

The Court of Appeals credited the owners' property investments as alleged in the complaint (which it must as the appeal was from dismissal on the pleadings):

"Between the passage of Ordinance 15.137 and Ordinance 19-077, the plaintiffs invested in properties in Jersey City to conduct short-term rental businesses. The Nekrilovs purchased two properties, which have monthly mortgage payments of \$2,500 and \$1,725. The Nekrilovs earned \$9,500 and \$5,183 per month, respectively, in short-term rental revenue, and allege that they would earn only \$3,800 and \$1,800 per month in long-term rental revenue. They also invested a total of \$100,000 in renovating these properties. The Nekrilovs also entered into seventeen long-term leases with the intention of subleasing on a short-term basis. Tang and Jen purchased one property, which has a monthly mortgage payment of \$3,300, and which Tang and Jen spent \$40,000 to renovate and furnish. The property earned \$4,500 per month in short-term rental revenue and would earn \$2,600 in long-term rental revenue. Tang and Jen also entered into two long-term leases and spent \$6,600 and \$8,900 to furnish the properties. Suen purchased two properties, which have monthly mortgage payments of \$2,500 and \$3,500. Suen and his mother invested approximately \$383,000 into renovating the properties, \$40,000 into furnishing the properties, and \$130,000 in other costs for the properties. Suen and his mother earned approximately \$30,000 in monthly short-term rental revenues from the two properties." [Slip op. at 6-7].

While the Circuit Court rejected the owner's argument that their "forward-looking right to pursue their short-term rental businesses" was a cognizable property interest protected by the Fifth Amendment, it did recognize that the owner's use and enjoyment of its property and right to lease (either short or long term) were property rights protected by the Fifth Amendment. In that regard, "plaintiffs first allege that, as a result of Ordinance 19-077, they have lost all beneficial use of their purchased properties. The District Court held that because the properties retain numerous beneficial uses, they have not been rendered economically idle. We agree. The plaintiffs can lease the properties on a long-term basis, live at the properties, or sell the properties." Thus, no total taking was found to have occurred, and the takings' claim would thus rise or fall under *Penn Central*. "One whose property has not been deprived of all economically beneficial use may still be entitled to compensation if the government action constitutes a partial taking under the *Penn Central* factors."

And even then, "the Supreme Court "has required compensation only in cases in which the value of the property was reduced drastically. The plaintiffs have undeniably lost potential future profits as a result of Jersey City's change in policy. But the plaintiffs' inability to continue to operate their short-term rental businesses profitably does not equate to a "drastic[]" reduction in the value of the property so as to require compensation, especially as the properties retain multiple economically beneficial uses." Slip op. at 20. The property owners admitted that the long-term leases were paying "market" rent. The Third Circuit harkened back to the original regulatory takings case - "Government hardly could go on if to some extent values incident to property could not be diminished without paying for every such change in the general law." *Penn. Coal Co. v. Mahon*, 260 U.S. 393, 413 (1922).

In the end "the plaintiffs may have relied on Ordinance 15.137 in deciding to invest in short-term rentals in Jersey City, but they failed to take into account the restrictions in place in the original ordinance and the City's strong interest in regulating residential housing. On balance, this factor weighs against the plaintiffs."

I'm not sure anything in the majority opinion will get the Supreme Court's attention.

But, Circuit Court Judge Bibas' concurring opinion might - I'll let you read the opinion - but here's a teaser: "regulatory-takings doctrine is a mess." (Bibas, Circuit Judge, concurring).

**McKirdy, Riskin, Olson & DellaPelle, P.C.** - Anthony F. Della Pelle, Joseph Grather, Allan Zhang, Michael Realbuto, Thomas Olson, Matthew Erickson and John H. Buonocore, Jr.

August 25 2022

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## **[Texas Bans Local, State Government Entities from Doing Business with Firms that 'Boycott' Fossil Fuels.](#)**

**Texas Comptroller Glenn Hegar singled out financial firms under a 2021 state law that prohibits most state entities from contracting with companies that have reduced or cut investments in the oil and gas industry.**

Texas banned 10 financial firms from doing business with the state after Comptroller Glenn Hegar said Wednesday that they did not support the oil and gas industry.

Hegar, a Republican running for reelection in November, banned BlackRock Inc., and other banks and investment firms — as well as some investment funds within large banks such as Goldman Sachs and JP Morgan — from entering into most contracts with state and local entities after Hegar's office said the firms "boycott" the fossil fuel sector.

Hegar sent inquiries to hundreds of financial companies earlier this year requesting information about whether they were avoiding investments in the oil and gas industry in favor of renewable energy companies. The survey was a result of a new Texas law that went into effect in September and prohibits most state agencies, as well as local governments, from contracting with firms that have cut ties with carbon-emitting energy companies.

[Continue reading.](#)

### **The Texas Tribune**

By Mitchell Ferman

Aug 25, 2022

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## **[UBS Left Off Texas Muni Deal After It's Named Energy Boycotter.](#)**

UBS has been dropped from the underwriting ranks of a municipal-bond deal that Laredo, Texas, plans to sell next week after state Comptroller Glenn Hegar included the bank on a list of firms he deems "boycott" the fossil-fuel industry.

The decision to remove the Zurich-based bank from the underwriting syndicate for the roughly \$119 million revenue-debt transaction came after Hegar released the list on Wednesday, according to Noé Hinojosa, Jr., the chairman and president of Estrada Hinojosa, the financial adviser on the deal. Wells Fargo & Co. took UBS's spot, he said.

There was “concern” over whether the transaction would close if UBS remained on it, according to Hinojosa. In Texas, the attorney general’s office must approve most municipal-bond deals before they can close, and the inclusion of UBS on Hegar’s list may have hindered that clearance.

The comptroller sent inquiries to more than 150 companies in March and April, requesting information on whether they were shunning the oil and gas industry in favor of sustainable investing and financing goals.

UBS was the only US muni underwriter included on the final list of 10 companies, which the comptroller published in accordance with a law that took effect in the state about a year ago. The measure limits Texas governments from entering into certain contracts with firms that have curbed ties with carbon-emitting energy companies.

“We firmly disagree with the comptroller’s decision to include UBS on this list, which is not substantive and will be harmful to Texas issuers and their constituents,” a UBS spokesperson said in an email Friday. “We are assessing the announcement, but the fact that our parent entity has been listed does not necessarily preclude a subsidiary from being a contracting party.”

UBS is the 18th-largest manager of Texas municipal-bond deals this year, credited with \$477.2 million of transactions, or about 1.4% of the market, according to data compiled by Bloomberg. In the nationwide muni market, the firm ranks 16th.

## **Bloomberg Markets**

By Danielle Moran

August 26, 2022

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### **[JPMorgan Eyes Return to Texas Munis After Escaping GOP’s ESG Ire.](#)**

- **Cloud lifts after firm not included on energy-boycotter list**
- **First step would be to file a standing letter with Texas AG**

JPMorgan Chase & Co., which has mostly been absent from the business of underwriting Texas municipal bonds for the past year, plans to revive its work with the state and its local governments soon.

The firm, the No. 2 underwriter in the \$4 trillion market for US municipal debt, joined a small group of major banks in stepping back from Texas after two new GOP-backed laws there took effect there on Sept. 1, 2021. The measures target Wall Street for what local officials said were restrictive policies related to the firearms and energy industries.

Wednesday, however, brought a key development that opens the door for JPMorgan to ramp up its muni business in Texas, one of the three most lucrative US public-finance markets. In a nutshell: Texas Comptroller Glenn Hegar, wrapping up a months-long inquiry mandated by the new law, didn’t include the bank among the 10 finance firms he deems boycott the oil and gas industry.

It stands to be a big win for the New York-based bank, which was the largest muni underwriter on the list of more than 150 firms that were caught up in Hegar’s probe.

With that cloud lifted, JPMorgan intends to begin bidding on public contracts again, including

municipal underwriting, according to a person familiar with the matter. To begin underwriting muni deals in Texas, the bank first has to file a letter verifying its compliance with the firearms and energy laws with the Texas attorney general's office, the person said. The exact timing of that filing is to be determined.

The bank would likely resume underwriting for Texas and its localities by bidding on what's known as competitive bond deals, where banks buy the debt via an auction, according to the person.

## **No Cuts**

JPMorgan didn't cut any public-finance jobs in Texas after the laws went into effect, and bankers kept sending financing pitches to municipalities there to maintain relationships with clients, the person said.

The bank's return is also potentially a boon for Texas municipalities, which haven't been able to work with some of the biggest banks — with the broadest network of investor contacts — on their bond deals.

The absence of large banks from the Texas underwriting market because of the two new laws has resulted in "large adverse effects for borrowers," according to a study by a University of Pennsylvania professor and an economist at the Federal Reserve.

Bank of America Corp., the No. 1 US muni underwriter, and Goldman Sachs Group Inc., ranked sixth, haven't handled any deals by Texas or its cities since September 2021.

The Texas gun law says its governments can't work with companies unless they verify that they don't "discriminate" against firearms entities. JPMorgan doesn't finance companies that make military-style weapons for civilians.

Citigroup Inc. also suspended muni-bond work after the law took effect in 2021, but it was able to revive its underwriting work in November. The bank continues to underwrite bond deals and is the seventh-biggest underwriter of Texas muni deals this year, after ranking first in 2020, data compiled by Bloomberg show.

## **JPMorgan Takes First Step to Revive Texas Muni-Bond Business**

JPMorgan has long argued that it can comply with the firearms law. In September 2021, JPMorgan said its business practices should permit it to certify compliance with the firearms law. But it said the legal risk from the "ambiguous" law prevented it from bidding on most business with Texas public entities.

In May, Foley & Lardner LLP, a law firm representing JPMorgan, sent a letter to officials with the Texas attorney general's office stating it believes the bank can verify compliance with the laws, marking a key step for the bank to return.

"JPMC's risk-based framework does not discriminate against or prevent JPMC from doing business with any firearm entity or firearm trade association 'based solely on its status as a firearm entity or firearm trade association' without a traditional business purpose," the letter said.

## **Bloomberg Markets**

By Amanda Albright and Danielle Moran

August 26, 2022

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## **[BlackRock, UBS Among Firms Named Energy-Industry Boycotters by Texas.](#)**

- **State comptroller names 10 companies after months-long inquiry**
- **Others include BNP Paribas, Credit Suisse and Danske Bank**

Texas is taking steps that could cost BlackRock Inc., UBS Group AG and eight other finance firms business with the state after finding them to be hostile to the energy industry.

Glenn Hegar, the Republican state comptroller, on Wednesday named the firms he considers to “boycott” the fossil fuel sector. The move ends roughly six months of suspense that led Texas municipal-bond issuers to avoid banks whose status was unclear amid the office’s probe into companies’ energy policies. Governmental entities should use the list as a “filtration system” when entering contracts, Hegar said in an interview.

The comptroller sent inquiries to more than 150 companies in March and April, requesting information on whether they were shunning the oil and gas industry in favor of sustainable investing and financing goals. The survey was triggered by a GOP-backed state law that took effect on Sept. 1, 2021, and which limits Texas governments from entering into certain contracts with firms that have curbed ties with carbon-emitting energy companies. Texas is the nation’s top producer of crude and natural gas.

[Continue reading.](#)

### **Bloomberg Mqrkets**

By Amanda Albright, Shelly Hagan, and Danielle Moran

August 24, 2022

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## **[Pennsylvania Commonwealth Court Issues Decision in Ursinus College v. Prevailing Wage Appeals Board: Saul Ewing](#)**

On August 4th, the Pennsylvania Commonwealth Court (the “Court”) issued its decision in *Ursinus College v. Prevailing Wage Appeals Board*. The Court reversed a decision by the Prevailing Wage Appeals Board (the “Board”) in which the Board found that a construction project financed with tax-exempt bonds issued by a municipal authority for the benefit of Ursinus College (the “College”) was a “public work” subject to the Pennsylvania Prevailing Wage Act (the “Act”) and ordered the College to retroactively pay the applicable prevailing wage rate to the project workers.

### **What You Need to Know:**

- The Court held that a private project funded via conduit financing was not public work under the Act when the economic reality of the transaction showed it was a private business deal.
- The Act will not apply to a project so long as no government entity either owns the project, bears any risk in the transaction, or actually holds the funds at any point.

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In 2016, the College, a Pennsylvania private, non-profit college entered into an agreement with a municipal authority (the “Authority”) for the financing of part of a construction project for the College. Under the terms of the transaction, the Authority issued the bonds and lent the proceeds to the College, but never held or disbursed the funds. Instead, a trustee was appointed to hold and disburse the funds to the College, collect the College’s repayments, and then pay the bondholders directly. The Authority had assigned to the trustee all of its rights, title, and interest in its loan agreement with the College and bore no risk or obligations for the repayment of the bonds.

Shortly after the Pennsylvania Bureau of Labor Law Compliance determined that the project was not public work, the International Brotherhood of Electrical Workers, Local No. 98 (“IBEW”) brought a grievance under the Act. IBEW argued that the project was public work, and therefore the workers on the project should have received prevailing wage. As previously summarized by the Pennsylvania Supreme Court, a project is public work under the Act if it meets four elements: “(1) *there must be certain work*; (2) *such work must be under contract*; (3) *such work must be paid for in whole or in part with public funds*; and (4) *the estimated total cost of the project must exceed \$25,000.*” This case hinged on the third element, whether the College project had been paid in whole or in part with public funds.

The Board found that the project was public work under the Act, because the College “*would not have had this funding stream available **but for** the existence of the Authority and its coordination of the funding through its statutory powers as a public body*” (emphasis added). The Board retroactively awarded prevailing wage to the workers of the College’s project.

On appeal, the Court reversed the Board’s decision and held that courts must look at the economic reality of the transaction when determining if a project is paid in whole or in part with public funds. In order to make such assessment, courts will look at the risk allocation among the participants to the conduit financing deal. On one hand, a project is not paid in whole or in part with public funds when no public entity bears any risk in the transaction. On the other hand, a project is funded with public funds if the government entity has any ownership interest in the project, if it has any repayment obligation or bears any risk under the bonds, or if it actually holds the funds at some point in the transaction.

The parties can still apply for reargument with the Court or file a petition for allocatur with the Pennsylvania Supreme Court, and we will update this alert if any new development arises.

August 23, 2022

by Louis Couture, George Magnatta, Joshua Pasker

**Saul Ewing Arnstein & Lehr LLP**

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## **[Florida Becomes Latest State to Propose Anti-ESG Legislation: Saul Ewing](#)**

On July 27, 2022, Florida Governor Ron DeSantis announced legislative proposals and initiatives that would prevent State Board of Administration (SBA) fund managers from considering environmental social and governance (ESG) factors when investing the state’s money. Instead, the proposed legislation would require SBA fund managers to only consider maximizing the return on investment for Florida’s retirees. The proposed legislation would also amend Florida’s Deceptive and Unfair

Trade Practices statute to prohibit discriminatory practices by large financial institutions based on ESG social credit score metrics, with violations considered to be deceptive and unfair trade practices punishable by law. The announcement indicated that the legislation would be proposed in the 2023 Legislative Session.

### **What You Need to Know**

- Florida's Governor announced proposed legislation that would prevent state fund managers from considering ESG factors when investing state money, and prohibit discriminatory practices by financial institutions based on ESG social credit score metrics.
- Florida joins a growing list of mostly conservative states that have proposed or enacted anti-ESG legislation aimed at the ESG policies of financial institutions.
- Anti-ESG legislation at the state level may impact municipal bond markets and increase borrowing costs if they require or otherwise induce certain financial institutions to withdraw from those markets.

Gov. DeSantis stated that the proposed legislation and initiatives will "protect[] Floridians from woke capital" in response to "the corporate elite us[ing] their economic power to impose policies on the country that they could not achieve at the ballot box." Specifically, the proposed legislation will:

- Prohibit financial institutions from discriminating against customers for their religious, political, or social beliefs;
- Prohibit SBA fund managers from considering ESG factors when investing the state's money; and
- Require SBA fund managers to only consider maximizing the return on investment on behalf of Florida's retirees.

### **Florida Joins Growing List of States Proposing Anti-ESG Legislation**

Florida joins a list of states that have proposed or enacted anti-ESG legislation, but is one of the largest states to propose such legislation, with considerable assets that would be impacted. Indeed, more than a dozen states have proposed or enacted legislation aimed at financial institutions which utilize ESG policies that would appear to threaten their livelihoods or run contrary to prevailing political values in the state. Most of those states are conservative, such as Texas, Oklahoma and Kentucky, but "purple" states such as Ohio and Arizona have also enacted anti-ESG measures.

For example, in 2021, Texas passed a law that bans its municipalities from doing business with banks that have ESG policies against fossil fuels and firearms, as a means of protecting Texas' reliance on those industries. As a result, Texas cities can no longer use banks with such ESG policies as underwriters for municipal bonds (although there are exceptions).

### **Unintended Consequences of Anti-ESG Legislation**

After Texas passed the law, five of the largest underwriters exited the municipal bond market: JPMorgan Chase, Goldman Sachs, Citigroup, Bank of America, and Fidelity. Those five institutions used to underwrite 35 percent of the debt in the market. The gap that they left in the market, the decreased competition as a result of their departure, and the loss of historic relationships between various municipalities with those institutions has increased borrowing costs. Indeed, a recent study conducted by Wharton analyzed data from the first eight months of the Texas law and estimated that Texas cities will pay an additional \$303 million to \$532 million in interest on \$32 billion in bonds.

As states (especially conservative ones) continue to consider and propose anti-ESG legislation, financial institutions may be forced to decide whether to withdraw from those markets as well, or

otherwise evaluate their level and manner of participation. Should that happen, there may be similar increases in borrowing costs as seen in Texas due to decreased competition in the market and loss of historic relationships with lending partners.

by Sean T. O'Neill

August 22, 2022

**Saul Ewing Arnstein & Lehr LLP**

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## **[Guide to Public Funding for Broadband Projects in Ohio: Squire Patton Boggs](#)**

Over the last three decades, accessible and affordable high-speed internet (often called “broadband”) has increased in importance for the health, safety and economic wellbeing of communities. Municipalities that are interested in expanding broadband to their communities have several options in both how to build out broadband networks and how to finance such expansion. This paper explains the basics of broadband connectivity and outlines two methods of broadband expansion: (1) municipal owned network and (2) public-private partnerships.<sup>1</sup>

### **Basics of Broadband**

Broadband is a general term that refers to high-speed internet access. The Federal Communications Commission (FCC) sets the speeds that qualify as adequate broadband. Since 2015, that speed has been 25 megabits per second (Mbps) download and 3 Mbps upload often referenced as “25/3 Mbps.”<sup>2</sup> As of 2022, 488,327 households in Ohio lack access to 10/1 Mbps broadband, which is currently considered the “bare minimum of connectivity.”<sup>3</sup> In addition, 37% of Ohioans lack access to 25/3 Mbps broadband.<sup>4</sup>

### **Why Fiber is Favored**

Several avenues exist to deliver high-speed broadband, including fiber, DSL/cable and wireless networks. Current federal and state programs are incentivizing fiber networks over other delivery methods.<sup>5</sup> Fiber, short for fiber optic cables, consists of bundles of glass or plastic strands that carry data at the speed of light. Fiber presents several benefits over other types of internet service. First, fiber more easily allows for higher speeds than other methods because fiber transmits data at the speed of light, the data travels faster than it would on copper cables.<sup>6</sup> Fiber cables can carry much more data than a copper cable of the same size.<sup>7</sup> Additionally, fiber networks can transmit data for much longer distances before needing to be amplified than traditional copper wires.<sup>8</sup> Importantly, fiber cables are also “futureproof” due to fiber’s ability to handle huge amounts of information; fiber does not corrode or deteriorate like copper wires.<sup>9</sup> All of these qualities make fiber the optimal infrastructure for broadband expansion, despite fiber being more expensive than traditional cables. Although fiber easily offers speeds of 1 gigabits per second (Gbps),<sup>10</sup> many consumers with fiber internet service will not be able to access that speed due to bottlenecks within other non-fiber parts of the broadband system.

[Continue reading.](#)

**Squire Patton Boggs - Jessica Ice and Jacob Semus**

August 19 2022

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## **Massachusetts Enacts Important Energy Legislation: Day Pitney**

On August 11, Massachusetts Gov. Charlie Baker signed H. 5060, An Act Driving Clean Energy and Offshore Wind (the Act), published as Chapter 179 of the Acts of 2022. The Act is a significant piece of legislation aimed at moving Massachusetts toward its goal of net-zero greenhouse gas (GHG) emissions by 2050 through the promotion of offshore wind and solar power, battery storage, and the electrification of the transportation and building sectors.

### **Offshore Wind**

Much of the Act focuses on offshore wind, with several significant provisions aimed at advancing the offshore wind industry and supporting the procurement of offshore wind energy. First, the Act codifies the goal of procuring 5,600 megawatts (MW) of offshore wind generation no later than June 30, 2027. The Act allows for a solicitation of offshore wind generation to be coordinated and issued jointly with other New England states. Individual solicitations under the Act must seek proposals for at least 400 MW. The Act directs the Department of Energy Resources (DOER) to develop a staggered procurement schedule so that procurements occur within at least two years of each other.

Second, the Act makes offshore wind development more attractive by removing the price cap required for project developers submitting bids in response to solicitations for offshore wind generation. The cap would have required that the price under each offshore wind power purchase agreement be less than the price paid in the preceding procurement.

[Continue reading.](#)

### **Day Pitney Alert**

August 18, 2022

Day Pitney Co-author(s) Paul N. Belval, Eric K. Runge, Margaret Czepiel

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## **Hemingway Fans to Get New Concourse at Key West Airport.**

Covid relief funds, state grant cover \$113 million project  
'Sun Also Rises' author called Key West home from 1931 to 1939

Future pilgrims to Ernest Hemingway's home and museum in Key West may find it a little easier to get there thanks to \$36.7 million of municipal bonds.

Monroe County, Florida is issuing revenue bonds next week to help finance a new airport terminal at Key West International. The new concourse will be 48,805 square feet, and is scheduled to open in late 2025.

Key West International is recovering now after, like all airports, it was hard-hit by the pandemic. Traffic in April of 2020 was 3% of its level in the same month a year earlier. But business in fiscal 2021 was a-booming there, rising to a record level of 659,321 enplanements, or passengers boarding aircraft.

[Continue reading.](#)

## **Bloomberg**

By Joseph Mysak Jr

August 24, 2022

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### **[Fortress-Backed Brightline Rail Sells \\$770 Million of Debt at Steep Yields.](#)**

- **Brightline needs funds to finish critical extension to Orlando**
- **Debt backed by government payments still to be finalized**

Brightline Holdings, the rail company backed by Fortress Investment Group, sold \$770 million of unrated tax-free debt with hefty premiums for investors as it raises cash critical for the expansion of its underperforming Florida system.

The securities, subject to a mandatory put in October 2023, priced with a 7.25% coupon at 98 cents on the dollar, according to pricing wires viewed by Bloomberg. The primary collateral is funds from Miami-Dade and Broward counties in exchange for using the rail line for their commuter services. Those agreements are expected to be finalized next year.

[Continue reading.](#)

## **Bloomberg**

By Romy Varghese

August 17, 2022

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### **[Mesirow's First Female CEO Is Keen to Grow Muni-Bond Business.](#)**

- **The firm is the 24th-biggest muni underwriter so far this year**
- **Banks are reckoning with a drop in state and local debt sales**

Natalie Brown, the new chief executive officer of Mesirow Financial Holdings Inc., said the firm is looking to expand its presence in the \$4 trillion municipal-bond market.

The Chicago-based financial services firm has hired seven municipal-market specialists since 2021, including four bankers. It is ranked as the 24th-biggest underwriter of long-term state and local debt so far in 2022, up one slot from last year, according to data compiled by Bloomberg.

"We will certainly continue to strategically add headcount in public finance, and in municipal sales and trading," she said in an interview on Bloomberg Intelligence's muni podcast hosted by Eric Kazatsky.

[Continue reading.](#)

## **Bloomberg Markets**

By Amanda Albright

August 15, 2022

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## **Wells Fargo Issues \$2 Billion Inclusive Communities and Climate Bond.**

Wells Fargo has announced the issuance of its second Inclusive Communities and Climate Bond, a \$2 billion bond that will finance projects and programs supporting housing affordability, economic opportunity, renewable energy, and clean transportation.

Five broker-dealers whose owners include people of color, women, and service-disabled veterans joined Wells Fargo Securities, LLC to serve as bookrunners for the issuance. They, along with 19 additional broker-dealers whose owners are also from underrepresented groups, will receive 75% of the underwriting fees from the transaction. BurgherGray LLP, a minority-owned law firm, was retained as issuer's co-counsel for the offering, together with Faegre Drinker Biddle & Reath LLP. Gibson, Dunn & Crutcher LLP served as underwriters' counsel.

The transaction priced on Aug. 8, 2022. Unless redeemed, the notes will pay interest semi-annually at a fixed rate of 4.54% until Aug. 15, 2025, and then pay quarterly interest based on SOFR + 1.56% until the stated maturity date of Aug. 15, 2026.

[Continue reading.](#)

ENVIRONMENTAL + ENERGY LEADER

BY EMILY HOLBROOK

AUGUST 16, 2022

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## **S&P: California's Structural Balance Hinges On The State's Ability To Restrain Ongoing Expenses**

### **Key Takeaways**

- California's adopted fiscal 2023 budget projects long-term structural balance by using an expected multibillion-dollar surge in one-time revenues primarily for one-time expenditures.
- The state's multiyear forecast anticipates maintaining what we view as very strong reserves.
- Worry that the Gann expenditure limitation would hamstring state budget balance is temporarily alleviated by statutory definition changes as to what the limit includes and recent high inflation, which provides greater cap room under the formula.
- The state's true financial picture is somewhat obscured by lack of a fiscal 2021 financial audit.

[Continue reading.](#)

11 Aug, 2022

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## **Fitch Ratings Adds Several New Analysts to its U.S. Public Finance Group.**

Fitch Ratings-New York-16 August 2022: Fitch Ratings has announced the appointment of several new analysts in its U.S. Public Finance group. The new analysts will be based in different Fitch offices throughout the country covering various municipal sub-sectors.

Joining Fitch's San Francisco office are Senior Directors Pascal St. Gerard, Fitch's new Western Regional Manager, and Karen Fitzgerald, who becomes Fitch's new Sector Head for Community Development & Social Lending. St. Gerard comes to Fitch following a 13-year stint with Charles Schwab as a Senior Municipal Analyst and has also been with Moody's during his career. Fitzgerald spent over two decades with S&P Global Ratings, including time as an Analytical Leader in the U.S. Public Finance Housing and Structured Securities group.

Directors Akiko Mitsui (U.S. Education & Non-Profits) and Tammy Gamerman (U.S. State Governments) will be based in Fitch's New York office. Mitsui's 20-plus year career includes 16 years with Vanguard and prior experience with Harvard Business School and Fuji Bank. Prior to Fitch, Tammy monitored and analyzed New York City finances as the Director of Budget Research for the Office of the New York City Comptroller.

Lastly, Fitch adds to its Austin office Directors Brian Williamson (Not-for-Profit Healthcare Team) and Lauren Wynn (U.S. local government ratings group). Williamson's career includes time at S&P Global Ratings while Wynn joins Fitch from the City of Austin, where she most recently served as a manager of the city's capital improvement and bond program.

'Rating agency credit analysis and thought leadership are highly valued by market participants within U.S. public finance,' said Ann Flynn, Fitch's Global Business Development Head for Public Finance and Infrastructure. 'We're pleased to enhance our team's capabilities with these experienced analysts who will provide valued credit analysis and perspectives,' said Arlene Bohner, Fitch's Analytical Head of U.S. Public Finance.

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

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## **Puerto Rico's Bankruptcy: Where Do Things Stand Today?**

In 2016, Congress passed the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA), which created the Puerto Rico Financial Oversight and Management Board to restructure the Commonwealth's unsustainable burden of more than \$72 billion in debt and more than \$55 billion in unfunded pension liabilities. The board oversaw a bankruptcy process that culminated in March 2022, when a federal court confirmed a plan that reduced Puerto Rico's debt by 80%. Still, the work of putting the Commonwealth on a sustainable fiscal path remains incomplete. At our annual Municipal Finance Conference in July 2022, four experts weighed in on the effects of PROMESA and the challenges that remain: Natalie Jaresko, former executive director of the oversight board; Sergio Marxuach, policy director at the Center for a New Economy; David Skeel, chairman of the oversight board and professor of corporate law at the University of Pennsylvania Carey Law School; and John Ceffalio, senior research analyst for Municipals at CreditSights. The panel was moderated by Michelle Kaske of Bloomberg.

You can watch a video of the panel [here](#). Here are a few highlights.

[Continue reading.](#)

## **The Brookings Institution**

by Lorae Stojanovic and David Wessel

August 17, 2022

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### **[Jefferies' Pitch on Big Texas Muni Deal: No Gun, Oil Policies That Raise GOP Ire.](#)**

- **Proposal to win \$3.4 billion deal touted securitization record**
- **Bank now No. 2 Texas muni underwriter in wake of new GOP laws**

Jefferies Financial Group Inc. may not seem the obvious choice to handle what is poised to be the biggest municipal-bond deal ever in Texas.

It's not one of the largest Wall Street banks, nor is it a top-five player in the nationwide muni market. What's more, the nearly \$13 million fee that Jefferies proposed for handling the \$3.4 billion offering wasn't even the lowest. Several larger banks, including Morgan Stanley and UBS Group AG, asked for a smaller payment.

But Jefferies' ultimately successful pitch to win the deal — which also touted its deep expertise in complicated bond structures — contained a point that many other large, national banks couldn't put in their proposals: It has never run afoul of new, Republican-backed state laws seeking to punish Wall Street for limiting its work with the fossil fuels and firearms industries.

[Continue reading.](#)

## **Bloomberg Markets**

By Amanda Albright and Danielle Moran

August 11, 2022

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### **[A Wealthy Suburb's Bid to Secede From Baton Rouge.](#)**

Earlier this year, a judge halted the formation of a new city from unincorporated neighborhoods in the southeast corner of Louisiana's East Baton Rouge Parish, ruling that it was "unreasonable." Campaign organizers had argued cityhood would give their residents more control over the spending of their tax dollars. But the judge ruled that the proposed City of St. George — whose residents would have been disproportionately white and wealthy — would take away revenue from the parish and the city of Baton Rouge, forcing them to make serious budget cuts, including to the sheriff's and fire departments.

The case against St. George stands to have implications beyond Louisiana, writes Brentin Mock: Like

other municipal breakaway attempts, the campaign aims to transfer revenue from an under-resourced government to communities that are already flush.

## **Bloomberg CityLab**

By Angel Adegbesan

August 10, 2022

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### **[The Baton Rouge Secession Attempt That Could Defund the Police.](#)**

**An affluent corner of East Baton Rouge Parish is trying to incorporate as a new city called St. George. But leaders of the Louisiana capital warn of budget consequences.**

Ten years ago, a group of residents in the southeast corner of East Baton Rouge Parish, Louisiana, began organizing around the idea of turning their unincorporated neighborhoods into a city. In 2019, the group succeeded in winning a ballot referendum, with 54% of the voters in those neighborhoods electing to form the City of St. George.

But less than two weeks after voters approved the measure, the mayor-president of Baton Rouge, Sharon Weston Broome, sued to stop the effort from proceeding. And on May 31, a judge rejected St. George's cityhood, saying that its formation was "unreasonable" and that it would cause fiscal harm to the parish and the city of Baton Rouge, which have one combined government. (A parish is Louisiana's equivalent to a county.)

Judge Martin Coady ruled that the revenue loss from St. George's departure would have forced the city and parish to make serious budget cuts. "This will have a significant decrease in services to citizens of Baton Rouge," reads the ruling, "including the Sheriff and the operation of the city government."

[Continue reading.](#)

## **Bloomberg CityLab**

By Brentin Mock

August 9, 2022

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### **[Chicago Budget Gap Narrows to \\$128 Million as Revenue Rebounds.](#)**

- **Deficit smaller than 2022, bolstered by stronger revenues**
- **Mayor says 2023 budget gap is "lowest in recent memory"**

Chicago faces a \$127.9 million budget deficit in fiscal 2023, a gap smaller than in the previous year given a rebounding economy and stronger-than-expected revenue picture.

The city is "starting on a true road to financial stability and recovery," Mayor Lori Lightfoot said during a budget address on Wednesday, when she shared her preliminary deficit estimate for the

next fiscal year. She called the budget gap “the lowest in recent memory.”

The third-largest US city closed a \$733 million hole in 2022 and a \$1.2 billion gap in 2021 within its corporate fund. That’s the main operating fund from which the city pays for services ranging from policing to tree trimming, through a combination of tax increases, cost cuts and other revenue. Rising pension contributions have been a key reason for higher city expenditures.

The city’s spending is increasing about \$228.2 million over what was budgeted in 2022, led by \$100.8 million in additional personnel costs and \$66.6 million of pension spending. Revenues are expected to be \$100.3 million more than this year’s budget, a city document outlined.

Like many other municipalities, the city has benefited as revenue increased since the depths of the pandemic, helped by a broader economic recovery. Large events such as Lollapalooza in recent weeks have contributed to an uptick in leisure travelers, and office workers have been trickling back to a once-shuttered downtown.

Lightfoot also touted the new Chicago casino, which she said will generate \$2 billion of new value for the city, creating 3,000 permanent jobs and 3,000 construction jobs.

“The Chicago Casino also features a \$40 million upfront payment from Bally’s, which we already received and has gone entirely towards the City’s annual required pension contribution,” she said.

The city’s outstanding debt is expected to be reduced by \$866 million by the 2023 fiscal year, expanding infrastructure funding capacity, Lightfoot said.

Federal stimulus, including almost \$1.9 billion from the American Rescue Plan Act earmarked for the city, has helped Chicago recover some of the revenue lost when the spread of Covid-19 closed businesses and kept residents at home. Affordable housing and homelessness support, family assistance and community development are some of the city’s top priorities for the aid money, as outlined in the Chicago Recovery Plan.

Lightfoot called the federal stimulus money a “once in a generation” resource. “We will be making opportunities created by the American Rescue Plan permanent and tangible,” she said.

In the coming months, the mayor will release her formal 2023 budget proposal, and the Chicago City Council will deliberate and vote on it before the end of this year.

## **Bloomberg**

By Mackenzie Hawkins and Shruti Singh

August 10, 2022

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## **[Fortress-Backed Florida Train Gets Okay to Sell \\$1 Billion of Debt.](#)**

- **Brightline needs more cash to finish expansion to Orlando**
- **Expects revenue surge after delayed station comes on line**

Brightline Holdings, the rail company backed by Fortress Investment Group, got the go-ahead to sell up to \$1 billion of tax-free debt to finance an expansion of its Florida system that’s key to meeting its revenue targets.

Brightline is building a 168-mile extension to Orlando International Airport to boost ridership for its three-station line, currently running only between Miami and West Palm Beach. The company needs the bond proceeds to finance the project until next year, when it expects to get revenue from sharing its line with area governments.

The board of the Florida Development Finance Corp., the municipal agency that gives private entities access to low-cost debt financing, in a split vote Monday cleared the way for Brightline to issue the bonds. The company expects to issue \$785 million of short-term debt but could sell \$1 billion, said Brent Wilder, managing director at PFM Financial Advisors LLC, before the vote.

The latest financing plan, which also calls for \$300 million in additional equity, is a “positive development” that would ensure the completion of the Orlando construction, said John Miller, head of municipals at Nuveen, the biggest holder of Brightline debt.

The country’s first new privately financed intercity passenger rail in a century, launched in 2018 along Florida’s east coast, missed passenger and revenue forecasts even before the onset of the Covid-19 outbreak. Brightline’s adding two more stations and working on commuter rail initiatives with Miami-Dade and Broward counties to increase ridership and revenue.

Brightline recently pushed back to next year the expected completion of the Orlando stop, the “most critical component of our business model,” as Chief Financial Officer Jeff Swiatek said during the meeting before the vote. Brightline expects 2025 to end with 7.9 million passengers and \$733 million in total revenue, according to a PFM memo. That’s a massive surge from the 1.29 million passengers and \$39 million in total revenue expected at the end of this year.

The company also says its short-distance line will be more lucrative than it is now with the addition of two new stations between Miami and West Palm Beach later this year. It projects the 2025 fare to average \$29.30. That’s a 58% jump from the average fare in June among the existing three stations.

The latest issuance will come as short-term escrowed debt, a less risky type of security. When remarketed into long-term debt, payments from Miami-Dade and Broward counties in exchange for using the line for their commuter services would help back some of the debt payments.

Moshe Popack, a board member of the Florida agency, unsuccessfully voted against the debt authorization, saying he didn’t believe there was enough collateral for the issue.

The company had earlier used the tactic of issuing short-term debt as it finalizes details of its project’s financing. In June, the company rolled over some short-term securities instead of issuing long-term debt because it couldn’t find enough of such investors amid market turmoil.

“We’ve made tremendous progress, achieving more than 80% completion on Brightline’s Orlando extension,” said Brightline spokesperson Ben Porritt in an emailed statement. “We appreciate the support of the FDFC board as we complete funding, as originally planned, for the remaining elements of the project.”

Brightline had already sold \$3.2 billion of tax-exempt debt for the project. A bond due in 2049 traded Aug. 5 at an average yield of 7.88%, a record high, according to data compiled by Bloomberg.

The company’s line will ultimately extend to Tampa from Miami for a total of 320 miles (515 kilometers). Brightline is also planning a line connecting Las Vegas to southern California.

## **Bloomberg Markets**

By Romy Varghese

August 8, 2022

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## **Los Angeles's Transit Oriented Communities Program Sees Its Wings Clipped ... Somewhat - Holland & Knight**

### **Highlights**

- In *Fix the City, Inc. v. City of Los Angeles*, the Los Angeles Superior Court ruled that conflicts between qualifying Transit Oriented Communities (TOC) Guidelines and specific plan requirements should be resolved in favor of a specific plan.
- The incentives provided by the TOC Guidelines do not carry legislative authority, while the Westwood Specific Plan was created by ordinance, and the TOC Guidelines therefore lack the requisite authority to override the Specific Plan.
- Developers should use caution when seeking to deploy TOC Program incentives in the face of more stringent, conflicting regulations within a local specific plan.

[Continue reading.](#)

**Holland & Knight LLP** - Andrew J. Starrels and Luca Trumbull

August 11 2022

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## **Mets' Casino Gamble Could Crap Out in Parking Lot.**

### **State law and a complicated bond financing deal stand in the way of bringing legal betting to Citi Field area**

The owner of the Mets has spent hundreds of thousands of dollars lobbying city officials in connection with his push to build a casino near Citi Field — but there could be multiple legal hurdles to bring the slots to Queens.

Both state law and the team's own lease agreement with the city stand in the way, in particular a financing deal tied to the parking spaces, and rules about building on park land.

Owner Steve Cohen's dream of turning Willets Point into a gambling hub materialized earlier this year when Gov. Kathy Hochul proposed creating three more downstate casino operator licenses.

[Continue reading.](#)

THECITY.NYC

BY KATIE HONAN

AUG 15, 2022

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## **[Puerto Rico's Bankruptcy Fees Seen Hitting \\$1.6 Billion.](#)**

- **Oversight Board provides fee update in annual report**
- **Through July 2022, professional fees stand at \$1.2 billion**

Fees and expenses related to the restructuring of Puerto Rico's debt — exacerbated by natural disasters and the pandemic — are forecast to reach \$1.6 billion by fiscal year 2026, cementing the island's status as the most expensive municipal bankruptcy in US history.

"Uncertainty stemming from the series of recent natural disasters and the ongoing Covid-19 pandemic has resulted in an extended restructuring process contributing to the overall estimate," the Puerto Rico Financial Oversight and Management Board, or FOMB, which is shepherding the island through bankruptcy, said in its annual report released late Sunday.

Prior to Puerto Rico, Detroit held the title of the largest municipal bankruptcy. According to board figures, Detroit's bankruptcy process took 17 months and cost \$178 million, while Puerto Rico's lasted nearly five years and was stalled by hurricanes, earthquakes and the global pandemic.

While the US commonwealth emerged from bankruptcy earlier this year, litigation fees and costs related to implementing the deal continue, the board said. There's also more debt to churn through. Puerto Rico's Electric Power Authority is seeking to reduce \$9 billion through its bankruptcy while its Highways and Transportation Authority is restructuring \$4 billion.

The FOMB's forecast, which runs from fiscal year 2018 through fiscal year 2026, includes fees and expenses for the Unsecured Creditors' Committee, the Retiree Committee, the government of Puerto Rico and the Oversight Board. Through July 2022 professional fees and expenses have tallied some \$1.2 billion, the board said. Of that, some \$660 million belongs to the board and special claims committees, and \$373 million will go to the government of Puerto Rico.

When the US territory of 3.2 million people went into bankruptcy in 2017, the government and its agencies had some \$74 billion in debt. During the bankruptcy process it restructured more than half of that debt, including cutting \$22 billion of bonds tied to the commonwealth down to \$7.4 billion.

### **Bloomberg Markets**

By Jim Wyss

August 1, 2022

— *With assistance by Michelle Kaske*

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## **[Local Preemption and Wetlands in Massachusetts: An Update - Greenberg Traurig](#)**

The Massachusetts Supreme Judicial Court (SJC) decided a case this week clarifying the limitation on a municipality's ability to regulate wetlands and waterway construction more stringently than would the Department of Environmental Protection. [City of Boston v. Conservation Comm'n of Quincy](#), No. SJC-13244 (Mass. July 25, 2022). Interestingly, this decision follows closely on the heels of [Armstrong v. Sec'y Energy & Env'tl. Affairs](#), No. SJC-13210 (Mass. July 12, 2022), which limited

municipalities' ability to be less restrictive than DEP about waterfront development. See [DEP's Municipal Harbor Plan Regulations Invalid](#).

Massachusetts requires an "order of conditions" under the [Wetlands Protection Act, Mass. Gen. L. ch. 131, § 40](#), before anyone can do work affecting wetlands or nearby areas. The local conservation commission typically issues that order of conditions, but a disappointed applicant may seek a superseding order from the Department of Environmental Protection. The DEP order preempts the local conservation commission decision unless the more restrictive local order is based on a local ordinance that is more stringent than the Wetlands Protection Act. We addressed this scheme in [Local Preemption and Wetlands in Massachusetts](#).

But how does one know that the local ordinance is more stringent than the Wetlands Protection Act and that that enhanced stringency is the basis for a local decision either to deny an order of conditions or to issue an order with more restrictive conditions than DEP would impose?

In *City of Boston*, the SJC held that the City of Quincy Conservation Commission's denial of an order of conditions was preempted by DEP's superseding order of conditions even though the local ordinance was arguably more stringent, because the commission did not explain in its decision or in any briefing in the case why the denial was required by more stringent local provisions. Boston sought to reconstruct a bridge in Boston Harbor that was located partially in Quincy. The Quincy Conservation Commission refused to issue an order of conditions, thus prohibiting the project. Boston sought, and DEP granted, a superseding order of conditions that permitted the construction Boston planned. The Quincy Conservation Commission appealed the issuance of the superseding order, arguing that its denial should be enforced since it was based on more stringent local provisions. But the language in the denial to which the Commission pointed did not clearly support the more stringent conditions.

This outcome puts a thumb on the scale in favor of preemption. However, the weight of that thumb depends critically on the local provisions, the details of the administrative record, and the local conservation commission decision. Will this lead to more and messier litigation, requiring courts to parse local provisions and determine their stringency vis-à-vis the Wetlands Protection Act, or will the thumb itself cause more local conservation commissions to acquiesce in DEP superseding orders of conditions? Stay tuned.

**Greenberg Traurig LLP** - David G. Mandelbaum, Edward S. Hershfield and Lauren A. Liss

July 28 2022

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## [American Dream Mall Misses Payment on N.J. Grant-Backed Debt.](#)

- **New Jersey must approve documents to release cash for debt**
- **Missed payment isn't a default under the bond covenant**

American Dream, the \$5 billion mall and entertainment complex in New Jersey's Meadowlands, failed to make an interest payment that was due Monday on municipal bonds sold to help finance the venture.

The more than 3 million-square-foot destination mall, which features an indoor ski slope, amusement park and water park, didn't make an \$8.8 million payment, according to a regulatory filing.

“The trustee has not received any revenues for payment of the August 1 debt service, and the reserve account does not have sufficient funds to make such payment,” the filing said.

[Continue reading.](#)

## **Bloomberg Markets**

By Amanda Albright, Martin Z Braun, and Elise Young

August 1, 2022

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### **Western Senators Secure \$4 Billion for Drought in Spending Bill.**

A group of US senators from western states said Friday they have secured \$4 billion in drought-relief funding as part of the Democrats’ climate spending and tax bill slated for the Senate floor this weekend.

Funding for the assistance through the Interior Department’s Bureau of Reclamation was one of the demands made by Senator Kyrsten Sinema, an Arizona Democrat, who was a key holdout on the \$433 billion spending package.

The funding deal was announced by Democratic Senators Mark Kelly, also of Arizona, Catherine Cortez Masto of Nevada and Michael Bennet of Colorado. All three are up for re-election in November in states where water politics loom large.

Senate Majority Leader Chuck Schumer’s office confirmed that the funding will be in the final bill.

The Southwest US is in the grips of its worst drought in 1,200 years. Some of the massive reservoirs along the Colorado River such as Lake Powell are in danger of no longer being able to produce power at their hydroelectric dams. The Bureau of Reclamation, the federal agency responsible for managing the dams on the Colorado, warns there’s a risk the power there could switch off as soon as next summer.

The funding would be used to buy private water rights and help municipalities with conservation projects to increase the level of water in the Colorado River system, according to a Senate aide.

The \$4 billion is new spending in the bill, according to two people familiar with the matter.

“The Western United States is experiencing an unprecedented drought, and it is essential that we have the resources we need to support our states’ efforts to combat climate change, conserve water resources, and protect the Colorado River Basin,” Kelly, Cortez Masto and Bennet said in a statement Friday.

## **Bloomberg Markets**

By Ari Natter

August 5, 2022

— *With assistance by Erik Wasson, and Brian K Sullivan*

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## **Group Opposes New Chicago Bears Stadium Using Taxpayer Funds.**

As the Chicago Bears appear to be headed for greener pastures outside of the city, one organization is telling the team to build a new stadium without taxpayer assistance.

The team has purchased the former Arlington Racecourse property for a possible new home.

Americans for Prosperity is urging members of the Arlington Heights Village Board to adopt an "anti-corporate welfare" ordinance and reject proposals that would build a new Chicago Bears stadium with taxpayer money.

"They absolutely can build this on their own without having the taxpayers finance parts of the stadium or the infrastructure around the stadium," Americans for Prosperity Illinois State Director Brain Costin said.

The group is collecting signatures and intends to present the ordinance to the village board, which includes the following language:

"1. BAN OF CORPORATE WELFARE PROGRAMS. The Village of Arlington Heights is prohibited from offering or extending any financial incentive to any business or corporation to operate in the village.

2. DEFINITIONS. For use in this ordinance, "incentive" means any economic, financial benefit, or other incentives, including, but not limited to, those authorized under the Property Tax Code, the Counties Code, the Illinois Municipal Code (including, but not limited to, the Tax Increment Allocation Redevelopment Act), or any other provision of law authorizing abatements, credits, loans or tax or fee reductions."

Chicago officials have offered to make renovations to Soldier Field in an effort to prevent the Bears from leaving town, but so far, team officials said they are not interested.

The Bears previously discussed the possibility of building a stadium in Arlington Heights about 50 years ago, but instead renovated Soldier Field with the state of Illinois raising funds to help the team do so. The stadium also underwent a major renovation in 2002.

Several NFL teams have used public financing to pay for new stadiums, including a 45% share of the Minnesota Vikings stadium, and an enormous 86% share in Indianapolis for the Colts stadium.

"By enacting an anti-corporate welfare ordinance, Arlington Heights would declare an end to economically destructive and corrupt policies of corporate welfare," Costin said. "When select corporations get special tax breaks, subsidies, and loopholes other businesses and residents have to pay more in taxes to make up for it."

**By Kevin Bessler | The Center Square**

Aug 3, 2022

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**Diddy, MacKenzie Scott Among Donors Boosting Howard University's Bond**

## [Rating.](#)

- **Sean ‘Diddy’ Combs announced \$1 million donation at BET Awards**
- **Howard’s endowment has increased to \$795 million in FY 21**

Aid to Howard University from the federal government and wealthy donors that include musician Sean “Diddy” Combs helped boost the school’s credit rating in the municipal-bond market.

Moody’s Investors Service upgraded the historically Black college in the nation’s capital one notch to Ba1 from Ba2 and revised its outlook to stable from negative. The upgrade applies to about \$49 million of taxable revenue bonds. It’s the first upgrade for the school by Moody’s since 2004.

“The upgrade of the issuer rating to Ba1 incorporates the university’s improving operating performance, more effective enrollment management, revenue growth and liquidity gains,” Dennis Gephardt, lead analyst at Moody’s, wrote in the report. “Increased federal, state and private funds for Howard reflects a shifting societal trend for greater philanthropic and governmental financial support of the mission of minority serving institutions, a supportive credit element and key driver of the rating action.”

[Continue reading.](#)

## **Bloomberg Markets**

By Hadriana Lowenkron

July 25, 2022,

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## [Summary of Texas Government Code Chapter 809: Baker McKenzie](#)

### **In brief**

In an attempt to protect its oil and gas industry, Texas has passed legislation that seeks to punish investment firms that divest from fossil fuel related investments.

On 16 March 2022, the Texas Comptroller of Public Accounts, Glenn Hegar, sent a letter to 19 major financial companies which was not limited to US or Texas-based companies and included Japanese companies requesting verification that they do not engage in investment policies that result in the boycott of fossil fuel-based energy. This request was made pursuant to [Texas Government Code Chapter 809](#): recent legislation prohibiting the Texas Government from investing in financial companies that take any action intended to penalize, inflict economic harm, or limit commercial relations with a company based on the company’s involvement in fossil fuel-based energy.

### **Contents**

1. Definition of boycott energy company
2. SEC scrutiny of ESG disclosure to investors
3. What happens next?

If the Comptroller determines that any of these companies is “boycotting energy company”, the consequences are severe. The names of a financial company boycotting energy company will be published on a public list. Unless such financial companies cease boycotting energy companies

within certain period thereafter, Texas Government entities will be prohibited from contracting with that company, will need to divest any interest held in that company and will be prohibited from further investing in that company. The ramifications of Chapter 809 are significant because the state-run investment funds that Texas is threatening to divest from impacted investments collectively hold hundreds of billions of dollars in assets. For example, some of the funds identified in the bill include the USD 214 billion Texas Permanent School Fund; and the Employees Retirement System of Texas and Texas Municipal Retirement System funds, both of which manage around USD 35 billion. As Texas Government Code Chapter 809 does not rely on extraterritorial application, rather it governs the application of investment policy, companies which do not have any subsidiary, branch or representative office in Texas will still be subject to this legislation.

Importantly, financial companies that fail to provide a response to the Comptroller's request before the 61st day from receipt are presumed to be boycotting energy companies and will be included on a public list. Since the original 19 letters, Comptroller Hegar has sent similar letters to around 160 other publicly traded investment companies, and he intends to send more in the near future.

In a [Press Release](#), Comptroller Hegar stated that his frustration is rooted in financial companies that claim they are committed to the fossil fuel sector when directed to conservative, energy states, while conversely also pushing net-zero and other environmental, social, and governance (ESG) policies addressed towards the public sector. In an [Open Letter](#) to the Comptroller, the Lieutenant Governor of Texas, Dan Patrick, reiterated these sentiments, targeting specific companies he believed to be counteracting Texas fossil fuel-based energy companies' best interests.

The thrust of all of this is simple: Texas is attempting to push back on these new investment trends using its influence as a powerful institutional investor.

### **Definition of boycott energy company**

While the potential consequences of being deemed a "boycotting energy company" by the Comptroller are intimidating, the terms within the legislation are still ambiguous enough to warrant uncertainty regarding whether a company is truly at risk.

For example, in Section 809.001(1), refusing to deal with a fossil fuel-based energy company is not considered boycotting if it is committed pursuant to an "ordinary business purpose." The state of Texas has yet to define what conduct would constitute an "ordinary business purpose," and it is unclear how this standard will be applied in practice. For example, based on the language of the statute, it is undecided as to whether refusing to invest in a risky fossil fuel industry, such as arctic oil drilling, would be allowable. Moreover, it is also uncertain whether Texas would consider hedging between green and fossil fuel-based energy for regular diversification purposes as an ordinary business purpose or a full-blown boycott.

While Texas was undoubtedly inspired to pass this legislation due to policy motivations surrounding its prominent oil and gas industry, the extent to which other fossil fuel industries are protected is uncertain. Boycotting an industry such as coal may not cause a similarly targeted response from Texas legislators, but based on the language of the legislation, it would still be considered to be boycotting energy companies.

### **SEC scrutiny of ESG disclosure to investors**

In connection with capital markets, in the event that financial companies publicly declare their ESG policy, such financial companies must ensure that their response to the Comptroller is harmonized with any similar disclosure to investors or filing with The U.S. Securities and Exchange Commission.

Through the initiation of recent Enforcement Actions by the SEC, it is clear that the SEC plans to thoroughly investigate funds that claim to be environmentally responsible in order to ensure that they are accurately incorporating ESG factors into their investment selection process. Thus, ensuring that a response to the Comptroller is in line with any similar disclosure to investors or filing with the SEC is important.

### **What happens next?**

Texas legislators have proven their willingness to protect the state's oil and gas sector, but it is unclear how they will apply the reach of Chapter 809 in the process.

We expect the Comptroller's office to provide further clarity over the coming months. We also predict that the Comptroller's office will continue to serve these questionnaires upon various financial institutions, both before and after the formalization and publication of the initial list of financial institutions that "boycott energy companies."

If your firm receives a letter from the Comptroller's office, action is imperative. The strict 60-day deadline to respond to the request excludes the possibility of extensions, so it is important that a carefully-tailored response is provided on a timely basis. Your firm should also consider what, if any, further actions can be taken to ease the Comptroller's concerns.

If your firm has not yet been contacted by the Comptroller's office, we recommend considering whether Chapter 809 poses a material risk and if so, developing an action plan. As noted above, the deadline cannot be extended, so it is better to begin to gather documents and brainstorm potential responses before the clock starts running.

Finally, Texas is not alone in the fight to keep its fossil fuel industry entrenched. Similar bills that punish fossil fuel divestment and discourage carbon-neutral commitments have been introduced in other states, including West Virginia, Oklahoma, Indiana, and Louisiana. It appears that legislation to protect the fossil fuel industry is a primary goal for the Republican party this year, but the enforcement process remains uncertain. Thus, financial firms invested in states that have prominent fossil fuel-based energy industries should also begin to think about how they would respond to a similar request.

Baker McKenzie - Peter K.M. Chan, Masato Honma, Stephen W. Long, Sydney Hunemuller, Hiroyuki Kitamura and George Patrick

July 28 2022

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## **[Cox-backed OpenGov to Buy Government Software Maker Cartegraph in Bet on Cities Upgrading Tech.](#)**

- **Combined company will be valued at about \$1.25 billion**
- **Deal comes as public agencies upgrade infrastructure**

Startup OpenGov is acquiring Cartegraph Systems LLC, a software provider for public agencies, in a deal that could benefit from the efforts of local governments to modernize their technology.

The combined company has a valuation of about \$1.25 billion, according to people familiar with the matter who asked not to be identified because the information was private.

OpenGov, which gives cities tools to manage budgets and resources, was valued at \$750 million in 2021, according to data provider Pitchbook.

[Continue reading.](#)

## **Bloomberg Markets**

By Jennah Haque

July 27, 2022

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### **[McKinsey Payments in Puerto Rico's Bankruptcy Come Under Fire.](#)**

- **Advocacy groups ask bankruptcy judge to deny further payments**
- **Group alleges company has conflicts of interest in Puerto Rico**

A coalition of community groups is asking the judge overseeing Puerto Rico's historic bankruptcy to withhold additional payments to McKinsey & Co. for its work on the island's debt restructuring, alleging the management-consulting firm has conflicts of interest that it has failed to fully disclose.

In a letter sent this week to US District Court Judge Laura Taylor Swain, a group called Power 4 Puerto Rico said McKinsey's final fee application should be denied, citing the court's prerogative under the Puerto Rico Recovery Accuracy in Disclosures Act of 2021, or PRRADA.

As a consultant to the federally appointed Financial Oversight and Management Board, or FOMB, McKinsey has run up a tab of \$120 million helping the panel oversee the territory's finances, according to a Wall Street Journal story last month. At the same time, the company helped the board review high-profile public contracts that ultimately went to McKinsey clients.

Puerto Rico's bankruptcy is the largest ever in the US municipal bond market, and legal and professional fees alone total almost \$1 billion.

The oversight board "has allowed for the untransparent procurement of advisors and consultants for millions of dollars while alleging the need to cut payroll for public employees," Power 4 Puerto Rico said in the letter, which is dated July 28. "The least that should be done is to prevent Puerto Rico's taxpayer dollars from filling the coffers of consultants that have not complied with PRRADA and their fiduciary responsibility as a consultant."

In a statement, McKinsey said it will continue to be "forthright and transparent regarding its work in Puerto Rico."

"We follow strict protocols to prevent conflicts of interest in our engagements and have complied with our disclosure requirements under the law," a company spokesperson said in the statement. "We are proud to support the FOMB on what is arguably the most complex fiscal turnaround of any jurisdiction in U.S. history, and are confident we have provided our advice with objectivity and

independence.”

Power 4 Puerto Rico is a US national coalition that includes the Center for Popular Democracy, Alianza for Progress, the Center for American Progress and the Hispanic National Bar Association.

## **Bloomberg Markets**

By Jim Wyss

July 29, 2022

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### **[West Virginia Penalizes Banks Including JPMorgan, Goldman for Coal 'Boycotts'](#)**

#### **The state is cutting ties with four banks and asset manager BlackRock, saying their stance on coal is harming its economy**

West Virginia will no longer award state business to a group of banks including JPMorgan JPM Chase & Co. and Goldman Sachs Group Inc., saying their efforts to combat climate change amount to a boycott of the state's coal industry.

State Treasurer Riley Moore said the banks' decisions to curb financing for coal companies is harming the state's economy, limiting tax revenues and costing residents jobs. State lawmakers had passed a law earlier this year giving him the authority to create the list of banned entities, which also includes Wells Fargo & Co., Morgan Stanley and asset manager BlackRock Inc.

“Any institution with policies aimed at weakening our energy industries, tax base and job market has a clear conflict of interest in handling taxpayer dollars,” Mr. Moore said in a statement.

Some of the financial firms called the state's move a mistake. “This decision is shortsighted and disconnected from the facts,” JPMorgan said in a statement. “Our business practices are not in conflict with this anti-free market law.”

West Virginia isn't the first state to take action against financial firms seen as pushing policies that don't align with its own. Texas has passed similar laws blocking banks from doing business with the state that it says discriminate against energy companies and against gun makers.

An academic study found Texas cities will pay hundreds of millions more in interest rates on municipal bonds because of the lack of competition from banks.

Mr. Moore informed the firms of his decision last month and gave them 30 days to argue their case. In their responses, the companies all said they aren't boycotting any particular sectors of the energy industry.

The financial firms have pledged to reduce emissions in the coming years by helping fossil-fuel companies through the energy transition and by financing more green energy. Some banks have said they would no longer finance specific parts of the coal industry, but they argued in their letters to Mr. Moore that those decisions are based on limiting risks and don't amount to an industry boycott.

Goldman Sachs pointed to a report, titled “Banking on Climate Chaos,” that detailed how it had

financed \$17.8 billion in fossil fuels in 2021 alone. Morgan Stanley also pointed to that report and its inclusion as a “member of the ‘Dirty Dozen’ of top financiers of fossil fuels.”

BlackRock, which said in its letter it manages over \$438 million in municipal bonds in the state, has pressed the companies in which it invests to limit emissions.

U.S. Bancorp was the only institution to successfully argue it shouldn't be banned.

## **Bloomberg Markets**

By David Benoit

July 28, 2022

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### **[A Black Family Won Back Its Beach. The Law Remains Broken.](#)**

**It took the Bruce family nearly 100 years to win back land seized under eminent domain, but never developed. That's so wrong.**

During the 1920s, the city of Manhattan Beach, California, used the power of eminent domain to seize the only seafront resort in Southern California that welcomed Black beachgoers. The owners received a small fraction of the market value, and together with other Black property owners were essentially run out of town. In a ceremony last week, the deed to the land known as Bruce's Beach was finally restored to the family. What happened in between is a tale not only of racism and theft, but also of the risks that arise when government can act without scrutiny.

Bruce's Beach was established in 1912 in Manhattan Beach; a decade and a half later, the city took the land by claiming they planned to develop it into a park. But the vaguer the limits on government power, the easier it is to wield that power for a malign purpose. And the limits of eminent domain are vague indeed.

Continue reading.

## **[Bloomberg Opinion](#)**

By Stephen L. Carter

July 23, 2022

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### **[Michigan Taps Funding Sources to Support Water Infrastructure.](#)**

Drinking water construction project by Lansing Board of Power and Light in 2021 There's a rising stream of support in Michigan for water infrastructure.

“Few things are more important to our households and businesses than clean drinking water, surface water, and groundwater,” said Gov. Gretchen Whitmer. “I'm pleased to work with the Legislature and all partners to keep investments flowing to strengthen Michigan's vital water infrastructure and support a healthy and prosperous future.”

The bipartisan 2023 state budget, passed July 1 for the fiscal year that begins Oct. 1, includes \$48 million in technical assistance that can help communities apply for funds to replace lead water lines or other water infrastructure, and \$7.9 million for drinking water permitting, both through the Michigan Department of Environment, Great Lakes, and Energy (EGLE).

[Continue reading.](#)

**michigan.gov**

July 20, 2022

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## **[Paradise, the Wildfire-Ravaged California Town, Warns of Municipal Bond Default.](#)**

**Local agency is running out of funds to repay \$5 million bond after its tax revenues were decimated, highlighting growing investor worries over the risk climate change poses to municipal finances**

Paradise, Calif., the town destroyed by the 2018 Camp Fire, says it is close to a debt default, heightening municipal bond investors' concerns over how a warming planet is adding risk to their \$4 trillion market.

A downed power line sparked the fire, which spread through forested hills baked dry by a lengthy drought. The town received \$219 million in settlement money from utility PG&E Corp. in 2020, but Paradise recently disclosed to bondholders that "no assurances can be given" that it will repay about \$5 million that one of its agencies borrowed years ago. The agency's cash is close to running out, and local officials have earmarked the settlement funds for reconstruction, not debt repayment. S&P Global Ratings slashed the bonds' rating by six notches to triple-C in June, pushing it deeper into junk territory.

Municipalities have long suffered from weather-related destruction. Many investors are growing more concerned that climate change is intensifying wildfires, even while critical infrastructure is unprepared and underfunded. Bond-fund managers say the mounting cost of such events means state and federal governments will be less willing to bail creditors out when they strike.

[Continue reading.](#)

**The Wall Street Journal**

By Matt Wirz and Heather Gillers

July 22, 2022 8:39 am ET

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## **[Texas Schools Are Stuffed to the Max as Voters Reject Bond Sales.](#)**

- **The state has dozens of fast-growing public school districts**
- **Only 63% of the bond dollars on ballots in May were approved**

As superintendent of a Texas school district that's projected to gain almost 4,000 students in the next five years, Scott Muri says his district is desperate for more classroom space.

The schools he leads in Ector County are bursting with kids, many buildings are more than a half-century old and residents keep flooding in, lured by the bustling industry and cheaper real estate of West Texas. Yet, in May, voters rejected two bond proposals totaling \$398 million to build new facilities and update existing ones – forcing at least another year of cramped classrooms at a time when construction and borrowing costs have surged, making much needed improvements more expensive.

“We don't put things out to the voters that are on the wishlist, we ask them for what we need,” Muri said in an interview. The residents of the Ector County Independent School District, which includes Odessa, voted against the measures that would have built a new high school, career center and funded construction upgrades including plumbing, mechanical, and fire safety improvements.

[Continue reading.](#)

## **Bloomberg Politics**

By Danielle Moran and Shelly Hagan

July 22, 2022

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## **[Austin Weighs \\$2 Billion Bond for School Safety and Teacher Housing.](#)**

**The district is considering proposals it may put to voters this fall that would improve security at school entrances.**

The Austin, Texas, school district may ask voters to approve more than \$2 billion of new bonds to help fortify classrooms against attackers and offset soaring housing costs for employees as the city's population booms.

The board of the Austin Independent School District is weighing two draft proposals that could add either \$1.55 billion or \$2.18 billion of debt to the district's balance sheet to fund security updates, campus modernizations and technology improvements. The larger proposal would also include funds to build teacher housing after the costs of real estate soared amid an influx of well-paid tech workers.

“The folks that are working for us are having challenges securing housing,” said Matias Segura, the district's chief of operations, who added that the assistance could help with retention and attraction of new educators. “Teachers are absolutely critical for student achievement,” he said at a community meeting outlining the proposals.

[Continue reading.](#)

## **Bloomberg CityLab**

By Danielle Moran

July 18, 2022

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## [Florida's Bond Chief Sees Disney District Being Re-Established.](#)

**Florida's head of bond finance said lawmakers will likely re-establish the embattled Walt Disney Co.'s special district after the state passed a law that would dissolve the governing body next year.**

Ben Watkins, director of the state's division of bond finance, said legislators are likely to create a successor district, one that will assume many of the powers that Reedy Creek Improvement District, the agency that allows Disney to perform certain municipal functions at its resort properties like emergency services, garbage collection and infrastructure funding, currently has. The new district won't have some of the powers previously granted that were never used such as operating a nuclear power plant.

"I'm confident that Reedy Creek will get addressed in a more meaningful way," he said Thursday. Lawmakers will likely restore a limited version of the special district in the next legislative session, Watkins said. He added that Governor Ron DeSantis's office has been "supportive" of the successor district approach, though lawmakers ultimately have the final say in how legislation will be drafted.

[Continue reading.](#)

### **Bloomberg Politics**

By Danielle Moran

July 22, 2022

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## [Florida's Head Of Bond Finance Foresees Future For Reedy Creek Improvement District.](#)

The head of Florida's bond finance is predicting that the Florida legislature will re-establish the Reedy Creek Improvement District. This comes after Florida passed a law that would dissolve the district.

The prediction was made by Ben Watkins, director of Florida's division of bond finance. He suggested that legislatures will most likely create a successor district. Watkins thinks that the new district would have many of the powers of the current Reedy Creek Improvement District. This is what allows Disney to run many municipal functions throughout Walt Disney World Resort. The new district would likely again include emergency services, garbage collection, infrastructure funding, and more. It would most likely drop some of the powers that previously the district had that were never used, like the operation of a nuclear power plant.

"I'm confident that Reedy Creek will get addressed in a more meaningful way," he said Thursday. Lawmakers will likely restore a limited version of the special district in the next legislative session, Watkins said. Watkins also shared that Governor Ron DeSantis's office has been "supportive" of a successor district approach. At the end of the day, lawmakers will ultimately have the final say in how the legislation will be drafted.

[Continue reading.](#)

## [New Jersey Swoops In as Budget Spat Pushes Trenton to Verge of Default.](#)

- **Capital city's mayor wants state to take over spending plan**
- **'Hush your mouth!' and other explosions at public meetings**

New Jersey ordered Trenton to cover a \$14 million bond payment blocked by a warring city council, seeking to prevent a local budget fight from driving the state capital to default on its bonds.

The city of 90,000, where more than 1 in 4 lives in poverty, has been meeting payroll and other bills on an emergency basis because the council has failed to vote on a proposed \$227 million budget that was due on April 29.

In a letter to Mayor Reed Gusciora, state officials outlined how the city council also deadlocked on authorizing debt payments for water, sewer and school district expenses.

[Continue reading.](#)

### **Bloomberg Markets**

By Elise Young

July 14, 2022

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## [New York City Sees Sign of Tax Hit From Stocks' Bear Market.](#)

- **June data reflect stock-market turmoil: New York comptroller**
- **Estimated tax payments tied to capital-gains realizations**

New York City's estimated personal income-tax payments in June declined to the lowest level since 2017, marking the first sign that the stock-market tumble is hitting the revenue of the financial capital, according to City Comptroller Brad Lander.

June's estimated payments, which are closely tied to capital-gains realizations, were 31% lower than the same period last year, data released Monday by the fiscal watchdog showed. Last month, US stocks entered a bear market for the fourth time in two decades, although the S&P 500 Index has since pared some of the losses and is now down 19% since the start of the year.

Although New York City's economy has diversified in recent years, the high-paying securities industry still accounts for a disproportionate share of income-tax collections. This sector has benefited from the lopsided recovery from the pandemic. Indeed, overall personal income-tax collections are 5.1% higher year-over-year, primarily due to taxes withheld from monthly wage earners, Lander reported.

[Continue reading.](#)

### **Bloomberg Markets**

By Romy Varghese and Donna Borak

July 12, 2022

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## **[The Supreme Judicial Court's Boston Municipal Harbor Plan ruling Is EXACTLY the same as the Supreme Court's West Virginia v. EPA ruling! - Mintz](#)**

Massachusetts's Supreme Judicial Court has agreed with a Superior Court Judge that the Massachusetts Department of Environmental Protection was not authorized by the Massachusetts Legislature to defer to certain municipal harbor decision making by the Secretary of Energy and Environmental Affairs.

This decision is notable but not for the reason many are suggesting.

First of all, I was wrong. Dead wrong. I had predicted that the SJC would defer to DEP's interpretation of its regulations, especially since the Legislature has granted to the Secretary of Energy and Environmental Affairs the responsibility to "carry out the state environmental policy" and to "coordinate the activities and programs of the departments" within the Executive Office of Energy and Environmental Affairs which include DEP.

[Continue reading.](#)

July 13 2022

**Mintz - Jeffrey R. Porter**

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## **[Forbes: Vague Penn Station Deal Risks Billions In Public Funds](#)**

New York is pushing a major project to repair the antiquated Penn Station, using tax-subsidized private real estate development to finance public infrastructure repair. But a new report from my colleagues at the New School's Schwartz Center shows not only a potential \$3 billion gap in project financing, but also a lack of transparency which undercuts informed public debate.

The report was commissioned by Reinvent Albany, advocates for "transparent and accountable New York State government." The group has endorsed economic development reform legislation for the state, to increase transparency and public oversight of economic development spending.

The Penn Station report is their latest criticism of Governor Kathy Hochul, who already has brokered a bad deal using state funds to subsidize a billionaire owner's football stadium in Buffalo, and used the state budget process to get a \$10 billion slush fund for semiconductor manufacturing without any effective transparency or public oversight.

[Continue reading.](#)

**Forbes**

by Richard McGahey - Contributor

*I'm an economist studying cities and states and their importance in the economy, focusing on their policies, finances and budgets.*

Jul 14, 2022

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## **[Judge Narrows San Diego, Baltimore Bond Collusion Cases Against Big Banks.](#)**

NEW YORK, June 28 (Reuters) - A federal judge on Tuesday narrowed claims by San Diego and Baltimore in antitrust litigation seeking to hold eight banks liable for driving up interest rates that state and local governments must pay on a popular tax-exempt municipal bond.

U.S. District Judge Jesse Furman in Manhattan dismissed San Diego's breach of fiduciary claims against affiliates of Barclays Plc (BARC.L), Citigroup Inc (C.N), Goldman Sachs Group Inc (GS.N) and JPMorgan Chase & Co (JPM.N), citing the city's lack of an "agency" relationship with the banks. He dismissed Baltimore's similar claim against JPMorgan.

The judge also said it was premature to find that San Diego, which sued last June, waited too long to pursue fraudulent concealment claims, despite its alleged notice of a suspected conspiracy among the banks from a 2014 whistleblower lawsuit.

Lawyers for San Diego and Baltimore did not immediately respond to requests for comment. Other defendants include affiliates of Bank of America Corp (BAC.N), Morgan Stanley (MS.N), Royal Bank of Canada (RY.TO) and Wells Fargo & Co (WFC.N).

San Diego and Baltimore, as well as Philadelphia, have been suing over alleged collusion to raise rates on variable-rate demand obligations (VRDOs), once a more than \$400 billion market, between 2008 to 2016.

VRDOs are long-term bonds with short-term rates that typically reset weekly. Banks must remarket VRDOs that investors redeem to other investors at the lowest possible rates.

Cities have accused the banks of sharing proprietary information about bond inventories and planned rate changes, dissuading redemptions and enabling the banks to collect remarketing and service fees for little or no work.

The cities have said the collusion reduced available funding for essential municipal services such as hospitals, power and water supplies, schools and transportation.

The case is *Philadelphia et al v Bank of America Corp et al*, U.S. District Court, Southern District of New York, No. 19-01608.

**Reuters**

June 28, 2022

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## **[California Attorney General Clarifies Use of Premium From Sale of School](#)**

## **District General Obligation Bonds.**

### **Premium Must Be Used for Debt Service Repayment**

Until recently, there has been uncertainty surrounding premium generated from new money school district general obligation bonds - can the premium be used to pay certain costs of issuing such bonds? The answer is “no” according to the California attorney general’s newly issued Opinion No. 14-202, which comes in response to a request for clarity on the matter. Instead, premium generated on new money school district general obligation bonds must be deposited into an interest and sinking fund.

### **Background**

When general obligation municipal bonds are offered for sale, it is possible they may generate original issue premium, which means they are sold at a price above the par value. When premium is generated on the sale of new money California school district general obligation bonds, the California Education Code requires that such premium be deposited into an interest and sinking fund to be used for debt service repayment. (Ed. Code §15146(g).)

### **Education Code Section 15146**

As evidenced by the need for the request for clarity itself, the practice in California of using premium generated on school district general obligation bonds for costs of issuing those bonds has become more common. According to the statute in question, Education Code Section 15146, “any premium received” for new money school district general obligation bonds must be deposited into an interest and sinking fund. Some bond counsel and other financing professionals have interpreted that language to also allow for the use of premium to pay for certain costs of issuance of school district general obligation bonds. The theory has been that, in the case of certain costs of issuance, the school district issuer never technically “received” the premium, therefore the need to deposit it into an interest and sinking fund is alleviated. Such practice, however, has now been rejected by the California attorney general.

### **Bond Issuers, Take Note**

Accordingly, California school district issuers of municipal bonds should take note of this opinion when issuing new money general obligation bonds. Although courts are not bound by opinions of the California attorney general, they are given great weight. Thus, California school districts should work closely with their bond counsel, municipal advisor and other financing professionals during the issuance of general obligation bonds to ensure they understand the risks involved with the use of premium and to ensure the proceeds received from the sale of such bonds, including any premium generated, are properly utilized.

It should also be noted that the issuance of general obligation refunding bonds falls under a separate authority. And although the attorney general opinion was not entirely clear on this matter, the limitation has not been applied to refunding bonds and this opinion does not seem to imply otherwise.

### **Key Takeaways**

- There are risks involved with using premium generated on new money California school district general obligation bonds for any reason other than deposit into an interest and sinking fund for debt service repayment.
- Per the California attorney general, premium generated on new money California school district general obligation bonds cannot be used to pay for costs of issuing those bonds.
- It is important for California school districts to work closely with bond counsel, municipal advisors

and other financing professionals to ensure they understand the type of bond proceeds received and the proper uses thereof.

by Jennifer Bradlee

June 30, 2022

## **Best Best & Krieger LLP**

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### **[Nuveen Defeats Preston Hollow Defamation Suit Over Trash Talk.](#)**

- **Market ‘chatter’ didn’t prove reputational damage, judge finds**
- **Preston Hollow appeals; Nuveen still faces its antitrust suit**

A campaign by US municipal bond powerhouse Nuveen LLC to disparage Preston Hollow Capital LLC on Wall Street didn’t harm the reputation of the smaller competitor, a Delaware judge ruled.

Superior Court Judge Mary Johnston found that Dallas-based Preston Hollow didn’t lose business in the market for high-yield municipal debt as a result of allegations by Nuveen’s head of municipal investments, John Miller, that Preston Hollow participated in illegal deals and charged borrowers excessive rates.

“The court finds that the record evidence does not include the testimony of any witnesses that their opinions were changed as a result of defendant’s statements,” Johnston wrote in an opinion unsealed Monday. “Speculation and amorphous industry ‘chatter’ is not sufficient to create a reasonable inference that plaintiff’s reputation was grievously fractured in the community.”

Preston Hollow filed a notice of appeal to Delaware Supreme Court on Wednesday.

#### **Dozens of Depositions**

None of the 35 Wall Street traders, bankers and salespeople deposed by Nuveen testified that their firms stopped doing business with Preston Hollow or that their personal or companies’ opinion of Preston Hollow changed as a result of Nuveen’s statements, New York-based Nuveen asserted.

“We appreciate how the legal process played out and is an affirmation of our belief all along which is that PHC’s claims were meritless,” Nuveen said in a statement.

Preston Hollow was seeking as much as \$628 million in damages from Nuveen to compensate for lost business.

“Preston Hollow Capital respectfully disagrees with the Delaware Superior Court’s order concerning its defamation claim against Nuveen,” the firm said in a statement. “PHC will pursue an appeal that, we believe, will lead to a reversal, a full trial on the merits of PHC’s defamation claim, and a complete accounting of the harm it suffered as the result of Nuveen’s conduct.”

#### **Preston Hollow Win**

A Delaware Chancery Court judge earlier found for Preston Hollow but couldn’t award damages, so the firm sued in Delaware Superior Court.

Nuveen, a unit of teachers investment group TIAA that oversees more than \$200 billion in municipal bonds, still faces allegations by Preston Hollow in federal court that it used its market power as one of the biggest buyers of state and local government bonds to freeze out the smaller firm.

Preston Hollow is seeking at least \$100 million for alleged illegal anticompetitive conduct in blocking its access to deals in the high-yield municipal bond market.

Nuveen denies the claims and is fighting the suit.

The state case is Preston Hollow Capital LLC v. Nuveen LLC, N19C-10-107, Delaware Superior Court (Wilmington).

## **Bloomberg**

By Martin Z Braun

June 29, 2022

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## **[McKinsey Clients Won Puerto Rico Contracts as Firm Advised Government.](#)**

### **The consulting firm has helped the territory's oversight board review contracts with companies that are also its clients**

McKinsey & Co. has been a top government consultant since 2016 in Puerto Rico, helping the U.S. territory's financial overseers manage its spending. In that time, corporate clients of the consulting firm have won tens of billions of dollars of government business, new disclosures show.

Since McKinsey began its work for Puerto Rico's financial-oversight board, the firm has helped the board review and evaluate contracts with companies that are also McKinsey's consulting clients, according to disclosures it filed in federal court last month and other public documents. McKinsey clients include some of the largest fuel suppliers to Puerto Rico, an infrastructure company with a major role in operating the territory's electrical grid and contractors that support its public-health system.

A McKinsey spokesman said that the firm served these clients on unrelated matters and that its work for them hasn't conflicted with its work for the oversight board.

[Continue reading.](#)

## **The Wall Street Journal**

By Alexander Gladstone

June 27, 2022

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## **[New Jersey Hasn't Cleared American Dream Mall Grant as Debt Payment Looms.](#)**

- **State grants back \$290 million of American Dream muni bonds**
- **Mall has \$9.3 million payment due Aug. 1, but \$820 in reserve**

Three weeks before the American Dream super-mall is due to pay debt backed by New Jersey economic development grants, the state hasn't approved a key document needed to release the cash, raising the risk bondholders won't get their money.

The 3.5 million-square-foot shopping and entertainment complex in the Meadowlands has about \$820 left in a reserve account, and is scheduled to make a \$9.3 million payment on the bonds due Aug. 1, according to a bond filing. The \$290 million of municipal-bond obligations are backed by state economic development grants based on sales-tax collections.

However, before American Dream can get any aid to make debt payments, the state's Economic Development Authority must approve documents certifying project expenditures by the developer, Triple Five Group. EDA hasn't yet approved the cost statement, according to Virginia Pellerin, an agency spokeswoman. The countdown to the debt payment comes about six months after American Dream drew criticism from the bond servicer, which said in January that the mall had yet to file the paperwork.

New Jersey's \$50.6 billion budget for the fiscal year that began July 1 allocated about \$87 million for the Economic Redevelopment and Growth Grant program. Pellerin didn't say why American Dream's cost statement hadn't received approval, or whether any of the grant money appropriated in the budget was earmarked for the mall.

Melissa Howard, a spokeswoman for American Dream, declined to comment. Nuveen LLC, the biggest holder of the bonds, with about \$108 million as of April 30, didn't respond to a request for comment.

American Dream, which features an indoor ski slope, amusement park and water park, qualified for the grants because its location is designated as an economic redevelopment area. The grants, for as much as 75% of incremental sales-tax revenue collected each year, are capped at \$390 million over a 20-year period.

Failure to make a payment on the so-called grant revenue bonds doesn't constitute a default nor require the borrower to pay back the loan immediately, according to bond documents. Bonds maturing in 2027 traded at about 91 cents on the dollar June 30, while debt maturing in 2031 traded at about 82.4 cents.

The mall, whose opening was delayed by the pandemic, reported about \$90 million in gross sales for the first quarter and \$305 million for 2021. Most clothing and footwear isn't taxable in New Jersey. American Dream hasn't reported the amount of sales tax collected at the mall, which features luxury stores including Saks Fifth Avenue and Hermes.

Bondholders have criticized American Dream for not filing the project-cost paperwork with the state sooner. American Dream hired an auditor to complete the cost statement in March 2021, but as of January hadn't submitted it to the state, according to a letter from bond servicer Trimont Real Estate Advisors.

"While everyone appreciates the difficulties posed by the pandemic, and the likelihood that grant revenue received now may not be sufficient to fully pay the bonds, that does not relieve the Developer from responsibility to comply with its obligations under the various agreements," Trimont said in the letter.

Remedies for the breach “range from specific performance to a special redemption of all the bonds,” the letter said.

American Dream also has \$800 million of municipal bonds backed by fees that the mall’s owner makes to bondholders instead of paying property taxes, known as payments in lieu of taxes. Last month, the trustee for the bonds had to draw on reserves to make a June 1 payment on the debt because American Dream failed to deposit money required to pay debtholders. Triple Five made the deposit two weeks later.

The mall also has \$1.7 billion in construction debt. Triple Five is seeking a four-year extension to repay the obligation, Bloomberg News reported in February.

## **Bloomberg Markets**

By Martin Z Braun

July 7, 2022

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### **[Messy Politics Won't Keep Goldman Sachs Out of Texas.](#)**

#### **Housing costs, tax breaks, labor pool more than make up for hardline red state policies.**

In about five years, a gleaming new \$500 million campus in central Dallas, a stone’s throw from the home of the Mavericks’ basketball arena, will house thousands of Goldman Sachs Group Inc. staff. The bank, synonymous with Wall Street and New York, is not alone in expanding in southern US states at a time when social conservatives are unleashing a spate of restrictive laws on abortion and education, while knocking down barriers to gun control or using fossil fuels.

Charles Schwab Corp. last year left San Francisco for a new headquarters in Westlake, a Dallas suburb, while Vanguard Group is spending millions to establish an office in the area for financial advisers and technology staff. The hedge fund giant Citadel is shifting its home base from Chicago to Miami.

These two cities are starting to become increasingly significant financial hubs in the wake of the Covid pandemic. The question for banks and money managers being pulled south by tax benefits and lower costs, is whether a deeply conservative climate will make it harder to attract and retain the highly educated, younger workers they need. For now, the signs are that money talks louder than politics. Texas has more Fortune 500 corporate headquarters than any other state even after it passed the most restrictive laws on abortion in the country more than a year ago, a Bloomberg News piece noted this week. A local academic quoted in the article warned that the laws will ultimately hurt the diversity of thought and innovation in the state.

But there’s an alternative view for corporate America: People will keep moving South, graduates from the highly rated universities in Texas will build lives there and economic growth will spur more wealth creation. Ultimately, the demographic facts on the ground will govern the political weather. In the near term, the battles between conservative politicians and some corporations whose staff skew more socially liberal will likely get worse before they get better.

States have so far used their municipal-bond programs to wage their fights. Wells Fargo & Co. has warned it faces a de facto ban from Texas bond deals as lawmakers look to stop business going to

institutions it deems hostile to energy companies. Another Texas law on gun policies last year shut some banks out of the market, with several other states bringing copycat laws. Politicians have already threatened to make abortion the next bond-market battleground.

It is still unclear what anti-abortion lawmakers can or will do if they want to punish companies that support staff seeking the treatment out of state – but it seems unlikely the answer will be nothing. Some banks like Goldman Sachs have committed to back employees. Others, including Citadel, haven't commented publicly. But according to a person with knowledge of the firm's policies who didn't want to be named, it has always ensured its staff can get the medical care they need.

For Goldman Sachs, though, there are no second thoughts about its ambitious Dallas development plan. The process for planning and building major new offices happens over many years and is not just about the tax breaks: The bank is committed to local hiring in Texas, which is a rich area for technology and engineering recruitment among graduates from Texan universities. These moves are also in response to demographic changes long underway. Dallas is no backwater, and Texas has been one of the fastest growing state economies over the past 20 years.

More widely, there has been a steady trend for more and more workers to head south and west for warmer winters and away from colder, northern cities since 2000, according to Dietrich Vollrath, professor and chair of economics at the University of Houston. In his 2020 book, "Fully Grown," he says this may have been a drag on the US economy for much of this time because the workers were often heading to cities that had less productive industries than their northern counterparts. But as populations grow and density increases, cities like Dallas, Miami and many others could start to make productivity gains.

Vollrath also looks at the role of housing. In a city like San Francisco, development rules are strict and there is no virgin space on which to build. The more people try to move there, the more rapidly housing costs increase, which is a barrier to entry and to growth. Dallas is the opposite: It has few restrictions on what people can build and no limit on surrounding space to build it. That's another big economic reason for companies to keep establishing offices there.

Many in politics and business believe that companies have no business getting involved in cultural and political debates but should stick to creating value for shareholders. But very large employers unavoidably contain the social mores of their employees: The younger, more educated and affluent those people are, the less socially conservative their views might well be. Cities offer tax breaks to encourage economic development. Success on that front could mean political change, too.

## **Bloomberg Opinion**

By Paul J. Davies

July 8, 2022

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### **[Salt Lake City Confronts a Future Without a Lake.](#)**

**Utah's Great Salt Lake is disappearing as a "megadrought" persists across the Southwest, forcing the fast-growing city nearby to curb its water use.**

From the southern rim of the Great Salt Lake, the largest saltwater lake in the Western Hemisphere, barely any of the pinkish, saline waters that used to engulf the million-acre basin are visible.

“For years the lake lapped right here,” says Ella Sorensen, motioning at the gritty dried lake bed underfoot. “But I have watched it disappear over time.”

Sorensen is the manager of Audubon’s Gillmor Sanctuary, a 3,597-acre wetland preserve along the lake’s southern border, about 10 miles from downtown Salt Lake City. Utah’s iconic body of water has been beating a retreat from the state’s capital: In July 2021, the Great Salt Lake reached its lowest level since measurements began in 1875. The lake’s surface area has shrunk to about 950 square miles, according to the US Geological Survey, less than a third of the 3,300 recorded in 1987. This week, the record was broken again.

As the lake has dried, the complex web of life that these brackish waters support has been imperiled, including hundreds of bird species that rely on the insects and shrimp that breed here. “This is a key stop on the migration route,” Sorenson says. “But it’s mind-bogglingly dry these days.

Blame has fallen on the unprecedented “megadrought” gripping the US Southwest — the region’s driest 22-year period in at least 12 centuries, a slow-motion environmental disaster exacerbated by human-caused climate change. According to the US Drought Monitor, 99.9% of Utah is currently in either “severe” or “extreme” drought levels. But the crisis also reflects the growing water demands of an increasingly developed region.

A vanishing lake could spell big trouble for Salt Lake City. The Great Salt Lake is the largest water body in the US after the Great Lakes, and a crucial cog in a fragile regional ecosystem linked to drinking water (not directly, but via evaporation), air quality, biodiversity, and tourism in the city and across the Wasatch Front, a chain of towns and cities containing more than 2.5 million people along the Wasatch Mountain Range.

The lake’s value is hard to overstate, says Laura Vernon, the Great Salt Lake coordinator with the Utah Department of Natural Resources (a role created in 2020). Beyond the critical role it plays for millions of migratory birds, brine shrimp farming and mineral extraction bring in hundreds of millions of dollars. And the region’s ski industry relies on “lake-effect snow” fed by the lake’s moisture. “For too long the lake’s value has been overlooked and underappreciated,” says Vernon.

The changes are impossible to miss. Antelope Island hasn’t been surrounded by water since 2001; “Spiral Jetty,” a coil of rocks arranged along the shoreline by sculptor Robert Smithson in 1970, is now a mile from the lake’s edge.

“The lake is in big trouble,” says Jeremy Shaw, manager of the Antelope Island State Park since 2011. “It’s drying up more and faster every year.”

Vernon says that equilibrium is being “knocked out of balance.” Declining water levels mean salinity is increasing, threatening the brine shrimp. The snowpack that recharges the lake is reducing: Research shows that snow cover in the mountains around the lake melts at least a week earlier than it did 20 years ago. As the bottom of the lake is exposed, winds carry clouds of toxic dust — laced with arsenic and other heavy metals that accumulated both naturally and through man-made pollution — over populated areas nearby.

“Once or twice a month the sky is filled,” says Hugh Ferguson, a Salt Lake City resident and keen birder who has been seeing more frequent dust storms recently. “You can see it coming from a long way off across the valley. The snow turns brown and it melts quicker because of it.”

This confluence of ill effects stands to take a toll on the local economy: A 2019 report commissioned by the Great Salt Lake Advisory Council found low lake levels could result in losses of up to \$2.17

billion per year, through lost mineral extraction, the decline in the shrimp and tourism industries, and health costs to area residents, among other reasons.

Perhaps most alarmingly, Salt Lake City will soon not have enough water to support its population: Demand is set to exceed supply in 2040. Utah is the fastest-growing state in the US, and the capital region's population is projected to increase almost 50% by 2060, adding another 2.2 million people. The contraction of the Great Salt Lake, which provides up to 8% of the precipitation on the surrounding mountain ranges that feed into the area's rivers, will cut water supply further.

Part of the problem, critics say, is the city's profligate thirst, and the policies behind it. A state audit in 2015 found that Utah has the highest water use in the US, at 248 gallons per capita, and Salt Lake City charges less for water than all but one of the 30 major US cities surveyed, including desert cities such as Phoenix (which charges 30% more), Las Vegas (36% more), and Santa Fe (82% more). Some local regulations encouraged heavy water consumption, like the city ordinance that required 50% of yards to be covered with "turf, perennial or low growing shrub vegetation" — a figure that has since been reduced to 33%.

On top of that, often the level of residential water consumption simply isn't known: As Salt Lake City has developed, older agricultural systems in households have been updated to urban, pressurized systems without water meters. The audit found that data submitted to the Division of Water Rights contains "significant inaccuracies."

"These policies have been flawed, to say the least," says Newsha Ajami, a hydrologist and chief development officer for research at Berkeley Lab's Earth and Environmental Sciences Area. "There has to be a complete and total mindset shift. Otherwise one day we'll turn on the faucet and nothing will come out."

More broadly, the approach to water rights across Utah, where agriculture makes up to 80% of water use, has also come under question. Until this year, under Utah water law, those who own a right or a share had to use their entire annual allocation or it could go to someone else. Such "use it or lose it" clauses in local regulations were once common in the Southwest. A new state regulation, H.B. 33, means farmers can leave some water in streams without losing their allotted amount. But critics say much policy remains outdated. "These past water rights were established in the 1800s in a pre-climate-changed environment," says Joanna Endter-Wada, a professor of natural resource policy and social science at Utah State University. "They should be modernized."

Reducing water use would allow more snowmelt reach the parched lake. And the city is belatedly responding with a more conservation-oriented set of policies and practices, according to Laura Briefer, director of Salt Lake City's public utilities department. Municipal water prices will rise by 10 to 15% per year until 2028. A project with the company Proseeds is providing at-cost drought resistant grass seed to residents, which requires 30% less water than the popular Kentucky bluegrass. "Water maps" are being developed to identify locations with the greatest capacity to conserve water. Greater emphasis, too, will go into reusing wastewater across homes and businesses, and the city has introduced a moratorium on permits for businesses that use significant water, such as data centers. "We are making sure water is an important part of policy," says Briefer. "In the past that has been very disconnected."

At the state level, Utah legislators passed a bill in February that will create a \$40 million water trust to increase or maintain the water flowing into the Great Salt Lake and sustain its wetlands. In an effort to boost residential water conservation, during this year's session, Utah also became the first in the US to implement a statewide turf buyback program, setting aside \$5 million for cities to compensate residents for removing water-hungry lawns and pay for conservation classes. Another

bill, meanwhile, requires water suppliers to meter new and existing pressurized secondary water connections.

But Ajami says that further regulations are needed to prevent the region's galloping development from draining the lake. "We are building future cities today; we can't use the model from 100 years ago," she says.

She points to San Francisco, which has an ordinance requiring buildings over 100,000 square feet to have onsite reuse systems to treat some graywater and reuse it to flush toilets and irrigate plants. "It's clear that 20th-century infrastructure is not suitable for the 21st-century challenges we are facing," says Ajami. "And with climate change, there's less water and less certain supply sources. We need to pay close attention to water governance."

The confluence of the region's booming growth trajectory and its deepening water crisis has brought some pleas from residents and lawmakers to limit or halt development. But Utah's Republican governor, Spencer J. Cox, has resisted calls for measures such as a construction moratorium. "We've always been in a dry state, and we've had very positive economic development," Cox said at a press conference in May. "We are in a drought cycle right now. I don't anticipate that the drought cycle will last forever. I don't know if it will last one more year or five more years or 10 more years."

The issue goes beyond Utah: The Colorado River, a water source for 40 million people across the US Southwest, is also facing record lows and shortages, even as the population of Sun Belt metro areas continues to grow. And globally, climate change is increasing the frequency, severity and duration of droughts, a United Nations report in 2021 concluded, bringing new water crises to growing cities around the world.

"There's a collision between climate change, fast growth and a shrinking Great Salt Lake," says Briefer. "It's a very visual indicator of the risk we face."

## **Bloomberg CityLab**

by Peter Yeung

July 8, 2022

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### [\*\*Houston Is Barreling Toward 'Fiscal Cliff' When Stimulus Runs Out, Watchdog Warns.\*\*](#)

#### **Even if the US avoids recession, fourth-largest city's financial position in 'unsustainable,' controller says**

Houston's budget watchdog is warning that America's fourth-biggest city is headed toward a "fiscal cliff" once federal stimulus money runs out.

That could trigger City Hall layoffs and perhaps even privatization of some municipal services to balance annual budgets, Chris Brown, the city's elected controller, said during an interview with Bloomberg News on Thursday. The former equity trader's gloomy outlook stands in stark contrast to Mayor Sylvester Turner's recent assessment that the oil capital of the Western Hemisphere is in "pretty good shape" financially.

Brown said that although Houston is in robust fiscal health right now, the threat lurking just below the surface is “irrational exuberance” brought on by hefty injections of federal dollars intended to keep US municipalities and the broader economy afloat amid the worst ravages of the Covid-19 pandemic. Rather than using the stimulus windfall to make upgrades to municipal assets that would lower operating costs over the long term, the city has plowed those dollars into things like pay raises, he said.

“The challenge is when you use one-time financing sources to fund recurring revenues, you make that problem worse in the future,” said Brown, 46, who occupies the city’s second-highest elected office. “It’s not sustainable.”

In the wake of the global pandemic, the Biden administration funneled \$350 billion to cities, counties and state governments to stabilize their finances via the American Rescue Plan. Houston used a lot of its allocation to plug a roughly \$150 million shortfall that, left unfilled, would have imperiled thousands of municipal jobs, Brown said.

With stimulus funds scheduled to run out at the end of 2024, the city of Houston will find itself with financial obligations far in excess of revenues, most of which emanate from property and sales taxes, Brown warned. By 2025, Houston could be facing a \$300 million annual shortfall, he said.

For his part, Turner dismissed Brown’s dire outlook during a separate interview last week. In his seven years as mayor, Houston has never resorted to layoffs, he said.

Houston’s options for raising more revenue are limited but could involve selling real estate; past administrations have taken such steps, selling assets such as the Compaq Center pro basketball arena, Brown noted. But there may be no avoiding job cuts and inviting the private sector to take charge of some city services, he said.

“It’s not something that I like talking about, but you need that alternative perspective,” said Brown. “Yeah, things are good now because we have this surplus of cash, but structurally we’ve actually made the problem worse.”

## **Bloomberg Markets**

By David Wethe and Danielle Moran

June 30, 2022, 1:07 PM PDT

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### **[Alabama Sells Munis for Prisons After Deal Cut by \\$216 Million.](#)**

- **Issue was reduced to about \$509 million after tepid demand**
- **Activists have been critical of the proposal for new prisons**

Alabama wrapped up a \$509 million sale of municipal bonds on Wednesday to finance new correctional facilities in the state, completing the transaction despite weak demand that caused underwriters to shrink the offering by more than \$200 million.

The deal was originally supposed to total \$725 million, and was slashed as it struggled to lure buyers, according to people familiar with the matter. The reduction came mainly in longer-dated segments, where the 30-year maturity was cut to roughly \$71 million from the \$199 million

originally offered.

Some municipal-bond managers chose not to participate because the deal would finance prisons, and some socially responsible investment firms had criticized the transaction. Other investors said the yields on the bonds weren't high enough to draw their interest.

Proceeds of the offering, for which the lead underwriters are Stephens Inc. and Frazer Lanier Company Inc., will be used to finance the construction of two men's correctional facilities, each designed to house about 4,000 people who are incarcerated.

The construction of new prisons has been controversial in Alabama, where activists say the projects will perpetuate mass incarceration. The state has one of the nation's highest incarceration rates, according to a 2021 report from the Prison Policy Initiative, a research group.

### **Bruised Market**

The deal came to market amid a challenging environment for municipal borrowing. With the fixed-income universe slumping as the Federal Reserve boosts interest rates to combat inflation, investors have been yanking money from muni-bond funds for months, making it tougher for underwriters to place new issues.

The muni market has lost more than 9% this year, but the longest-maturity debt has absorbed the biggest hit, with bonds due in more than 22 years sinking 15%, Bloomberg index data show.

On Tuesday, underwriters were short around \$200 million of orders on the deal, even after raising yields on some segments, according to people familiar with the transaction. Demand was weak for the 30-year maturity in particular, the people said.

Also Tuesday, the issuer said it was facing litigation from incarcerated people who say Alabama should use funds to improve conditions in its existing penitentiaries before it pays interest on debt.

Lawyer Frank Ozment said in an interview that he filed a complaint in intervention so the court can clarify that the state should spend money to comply with a December court injunction before it makes bond payments.

In a filing, the state said it has already agreed to prioritize following court orders and consent decrees before paying bondholders, and therefore it doesn't believe the complaint will have any impact on its bonds. It also said it's appealing the December ruling.

A spokesperson for Alabama's finance department didn't have an immediate comment. A representative for Stephens, which is based in Little Rock, Arkansas, declined to comment, while a call to Frazer Lanier's office in Montgomery, Alabama, wasn't returned.

### **Bloomberg Markets**

By Danielle Moran and Amanda Albright

June 29, 2022

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## [Atlanta Has More Going for It Than Any US Metropolis.](#)

**While municipal finances deteriorated across the country during the pandemic, the city was able to achieve the strongest measure of credit quality based on 10 economic criteria.**

Atlanta is emerging from Covid-19 with impeccable credit, the world's busiest airport and an economy delivering two-thirds of Georgia's gross domestic product. It's home to 13 companies in the S&P 500 Index, including Delta Airlines Inc. and Home Depot Inc., whose sales and market valuations make them No. 1 in the world in their respective industries. At 2.4%, Atlanta's unemployment rate is at a record low and below the 3.6% national average, according to data compiled by Bloomberg.

"Wakanda" and "Silicon Peach" are the city's newest nicknames because so much of the blockbuster movie hit Black Panther was made where so many "techstars" are rising. Diversity underlines every business in the second-largest majority black metro area with one of the highest LGBTQ populations per capita anywhere in the US. Unlike its economic peers, Atlanta has been managed by a black Democrat since 1974 and is the main reason why the state in 2020 backed the first Democrat in almost 30 years for president.

When Maynard Jackson became the first Black mayor of any major city in the South in 1974, garnering 60% of the vote, his two biggest initiatives would stand the test of time: Making Atlanta's Black citizens essential participants in the economy, which required massive changes in corporate culture and public works, including the upgrade of what was then called the William B. Hartsfield Atlanta International Airport and the expansion of the Metropolitan Atlanta Rapid Transit Authority (MARTA) rail-line system. Jackson was so effective at transforming Atlanta into a global transportation hub that as the longest serving mayor of the city after William B. Hartsfield, his legacy is the renamed Hartsfield-Jackson Atlanta International Airport.

Andre Dickens, the 47-year-old former city council member who was elected Atlanta's 61st mayor by winning 64% of the vote in November, inherits all the problems of big city mayors, especially a paucity of affordable housing and rising homicides. He's familiar with Jackson's agenda and is determined to see bank lending increase to marginalized borrowers and persuade companies to ensure that at least 30% of their workforces are made up of local residents.

When Microsoft Corp. recently opened new Midtown offices for 2,500 employees and purchased land for an additional 10,000, Dickens said he told the software company's president, Brad Smith, that "if you import all this talent from Redmond (Washington) or San Francisco or the coast because they can live off \$150,000 and you plop them down in Atlanta, where you got people making less than \$15 an hour, you're going to upset our ecosystem."

Housing is his biggest challenge. "We put together \$65 million in this year's budget just for affordable housing," Dickens said in an interview with reporters and editors at Bloomberg News's Atlanta bureau earlier this month. "Some of that is rent stabilization, to help people that raise their hand and say, 'My rent went up by \$250 and I just don't have it.' So we're going to be helping those folks just directly staying in their house." The federal Community Reinvestment Act "was there to protect the existing homeowners," Dickens said, "by making sure that we get reinvestment." "This could be some 2.0 or some next level version" of the CRA "just to allow for communities to not be overrun by bank investors," he said.

Fortunately for Dickens, the city of 510,000 residents outperforms larger cities with bigger urban populations, such as Los Angeles, Houston and New York, as well as similar-sized Miami, Milwaukee and Sacramento, with a coveted superlative: exceptional creditworthiness. While municipal finances

deteriorated across the country during the pandemic, data compiled by Bloomberg show Atlanta achieved the strongest measure of credit quality based on 10 economic criteria: total assets, building permits, total liabilities, house price index, excess revenue over expenditures, other funds, property tax revenue, median income, non-farm employment and unemployment.

The combination of falling liabilities, rising tax revenue and median income are proving unbeatable, giving Atlanta Bloomberg's highest investment-grade rating of IGI 1, superior to distressed Chicago (DS1), Philadelphia (IG4), New York, Milwaukee, Miami (IG3), Houston, Kansas City, Los Angeles and Sacramento (IG2). Only Phoenix, with a population almost three-and-a-half times Atlanta's, can match its credit quality, according to data compiled by Bloomberg.

No American city comes close to matching the success of the Hartfield-Jackson Atlanta International Airport, the world's perennial No. 1 and whose passenger traffic increased 76.4% from the depths of the pandemic in 2020 to 75.7 million in 2021, according to Airports Council International. In the US, Dallas/Fort Worth, Texas is an also-ran at No. 2, with 62.5 million. "Our airport is immensely helpful" because people want to have the ability to fly anywhere in the US, which Atlanta makes easier than its competitors, said Dickens.

The other ingredient of Atlanta exceptionalism is the diversity of the city's business community, said Dickens, pointing to the Women Entrepreneurship Initiative, which bills itself as the only city-funded program of its kind in the nation. "No place in the nation do you have this depth and breadth of black talent, let alone black women talent," he said. "If you support black women business owners, you're basically supporting the family in the community, and I love that logic model."

That's another reason why Atlanta has more going for it than any American metropolis.

## **Bloomberg Opinion**

By Matthew A. Winkler

June 27, 2022

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### **[Alabama's Prison Bonds Hit Snag Amid Weak Demand, Litigation.](#)**

- **State plans to sell \$725 million of muni bonds this week**
- **Orders for the securities are falling about \$200 million short**

Alabama is struggling to line up buyers for a \$725 million bond sale to fund its two prisons.

Underwriters were short around \$200 million of orders on the bond deal as of Tuesday, according to people familiar with the matter. Demand was weak for the 30-year maturity in particular, the people say.

Earlier on Tuesday, underwriters for the bonds raised the yields offered by about 5 basis points on some maturities compared with what was offered the previous day during the pre-marketing period, according to pricing wires viewed by Bloomberg.

A spokesperson for Alabama's finance department declined to comment. A spokesperson for Stephens, a senior underwriter for the bonds, didn't have an immediate comment.

Tepid demand for the bonds is the latest in a series of obstacles for this sale. Earlier on Tuesday, the

issuer said it was facing litigation from incarcerated people who say the state should use funds to improve conditions in its existing penitentiaries before it pays interest on debt.

Lawyer Frank Ozment said in an interview that he filed a complaint in intervention so the court can clarify that the state should spend money to comply with a December 2021 court injunction before it makes bond payments.

“To say, we’re going to take this money to pay the bondholders before we use it to comply with the injunction is wrong,” Ozment said.

### **Prison Safety**

In a filing on Tuesday, the state said that it has already agreed to prioritize following court orders and consent decrees before paying bondholders, and therefore it doesn’t believe the complaint will have any impact on its bonds. It also said it’s appealing the Dec. 2021 ruling.

The sale had run into difficulty even before then. In April 2021, Barclays Plc pulled out of its role as lead underwriter for the offering, and KeyBanc Capital Markets, another manager, said it was also resigning from the sale.

Alabama has faced litigation over the safety of its prisons for years. People who were incarcerated filed a class action suit against the state in 2014, alleging, among other complaints, that the prisons were failing to provide adequate medical care to people in custody. In December 2021, a US judge found that there were “many deeply serious problems” with the state’s mental health care for prisoners and ordered sweeping fixes.

In 2020, the US Department of Justice sued the state and its corrections department for failing to protect male prisoners from violence, sexual assault, and other unsafe conditions.

Alabama had the second-highest prison mortality rate among US states in 2019, according to Bureau of Justice Statistics data. It also has one of the highest incarceration rates in the country, according to a 2021 report from the Prison Policy Initiative, a think tank. As of 2017, Black people accounted for about 54% of the state’s prison population but only 28% of state residents, according to the Vera Institute of Justice.

### **Tough Market**

Selling tax-free bonds has generally grown more difficult this year, as the Federal Reserve has tried to tame inflation by lifting rates. Municipal bonds have lost 9.3% of value this year, according to Bloomberg index data, accounting for both price changes and interest payments. Investors have yanked money from municipal bond funds for 18 of the last 19 weeks, including pulling \$1.6 billion last week, according to Refinitiv Lipper US Fund Flows data.

Prison reform activists and money managers that focus on socially responsible investing are encouraging investors not to buy these bonds.

“We strongly urge banks and investors to refuse to purchase securities that will be offered on June 28th whose purpose is to perpetuate mass incarceration and continued control over Black and Brown bodies,” wrote the group led by Justice Capital’s Christina Hollenback and Eric Glass said in a Monday statement.

State Governor Kay Ivey said in 2020 that building new facilities will make the system better, saying in a statement, “we must rebuild Alabama’s correctional system from the ground up to improve

safety for our state's correctional staff and inmate population, and we must do it immediately."

## **Bloomberg Markets**

By Amanda Albright and Danielle Moran

June 28, 2022

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### **[The Growing Trend of Anti-Boycott Laws and the Effect on Public Finance - Is Arkansas Next?](#)**

In a nation seemingly becoming more polarized along political lines every day, not even the normally quiet and steady world of public finance remains untouched. Recently proposed and adopted anti-boycott type legislative initiatives in several states, and the emergence of environmental, social and governance (ESG) issues in the securities world, have begun to lead partisan political battles into the world of public finance. Arkansas has largely avoided these issues so far, but how long that status will last remains to be seen.

The trend of state-level legislation seeking to address hot-button political issues generally began several years ago with the promotion and adoption of legislation in numerous states which restricted the ability of states and political subdivisions to enter into contracts with companies (and in some cases, individuals) with policies deemed to be anti-Israel (known as the boycott, divestment and sanctions (BDS) movement). Arkansas is one of thirty-four (34) states which has enacted laws targeting the BDS movement (Ark. Code Ann. § 25-1-501, *et seq.*)<sup>1</sup>.

While anti-BDS laws did not seem to have much effect on the public finance markets, the conceptual framework underlying anti-BDS laws is beginning to. Over the past year, several states have begun employing the anti-BDS model to address other hot-button political issues. In particular, the energy (fossil fuel) and firearms/ammunition industries have become a focus of these efforts.

For example, in the past year, Texas has passed legislation prohibiting contracts with companies that boycott or discriminate against the firearm and ammunition industries (Tex. Gov't Code Ann. § 2274.001 *et seq.*) and certain energy companies (Tex. Gov't Code Ann. § 2274.001 *et seq.*). These statutes have similar requirements and apply to contracts between governmental entities and companies with ten or more full-time employees. The legislation applies to contracts with a value of \$100,000 or more which are paid, in whole or in part, from public funds. Both statutes require that the companies seeking to enter contracts with the governmental entities provide written certifications regarding the companies' compliance with the statutes.

The Texas legislation has had real effects in the Texas public finance arena - particularly with respect to bond underwriters. Large national underwriting firms such as Morgan Stanley, Wells Fargo, JPMorgan Chase & Co., Bank of America Corp. and Goldman Sachs Group, Inc. have either been removed, withdrawn from, or forced to reduce (or in some cases, eliminate) their participation in Texas municipal bond transactions.

Texas is not the only state that has applied the anti-boycott model to various politically sensitive industries or issues. Alaska, Arizona, Idaho, Indiana, Kansas, Kentucky, Louisiana, Minnesota, Missouri, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Utah, West Virginia and Wisconsin, have all introduced similar legislation addressing contentious issues. These proposals are at various different stages of the process in these states.

The imposition of anti-boycott type legislation will likely not be without cost in the public finance markets. By limiting potential underwriting (or direct purchaser) options, bond issuers may see increased borrowing costs. While this potential effect may be somewhat muted in a state like Texas, which boasts the second-largest public finance market in the country, due to the sheer number of market participants in the state, smaller states with smaller public finance markets and fewer participants (such as Arkansas) could see bigger effects.

There are no pending anti-boycott type legislation proposals in Arkansas at this point. However, given the political landscape and the growing trend of such legislation around the country, it is not unreasonable to anticipate that similar proposals will be coming. Because of Arkansas's relatively small public finance market and the makeup and nature of the primary underwriter and banking firms active in the state, it is unclear exactly what effect any anti-boycott legislation will have. However, it is an important emerging national trend and is worth monitoring going forward.

<sup>1</sup>The Arkansas anti-BDS law was challenged in federal court in the case of *Arkansas Times vs. Waldrip, et. al.* A federal district court ruled Arkansas's anti-BDS law violated the First Amendment to the U.S. Constitution. This decision was originally upheld by a three-judge panel of the United States Court of Appeals for the Eighth Circuit, but later overturned by the full Eighth Circuit in a decision handed down on June 22, 2022. The Arkansas Times has indicated that it intends to appeal the Eighth Circuit's decision to the U.S. Supreme Court.

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by John Bryant

June 30, 2022

**Mitchell, Williams, Selig, Gates & Woodyard, P.L.L.C.**

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## **[Michigan Emergency Services Authorities Authorized to Incur Debt for Capital Projects and Equipment: Miller, Canfield](#)**

On June 15, 2022, Michigan Governor Gretchen Whitmer signed legislation amending Act 57, Public Acts of Michigan, 1988 ("Act 57"), to authorize an emergency services authority, established under Act 57 by municipalities to provide emergency services, to incur debt for the purposes of purchasing real or personal property or financing the costs of buildings and facilities. The legislation cures an omission that had limited Act 57 authorities from efficiently financing needed emergency response capital assets.

Specifically, Act 102, Public Acts of Michigan, 2022 (“Act 102”), authorizes an authority to enter into a contract or agreement for the purchase of real or personal property to be financed over a period not-to-exceed 15 years. This installment purchase method of financing is similar to that authorized for cities, townships and villages under Act 99, Public Acts of Michigan, 1933, as amended, although Act 102 authorizes the emergency services authority to pledge the real or personal property acquired as collateral in support of the contract.

In addition, Act 102 authorizes an emergency services authority to issue its bonds or notes to finance the costs of acquiring, constructing, furnishing and equipping buildings and facilities, including the acquisition of property.

Bonds issued by an emergency services authority may be limited tax bonds or unlimited tax bonds. Limited tax bonds are bonds that are payable from existing revenues of the authority and may be issued without a vote of electors. Unlimited tax bonds must be submitted to a vote of the electors of the authority. If approved by the electors, unlimited tax bonds are then payable from a special debt millage levied annually by the authority for the duration of the bond issue.

Bonds or notes issued by an authority are a debt of the authority only, and do not constitute debt of any of the incorporating municipalities. However, if an incorporating municipality withdraws from an authority, the municipality shall be liable for its proportion of the debts and liabilities of an authority incurred while the municipality was part of an authority. Taxes levied or imposed for the payment of unlimited tax bonds approved by electors before adoption of the resolution to withdraw must continue to be levied within the municipality as if the municipality did not withdraw from the authority until such bonds are paid in full.

An authority is limited to borrowing money or issuing its bonds or notes in a sum that, together with the total outstanding bonded indebtedness of the authority, does not exceed 5% of the state equalized value of all of the taxable property within the jurisdictional limits of the authority.

Tuesday, June 28, 2022

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## **[BondLink Makes Key Hires to Strengthen Future of Investor Transparency for Municipal Governments.](#)**

### **Industry-leading investor relations (IR) platform hires four public finance veterans to meet the needs of evolving municipal bond market**

BOSTON, MA / ACCESSWIRE / June 28, 2022 / BondLink, the cloud-based investor relations and debt management platform for the municipal bond market, today announced it has added four new members to its team to further expand its investor transparency initiatives.

“Our growing team of public finance experts are uniquely qualified to help municipal issuers become more transparent and find new ways to stand out in today’s competitive market,” said Colin MacNaught, CEO and co-founder of BondLink. “I’m thrilled to have Ted Damutz, Robert Smith, Emina Masic, and Alex Palazzolo on the BondLink team. They bring an incredible breadth of knowledge and experience and already are providing new perspectives on how we can leverage our capabilities to better serve our clients.”

BondLink made key investments in its industry-leading team by hiring:

- **Ted Damutz** as regional director of Issuer Solutions. Damutz previously spent three years as the treasury manager for the City of Raleigh. Prior to that, he served as a team leader and senior credit officer at Moody's for more than 20 years. Additionally, Ted is a member of the National Federation of Municipal Analysts Board of Governors, a position he has held for a total of 10 years throughout his career.
- **Robert Smith** as regional director of Issuer Solutions. Smith has over 40 years of municipal experience, previously spending seven years as a senior vice president of relationship management at Moody's. Earlier, he served as an executive vice president at HRF Associates and a managing director at ACA Financial Guaranty Corporation.
- **Emina Masic** as regional director. Before joining BondLink, Masic worked as a public finance investment banker at Truist Securities, Huntington, and Siebert Williams Shank. She started her career as a graduate intern for the City of Philadelphia Treasurer's office.
- **Alex Palazzolo** as regional director of issuer solutions, largely serving Texas-based entities. Palazzolo previously served as a vice president at Stifel Financial Corp., in public finance roles at Wells Fargo Securities and Moody's, and as a managing director at Stonebriar Commercial Finance.

"I'm looking forward to partnering with municipal issuers around the country to help them more effectively communicate their public finance initiatives, manage their debt profiles and highlight their strengths," said Ted Damutz. "I know, from first hand experience, how many municipalities have been under-staffed the past few years and how urgently enhanced transparency is needed for the buy-side. I'm excited to be part of BondLink and help issuers stand out in the muni-bond market by promoting their strengths beyond SEC-required disclosures."

"It's been amazing to see how well BondLink collaborates with different members of the financing team," said Emina Masic. "I've already witnessed how much issuers and their advisors can benefit from the robust data and efficiencies our platform provides. So, I'm particularly excited to continue demonstrating that."

For more information about open positions at BondLink, please visit [www.BondLink.com](http://www.BondLink.com) or email [careers@bondlink.com](mailto:careers@bondlink.com).

## **About BondLink**

BondLink, a cloud-based investor relations and debt management platform for the municipal bond market, helps issuers engage more bond investors through transparency and actionable insights. Founded by CEO Colin MacNaught, who spent seven years issuing nearly \$25 billion in bonds on behalf of the Commonwealth of Massachusetts, and CTO Carl Query, BondLink went live in 2016. BondLink clients issued more than \$50 billion in bonds in 2021. BondLink provides its issuer clients with tools to manage their capital financing programs more efficiently while providing investors with the interim financial reports and data they need to close information gaps and make informed decisions through a single platform. The company is backed by top investors within the municipal bond market, including Intercontinental Exchange and Franklin Templeton. Headquartered in Boston, BondLink recently was named to the 2022 GovTech 100, marking its fourth consecutive appearance on the annual list. For more information, visit [www.bondlink.com](http://www.bondlink.com), and connect on LinkedIn and Twitter.

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## **Houston's Mayor Is Confident in City's Finances as Recession Looms.**

- **Fourth-largest US city spending on pay raises, new building**
- **Sylvester Turner leaning toward imposing trash-collection fee**

Houston Mayor Sylvester Turner says a large budget surplus, surging tax revenues and federal stimulus aid put the fourth-largest US city on solid financial ground even as many economists brace for an economic slowdown.

Earlier this month, the city council approved a \$5.7 billion budget for the coming fiscal year which includes pay increases for all municipal employees and funding for new facilities.

"I think we are in pretty good shape," Turner said during an interview with Bloomberg News on Tuesday.

Despite the city's strong balance sheet, the two-term Democrat is considering imposition of a trash-collection fee to cover an annual expense that represents the biggest drain on the general budget after police and fire services.

For Turner, it's a stark turnabout from past years when he's been a staunch opponent of foisting garbage-disposal costs onto residents. In 2020, the city council required homeowners to start paying \$1.14 a year to lease trash bins but the \$93 million spent annually on collecting garbage comes out of the general fund.

"Solid waste, the way it is currently being financed, that is not a sustainable model," Turner said. "It's a changing city, it's a dynamic city and you can't just keep pulling from the fund balance. There needs to be a dedicated source or enterprise fund just for solid waste."

Turner didn't say how much he envisions charging residents or how much the fees would raise. Imposing such a levy would require city council approval and the mayor said he's confident he has the votes.

Meanwhile, the recently approved budget includes an ending fund balance of about \$311 million, more than the city's required minimum.

"I am pleased from a financial point of view on where we are and I don't see any financial problems with the city for the rest of this year or for the budget next year," Turner said. "My goal is to put the next mayor in a much, much better place than where it was financially when I came in seven years ago."

Houston's robust fiscal picture is echoed around the country with municipalities and states reporting record surpluses and cash balances, even as recessionary risk creeps in with equity markets plummeting and the Federal Reserve poised to raise interest rates further to combat soaring inflation.

Turner said that while in office he's taken a "conservative" budget approach, building up fund balances to prepare for a less rosy financial environment. "The way I operate is that you build up as big of a fund balance as you can, not knowing what is going to be around the corner and just put yourself in a much better position to move forward."

### **Bloomberg Markets**

By Danielle Moran and David Wethe

June 21, 2022

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## **[Texas Supreme Court Rules This Train Is a Train.](#)**

**Group opposing bullet train from Houston to Dallas sued under the grounds it's not really a train and therefore can't use the state's eminent domain laws.**

Is a bullet train a train? This is the question that has wound its way through the Texas court system for the past seven years as opponents of a bullet train from Dallas to Houston sued to block Texas Central, a privately-funded venture, from using the state's eminent domain laws on the grounds that the company is neither a railroad company nor building an electric train.

A state law enacted in 1907 allows "interurban electric railway" companies to use eminent domain to buy property in order to build rail lines. The lawsuit contends an aspiring bullet train company is neither an "interurban electric railway" nor a railroad company. Specifically, the landowner applied a "living Constitution"-style interpretation to the 1907 law that argues we must adapt old laws to modern technologies, arguing the framers of a 1907 law could not possibly have meant to include big, loud bullet trains that can impact hundreds or even thousands of people per journey, intending only to permit the use of single-car trolleys that have to be loaded one person at a time and can operate only in a slow, deliberate fashion. The technology has changed, the rural Texas farmer argued in court, and the law must change with it.

But the Texas Supreme Court didn't buy it. On Friday, it ruled in favor of the aspiring railroad company, sticking with a more Originalist interpretation of the law by sticking to the meaning of the words on the page. Initially, the lower court agreed with the landowner, finding Texas Central could not use eminent domain, a critical tool for building a 250-mile railroad through Texas. An appeals court overturned that ruling, and the Texas Supreme Court upheld that overturn.

The court emphasized that it was only ruling on the "narrow issue presented," specifically of whether a bullet train company counts as a train company. It did not rule on "whether high-speed rail between Houston and Dallas is a good idea or whether the benefits of the proposed rail service outweigh its detriments." In the meantime, Texas Central owes more than \$600,000 in back taxes and its CEO recently resigned via LinkedIn.

**vice.com**

By Aaron Gordon

June 27, 2022

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## **[Florida's Sea Level Impact Project Study Requirement Takes Effect July 1.](#)**

### **Highlights**

- The state of Florida will require that "state-financed constructors" conduct a sea level impact project (SLIP) study prior to commencing construction of a coastal structure effective July 1, 2022. The SLIP study must be submitted to the Department of Environmental Protection (DEP) and

comply with the requirements of the DEP SLIP study rule, Chapter 62S-7.

- The SLIP study must take into account potential relative local sea-level rise and increased storm risk during the expected life of the coastal structure or 50 years, whichever is less. The study may require sign-off by a professional engineer.
- DEP may seek injunctive relief to cease construction or recover state funds expended on the coastal structure if SLIP requirements are not satisfied.

[Continue reading.](#)

June 24, 2022

**Holland & Knight LLP**

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## **Alabama's Prison Bonds Hit Snag Amid Weak Demand, Litigation.**

- **State plans to sell \$725 million of muni bonds this week**
- **Orders for the securities are falling about \$200 million short**

Alabama is struggling to line up buyers for a \$725 million bond sale to fund its two prisons.

Underwriters were short around \$200 million of orders on the bond deal as of Tuesday, according to people familiar with the matter. Demand was weak for the 30-year maturity in particular, the people say.

Earlier on Tuesday, underwriters for the bonds raised the yields offered by about 5 basis points on some maturities compared with what was offered the previous day during the pre-marketing period, according to pricing wires viewed by Bloomberg.

A spokesperson for Alabama's finance department declined to comment. A spokesperson for Stephens, a senior underwriter for the bonds, didn't have an immediate comment.

Tepid demand for the bonds is the latest in a series of obstacles for this sale. Earlier on Tuesday, the issuer said it was facing litigation from incarcerated people who say the state should use funds to improve conditions in its existing penitentiaries before it pays interest on debt.

Lawyer Frank Ozment said in an interview that he filed a complaint in intervention so the court can clarify that the state should spend money to comply with a December 2021 court injunction before it makes bond payments.

"To say, we're going to take this money to pay the bondholders before we use it to comply with the injunction is wrong," Ozment said.

### **Prison Safety**

In a filing on Tuesday, the state said that it has already agreed to prioritize following court orders and consent decrees before paying bondholders, and therefore it doesn't believe the complaint will have any impact on its bonds. It also said it's appealing the Dec. 2021 ruling.

The sale had run into difficulty even before then. In April 2021, Barclays Plc pulled out of its role as lead underwriter for the offering, and KeyBanc Capital Markets, another manager, said it was also resigning from the sale.

Alabama has faced litigation over the safety of its prisons for years. People who were incarcerated filed a class action suit against the state in 2014, alleging, among other complaints, that the prisons were failing to provide adequate medical care to people in custody. In December 2021, a US judge found that there were “many deeply serious problems” with the state’s mental health care for prisoners and ordered sweeping fixes.

In 2020, the US Department of Justice sued the state and its corrections department for failing to protect male prisoners from violence, sexual assault, and other unsafe conditions.

Alabama had the second-highest prison mortality rate among US states in 2019, according to Bureau of Justice Statistics data. It also has one of the highest incarceration rates in the country, according to a 2021 report from the Prison Policy Initiative, a think tank. As of 2017, Black people accounted for about 54% of the state’s prison population but only 28% of state residents, according to the Vera Institute of Justice.

## **Tough Market**

Selling tax-free bonds has generally grown more difficult this year, as the Federal Reserve has tried to tame inflation by lifting rates. Municipal bonds have lost 9.3% of value this year, according to Bloomberg index data, accounting for both price changes and interest payments. Investors have yanked money from municipal bond funds for 18 of the last 19 weeks, including pulling \$1.6 billion last week, according to Refinitiv Lipper US Fund Flows data.

Prison reform activists and money managers that focus on socially responsible investing are encouraging investors not to buy these bonds.

“We strongly urge banks and investors to refuse to purchase securities that will be offered on June 28th whose purpose is to perpetuate mass incarceration and continued control over Black and Brown bodies,” wrote the group led by Justice Capital’s Christina Hollenback and Eric Glass said in a Monday statement.

State Governor Kay Ivey said in 2020 that building new facilities will make the system better, saying in a statement, “we must rebuild Alabama’s correctional system from the ground up to improve safety for our state’s correctional staff and inmate population, and we must do it immediately.”

## **Bloomberg Markets**

By Amanda Albright and Danielle Moran

June 28, 2022

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### **[Alabama Taps Local Banks for Controversial Prison-Bond Muni Deal.](#)**

- **Frazer Lanier, Stephens to lead underwriters on sale for jails**
- **Earlier plan was scuttled last year as underwriters pulled out**

Alabama has chosen two small, Southern US banks as lead underwriters for a \$725 million municipal-bond deal to finance new state prisons, marking an unusually large transaction for the firms, more than a year after an initial financing attempt was derailed.

Stephens Inc. and The Frazer Lanier Company Inc. will be co-senior underwriters managing the sale

this month, according to a preliminary official statement. It's the state's second attempt to finance the project after a plan in 2021 fell apart over controversy about the participation of a private prison company. Raymond James Financial Inc., Wells Fargo & Co. and four other banks are in the syndicate, the bond document shows.

The state and banks that were involved in the prior deal faced an outcry over Alabama's use of private prison giant CoreCivic Inc., which would have built and owned the facilities, leasing them back to the Alabama Department of Corrections.

The underwriter selection is fairly atypical for such a sizable transaction. Combined, Frazer Lanier and Stephens have only underwritten about \$491.5 million of municipal bonds this year, according to data compiled by Bloomberg. Neither bank has led a transaction this large before, nor have they senior-managed a sale over \$200 million in the last decade, data compiled by Bloomberg show.

They have co-managed a handful of larger transactions but are almost always accompanied by a bulge-bracket bank. For example, Frazer Lanier was involved in a \$1.5 billion sale for the Alabama Federal Aid Highway Finance Authority last year, which was led by Bank of America Corp. and included banks such as Goldman Sachs Group, Inc., Citigroup Inc., and Wells Fargo in the syndicate.

Frazer Lanier, an investment bank based in Montgomery, Alabama, is ranked as the 46th largest underwriter of long-term state and local government debt this year, and Stephens, headquartered in Little Rock, Arkansas, is ranked 43rd.

After the sharp rebuke of the earlier proposed bond sale by both investors and activists, the original underwriters Barclays Plc and KeyBanc Capital Markets dropped out of the transaction. Another bank that was set to participate, Stifel Financial Corp., also faced criticism from activists. Without underwriters, the sale collapsed. It would have totaled more than \$900 million of debt through both public and private offerings borrowed by a CoreCivic-owned entity.

The state then formed a new plan to develop the two prisons, which the state says will improve conditions for those incarcerated. The legislature approved the sale of bonds and the use of pandemic relief aid from the American Rescue Plan legislation to fund the project.

The Alabama Corrections Institution Finance Authority is selling \$725 million of bonds through a negotiated sale planned for June 28, according to investor roadshow documents. The sale is rated Aa2 by Moody's Investors Service, AA- by S&P Global Ratings and AA by Fitch Ratings. The debt is backed by annual appropriations from the legislature to the Alabama Department of Corrections.

Spokespeople for Governor Kay Ivey, the Alabama Department of Finance and Stephens didn't respond to a request for comment. A representative at Frazer Lanier deferred all questions to Alabama.

When searching for an underwriter to underwrite this transaction, Alabama asked the banks applying for the contract to provide assurances they wouldn't drop out in the face of any activist backlash, according to a request for proposals issued in November.

The document asked respondents to detail how they would market the bonds "considering the result of the design-build-financing sale earlier this year and the overall trend of investors consciously moving away from supporting the infrastructure of prisons."

"Please discuss whether your firm has, or has had, any prohibition from participating on financings related to prisons (public or private)," the request for proposals said. "What assurances, or certifications will your firm's senior management provide that it will not pull out of the financing

should investors campaign against your firm from serving in the capacity of underwriter?"

## **Bloomberg Markets**

By Danielle Moran and Amanda Albright

June 21, 2022

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### **[New York's Biggest Mall Avoids Default With Lender Reprieve.](#)**

- **Owner gets five-year extension on \$430 million in CMBS debt**
- **Destiny USA's value sank 80%, putting it deeply underwater**

New York's biggest mall has reached a deal with lenders to avoid a default after the pandemic and years of retail turmoil left it deeply underwater on its mortgages.

Destiny USA, a 2.4 million-square-foot (223,000-square-meter) shopping center in Syracuse, owed \$430 million on two mortgage-backed securities that missed a June 6 repayment deadline. The mall's owner, Pyramid Management Group, said Thursday that it got a five-year extension for its loans, with flexibility to keep investing in the property.

The agreement buys time for Pyramid to return the property to profitability so bondholders can recover their investment, Pyramid Chief Executive Officer Stephen Congel said in an interview.

"It's like turning an aircraft carrier around at sea: it takes some time and space," he said. "They realized time was important, and they gave it to us."

Congel said he couldn't discuss financial terms of the extension, including how much Pyramid committed to invest in the property or if the interest rate changed. The expired loans have a 3.81% coupon.

The mall's value sank some 80% to just \$147 million in an appraisal last year. Destiny was slammed by the usual suspects that have hurt malls broadly, as shoppers shift to e-commerce and pandemic lockdowns froze their businesses.

But Pyramid was in an especially tough spot partly because of efforts a decade ago to make Destiny an entertainment destination, with go-karts, a ropes course and other accoutrements designed to lure more people through the door. That project was funded with \$280 million of municipal debt, which would get paid before commercial mortgage-backed securities in a bankruptcy. That threatened recovery prospects for mortgage-bond investors.

The new agreement doesn't affect terms of the municipal debt, which matures in 2028 and 2036, Congel said.

#### **'Terrible Combination'**

"Destiny is a bad story already, and then coupled with the municipal debt angle makes it even more difficult," Lea Overby, a real estate credit analyst focused on CMBS at Barclays Plc, said in an interview before the loan extension was reached. "It's suffering from both the systematic and the idiosyncratic, and that's a terrible combination."

Destiny faces other headwinds, including a series of incidents involving guns in recent months. Its accessibility to traffic from Interstate 81 is also under threat with a massive construction project poised to start in the fall that would see the highway rerouted around downtown Syracuse and away from the mall.

Pyramid, which owns 14 malls in New York and Massachusetts with more than \$2 billion in publicly traded debt, has won reprieves on other loans this month. It secured a new 10-year CMBS on its Crossgates Commons shopping center, a three-year extension on a \$236 million CMBS on Walden Galleria and a modification of a \$19.3 million CMBS on the Hampshire Mall, according to the company.

Pyramid, founded almost 50 years ago by the Congel family, is headquartered in Syracuse, where Destiny is located. About 5,000 people work at Destiny, including Pyramid's staff.

In 2017, Pyramid built a 209-room hotel next to the mall to help draw out-of-town visitors. Despite the effort, its profits were in decline and the mall was struggling with vacancies even before the pandemic. Foot traffic recently has returned to above pre-pandemic levels, Congel said, a sign of consumer demand even as inflation cuts into their spending power.

Destiny's CMBS debt was originally set to mature in 2019, but Pyramid received extensions to 2022 after being unable to refinance. It also deferred some payments when the pandemic first took hold in 2020.

Wells Fargo & Co. stepped in as the mortgages' special servicer — the party that works on behalf of investors of a CMBS transaction to cut a deal when a borrower runs into trouble — in April "due to imminent payment default."

## **Debt Wipeout**

The mall's investors had limited motivation to wrest control of the property from Pyramid because that would potentially wipe out the value of the debt, according to market participants.

"Nobody wants to take a 100% loss today when you can maybe take a 98% loss tomorrow," Overby said.

Pyramid continued to make Destiny's CMBS interest payments while negotiating the new financing, an indicator it was fighting to keep the shopping center. Investors realized Destiny is more likely to succeed under an owner with a big stake in the property rather than replacing Pyramid with an outsider, Congel said.

"A lot of managers who brought in third-party managers to run these assets have realized the hard way that you really need vested owners," he said.

The mall owner has signed a slew of new leases with retailers including Hugo Boss, Hobby Lobby and Anthropologie and said it is planning to bring in new attractions such as an indoor trampoline facility. Occupancy in the largest portion of the mall has jumped to 71% as of March 2022, up from 57% in 2021, loan documents show.

A recovery of the mall's performance isn't inconceivable, according to turnaround experts. Many instead point to the municipal debt as the major roadblock.

"It's the only game in town that does what it does," with strong shopping and entertainment and a good location, said Derek Pitts, a senior adviser at investment bank Solomon Partners. "That

business isn't going away anytime soon. People are looking for yield. People are looking for places to invest. That property is going to be super relevant for a long period of time."

## **Bloomberg Markets**

By John Gittelsohn, Erin Hudson, and Martin Z Braun

June 23, 2022

— *With assistance by Lauren Coleman-Lochner*

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### **[JFK Airport Project to Tap Muni Market for Over \\$6 Billion.](#)**

- **Multiple muni sales will be used to refinance bank loan**
- **First phase of JFK project is expected to open in 2026**

The finance team behind the new terminal at New York's John F. Kennedy International Airport expects to sell more than \$6 billion of municipal bonds in the coming years to help pay for the project.

The group plans to issue taxable or tax-exempt debt in the \$4 trillion muni market to refinance a \$6.6 billion bank loan originally secured to fund the project, according to the project's acting CFO Marc McGrady. That loan, led by Mitsubishi UFJ Financial Group Inc., closed on June 10 and will fund the first phase of the project, called New Terminal One.

Construction of the \$9.5 billion project is expected to move forward this summer, New York Governor Kathy Hochul said in a statement earlier this month.

"NTO's plan is to refinance \$6.3 billion of senior bank debt through 2026 with multiple issuances of fixed-rate tax-exempt or taxable bonds," McGrady said in a statement. "These issuances are expected to commence in mid-2024 but could occur earlier based on market conditions."

McGrady said NTO will monitor market conditions to ensure that the project's capital structure is optimized.

The 2.4 million-square-foot terminal will be the airport's largest, nearly the same size as the two new terminals at LaGuardia Airport combined, the state said. Construction will take place in phases with the first one, including a new arrivals and departures hall plus a first set of new gates, expected to open in 2026.

The project is the result of a public-private-partnership between the state, the Port Authority of New York and New Jersey plus infrastructure and financing firms.

Ferrovial SA, the operator of London's Heathrow Airport, reached a deal with the Carlyle Group Inc. to buy a stake in the entity developing the terminal. The Spanish infrastructure firm will acquire 96% of the company through which the Carlyle Global Infrastructure Fund holds a 51% stake in the concessionaire appointed to design, build and operate the terminal until 2060.

## **Bloomberg Markets**

By Skylar Woodhouse

June 17, 2022

— *With assistance by Danielle Moran*

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## **Fortress-Backed Brightline Delays Long-Term Bond Sale for Florida Train.**

- **Brightline plans to roll over short-term debt for Florida rail**
- **'They don't know if they have investors' yet, PFM adviser says**

Brightline Holdings, the rail company backed by Fortress Investment Group, is putting off testing bond investors' faith in its luxury Florida passenger train amid turmoil in the fixed-income markets.

The board of the Florida Development Finance Corp., which gives private entities access to low-cost financing, had in December awarded the company the ability to sell as much as \$1 billion of tax-free debt known as private activity bonds to finance an extension of service to Tampa from Miami.

Brightline then sold \$500 million as short-term escrowed debt, which doesn't reflect the project's risks, as a tactic to preserve its debt-issuing authority while it finalizes details.

With a July 1 mandatory tender deadline approaching for \$215 million of the escrowed securities, Brightline successfully requested the board's approval to roll them over for another short term instead of refinancing them into fixed-rate bonds that would demonstrate if enough investors believe in the rail's potential.

"They don't know if they have investors for these bonds at this time, and the current market conditions aren't favorable," said Nick Rocca, senior managing consultant at PFM Financial Advisors LLC, before the board voted unanimously to approve the request.

Brightline's decision come as volatility buffets the municipal market reeling from the Federal Reserve's path of rate increases to confront rising inflation, factors that diminish the value of fixed-income assets. Several local governments have recently delayed bond deals. At the same time, the amount of cash investors have pulled from funds that buy municipal high-yield bonds, such as Brightline's previous offerings, tallies the most on record year to date, according to Refinitiv Lipper US Fund Flows data.

Brightline had already sold \$2.7 billion of unrated tax-free debt for the \$6 billion project that began service in 2018 along Florida's east coast. A bond due in 2049 traded Monday at an average yield of 7.5%, its highest since last year, according to data compiled by Bloomberg.

Brightline will return to the Florida agency for approval before refinancing existing debt and selling the remaining \$500 million of its authorization. Ben Porritt, a company spokesperson, didn't return a request for comment on Wednesday.

Brightline also plans to sell debt for a line connecting Las Vegas to southern California.

### **Bloomberg Markets**

By Romy Varghese

June 15, 2022

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## [Wells Fargo Sees 'De Facto Ban' on Texas Muni Business Due to New Energy Law.](#)

- **State comptroller surveyed 158 firms to find energy boycotters**
- **Findings due by Sept. 1, leaving Texas muni market in limbo**

Texas's quest to root out financial firms hostile to the energy industry has the likes of BlackRock Inc. and JPMorgan Chase & Co. defending their policies and Wells Fargo & Co. warning of lost business in the second-biggest US market for municipal debt.

The concerns, outlined in letters and emails obtained through public-records requests, show how Wall Street is moving to preserve its public-finance operations in Texas in the wake of a new GOP law that restricts the state and its local entities from entering into some contracts with companies that "boycott" the energy industry. The measure also affects state organizations like pension funds.

About 90 companies have responded as of mid-June to a survey by Texas Comptroller Glenn Hegar regarding their energy-industry policies, with the majority, including BlackRock, Invesco Ltd., JPMorgan and units of Morgan Stanley and Royal Bank of Canada, saying they don't boycott fossil fuels, public records show. Final responses from the 158 firms queried were due June 10, and Hegar's office has until Sept. 1 to publish its decisions, a spokesperson said, citing the statute.

The prospect of an extended wait is costing banks business as issuers balk at hiring underwriters whose status may be unclear for months. There's risk for borrowers and taxpayers too: A separate law targeting gun policies has shut some major banks out of Texas's muni market, raising localities' financing costs by hundreds of millions of dollars, in one analysis. Texas issuers sold about \$50 billion of munis in 2021, second only to California, generating roughly \$315 million of underwriting fees, data compiled by Bloomberg show.

A lawyer for Wells Fargo voiced concern last month to the state attorney general's office, which oversees nearly all Texas muni sales.

"Uncertainty in the market is leading to a de facto ban on Wells Fargo and other similarly situated financial institutions serving as an underwriter or placement agent for municipal bonds issued by Texas municipalities and government agencies," Vincent Altamura, assistant general counsel for the bank, wrote in a May 18 letter, according to a document obtained through a public-records request.

Allison Chin-Leong, a Wells Fargo spokesperson, declined to comment. Hegar's office declined to comment before the release of his findings.

Most of the firms that received a query from the comptroller had already certified their compliance with the energy law, known as Senate Bill 13, after it took effect in September, and had been doing business for months. The measure's proponents say it's aimed at protecting Texas's oil and gas industry amid the rise of environmental, social and governance standards.

But Hegar's survey, initiated in March and April, threw those affirmations into question, Texas Attorney General Ken Paxton's office said in April. A spokesperson for the office declined to comment.

In a May letter to the attorney general's office, a group of Texas bond lawyers said that governments have been choosing banks that haven't received a letter from the comptroller. That's because replacing an underwriter on a deal that's been sold creates difficulties for both banks and issuers,

they said.

In just one example, a school district between Dallas and Plano replaced Wells Fargo as a senior manager on a \$192 million bond sale last month, tapping Piper Sandler Cos. instead because of concern the financing could be derailed.

If a government is under contract with a firm under review by Hegar, there should be a provision allowing the issuer to replace the bank if the company makes it onto the comptroller's list, the attorney general's office said. That has caused banks that have received letters to lose business, even if they're not yet formally listed.

In the past two weeks, Barclays Plc, Morgan Stanley, RBC Capital Markets and Wells Fargo haven't been senior managers on any bond deals by Texas or its municipalities, data compiled by Bloomberg show.

Jeanee Terrio, an Invesco spokesperson, said the company makes investment decisions based on client needs rather than dictating outcomes based on its own views. Kaitlin Newingham at RBC said the bank's standing letter is in compliance with SB 13 and that it looks forward to serving as senior underwriter for the state and its issuers. Representatives for Barclays, BlackRock, JPMorgan and Morgan Stanley declined to comment.

### **'Strongest Bank'**

"We don't need to be messing with the bond markets right now," said Janet Dudding, a Democrat running against Hegar in November. "They should just pick the strongest bank."

Pension funds are also impacted by the law, which says state entities are required to sell, redeem, divest or withdraw from all publicly traded securities of a company on the list, although there are exceptions if selling would cause financial harm.

Spokespeople for Texas's two biggest pensions — Teacher Retirement System of Texas and Employees Retirement System of Texas, which manage more than \$200 billion combined — declined to comment, saying they'll wait for further clarification from the comptroller.

Texas's approach could serve as a model for states like West Virginia and Kentucky, which have passed similar legislation. GOP officials there say they'll take note of Texas's list.

### **Bloomberg Markets**

By Danielle Moran, Shelly Hagan, and Amanda Albright

June 15, 2022

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## **[Texas's Wall Street Showdown Over Gun Laws Costs Taxpayers Hundreds of Millions.](#)**

- **Finding is from research paper studying 8 months of issuance**
- **GOP law knocked BofA, Goldman out of market over gun stances**

Texas taxpayers are footing the bill for the state's war with Wall Street over guns.

The state's municipal borrowers have been hit with as much as \$532 million of extra debt costs because of a new GOP law that's led some banks to step back from Texas's bond market. That's the conclusion of a [new paper](#) by Daniel Garrett, a University of Pennsylvania professor, and Ivan Ivanov, a principal economist at the Federal Reserve.

The researchers examined sales in Texas's \$50-billion-a-year municipal-bond market after a law took effect in September that targeted banks for their gun policies.

The legislation, known as Senate Bill 19, bars governments from entering into contracts with companies that "discriminate" against firearms entities. It has caused banks including Bank of America Corp. and JPMorgan Chase & Co., among the biggest underwriters of state and city debt nationwide, to stop most public-finance business in the state.

The study found that "the exit of the targeted underwriters from the Texas market has significant impact on underwriter competition and that the remaining banks are unable to offset the adverse effects of removing banks from the market." The result is "large adverse effects for borrowers."

The working paper offers an in-depth study into the cost borne by Texas governments after the law took effect. Market participants and opponents of the legislation have warned that Texas Republicans' move to punish the banks could raise expenses for cities, counties, school districts, and even the state itself, by reducing competition for bond sales.

### **'Very Surprising'**

Garrett, a finance professor at the University of Pennsylvania's Wharton School, said the magnitude of the increase in costs was unexpected given that Texas has a competitive muni market, with many underwriters participating.

"To see even the biggest issuers affected by this sort of shock was very surprising," Garrett said in an interview. The paper examined bond sales from September through April.

The research focused on the departure of firms including Bank of America, Citigroup Inc., Goldman Sachs Group Inc. and JPMorgan Chase from the Texas municipal market, which is second only to California's in terms of annual issuance.

Citigroup paused underwriting in Texas for several months, but has since underwritten sales. JPMorgan has been moving to re-enter the market as well.

The paper looked at borrowers that have historically relied on the affected banks. It compared bonds sold on the same day with similar credit profiles and structures to those issued by governments that haven't historically favored one of the impacted firms.

The study found that the more an issuer had relied on one of the banks that pulled back from the Texas market, the more governments paid when they had to switch. Issuers with over 50% reliance on the affected banks saw a roughly 20% increase in borrowing costs as a result of the law, it concluded. The study stripped out daily market fluctuations, meaning the broad increase in long-term yields during the period didn't influence the outcome.

Garrett and Ivanov found that issuers affected by the law are avoiding selling bonds via auction, when underwriters compete for sales, a method that separate studies have shown reduces municipalities' borrowing costs. Instead, they're opting to hire underwriters in advance, the paper said.

And when they do sell via auction, they're seeing fewer bidders, the paper said.

"The number of underwriting bidders declines sharply, the variance among remaining bids increases, and the winning bid in terms of yield to maturity increases after the implementation of the Texas laws for issuers with previous reliance on the exiting banks," the paper said.

Meanwhile, the ranks of muni underwriters in Texas may get even thinner due to another new law, Senate Bill 13, which restricts governments from working with companies that "boycott" the fossil-fuels industry.

This measure, which also took effect in September, has caused some banks to lose out on Texas muni deals as issuers wait for the Republican state comptroller to decide which companies should be restricted under the law.

"If more banks leave, these costs will go up," the paper said.

Garrett and Ivanov will have a chance to get feedback on the paper next month, when they present it at the Brookings Institution's Municipal Finance Conference.

## **Bloomberg Markets**

By Amanda Albright and Danielle Moran

June 13, 2022

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## **[S&P Not-For-Profit Acute Health Care State Snapshot: California](#)**

### **Table of Contents**

S&P Global Ratings maintains 37 public credit ratings on California not-for-profit acute care providers. This includes eight health care systems and 29 stand-alone hospitals. In addition, we maintain credit ratings on a couple of large multi-state not-for-profit health systems that influence the California health care landscape (CommonSpirit and Providence St. Joseph Health Care) as well as several for-profit health systems.

Given that the state and locality in which providers operate can greatly influence health care delivery, from underlying demographic trends to the legislative and competitive environment, market-specific factors provide a critical backdrop for our analysis of an entity's overall credit profile.

[Continue reading.](#)

16 Jun, 2022

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## **[Los Angeles Bans Political Contributions by Developers and Property Owners.](#)**

A new law took effect in the city of Los Angeles on June 8 that prohibits developers, property owners, and their respective principals from making local political contributions while certain

planning applications are pending with the City and for 12 months thereafter.

### **Who does the law apply to?**

Any applicant or property owner associated with a “significant planning entitlement” filing in the city of Los Angeles qualifies as a “restricted developer” and is subject to the new restriction. “Significant planning entitlement” is defined broadly, capturing many discretionary applications filed with the Los Angeles Department of City Planning, including zoning issues and general plan amendments.

### **Registration requirement**

On the same day the application for the significant planning entitlement is filed with the Department of City Planning, the applicant is required to file a Restricted Developer Registration with the LA Ethics Commission disclosing general information about the project and application, contact information for the applicant and owner, and the names and titles of their principals, including:

- The applicant’s and the property owner’s board chair, president, CEO, CFO, and COO, as well as any “functional equivalent” of these positions;
- Any person who holds an ownership interest of 20% or more in either the applicant or the property owner; and
- Any person authorized to represent the applicant or property owner before the Department of City Planning with respect to the significant planning entitlement.

An amendment must be filed within 10 business days of the occurrence of any changes to the information disclosed in the Restricted Developer Registration.

### **How will property owners and developers be affected?**

After filing the application and for 12 months after a letter of determination is issued or the decision on the application is final, the applicant, the property owner, and their respective principals are not permitted to make contributions of **any amount** to the mayor, city attorney, or any City Council member, any candidates for those positions, or any of their controlled committees.

If an application is withdrawn or terminated, the restriction applies until the day following such withdrawal or termination.

### **Penalties for noncompliance**

Anyone found in violation may not be listed on another entitlement application for 12 months and is subject to other penalties established by the Los Angeles Municipal Code. Property owners and developers should understand the risks associated with corporate and personal political activity and implement appropriate compliance programs to manage and mitigate the risks.

*\*The author would like to thank Summer Associate Pavla Ovtchinnikova for her assistance in writing this article.*

**Venable LLP** - Ryan S. Kasdin

June 16 2022

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## **[Baltimore Looks to Expand Internet Access by Building Its Own Network.](#)**

**The city's broadband chief says getting its large underserved population connected is "too important for the private sector." But Comcast is pushing back.**

Baltimore has an audacious goal to build a city-owned broadband service that could give its poorest residents equal access to digital resources for education, medical services and jobs.

The plan lands the port city an hour from the nation's capital squarely in the middle of a national debate over who deserves a chunk of the \$95 billion in federal funding Congress allocated to close the digital divide. It also pits local officials against Comcast Corp., the cable giant that already serves the city.

[Continue reading.](#)

### **Bloomberg CityLab**

By Todd Shields

June 7, 2022, 3:00 AM PDT

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## **[Report: Tennessee Stadium's Proposed \\$1.5B Public Subsidy far Surpasses any Prior NFL Stadium](#)**

A [new report](#) from Sycamore Institute shows that the proposal for a new Tennessee Titans stadium includes the highest total amount of public subsidies for an NFL stadium at a proposed \$1.5 billion while bringing limited public benefit in return.

That commitment was part of \$1.5 billion in total stadium commitments lawmakers have made in the past 18 months. In a comparison of 10 new NFL stadium proposals since 2008, the new Nashville stadium includes more total public funding than any previous NFL stadium proposal and includes an estimated 68% public financing, which is higher than any proposal since the \$700 million Lucas Oil Stadium built in Indianapolis in 2008, which relied on 86% public financing.

"The share of direct public subsidization of NFL stadiums has decreased over time, with one study estimating that taxpayers paid about 75% of construction costs between 1987 and 2008 but just 25% from 2009 to 2017," the report states. "As outlined in news reports, the tentative share of public financing for a new Titans stadium (about 68%) aligns more closely with venues built in the late 1990s and early 2000s than those built more recently."

[Continue reading.](#)

### **kpvi.com**

By Jon Styf

Jun 8, 2022

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## **Voters Narrowly Reject SF Muni Bond.**

Transit advocates were disappointed Wednesday after Proposition A, a \$400 million general obligation bond for San Francisco's beleaguered public transit agency, was narrowly rejected by voters, while most other ballot measures appeared to be passing, according to unofficial returns.

Prop A, the Muni Reliability and Street Safety Bond, required a two-thirds majority to pass. Unofficial returns showed it falling short by 3%, garnering only 63.3% of votes.

After plummeting from a high of more than 700,000 riders per weekday in February 2020 to a low of just over 100,000 in April that year, the San Francisco Municipal Transportation Agency has struggled since the start of the COVID pandemic to lure riders back. To be sure, they are returning, but it's been slow going and even now, weekday ridership is lower than pre-pandemic levels, reaching a high so far of just under 400,000 riders last April.

Prop A, which had the unanimous support of Mayor London Breed and the Board of Supervisors, was intended to help the transit agency get back on its feet by allowing the City and County of San Francisco to issue general obligation bonds to fund improvements such as increasing reliability, safety, and frequency; reducing delays; improving disabled access and equity; increasing subway capacity; and improving pedestrian, bicycle, and traffic safety. There are many other goals as well, such as improving Muni's deteriorating bus yards and redesigning streets and sidewalks.

Transit advocates were upset by the loss although, at press time, Breed — not giving up entirely — is “still waiting for more votes to come in,” according to the mayor's communications aide Jordan Wilson.

“Anyone and any club that went No or No Position on Prop A should be ashamed,” tweeted queer transit advocate Janice Li, who's an elected member of the BART board of directors.

Propositions B, E, and F were attempts to fight corruption.

Prop B would revamp the city's Building Inspection Commission. It passed with 58.9% of the vote, early returns showed.

The vote came four months after Mohammed Nuru, the former director of San Francisco Public Works, pleaded guilty to a federal fraud charge. His arrest in 2020 touched off a wide-ranging corruption scandal. Prop B would change the structure of the Building Inspection Commission by removing designated industry seats and allowing qualified members of the public to serve instead. Three seats would require subject matter expertise, much like the Historical Preservation Commission. Nominees would also be required to go through a public hearing process, while the mayor would have the power to hire or fire the director, providing greater accountability, according to proponents' statements in the voter guide.

Prop C, which would place new restrictions on recall efforts in San Francisco, and Prop H, which sought to recall embattled progressive District Attorney Chesa Boudin, are detailed on page 1. [LINK].

A new Office of Victim and Witness Rights and legal services for domestic violence victims will be created under Prop D, which passed with 60%, early returns showed. Faced with recalling a district attorney who, many felt, wasn't doing enough for victims of violent crimes, Prop D passed with almost the same number of votes that brought down Boudin.

The new office would establish a one-year pilot program to provide free legal services for domestic violence victims starting July 1, 2023. The Board of Supervisors will determine subsequent funding through the city's budget process. Currently, victims must navigate a maze of bureaucracy through several departments, proponents argued, which Prop D would streamline.

Voters passed Prop E, which deals with behested payments, with 66.8% of the vote, preliminary returns showed. Behested payments are donations solicited by a public official to benefit either a government agency or a private organization. Prop E will amend the city's existing law with two additions: members of the board could not seek behested payments if the board had approved a beneficiary's contracts; and the board can only amend the behested payments law if the city's Ethics Commission approves proposed amendments by a majority vote and then the Board of Supervisors approves them with a two-thirds vote.

Voters approved Prop F, which addressed garbage collection and disposal, by the largest margin of any of the propositions on the ballot, 67.4%, early returns showed.

For nearly a century, Recology — a private company that provides refuse services — has held the monopoly on trash and recycling pick up in San Francisco. Prop F will restructure membership of the Refuse Rate Board, change the process by which rates and regulations are set, and implement rules governing how future changes are made. The city controller will assume new duties as the refuse rate administrator. Most recently, it was revealed that Recology was allowed to overcharge customers by up to \$200 million and agreed to refunds.

Voters were inclined to expand leave for public health emergencies. Prop G was approved with 60.7% of the vote, early returns showed. Prop G requires private employers and the city to provide paid leave to employees for public health emergencies. The Board of Supervisors voted unanimously to place Prop G on the ballot and stated in the voter guide that the COVID pandemic revealed massive gaps in protections for essential workers and increased wildfires are causing more unhealthy air quality days each year. Such emergency leave would kick in during any public health emergency. Notably, the measure was rejected by voters in the city's highest income ZIP codes, election results showed.

## **Bay Area Reporter**

by Eric Burkett

Wednesday Jun 8, 2022

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### **[American Dream Mall Owner Skips Interest on \\$800 Million Municipal Bond.](#)**

#### **The trustee said it notified the developer to make the payment by June 16 to avoid a default**

The developer of American Dream, the \$6 billion mega-shopping mall in East Rutherford, N.J., has failed to make its semiannual interest payment for an \$800 million municipal bond, according to a notice to bondholders Friday.

Bondholder trustee U.S. Bank NA said that developer Triple Five Group didn't deposit funds for an interest payment due Wednesday and bondholders were paid from an \$11.35 million debt service reserve account.

Triple Five didn't immediately respond to a request for comment. The trustee said it notified the developer to make the payment by June 16 to avoid a default.

Banks and bondholders lent about \$2.7 billion to build American Dream, the country's second-largest mall. After many years of construction delays, the sprawling shopping mall and entertainment center near the Meadowlands Sports Complex opened in October 2019 under its third owner, Canada's Triple Five. The coronavirus pandemic caused it to shut down a few months later, before reopening in October 2020.

## **The Wall Street Journal**

By Akiko Matsuda

June 3, 2022

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### **[Puerto Rico's Bond Investors Head to San Juan for Conference After 5-Year Bankruptcy.](#)**

- **Island hosts first bond investor conference since bankruptcy**
- **Nuveen, Invesco and T Rowe Price hold Puerto Rico's new bonds**

Mutual funds are pouring back into Puerto Rico debt, a notable comeback for the US commonwealth that's exiting the biggest ever municipal bankruptcy after five years and that still struggles with an uncertain economy bled by population loss.

Island officials are trying to make sure investors don't leave. Puerto Rico is hosting its first annual event for bond holders since before its bankruptcy in 2017, hoping to show that it's put an end to the runaway deficits that drove it into ruin and locked it out of capital markets. Among its selling points: a sharply reduced debt load that's giving it a fresh fiscal start.

Mutual funds run by big-name firms like Nuveen and Invesco have been buying the island's bonds because of the high yield they offer and the tax advantage the debt carries. This time though, the funds are going in with the knowledge that a federally-appointed financial oversight board — despised by territorial residents as a vestige of colonialism — will ensure that bondholders get repaid.

At the two-day conference, commonwealth officials and local business leaders are looking to convince even more investors and industries such as biotech and data and technology to look past the deficit spending that pushed the island into bankruptcy and buy into an economy that slumped for more than a decade as it has been battered by hurricanes, earthquakes and political corruption.

"The Puerto Rico of today is not the Puerto Rico of even five years ago. The innovation and ecosystem that is brewing here is really quite something," said Ella Woger, the acting chief executive officer of Invest Puerto Rico, a public-private partnership set up to promote business on the island. "We look forward to communicating this new narrative. We've moved beyond the fiscal crisis narrative and hurricane-stricken narrative that we had before."

## **Messaging**

Having less debt to repay helps with that message. The commonwealth slashed \$22 billion of bonds

down to about \$7 billion in March. The biggest mutual-fund holders of the restructured securities include Nuveen, T Rowe Price Group, Invesco, Mackay Shields and Vanguard, as of March 31, according to data compiled by Bloomberg.

“The debt has been downsized so substantially that relative to the size of the Puerto Rican economy, it looks manageable and serviceable without the kinds of stresses that forced the commonwealth into restructuring several years ago,” John Miller, Nuveen’s head of municipals, said in an email.

With Puerto Rico bonds rotating out of the hands of hedge funds and other distressed-debt buyers, the commonwealth has a larger investor base to tap into, Omar Marrero, executive director of Puerto Rico’s Fiscal Agency and Financial Advisory Authority, said in a telephone interview. He said officials want to earn credit ratings for Puerto Rico’s sales-tax and general-obligation bonds in the next year or two.

“That helps a lot with the yield and the return,” Marrero said about attracting more traditional municipal-bond investors. “To the extent that future administrations want to go back to the market or see the need to go back to the market, obviously those are the type of investors that you want investing in Puerto Rico.”

Commonwealth general-obligation bonds maturing in 2046 traded Friday at an average yield of 4.8%, which is about 2 percentage points more than top-rated municipals, according to data compiled by Bloomberg.

## **Bond Traders**

Island officials have lined up municipal-bond traders from JPMorgan Chase & Co., Barclays Plc, Goldman Sachs Group Inc. and Morgan Stanley to weigh in Monday during a panel at the conference — called PRNOW Summit — on how traditional state and local debt buyers are once again investing in the island’s securities. More than 500 attendees have registered for the conference Monday and Tuesday.

“They’ve restructured to a more reasonable amount of debt,” said Daniel Solender, head of municipals at Lord Abbett & Co., which manages \$31 billion of state and local debt. “The economy there seems to be doing very well and they’re getting tons of fiscal stimulus. So it seems like they’re trending in a much better direction.”

Puerto Rico still faces challenges. Its economy is projected to grow by 3.5% this fiscal year and next, but may contract again in fiscal 2024 and remain flat in fiscal 2025, according to the commonwealth’s latest multi-year fiscal plan. The island’s population is expected to continue declining through fiscal 2026.

“There are long-term risks and bondholders will have to weigh those risks,” said Megan Poplowski, director of municipal research at MFS Investment Management.

## **Self Govern**

The oversight board has clashed repeatedly with island lawmakers over issues such as spending cuts and pension benefits. It has the authority to certify a budget unilaterally if island lawmakers fail to create a compliant spending plan.

The board terminates after Puerto Rico and its public agencies, such as utilities, approve balanced budgets for four consecutive years. They must also have adequate access to the credit markets at reasonable rates before the board can leave.

Many Puerto Ricans say they want the board to end sooner because the panel has control over the island's revenue and spending and takes away from the commonwealth's ability to govern itself.

Once the board is winds down, bondholders lose a key backstop that can take action to ensure debt payments if island lawmakers fail to allocate money for principal and interest. The board did just that in February after Puerto Rico's Senate declined to take up legislation that would direct money to pay debt service this fiscal year.

"In the short term, the credit looks good because you have the board keeping an eye on the island's finances and you have economic growth due to federal disaster aid and stimulus," said John Ceffalio, senior municipal research analyst at CreditSights. "Over the long term, there's a lot of credit question marks."

## **Bloomberg Markets**

By Michelle Kaske and Jim Wyss

June 6, 2022

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### **[S&P Charter School Brief: Michigan](#)**

[View the Brief.](#)

24 May, 2022

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### **[California's May Revision To The Executive Budget Proposal: Revenues Are Stronger; Risks Remain - S&P](#)**

#### **Key Takeaways:**

- California's revenues are surging over prior forecasts, although general fund revenue is projected to decline modestly in fiscal 2023 from a 2022 peak.
- Substantial proposed one-time spending could have favorable credit implications, as it could help mitigate the twin risks of either a revenue pullback, or even higher revenue growth causing the state to reach its constitutional appropriations limit.
- The state now projects structural balance in each year of its five-year projection, based on the governor's updated budget proposal.

[Continue reading.](#)

1 Jun, 2022

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### **[Fitch: Strong Revenues Propel California Budget; Uncertainty Heightened in Forecast](#)**

Fitch Ratings-San Francisco/New York-31 May 2022: The updated budget proposal for fiscal 2023, released by Governor Newsom in his “May Revise”, reflects the continued economic and revenue rebound from the pandemic and continues the state’s policy of prudently allocating higher available revenue to maintaining budgetary resilience while also increasing programmatic spending, says Fitch Ratings.

The state now projects fiscal 2022 revenues will be \$41 billion (23%) higher than the June 2021 enacted budget estimate, with revenues well above pre-pandemic levels. General fund revenues, prior to transfers, are forecast to remain flat at \$223 billion in fiscal 2023, but \$25 billion (13%) higher than the estimate used in the Governor’s January 2022 budget proposal. This exceptional growth, especially in the current year, comes despite the war in Ukraine and related economic sanctions on Russia, as well as ongoing supply chain disruptions, all of which contribute to the tempering of growth in the outyear revenue forecast.

The state attributes the strong revenue performance to a number of factors, including underlying economic growth with the state having passed its pre-pandemic GDP level in the first quarter of 2021 and the continued strength of earnings and stock market performance that benefit higher-wage taxpayers. It also reflects the impact of inflation on sales and income tax revenues as they are not inflation-adjusted.

While the forecast pre-dates the recent stock market retraction and incorporates record high capital gains in the current year, it assumes stock market growth will be weaker through the forecast period, accompanied by a decline in capital gains realizations and lower related taxes. The requirement to transfer capital gains-related tax revenues above 8% of general fund revenues not needed to fund Proposition 98 education spending to the budget stabilization fund and to debt repayment dampens the impact of capital gains volatility on general fund operations.

Although the state’s economic outlook assumes continued growth and recovery, it has been slightly downgraded relative to its earlier forecast due to the greater economic uncertainty. The economic assumptions underlying the governor’s “May Revise” are in line with Fitch’s economic outlook for the U.S., with the state assuming 3% real national GDP growth in 2022.

As has been the state’s practice, the governor takes a fairly conservative approach to using increased revenue by limiting growth in ongoing spending, rebuilding reserves, and paying down long-term liabilities. The revised budget proposal adds to the rainy day fund (Budget Stabilization Fund, BSA), bringing its total to over \$23 billion, which is considered full funding at 10% of revenues and allocates \$10.4 billion to other operating reserves.

The proposal assumes that 94% of the \$49 billion discretionary surplus (the surplus not required to be spent on education due to proposition 98) will be applied to one-time expenditures focused on direct relief to taxpayers, investments in infrastructure, and COVID-related emergency spending. The budget also proposes using \$6.2 billion in one-time funds to refund general obligation bonds and substituting up to \$2.7 billion in expected appropriation-backed debt issuance with pay-as-you-go financing. It applies \$3.9 billion in supplemental payments to reduce retirement liabilities (required under Proposition 2 and above the actuarial requirement).

The budget as initially proposed in January and revised in May provided approximately a \$3 billion increase in ongoing spending, including to expand access to healthcare, address extreme weather, invest in public safety, and combat homelessness. Even with these increases, the multi-year forecast, which incorporates an added inflation adjustment beginning in 2023-2024, is structurally balanced.

Fitch anticipates details of the enacted budget will vary from the governor’s plan; but, as in recent

years, the general approach of limited recurring spending growth, focus on one-time actions, and restoring resilience will likely carry through.

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## **[Texas Law Forces Banks to do Business With Gun Manufacturers.](#)**

### **If you want to do business in Texas, you have to be pro-gun**

I keep telling myself that it can't get any worse in Texas. And yet somehow, it always does.

After the recent massacre in Uvalde, Texas, companies didn't issue policy statements that they would no longer do business with the firearms industry like they did after the Parkland massacre.

Why? [Texas S.B. 19](#), passed in September 2021 also known as a FIND law (firearm industry nondiscriminatory legislation).

[Continue reading.](#)

**medium.com**

by Caren White

May 30, 2022

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## **[California's \\$98 Billion Surplus Comes as Warning Signs Loom.](#)**

- **Booming stocks, profits have given way to losses, volatility**
- **Newsom, seeking re-election, vows \$18 billion inflation relief**

Wall Street's market turmoil is exposing the pitfalls California faces for banking on the investment fortunes of the state's wealthiest residents to fill its coffers.

While capital gains from booming stocks helped the most populous US state to amass a record \$97.5 billion budget surplus — about half of which Governor Gavin Newsom says is available to spend for any purpose — the S&P 500 and the Nasdaq Composite are off about 17% and 28% this year in reaction to rising inflation, monetary tightening and a land war in Europe.

The stock declines and corresponding concerns of a US recession raise the prospect that the spigot of wealth will soon slow in California, long prone to booms and crippling deficits because of the sensitivity of its revenue to markets. Municipal-bond analysts and the legislature's adviser would like to see more caution in the spending plan that lawmakers must approve by June 15.

[Continue reading.](#)

## **Bloomberg Politics**

By Romy Varghese

May 25, 2022

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### **[Lessons for Us All from California's Evaporating Billions.](#)**

**Rising interest rates have triggered substantial market losses from Golden State treasurers' untimely investments of idle cash. It's time for reforms wherever similar portfolios are now bleeding red ink.**

Inflation and the Federal Reserve's new regime of monetary tightening have brought a perfect storm to a half-dozen of California's most prominent public treasurers. Their cash management investment portfolios have collectively lost \$5 billion of market value in this fiscal year. That total is three times the losses suffered by Orange County in the 1994 investment debacle that took it into bankruptcy.

This time, the consequences of unrealized investment losses are unlikely to spawn that kind of financial crisis, but this episode does require a rethinking of several practices in public-sector cash management — not just in California, but nationwide.

It's a saga about how business-as-usual has backfired, so that's where this analysis begins. Many of these arrangements are also familiar to local treasurers and cash managers outside the Golden State, including in Arizona, Colorado, Florida, Michigan, New York, Nevada, Ohio, Oregon, Texas, Virginia and Washington state.

[Continue reading.](#)

GOVERNING

OPINION | May 24, 2022 • Girard Miller

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### **[What Federal Government Gave to Illinois in Lower Interest Cost from Credit Upgrades It Has Already Taken Away - Wirepoints](#)**

Upgrades for states from credit agencies are usually nice because they result in lower interest costs

the next time the state borrows money.

But they mean nothing when the same forces that caused the upgrades spike up interest costs for other reasons.

So it is for Illinois. What the federal government hath given the federal government hath taken away.

Illinois' new bond offering says it all. Whatever benefit Illinois got from credit upgrades, which resulted largely from federal largesse, has been more than cancelled out by higher rates caused by that very largesse.

The facts are in *The Bond Buyer*, which is the leading journal for the municipal finance trade, which reported on Illinois's latest bond offering. This month, Illinois priced its new \$1.64 billion of general obligation bonds. The true interest cost on the overall deal was 4.64%, says *The Bond Buyer*.

That's far higher than Illinois and other municipal bonds yielded over the past few years or even at the start of the year. Illinois' 10-year bond was trading at the start of the year at 1.67% yield, according to the *Bond Buyer*, but soared over the course of the year to 4.40% last week. The "spread" for Illinois bonds has worsened this year, too. That's how much the state's municipal bond rates exceed Treasury Bill rates. It started the year around 0.65% but is now over 1.2%.

How could that be? Illinois has received multiple credit upgrades over the past 11 months, which Illinois Gov. JB Pritzker and Comptroller Susanna Mendoza proudly remind us about most every week.

The answer isn't complicated.

The federal government showered cash excessively and indiscriminately on Illinois, its municipalities, other states, their municipalities and the economy in general over the last two years, all under the guise of COVID relief. Total federal "pandemic stimulus" has exceeded \$10 trillion with more still to be disbursed. Illinois got nearly \$200 billion, including \$11 billion that went directly to state government. More importantly, Illinois tax receipts have surged, thanks mostly to the other \$189 billion of stimulus.

That put Illinois bonds at less risk of near term default, thereby earning the credit upgrades.

But what's other the result of a federal cash gusher like that?

Inflation, which is now running at a 40-year high of over 8%. Other matters are contributing to inflation, including Ukraine and supply chain problems. Unquestionably, however, the massive federal stimulus is a primary culprit.

And what's the consequence of inflation?

Higher interest rates. Bond buyers demand higher rates because they want to be compensated for their inflation loss, and the Federal Reserve Board has pushed rates higher to try to fight inflation. Both of those forces are at work. All interest rates are up sharply this year. The benchmark 10-year U.S. Treasury Bill rate is up by over 50% this year. Most other borrowing costs, including municipal bonds across the nation, are up still more.

What will happen to credit ratings when the federal cash runs out?

The Volcker Alliance, a nonprofit group that promotes responsible government spending, issued a report last month singling out three states that are among the most vulnerable for budget stress. They are Illinois, California and Texas. “The problem is that they’ve been using a one-time surge of money from the federal government to pay for long-term expenses, fiscal experts warned Wednesday,” as reported here. “The sobering warning comes even as states are flush with cash, thanks to strong consumer spending and low unemployment.”

The conclusion should be clear. Since nobody can name any reforms or structural budget changes, Illinois’ credit upgrades did not result from something the state did. They resulted, instead, from the same force now driving up interest costs for everybody.

That force was reckless federal spending, which was cheered on by Illinois’ ruling class. The consequences have been more severe than the benefits. Federal fiscal and monetary policy over the past two years have made an appalling mess of our economy, and the effects on Illinois bonds are an example.

## **Wirepoints**

By: Mark Glennon

May 27, 20223

\*Mark Glennon is the founder of Wirepoints.

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## **[Texas Forces Companies to Be Neutral on Guns, or Lose Business.](#)**

- **Law seeks to protect gun retailers from ‘discrimination’**
- **Denies work to companies that cut ties with firearms industry**

To keep doing business with Texas, companies will effectively have to take a vow of neutrality if the latest school-shooting massacre sets off another nationwide furor over gun control.

That’s because in June 2021, flanked by Republican lawmakers and officials from the National Rifle Association, Governor Greg Abbott signed a state law that gives firearm makers, retailers and industry groups a special protection, one that relies on language usually reserved to shield people from racism, sexism, ageism or other forms of prejudice.

As a result, companies signing contracts with government agencies there — from school districts and cities to Texas itself — must verify they don’t “discriminate” against the industry, seeking to force them to ignore any calls to cut their business ties.

The unusual provision, which has since inspired legislation in other Republican-led states, shows how much power the gun lobby has wielded in the nation’s statehouses to fend off any efforts to curtail access to firearms in the wake of mass shootings. The latest occurred Tuesday at an elementary school in Uvalde, Texas, where a gunman killed 19 students and two teachers in the deadliest school shooting since the massacre at Sandy Hook Elementary School in Connecticut a decade ago.

The Texas shooting, which followed a racist attack at grocery store in Buffalo, New York, has reignited the debate over gun control, with President Joe Biden saying it’s time to ask when the

nation is “going to stand up to the gun lobby.”

But such calls have been met with little success before. In fact, as legislative efforts failed in Washington, the gun industry has been successful in state capitols at fending off new regulations — or, in the case of Texas, finding ways to even increase its might.

“Texas has pro-gun legislation which clearly makes a statement at ensuring that the firearms industry is well protected,” said Janice Iwama, a professor at American University, who studies the impact of gun legislation.

The National Shooting Sports Foundation, a trade group based in Newtown, Connecticut, has been encouraging other states to enact legislation like Texas’, contending that companies in the industry are being denied services by banks. Lawmakers in Oklahoma and Louisiana have advanced similar bills, and additional measures have been introduced elsewhere.

The foundation declined to comment Wednesday, citing respect for the victims of Tuesday’s shooting. Spokespeople for Governor Abbott didn’t immediately respond to requests for comment.

The Texas law has already cast ripples across Wall Street, where Bank of America Corp., JPMorgan Chase & Co., and Goldman Sachs Group Inc. had been curtailing some ties to gun companies, including by not lending to those that make military-style weapons for civilian use. Citigroup Inc. had also put in place restrictions for retailers that it works with.

The Texas bill requires any public contract valued at or more than \$100,000 to include a provision that states the company does not and will not discriminate against a firearm entity or trade association.

For months, lawyers and bankers in Texas have complained in private about the vague nature of the law and the difficulty, if not impossibility, of defining how a bank could be discriminating against a firearms entity.

That led Bank of America, JPMorgan, and Goldman to stop underwriting most municipal-bond deals in Texas as they evaluated it, though Citigroup returned to the market last year. JPMorgan cited the law’s ambiguity when it previously announced that it wouldn’t bid on most public contracts. The bank this month, however, took a first step to re-enter the market, with its law firm sending a letter to state officials defending the policy. In the meantime, major banks lost business to regional firms who weren’t drawn into political debates like the industry’s behemoths.

The law is also likely to touch the school district where Tuesday’s slaying unfolded. Officials at the Uvalde Consolidated Independent School District recently considered adding a multi-million bond referendum to the November ballot for school improvement projects, according to local news reporting. To float that debt issue, any underwriter would have to promise not to curtail its gun-industry ties.

## **Bloomberg**

By Danielle Moran and Amanda Albright

May 25, 2022

— *With assistance by Hannah Levitt, and Jennifer Surane*

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## **[Texas Republicans Roil Muni Market Again With Energy Law.](#)**

- **Issuers drop Wells Fargo, Morgan Stanley from bond deals**
- **Underwriters are in limbo as comptroller implements energy law**

Political contagion in Texas' \$50-billion-a-year debt market is moving from guns to oil.

Big Wall Street banks were already shut out of Texas' municipal bond market, where the state and its cities raise money, for policies deemed unfriendly to the gun industry. Now an even larger group could see their public finance businesses hurt by legislation limiting contracts with firms that "boycott" the energy industry.

Banks like Morgan Stanley and Wells Fargo & Co. are losing out on municipal-bond deals or finding that they're essentially sidelined from transactions because of the uncertainty surrounding Texas Comptroller Glenn Hegar's effort to implement the law, which is meant to protect the state's oil and gas industry against the rise of environmental, social and governance standards.

[Continue reading.](#)

### **Bloomberg Politics**

By Danielle Moran and Amanda Albright

May 23, 2022

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## **[The Texas Law That Has Banks Saying They Don't 'Discriminate' Against Guns.](#)**

**Recent legislation requires firms to declare that they don't "discriminate" against the firearm industry – or risk losing lucrative business with the state.**

Four years ago, JPMorgan Chase joined some of the nation's largest banks in publicly distancing itself from the firearm industry after a mass shooting in Parkland, Fla., left 17 people dead.

JPMorgan's relationships with gunmakers "have come down significantly and are pretty limited," Marianne Lake, then the bank's chief financial officer, told reporters. "We do have robust risk management practices and policies associated with this," she said.

The bank, along with Citigroup and other Wall Street firms, did not completely shut the door on gun companies.

[Continue reading.](#)

### **The New York Times**

By Stephen Gandel

May 28, 2022

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## **Florida's DeSantis Says Control of Disney District Will Likely Go to State.**

Florida Governor Ron DeSantis said on Monday that control of Walt Disney Co.'s special government district would likely go to the state and not local governments if it's dissolved next year.

"After seeing them threatening to raise taxes on their citizens, we are not going to be in a situation where we're just going to be giving them, locally control," he said during a press briefing when asked about the possibility of property taxes rising as a result. "More likely that the state will simply assume control and make sure that we're able to impose the law and make sure we're collecting the taxes."

DeSantis signed legislation last month that will dissolve in 2023 the Reedy Creek district, where Disney's Florida amusement parks and hotels are based, unless it's explicitly reauthorized by the state's legislature. The new law emerged after a month-long feud between the Republican governor and Disney in which the entertainment giant criticized a law DeSantis backed that limits school instruction about gender identity and sexual orientation.

DeSantis said that he is working on proposals and will collaborate with the state legislature. While he didn't provide any concrete details, he said that Disney would be responsible for paying back the nearly \$1 billion in municipal bonds issued by the special district.

"That debt will not end up going to any of these local governments," he said. "It's not going to go to the state government, either. It's going to absolutely be dealt with, with the taxpayers who are currently in that district."

### **State Takeover**

The Florida governor made the comments amid ongoing concern by some residents that dissolving Disney's special district could lead to tax increases if municipalities have to take on the burden of the company's debt and provide additional services.

Reedy Creek is governed by a five-member board of supervisors, elected by local landowners. A state takeover could put control of the district, which provides water, sewer, power and other services to Disney World, in the hands of gubernatorial appointees. The district collected revenue of \$306 million last year from taxes and user fees, according to its annual report.

While some of other special districts in the state that were affected by the legislation signed last month may be amended or re-authorized, DeSantis said Disney would not maintain control of the government.

"Obviously with Reedy Creek, the path forward is Disney will not control its own government in the state of Florida," he said. "They will pay their fair share of taxes, and they will be responsible for paying the debts. At the end of the day, all we're doing is putting them on a level playing field with all the other companies in Florida, making sure there's no special privileges, no special deals, but that debt will be honored."

### **Shares Down**

DeSantis said that local taxes would not rise as a result, as the local governments will not see any additional liabilities.

“We’re working on some proposals,” DeSantis said. “I think we’ve got it pretty much what we want to do, but I’m going to work with the legislative leaders for, who are going to come in after the election to make sure that we’re all in agreement.”

Disney shares fell 1.2% to \$106.04 at 1:47 p.m., extending its decline this year to 31.6%. Still, Disney reported last week that subscribers to its Disney+ streaming service beat Wall Street estimates and that the company more than doubled of its theme park revenue thanks to surging attendance. The results suggest that DeSantis’ criticism of the company is not discouraging average Americans from using the company’s products.

## **Bloomberg Politics**

By Nathan Crooks

May 16, 2022

— *With assistance by Christopher Palmeri*

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### **[Why Disney's Special District Is Harder To Dissolve Than It Seems.](#)**

**Florida Gov. Ron DeSantis signed a bill to dissolve a Disney special district, but now many wonder what this means for future debts and taxes.**

In the latest political battle brewing in Florida, Gov. Ron DeSantis signed a bill revoking the Walt Disney Company’s special district status, and he didn’t waste time — it was signed just days after the legislation was introduced in late April.

The bill is widely seen as retaliation for the company taking an official stance against the governor’s so-called “Don’t Say Gay Bill.”

“But then for Disney to come out and put a statement and say the bill should have never passed and that they are going to actively work to repeal it, I think, one: was fundamentally dishonest, but two: I think that crossed a line,” DeSantis said.

But the bill has brought up questions about what exactly happens when a special district suddenly dissolves. Although there isn’t a good precedent for this, a number of legal experts have suggested this may end up backfiring for the governor.

To explain why, let’s go back to how this all started.

Walt Disney first began buying up marshland in Central Florida in the 1960s. The company quietly bought the acres through shell corporations and cash transactions, because if news broke that Disney was making a park, the price of land would skyrocket. By the time the secret got out, Walt Disney was meeting with legislators and business leaders to secure tax breaks, other benefits, and of course, the special district status.

In 1967, Disney got the state to approve of the Reedy Creek Improvement District, and the agreement was made “in perpetuity.” Disney would still pay its state and federal taxes, but it would also fund and run its own government of Reedy Creek. It did that by levying its own taxes to pay for services like power, water, roads and fire protection as they built the parks.

And that continues today: Tax revenue from Disney properties fund Reedy Creek's services like waste management and recycling or its own emergency services.

A key part of this structure is that the government can issue its own municipal bonds to pay for infrastructure projects. They're essentially loans from Disney's many investors, and because municipal bonds are usually exempt from federal taxes, they're often cheaper to borrow. And Disney is continually paying some back: \$60 million of the district's \$170 million budget last year went to debt payments on bonds that were issued to fund projects like roads and a pedestrian bridge.

It's worth noting there are actually tens of thousands of special districts in the country. Disney is unusual because it's the only taxpayer in the entire district, and Disney is the largest employer in a state that is pretty dependent on tourism. It wields a unique "Walt Disney World is the economic engine that drives Central Florida and indeed much of Florida's tourism business," Lori Rozsa, reporter with the Washington Post, said. "Walt Disney World has been a huge influencer of politics in Florida since its inception, clearly since they got this treatment that they were able to get pretty much what they wanted from the legislature. A lot of local politicians and some people in Tallahassee call them bullies because they have a legion of lobbyists."

Now, the big question is: What will actually happen when this powerful mini-government suddenly dissolves?

The state was able to circumvent that "in perpetuity" requirement by targeting any special districts made \*before\* the year the state constitution was ratified.

"... But they also will be considering termination of all special districts that were enacted in Florida prior to 1968, and that includes the Reedy Creek Improvement District," DeSantis said.

So, while this move might be legal, the bill doesn't address those pesky municipal bonds mentioned earlier — since bonds are debts, and someone always has to pay debts.

State law dictates that when a special district is dissolved, paying its debt falls to the area's local government. For Reedy Creek, there are four local governments that would get the burden.

The state has one year to figure out where those debts are going, since the law goes into effect in June 2023. Though DeSantis insists Disney will eat the cost, the bill doesn't detail how, and it's unclear what legislative options he has left.

"It's clear that this was not thought through on the legislative level either by the governor's office and certainly not by the legislators," Rozsa said. "They barely debated it. Disney has the strong hand here. Reedy Creek Improvement District has a strong hand."

Taxes in the surrounding counties could rise up to 25%. Now all eyes are on DeSantis to see if this deal may cement his status as a rising GOP star or politically backfire for his re-election campaign later this year.

By Newsy Staff

May 11, 2022

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## **Fitch: Public Power Credit Unaffected by Glen Canyon Dam Drought Measures**

Fitch Ratings-Austin/New York-13 May 2022: The US Bureau of Reclamation (BOR) recently announced urgent drought response actions at Lake Powell, which are designed to preserve water levels and power generation at the Glen Canyon Dam, the second-largest hydroelectric power source in the US southwest. The announced actions will preserve minimum levels of power supply from this low-cost, carbon-free hydroelectric resource for regional public power utilities in the short term. Still, consensus is needed among the entities that rely on Lake Powell for water and power to address declining hydrology in the Colorado River Basin if power generation is to be sustained longer term, says Fitch Ratings.

Reduced hydroelectric output, as a result of the Colorado River Basin drought, is driving replacement power costs higher for purchasing utilities but the increases are manageable. The BOR increased project energy and capacity rates charged to purchasing utilities by 8% and reduced available allocations in December 2021, given the region's increasingly severe drought conditions. The BOR indicated it would no longer purchase power in order to firm deliveries to purchasing utilities, given increasing market energy prices in the western US.

Utilities rated by Fitch are absorbing the incremental cost caused by reduced supply in 2022 and are replacing the lower generation with additional purchased power, increased output from other owned generation, or reduced off-system (optional, non-customer) sales. To the extent the project's power supply remains curtailed, replacement power costs for Fitch-rated public power issuers should continue to be recovered through rate adjustments.

The Colorado River Storage Project (CRSP), which includes the 1,320MW Glen Canyon Dam power plant, provides cost-based energy supply at typically below market prices to 130 public entity customers: 53 native American tribes, 60 municipalities, cooperatives and irrigation districts, and 17 other entities. Four Fitch-rated utilities receive between 5% and 18% of their total power supply from the project: Colorado Springs, Colorado; Platte River Power Authority, Colorado; Tri-State Generation and Transmission Association, Inc., Colorado; and the Utah Municipal Power Agency, Utah. Two additional rated systems, Fort Collins, Colorado and Provo, Utah, purchase power from the above-named utilities.

The Glen Canyon Dam constitutes only one of multiple generation sources for the Fitch-rated utilities, limiting the credit effect of generation shortages, even in the event of full cessation of power from the facility. However, the reduction of low-cost power supply from Glen Canyon is just one example of the sector's broader operating cost pressures, which are highlighted in Fitch Ratings 2022 Outlook: U.S. Public Power and Electric Cooperatives. Additionally, lower generation from Glen Canyon reduces carbon-free electricity as the sector is pursuing cleaner, non-emitting electric sources.

Glen Canyon Dam, Lake Powell, and the Glen Canyon Dam power plant together form the largest project of the CRSP and are collectively owned and managed by the BOR. The project controls water releases from the Upper Colorado River Basin to the Lower Basin and generates hydroelectric power, accounting for approximately 75% of CRSP's generating capacity.

The entire Colorado River Basin is experiencing progressively worse drought conditions since 2000. Lake Powell's water surface elevation is 3,523 feet, the lowest since the lake was originally filled in the 1960s. The lowest elevation at which Lake Powell can generate hydropower is 3,490 feet.

The BOR took unprecedented action to send more flow into Lake Powell from upstream reservoirs and release less water downstream. The two actions are estimated to increase water levels by

approximately 16 feet, protecting the sole water supply to local communities and the BOR's operational ability to transfer water from the upper Colorado River Basin and preserve hydroelectric generation.

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

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## **[Florida Governor Ron DeSantis Says the State Will Likely Take Control of Disney's Reedy Creek Improvement District.](#)**

At an event in Sanford this morning, Florida Governor Ron DeSantis said that the state would likely take control of Disney's Reedy Creek Improvement District.

Since the Governor signed the bill dissolving Reedy Creek Improvement District last month, many questions have been raised about how dissolving the district will be achieved in practice and if any debt will be passed onto the local Orange and Osceola counties.

He said today, "The path forward is, Disney will not control its own government in the state of Florida. Disney will have to follow the same laws that every other company has to follow in the state of Florida. They will pay their share of taxes, and they will be responsible for paying the debts."

Despite his comments this morning, DeSantis has still not laid out a clear plan to dissolve Reedy Creek. He said today that his plan would be presented to the legislature after the November 2022 elections, which leaves very little time before the June 1 2023 termination date.

The creation of the Reedy Creek Improvement District in 1967 allowed Disney the luxury of establishing its own independent government that handles many aspects of the Walt Disney World property, including emergency services, infrastructure, and construction permitting.

These latest developments follow escalating tensions between DeSantis and Disney CEO Bob Chapek regarding Disney's opposition to Florida's HB 1557, also known as the 'Don't Say Gay' bill.

Disney's Bob Chapek has yet to make any public comments on the situation regarding Reedy Creek Improvement District.

Posted: Monday May 16, 2022 1:04pm ET by WDW MAGIC Staff

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### **[Extension for Issuance of 30-Year Municipal Bonds in Connecticut.](#)**

During the 2022 Legislative Session, the General Assembly passed, and the Governor signed into law, HB 5506, commonly referred to as the Implementer (the "New Law").

For municipalities issuing bonds and refunding bonds, prior to July 1, 2022, the law allowed a term of up to 30 years for bonds and refunding bonds issued from July 1, 2017 to July 1, 2022. The New Law now makes the 30-year authorization permanent for bonds, and the New Law extends the expiration by five years, until July 1, 2027, for refunding bonds. Municipalities may issue refunding bonds with a maturity of up to 30 years only if their legislative bodies adopt a resolution to do so by a two-thirds vote.

Please note that the Connecticut statutory provisions discussed above do not address the potential tax implications related to issuing 30-year bonds or refunding bonds. Municipal issuers should consult with the professionals that assist them with their bond issuances. If you have any questions about this alert, please feel free to contact any of Pullman & Comley's Public Finance attorneys.

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### **[DeSantis Culture War With Disney Sees Lawsuit by Florida Trio Thrown Out.](#)**

A federal judge threw out a lawsuit by three Florida residents who claim Governor Ron DeSantis trampled on Walt Disney Co.'s freedom of speech, finding numerous holes in their filing and ruling the company can fight its own battle.

The entertainment giant enjoys privileges through a special municipal district that encompasses Walt Disney World and its resorts, including access to the lower-cost municipal debt market for certain projects. The three residents alleged that the governor's move to dissolve the district as punishment in a political fight violated the company's First Amendment rights.

But they failed to show that Disney "faces any hindrance" in making its own case if it chooses to, the judge said Tuesday.

DeSantis, a Republican and potential 2024 presidential candidate, signed a law in April that will dissolve the Reedy Creek Improvement District unless there is further legislative action, after Disney announced its opposition to the state's new parental rights law that restricts classroom instruction on sexual orientation and gender identity.

Because the law's provisions aren't in effect yet, U.S. District Judge Cecilia Altonaga added that the claims aren't ready for litigation and adjudication. And she found the law wouldn't affect the plaintiffs anyway, who therefore lack standing to sue.

"They do not allege direct harm as a result of the challenged law, and they do not plausibly allege any credible threat of direct harm in the future," she wrote.

While they said in their suit that they feared they would have to assume the tax burden that Disney shoulders under its special tax status, the judge shrugged off the claim.

"That indirect and highly speculative alleged injury cannot support federal jurisdiction," she wrote.

The case is Michael Foronda v. Ron DeSantis, 22-cv-21376, U.S. District Court, Southern District of Florida (Miami).

## **Bloomberg**

By Katia Porzecanski

May 11, 2022

— *With assistance by Danielle Moran*

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## **[JPMorgan Made Surprise Bid to Underwrite Mega Texas Muni Deal.](#)**

For months, JPMorgan Chase & Co. has been largely absent from the Texas municipal-bond market because of a new GOP state law targeting Wall Street banks for their gun policies.

But the bank raised its hand when a Texas financing authority put out a request for proposals last month for a \$3.4 billion muni deal it's aiming to sell by August to cover costs incurred by utilities during a deadly 2021 winter storm. The offering is poised to be the largest muni sale ever in the state.

JPMorgan was one of the roughly 40 banks that submitted a proposal, according to Lee Deviney, executive director of the Texas Public Finance Authority, which formed the entity that's selling the bonds.

The New York-based bank didn't make the cut Friday when the Texas Natural Gas Securitization Finance Corp. named the underwriters. Some 30 firms didn't get picked, Deviney said. Jefferies Financial Group Inc. was tapped as the senior manager, with Morgan Stanley and Hilltop Securities as co-managers.

Patricia Wexler, a spokesperson for JPMorgan, declined to comment.

JPMorgan hasn't underwritten any municipal-bond sales by the state or its cities since the law, known as Senate Bill 19, went into effect in September, according to data compiled by Bloomberg. It has underwritten two small Texas transactions — both under \$20 million — since the measure took effect. Those deals were sold by nonprofit industrial development corporations, a category that appears to be outside the the scope of the law, which targets governmental entities.

The GOP law doesn't allow governments to enter into contracts of over \$100,000 with companies

unless they provide a written verification that they don't "discriminate" against firearms entities.

In September, JPMorgan told Bloomberg News its business practices should permit the bank to certify compliance with the law. But it said the legal risk of the "ambiguous law" prevented it from bidding on most transactions with Texas public entities.

It's unclear whether the bank has now certified compliance with the law, but its response to the request for proposal suggests it may have. Banks submitting proposals for the storm-bond transaction had to certify they're in compliance with Texas laws, including Senate Bill 19, according to the request for proposals.

## **Bloomberg Markets**

By Amanda Albright and Danielle Moran

May 6, 2022

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### **[Florida Taxpayers Sue DeSantis Over Disney Special District Repeal.](#)**

**Florida residents near Walt Disney World filed a lawsuit claiming they will be on the hook to pay \$1 billion in Disney's bond debt if the special district is abolished.**

Florida residents in counties surrounding Disney World filed a lawsuit against Governor Ron DeSantis on May 3, alleging the repeal of Walt Disney's special district would saddle taxpayers with \$1 billion worth of bond debt.

DeSantis signed off on abolishing the Disney district on April 22 seemingly in retaliation of Disney CEO Bob Chapek slamming Florida's passage of the "Don't Say Gay" law. Residents of the surrounding Osceola counties now claim DeSantis violated their rights and interest when dissolving the Disney tax breaks and Reedy Creek Improvement District. They seek to block the law.

"It is without question that Defendant Governor DeSantis intended to punish Disney for a 1st Amendment protected ground of free speech," the lawsuit states, via The Hollywood Reporter. "Defendant's violation of Disney's 1st Amendment rights directly resulted in a violation of Plaintiffs' 14th Amendment rights to due process of law."

[Continue reading.](#)

## **IndieWire**

by Samantha Bergeson

May 4, 2022 3:05 pm

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### **[American Dream Mega Mall Lost \\$60 Million Last Year.](#)**

- **Pandemic stunts New Jersey mall's revenue from attractions**
- **Mall had \$173 million revenue and \$232 million expenses**

American Dream, the struggling megamall near the New Jersey Turnpike, lost about \$60 million in 2021, according to a [securities filing](#).

The 3.5-million-square-foot shopping and entertainment complex, home to an indoor ski slope, amusement park and water park, generated about \$173 million in revenue, mainly from attractions and rent. Expenses totaled \$232.4 million, according to a three-page unaudited financial report.

American Dream was walloped by the pandemic as successive waves of the coronavirus discouraged shoppers and tourists. The mall's ski hill was hit by a fire in September that also disrupted dozens of shops and eateries. The mall was 80% leased as of April 1, according to a separate filing. The ski slope plans to reopen Memorial Day weekend.

Mall owner Triple Five Group is seeking a four-year extension to repay \$1.7 billion in construction financing, Bloomberg News has reported.

American Dream last year had sales of about \$305 million, or 15% of the \$2 billion that a 2017 forecast projected it would bring in during its first year of operations. In addition to the construction loans, the mall has about \$290 million of sales-tax supported municipal-bonds and \$800 million of municipal-debt backed by payments in lieu of property taxes.

The mall reported \$2.6 billion in total liabilities and about \$500 million in equity.

## **Bloomberg Markets**

By Martin Z Braun

May 3, 2022

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## **[Harvard Issues First-Ever Green Bonds to Finance Campus Construction Projects.](#)**

Harvard issued its first-ever green bonds — debt instruments that align with international sustainability standards — earlier this month.

The \$250 million bonds will finance and refinance projects including Harvard's newly-constructed Science and Engineering Complex, estimated to cost around \$1 billion, along with the ongoing renewal of Adams House and renovation of Soldiers Field Park, which will cost at least \$600 million combined.

The borrowing marks the first time an outside firm has verified the University's compliance with the 2021 Green Bond Principles, a global framework that encourages environmental sustainability and development in debt capital markets.

The principles, set by the International Capital Market Association, "outline best practices when issuing bonds serving social and/or environmental purposes through global guidelines and recommendations that promote transparency and disclosure, thereby underpinning the integrity of the market," according to ICMA's website.

Sustainable measures for capital projects could include renewable energy, green equipment, energy-efficient transportation systems, and the usage of environmentally-friendly building materials.

The 544,000-square-foot SEC, which opened in fall 2021, received two environmental distinctions: the Leadership in Energy and Environmental Design platinum status — the highest distinction offered by LEED — and the Living Building Challenge Petal certification. To attain Petal certification, the SEC was monitored for a year and had to pass three sustainability performance areas, or “petals.”

University spokesperson Jason A. Newton wrote that the borrowing is in line with Harvard’s own sustainability goals.

“The purpose of the bond offering includes support for maintenance and investment in Harvard’s physical campus, including creating capacity for initiatives related to Harvard’s Climate Action Plan” he wrote.

Harvard’s climate action plan includes targets for campus operations to be fossil-fuel neutral by 2026 and fossil-fuel free by 2050. The University, however, has yet to release updated environmental targets after its first sustainability plan — announced in 2014 — lapsed last year.

The tax-exempt, 10-year bonds were verified by Kestrel Verifiers — a company that conducts external reviews for public finance projects — on April 6 and subsequently issued on April 20.

The bonds will close on May 17, 2022.

## **The Harvard Crimson**

By Dekyi T. Tsotsong and Eric Yan

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### **[Municipal-Bond Dealer Hired English and Philosophy Majors.](#)**

#### **Richard J. Franke, who has died at age 90, specialized in tax-exempt securities as CEO of Nuveen and founded a humanities festival in Chicago**

Richard J. Franke was a history major at Yale before earning his M.B.A. degree at Harvard in 1957.

Later, as chief executive of John Nuveen & Co., a Chicago-based fund manager specializing in tax-exempt bonds, he considered that history degree at least as important as the business training. He was more apt to quote Sophocles or Montaigne than any financial guru. He hired people with degrees in philosophy, English or theology as well as those with financial skills.

The humanities, Mr. Franke argued, were the best way to learn communication and critical-thinking skills, understand other people, and stay open to adopting new ideas as new information emerged.

“Business leaders with a background in the humanities have a deeper understanding of themselves and others,” he said in a 2000 speech.

Mr. Franke spread his secular gospel partly by founding the Chicago Humanities Festival, which since 1990 has used concerts, films and other performances to draw people into lectures and discussions they might otherwise skip. This year’s festival includes the filmmaker John Waters and the comedian Sarah Cooper.

As a CEO, he declined to serve on other companies’ boards and instead devoted himself to nonprofits, including the Lyric Opera of Chicago, where he believed he could add more value. He led

a book-discussion group for more than 35 years.

Mr. Franke died April 15 at a hospital in New York. He was 90 years old and had recently broken a hip.

Richard James Franke (pronounced Frank-e) was born June 23, 1931, and grew up in Springfield, Ill. His father, who left school after the seventh grade, was a dry cleaner and during the Depression provided startup capital for jobless people who wanted to set up small businesses.

In 1949, Mr. Franke boarded a train for the trip to New Haven, Conn., where he enrolled at Yale. At the train station, he recalled, his father said: "Rich, I have taught you all I know. Now is time for you to go off on your own."

Yale was a cultural shock for a Midwesterner whose parents hadn't gone to college. The prep-school set teased him for wearing the wrong clothes. Still, the liberal-arts education he got there enriched his entire life.

After graduating from Yale, he served in the Army, which posted him in Colorado. He worked as a mailroom intern for Nuveen in 1955 and returned there after earning his M.B.A. In 1958, he married Barbara Easley, whom he had known since high school.

Early in his career at Nuveen, he traveled the South to pitch local officials on the advantages of using tax-exempt bonds to finance infrastructure. "I had plenty of ambition and painfully few verbal skills," he wrote in a memoir prepared for his grandchildren. "Slowly, I became better at presentation and even recruited a respectable amount of business for our firm."

In 1969, he joined Nuveen's board. To show his commitment, he borrowed \$100,000 to buy shares in the company.

The timing could hardly have been worse. Nuveen, founded in 1898, was stuck with too many bonds as prices dropped. The value of his stock was wiped out, and Nuveen averted a collapse only by getting an emergency injection of cash from Investors Diversified Services Inc. As the new owner, IDS ousted most of the top executives but kept two, Frank Wendt as chief executive and Mr. Franke as executive vice president, to sort out the mess.

IDS sold Nuveen to St. Paul Cos., an insurer, in 1974, and Mr. Franke rose to chief executive. Nuveen now is owned by Teachers Insurance and Annuity Association of America, or TIAA.

The market for bonds was difficult in the 1970s as soaring interest rates reduced prices for the securities. Even so, Nuveen returned to profitability and was in a good position to benefit from the long-term fall in interest rates that began in the early 1980s. The firm thrived as a manager of municipal-bond funds. Under Mr. Franke, Nuveen stopped making markets in U.S. Treasury bonds in 1980 to focus on municipal bonds.

A narrow focus on tax-exempt bonds served Nuveen well for years but by the mid-1990s was sometimes seen as a liability. After Mr. Franke retired as CEO in 1996, Nuveen diversified into equity funds.

Mr. Franke moved to New Haven, partly to maintain his connections with Yale. He was a fellow of the Yale Corporation for 12 years and was a life trustee at the University of Chicago. He wrote a 521-page book, "Cut From Whole Cloth," on his family's history.

"You don't retire," he wrote. "You do something different."

Though he had spent a career in the bond market, he shunned credit cards and other types of borrowing in his personal life and refused to embrace online banking.

Mr. Franke's survivors include his wife of 64 years, Barbara Franke, two daughters and two grandchildren. In the memoir he wrote for his grandchildren, he recommended a rich diet of reading, including biographies and obituaries.

For leaders of book-discussion groups, he advised holding sessions somewhere other than in members' homes. "When we experimented with meetings in our homes, we found we had too much conversation about the house in which we met and the snacks we ate, when we were supposed to be discussing literature," he wrote.

## **The Wall Street Journal**

By James R. Hagerty

Apr. 28, 2022 10:01 am ET

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### **[A Wisconsin Town With Contaminated Drinking Water Must Decide Its Future.](#)**

#### **Residents of tiny Peshtigo consider joining nearby city to fix water supply, which is polluted with chemicals known as PFAS**

PESHTIGO, Wis.—For decades, a fire-technology company next to this town on the shore of Green Bay set steel structures and other props ablaze and trained firefighters from around the world to put them out with a special foam.

Today, chemicals from that foam are found in private water wells several miles away and in creeks that flow into the bay, and leaders of the town of Peshtigo are in a bitter fight with the company about how to get safe drinking water to residents.

Cindy Boyle, chairwoman of the town board, said it was infuriating that her family has had to drink and cook with bottled water for the past four years and that she wakes up in the middle of the night thinking about the contamination under her town. "If we could just get permanent safe water at least that part could stop," said Ms. Boyle, 50 years old.

[Continue reading.](#)

## **The Wall Street Journal**

By Kris Maher

Apr. 24, 2022 10:00 am ET

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### **[Texas Stumbles In Its Effort to Punish Green Financial Firms.](#)**

For years, fossil fuel producing states have watched investors shy away from companies causing the

climate crisis. Last year, one state decided to push back.

Texas passed a law treating financial companies shunning fossil fuels the same way it treated companies that did business with Iran, or Sudan: boycott them.

“This bill sent a strong message to both Washington and Wall Street that if you boycott Texas energy, then Texas will boycott you,” Texas Representative Phil King said from the floor of the Texas legislature during deliberations on the bill, SB 13, last year.

[Continue reading.](#)

**mainepublic.org**

By Mario Alejandro Ariza, Mose Buchele

Published April 29, 2022 at 5:01 AM EDT

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## **[Florida’s \\$1 Billion Disney Question.](#)**

When Florida Republicans approved a bill to strip Walt Disney Co. DIS -3.17% of its special taxing privileges in April amid controversy over how gender and sexuality are taught in schools, they failed to address a key question: Who is responsible for paying back nearly \$1 billion in municipal debt used to build roads, walkways and other infrastructure around Disney World?

Florida law dictates the bondholders must be paid even if Disney’s special taxing district, known as Reedy Creek, is dissolved. A separate law creating Reedy Creek promised bondholders the state wouldn’t interfere with its tax collections. One of the bill’s sponsors is now considering re-establishing a watered-down version of Reedy Creek to unwind the legal mess.

Those caught up in the fight include municipal bond investors, firefighters, and the \$210 billion global media and marketing enterprise behind Star Wars, the Avengers and ESPN.

Prices have dropped on many of the bonds, which sit in mutual funds managed by Goldman Sachs Asset Management, AllianceBernstein and other firms. Reedy Creek bonds maturing in 2028 traded at 87.5 cents on the dollar Thursday and Friday, down from about 100 cents in January, according to Municipal Securities Rulemaking Board data. Two major ratings firms have flagged the bonds for potential downgrade, saying it isn’t exactly clear who owes investors their money.

“It’s mere speculation at this point,” said Michael Rinaldi, head of U.S. local government ratings at Fitch Ratings. “We don’t have any information.”

A spokesperson for Gov. Ron DeSantis said a plan for Reedy Creek is being completed and could be made public within the next few weeks. Mr. DeSantis, a Republican, said in an interview with Fox News Thursday night that “the bonds will be paid by Disney.”

The Reedy Creek Improvement District is a 40-square-mile area encompassing Disney’s Orlando-area theme parks, hotels and resorts. Tens of thousands of such special districts exist across the U.S., typically run by local boards and formed at the behest of property owners who want to pay taxes beyond what they owe to the city or county for extra services such as mosquito abatement.

Reedy Creek is unusual in that almost all the property belongs to one taxpayer, Disney, which

effectively funds and controls its own government. Reedy Creek operates outside area rules on building and zoning and uses tax revenue from Disney properties to run a local fire department and other services. About \$60 million of the district's \$170 million 2021 budget went to debt payments on bonds issued to finance roads and a pedestrian bridge, among other projects.

Created by Florida lawmakers more than 50 years ago at Disney's request, Reedy Creek was an easy target for Florida lawmakers unhappy with Disney over its opposition to Florida's Parental Rights in Education bill. Nicknamed "Don't Say Gay" by critics, the legislation approved in April prohibits classroom instruction on gender identity and sexual orientation for schoolchildren through grade three, and limits it for older students.

After Disney, under pressure from employees, vowed to push for the law's repeal, Florida lawmakers, at the urging of Mr. DeSantis, filed, heard and approved a bill dissolving Reedy Creek over a three-day period in mid-April. The dissolution is effective June 1, 2023. A Disney spokesperson declined to comment. A Reedy Creek spokesperson didn't respond to a phone call.

State law dictates that when a special district is dissolved, the responsibility for paying its debt falls to the area local government. In Reedy Creek's case, there are four: Orange County, which encompasses most of Reedy Creek, Osceola County and the cities of Bay Lake and Lake Buena Vista.

Reedy Creek said in a statement filed with the Municipal Securities Rulemaking Board, a self-regulatory organization governing the bond market, it "expects to explore its options while continuing its present operations." The statement also cited a 1967 legal promise to Reedy Creek bondholders that the state wouldn't alter the district's ability to collect taxes.

Florida Rep. Randy Fine, a Republican who sponsored the bill in the state's house of representatives, said he believes that obligation will no longer exist after the new law takes effect next year. He said a court or additional legislation could help determine how to divide the debt up among local governments. Still, he said, another option would be for lawmakers to re-establish a less-powerful version of the Reedy Creek Improvement District for the purpose of servicing the debt.

In that scenario, "there continues to be a Reedy Creek that continues to hold that and continues to pay it off," Mr. Fine said, but the legislature could withhold other powers the district currently has such as the ability to issue additional debt backed by a promise of repayment in state law.

Mr. DeSantis's office said in a statement when he signed the Reedy Creek bill that he didn't expect it to increase residents' taxes. The impact to local governments could extend well beyond having to take over debt payments, however.

Orange County Mayor Jerry Demings, a Democrat, said at a press conference while the bill was under consideration that Reedy Creek covers the cost of police, fire and 911 services in the district. Taking over those operations without additional revenue would be "catastrophic for our budget," he said. Osceola County said in a statement following the bill's passage that it is "evaluating any shifts in cost to Osceola."

Some municipal bond portfolio managers and analysts expressed concern at seeing partisan politics creep into the arcane world of debt repayment pledges.

Matt Freund, head of fixed-income strategies at Calamos Investments LLC, which holds a small share of a Reedy Creek bond issued in 2020, expressed confidence that the debt would be repaid.

"How the state of Florida's action impacts the broader municipal finance industry is yet to be seen," Mr. Freund said.

## The Wall Street Journal

By Heather Gillers

May 1, 2022 8:00 am ET

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### [DeSantis Signals More Disney Action After 'First Step'](#)

- **Florida governor signed law to end self-governing district**
- **Company, governor in dispute over law on teaching on gender**

Florida Governor Ron DeSantis suggested he may take more action to limit Walt Disney Co.'s ability to run its own affairs in the state.

DeSantis last week signed legislation that will dissolve the Reedy Creek Improvement District, where Disney operates its Walt Disney World Resort, unless it's explicitly reauthorized. The company has been locked in a heated dispute with the Republican governor after it criticized a law he backed that limits school instruction about gender identity and sexual orientation.

"That was really the first step in what's going to be a process to make sure that Disney should not run its own government," DeSantis said at a press briefing on Monday.

DeSantis was responding to some who have suggested that Disney's tax burden would be reduced if it loses its special district. While he didn't give many other details, his remarks came as some critics, including officials in Orange County, where the bulk of Disney's operations are based, have suggested that the entertainment giant could see tax savings by transferring the public services it provides to municipal governments.

"Trust me. Under no circumstances will Disney not pay its fair share of taxes when this is done," DeSantis said.

DeSantis has said he isn't targeting \$578 million in credits Disney can use to reduce its state income taxes through 2040. His office has previously referred to those benefits as being available to anyone who applies and not Disney-specific.

DeSantis also rejected the idea that the company wouldn't be on the hook for the nearly \$1 billion in municipal debt Reedy Creek has outstanding.

"Under no circumstances will Disney be able to not pay its debts," DeSantis said, without providing more details. "We will make sure of that. Do not worry about that."

In a statement Friday, DeSantis's office said it wasn't "the understanding or expectation" that the law would result in any tax increases for Florida residents. It said that additional legislation would be proposed to "authorize additional special districts in a manner that ensures transparency and an even playing field under the law."

Christina Pushaw, a spokesperson for DeSantis, said Monday that more details of the plan will be finalized in the "next couple of weeks."

Disney has yet to comment on the legislation.

Randy Fine, the Republican state representative who sponsored the legislation, said there are a number of ways the Reedy Creek issue could be resolved. He said the debt associated with the district, as well as the services provided, could be passed along to local governments. The district could also be reauthorized in a way that makes it in line with current provisions of the state constitution.

“There are big discussions to be had over the next year in terms of what we do about it,” he said.

## **Bloomberg Politics**

By Nathan Crooks and Christopher Palmeri

April 25, 2022

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### **[Florida's \\$1 Billion Disney Question.](#)**

#### **Stripping Walt Disney Co. of its special taxing privileges leaves investors wondering who pays back almost \$1 billion of municipal bonds**

When Florida Republicans approved a bill to strip Walt Disney Co. DIS 1.68% of its special taxing privileges in April amid controversy over how gender and sexuality are taught in schools, they failed to address a key question: Who is responsible for paying back nearly \$1 billion in municipal debt used to build roads, walkways and other infrastructure around Disney World?

Florida law dictates the bondholders must be paid even if Disney's special taxing district, known as Reedy Creek, is dissolved. A separate law creating Reedy Creek promised bondholders the state wouldn't interfere with its tax collections. One of the bill's sponsors is now considering re-establishing a watered-down version of Reedy Creek to unwind the legal mess.

Those caught up in the fight include municipal bond investors, firefighters, and the \$210 billion global media and marketing enterprise behind Star Wars, the Avengers and ESPN.

Prices have dropped on many of the bonds, which sit in mutual funds managed by Goldman Sachs Asset Management, AllianceBernstein and other firms. Reedy Creek bonds maturing in 2028 traded at 87.5 cents on the dollar Thursday and Friday, down from about 100 cents in January, according to Municipal Securities Rulemaking Board data. Two major ratings firms have flagged the bonds for potential downgrade, saying it isn't exactly clear who owes investors their money. “It's mere speculation at this point,” said Michael Rinaldi, head of U.S. local government ratings at Fitch Ratings. “We don't have any information.”

A spokesperson for Gov. Ron DeSantis said a plan for Reedy Creek is being completed and could be made public within the next few weeks. Mr. DeSantis, a Republican, said in an interview with Fox News Thursday night that “the bonds will be paid by Disney.”

The Reedy Creek Improvement District is a 40-square-mile area encompassing Disney's Orlando-area theme parks, hotels and resorts. Tens of thousands of such special districts exist across the U.S., typically run by local boards and formed at the behest of property owners who want to pay taxes beyond what they owe to the city or county for extra services such as mosquito abatement.

Reedy Creek is unusual in that almost all the property belongs to one taxpayer, Disney, which

effectively funds and controls its own government. Reedy Creek operates outside area rules on building and zoning and uses tax revenue from Disney properties to run a local fire department and other services. About \$60 million of the district's \$170 million 2021 budget went to debt payments on bonds issued to finance roads and a pedestrian bridge, among other projects.

Created by Florida lawmakers more than 50 years ago at Disney's request, Reedy Creek was an easy target for Florida lawmakers unhappy with Disney over its opposition to Florida's Parental Rights in Education bill. Nicknamed "Don't Say Gay" by critics, the legislation approved in April prohibits classroom instruction on gender identity and sexual orientation for schoolchildren through grade three, and limits it for older students.

After Disney, under pressure from employees, vowed to push for the law's repeal, Florida lawmakers, at the urging of Mr. DeSantis, filed, heard and approved a bill dissolving Reedy Creek over a three-day period in mid-April. The dissolution is effective June 1, 2023. A Disney spokesperson declined to comment. A Reedy Creek spokesperson didn't respond to a phone call.

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"How the state of Florida's action impacts the broader municipal finance industry is yet to be seen," Mr. Freund said.

## **The Wall Street Journal**

By Heather Gillers

May 1, 2022

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### **[Disney Says Florida Can't Dissolve Special District Without Paying \\$1B Debt.](#)**

Disney is arguing that Florida cannot dissolve the special taxing district that allows Walt Disney World to oversee its property as a quasi-governmental agency since it said it would protect bond holders.

The special taxing district run by Disney, known as the Reedy Creek Improvement District, made the argument in a statement to the Municipal Securities Rulemaking Board on April 21.

It said in the statement that the Reedy Creek Act pledged not to alter its status unless all debts are paid off.

[Continue reading.](#)

THE HILL

BY KELSEY CAROLAN - 04/29/22 11:39 AM ET

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### **[DeSantis Says Disney Will Pay For \\$1 Billion Bond Debt.](#)**

Gov. Ron DeSantis responded to Disney's claim that Florida would have to pay \$1 billion in bond to dissolve the Reedy Creek Improvement District.

The Walt Disney Co. has remained publicly silent since DeSantis signed a law last week dissolving the Reedy Creek Improvement District, but a letter to investors shows they're not going down without a fight.

Disney recently told investors the state would be unable to resolve the district without paying for the district's outstanding debt obligations of about \$1 billion. In the meantime, the district is considering its options while conducting business as usual.

[Continue reading.](#)

**wflx.com**

By Victoria Lewis

Published: Apr. 29, 2022 at 8:21 AM PDT

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## [How Florida's Own Pledge to Disney's Special District Could Backfire.](#)

Florida Republicans' efforts to strip Disney of its special self-government power over the company's opposition to the so-called "Don't Say Gay" law could backfire amid concerns of a large debt owed to the state.

Florida created Walt Disney World's special district in 1967, and the state pledged not to alter its status unless all debts owed to the state are paid off — a promise that could place a hurdle in front of Gov. Ron DeSantis's (R) move to strip the area of its special status.

DeSantis signed a bill on April 21 to dissolve the Reedy Creek Improvement District (RCID), a special taxing district that allows Walt Disney World to oversee its property as a quasi-governmental agency.

[Continue reading.](#)

THE HILL

BY KELSEY CAROLAN - 04/29/22 4:45 PM ET

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## [California Slow to Sell Housing Bonds as Homelessness Worsens.](#)

**Residents in L.A. and Alameda County voted to use municipal bonds to ease a homeless crisis, but many housing projects remain bogged down by other obstacles.**

California's efforts to alleviate homelessness through local borrowing are running up against the realities of slow-moving bond financing — and rising interest rates mean higher costs for the governments.

It's been more than five years since voters in Alameda County, home to Oakland; Santa Clara County, the heart of Silicon Valley; and Los Angeles approved borrowing a total of \$2.73 billion to tackle homelessness and boost affordable housing. Yet, less than half authorized in Los Angeles and Alameda County has been sold while Santa Clara County has cleared about 63% of its share.

To avoid racking up interest costs unnecessarily, localities sell bonds only when the projects are ready to spend money on construction and other expenses. The share of unsold bonds demonstrates how even if the funds are earmarked, many projects remain bogged down in obstacles such as zoning and still have a long way to go before the money can be spent. Meanwhile, bond yields have started to rise, meaning governments will have to pay more for the debt than they would have paid a couple years ago. Benchmark 10-year municipal bond yields are about 170 basis points higher than they were a year ago, according to Bloomberg indexes.

[Continue reading.](#)

### **Bloomberg Markets**

By Romy Varghese

April 21, 2022

