Bond Case Briefs

Municipal Finance Law Since 1971

Taxpayers Beware: Bidding Wars for NFL Teams Are Losing Bets.

Recently, the Washington, D.C. mayor, Muriel Bowser, announced that she has reached out to Dan Snyder, owner of the Redskins, the D.C.-area NFL team, about returning the team to the nation's capital from its current location in suburban Maryland.

Maryland Governor Larry Hogan has made clear that he wants the team to stay, and Virginia Governor Terry McAuliffe is aggressively courting the team to move to Virginia. This setup makes a bidding war likely, with each location promising a newer and fancier replacement stadium for the team's current home.

Wherever the Washington team winds up, there's little doubt that taxpayers—both locally and across the nation—will be on the hook for much of the stadium's bill.

Conventional wisdom is that the gains to the local economy from a stadium are worth the cost to local taxpayers. However, the evidence for this view is weak, and even weaker is any claim that federal taxpayers outside of the D.C. metropolitan area should also subsidize the location of a local team.

Despite the fact that new stadiums are often thought to boost local economic growth and job creation, these benefits are often overstated. Academic studies typically find no discernible positive relationship between sports facility construction and economic development.

Most evidence suggests that sports subsidies cannot be justified on the grounds of local economic development, income growth or job creation. In fact, after 20 years of academic research on the topic, "peer reviewed economics journals contain almost no evidence" that sports stadiums or franchises measurably improve local economies.

To cite just one specific example, in the mid-1990s, the state of Maryland projected that a new football stadium in downtown Baltimore (now the home of the Baltimore Ravens) would create 534 jobs at $331,000 per job. The projected economic benefits of $33 million were only a fraction of the projected $177 million investment. It is therefore no surprise that economists overwhelmingly oppose sports subsidies.

Even if one buys the argument that local taxpayers win from subsidizing a team to locate in their area, there's no reason that federal taxpayers should be part of this bidding war. Residents of, say, Wyoming, Maine or Alaska gain nothing whether the D.C.-area football team is lured to Washington or Virginia or Maryland. Yet, under current federal tax law, taxpayers throughout the country will wind up subsidizing the stadium, wherever it's located.

The future home of the D.C. area's NFL team will most likely be financed, at least in part, by the issuance of municipal bonds. Holders of municipal bonds pay no federal tax on the interest income, in effect providing a federal subsidy for the financing of a stadium for Snyder's team.

President Obama recently proposed eliminating the tax exemption for interest on bonds that are used to finance sports stadiums, which would mean an estimated $542 million more in tax revenue between 2016 and 2025. And the president is hardly the first to consider this idea. When Congress last undertook major tax reform, in 1986, the House's version of the bill would have taxed interest income from bonds used to pay for stadiums, though that provision did not become law.

Let's hope Congress revisits the issue. While local football fans will undoubtedly be intensely interested in where the D.C.-area team will end up, there is no reason why fans and non-fans alike across the country should help subsidize the new stadium.

NEWSWEEK

BY ALEX GOLD AND TED GAYER

5/24/15 AT 11:57 AM

Ted Gayer is vice president and director, economic studies, and the Joseph A. Pechman Senior Fellow, and Alex Gold is research associate, economic studies, at the Brookings Institution. This article first appeared on the Brookings site.

Illinois Scrambles for Solutions to a Mounting Pension Crisis.

CHICAGO — Illinois is facing one of the worst fiscal crises of any state in recent decades, largely because it has mismanaged its pension system.

The shortfalls could potentially mean sharply higher taxes and cuts in spending. And even though the state's highest court just this month threw out a landmark plan to cut worker and retiree benefits, some lawmakers say they may have to find another way to make those reductions as well.

Illinois's problems resonate well beyond its borders. Pennsylvania, New Jersey and Kentucky are among the states confronting similar problems, and to them, Illinois is a model of what can go wrong — with political intransigence, mounting costs and a complicated legal terrain.

So elected officials, union leaders, investors, fiscal hawks and even bankruptcy lawyers across the country are watching Illinois closely to see how it addresses the crisis. In Washington, some Republicans have even raised pointed concerns that President Obama's home state might someday seek federal help.

The state faces a range of problems. Illinois has one of the worst-funded pension systems in the nation. Chicago also has a pension crisis, leading Moody's Investors Service to downgrade its credit rating to junk status on May 12, potentially threatening the city's ability to borrow.

And the state faces an expected budget deficit of $6 billion, which it needs to address quickly. With just days before a legislative deadline, the new Republican governor, who ran on cutting costs and holding down taxes, is at odds with Democrats who hold a veto-proof supermajority in the legislature.

"Really, it's not a clear road map at this point," the governor, Bruce Rauner, said of solving the pension crisis.

"We have to make big decisions," Mr. Rauner told reporters. "The state is in dire financial straits. Chicago is in big, big challenges. And everybody's a little bit on edge."

Courts in other states, including Colorado and Minnesota, have sometimes approved measured pension cuts for public workers, especially for the benefits that current workers have not yet earned. And in Detroit and Stockton, Calif., federal judges have said pensions could be cut in a bankruptcy.

But Illinois has one of the most explicit constitutional pension guarantees of any state. The State Supreme Court found that the landmark plan was unconstitutional, and interpreted the clause in a way that protects even benefits that current public workers have not yet earned, as well as cost-o--living adjustments for retirees.

That has made a dire situation worse and raised the possibility that Illinois, its biggest city and Chicago's schools must all simultaneously find a way to keep running pension systems that are already unsustainable.

"What has happened is the loudest wake-up call possible," said Laurence J. Msall, president of the Civic Federation, a watchdog group. "This is a financial tsunami for the City of Chicago and the State of Illinois that will not be fixed without politically painful changes.

Many states and cities around the country have been doing what Illinois did — promising pensions without calculating the costs correctly or really preparing to pay them — but to a lesser degree.

Other states have pulled back from the brink of fiscal disaster through extraordinary measures, including New York in 1975, to deal with the threat of bankruptcy in New York City, and California in 2012, when Gov. Jerry Brown talked his famously tax-averse voters into approving a tax raise.

But the Illinois public pension system is at or near the bottom of national rankings. Standard & Poor's Rating Services said in 2014 that the Illinois system was last among state systems, with just 40 cents available for every dollar of promised benefits.

The pension system sank over decades, as officials promised pensions without setting aside enough money to pay them. In its unanimous opinion on May 8, the State Supreme Court cited commissions dating to 1917 that had warned of a crisis as more retired workers started drawing benefits.

Warnings were ignored, though, and shortfalls accumulated. It was easy for officials to let that happen, because actuarial calculations can understate the true cost of a pension plan, and Illinois had some of the biggest actuarial distortions of any state. In 2013, Illinois became the second state in history, after New Jersey, to be accused of fraud by the Securities and Exchange Commission, which found that it had misled the public about the condition of its pension system.

In recent years, with the system estimated to be more than $100 billion short and Illinois's yearly pension payments consuming more and more of the state's budget, Democratic leaders broke with unions that had traditionally been their allies.

In late 2013, Gov. Pat Quinn signed what was considered a landmark bill that claimed to bring the state's pensions up to full funding, in part by curtailing cost-of-living increases for workers, capping salary levels used to calculate pension benefits and raising the retirement age for some.

The state argued that the changes did not violate the provision in the State Constitution banning the reduction of pensions, because a financial emergency had taken hold. But the Illinois Supreme Court said that any emergency was of the state's own making and that the cuts could not stand.

That has left officials scrambling at a moment when the state has a divided government for the first time in a decade and the political differences between Mr. Rauner and the Democratic-controlled legislature make compromise difficult. A splintered set of political leaders is now debating options including tax increases, large spending cuts, new pension reductions, changes to the State Constitution and even legislation to permit Illinois municipalities to file for bankruptcy.

Some in Illinois assert that changes to pension benefits remain possible under certain conditions, and various deals are being discussed in the State Capitol in Springfield, though cuts are all but certain to draw more legal challenges.

Mr. Rauner has proposed switching workers into a pension plan that would let them earn less generous benefits starting in July, but he has acknowledged that even he is uncertain whether his idea would hold up in court.

Some leaders want to amend the State Constitution so benefit changes for future years of service can be made — an idea that other states are closely watching. But that path is long and uncertain: An amendment would need support from three-fifths of the House and Senate, then approval from voters.

“I do think there should be attempts to amend constitutions for current employees, not just in Illinois but probably other states, including California,” said Joshua D. Rauh, a finance professor at Stanford University who has written about public pensions.

Others say the State Supreme Court ruling takes benefit changes off the table and means that the government must pay what has been promised even if it means sharp increases in taxes and spending cuts.

“This will present major challenges for any policy maker, and they really have no other alternative,” said Richard C. Dreyfuss, an actuary and senior fellow at the Commonwealth Foundation, a public policy research organization in Harrisburg, Pa.

For Chicago, the state pension ruling could not have come at a worse time. The city is facing about $20 billion in unfunded pension liabilities, an additional $550 million yearly pension payment it must start making next year, and a school system that has a $1 billion deficit of its own, underfunded pensions and a new contract for teachers under negotiation.

Only a few American cities have shakier pension systems than Chicago’s, according to a 2013 Pew Charitable Trusts report on 61 major city pension systems.

The State Supreme Court ruling raised new doubts about efforts Chicago has made to shore up two of its four main pension funds. Last year, after discussions with some unions, Mayor Rahm Emanuel pressed state lawmakers to approve an overhaul that would require some workers in the two funds to pay more for retirement benefits, and would slow cost-of-living increases for retirees.

That overhaul is also being challenged in court, but city officials have argued that, over the long term, it would protect the existence of the pensions rather than unconstitutionally diminish them. Talks are underway with those tied to the city’s remaining pension funds, and Mr. Emanuel has sought permission for a Chicago-based casino to help fund those systems.

Facing debts including unfunded pensions, Detroit in 2013 became the largest city ever to seek federal bankruptcy protection. But bankruptcy is not an option available to any state, and legislators would need to pass a law to allow an Illinois city to take such a step. Some here, including Mr. Rauner, have said they support such a notion.

Mr. Emanuel, who was sworn in on May 18 for a second term, disputed Moody’s downgrades as outliers and said Chicago, despite its pension problems, still had a vibrant economy. Asked what the developments all bode for a property tax increase in Chicago, Mr. Emanuel told WTTW television's "Chicago Tonight" this month that revenue "has to be part of any solution." Yet Mr. Emanuel said a tax increase would be a last option, not the first one, adding, "You cannot put all the burden on the taxpayers alone."

Illinois is racing to settle on a budget for the fiscal year that starts July 1, and pension costs are estimated to consume as much as a quarter of general fund spending — an unusually high share and a sign of real trouble.

In a State Capitol that had grown accustomed to being run by Democrats, the election of Mr. Rauner has complicated hopes for a budget solution by Sunday, after which the number of votes required for passage will increase.

He opposed an extension of a temporary income tax increase enacted four years earlier and has demanded billions in spending cuts. Democrats accuse him of trying to use the budget impasse to leverage concessions on other elements of his agenda to shrink union power and help businesses. Republicans assert that the state's Democratic leaders are not genuinely negotiating.

By Friday, there was talk of the Democrats drawing up their own budget, and Mr. Rauner's allies were offering new legislation featuring his priorities, including property tax freezes and term limits for legislators.

"So far, it looks like partisan bickering is the dominant theme," said Bob Reed, director of programming for the Better Government Association, a watchdog group based in Chicago. "Governor Rauner and House Speaker Michael Madigan talk about compromise and negotiation, but there's no evidence of that happening, and time is running out."

By MONICA DAVEY and MARY WILLIAMS WALSH

MAY 25, 2015

Monica Davey reported from Chicago, and Mary Williams Walsh from Harrisburg, Pa.

Emanuel Forging Ahead with $805 Million Refinancing Despite Higher Cost Tied to Junk Bond Status.

Mayor Rahm Emanuel is forging ahead with a massive refinancing to convert $805 million in variable-rate debt to fixed-interest rates, even though the price will be higher now that Chicago's bond rating has been reduced to junk status.

The refinancing is at the center of Emanuel's plan to move away from risky financial practices that former Mayor Richard M. Daley used to "mask" the true cost of city government.

It will now be completed in two phases: $382.6 million in variable-rate debt will be converted to fixed-interest rates on May 29 and $422.8 million will be refinanced on June 8.

Chicago taxpayers will have to wait until the bonds are priced Wednesday to find out how much the $30 billion pension crisis that prompted Moody's Investors Service to drop the city's bond rating to junk status will increase city borrowing costs.

“We will pay a modestly higher price, but we won’t know how high that price is until we price the bonds next Wednesday,” said departing Chief Financial Officer Lois Scott.

“What we’ll see is that investors have their own view about what our value is. Investors are taking the Moody’s rating into consideration. But they also look at many other factors, including the opinion of three other rating agencies. Most investors also have their own analyses. They rate that more heavily” than the Moody’s rating.

In an affidavit filed in the state pension case, Scott warned that any further downgrade in the city’s bond rating would cost the city hundreds of millions of dollars in penalties and interest costs, “crowding out” funding available for other vital city programs.

On Thursday, Scott said she foresees no circumstance under which the price of the Moody’s double-downgrade would be so high that the massive refinancing would be called off. She noted that “interest rates in general are at some of the lowest levels in history.”

“Our spread for credit has widened. . . . [But] we made a decision to move out of variable debt. We are just executing on that plan. We believe the market will be reasonable. There’s nothing on the horizon” that would suggest pulling back, she said.

Earlier this week, municipal finance expert Matt Fabian said Chicago is “paying Detroit’s bills” when it comes to the hundreds of millions of dollars in penalties and higher interest rates it will pay, now that its bond rating is no longer investment-grade.

“Detroit fractured trust between borrowers and lenders in the municipal bond market. That has created an extra cost for Chicago. Now, trying to assure those same investors that it is not going the same way” will cost more, Fabian said.

“If the city had changed course five years ago, four years ago or three years, they wouldn’t be in this position now. Interest rates for the city’s debt wouldn’t have risen by one- or two-hundred basis points in the last few days.”

The Illinois Supreme Court’s decision to overturn state pension reforms has placed Emanuel’s plan to save two of four city employee pension funds in similar jeopardy.

That triggered a downward spiral of events that saw Moody’s downgrade Chicago’s bond rating to junk status and do the same at the Chicago Public Schools and Chicago Park District. Standard & Poor’s and Fitch announced lesser drops.

Unless the General Assembly lifts the hammer, Emanuel and the new City Council must decide by December how to meet a state-mandated, $550 million payment to shore up police and fire pension funds.

The Chicago Public Schools is on the brink of bankruptcy with a $9.5 billion pension crisis, a $1.1 billion budget deficit and a federal investigation that has forced Schools CEO Barbara Byrd-Bennett to take a paid leave of absence.

In the so-called “preliminary re-offering circular,” the city talks about, what Emanuel has described as “good discussions” with police and fire unions about giving the city more time to ramp up to 90 percent funding levels.

“The city is currently in discussions with unions . . . concerning amendments that, if enacted by the General Assembly, could materially impact the contributions required to be made by the city . . . [and] reduce the city’s required payment in the initial years to allow for a more gradual phase-in of the requirement,” the circular states.

“The General Assembly may also consider other proposed legislation that could effect the city’s payment obligations and/or funding sources for those obligations, including a city-owned casino. The city makes no presentation whether or when any such legislation would be enacted.”

Emanuel said earlier this week he wants to wait to see how the frenzied final days of the spring session play out before asking the new City Council to begin the search for new revenue to solve the pension crisis.

The circular makes the same claim.

“The city expects the City Council will consider options for addressing its pension funding requirement, including improvements in operating efficiencies and incremental revenues, after the Illinois General Assembly concludes its spring session,” the filing states.

If a property tax increase was the “sole source” of the payment to shore up police and fire pensions, the $549 million increase would have to be filed “no later than the last Tuesday in December,” the circular states.

The increase — in an overall property tax levy of $4.2 billion including other units of local government — would be collected in two installments in the spring and fall of 2016.

THE CHICAGO SUN-TIMES

Posted: 05/21/2015, 04:30pm | Fran Spielman

[Munis in a Rising Rate Environment? Yes, But Use Caution and Stay Nimble.]

After enjoying a year of stellar performance in 2014, municipal bond investors have had to contend with heightened volatility and more mixed results this year. With returns likely to be more in line with the historical experience versus last year’s stand-out results, some investors may be asking: Are municipals a good investment at this point in the rate cycle? PIMCO believes the answer is: Yes. But the current landscape calls for a bit of extra caution – and ideally an active manager who has the experience to skillfully navigate a volatile environment.

[Continue reading.]

PIMCO

BY JOE DEANE AND SEAN MCCARTHY

MAY 22, 2015

Chicago Faces Test in Muni Market Next Week.

Chicago will get its first taste of selling debt in the U.S. municipal bond market after its credit rating was dropped to “junk” by Moody’s Investors Service when it converts $805.7 million of variable-rate bonds to fixed-rate next week.

Competitive and negotiated sales, including notes, will reach $6.34 billion in a holiday-shortened week, according to data compiled by Thomson Reuters. U.S. markets are shut on Monday for the Memorial Day holiday.

Moody’s downgraded Chicago’s general obligation rating to Ba1 on May 12, triggering $2.2 billion in accelerated debt and fee payments by Chicago to banks.

The bond conversion is aimed at terminating bank letters of credit and swaps used to hedge interest-rate risk on the variable-rate debt. New forbearance agreements with the banks give Chicago until June 8 to complete the conversion.

The bonds, which will be priced on Wednesday through lead underwriter Bank of America Merrill Lynch, are likely to come cheap with fat yields.

The city’s bonds have been trading at yields about 300 basis points over the U.S. municipal bond market’s benchmark triple-A scale, according to Municipal Market Data, a unit of Thomson Reuters. Still, city officials are optimistic.

“Recent trading in Chicago bonds show interest rates normalizing as investors learn more about the ability of Mayor (Rahm) Emanuel and his finance team to adapt and manage through the effects of the Moody’s downgrade,” a Chicago official said on Thursday.

The Chicago Board of Education, which has also had its credit ratings downgraded, was socked with high interest rates in recent bond sales. Yields in a nearly $300 million GO bond issue priced in April topped out at 5.63 percent for bonds due in 2039. That yield was 283 basis points over the benchmark scale.

Offering documents for the upcoming Chicago debt conversion indicate the bonds will be rated by Standard & Poor’s, Fitch Ratings and Kroll Bond Rating Agency, all of which still have investment grade ratings for the city’s GO debt, but not Moody’s.

REUTERS

May 22, 2015

(Reporting by Karen Pierog in Chicago and Edward Krudy in New York; Editing by Matthew Lewis)

Butler Snow: Should Bond Lawyers Care About Chapter 9 of the Bankruptcy Code?

I have been practicing public finance law for almost thirteen years, and during the first half of that period, I never gave Chapter 9 of the Bankruptcy Code much thought, as prior to the financial crisis, municipal bankruptcies were extremely rare. And while the bankruptcy courts are not overflowing with Chapter 9 cases today, there have been a sufficient number to force bond attorneys to pay closer attention.

The municipal bond market demands secure investments, and as bond attorneys we strive to document bond transactions in order to insulate bondholders from any challenges to the expected return on their investment, whether there are challenges to the validity of the bonds or challenges to the priority of the pledges of revenues securing the bonds. Out of necessity, municipal issuers facing dire economic circumstances, and their bankruptcy attorneys, are forced to comb through bond documents in an attempt to find language that allows them to use pledged revenues for other purposes (e.g., ongoing operating and capital costs) or pay other creditors (e.g., municipal employees and pensioners). The terms of the settlements resulting from the Chapter 9 cases that have been filed are forcing the public finance industry to reexamine long-standing views regarding various types of municipal bonds and the security pledged in support of their payment. Unfortunately, recent Chapter 9 proceedings have focused more on encouraging negotiation and settlement than adjudicating provisions of bond documents and therefore have offered little clear precedent to help us with such reexamination of the long-standing views.

A quick look at the settlement resulting from the City of Detroit's Chapter 9 case offers us a glimpse of what we do (and do not) know about Chapter 9. Until recently, general obligation bonds issued by a municipal issuer and supported by the full faith and credit and taxing power of the issuer were the "gold standard" of municipal credit. That notion took a bit of a beating in Detroit. Detroit's initial Chapter 9 plan treated general obligation bondholders as unsecured creditors and sought to divert funds pledged to the payment of the bonds to the City's general fund. As expected, bondholders objected and, as with most else everything in Detroit's case, there was a settlement. In exchange for their consent to divert some of the pledged revenues to the City's general fund, bondholders received relatively favorable repayment terms under the plan ($0.74 on the $1.00 – pensioners received approximately $0.60 on the $1.00), a covenant that ensures that no unsecured creditor can recover more than any general obligation bondholder, and a lien on specific tax revenues that the bankruptcy court held to be special revenues. Notwithstanding this relatively favorable treatment, however, the public finance industry is somewhat troubled by the Court's statement that the City's chance of success on the merits of the question of whether the general obligation bonds were unsecured was a "coin toss."

While revenue bonds, such as bonds secured by revenues from a utility system of a municipality, have not traditionally been thought of as being as strong of a credit as general obligation bonds, they are generally accompanied by a covenant of the issuer to set rates and charges at levels sufficient to pay debt service and therefore they are still viewed as a relatively strong credit in the municipal market. In addition, revenue bonds benefit from a unique provision in Chapter 9 that affords special protection for "special revenues," which are defined to include, among other things, receipts derived from the ownership and/or operation of projects or systems that are primarily used to provide transportation, utility, or other services. Chapter 9 provides that obligations secured by a lien on special revenues retain such lien post-petition. Consequently, special revenue bonds should have continued access to the revenue stream that secures the debt service payments.

As with the general obligation bonds, Detroit's initial plan sought to impair the lien of water and sewer bondholders and divert water and sewer revenues to the City's general fund. Bondholders objected, and Detroit agreed to pay "special revenue" bond debt in full, but only after bondholders, facing prospects of a lower rate and a stripping of their call protections, accepted an "invitation" to "voluntarily" tender their bonds. Thus, even with bonds secured by special revenues, the threat of impairment spurred a settlement. While a few years ago, the general consensus was that general obligation bonds were the better municipal credit, there is now a more open question as to whether it is better to be a general obligation bondholder or a special revenue bondholder in a Chapter 9 proceeding.

Butler Snow LLP

By Michael J. Bradshaw, Jr.

May 1, 2015

A Debt-Ratings Rift Rattles Chicago.

The world's two largest ratings firms are divided in their view of Chicago's fiscal health as the city grapples with a $20 billion pension hole, a potential preview of battles expected to break out around the U.S. as retirement obligations mount.

Moody's Investors Service lowered Chicago's bonds to junk status last week while rival Standard & Poor's Ratings Services settled on an investment-grade A-minus rating , a more optimistic view of the nation's third-largest city. As recently as five years ago, both firms gave Chicago the same grade of double-A-minus.

The highly unusual four-notch ratings gap is the result of a change Moody's made two years ago when it decided it would no longer rely on the investing returns targets submitted by cities and states to calculate pension costs. Its own estimates are more conservative, meaning the city's pension problems look worse.

Chicago represents the most prominent example yet of how diverging views of bulging pension obligations can have huge ramifications for financially strapped cities. The split views are befuddling investors and the bearish grades could lead to higher borrowing costs, difficulties refinancing debt and new doubts about navigating the $3.7 trillion municipal-debt market.

"Moody's precipitous downgrading of Chicago's credit should raise questions about the suitability of using ratings to market bonds to retail investors," according to a report Monday by Concord, Mass.-based research firm Municipal Market Analytics.

Mayor Rahm Emanuel called the Moody's downgrade "irresponsible," but the firm defended its more aggressive methodology. "Our adjustments are geared toward improving comparability" of liabilities among pensions, Tom Aaron, an assistant vice president at Moody's, said in an interview.

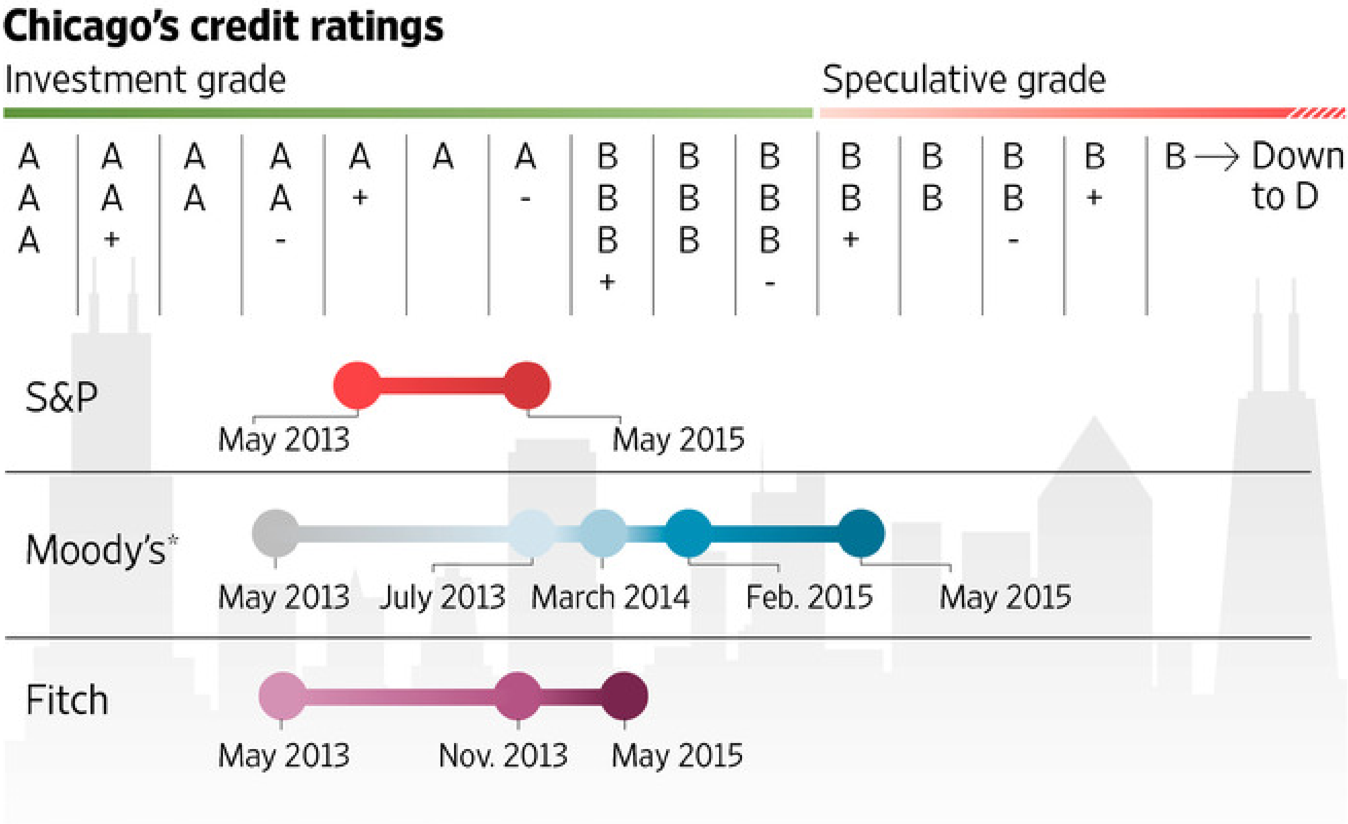
S&P analyst Helen Samuelson, however, said the firm stood by its more optimistic rating. The city still has "options," she said, including increasing taxes to boost revenue.

The changes made by Moody's in 2013 and S&P's tweaks last year have already had a dramatic effect on the direction of municipal-bond ratings. In the first quarter of 2014, S&P said it had upgraded 533 cities and other municipalities due to revised criteria against just 39 downgrades, according to a Janney Capital Markets report published last year. During the same period, Moody's downgrades outnumbered its upgrades.

Janney titled the divergence "The Great Municipal Bond Rating Dislocation."

Credit Chasm

Major credit firms disagree about the fiscal health of the nation's third-largest city.



*Moody's scale of rating differs from the other companies
Source: the companies

THE WALL STREET JOURNAL.

Other cities with big pension problems, such as Atlanta and Pittsburgh, have yet to show sizable grading disparities, but the frequency of ratings rifts could accelerate in coming years as cities wrestle with how to solve a collective $1.2 trillion pension funding shortfall, said Eric Friedland, head of municipal research at Schroders PLC and a former Fitch Ratings analyst.

Projected pension costs can vary greatly based on what state or local governments select as their return assumptions. Public officials are under pressure to keep those targets high as a way of avoiding higher taxes or benefit reductions as they try to recover from heavy investment losses incurred during the 2008 financial crisis.

State and local pension liabilities ballooned at more than twice the rate of their assets in the aftermath of the crisis, according to the National Association of State Retirement Administrators. Public pensions now have about $3.8 trillion in assets versus $5 trillion in liabilities, according to Nasra.

Philadelphia has $5.3 billion in unfunded pension liabilities, while Phoenix has $2.5 billion and Atlanta has $1.5 billion, according to Merritt Research Services LLC, a municipal-bond data provider. Both firms agree on Atlanta at double-A and Phoenix at double-A-plus, but Moody's rates Philadelphia one notch lower than S&P does.

What makes Chicago unique is the magnitude of its retirement shortfall. The city has only half the assets it needs to cover its pension liabilities, or the equivalent of four years of general operating budgets. Mr. Emanuel's cost-cutting pension overhaul looks less likely to win court approval after the Illinois Supreme Court struck down a similar proposed law earlier this month that sought similar benefit cuts.

"As Mayor Emanuel has repeatedly stated, the City of Chicago's financial crisis is real, urgent, and has been decades in the making," said Chicago Deputy Mayor Steve Koch in a statement. "Moody's decision to downgrade the City was driven by the Illinois Supreme Court's reversal of the state pension reform bill and has substantially magnified the City's financial challenges, adding real costs to Chicago's taxpayers.

Moody's chose to prejudge both the outcome of the City's pension reform law that solves half of our unfunded pension liabilities before it is heard in court as well as the active police and fire discussions that would help address the other half of our pension issue, putting them out of step with all the other major ratings agencies."

Last week's Moody's downgrade—the fourth in two years for Chicago—could trigger around $2 billion in accelerated payments by the city, Moody's said.

The sudden four-notch ratings gap in Chicago caught some market participants by surprise and prompted selling from some retail investors, said Daniel Solender, head of municipal-bond management at Lord Abbett & Co., which manages $17 billion. It may also affect the city's effort to refinance about $900 million in bonds in coming weeks, by reducing the number of institutional investors who can buy the debt.

Returns on Chicago general-obligation bonds have fallen about 3.4% since the downgrade, counting price changes and interest payments, according to data from Barclays PLC. Yields rise as prices fall.

If both S&P and Moody's downgrade Chicago to junk status, it could have a wider effect because some big buyers of municipal bonds such as pensions and insurers can only invest in debt that carries an investment-grade rating from the big agencies. Fitch's triple-B-plus rating is notch below S&P's grade.

But some investors are already avoiding Chicago debt. Burton Mulford, portfolio manager at Eagle Asset Management in St. Petersburg, Fla., which oversees about $2.5 billion, is already steering clear of most Chicago debt and may sell bonds from the city's park district, he added.

"Because our client base is very conservative, we'll probably eventually get out of those credits," Mr. Mulford said.

THE WALL STREET JOURNAL

By TIMOTHY W. MARTIN and AARON KURILOFF

Updated May 20, 2015 10:21 p.m. ET

Write to Timothy W. Martin at timothy.martin@wsj.com and Aaron Kuriloff at AARON.KURILOFF@wsj.com

Fed Rule Would Let Banks Hold Some Munis as Crisis Buffer.

The Federal Reserve, in a split from other financial regulators, plans to let banks hold investment-grade municipal bonds to comply with a rule aimed at keeping lenders safer during a crisis.

The Fed's proposal released Thursday would ease the burden on bank-holding companies, which are required to hold enough assets that can be easily converted into cash during a financial meltdown. While two other U.S. bank supervisors didn't think municipal debt was easy enough to sell when they approved a liquidity rule last year, the Fed said it was willing to reconsider the bonds in a future action.

The proposed rule would allow investment-grade U.S. state and municipal bonds to be counted as high-quality liquid assets "if they meet the same liquidity criteria that currently apply to corporate debt securities," the Fed said in a statement. "The limits on the amount of a state or municipality's bonds that could qualify are based on the specific liquidity characteristics of the bonds."

The Fed's proposal makes strict demands on the investment-grade munis that can be held, insisting they not total more than 5 percent of a bank's liquidity buffer. The agency didn't elaborate on the scope of the muni market it thinks will fit the criteria, but the general-obligation munis must have a track record of stability when riding out previous crisis periods.

Qualifying Bonds

The proposal, open for public comment until July 24, could exclude a segment of the market because it disqualifies general obligations backed by bond insurers, which the Fed points out could have the same risks as banks during times of financial distress.

States and localities have issued about $1.1 trillion of general obligations, according to data compiled by Bloomberg. Of those bonds, about $226 billion are insured, the data show.

"While we appreciate the Fed moving to include munis as high-quality liquid assets and believe it is a step in the right direction, it is important to also ensure the other regulators involved do the same," said Jessica Giroux, general counsel for the Bond Dealers of America, which represents municipal securities dealers and banks. She said the group is "contemplating the limitations" the Fed's proposal puts on munis.

When the Fed, Office of the Comptroller of the Currency and Federal Deposit Insurance Corp. passed the so-called liquidity coverage ratio rule in September, the central bank indicated that it was open to tweaking it to give lenders flexibility to use some municipal debt as part of their easy-t--sell assets.

Large Banks

The proposal released Thursday amends the Fed's part of the September rule and will have the most impact on bank-holding companies with $250 billion or more in assets.

Banks, local governments and lawmakers including U.S. Senator Charles Schumer have pushed for the change, warning that limiting the use of state and local debt could spur an exodus from the $3.6 trillion municipal bond market and make it more expensive to build schools, roads and bridges. The FDIC and OCC haven't agreed to soften the rule.

The September rule was among the measures regulators have taken to try to prevent a repeat of the 2008 financial crisis, when markets froze and large banks including Citigroup Inc. needed government bailouts. It requires lenders to hold enough assets that are deemed high-quality — such as Treasuries, highly-rated corporate bonds and foreign government debt — to be able to endure a 30-day squeeze.

Infrastructure

Many bonds backing infrastructure projects are bought and sold infrequently, but Fed officials are now proposing that banks shouldn't face restrictions on holding munis that trade more often.

Schumer, a New York Democrat, has been a vocal critic of the decision regulators made. At a September hearing, he told officials from the Fed, FDIC and OCC that the rule would undermine "the lifeblood of development in this country."

The prior exclusion of munis as high-quality liquid assets hasn't quelled demand from U.S. banks for the securities.

U.S. banks owned $452 billion of munis as of Dec. 31, twice their holdings at the end of the recession in June 2009, according to Fed data. Banks own about 13 percent of munis, making them the third-largest holder after households and mutual funds.

Municipal market analysts have said inclusion in the new rules would be a boost, though far from essential, for state and local debt.

"Banks almost always buy municipals for their income and safety, not for their liquidity," according to a report last month from Municipal Market Analytics, a Concord, Massachusetts-based research firm.

Bloomberg

by Ian Katz, Jesse Hamilton, and Brian Chappatta

May 21, 2015

Fed to Allow Some Muni Bonds in Banks' Liquidity Levels.

Law360, New York (May 21, 2015, 3:38 PM ET) — The Federal Reserve on Thursday proposed allowing banks to include top-rated municipal and state-issued bonds in their accounting of liquid assets needed to meet regulatory requirements, in a change to a policy that had been blasted by local governments and federal lawmakers.

The central bank's proposal to include some municipal and state-issued debt into banks' calculations of what are known as high-quality liquid assets, under a regulation requiring them to maintain required levels of assets that could easily be converted into cash, comes after an outcry from lawmakers when such debt was excluded from the Fed's final liquidity coverage ratio rule adopted in September.

The new proposal, which is open to comments until July 24, would allow banks that are regulated by the Fed with $250 billion in total assets to include municipal and state debt in their HQLA calculations if those bonds have liquidity characteristics comparable to corporate debt, the Fed said.

Any limits on the amount of municipal and state debt securities banks could hold under the proposal would be based on the bonds' liquidity characteristics, the Fed said.

The liquidity coverage ratio adopted by the Fed, the Federal Deposit Insurance Corp. and the Office of the Comptroller of the Currency in September requires the largest U.S. banks to hold enough liquid assets to survive a major financial shock by implementing the so-called liquidity coverage ratio, or LCR, requiring banks to hold enough easily convertible, high-quality liquid assets to cover their cash needs for 30 days in case a sudden crisis strikes.

The final rule excluded municipal and state debt, with regulators at the time saying that such securities were not sufficiently liquid to be included in the calculation of liquid assets despite concerns from financial reform advocates that the rule would be watered down.

That stance was applauded by advocates of tough financial regulations even as it was derided by backers of local government bonds, who said that not including top-rated muni bonds among high-quality liquid assets made them less attractive for banks to underwrite and investors to purchase, and driving up costs for infrastructure projects.

However, the Fed said Thursday that a recent study found that some state and municipal securities do have "liquidity characteristics sufficiently similar to investment-grade corporate bonds and other HQLA asset classes" and should be included in the calculation.

Rep. Carolyn Maloney, D-N.Y., said that the proposed change was a welcome about-face from the Fed.

"The Fed's change helps ensure that municipal bonds — which are among the safest investments available — are treated fairly by the regulators. We should not be discouraging financial institutions from investing in our communities, and the Fed's proposed rule will help level the playing field for our states and cities," she said in a statement.

The New York lawmaker, a member of the House Financial Services Committee, urged the FDIC and OCC to follow suit. Thursday's change only applies to banks regulated by the Fed, and neither the FDIC nor the OCC have shown any inclination to make a change to date.

By Evan Weinberger

–Additional reporting by Andrew Westney and Daniel Wilson. Editing by Philip Shea.

The Rieger Report: Munis Face an Unholy Trio.

Three storms are converging on the municipal bond market: supply, interest rates and bad news headlines – a powerful trio of bad news for the municipal bond market.

- The S&P Municipal Bond Illinois Index is down 1.55% for month-to-date and is the worst performing state index for the month so far. The index is down 1.16% year-to-date.
- The S&P Municipal Bond Illinois General Obligation Index is down 2.63% month-to-date and is the worst performing G.O. index. The index is down 3.06% year-to-date. Chicago General Obligation bonds make up 35% of this index by market value.

- The S&P Municipal Bond New Jersey Index is down 1.07% month-to-date and is the second worst performing state index for the month. The index is down 1.1% year-to-date.
- Puerto Rico is having a dead cat bounce in May as the S&P Municipal Bond Puerto Rico General Obligation Index is up 2.37% month-to-date. The index remains in the red for the year so far down 0.97% year-to-date.

The combination has put a heavy weight on the investment grade tax-free bond market which has seen negative returns in 2015. The S&P National AMT-Free Municipal Bond Index is down 0.73% month-to-date and 0.36% year-to-date.

One bright light is the municipal high yield bond market as the S&P Municipal Bond High Yield Index is up 0.82% year-to-date helped by positive performance in May by Puerto Rico bonds and a recovery over 3.2% of the Tobacco Settlement bond sector.

May 20th, 2015

This article was written by J.R. Rieger, global head of fixed income, S&P Dow Jones Indices.

FT: Muni Risk Rises as Pensions are Put First.

A low hum of anxiety has surrounded the issue of public pensions in the US municipal bond market for years. Now, that hum is getting louder.

The third largest city in the US became a junk rated issuer when Moody's last week cut Chicago's credit ratings on concerns about its unfunded pension liabilities. The downgrade is the latest in a string of high-profile instances of pension woes spilling into the bond market at a time when investors, rating agencies and rulemaking bodies are scrutinising pensions.

"Politicians and other government stakeholders besides the pensioners themselves are taking pensions much more seriously," says Matt Fabian, managing director at Municipal Market Advisors. "The long-term promise of pensions had been taken rather lightly. Because the costs were so far into the future, political managers and others really dismissed pensions as a threat to solvency."

Pensions have been increasingly thrust into the spotlight, having become a significant factor in the most widely watched municipal distress stories.

Puerto Rico's pension is funded at just 5 per cent. Pensions have also played a large part in municipal bankruptcies, most notably in Detroit where a bankruptcy judge put limits on cuts to pension benefits at the expense of bondholders.

Governments have been poor managers of their pensions for some time, but the financial crisis and ensuing recession lifted the veil on chronic underfunding and rosy return expectations. Stock market declines deepened unfunded liabilities considerably while states, cash-strapped by the economic downturn, had less money to plug the gaps.

Academics and other analysts began to publish calculations of a few trillion dollars for the total funding gap, grabbing attention from, and contrasting with, the official numbers, which benefited from unique and controversial accounting.

Against this backdrop, Moody's a few years ago changed its rating methodology to give more weight to pension issues, while new accounting rules are coming into effect and will provide more transparency and a financially conservative view of pensions.

“We’re on the cusp of evolutionary change related to pensions. What we’re seeing is a clear indicator that courts are willing to treat pension beneficiaries as ahead of creditors,” says Thomas McLoughlin, head of municipal fixed income at UBS Wealth Management Americas.

”That will transform the risk parameters for municipal finance. For years muni analysts looked at idiosyncratic credit risk, but now we are looking at a systemic risk related to pensions. It’s a really important trend we have to incorporate into our analysis. We have to focus far more on this in the future.”

“Munis” are reflecting only modest pension risk. Chicago was penalised by investors after its downgrade. Yields on the city’s 10-year bonds have risen by about a percentage point since. States with poorly funded pension systems, such as Illinois, New Jersey, Pennsylvania and Connecticut, have higher borrowing costs than their peers.

Many muni investors believe there is time to fix most pension problems. Even if that does not happen, the day of reckoning is far into the future and governments have a lot of options, as the argument goes.

“The most likely scenario is rather than triggering defaults or insolvency, pensions will squeeze out other spending, such as infrastructure investment, educational spending and social services,” Mr Fabian says. “It is not a great scenario, but different than default or bankruptcy.”

Indeed, even the more troubled pension systems do not face imminent threats of running out of money. Several states, including Rhode Island, Minnesota and Colorado, also have been successful in enacting reforms to shore up their pensions.

Others, like Illinois, have been blocked by the courts — its thwarted reform bill was a key factor in the Chicago downgrade.

Pensions are governed by state law, which means the reception to change varies. The meatier cuts to public pensions — those that involve existing rather than new hires, and accrued benefits — clash with contract law, case law and in some cases state constitutions.

The financial markets play a big role, too. The pension drama has played out at a time of very easy monetary policy. One question is what kind of rate investors will demand for bonds of areas with more pension risk once rates rise.

The bull run coming off the financial crisis and taking US equities to new highs has helped pensions, but critics point out that pension plans have increased their risk-taking, with larger allocations to equities over the years. Ratios of existing workers to retirees have also moved decidedly in the wrong direction.

“The ratio is an indication that plans are getting more mature and need to pay out more benefits, and that they are increasingly reliant on investment income, which is scary,” says Don Boyd, a fellow at the Nelson A Rockefeller Institute of Government.

Financial Times

May 20, 2015 11:07 am

Nicole Bullock

Additional reporting by Robin Wigglesworth in New York

‘Ugliest Damn Building’ in New Jersey May Get $675 Million Bonds.

New Jersey’s American Dream entertainment and shopping center, the incomplete mega mall that Governor Chris Christie once called “the ugliest damn building” in the state, is poised for a jumpstart from the municipal-bond market.

A decade after ground was broken for the project in New Jersey’s Meadowlands Sports Complex, proceeds from about $675 million of bonds could speed up construction, according to East Rutherford Mayor James Cassella. The debt would be issued on behalf of Triple Five Group, which took over the project after previous developers ran out of cash and the financial crisis stymied funding.

As a first step, the borough council of East Rutherford, the site of the vacant structure, on Tuesday evening introduced an ordinance to authorize the sale of bonds for the Edmonton, Alberta-based Triple Five. The debt may be issued as taxable securities, instead of tax-free as initially planned, which would help prevent lawsuits against the borough should anything go awry, Cassella said.

Christie in 2011 had counted on American Dream, called Meadowlands Xanadu when it started, to bolster the local economy. The project by Triple Five, the developer of the Mall of America in Minnesota, was slated to open in 2013.

“We’re one step closer to finalizing this, and hopefully we can get it done,” Cassella said.

Meadowland Slope

Plans for the mega mall about 10 miles west of Manhattan include the country’s first indoor ski slope and a theme park. A spokesman told Bloomberg News in September the mall may open in 2016.

Debbie Patire, a spokeswoman for the project, didn’t return a call Tuesday, after earlier declining to comment on the financing. Brian Murray and Kevin Roberts, spokesmen for Christie, didn’t return e-mails requesting comment. Michael DuVally, a spokesman for Goldman Sachs Group Inc., which is underwriting the debt, declined to comment.

The state Local Finance Board in 2013 signed off on the issuance of as much as $550 million in municipal bonds. The borough must seek approval for the revised agreement before it can vote on the bond deal, Cassella said.

Payments by the developer would back the bonds issued by the borough. The sale could take place by November, he said.

Hang Up

“The big hang-up” between the borough and the company has been the municipality’s desire to be protected from any potential defaults or bondholder lawsuits over issues unique to the tax-exempt market, Cassella said.

“That goes away with the taxable bonds,” he said.

About 150 union members attended the council meeting to show their support for the project, said Rick Sabato, president of the Bergen County Building and Construction Trades Council. He said the developer may hire more than 5,000 construction workers.

"It's been a long time waiting, and we finally got it," he said. "It's tremendous. It's going to to change the face of the Meadowlands."

Bloomberg

by Romy Varghese

May 19, 2015

Puerto Rico Tax Plan Spurs Bet Island Will End Bond Logjam.

The $3.6 trillion municipal-bond market is signaling growing confidence that Puerto Rico lawmakers can enact a tax increase that would open the door to a debt sale and ease the island's cash crunch.

Prices on the commonwealth's most frequently traded bonds have risen to almost seven-week highs as its House of Representatives prepares to meet Wednesday and potentially vote on a plan to raise the sales levy. The governor and legislative leaders agreed on the tax proposal last week, part of efforts to boost revenue and revive an economy that's saddled with $72 billion of debt.

The accord, after the House rejected a previous tax overhaul last month, is feeding optimism that the junk-rated U.S. territory will be able to sell long-term debt for the first time since March 2014 and gain breathing room to repair its finances.

"It makes sense that the investors want to see a tax increase that will bring some balance and stability," said Bob Donahue, a managing director at Concord, Massachusetts-based research firm Municipal Market Analytics.

While still trading at distressed levels, the island's bonds have drawn renewed interest this week. Commonwealth general obligations maturing in July 2035 traded Wednesday at an average price of about 82 cents on the dollar, the highest since early April, according to data compiled by Bloomberg. That's up from 79.13 cents May 13, the day before the announcement of the tax proposal.

Way Out

Wednesday's average yield of about 10.1 percent is about seven percentage points above benchmark debt. The securities are the most-traded commonwealth general obligations in the past three months. Puerto Rico debt has gained for five straight days, the longest stretch since mid-March, S&P Dow Jones Indices show.

Puerto Rico bonds have still lost 2.3 percent in the past three months, underperforming the 0.7 percent decline for the broader municipal market, according to S&P Dow Jones Indices.

Governor Alejandro Garcia Padilla on Monday night sent legislators a plan that would raise the sales tax to 11.5 percent and convert that levy into a value-added tax by April 1. Signs of a broader consensus than in April are bolstering the debt.

"It increases the possibility that the commonwealth will be able to negotiate itself out of this difficult immediate financial position," said Gary Pollack, who manages $6 billion of munis as head of fixed-income trading at Deutsche Bank AG's Private Wealth Management unit in New York.

The tax change requires at least 26 votes to pass the House. It had support from 27 members as of last week, Rafael "Tatito" Hernandez, who chairs the House Treasury Committee, said from San Juan. Members are reviewing the governor's proposal, he said.

Opposition Plan

Opposition lawmakers plan to vote against the bill, according to Representative Jose "Quiquito" Melendez of the minority New Progressive Party.

The tax increase would help Puerto Rico balance its budget for the fiscal year starting July 1 and attract investors to a planned $2.9 billion sale of bonds backed by oil-tax revenue, according to the Government Development Bank, which lends to the commonwealth and its localities. Proceeds would repay money the highways authority owes the bank and help avert a partial government shutdown.

The GDB needs the cash. Its net liquidity dropped to $1.02 billion as of April 30, from $2 billion in October.

The island, with an unemployment rate that's double the national average, faces challenges even if lawmakers approve the tax increase and pass a spending plan by June 30, said Joseph Rosenblum, director of muni credit in New York at AllianceBernstein Holding LP. The company manages about $32 billion of state and city bonds.

"It's a step forward, but in the grand scheme of things it's just a small piece of much larger problems they need to address," Rosenblum said.

Bloomberg

by Michelle Kaske

May 19, 2015

How Standard & Poor's Rates Community Development Finance Institutions.

In this CreditMatters TV segment, Senior Director Mikiyon Alexander discusses the ratings recently released on two Community Development Finance Institutions and how Standard & Poor's determines these ratings. Topics include the rating outcome for the Clearinghouse and Housing Trust Silicon Valley.

Watch.

May 20, 2015

Liquidity Concerns Prompt a Standard & Poor's Rating Action on Chicago.

In this CreditMatters TV segment, Director Helen Samuelson explains the rationale behind our rating action on the Windy City. Topics include distractions, such as the mayoral run-off, which took city management's focus off the larger issue of pension reform.

Watch.

May 19, 2015

S&P 2015 U.S. Public Finance Team Directory.

View the Directory.

May 20, 2015

Partnerships Can Contribute to Rebirth of Infrastructure.

Despite having spent $416 billion on transportation and water infrastructure last year, the United States still is not doing enough to deliver the infrastructure the nation needs to create more equitable, resilient and economically vibrant communities, wrote Patrick Sabol and Robert Puentes in a recent article published as part of the Brookings Institution's Metropolitan Infrastructure Initiative.

"There is no single reason for America's failure to invest in its infrastructure," they wrote. "It's a story of death by a thousand cuts — declining federal dollars, political dysfunction, high levels of state and local debt, the age of our assets, a growing population, hangovers from the Great Recession, and a multitude of other smaller issues — that have left us bereft of sufficient support."

They identified one of the biggest trends across all levels of government isn't in developing new financial tools or generating new revenue, but rather in enhancing the public sector's capacity to work with the private sector to design, build, finance, operate, and maintain infrastructure assets. "While specific approaches vary, efforts like the Chicago Infrastructure Trust, the West Coast Infrastructure Exchange, Virginia's Office of Transportation Public-Private Partnerships, and the Obama Administration's Build America Transportation Investment Center are working to get more private capital into public projects," they noted.

"None of these efforts alone can solve America's multitude of infrastructure challenges. Rebuilding and renewing economically critical roads, water treatment facilities, ports, airports, public buildings, and transit systems will require unprecedented cooperation between all levels of government and the private sector," they added. "While significant progress has yet to be made, pockets of innovation across the United States are paving the way for the next generation of American infrastructure investment."

NCPPP

By Editor May 18, 2015

Will Green Bonds Experience a Boom-and-Bust Cycle?

Green bonds are fixed-income, liquid securities that are used to raise funds for activities like clean energy finance, climate mitigation, and other sustainable initiatives. On April 15, in a panel titled "Business Response: Green Bonds," experts at the Bloomberg New Energy Finance Future of Energy Summit 2015 in New York City came together to discuss the green bond market's accomplishments and challenges.

The Next Five Years

Moderator Lenora Suki, head of sustainable finance product strategy at Bloomberg LP, asked the panelists where they thought the market would be in five years. Would the highly sophisticated deals of today continue a transition to the more vanilla proceeds bonds attractive to retail and institutional investors?

Suzanne Buchta, co-author of the original green bond principles and managing director in debt capital markets at Bank of America Merrill Lynch, said asset-backed green bonds will indeed proliferate. They will include innovations such as the pooling of green mortgages into mortgage-backed securities. Green car loans, solar leases, and commercial energy efficiency are all candidates, she said, and they may eventually price at a discount compared to regular asset-backed bonds.

When asked about potential risks in the industry, Kyung-Ah Park, head of environmental markets at Goldman Sachs, replied that an obvious one would be a green bust. If a high-profile clean energy company goes under or fails to deliver on environmental commitments, investors may start to think twice before purchasing green bonds.

Resulting tightened definitions of "green" could also make the process more costly for issuers than it is now, Park said. If the pricing advantage associated with green bonds' resilience to climate and policy risk fails to materialize soon, such threats could discourage issuers from taking advantage of the market.

Park also warned that an eventual tightening of monetary policy could affect the green bond market. "As yields come up, we know that price moves in the opposite direction. Inflation has been incredibly benign, but inflation is going to uptick as well. What does that do in terms of the capital that is right now in the fixed-income market? There is going to be a level of exiting. Is that going to be an orderly [exit] or is that going to be a volatile one?"

Accomplishments to Date

William Nelson, United States power and environmental commodities analyst at Bloomberg LP, began the session by highlighting the rapid growth and evolution in this sector of the debt capital markets. He said green bond issuance jumped to $39 billion last year, more than doubling from 2013's figure of $14 billion.

Although supranational organizations such as World Bank Group and European Investment Bank formerly accounted for much of the sector's rapid growth, 2014 saw a five-fold increase in issuance from utilities and financial institutions, Nelson said.

Notably, Crédit Agricole worked with GDF Suez to issue a $3.4 billion green bond, the largest-ever bond of this type, while Iberdrola made a $1 billion offering.

Nelson also said corporate green bond issuances increased by 50 percent in 2014. This was driven by clean energy companies.

According to Nelson, these trends have continued through Q1 of 2015, with new energy companies accessing the debt capital markets in four primary ways:

- Issuance of green bonds by yieldcos seeking to acquire new projects and expand their pipelines (NRG and TerraForm Power)
- Issuance of solar-asset backed securities (SolarCity)
- Refinancing of operational assets through project bonds (wind in Peru, solar in Canada)
- Issuance of convertible bonds by clean energy companies (SunEdison, Tesla Motors)

Peter Sweatman, chief executive of Climate Strategy & Partners, projected that new green bonds will total $80-100 billion this year. “Clean energy, by its sheer magnitude, and now through the maturity of the technologies and the stability of the cash flows, [is] certainly a stable and clear place for revenues and cash flows that investors need … [The green bond] is a product that is really covering all of the asset classes and is really emerging.”

Jeffrey Eckel, president and CEO at Hannon Armstrong, noted that this rapid growth was not unique to green bonds; other fixed-income instruments were booming as well.

Drivers of Growth

Park noted that easy monetary policy played an important role in this trend. According to Park, the prolonged period of ultra-low and even negative yields from fixed-income instruments made investors hungry for higher-yield opportunities. This demand was, by default, conducive to clean energy.

Park emphasized that a critical mass of poolable assets from deployed clean energy, a virtuous technology cycle, and investors’ increasing focus on sustainability criteria were all driving the rapid growth in green bonds.

“Greater deployment and greater visible cash flows mean that we have many more financial toolkits … that we can open up to clean energy companies, and that in turn drives expanded investor access, gets many more investors interested in the underlying credit quality of these green assets, [and] in turn drives down the cost of capital,” Park said.

Sweatman said continued exponential growth in green bonds will require tapping into transactions that are currently invisible to the market. While approximately $500 billion in climate-themed bonds is issued annually, only a small subset is explicitly classified as such.

According to Sweatman and his co-panelists, energy and water efficiency, waste management, and corporate issuers represent the greatest opportunities for expansion. Increasingly robust verification standards will help bring these offerings to the market.

Park said, “On the issuer dimension, let’s not just work with the green companies. Let’s try to figure out how we can work with the companies that are in the non-green space and really try to help them identify where they can [put more] proceeds into environmentally beneficial purposes and help them tap into the green bond market.”

Limitations of the “Green” Label

The panelists stressed that while green bonds have proliferated, the absence of a standardized carbon metric has somewhat limited the usefulness of the “green” label. Furthermore, while some companies specifically used the word “green” in the bond document, others used only words like “solar,” “wind,” or “efficiency” – or fell into the unlabeled category, like Tesla.

Buchta said, “In my mind, the label ‘green’ comes from the investors’ opinion. Each investor looks at a bond; if the bond has followed the green bond principles, it will have transparency and disclosure about the categories that the proceeds should go to… It’s up to the investor to decide what they consider green and what is green enough for them.”

Despite these challenges, Park is convinced that there is value in the label. She pointed out that since the vast majority of investors had not previously invested in green bonds or clean energy, the ‘green’ label provided them with confidence that the use of proceeds would go toward environmentally beneficial purposes. As the market evolves, she expects investors to become more discerning, requiring a better definition of “green” and perhaps relying on a specific carbon intensity metric that could be integrated into the Bloomberg tracking system.

Clean Energy Finance Forum

by Fedor Petrenko

May 8, 2015

Santa Paula’s Water Recycling Facility Purchase Caps Successful Public-Private Partnership.

The City of Santa Paula’s decision to purchase its much-touted and award-winning water recycling facility highlights how this pioneering public-private partnership project has proven to be a triumphant model of risk assessment and transfer critical to the success of any P3.

The City Council voted in April to issue bonds to buy back the facility — designed, constructed and operated by PERC Water and financed by Alinda Capital Partners — seven years into a relationship that many local and state leaders view as a potential flexible model for public infrastructure procurements in California. The P3 agreement included flexibility for the City to buyback the facility at any time after commissioning, under agreed upon pricing and terms.

When completed in 2010, the facility was the largest privately funded municipal wastewater plant of its kind in California. PERC Water will continue to run the day-to-day operation of the facility under a services contract with the City.

To date, the partnership worked well for the city, PERC Water and the investors, all of which benefited from the project. More than 2,000 acre-feet (more than 650 million gallons) of recycled water per year was delivered — under budget and ahead of schedule — to a city that could not have built the project on its own using traditional delivery methods in 2008 when the public finance markets were not operating.

The P3 project broke new ground in terms of its vision, and the results speak for themselves. As a result of changing from the design-bid-build option to the P3 approach, Santa Paula was able to avoid $18 million in construction costs, $1.8 million per year of current operating costs, increase design capacity by 25 percent, reduce facility footprint by 70 percent, reduce energy consumption by 30 percent and avoid $8 million of accrued fines assessed by the state.

Thus, in the final analysis, the City successfully transferred the risk associated with the design, construction, financing, commissioning and performance of the facility to the private partner and now, with five years of operational history, has decided to buy back the facility and take the forward risk associated with the timing and funding of routine capital expenditures, estimated at $30 million over the next 25 years.

JD Supra Business Advisor

by Seth Merewitz | Best Best & Krieger LLP

5/20/2015

[Supreme Court Ruling on Maryland's Double Income Tax Could Impact Other States and Localities.]

The U.S. Supreme Court has ruled that Maryland's local tax on out-of-state income is unconstitutional and amounts to double taxation, a ruling that could impact more than a dozen other states with similar local taxes.

In a divided 5-4 ruling issued Monday, the justices' reasoning relied heavily on the question of tax fairness for Maryland residents, concluding that "Maryland's tax scheme is inherently discriminatory and operates as a tariff." (The U.S. Constitution prohibits tariffs between states.) The court ruled Maryland's local tax on out-of-state income violated the Interstate Commerce Clause, adding that such a "tariff is the quintessential evil" targeted by the so-called dormant Commerce Clause principle.

Chief Justice John Roberts, and Justices Anthony Kennedy, Stephen Breyer, Samuel Alito and Sonia Sotomayor joined the majority opinion. Justices Antonin Scalia, Clarence Thomas, Ruth Bader Ginsburg and Elena Kagan dissented in three separate opinions.

At issue was a dispute between Maryland residents Brian and Karen Wynne and the state controller over local taxes levied by Howard County, where the Wynnes live. As a partial owner of a national health-care corporation, Brian receives income in dozens of states. Maryland, like every state that taxes income, gives a state income tax credit to residents for income earned out-of-state. But it doesn't give any credit for local taxes owed. This essentially means that the Wynnes and other Maryland residents pay taxes on their out-of-state income to the state where they work and the locality where they live.

In the 28-page majority opinion by Alito, the court picked apart the arguments made by Maryland that the tax was fair because residents can purportedly respond to unfair taxes at the ballot box. Alito soundly rejected that argument: "the notion that the victims of such discrimination have a complete remedy at the polls is fanciful," he wrote. Especially, he added, because only a distinct minority of the state's residents likely earn income out of state and therefore hardly amount to enough of a quorum to effect change.

Maryland also argued that any ruling against the state would compromise the state's taxing power and be an extreme action to accommodate people who want to live in Maryland but work elsewhere. But the court called that notion a "red herring," and said that that the overall point is that the state's tax burden is higher and therefore unfair to those who earn out-of-state income.

In his dissenting opinion, Scalia disagreed with the ruling based on his belief that courts have too broadly interpreted the Constitution's Commerce Clause. "The Clause says nothing about prohibiting state laws that burden commerce," Scalia wrote, and was joined in the dissent by Thomas in calling the negative Commerce Clause a "judicial fraud." (Thomas also wrote his own dissent, joined by Scalia.)

Ginsburg, joined in dissent by Scalia and Kagan, argued that Maryland was justified in applying the local tax to the Wynnes' out-of-state income because the Wynnes were residents and used local services and therefore all their income should be taxed by that locality. On the issue of fairness, Ginsburg noted that the other states that taxed the Wynnes' income also elected not to give them a credit for their county taxes, and wrote that "More is given to the residents of a State than to those who reside elsewhere, therefore more may be demanded of them."

It's unclear so far to what extent this ruling will impact localities in other states. Maryland's comptroller estimates that the state's counties will now owe a combined $200 million in tax refunds to taxpayers across the state. A total of 16 other states have localities that also levy local income taxes but some may already give local tax credits for income earned out-of-state. For those that don't, some localities may try to distinguish between their case and Maryland's. That is, that Maryland's local taxes are collected by the state, which is subject to the Interstate Commerce Clause, and then redistributed back to localities. By contrast, localities in other states collect their own income tax and therefore could argue the Interstate Commerce Clause doesn't apply to them.

"I think that's guaranteed to be an argument localities put forward," said Alan D. Viard, a resident scholar and tax policy expert at the American Enterprise Institute. "But collecting taxes at the state or city level, in my mind, there's no distinction. People are going to have to actually look at these laws in detail and see how it actually affects them."

For any localities that are affected by the decision, said the Tax Foundation's Joseph Henchman, the solution is relatively straightforward. Either start offering a credit on out-of-state income or repeal the local tax.

He added that the 5-4 split decision would likely be the closest one issued by the court this term. That's because taxes typically get a lot deference from judges who don't want to appear as if they are interfering with the elected branches on tax policy. In fact, Henchman, an attorney and policy analyst, was one of the many people who was surprised the court took up the case at all after the Maryland Court of Appeals ruled in favor of the Wynnes.

"There's a lot of power on the state and local government side for tax policy," he said. "So it's really important that what protections there are for taxpayers be very well guarded. And that's argument I think Alito made yesterday."

GOVERNING.COM

BY LIZ FARMER | MAY 19, 2015

Moody's Explains Itself.

Last week, a court ruling struck down Illinois' pension changes, and days later, Moody's Investors Service downgraded the Chicago's (but not Illinois') debt to junk status. Moody's phones must have been ringing off the hook. So this week, in an unusual move, it released an FAQ regarding the downgrade of the city and not the state.

Moody's said in the May 18 document that it didn't downgrade the state because Illinois has more flexibility and isn't in as tight a financial predicament as Chicago. Illinois had not yet enacted its pension law so it wasn't incorporated into its credit rating. Chicago's pension law, which cuts retiree benefits, is also tied up in a legal battle and has yet to be enacted, but Moody's said the recent state-level ruling will lead to a reversal of that law. That, Moody's said, leaves the Windy City left only with the option of increasing its payments into the pension plan to keep it solvent — a feat that will require considerable cash for a city that's already heavily leveraged. Illinois, on the other hand, has potentially other options, Moody's said. The agency added that the Supreme Court could have ruled more narrowly and said that benefit modifications are permissible under certain circumstances, which would have been more favorable for Chicago's own hopes at reducing its pension liabilities.

"Instead, our interpretation of the court's opinion is that benefit modifications are impermissible under any circumstances." Moody's said. "Given the stridency of the court's opinion, we believe that the opportunities for benefit reform are now significantly more limited."

Moody's also said that while Chicago has a strong economy, immense tax base ($187 billion) and population (2.7 million), its "overall debt and unfunded pension liabilities are very high compared to other major U.S. cities." Any future ratings changes for Chicago — for better or worse — will "largely reflect city officials' actions on pension contributions and, ultimately, the growth of debt and pension leverage on the city's balance sheet." The agency also clarified it doesn't think Chicago is at risk of defaulting on debt or declaring bankruptcy.

GOVERNING.COM

BY LIZ FARMER | MAY 22, 2015

Bloomberg Brief Municipal Market Weekly Video - 05/21/15

Taylor Riggs, an editor at Bloomberg Brief, talks with Joe Mysak about this week's municipal market news.

Watch the video.

Fitch Exposure Draft: Rating Public Sector Counterparty Obligations in PPP Transactions.

This exposure draft outlines Fitch Ratings' proposed global approach to rating the obligations of a public sector grantor (grantor) under a concession, lease or other agreement (referred to herein as a "framework agreement") used to support a public private partnership (PPP) financing for public infrastructure assets. Such ratings are an input in the rating process for PPP transactions.

The criteria establish a globally consistent framework to:

- Determine if the PPP framework agreement qualifies for assignment of a counterparty rating.
- Establish a methodology for notching from the general credit quality of the public

sector counterparty to reflect any perceived higher risk of default under a framework agreement.
- Guide how to consider the PPP obligation in the public sector counterparty's general credit rating (as expressed in the IDR) as well as how late payment or rejection of an obligation under the framework agreement would be reflected in the counterparty's IDR.

Public sector counterparties considered in these criteria include sovereign, state, provincial, regional and local governments, departments and agencies thereof, as well as public sector entities. Not all rating factors outlined in this report apply to each individual rating. Each specific rating report discusses those factors most relevant to the individual rating assignment.

Continue reading.

IRS: Disclosure of Determination Letters Issued by the Exempt Organizations Rulings & Agreements function in Washington, DC .

The IRS shares information with the public whenever possible. This includes exemption letters issued by the National Office in Washington, DC.

In the past, the IRS shared exemption letters processed in Washington with some members of the press. Due to changes in the approval process starting in 2014, applications for exemption are no longer processed in the National Office. The National Office is currently working on a few remaining applications and when a final disposition is made, EO will provide determination letters or denial letters, as applicable, for those organizations in the Electronic Reading Room as well as to the members of the media.

The IRS continues to release redacted copies of denial letters it issues to organizations. Denial letters also are released through the electronic reading room.

The IRS provides a list of all 501(c)(3) organizations that have received a favorable determination letter on our EO Select Check tool. We also provide additional information on all organizations exempt from tax on our Exempt Organizations Business Master File Extract page.

A copy of an application and/or a determination letter of an exempt organization may be requested from the Internal Revenue Service by submitting Form 4506-A to:

Internal Revenue Service
Attn: Correspondence Unit
P.O. Box 2508, Room 4024
Cincinnati, OH 45201

S&P Signals It May Upgrade California's Ratings.

Standard & Poor's Ratings Services indicated it may upgrade California's debt ratings, saying the state's fiscal rebound appears to be accelerating.

The rating firm said Thursday it could upgrade the ratings by one notch based on the state Department of Finance's cash-flow projections, which are typically released within a month of the state's adopting a spending plan for the year.

S&P currently rates California's general obligation debt A-plus and appropriation-backed debt A.

The move follows the release of Gov. Jerry Brown's spending proposal last week.

Under Mr. Brown's proposed budget, California would pay most of the money owed to schools and retire most debts while stashing away significant money for future expenses, S&P credit analyst Gabriel Petek said in a news release.

Mr. Petek credited the governor's revised proposal for avoiding "disproportionate reliance on windfall-like revenues from capital gains," which would help the state Finance Department project budget balances beyond the current fiscal year.

THE WALL STREET JOURNAL

By MARIA ARMENTAL

May 21, 2015

Write to Maria Armental at maria.armental@wsj.com

San Bernardino Council Backs Bankruptcy Plan That Hammers Bondholders.

LOS ANGELES — San Bernardino's council approved a bankruptcy exit plan on Monday night that seeks to virtually eliminate the southern California city's pension bond debt while paying Calpers, the state pension system, in full.

The city council voted 6-1 for the plan after a debate which included input from residents.

The bankruptcy blueprint, called a plan of adjustment, must now be presented to the federal judge overseeing the city's bankruptcy by May 30, under a court-imposed deadline.

Under the plan, city officials want to slash their $50 million pension debt to just a penny on the dollar. The city previously agreed to pay Calpers, its biggest creditor, in full now and at all times in the future, an agreement incorporated into the plan.

The Luxembourg-based bank EEPK, holder of the $50 million pension obligation bonds, Ambac Assurance Corp, which insures a portion of the bonds, and Wells Fargo, the bond trustee, have declined to comment since the plan was released last Thursday.

San Bernardino also intends to virtually eliminate retiree health care costs under the plan, and to outsource its fire, emergency response and trash services.

San Bernardino, a city of 205,000 65 miles east of Los Angeles, declared bankruptcy in August 2012 with a $45 million deficit.

Along with Detroit, Michigan, and Stockton, California, it has been one of a handful of municipal bankruptcies that have been closely watched by the $3.6 trillion U.S. municipal bond market.

(Reporting by Tim Reid; Editing by Richard Borsuk)

By REUTERS
MAY 19, 2015

[As Illinois Runs Out of Options in Budget Crisis, Tax Rises Seen in the Cards.]

NEW YORK/CHICAGO — With no easy way to financially engineer or negotiate its way out of a budget and pensions crisis, Illinois is likely to dish out some unpleasant medicine to its residents in the next few years. And investors say that is most likely to come in the form of higher taxes.

Given the Democrats' control of the state legislature and their opposition to many proposals for spending cuts, municipal bond fund managers see little alternative for Republican Governor Bruce Rauner other than eventually agreeing to hike taxes, such as raising the state's income tax or broadening its sales tax base.

The state has a chronic structural budget deficit, as well as the lowest credit ratings and worst-funded pension system among the 50 states. Chicago, the third biggest U.S. city and the place where about one in five of the state's residents live, is suffering from similar pension issues and may have to take additional pain, the investors said.

"What is quite simple a solution is to raise taxes," said Tom Metzold, senior portfolio manager at Eaton Vance Management, which has been paring down its Illinois exposure. "You're going to have a game of chicken over who blinks first – the cutting expenditure side or raising taxes side."

Rauner got into office in a November election after campaigning for eliminating a temporary 2011 personal income tax hike to 5 percent from 3 percent enacted under former Democratic Governor Pat Quinn. That was largely rolled back in January to 3.75 percent.

Rauner has ruled out hiking taxes unless he can get pension cuts and other reforms, including creating areas where employees in unionized workplaces can opt out of joining unions or paying union dues. The Democrat-controlled House rejected this so-called right-to-work proposal last week.

Balancing Illinois' out-of-whack budget without raising taxes for the next fiscal year is already proving difficult. While Rauner got spending cuts passed by lawmakers to help plug a $1.6 billion hole in the current year, his $32 billion proposed budget for the fiscal year beginning July 1 met resistance from Democrats.

The contentious point is $6.6 billion in proposed spending cuts, and a key component of the budget – slashing $1.2 billion in spending from its human services department (which includes housing and child care services) – has already been voted down by the House.

SKIPPING AND SKIMPING

By far the biggest problem facing Illinois and Chicago are their grossly underfunded pension funds, the result of years of skipping and skimping on contributions and sweetening benefits for a mainly unionized workforce.

That already dire situation got a lot worse on May 8 when the Illinois Supreme Court threw out the state's landmark 2013 pension reform law, saying it violated a clause in the state constitution. The reform attempted to rein in costs by reducing and suspending cost-of-living increases for pensioners, raising retirement ages and limiting salaries on which pensions are based.

“The court ruling will increase the likelihood of new revenue eventually becoming part of the budget solution,” said Nuveen analysts in a research note. “This could mean an expanded sales tax base or income tax increase.”

Illinois’ unfunded pension liabilities total $105 billion and the funded ratio is only 42.9 percent.

The day of reckoning is approaching as Rauner and legislators have to balance the budget for the next fiscal year. If they fail to agree on tax increases or spending cuts to make required payments to its pensions of $7.6 billion for 2016, the state risks further downgrades in its credit rating.

Rauner’s budget for next fiscal year relies in part on moving current state workers into less-generous pensions – now harder after the Supreme Court’s ruling. State contributions are ratcheting higher every year and are projected to grow to more than $10 billion a year in 12 years.

“New revenue cannot be discussed until we address the underlying structural issues that contributed to Illinois’ fiscal crisis,” said a spokeswoman for Rauner when asked about any possible tax increases.

A spokesman for powerful House Speaker Michael Madigan, a Democrat, said the budget plan should be a balance between spending cuts and revenue. Madigan scheduled a House vote this week on a proposal for a 3 percent additional tax on income over $1 million.

Illinois Senate President John Cullerton, also a Democrat, is hoping for a bipartisan budget solution that addresses both income and expenses, said his spokeswoman.

APPEAL SEEN UNLIKELY

Legal experts largely dismiss the idea of an appeal of the ruling, noting that the U.S. Supreme Court might decline to hear a case that is so tied to Illinois state law. A spokesperson for Illinois’ attorney general did not respond to a request for comment.

Rauner wants to amend the constitution to ensure his pension proposal sticks – but it is a formidable challenge to get the three-fifths majority vote required and even if successful would take years to take effect.

“Until citizens begin paying for the services they receive at the right price, the problems of the past 30-plus years will continue,” said Marti Kopacz, a restructuring consultant who advised the judge in Detroit’s historic bankruptcy.

“It doesn’t take much of a tax increase and/or a combination of some spending cuts to solve their problems, it just takes the political will,” said Guy Davidson, director of Municipal Fixed Income at AllianceBernstein, which owns some Illinois state general obligation bonds.

While Illinois ranks 31st among the states in terms of its state business tax climate for 2015, according to the Tax Foundation research group, its flat personal income tax rate is well below many other states, particularly for higher-income earners.

The state’s sales tax is 6.25 percent, though there are exemptions for some goods. Consumers also face additional sales taxes from local authorities – taking the total rate in Chicago, for example, to 9.25 percent.

The recent high court ruling could breathe new life into pension proposals that have previously been floated.

In one, Illinois would shift some costs from the Teachers Retirement System to local school districts. But this would likely pass an increased tax burden on in a different way and meet resistance from some state lawmakers.

SCOOP AND TOSS

As Illinois' woes pile up, bankers are likely to pitch creative solutions such as pushing out debt maturities or privatizing assets. Those options each face major political or legal obstacles and cannot alone fill the unfunded liability, investors say.

Extending debt maturities can buy time. Debt service costs account for 5.6 percent of the state's budget, according to Nuveen. However, the Illinois constitution prohibits "scoop and toss," a practice used to free up revenue by pushing principal and interest payments into future years.

Privatizations could be a possibility, say some bankers, noting that selling Illinois' toll roads and interstate highways is one option. This would, though, risk a political backlash. Privatizations got a bad name after the company that leased Chicago's parking meters immediately tripled rates.

The state could also issue pension obligation bonds to boost funding levels – though critics say they just add to the burden of future taxpayers. Illinois already has $13.8 billion of outstanding pension obligation bonds, according to S&P.

Despite all the problems, Illinois state bonds with a 5 percent coupon trade at or above par, reflecting a sense that Illinois will avoid a default or a haircut for investors.

"The legal framework as it exists right now is that the bonds get paid in full, and there's no talk yet of changing that," said Emanuel Grillo, bankruptcy attorney and muni restructuring expert from Baker Botts.

There is no provision for U.S. states to file for bankruptcy under federal law – which means there is less pressure for everyone to get around the bargaining table.

In a corporate or municipal bankruptcy, stakeholders may fight hard to protect their investments, but often wind up in a deal that spreads the pain. In state finance, bondholders and pensioners can resist haircuts until the state "has exhausted its tax base," Grillo said.

By REUTERS
MAY 20, 2015

(Reporting by Megan Davies and Nick Brown in New York and Karen Pierog in Chicago; Editing by Martin Howell)

Chicago Doesn't Hire Moody's to Rate Its Latest Debt Refinancing.

Moody's Investors Service has missed out on a lucrative assignment for Chicago about a week after the credit-rating firm downgraded the third-largest U.S. city's debt to junk status.

Chicago instead hired rivals Standard & Poor's Ratings Services, Fitch Ratings and Kroll Bond Rating Agency Inc. to provide grades for a refinancing of $800 million in general-obligation bonds expected to hit the market in coming weeks, according to a sales offering document released

Thursday.

The exclusion of Moody’s is the latest fallout from a disagreement among large ratings firms about the city’s fiscal health and its $20 billion pension hole. Moody’s angered Chicago officials on May 12 when it lowered the rating on Chicago’s bonds two notches into junk because of a pension deficit that is equivalent to about four years of annual operating budgets. Mayor Rahm Emanuel called the Moody’s downgrade “irresponsible.”

S&P, a unit of McGraw Hill Financial Inc., and Kroll have a more optimistic view of Chicago and rate the city’s bonds much more favorably at A-minus—four notches higher. Fitch, majority owned by Hearst Corp., grades Chicago’s bonds one note below S&P.

A spokeswoman for Mr. Emanuel declined comment on why Moody’s was left out of the new offering and whether it had anything to do with the downgrade. The Moody’s Corp. unit also declined comment.

“Issuers have walked away from one ratings firm or another over the years because of a bad rating,” said Mitchell Savader, chief executive of a municipal- debt research firm and a former Moody’s senior credit officer. “It can happen.”

Mr. Emanuel hasn’t minced words on the Moody’s downgrade, accusing the firm last week of playing politics with the financial future of the city and questioning why it would lower the city’s rating and not the state’s, which is struggling with its own pension problems.

Moody’s has defended its more aggressive methodology, which changed two years ago when it decided it would no longer rely on the investing return targets submitted by cities and states to calculate pension costs. Its own estimates are more conservative, meaning the city’s pension problems look worse.

Still, the mayor likely doesn’t face much political downside by taking on Moody’s and its downgrade of the city’s bonds, according to Dick Simpson, a political-science professor at the University of Illinois at Chicago and a former Chicago alderman.

“Since Moody’s already downgraded Chicago to junk-bond status, there’s not really much to be lost,” said Mr. Simpson. “Moody’s doesn’t have any votes.”

The mayor truly believes Moody’s has made a mistake here, said Bill Daley, who served as chief of staff to President Barack Obama like Mr. Emanuel and has deep ties in Chicago with both his father and brother serving as mayors. But the politics also are on the mayor’s side, Mr. Daley added, since the rating firms don’t have many supporters amid frustration over their opinions leading up to the financial crisis.

“I don’t think there are a lot of defenders of the ratings agencies. There is not a big consituency out there,” he said.

Moody’s has been absent from several recent Chicago debt deals despite its status as a major firm. It wasn’t hired for a $300 million issuance in April for the city’s board of education plus bond offerings last year of $178.1 million with the Chicago Transit Authority and a group of bonds tied to the Chicago Park District.

“I think you’re going to see that more and more,” said Howard Cure, director of municipal research at Evercore Wealth Management in New York. ‘“Ratings shopping’ is the word.”

Ratings shopping is a term used when debt issuers, who pay firms such as S&P and Moody's to rate their bonds, choose the highest grades over lower ones.

Until recently, Laurence Msall, president of the Civic Federation, a Chicago-based fiscal watchdog group, said the relationship between the city and the rating firms drew little attention because Chicago had an investment-grade rating and dropping to junk status didn't seem possible. "It was almost inconceivable five years ago that the city of Chicago would drop to less than investment grade," Mr. Msall said.

There are practical reasons why Chicago would want to omit Moody's from certain offerings, industry analysts and bankers said.

First, Moody's generally charges debt issuers more to rate their municipal-bond deals. Chicago has paid Moody's $824,000 since January 2014, versus $605,000 to S&P and $77,000 for Fitch over the same time period, according to the city's vendor, contract and payment information database.

Cities also can look beyond the three major firms because of new rivals that emerged following the 2008 financial crisis and ignore raters that offer lower credit grades. Cities pay higher interest rates for lower-rated debt.

In recent years even lower-rated issuers have tended to sell bonds at historically low rates, said Matt Fabian, partner at Municipal Market Analytics. "So what incentive does any borrower have to use the lower one?" Mr. Fabian said.

THE WALL STREET JOURNAL

By TIMOTHY W. MARTIN and MARK PETERS

Updated May 21, 2015

Write to Timothy W. Martin at timothy.martin@wsj.com

UBS Ordered to Pay Retiree $1 Million Over Puerto Rican Bond Losses.

UBS AG's U.S. wealth-management has been ordered to pay a Puerto Rican retiree $1 million in compensation for unrealized losses in the island's municipal-bond funds.

A Financial Industry Regulatory Authority arbitration panel ruled that the closed-end bond funds UBS brokers recommended for their client Juan Burgos were unsuitable.

Mr. Burgos was 66 years old when he invested in the funds that were popular on the island because of their favorable tax status. He had no experience in buying securities.

"The account was grossly overconcentrated…any proper UBS branch office or other review should have detected such obvious unsuitability," the panel said in its award document posted on Finra's website Wednesday.

Mr. Burgos opened his brokerage account at UBS in 2011, and over the next two years UBS persuaded him to invest more than $1 million—his entire savings—in the municipal bond funds, the arbitration panel said.

At that time, Puerto Rico had already been in a recession. But two years later, its government's troubled fiscal situation began to worry bondholders, and the market for the funds dried up and their value started to decline.

Mr. Burgos as well "was greatly concerned," but was reassured by UBS. A UBS branch manager "explained that even a skinny cow could give milk," according to the panel.

"While he knew that he did not have what he had thought, he reasonably did no know or understand what he in fact had," the panel said.

The value of Mr. Burgos's fund holdings ultimately fell by $737,000, and he held on to the investments because selling them would have generated even more losses, the panel said.

Mr. Burgos had sought more than $2 million in compensation and punitive damages from UBS. His lawyer, Harold Vicente, said the award "gives justice" to Mr. Burgos. "We consider it to be a triumph for all the investors on the island."

Mr. Vicente also said he has filed municipal bond arbitration cases for more than 150 clients, mainly against UBS.

A spokesman for UBS said the firm "is disappointed with the decision, with which we respectfully disagree."

Mr. Burgos's case is the second win by a UBS client within a week. Last week, a Finra arbitration panel ordered UBS to pay Yolanda Bauza $200,000 in compensation for her poorly performing closed-end bond fund investments. She had sought between $357,000 and $625,000 in damages.

Unlike court rulings, arbitration decisions aren't precedent-setting for other panels. However, UBS and other brokerage firms in Puerto Rico currently face hundreds of arbitration claims from clients who invested in such closed-end funds, which are largely stacked with bonds issued by the Puerto Rican government and its agencies.

Some executives in the Puerto Rican brokerage industry have said it was difficult to persuade clients to diversify because the tax advantage, and in many cases the tax-exemption, of such funds had long made their returns difficult to replicate with other investments.

In its ruling Monday, the panel acknowledged that UBS brokers were under pressure to sell the funds, as the firm underwrote many of them.

The UBS spokesman said investors in Puerto Rican municipal bonds and closed-end funds "received excellent returns that frequently exceeded the returns available through investments in other bonds or bond funds" over the past 20 years.

"The funds have continued to pay a monthly dividend," he added.

THE WALL STREET JOURNAL

By MATTHIAS RIEKER

May 20, 2015

Write to Matthias Rieker at matthias.rieker@wsj.com

[Fed Proposes Relaxing Rules Affecting Municipal Bonds.]

WASHINGTON—Large U.S. banks will be able use some municipal bonds to meet new postcrisis rules aimed at ensuring they have enough cash during a financial-market meltdown under relaxed rules proposed by the Federal Reserve.

The long-awaited move reflects a change of heart by the central bank, which had excluded debt sold by cities and states when approving new postcrisis rules last fall aimed at fortifying banks against market turmoil.

Big banks such as Citigroup Inc. and Wells Fargo & Co., which underwrite, buy and sell the bonds, had been pushing for the move because they want more flexibility in meeting the new rules related to the safety of their funding mix. The banks, along with state and local officials and top lawmakers such as Sen. Charles Schumer (D., N.Y.) warned that excluding all municipal bonds would make the bonds less attractive for banks to hold, potentially making it more expensive for municipalities to issue debt that finances roads, schools and other infrastructure projects.

The Fed's decision is only a partial victory for Wall Street since many banks may not benefit from the policy shift. Two other bank regulators, the Office of the Comptroller of the Currency and the Federal Deposit Insurance Corp., haven't committed to follow the Fed. As a result, it is unclear how many big banks, which typically have large subsidiaries regulated by the OCC or FDIC, would take advantage of the regulatory change.

"Most of the banks that have to deal with this are regulated by the OCC," making the Fed move "somewhat of a nonevent," said Tom Metzold, senior portfolio adviser at Boston-based Eaton Vance.

The Fed proposal relates to how municipal bonds are treated under new liquidity requirements that the banking agencies adopted last September. The rules call for large banks to hold enough "high-quality liquid assets" to fund their operations for 30 days. The Wall Street Journal reported in April that the Fed planned to reverse its prior stance and let some municipal bonds qualify as safe assets.

The Fed said its proposal "would maintain the strong liquidity standards" of its current rules, "while providing banks with the flexibility to hold a wider range of" high-quality assets that could be sold for cash in a crisis.

Thursday's proposal "is solely a Fed action," said a spokesman for the OCC, which regulates national banks. OCC officials don't believe municipal bonds can be traded easily enough to be included as assets that could be sold quickly in a pinch, people familiar with their thinking have said.

A spokeswoman for the FDIC, which plays a smaller role in regulating the institutions affected by the rule, said the agency "is closely monitoring the municipal securities markets to assess the impact of the liquidity coverage rule. The FDIC will consider adjustments to the rule, which was designed to strengthen the liquidity position of our largest financial institutions, if necessary."

In March, Comptroller Thomas Curry noted banks have increased their holdings of municipal securities since the liquidity rules were issued last fall, suggesting worries that the rules would drive banks from the markets are overblown. Michael Decker, co-head of municipal securities at the Securities Industry and Financial Markets Association, said that could change when interest rates rise and banks alter their investment strategies.

The Fed proposal would allow some banks and bank holding companies—but not their OCC-regulated national bank subsidiaries—to count some municipal bonds toward their required funding buffer under the new liquidity rules. The proposed rule wouldn't affect banks' ability to invest in municipal bonds. But it could make those investments more attractive by allowing the bonds to count toward meeting a bank's liquidity requirements.

The exact criteria for which kinds of municipal bonds would count toward a bank's funding requirement are likely to disappoint some proponents of the change. The proposal wouldn't count all investment-grade municipal bonds, only a subset of the bonds known as "general obligation" bonds. Insured debt wouldn't count. It also would treat the bonds on par with investment-grade corporate debt, meaning banks would be able to claim 50% of their face value when counting them as part of their funding buffers. Municipal officials and banks had pushed for a higher percentage. The proposal also says the municipal bonds, in total, could count as a maximum of 5% of a bank's total funding buffer.

"It's certainly welcome that the Fed has reopened this issue," said Mr. Decker of the securities industry group. "With that said, the proposal would impose pretty significant restrictions and limitations."

The Fed is soliciting public comment on the proposal and could make changes.

The market for municipal debt encompasses roughly 60,000 borrowers and 1.2 million individual bonds. A small slice of bonds from large states and cities are frequently traded, according to industry experts. That is because most investors hold the tax-exempt bonds until their maturity rather than selling them.

Over the past decade, banks have nearly doubled their ownership of municipal securities, to more than 12% of the total amount outstanding, according to Fed data.

— Aaron Kuriloff contributed to this article.

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THE WALL STREET JOURNAL

By RYAN TRACY and ANDREW ACKERMAN

Updated May 21, 2015

Financial Accounting Foundation Issues 2014 Annual Report.

Norwalk, CT—May 18, 2015—The Financial Accounting Foundation (FAF) today issued its 2014 Annual Report.

Themed as "Building a Better GAAP," the 2014 Annual Report focuses on the new FAF/FASB/GASB Strategic Plan. The plan serves as a blueprint for how the three groups will work together in the next few years to improve Generally Accepted Accounting Principles (GAAP). As stated in the introduction:

The new Strategic Plan will guide the FASB, the GASB, the FAF Board of Trustees, and the FAF management team—according to their specific roles—as they work to achieve their principal objective of developing the highest-quality financial accounting standards. In short, this blueprint will help the FAF, the FASB, and the GASB build a better GAAP.

The importance of building a better GAAP is examined in letters to stakeholders from FAF Board Chairman Jeffrey J. Diermeier, FAF President & Chief Executive Officer Teresa S. Polley, FASB Chairman Russell G. Golden, and GASB Chairman David A. Vaudt.

The report also provides illustrative, high-level overviews of the accomplishments of the FAF, the FASB, and the GASB, presented in a way that gives even the most time-pressed readers a comprehensive overview of the year's highlights.

Other features in the 2014 Annual Report include listings of all FAF, FASB, and GASB advisory groups, including the Private Company Council and the Emerging Issues Task Force, and complete 2014 management's discussion and analysis and audited financial statements.

Those interested in receiving a hard-copy version of the report may request one by e-mailing szafar@f-a-f.org. Hard copies will be distributed in late May.

CUSIP: Requests for New Municipal Bond Identifiers Increase at Fastest Rate Since 2012.

"As long as the Fed continues to keep rates low, bond issuers in particular are going to take advantage of what might be the last hurrah to get into the markets at such low rates," said Richard Peterson, Senior Director of Global Markets Intelligence, S&P Capital IQ. "While the CUSIP indicator is still telling us that the pace of new issuance will not slow down anytime soon, it will be very interesting to watch for signs of a change in sentiment as the macroeconomic situation evolves."

Read the Press Release.

May 14, 2015

- NASACT Releases Plain-English Educational Resources for GASB's New Pension Standards.
- US Municipal Credit Report, First Quarter 2015.
- Feds Push to Make All Public Financial Data Open.
- Moody's Public Finance Ratings Coming to MSRB's EMMA Website on June 1, 2015.
- Cities, Towns See Historic Savings on Bond Refinancings.
- BAML Economist Tells Muni Analysts: Don't Fear the Fed.
- Puerto Rico Crisis Seen Muddying MBIA's Bond-Insurance Comeback.
- IRS Qualified School Construction Bonds Webinar.
- *UMB Bank, National Association v. Leafs Hockey Club, Inc.* – District Court grants Trustee's motion to prove up damages following grant of summary judgment against bond beneficiary for its breach of Guaranty Agreement entered into between the parties; documentation submitted by Trustee to establish outstanding principal and interest deemed admissible pursuant to the business records exception to the hearsay rule.
- And finally, we highly recommend that you run right out and inform your municipality that it's

been authorized to engage in some rather delightful practical jokes now that the Supreme Court of Arizona has ruled that police officers aren't on the hook for *mistaken next-of-kin notifications*. Fun for the entire family!

IMMUNITY - ALABAMA

Ex parte Dixon Mills Volunteer Fire Dept., Inc.

Supreme Court of Alabama - May 15, 2015 - So.3d - 2015 WL 2340222

Driver and his passenger, who were injured when their car collided with fire truck, sued volunteer fire department and its assistant fire chief, asserting claims of negligence and wantonness and seeking damages for injuries sustained in the accident. The trial court denied department's and fire chief's motion for a summary judgment. Department and chief filed petition for writ of mandamus.

The Supreme Court of Alabama held that:

- Fire chief did not act willfully or wantonly, and thus, chief was entitled to immunity under Volunteer Service Act, and
- Fire department was expressly foreclosed under Volunteer Service Act from vicariously sharing immunity with the firefighters based on the master-servant relationship.

Volunteer fire department, whose truck collided with car, thereby injuring car's occupants, was a "nonprofit organization," as that term was defined in the Volunteer Service Act, for purposes of determining whether department was entitled to immunity under Act as to occupants' negligence claim. Fire department was incorporated specifically for the purpose of forming a non-profit corporation exclusively for charitable purposes within the meaning of Internal Revenue Service regulations, and fire department's original source of funding consisted of donations of equipment from other fire departments.

Although fire chief knowingly entered the intersection, nothing in record indicated that fire chief acted willfully or wantonly in doing so, and thus, chief was entitled to immunity under Volunteer Service Act with respect to negligence claims brought by occupants of car, who were injured when fire truck collided with their car. Firefighters shouted to chief that a vehicle was approaching, and having already committed to proceeding through the intersection, chief accelerated in an attempt to clear the intersection before making contact with occupants' oncoming vehicle.

LIABILITY - ARIZONA

Guerra v. State

Supreme Court of Arizona - May 8, 2015 - P.3d - 2015 WL 2194581

Family members who had been erroneously informed by public safety officers that their daughter had been killed in single-vehicle accident, when in fact she had survived, brought action against state for negligence, negligent training, and intentional infliction of emotional distress. The Superior Court granted summary judgment to state and denied family members' cross-motion for partial summary judgment on issue of duty. Family members appealed.

The Supreme Court of Arizona held that, as a matter of first impression, officers did not assume a duty of care to family by undertaking to provide the next-of-kin notification.

Department of Public Safety (DPS) officers did not assume a legal duty of care to an accident victim's family when, after completing their investigation into identity of passenger who was killed in single-vehicle rollover accident, officers erroneously advised the family of surviving passenger with a next-of-kin notification that their daughter had died in the accident. The undertaking by the police to make a report and assure appropriate action would be taken did not create a special relationship from which a duty was born.

Police officers do not owe a duty to a victim's family or friends by undertaking to investigate a crime or accident and identify victims, for purposes of a negligence claim, and no principled distinction exists between the investigation and notification of next-of-kin for purposes of imposing a duty.

BONDS - ILLINOIS

UMB Bank, National Association v. Leafs Hockey Club, Inc.

United States District Court, N.D. Illinois, Eastern Division - May 11, 2015 - Not Reported in F.Supp.3d - 2015 WL 2258461

On March 2, 2015, the Court granted UMB Bank, N.A.'s (the "Trustee") motion for summary judgment against Leafs Hockey Club, Inc. (the "Club") based on the Club's breach of the parties' Guaranty Agreement.

The underlying facts of the case are that the Illinois Finance Authority issued $20 million in bonds, the proceeds of which were loaned to LHC, LLC ("LHC") under the Loan Agreement. Under the Loan Agreement and the Guaranty Agreement, LHC was the borrower and the Club was the guarantor. The bonds at issue consisted of four different series maturing in different years with different rates of interest. Following LHC's default, the Trustee sent notices of acceleration and filed a proof of claim in LHC's bankruptcy case reflecting the full $20 million in bond proceeds as outstanding. Despite guarantying repayment, the Club never made any payments pursuant to its obligations under the Guaranty Agreement.

Following the grant of summary judgment, the Court directed the Trustee to file a motion to prove up damages, including the exact amount of principal, interest, and fees owed by the Club due to its breach of the Guaranty Agreement, along with the supporting documentation and citations to relevant sections of the Trust Indenture, Guaranty Agreement, and/or Loan Agreement. The Court requested the supporting documentation and citations to the relevant contracts because the parties' summary judgment Local Rule 56.1 Statements of Facts and Responses were confusing and incomplete, especially regarding the calculation of fees and interest.

The Trustee submitted the affidavit and deposition transcript of Virginia Housum, a Senior Vice President and Workout Specialist in the Corporate Trustee Department at UMB, the individual principally responsible for determining the best mechanisms for collecting on the loan at issue in this lawsuit, ascertaining and calculating the unpaid amounts due, and ensuring repayment of debt service on the loan.

The Club was granted leave to file a Rule 56.1 Statement of Facts in response to the Trustee's motion to prove up damages.

The District Court held that:

- The DTC transfer documents, EMMA documents, and Wells Fargo's Notices relied upon, and submitted by, Housman to establish the outstanding principal and interest were admissible

pursuant to the business records exception to the hearsay rule;
- Housman had sufficiently authenticated the documentation;
- The documentary evidence supporting the amount of Trustee's fees was reasonable, despite Housman's failure to attach the time-keeping records delineating her tasks;
- The Trustee's fees documentation was admissible, despite the Club's hearsay and authentication arguments; and
- The Trustee's motion to prove up damages was granted.

EMINENT COMAIN - KANSAS

Neighbor v. Westar Energy, Inc.

Supreme Court of Kansas - May 8, 2015 - P.3d - 2015 WL 2145634

Landowner timely appealed eminent domain appraisers' award to District Court, and District Court later granted his motion to dismiss it without prejudice. About five months later the landowner appealed again, relying on saving statute. The District Court declared second appeal untimely and dismissed with prejudice. Landowner appealed.

The Supreme Court of Kansas held that:

- A party appealing appraisers' award is entitled to rely on saving statute, and
- Landowner was entitled to file his eminent domain appeal under saving statute within 6 months of initial dismissal without prejudice; disapproving *Elwood-Gladden Drainage District v. Ramsel*, 206 Kan. 75, 476 P.2d 696, and *City of Wellington v. Miller*, 200 Kan. 651, 438 P.2d 53.

As a "civil action," landowner's eminent domain appeal was governed by time limitation in code of civil procedure, and although provision of Eminent Domain Procedure Act provided a different time limitation for filing an eminent domain appeal, 30 days from the filing of the appraisers' report, neither it nor rest of the Act specifically provided a time limitation different from the code of civil procedure for saving a dismissed eminent domain appeal.

ZONING - MISSISSIPPI

Cleveland MHC, LLC v. City of Richland

Supreme Court of Mississippi - May 14, 2015 - So.3d - 2015 WL 2250376

Mobile-home park owner sought review of decision of city board of aldermen finding that, under city zoning ordinance, when an existing mobile home was removed from park, home could not be replaced. The Circuit Court affirmed. Owner appealed. The Court of Appeals reversed. City petitioned for certiorari.

The Supreme Court of Mississippi held that:

- As a matter of first impression, mobile-home park as a whole, rather than individual lots within park, were the nonconforming use resulting from park's location in industrial-zoned portion of city, and
- City's interpretation of non-conforming use ordinance to apply on a lot-by-lot basis within mobile-home park was arbitrary and capricious.

Mobile-home park as a whole, rather than individual lots within park, were the nonconforming use resulting from park's location in industrial-zoned portion of city, which prohibited industrial property from being used for residential purposes, where one entity owned the entire mobile-home park property and operated the park thereon, and individual lots in park were rented to tenants, not owned individually.

City's interpretation of non-conforming use ordinance to apply on a lot-by-lot basis within mobile-home park, rather than to park as a whole, was arbitrary and capricious, where city had not interpreted or enforced the ordinance in that way for more than 30 years, and city's interpretation deprived park owner of its constitutional right to enjoy its property, as city's interpretation of ordinance would have effectively destroyed park.

MUNICIPAL ORDINANCE - TEXAS

City of Dallas v. TCI West End, Inc.

Supreme Court of Texas - May 8, 2015 - S.W.3d - 2015 WL 2147986

City brought action against developer for demolishing a historic building in violation of city ordinances and for fraud. Texas Historical Commission (THC) intervened to recover damages for demolition of historic structure without appropriate written permission from municipality. The District Court entered judgment on special jury verdict for city and THC in part, and granted developer's motion for judgment notwithstanding the verdict (JNOV) in part. City's petition for review was granted.

The Supreme Court of Texas held that:

- Statutes authorizing municipalities to bring civil actions and to recover civil penalties for violations of ordinances provided City authority to bring action against developer, and
- Statute authorizing municipalities to recover civil penalties for violation of ordinances applied to instances in which a defendant violated an ordinance after receiving notice of an ordinance's provisions or failed to take action necessary for compliance with the ordinance after receiving such notice.

Statutes authorizing municipalities to bring civil actions and to recover civil penalties for violations of ordinances provided City authority to bring action against developer for demolishing a historic building in violation of city ordinances. Interpretation of statute as incorporating a health-and-safety limitation was contrary to the plain and unambiguous language in the statute and would have rendered meaningless and redundant language in that section expressly circumscribing other categories of ordinances enforceable.

Statute authorizing municipalities to recover civil penalties for violation of ordinances applied to instances in which a defendant violated an ordinance after receiving notice of an ordinance's provisions or failed to take action necessary for compliance with the ordinance after receiving such notice, for purposes of determining whether City could seek penalties from developer for demolishing a historic building in violation of city ordinances.

TAX - CONNECTICUT

Town of Canton v. Cadle Properties of Connecticut, Inc.

Supreme Court of Connecticut - May 19, 2015 - A.3d - 2015 WL 2189610

Town brought action against property owner seeking appointment of a receiver of rents in connection with delinquent property taxes on the property, and tenant sought to intervene. The Superior Court appointed a receiver, and denied tenant's motion to remove receiver. Tenant appealed. The Appellate Court affirmed in part and reversed in part. Town sought certification to appeal, which was granted.

The Supreme Court of Connecticut held that:

- Receiver of rents was permitted to collect all rents, including back rent owed, but
- Receiver of rents was not permitted to evict tenant or enter into new lease.

Statute that permitted appointment of a receiver of rents when real property taxes due to a municipality were delinquent permitted receiver to collect all rent owed, including back rent, rather than only rent owed subsequent to appointment of receiver, where statute permitted receiver to collect "all rents" and to collect rents "in place of the owner," who undoubtedly would have been entitled to collect past and presently due rent.

Receiver's responsibilities under statute that permitted appointment of a receiver of rents when real property taxes due to a municipality were delinquent were limited to collecting rents, that in turn were to be used to pay taxes and utilities, due after the date of the receiver's appointment, and therefore receiver was not permitted to evict tenant and secure new tenant, where statute only expressly permitted receiver to collect funds and make payment, and there was no authorization to evict a tenant or to enter into a new lease.

Moody's Sees Mixed Bag in Upcoming A.C. Bond Sales.

An analysis issued by Moody's Investors Service on Monday said Atlantic City could benefit from state support when it tries to sell about $55 million in bonds over the coming weeks, but added the municipality still faces fiscal uncertainty and significant challenges.

The city is receiving support from the state's Municipal Qualified Bond Act program, which diverts future aid to municipal bond payments. The program aims to provide increased confidence the bonds will be paid back, security better borrowing rates in the process.

The Moody's analysts said the MQBA program "should improve the city's market access," and that the sale "will remove a major short-term obstacle facing the city: a $40 million emergency bridge loan from the state."

That loan was taken out in December to cover casino tax appeal payments. The city also aims to sell an additional $12 million in bonds borrowed in February.

However, Moody's said it remains unclear how the city's bonds will be rated by the market.
In addition, "Atlantic City continues to grapple with a $101 million structural deficit and narrow liquidity, which its planned MQBA bond issues do nothing to address," Moody's wrote.

Major state aid packages, such as the payment-in-lieu-of-taxes, or PILOT, bill affecting casino tax payments, also remain unresolved, Moody's said.

“Without a significant liquidity infusion in 2015 and significant increase in recurring revenues,” Moody’s wrote, “debt service payments still remain highly susceptible to default in 2015 and the city’s future operations continue to face pressure from a large structural deficit.”

Finance Director Michael Stinson declined to comment on the Moody’s report Tuesday, saying instead that the city is moving ahead with its bond sales and is working to secure the best borrowing rates it can.

Tuesday, May 19, 2015 2:47 pm

Press of Atlantic City

By JOHN V. SANTORE, Staff Writer

U.S. Muni Bond Trading Volume Falls 13 pct in Q1.

Trading volume in U.S. municipal bonds dropped 13 percent to $618.5 billion in the first quarter of 2015 from $709.8 billion during the same period in 2014, the Municipal Securities Rulemaking Board (MSRB) reported on Tuesday.

“Historically, first quarter municipal trading volume has declined an average of 12.4 percent annually since 2008,” the MSRB said in a statement.

Fixed-rate bonds made up 68 percent of the par amount of bonds traded in the quarter, while the number of interest rate resets on variable-rate demand obligations reached a new low of 133,896, according to the MSRB, which regulates municipal securities firms.

REUTERS

May 19, 2015

(Reporting by Karen Pierog; Editing by Jeffrey Benkoe)

TAX - MASSACHUSETTS

Goduti v. City of Worcester

Appeals Court of Massachusetts, Suffolk - May 13, 2015 - N.E.3d - 2015 WL 2210594

Mortgagee brought declaratory judgment action against city challenging the legality of city’s tax assessment. The Land Court granted summary judgment in favor of city. Mortgagee appealed.

The Appeals Court held that:

- Payment of tax debt and release of tax lien rendered appeal moot, and
- Mortgagee was not record owner entitled to have real property taxes assessed to him by municipality.

Mortgagee was not record owner of real property statutorily entitled to have real property taxes assessed to him by municipality, rather than to mortgagor, where, by law, mortgagee did not acquire title to the property until three years after he recorded certificate of entry, and mortgagee accepted payments from mortgagor during that three-year period.

Save the Date: MSRB and Municipal Forum of New York Education and Outreach Seminar July 28, 2015.

The Municipal Securities Rulemaking Board (MSRB) and the Municipal Forum of New York will host an education and outreach seminar on July 28, 2015 from 3:00 p.m.-5:30 p.m. at the Marriott New York Downtown, Grand Ball Room, 85 West Street, New York, NY. A reception will follow.

The event will highlight the municipal market's past, present and future as the MSRB commemorates its 40th anniversary.

Program details will be available soon, but registration is open.

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For more information on NABL's conferences and sponsorships, download the 2015 Sponsorship Brochure or contact Susan Zelner at szelner@nabl.org.

IRS Qualified School Construction Bonds Webinar.

What: The IRS office of Tax Exempt Bonds presents a free webinar titled "Qualified School Construction Bonds."

When: June 18, 2015; 2 p.m. (Eastern)

How: Register for this event. You will use the same link to attend the event.

Learn about:

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- Governing rules and requirements
- Information reporting and post issuance compliance
- Resources available to issuers

If you have a specific question about Tax Exempt Bonds, call Tax Exempt Bonds Customer Service at 1-877-829-5500.

Moody's Public Finance Ratings Coming to MSRB's EMMA Website on June 1, 2015.

The Municipal Securities Rulemaking Board (MSRB) will make public finance ratings from Moody's Investors Service available on its Electronic Municipal Market Access (EMMA®) website on June 1, 2015. The addition will give investors ready access to ratings from all major agencies together with other key information about a municipal security.

Credit ratings on EMMA are displayed along with the trading and disclosure information for each municipal security, and are also integrated into EMMA's advanced search function and price discovery tool.

Read more about the ratings information available on EMMA.

After Moody's Bombshell, What Will Other Ratings Agencies Say?

When Moody's Investors Service downgraded Chicago debt to junk status, it did more than tick off City Hall with its timing. It ramped up pressure on other rating agencies, giving them something else to ponder in deciding how soon to act.

Moody's announcement on May 12 preceded—and threatened to short-circuit—city efforts to refinance $900 million in variable-rate debt and borrow $200 million to pay off interest-rate swaps and avoid termination fees and other financial penalties associated with a lower credit rating.

"The fact is, the risk has escalated because of Moody's actions," said Richard Ciccarone, the Chicago-based CEO of Merritt Research Services. "They've become part of the problem."

While Moody's has dropped the city's debt rating by seven notches, to Ba1, one level below investment grade, since mid-2013, Standard & Poor's Rating Services has maintained an A-plus rating—five rings from the top—for more than four years.

The six-notch spread is the widest for any city, creating challenges for debt traders.

"The market is having difficulties on price discovery," John Donaldson, who helps manage about $700 million of munis, including Chicago debt, tells Bloomberg. The director of fixed income at Haverford Trust in Radnor, Pa., adds, "What level should something with that big a gap trade at?"

OTHER DOWNGRADES COMING?

S&P warned last week that it, too, could lower the city’s rating by more than one notch. But it gave the city breathing room, indicating that a downgrade would happen only if the city failed to implement a plan by the end of this year to “sustainably fund” its pension contributions, or if it “substantially” draws down its reserves to do so.

Chicago pensions are underfunded by about $20 billion.

After Moody’s acted on May 12, Fitch Ratings, which rates Chicago debt A-minus, said it was “in contact with city management and will assess the rating impact of the recent downgrade.”

Mike Belsky, a former group manager in public finance for Fitch in Chicago, contends that Moody’s acted prematurely, underestimating Chicago’s “booming economy” and City Hall measures to work out of its pension mess. He adds, “S&P puts more weight on underlying economics than Moody’s.”

Mayor Rahm Emanuel termed Moody’s decision “irresponsible.” Meanwhile, yesterday Moody’s downgraded Chicago Public Schools debt to three grades below investment quality and lowered the Chicago Park District’s debt rating to match the city’s.

The city maintains that its pension situation is different from the state’s. It argues that if changes to Chicago’s pension system are overturned, the city won’t be on the hook for obligations of municipal and laborers funds. Instead, the city will revert to a multiplier-based funding obligation, it says, “and the funds will go broke in 10 and 13 years, respectively.”

Some municipal market veterans expect S&P and Fitch to issue downgrades on Chicago debt soon, but possibly not until after seeing what the Illinois General Assembly does about the pension bomb before adjourning later this spring.

Rating agencies tend to act more in lockstep when upgrading ratings than downgrading them, according to municipal finance officials.

MOODY’S EXPLANATION

Moody’s downgrade of city debt came just days after the Illinois Supreme Court on May 8 ruled unconstitutional pension law changes enacted by the Legislature in 2013. The decision wasn’t a surprise to Moody’s, which said it had anticipated such a result, baking it into a prevailing A3 rating and a negative watch on state debt.

Why, then, did it choose to downgrade Chicago debt, without first putting it into a “rating under review” category that typically opens a 90-day window for rating changes?

“The Supreme Court decision on pension reforms affects both entities, but widens the flexibility difference between them, as the option of reforming pension benefits was relatively more important to the city than the state, in our view,” Moody’s said. “Among the state’s broader set of options are reversing recent income tax cuts, reducing revenue sharing with local governments, and shifting pension costs to school districts and universities.”

Last month, preceding a $300 million bond sale, Chicago Public Schools did not seek a rating from Moody’s, after the Chicago Park District and the Chicago Transit Authority shunned the agency last year.

That history could have factored into Moody’s move this week—but not as payback, according to some municipal market observers.

“A rating agency that did that . . . you’d be out of business,” says Bill Morris, a retired investment banker and former state senator. “They might have felt need to give them fair warning before they do anything else. In fact, not hiring them may have precipitated this. All three (rating agencies) evaluate the big issuers whether you use them or not.”

City Hall wouldn’t say what agencies it approached about pending refinancings. Moody’s declined to comment on the matter.

‘STREET CRED’

Paul Vallas, a former Chicago budget chief and CEO of CPS, said Moody’s move, while “accurate,” is striking. “It is bold, but the bottom line is, certainly, anyone who looks at the city’s finances should not be surprised. But it’s bold that they would do it now . . . just after the mayor’s been re-elected.”

Others argue that Moody’s and its ilk are still compensating for overly rosy ratings that preceded the mortgage-market meltdown.

“All the agencies are trying to re-establish their street cred,” says Bill Brandt, a former chairman of the Illinois Finance Authority. “When the pendulum swings, it tends to swing to the extreme.”

About $10 million of federally tax-exempt Chicago debt maturing in 2040 changed hands yesterday at an average yield of 5.84 percent, the highest since December 2013, according to data compiled by Bloomberg. By comparison, the yield to maturity on BBB general obligations is 5.2 percent, Bank of America Merrill Lynch data show. It’s almost 8 percent for the high-yield muni index.

CRAIN’S CHICAGO BUSINESS

By STEVEN R. STRAHLER

May 14, 2015

U.S. Muni Bond Sales Seen Increasing to Over $10 Billion Next Week.

U.S. municipal bond sales are expected to reach $10.3 billion next week, led by a $750 million issue of bonds by a Florida state insurance company preparing for hurricane season.

The Citizens Property Insurance Corporation of Florida is issuing $750 million Coastal Account Senior Secured Bonds, Series 2015A-1.

The corporation was created by the Florida Legislature in 2002 as a not-for-profit, tax-exempt, government entity. Its mission is to provide insurance protection to Florida policyholders entitled to but unable to find property insurance coverage in the private market.

The new bond issue is meant to increase liquidity in preparation for Florida’s approaching hurricane season.

“This financing program provides a necessary cash ‘bridge’ to certain claims paying resources, especially reimbursements from the Florida Hurricane Catastrophe Fund,” Jennifer Montero, the corporation’s chief financial officer, said in a statement.

Overall bond issuance is expected to reach $10.3 billion, with the tender of tax-exempt bonds reaching $9 billion next week, above the weekly year-to-date average of $7.8 billion, said Dorian Jamison, a municipal research analyst at Wells Fargo Advisors.

Jamison added that since Jan. 30, yields for 30-year Triple-A rated municipal bonds have risen 75 basis points, much of that due to high supply. Through April, supply has been at its highest for 10 years, due mainly to a rash of refunding, he said.

The second biggest issue on schedule for next week is a $515 million sale of public utility refunding revenue bonds by the city of Springfield, Missouri.

REUTERS

LOS ANGELES | BY TIM REID

May 15, 2015

(Reporting by Tim Reid. Editing by Andre Grenon)

A Lower-Risk Strategy for Muni Bonds.

Investors often are encouraged to think about the long run. But with municipal bonds, it also could pay to focus on the near term.

In recent months, investors have been lured by longer-term debt issued by U.S. cities, states and other government entities with yields that look relatively appealing in an era of low interest rates.

That contributed to a rally that pushed muni bonds up 9% across the board in 2014, including price changes and interest payments, according to Barclays.

But those bonds could be vulnerable if the Federal Reserve increases interest rates later this year, as many experts expect, because longer-term bonds tend to be more sensitive to changes in interest rates.

As a result, investors who worry that prices could fall sharply may be better off buying funds that hold short- or intermediate-term munis, which may not get hit as hard, according to experts.

“Sticking to intermediate and short-term funds of all flavors is generally a good idea,” says Scott Brewster, president of Brewster Financial Planning in Brooklyn, N.Y. “I would get out of anything extremely long-term, because you’re just an interest-rate spike away from heartache.”

Investors who own short-term muni bonds—generally those that mature in less than five years—also could have an opportunity to get a bargain after interest rates rise, because bond prices likely will be lower and yields more favorable, experts say. The same is true of investors who are currently on the sidelines but are considering buying munis down the road. (Bond yields rise as prices fall.)

That kind of bargain could be particularly appealing to investors who turn to the $3.7 trillion muni-bond market as a source of safe and stable income, often to help fund retirement. Those investors, who plan to hold the bonds more or less indefinitely, can be indifferent to short-term price swings.

“In those periods where the market sells off, I would view those as an opportunity to put some money to work and buy,” says Peter Hayes, head of municipal bonds at investment giant BlackRock.

This year, the prospect of higher interest rates has helped put a damper on muni bonds, which are essentially flat through Thursday, according to Barclays. Mr. Hayes says they are inexpensive relative to U.S. Treasury or corporate debt, even after last year's rally.

Munis are often favored by investors who can benefit the most from the tax advantages. Investors typically pay no federal income tax on interest payments, and there is usually no state income tax due on the interest when residents buy bonds issued by their state or its municipalities.

Investors face certain risks with muni bonds, including the threat of default—a threat underscored by Puerto Rico's ongoing struggles with a high debt load and a weak economy, which has pushed down the value of its bonds.

Morningstar, the Chicago-based investment researcher, recommends several muni-bond funds that focus on shorter-term bonds and that charge low fees, including the Vanguard Limited-Term Tax-Exempt Fund, which has assets of $21 billion and charges annual fees of 0.20%, or $20 on a $10,000 investment.

Low fees are key to boosting returns from low-yielding assets such as muni bonds, experts say.

Other options include the Fidelity Limited Term Municipal Income Fund, with $4 billion in assets and fees of 0.48%.

Intermediate-term muni bonds, which typically mature in five to 12 years, generally offer higher yields but also are more sensitive to changes in interest rates—though not as sensitive as long-term debt.

"Historically, intermediate has been an attractive balance," says Chris Alwine, head of the municipal-bond group at Vanguard Group. Funds that hold intermediate-term bonds tend to "outperform when it comes to interest rates," he says.

Among intermediate-term funds, Morningstar recommends the Vanguard Intermediate-Term Tax-Exempt Fund, with assets of $43 billion and fees of 0.20%; the Fidelity Intermediate Municipal Income Fund, with assets of $5.4 billion and fees of 0.36%; and the T. Rowe Price Summit Municipal Intermediate Fund, with assets of $4.1 billion and fees of 0.5%.

To be sure, buying shorter-term debt can mean giving up some of the potential gains that long-term bonds can enjoy if, for example, the stock market drops sharply.

"Short-term funds tend to have a higher correlation to equities, so you're not getting as much diversification," says Robert Bradley, chief investment officer at NorthLanding Financial Partners, an advisory firm based in Rochester, N.Y. "If the S&P 500 is down 7% in a month, long munis or Treasurys are likely going to rally in that event, and short-term debt is more likely to just hold its value."

For investors willing to accept that trade-off, one way to decide whether to favor short-term or intermediate-term muni bonds is to think about when you will need your principal back, according to Christine Benz, director of personal finance at Morningstar.

An investor who needs the money in the next few years might want to steer clear of intermediate-term funds, she says, because the bonds in the fund portfolio could drop in value if interest rates rise.

If your bonds mature before you need the money, that risk goes away. In that case, she says, you aren't "in the position of guessing what the Fed will do."

THE WALL STREET JOURNAL

By AARON KURILOFF

May 15, 2015 9:43 a.m. ET

Write to Aaron Kuriloff at aaron.kuriloff@wsj.com

Cities, Towns See Historic Savings on Bond Refinancings.

Officials who manage the Indianapolis Airport Authority's $1.1 billion in bond debt typically refinance bonds when they can shave at least 3 percent off total remaining debt payments.

These days, 3 percent seems paltry. The Indianapolis Local Public Improvement Bond Bank handles what the industry calls bond refundings for entities including the airport, and it recently helped refund a $165 million airport bond to chop total projected debt obligations by about 9 percent.

"Those are incredible savings," said Gregory Clark, executive director of the Indianapolis Bond Bank. Clark said since 2012, the airport has refunded four of the six bonds involved in building the 1.2-million-square-foot, 40-gate facility, effectively eliminating $59.5 million in projected payments through 2034, after adjusting for inflation.

Those kinds of opportunities have sent the bond bank and other municipal bond issuers on a refinancing tear the past few years. Historically, new municipal capital has outpaced refundings. But from January 2012 to December 2014, some $600.2 billion of municipal bonds were refunded nationwide, compared with $445 billion in new bond issues, according to the Securities Industry and Financial Markets Association.

And things don't appear to be slowing down. In the first three months of 2015, there has been $75 billion in refundings versus $30.4 billion in new issues.

Some in the industry, including Clark, point to Federal Reserve policy as one of the factors behind the refunding spree. On Dec. 16, 2008, the Fed lowered its key interest rate to 0.25 percent, which ultimately sent bond yields lower.

The move was aimed at stimulating the economy during the Great Recession. Nearly seven years later, it's still unclear when the Fed will increase rates to ward off inflation, but some bond issuers are rushing to refinance debt—sometimes prematurely—before sizable interest-rate spreads tighten.

Speaking of municipalities advised by H.J. Umbaugh & Associates, partner Brian Colton said, "If there's one that they want to refund and they like that savings amount, you typically move pretty quickly because you don't know what's going to happen with rates."

Then and now

Average interest rates on AAA-rated, 20-year bonds hovered between 4 percent and 5 percent a decade ago, according to Thomson Reuters Municipal Market Data. Bond issuers usually have to wait 10 years to refinance without incurring a penalty, so today, they can effectively refund those old 20-year notes for 10-year notes with a 2-percent yield.

Municipal bond issuers typically have always been able to extract savings by refunding. But since the Fed lowered its key rate in 2008, the savings have been particularly attractive.

Using Thomson Reuters data, IBJ analyzed the difference, or spread, between yields on 10-year notes and 20-year notes from exactly a decade earlier. The average spread has been about 2.49 percentage points—or 249 basis points—since Dec. 16, 2008.

Over the same span before that date, the average spread was about 189 basis points.

Greenfield is one example of a local municipality that took advantage of wide spreads. The city's water utility issued $11.3 million in debt in 2004 for its Beckenholdt Park water works project, and had $8.6 million left to pay in principal and interest as of January.

Otto "Buzz" Krohn, the city's municipal bond adviser, helped the utility slash that $8.6 million to $6.5 million by refunding the bonds. After the costs associated with refinancing, the utility saved $955,000.

"They gave us rates that were over 2 percent but less than 2.5 percent," Krohn said about the debt, which has a blended interest rate structure. "We were trading off rates that were between 4.25 percent and 4.75 percent."

Windows of opportunity

Not only have the savings been relatively higher since 2009, but there have been more opportunities for sizable savings.

Yields on new 10-year bonds have been at least 250 basis points lower than yields on decade-old 20-year bonds for more than half of the 332 weeks following the Fed's rate decrease, according to an analysis of Thomson Reuters data.

In the 332 weeks before the rate cut, spreads of at least 250 points occurred in only 35, or 11 percent, of the weeks.

The result: Municipalities have had more opportunities to refund for big savings.

Carmel, whose population has leapt 60 percent since 2000, has issued nearly $500 million in debt since then. The bonds have been used for projects including The Palladium at the Center for Performing Arts, the Keystone Avenue road project and City Center.

City officials have refunded six bonds since 2011, including three in 2014, and have achieved an inflation-adjusted $64.2 million in savings through those transactions, according to city records provided by Umbaugh.

"The bonds that were issued in the mid-2000s are reaching their sweet point for refunding as they approach their call dates," Umbaugh's Colton said.

Some municipalities have been pulling the trigger on refundings before bonds are callable at the 10-year mark. The move, called advanced refunding, entails paying debt service on two notes until the old note becomes callable.

The further from the call date, the more costly the maneuver.

Noblesville has done nine, mostly advanced, refundings since 2012, city attorney Michael Howard said. They've managed to net $14.7 million in inflation-adjusted savings, including $3.9 million on the 146th Street extension project.

The savings might have grown had the city waited for call dates, but city officials decided to lock in the $14.7 million.

"It's a gamble either way," Howard said.

How savings are used

Total savings aren't fully realized until bonds mature, but bond issuers will see it gradually in the form of lower debt-service payments.

Some city officials plan to use the money they save through refinancing for other expenses. Carmel Mayor Jim Brainard said the savings that have stayed in the city's general fund will help pay for expenses like firefighters and sidewalks. For its separate redevelopment fund, the savings will help fund new projects, he said.

Noblesville Mayor John Ditslear said savings should help the city bolster project ambitions. For instance, he said elected officials there intend to spend $1.3 million on street resurfacing next year, and, "Frankly, if we had twice that [amount] that we were able to spend, then we would.

"So these savings over the next several years will help do things like that."

Some bond issuers have opted to keep debt service payments steady and lower the term of the loan. Krohn, Greenfield's bond adviser, said he's witnessed bond issuers taking the savings "on the back end instead of the front end."

Jennifer Wilson, a Crowe Horwath director specializing in municipal finance, said savings can mean two things for utilities: "It will either, one, postpone a rate increase … or it will give them funds for additional capital projects."

Savings entail relief for some municipalities. Noblesville has had to divert general-fund cash in the past to help service debt of some projects, said Howard, the city attorney.

The city can now keep that general fund cash and use it for things like public safety hiring, Howard said.

Window closing?

Speculation has swirled for years that the Fed will raise interest rates to ward off inflation, but the key rate remains at 0.25 percent. Fed policymakers await sustained momentum in the national economy before acting.

Economists thought a rate hike might come in June, but the predictions have been pushed back because of recent economic weakness.

So no one knows how soon the Fed will increase rates. But even if they stay flat and yields on 10-year, AAA-rated municipal bonds—around 2 percent lately—stay flat into the 2020s, interest rate spreads will shrink.

That's because 20-year, AAA-rated bonds have dipped near 2 percent in recent years.

"When you're at historically low rates like we are right now," said Umbaugh's Colton, "there's a good possibility that 10 years out that you might not be able to refund something."

Rates and spreads are unpredictable, so some bond issuers are moving swiftly to lock in savings and aren't finished yet.

"Because we've rarely ever seen rates this low," Clark said, "you really have to look at everything, whether it's callable or not."

Officials at Umbaugh said they're considering an advanced refunding on a Carmel bond that's callable in 2021.

Howard, the Noblesville attorney, said interest rates could get lower before they get higher. But Noblesville isn't banking on that and has decided to exit the guessing game with its $14.7 million now.

"If they go down 10 or 15 basis points, yeah, maybe you save that. But it takes 60 days to put one of these deals together. It's not like you're sitting there at your computer and interest rates go down 20 basis points and you lock."

Indianapolis Business Journal

Jared Council

May 16, 2015

Municipal Bond Sales Rise As Redemptions, Calls Hit $34 Billion.

Municipal bond sales in the U.S. are set to increase in the next month while the amount of redemptions and maturing debt accelerates.

States and localities plan to issue $12.2 billion of bonds over the next 30 days, according to data compiled by Bloomberg. A week ago, the calendar showed $12.1 billion planned for the coming month. Supply figures exclude derivatives and variable-rate debt. Some municipalities set their deals less than a month before borrowing.

Citizens Property Insurance Corp. of Florida plans to sell $750 million of bonds, Springfield Missouri Public Utility has scheduled $515 million, Port Authority of New York and New Jersey will offer $500 million and the Miami and Dade County Florida Water and Sewer authority will bring $482 million to market.

Municipalities have announced $17.4 billion of redemptions and an additional $17.0 billion of debt matures in the next 30 days, compared with the $29.3 billion total that was scheduled a week ago.

Issuers from New York have the most debt coming due with $1.88 billion, followed by California at $1.87 billion and Florida with $1.38 billion. Citizens Property Insurance has the biggest amount of securities maturing, with $765 million.

Shrinking Market

The $3.6 trillion municipal market shrank by 4 percent in 2014. This year, maturities are poised to drop 38 percent to $176 billion from the 2014 levels.

Investors removed $36 million from mutual funds that target municipal securities in the week ended May 6, compared with an increase of $1 billion in the previous period, according to Investment Company Institute data compiled by Bloomberg.

Exchange-traded funds that buy municipal debt increased by $9.2 million last week, boosting the value of the ETFs 0.05 percent to $16.8 billion.

State and local debt maturing in 10 years now yields 107.04 percent of Treasuries, compared with 102.555 percent in the previous session and the 200-day moving average of 97.756 percent, Bloomberg data show.

Bonds of South Carolina and Michigan had the best performance over the past year compared with the average yield of AAA rated 10-year securities, the data shows. Yields on South Carolina's securities narrowed 2 basis points to 2.37 percent while Michigan's declined less than one basis point to 2.60 percent. Puerto Rico and New Jersey handed investors the worst results. The yield gap on Puerto Rico bonds widened 95 to 10.42 percent and New Jersey's rose 25 basis points to 3.08 percent.

MAY 18, 2015 • BLOOMBERG NEWS

Chicago's Downgrade to Junk Makes Timing for Bond Deal Uncertain.

Less than a week after Chicago's credit rating was cut to junk by Moody's Investors Service, the timing on the biggest piece of a $383 million bond deal has been cast into doubt.

A $201 million offering managed by Ramirez & Co. and initially planned for Tuesday has been shifted to day-to-day status, according to data compiled by Bloomberg. The sale is part of an effort to refinance floating-rate debt that exposed the city to penalties after Moody's cut Chicago to junk on May 12. Standard & Poor's and Fitch Ratings also lowered the city last week, while giving it an investment grade.

The potential shift in the sale's schedule is a setback for Mayor Rahm Emanuel, who began his second term Monday, as he moves to end some swaps and convert variable-rate debt to fixed-rate to bolster the city's finances. The downgrades threaten to raise the city's borrowing costs, as investors are demanding higher yields on its securities.

"If the market fails to do these deals, then of course market access becomes a front-and-center type of risk," said Richard Ciccarone, Chicago-based chief executive officer of Merritt Research Services LLC, which analyzes municipal finance. Selling bonds would show "that the markets are still giving the city time to work out its problems."

Kelley Quinn, a city spokeswoman, didn't immediately respond to e-mail and phone messages seeking comment on the deal's timing. Phillip Culpepper at Ramirez in Chicago didn't respond to a voicemail seeking comment.

Tuesday Timing

A segment of about $182 million is still scheduled to price Tuesday, data compiled by Bloomberg show.
Federally tax-exempt Chicago bonds maturing in January 2033 traded May 15 at yields as high as 6.16 percent, the most since their issuance three years ago, Bloomberg data show. The spread of 3.28 percentage points over benchmark municipal bonds was the widest yet. They were the most-traded Chicago bonds on May 14-15, combined.

The Moody’s cut to Ba1, one step below investment grade, means Chicago may have to pay banks as much as $2.2 billion. The reduction allows banks to demand that the city repay debt early and exposes Chicago to fees to end swaps contracts.

Bloomberg

by Brian Chappatta and Elizabeth Campbell

May 18, 2015

Ex-Bank of America Executive Gets 26 Months in Prison for Muni Bond Scheme.

A former Bank of America Corp executive was sentenced to 2 years and two months in prison on Monday after pleading guilty to participating in a scheme to defraud cities and towns by rigging bids to invest municipal bond proceeds.

Phillip Murphy, 57, the former managing director of Bank of America’s municipal derivatives products desk, was the last of 17 convicted defendants to be sentenced in a case spilling out of a broad bid-rigging investigation involving the $3.7 trillion municipal bond market.

The investigation resulted in five banks agreeing to pay $743 million to settle with federal and state authorities, including Bank of America, which reached a $137.3 million deal in 2010.

The U.S. Justice Department said Murphy conspired with brokerage CDR Financial Products and others to increase the quantity and profitability of investment and other municipal finance contacts awarded to Bank of America.

Prosecutors said Murphy won investment contracts thanks to the Beverly Hills, California-based CDR’s manipulation of the bidding process to obtain losing bids from other banks.

In exchange, Murphy submitted intentionally losing bids for investment contracts and occasionally enabled CDR to receive kickbacks, prosecutors said.

Murphy was indicted in July 2012. On the eve of trial, he pleaded guilty in February 2014 to two counts of conspiracy and one count of wire fraud.

CDR founder David Rubin, who cooperated with authorities, was sentenced in 2014 to two years of probation and ordered to pay up to $5.65 million after pleading guilty to wire fraud and conspiracy.

The case is U.S. v. Murphy, U.S. District Court, Western District of North Carolina, No. 12-cr-00235.
(Reporting by Nate Raymond in New York; Editing by Christian Plumb)

REUTERS

BY NATE RAYMOND

May 18, 2015

TAX - PENNSYLVANIA

Links v. Keystone Oaks School Dist.

Commonwealth Court of Pennsylvania - May 8, 2015 - A.3d - 2015 WL 2137643

Exempt organization appealed from the order of the trial court affirming the decision of the Allegheny County Board of Property Assessment Appeals and Review's (Board) to refuse its property exemption from July 3, 2012, the day that it acquired ownership, based on the Tax Assessment Day Rule. Under that Rule, the taxable status of a property becomes fixed as of the date designated by law as assessment day, i.e., January 1 of each year.

The appeals court affirmed, finding that Section 505(b) of the General County Assessment Law is inconsistent with Section 10 of the Second Class County Assessment Law and thus the Tax Assessment Day Rule had not been abrogated in Allegheny County.

S&P Webcast Replay Now Available: State and Local Governments Outlook 2015.

Standard & Poor's Ratings Services held an interactive, live webcast on Thursday, January 15, 2015, at 11:00 a.m. Eastern Time where we discussed the 2015 outlook for U.S. state and local governments.

Held on Thursday, January 15, 2015

Listen to the replay here.

TAX - CALIFORNIA

Cafferkey v. City and County of San Francisco

Court of Appeal, First District, Division 5, California - May 8, 2015 - Cal.Rptr.3d - 15 Cal. Daily Op. Serv. 4571

Property taxpayers filed claim for property tax refund, claiming that city erroneously collected taxes for lot which did not exist on parcel maps. The Superior Court granted city's motion for summary judgment, and taxpayers appealed.

The Court of Appeal held that city assessor-recorder's office created lot pursuant to its statutory authority rather than by mistake such that taxes assessed on the lot were valid. City had intended to split the base year value of the property between taxed lot and 10 additional condominium lots, and lot was clearly identifiable on assessor's map and was undisputedly owned by taxpayers.

BAML Economist Tells Muni Analysts: Don't Fear the Fed.

LAS VEGAS – "Don't fear the Fed" and looming interest rate increases, a senior economist at Bank of America Merrill Lynch Global Research told municipal analysts meeting here Wednesday.

The Federal Reserve is likely to begin hiking interest rates at a very slow pace in the final quarter of 2015, presenting little risk to the municipal bond market, said Michael Hanson, presenting his outlook on the economy and its impact on the market at the National Federation of Municipal Analysts' annual conference here.

Hanson, who is responsible for Fed analysis at his bank, said he expects the Fed to begin raising rates at a rate of 0.25% every other meeting beginning in September and to shift its reinvestment strategy in early 2016.

The Fed has been holding interest rates at extremely low levels for several years now, and some market observers have warned of a potential liquidity problem in the fixed-income markets when the central bank stops holding rates at artificially low levels.

"They're going to go very slow," Hanson said, adding that the Fed is now much more communicative about its intentions than it has been historically. The past perception of a central bank's job was that policy changes should "shock" the market, he said, but now the emphasis is on communication in an effort to nudge the market into doing the work itself.

"Back in 1994, you didn't even get a press statement after a meeting," he said.

Hanson said that while there is a chance the market could misread the Fed's intentions and present some volatility when policy shifts, he does not expect the kind of sharp reaction that occurred during such shifts in the mid-1990s.

"The bottom line here is: Don't fear the Fed," Hanson said.

He added that he is relatively upbeat about the overall economy, and expects a modest 2nd quarter rebound followed by a better than 3% gross domestic product growth rate in the second half of the year. While Congress remains divided, he added, there is no longer the "budget brinkmanship" that persistently damaged the U.S. economy over the last several years, Hanson said.

"It is a better environment than it was a few years ago, and that should be a net positive," he said.

Jeffrey Burger, a senior fixed income portfolio manager at Standish Mellon Asset Management, said during a later panel discussion that municipal bonds have historically exhibited less interest rate sensitivity than many other financial products because it is a more buy-and-hold market than most others and because the tax-exemption is attractive. Intermediate duration bonds could be especially well-positioned, he said.

"A good place to be would be intermediate municipals," Burger said.

An analyst attending the meeting said there appears to be at least some doubt that the Fed will act or will act even more slowly than it seems to be indicating.

Burger warned that there is the possibility of a blow to the market if inflation exceeds the very low expectations of most economists, but said the chance of that seems fairly small. Another threat could be a change of sentiment about munis if there is some kind of regulatory or legislative change to the landscape, such as a tax reform change to the tax exemption, he added.

The NFMA conference continues through Friday.

THE BOND BUYER

BY KYLE GLAZIER

MAY 13, 2015 3:52pm ET

Calpers' Pension Hammer Forces 'Unfair' Bond Ruling by Judge.

California's public retirement fund holds so much power over local officials that pension-bond investors can't expect equal treatment when a city goes bankrupt, a judge said in a ruling that she acknowledged seems "unfair."

U.S. Bankruptcy Judge Meredith Jury on Monday threw out a lawsuit in which investors had claimed their pension bonds must be paid off at the same rate as the California Public Employees' Retirement System in the San Bernardino bankruptcy. The $304 billion fund is the biggest in the U.S.

Jury acknowledged that her decision may discourage investors from buying pension-obligation bonds in the future.

"What I see as unfair, and might seem unfair to the outside world, does not matter under law," Jury said, referring in part to the powerful remedies Calpers can seek if the city doesn't honor its contract.

Monday's ruling sticks with a pattern seen in the bankruptcies of Stockton, California, and Detroit, said Marilyn Cohen, president of Envision Capital Management in El Segundo, California.

An investor who buys pension-obligation bonds "is just asking for trouble," said Cohen, who manages $345 million for individual investors. The cities' bankruptcies show that pensioners and municipal employees have an advantage over bondholders, she said.

'New Template'

"That's the new template," said Cohen, who recommends that her clients buy revenue bonds and avoid municipalities with high pension obligations.

San Bernardino filed for bankruptcy in 2012, blaming the high cost of fire and police labor contracts, including pensions. At first, officials balked at paying Calpers before other creditors. After months of mediation, the city agreed to repay Calpers in full and maintain normal monthly contributions on behalf of its employees.

By the end of the month, San Bernardino must file its debt-reduction plan, which will give bondholders an idea of how much they may recover. Any proposal must go to creditors for a vote before Jury makes a final decision.

Jury's ruling on the pension debt wasn't a surprise, said Robert D. Gordon, an attorney at Clark Hill

PLC. Gordon represented pension systems in Detroit's record-setting municipal bankruptcy.

Contract Rights

Calpers has a contract to provide services to San Bernardino, which gives it different legal rights than the debt contract with bondholders, Gordon said.
In Detroit, pension bondholders owed about $1.4 billion were forced to take deeper cuts than city workers and retirees, some of whom recovered more than 90 percent of what they were owed.

Even before the ruling, the municipal bond market had begun treating an agency's decision to issue a pension-obligation bonds as an act of desperation, said Howard Cure, director of municipal credit research in New York for Evercore Wealth Management LLC, which oversees $5.9 billion.

The bankruptcy cases show there's little security for pension bondholders, Cure said. Unlike lease-revenue bonds, there's no collateral, he said.

Investors are "on the verge" of making decisions based on whether a state allows its cities or counties to file bankruptcy and the existence of state-mandated bondholder protections, Cure said.

Bank Sues

Pension-bond holder Erste Europaische Pfandbrief- & Kommunalkreditbank AG sued San Bernardino, claiming it should be on equal footing with Calpers. The Luxembourg bank holds about $50 million in pension-obligation bonds.

To get permission to issue the pension bonds in 2005, the city obtained a court ruling that it wasn't creating new debt but simply using the bonds to repay an existing Calpers liability, bondholder attorney Vincent J. Marriott told Jury Monday. That ruling means the bond debt should be treated the same as any debt owed to Calpers, Marriott said.

Jury disagreed.

One of the biggest differences between pension bondholders and Calpers is simple power, Jury said. If Calpers isn't paid, it can reduce pension payments to a city's employees, she told Marriott. Bondholders don't have that kind of recourse, according to the judge.

'Right Decision'

"We feel the judge made the absolute right decision," Calpers spokeswoman Rosanna Westmoreland said in a phone interview. "Now San Bernardino can get on to working on their path forward."

In Stockton's bankruptcy, a federal judge approved cuts to bondholders, while allowing the city to fully repay Calpers. The judge ruled that Stockton could have tried to reduce its obligation to Calpers also, since pension debt has the same general priority as other debt that's not backed by collateral.

The city argued that fighting Calpers would take too long and could endanger employee pensions.

The San Bernardino case is Erste Europaische Pfandbrief und Kommunalkreditbank AG v. City of San Bernardino 15-ap-01004. The bankruptcy case is In re San Bernardino, 12-bk-28006, U.S. Bankruptcy Court, Central District of California (Riverside).

Bloomberg

by Steven Church and Romy Varghese

May 12, 2015

Wichita Exploring Water Infrastructure P3.

The Wichita City Council this week approved the first step in a process that could lead to a public-private partnership to help pay for an estimated $1.6 billion in water and sewer infrastructure repairs and upgrades. The city will seek bids from companies interested in loaning money and expertise to the city. In exchange, the selected company would receive annual payments from the city, according to The Wichita Eagle.

"The whole goal in looking at these public-private partnerships is to see if we can pick up efficiencies in the way that we operate our system and looking at some unique tools that aren't available to us today that may change our bond indebtedness in the future," said Mayor Jeff Longwell.

The city would retain ownership of the water and related assets — such as plants, pumps and pipes — as well as the ability to set rates and make policy decisions, said public works director Alan King. "We would enter into a financial arrangement where we would commit to pay back that private capital over time and it would give us some flexibility we don't currently have when we issue revenue bonds as a utility," King said.

Currently, the city pays for infrastructure repairs and improvements with cash or revenue bonds, said Ben Nelson, strategic services manager for public works. The money ultimately comes from rate payers. An aging system, paired with deferred maintenance over the years, led to Wichita's $1.6 billion water and sewer infrastructure needs, King said. City staff has been working on the P3 proposal for more than a year.

The first phase of the proposal will invite companies to evaluate Wichita's infrastructure and create a plan to repair it. Staff then would seek City Council approval in July, King said. "To evaluate these proposals, we're going to be looking to make sure we maximize our service levels at the lowest rates. That's always been our guiding principle," he said.

If approved by the council, the second phase likely would include a 10-year implementation agreement to put the plan into place. The selected company would bring in experts as consultants to work with the city's field staff, assess the current conditions of the infrastructure, evaluate the risks, determine the remaining life of each asset and make recommendations on what to repair or replace first, King said.

It won't be clear how much this will cost until the city receives bids, King said. If it's not advantageous to the city after the initial bids, the city won't be obligated to continue the 10-year implementation phase.

"We still needed to do a full assessment of the system regardless, and it kind of gives us an opportunity to look at our expertise and techniques and compare it to what they're willing to offer from the private sector," Longwell said. "I can't see any downside to at least taking it to that next level."

NCPPP

By Editor

May 14, 2015

S&P: Chicago; General Obligation; Joint Criteria.

Standard & Poor's Ratings Services lowered its rating to 'A-' from 'A+' on the city of Chicago's outstanding general obligation (GO) bonds, and placed the ratings on CreditWatch with negative implications. In addition, Standard & Poor's affirmed its 'AAA/A-1+' rating on the city's existing variable rate demand bonds (VRDBs).

The lowered rating reflects our view that short-term pressures are challenging the city's ability to implement timely solutions to its structural budgetary problems. These short-term disruptions, such as the recent mayoral run-off and the current need to address potential liquidity pressure due to rating triggers, raise concerns from our perspective regarding management's ability to focus on the timely implementation of needed measures to successfully address its long-term structural challenges. We believe the rating is currently constrained by the risk regarding management's plans to address its high fixed costs in light of this need to address short-term pressures.

Continue reading.

14-May-2015

IRS Closes Audits of BABs, Tax Exempts, With No Change.

WASHINGTON The Internal Revenue Service has closed audits with no changes to $1.38 billion of Build America Bonds issued by the New Jersey Turnpike Authority in 2009 and bonds from a $26.56 million mortgage revenue and refunding issue sold by Lakeland, Fla. in 2008.

The IRS did not eliminate the federal subsidy payments of the New Jersey authority's BABs or the tax exempt status of the Florida issuer's bonds.

The conclusions of the audits were disclosed in event notices posted on the Municipal Securities Rulemaking Board's EMMA system on Tuesday.

The IRS began auditing the turnpike authority's series 2009F BABs in 2010. In the letter informing the authority of the audit, the IRS said, "At this time, we have no reason to believe that your debt issuance fails to comply with any of the applicable tax requirements."

The IRS notified the authority that the audit had been completed last month, according to the authority's recent event notice.

The audit was held up for a while because the IRS raised an issue in another audit of a different BAB issuer. Both audits were eventually closed with no change, a source said.

BABs are taxable, directpay bonds that could be issued in 2009 and 2010. The turnpike authority was the eighth largest issuer of BABs, issuing two transactions totaling $3.23 billion, roughly according to Thomson Reuters data.

The authority issued the 2009 BABs, along with $375 million of tax exempt bonds, to pay the principal on bond anticipation notes and the costs of construction for projects that were part of the authority's 10-year capital improvement program for the turnpike system it operates. A syndicate led by Morgan Stanley underwrote the bonds, and Wilentz, Goldman and Spitzer was the authority's bond counsel, according to the official statement for the bonds.

Brad Waterman, a lawyer who was special tax counsel for the authority in the audit, declined to comment.

The IRS began auditing the Lakeland bonds in April 2014 and had no reason to believe at that time that there were any tax problems with the bonds, according to a 2014 event notice. The IRS told the issuer that the audit was completed in a letter dated May 5, according to the city's recent event notice.

The city's retirement community first mortgage revenue and refunding bonds were issued for the benefit of Carpenter's Homes Estates, Inc. The official statement for the bonds was not posted on EMMA.

The Bond Buyer

by Naomi Jagoda

MAY 13, 2015 4:38pm ET

What Pension Rulings in Illinois and Oregon Could Mean for States.

Twice in two weeks, courts struck down state attempts to cut pension benefits of state employees and retirees, a development that indicates just how hard it is for states to solve budget problems by slashing public pensions.

On Friday, the Illinois Supreme Court ruled that the state's 2013 pension legislation that raised the retirement age and reduced Cost-of-Living-Adjustments (COLAs) was unconstitutional. The court ruled similarly last year on a proposed change to the state's retiree health benefits, so observers expected the latest ruling. However, the situation puts Illinois, which already has the lowest credit rating of any state, on the verge of a rating downgrade if it can't solve its fiscal crisis and fix its $7 billion budget deficit.The court ruling has already resulted in Moody's downgrading Chicago's credit rating to junk status; the city's pension debt is a huge component of its financial problems.

In Oregon, the state's high court ruled on April 30 that its 2013 reduction to COLAs was unconstitutional. The court dismissed the state's argument that the cuts were necessary for the state to continue its essential services, an argument similar to the one Illinois offered.

"One important difference in all this is that Oregon doesn't have the explicit constitutional [pension] protection Illinois had," said Keith Brainard, research director for the National Association of State Retirement Officers. "But nevertheless Oregon's supreme court found that COLA reform did violate the contract protection those workers had."

Over the past several years, states have litigated scores of pension cuts with different results. In places like Colorado, Florida and Washington, courts upheld benefits changes. Elsewhere, like in Arizona, courts struck down such changes.

Experts say that last week’s ruling leaves cash-strapped Illinois with little recourse except to take drastic action. Even before the ruling, Gov. Bruce Rauner proposed slashing current employees’ retirement benefits in an effort to close his state’s continual budget gaps. Rauner’s proposal would allow current employees to keep the pensions they’ve already earned but future benefits would be less generous. He estimated the move would save $2.2 billion in 2016 alone. Key to his plan would be a voter referendum clarifying that the state’s constitutional public pension benefit protection clause applies neither to future accruals nor to health insurance.

Changing the state constitution is extremely difficult, but for states that have been rejected by the courts or don’t have a good track record, it may be the last available option, said Frank Shafroth, director of the Center for State and Local Government Leadership at George Mason University.

“These governors and legislatures are going to have to go to the people and say it’s not adding up,” said Shafroth, who is a Governing contributor. “Something’s got to give here.”

That may also be the case for New Jersey, which has pending litigation regarding its elimination of COLA benefits in 2011. Like Illinois, the state has struggled repeatedly with budget deficits and has neglected its pension funding requirements as a result. Without waiting for a ruling on the 2011 legislation, Gov. Chris Christie has proposed going even further. Earlier this year he said he wants to close down the plan entirely and move active public employees into a hybrid of a traditional pension plan and a 401(k)-like plan.

James Spiotto, a bankruptcy expert and co-publisher of the MuniNet Guide to municipal research, said the message the Oregon and Illinois rulings send is that states should avoid pension litigation at all costs. He pointed to the recent pension settlement in Rhode Island that changed COLA payments and ultimately reduced pensions payouts (although not as drastically as the initial legislation proposed). Litigation drags on for years and creates uncertainty, Spiotto said. In the case of Oregon, a negative ruling can create additional budget pressure as the state and its municipalities must pay more in pension contributions in future years than the pension fund forecast.

“It’s clear that in not just these cases but all of them that we’re far better off finding the solution and negotiating it rather than litigating it,” he said. “If you don’t fix it as a practical matter, then both sides lose.”

GOVERNING.COM

BY LIZ FARMER | MAY 13, 2015

Feds Push to Make All Public Financial Data Open.

At a recent public finance conference at Indiana University, I found myself commiserating with a researcher who was muddling through public pension data. Governments file much of the data he needs in annual reports in PDF format. We joked about how, in such predicaments, the “Ctrl F” keyboard shortcut to find specific information in a 150-page file quickly becomes your best friend.

But that only helps so much. “Nothing is standardized,” the researcher complained. Some PDFs, for example, aren’t readable and the Ctrl F trick doesn’t work. Or the information you are looking for may come in table form in some reports and paragraph form in others, which makes it difficult for computer programs that “read” PDF documents for data to get all the numbers right. In short, combing through these reports is extremely labor intensive and about as enjoyable as wearing wool on a hot day.

There are, however, some who want to make accessing public financial data easier. It's a push that is coming primarily from the feds, and it's rooted in a refrain heard often since the 2008 financial crisis: State aFeds Push to Make All Public Financial Data Opennd municipal financial disclosures should be more like corporate ones. California Rep. Darrell Issa is the latest to echo this sentiment. Last month, he previewed legislation that would standardize how data is reported at the state and local level.

Issa's proposal is called the MADOFF (Making All Data Open for Financial) Transparency Act and it builds off of last year's Digital Accountability and Transparency Act, which calls for a standard way for federal agencies to report their financial data. The section of the act that would affect state and local governments requires the Municipal Securities Rulemaking Board to adopt a standard data format in which a municipality would have to submit their financial information. "So instead of submitting a PDF document," says Hudson Hollister, "they submit a data file."

Hollister is the executive director of the Data Transparency Coalition, a big proponent of standardizing government data reporting to further transparency. Such a change wouldn't necessarily require any additional tech-savviness on the part of those preparing a government's year-end reports, Hollister says. Much like TurboTax has done for the individual tax filer, he says, software companies are capable of developing similar products for municipal governments.

So what exactly would standardizing data do, other than making researchers' lives a little easier? The corporate market provides a good example. As Public Sector Credit Solutions' Marc Joffe recently noted in Governing, company financial reports have been available in textual form on the Security and Exchange Commission's website for the last 20 years. This means that analysts at firms like Yahoo Finance, MarketWatch and Morningstar can easily pull the raw data and work with it to address whatever questions they need answered. So, Joffe writes, corporate investors can readily compare the financial statistics of a safe company like Apple to an insolvent one like Radio Shack. But municipal investors who might want to perform the same exercise with Dallas and Detroit are out of luck. "The vast majority of investors and analysts lack the patience and/or technical skills needed to extract the valuable needles of insight from this haystack of disclosure," Joffe writes.

Joffe and Hollister say that making access to data easier could lower municipal borrowing costs and even reduce the market's vulnerability to negative headlines. Hollister envisions a whole industry of software built around standardizing data entry and reporting. "All of the information wrangling that state and local governments do today could be combined into a seamless process," he says. "That can dramatically reduce challenges for those governments while also reducing the cost of their bond financing."

All this stuff is great in theory, but in reality there's the practical matter that state and local governments are incredibly diverse in their size, operations and capabilities. That's why mandating financial reporting standards to governments can be difficult, says Lynnette Kelly, executive director of the Municipal Securities Rulemaking Board. Many wouldn't have a problem conforming; many more would. Usually the better route for these things, she says, is for governments to voluntarily adopt changes.

In fact, the Governmental Accounting Standards Board (GASB) launched an ongoing project in 2008 that explores how to improve government's electronic financial reporting. Among the project's tasks is to monitor how Extensible Business Reporting Language, a standardized digital language for business financial reporting, could be adapted for government reporting. GASB has not issued any standards related to the project but calls it a high priority issue.

Despite the slow progress, Kelly says, most governments are very much aware that there is a lot of room for improvement when it comes to reporting their financials. “I remember days of, should documents be in HTML code or PDF?” she says. “There have been conversations for a long time about data.”

GOVERNING.COM

BY LIZ FARMER | MAY 14, 2015

Detroit County’s Armageddon Warning Heeded as Jail Bonds Tumble.

As Detroit emerges from a record bankruptcy, its home county faces a fiscal crisis that’s jolting bondholders and leaving officials struggling to avert a state takeover.

Three months after Wayne County Executive Warren Evans warned of possible “financial Armageddon” in the face of a looming budget deficit, he’s proposing to reduce wages while ending health-care benefits for future retirees and trimming their pensions.

Bondholders are signaling skepticism that the junk-rated county of 1.8 million residents can solve its fiscal woes, including a stalled jail project that eats up $14 million a year through bond expenses. Yields on the debt set new highs last week as investors speculated the county will skip payments to conserve cash.

“There’s a lot of challenges with this security that are ahead of it,” said Adam Buchanan, senior vice president of sales and trading at Ziegler, a Chicago broker-dealer. “Despite the large yield, we haven’t found a way to find value in it. There are too many unknowns.”

Junk Grades

Moody’s Investors Service and Standard & Poor’s dropped the municipality to junk after Evans’s fiscal warning in February.

Fitch Ratings, which had already given the county a speculative grade, said the jail debt may be “particularly vulnerable,” as officials sort out its finances. If there is a bankruptcy, bonds backing an unfinished project would be the most likely to go unpaid, said Buchanan at Ziegler.

The county sold $200 million of securities in 2010 through a local agency to build a 2,000-bed jail in downtown Detroit. Officials halted construction in 2013 amid cost overruns.

The jail bonds, the most frequently traded Wayne County debt in the past three months, are serving as a proxy for investor bets on the municipality’s finances.

Debt backing the jail and maturing in December 2040 traded at an average yield of about 10.7 percent May 6, the highest yet, according to data compiled by Bloomberg. In the latest trading Monday, the yield fell to 10.34 percent, or about 7.5 percentage points above benchmark debt. The federally taxable obligations yielded 7.44 percent Feb. 4, the day before Evans’s warning.

Recovery Plan

Evans said in a recovery plan released last month that if his recommendations are implemented, the county can plan a new jail. Whether finishing the partially built facility is the answer remains an “open question,” according to his report.

He has proposed changes to cut $53.4 million from spending. The county has to negotiate wage and benefit reductions with unions. The largest, the American Federation of State, County and Municipal Employees Council 25, is pushing back, saying its members have already taken pay cuts.

The county, home to the headquarters of Ford Motor Co. and General Motors Co., says debt payments are safe. There is “no chance” of vendors or bonds not being paid, Gary Woronchak, chairman of the County Commission, said in an interview.

State intervention is “increasingly likely,” Fitch said in March, when it dropped the county to B, five steps below investment grade. If that does occur, the likely outcome is a consent agreement, in which county officials and the state agree on measures to resolve the crisis, according to Woronchak. Three Michigan communities and two school districts operate under that arrangement.

While the governor could appoint an emergency manager, that step won’t be needed because the financial challenges are manageable and bankruptcy “is not in the realm of what’s going to happen,” Woronchak said.

Detroit Echo

Wayne County faces many of the same stresses that plagued Detroit, which emerged from bankruptcy in December after 17 months.

Plummeting property taxes are putting its deficit on track to swell to $200 million by 2019, from $159.5 million in 2013, according to Fitch. The county’s pension assets are $910 million less than promised payouts, and retiree health care is underfunded by $1.3 billion.

“When we look at Wayne County’s tax base, its budget, its balance sheet, it looks eerily similar to the city of Detroit’s problems,” said Ty Schoback, a senior analyst in Minneapolis at Columbia Threadneedle Investments, which manages about $30 billion in munis. The company hasn’t owned Wayne debt for about a year.

Bloomberg

by Elizabeth Campbell and Chris Christoff

May 11, 2015

Rauner’s Illinois Pension Fix Depends on Three Sizable Ifs.

Illinois Governor Bruce Rauner says he knows how to pull the state out from under a mountain of pension debt. Simply create a new retirement plan and change the constitution. That’ll do it, he says.

If the legislature goes along. If voters approve a constitutional amendment. And if the Illinois Supreme Court, which last week overturned a 2013 pension repair, agrees the plan is sound.

The state’s highest court ruled Friday that any restructuring can’t cut promised benefits that have created a $111 billion shortfall. Rauner’s Plan B would preserve those that have been currently earned, create a new 401k-type plan and ask voters in 2016 to remove language from Illinois’s charter that protects retirement payments.

“It seems less likely that the governor’s plan will pass – – or that any plan where benefits are curtailed would pass — the state court’s test,” said Matt Fabian, a partner at Concord, Massachusetts-based Municipal Market Analytics.

Rauner, 59, said his plan will pass legal muster as long as voters approve the constitutional change. “We can’t afford to have years and years in court,” he told reporters Friday.

Yet that’s exactly what many lawmakers and legal experts predict, given the plans outlined by Rauner, a former private equity executive who is the first Republican elected Illinois governor since 1998.

‘Reckless’ Approach

His proposal is scheduled for a hearing Wednesday in a Illinois House of Representatives committee. The panel’s chairman, Democratic Representative Elaine Nekritz, said she doubts the measure would avoid a legal challenge.

“It would be my reading of the Supreme Court decision that his solution would be precluded,” Nekritz said.

House Speaker Michael Madigan, a Chicago Democrat who controls much of the legislative agenda, called Rauner’s plan to use $2.2 billion of anticipated savings from his pension-reform pitch “reckless” after the governor proposed his fiscal 2016 budget in February.

Asked to respond to such criticism, Rauner spokeswoman Catherine Kelly referred to his Friday comments.
Investors already have been punishing Illinois. The state’s 10-year bonds yield about 3.7 percent, the highest since November and the most among the 20 states tracked by Bloomberg.

About $4.6 million of taxable Illinois debt maturing in June 2033 changed hands today at an average yield of 5.6 percent, the highest since January 2014, according to data compiled by Bloomberg.

The pressure is unlikely to recede anytime soon; the road to a constitutional change is strewn with obstacles. Adding an amendment to an Illinois ballot would require a three-fifths margin by both houses of the Democrat-led legislature.

To get adopted, it would then need to win approval by three-fifths of voters casting ballots on the amendment, or a majority of all those voting in the election, according to the state constitution.

If voters did approve it in November 2016, a court challenge could further delay relief for the system.
The court’s ruling suggested that lawmakers bypassed a simpler fix: raising taxes. Rauner has rejected that option.

In its Friday decision, the court questioned why lawmakers allowed a temporary personal-income tax increase in 2011 to expire at the start of 2015. The move, in defiance of then-Governor Pat Quinn’s desire to keep the levies, opened a budget hole in the current fiscal year that lawmakers are still trying to close.

“No possible claim can be made that no less drastic measures were available,” the court ruling said.

In the wake of the decision, a new battle is evolving over alternative approaches to stabilizing the state pensions and those of Chicago, where a $20 billion shortfall threatens the city’s solvency.

Among the short list of suggestions is allowing municipalities to declare bankruptcy; shifting more retirement costs from the state to local government; and raising taxes.
The road ahead for Rauner and lawmakers is unclear.

“I don’t think anybody really has a firm grasp on what kind of outcome we’re going to have here,” said Adam Buchanan, senior vice president of sales and trading at Ziegler, a broker-dealer in Chicago. “They can’t file bankruptcy, they can’t impair pensions, so what can they do?”

by Tim Jones, Elizabeth Campbell, and Brian Chappatta

May 12, 2015

Five Reasons Chicago Is in Worse Shape Than Detroit.

Forget all the nicknames attached to Chicago for generations — Windy City, City of Big Shoulders, the City that Works. This gleaming metropolis of 2.7 million people is now, along with Detroit, junk city.

When Moody’s Investors Service downgraded Chicago’s debt on Tuesday to junk status, it deepened the city’s financial crisis and elevated comparisons to the industrial ruin 280 miles to the east.

Chicago partisans, starting with Mayor Rahm Emanuel, argue vehemently that their city isn’t Detroit. They cite population growth, a diverse economy bolstered by an abundance of Fortune 500 companies, vibrant neighborhoods and a booming tourist trade.

Yet here are five reasons, now more than ever, that suggest Chicago is akin to Detroit — or, by some measures, even worse. Or, as Illinois Republican Governor Bruce Rauner put it last month: “Chicago is in deep, deep yogurt.”

BIG, SCARY NUMBERS: Chicago’s unfunded liability from four pension funds is $20 billion and growing, hitting every city resident with an obligation of about $7,400. Detroit’s, whose population of about 689,000 is roughly a quarter of Chicago’s, had a retirement funding gap of $3.5 billion, meaning each resident was liable for $5,100. A January 2014 report from Morningstar Municipal Credit Research showed that among the 25 largest cities and Puerto Rico, Chicago had the highest per-capita pension liability.

HOSTILE COURT: When Detroit filed for Chapter 9 in July 2013, a federal bankruptcy judge exerted his considerable powers and decreed that everyone — taxpayers, employees, bondholders and creditors alike — would get a haircut to settle the crisis. When the Illinois Supreme Court ruled on May 8, it said the state couldn’t cut pension benefits as part of a solution to restructure the state retirement system.

That decision sent a clear signal to Chicago, which was trying to follow the state’s benefit-cutting lead. Where the Detroit judge acted, the Illinois justices told elected officials to clean up the mess of their own making.

POLITICAL PARALYSIS: Just as Detroit slid into bankruptcy after decades of economic and actuarial warnings, Chicago politicians have watched the train wreck rumble toward them for more than a decade. During that time, they skipped pension payments and paid scant attention to the financial damage being done. In 10 years starting in 2002, the city increased its bonded debt by 84 percent, according to the Civic Federation, which tracks city finances. That added more than $1,300 to the tab of every Chicago resident.

In Michigan, Governor Rick Snyder acted when the crisis in Detroit couldn't be avoided. He invoked a state law giving an emergency manager what amounts to fiscal martial-law power. In Chicago's case, there's no political pressure to invoke a similar law. And a proposal supported by Rauner that would allow municipalities to seek bankruptcy protection without state approval is languishing in the Illinois legislature.

NO BAILOUT: Detroit's bankruptcy filing allowed it to restructure its debt, officially snuffing out $7 billion of it by cutting pensions and payments to creditors. In Illinois, the nation's lowest-rated state with unfunded pension obligations of $111 billion, Rauner had a blunt message last week in an unprecedented address to Chicago's City Council: The city will get no state bailout.

DENIAL: After years of denial, Detroit officials finally, if grudgingly, agreed to major surgery. At least for now, Chicago's Emanuel is sticking to his view that the Illinois Supreme Court's rejection of a state pension reform law doesn't apply to the city. "That reform is not affected by today's ruling, as we believe our plan fully complies with the State constitution because it fundamentally preserves and protects worker pensions," he said in a statement on Friday.

Four days later, Moody's begged to differ. "In our opinion," it wrote, "the Illinois Supreme Court's May 8 ruling raises the risk that the statute governing Chicago's Municipal and Laborer pension plans will eventually be overturned."

Bloomberg

by Tim Jones

May 13, 2015

[Chicago's Junk Rating From Moody's Puzzles Investors.]

No U.S. city has provoked a bigger disagreement between the two largest bond-rating companies than Chicago. Investors aren't sure whom to believe.

Moody's Investors Service has cut the third-largest city's rating seven levels since July 2013, most recently knocking it this week to Ba1, one step below investment grade. Standard & Poor's has rated it A+, the fifth-highest rank, for more than four years.

The six-level split is more than for any other city and unheard of for an issuer with $8.1 billion of general-obligation debt like Chicago, said Matt Fabian, a partner at Municipal Market Analytics. As the city plans $383 million of refinancing deals next week, trading in the $3.6 trillion market signals bond buyers are moving closer to Moody's view, while stopping short of assessing it like junk.

"The market is having difficulties on price discovery," said John Donaldson, who helps manage about $700 million of munis, including Chicago debt, as director of fixed income at Haverford Trust Co. in Radnor, Pennsylvania. "What level should something with that big a gap trade at?"

Emanuel's Response

Moody’s lowered Chicago’s grade after the Illinois Supreme Court rejected a state pension-overhaul plan May 8. The New York-based company said the ruling reduced the city’s options for fixing its own system, which is underfunded by $20 billion. Mayor Rahm Emanuel, who last month announced a plan to fix the city’s financial mess, called the rating cut an “irresponsible decision.”

Federally tax-exempt Chicago bonds maturing in January 2033 were the city’s most frequently traded securities on Thursday, according to data compiled by Bloomberg. They changed hands at an average yield of 5.89 percent, the highest since they were issued in March 2014.

By comparison, the yield on an index of BBB general obligations with an average maturity of 16.9 years is 5.2 percent, Bank of America Merrill Lynch data show. It’s 7.9 percent for Bank of America’s high-yield muni index, which has an average maturity of about 19 years.

Chicago issuers have started to shun Moody’s in bond offerings. Both the Chicago Park District and Chicago Transit Authority didn’t use a Moody’s rating in June 2014 deals, data compiled by Bloomberg show. S&P rates the two issuers AA+ and AA, respectively, the second- and third-best grades.

The Chicago Board of Education excluded Moody’s when it sold $300 million of debt last month.

Schools Downgraded

Moody’s dropped the school system’s grade again Wednesday, cutting $6.2 billion of general obligations to Ba3, three levels below investment grade. The park district fell to Ba1, the same as the city. The company said the ratings reflect the strain of Chicago’s swelling retirement bills.

That emphasis on unfunded pension obligations differentiates Moody’s approach, said Paul Mansour, head of municipal research at Conning, which oversees $11 billion in munis for insurance companies.

“Moody’s rating methodology happens to disadvantage Chicago tremendously,” said Fabian at Concord, Massachusetts-based MMA, a research firm. “Chicago is a big, vibrant city that has a lot of things going for it, but it also has this gaping pension problem.”

David Jacobson, a Moody’s spokesman, referred to Tuesday’s report to explain the company’s rating. Alex Ortolani at S&P referred to a statement from analyst Helen Samuelson. She said the company would monitor how the Supreme Court ruling affects the city’s plan to address its unfunded pensions.

More Downgrades

Fitch Ratings and Kroll Bond Rating Agency both rate the city A-, two steps below S&P. The three companies will probably downgrade the city multiple levels because of the liquidity risks, Nuveen Asset Management said in an e-mailed report Wednesday.

Using Moody’s assessment, Chicago and some of its related entities now comprise the largest segment of the high-yield municipal market outside of Puerto Rico and tobacco bonds. Moody’s cut at least $15.7 billion of Windy City debt to speculative grade this week.

The only issuers with such divergent ratings are also deemed junk by Moody’s. They include Clarendon Hospital District in South Carolina, school warrant obligations from Jefferson County, Alabama, and Yeshiva University in New York.

“Puerto Rico was a much worse credit at investment grade than Chicago is at non-investment grade,” Fabian said. “Maybe it’s not appropriate that Chicago be rated by Moody’s anymore.”

Bloomberg

by Brian Chappatta and Elizabeth Campbell

May 13, 2015

San Bernardino to Replace Firefighters, Cut Bonds Under Proposal.

Wildfire-prone San Bernardino will replace its firefighters unless their union agrees to cut costs to help the Southern California city exit bankruptcy.

The proposal, made public Thursday as part of a plan to emerge from court protection, is among the most aggressive threats aimed at public employees by a city trying balance its budget.

“We would hope that the closer we get to that option, that they would be willing to come to the table,” said Gary Saenz, the elected attorney for the city of 213,000 about 60 miles (97 kilometers) east of Los Angeles.

Since filing bankruptcy in 2012, the city has imposed cuts worth $26 million a year on its labor unions. To make further cuts that would be permanent, it must win approval of the debt-cutting proposal, known as a plan of adjustment. The plan made public Thursday also calls for saving about $4 million annually by paying investors who hold pension obligation bonds about 1 percent of what they are owed.

General unsecured creditors would get back 1 percent.

Under the plan, the city would also cut retiree health care benefits and contract for ambulance services, graffiti removal and park maintenance. It would ask voters to extend a 0.25-cent sales tax increase they approved in 2006.

San Bernardino may ask voters in November to rescind part of the city charter that makes it difficult to negotiate wage cuts with police and firefighters. Voters rejected a similar ballot measure last year.

San Bernardino cut deals with its smaller unions and California Public Employees’ Retirement System while firefighters walked out of talks a few months ago, Saenz said.

Fire Danger

The city’s location at the foot of the San Bernardino Mountains, where fires often rage during dry and hot summers, makes fire protection a critical consideration. City officials are expecting to receive at least one detailed proposal from a fire agency seeking to take over for the local department, Saenz said.

David Goodrich, a firefighter union attorney, didn’t immediately return a call seeking comment on the proposal.

The city’s stance toward firefighters is tougher than that taken by Detroit in its bankruptcy-exit plan, said Robert Gordon, an attorney who represented that city's pension system in the municipal bankruptcy.

A city study of the 120 highest-paid firefighters in San Bernardino found the average annual salary for the top third was $190,000; the next third averaged $166,000; and the others got $130,000 on average.

Temporary Agreement

This year, San Bernardino won permission from U.S. Bankruptcy Judge Meredith Jury to cancel its contract with the firefighters union. The department is now working under a temporary pact that saves the city money, Saenz said.

The debt-cutting plan must be sent to creditors for a vote before the judge decides whether to approve it.
The city, now nearing a deal with its police union, had considered replacing the police department before deciding the initiative would cost too much, Saenz said.

"The city has had a long and difficult time in bankruptcy court," said Matt Fabian, managing director of Concord, Massachusetts-based Municipal Market Advisors. "Its experience shows that bankruptcy is not at all an easy solution."

The case is In re San Bernardino, 12-bk-28006, U.S. Bankruptcy Court, Central District of California (Riverside).

Bloomberg

by Steven Church and James Nash

May 14, 2015

Puerto Rico Crisis Seen Muddying MBIA's Bond-Insurance Comeback.

The risk of losses tied to Puerto Rico is clouding MBIA Inc.'s comeback in the resurgent business of guaranteeing state and municipal debt.

After years of healing from the financial crisis that wiped out insurers' AAA ratings, MBIA's National Public Finance Guarantee Corp. has been starting to win new business. National backed two deals in 2014 and eight more this year, mounting a challenge to Assured Guaranty Ltd., the biggest guarantor in the $3.6 trillion municipal market.

A worse-than-expected outcome in the Caribbean commonwealth could derail MBIA Chief Executive Officer Jay Brown's progress. The bond insurer has almost double Assured's exposure to Puerto Rico's troubled power authority — known as Prepa — which is on the brink of an unprecedented $9 billion municipal restructuring. The cost of debt insurance on MBIA has been climbing relative to Assured, and researcher CreditSights Inc. cut its recommendation this week on MBIA's obligations to "underperform."

'Severe Scenarios'

"Assured Guaranty is a company that can withstand some pretty severe Puerto Rico outcomes without discussions of whether it can still pay dividends up to the holding company," said Josh Esterov, an insurance analyst at CreditSights in New York. "That question becomes murkier for National in some of the more severe scenarios."

Assuming an immediate default on all Puerto Rico bonds, a recovery rate of 50 percent would just about wipe out all of National's statutory capital, according to the CreditSights report from May 13. Such a loss would require 40 percent of Assured's funds.

CreditSights maintained its "outperform" recommendation on Assured in a May 10 report.

National and Assured will be able to absorb losses from Puerto Rico, said Mark Palmer, an analyst at BTIG LLC in New York. For National, however, the cost will become clearer sooner, he said.

"MBIA is more levered to the outcome at Prepa," he said. "July 1 is a very important date for Prepa because that's when the next meaningful maturity occurs."

Kevin Brown, a spokesman at Armonk, New York-based MBIA, declined to comment on the CreditSights recommendation. CreditSights previously ranked the company "outperform."

Rating Increase

Standard & Poor's raised National's financial strength rating in March 2014 to AA-, the fourth-highest rank, giving the insurer an opening to back debt from weaker localities. The rating is one step lower than Assured's municipal-insurance units and competitor Build America Mutual Assurance Co.

S&P analyst David Veno estimated in a July 2014 report that National could withstand $450 million of losses from Puerto Rico beyond the credit rater's expectations before its grade would be at risk. That figure is probably higher now, he said in a telephone interview Thursday.

By comparison, Veno's report predicted Assured had a capital cushion of about $1.55 billion.

MBIA shares climbed 4.9 percent to $9.94 at 2 p.m. in New York, the biggest jump since March. Assured stock rose 2.1 percent to $28.73. Puerto Rico's governor and lawmakers reached an agreement late Thursday on a plan to raise the sales tax on the island, which may help it sell debt and ease a cash crunch.

Of National's $4.54 billion in Puerto Rico exposure, the largest portion of gross par outstanding rests with Prepa, which municipal analysts expect to be the first of the island's agencies to restructure its obligations. The insurer backed $1.42 billion of the utility's debt through March 31, compared with $773 million for Assured, company filings show.

Prepa Deadline

As Prepa gets closer to a creditor-imposed deadline in June to restructure and a $416 million bond payment on July 1, the cost is increasing to own insurance on MBIA's obligations.

Credit-default swaps tied to MBIA have widened to 520 basis points from 489 basis points at the start of 2015, according to data provider CMA, which is owned by McGraw Hill Financial Inc. and compiles prices quoted by dealers in the privately negotiated market.

The cost of protection is 200 basis points more than swaps tied to Assured, up from 107.5 basis points in December, the data show.

Credit-default swaps, which typically fall as investor confidence improves and rise as it deteriorates, pay the buyer face value if a borrower fails to meet its obligations, less the value of the defaulted debt. A basis point equals $1,000 annually on a contract protecting $10 million of debt.

"In the insured portfolio, the uncertainty over Puerto Rico commands a lot of attention," MBIA Co-President Bill Fallon said in a May 12 call to discuss first-quarter results with analysts and investors. Prepa "is the immediate focus," he said.

Bloomberg

by Brian Chappatta

May 14, 2015

Emanuel Names Barclays Muni Banker as Chicago Financial Chief.

Chicago Mayor Rahm Emanuel named Carole L. Brown, a managing director at Barclays Capital, as chief financial officer, the same day the city reeled from its third credit rating cut this week.

Brown will replace Lois Scott, who announced earlier this month that she's stepping down after four years. Brown's appointment comes one week after the Illinois Supreme Court overturned the state's pension overhaul, prompting multiple downgrades and complicating the city's options for reducing its own $20 billion pension shortfall.

"Carole Brown brings decades of financial experience to the City of Chicago," Emanuel said in an e-mailed statement. "Carole's experience and reputation as a tough, but honest financial manager will be a valuable asset as we continue to create a conducive environment for job creation and economic growth for the City of Chicago."

Earlier Friday, Fitch Ratings lowered its rating by one step to BBB+, three levels above junk status. That followed Moody's Investors Service move on Tuesday to cut the city's general-obligation bonds to below investment grade. Standard & Poor's lowered its rating for the city to A- on Thursday.

Brown heads Barclays Midwest municipal practice, serving as a senior investment banker for municipal clients. Barclays is among the city's bankers.

"I am eager to begin working with the Mayor's financial team to address the city's financial challenges," Brown said in the statement.

Bloomberg

by Elizabeth Campbell

May 15, 2015

Bloomberg Brief Municipal Market Weekly Video - 5/15/15.

Kate Smith, a reporter at Bloomberg Brief, talks with Joe Mysak about this week's municipal market news.

Watch the video.

May 14, 2015

NASACT Releases Plain-English Educational Resources for GASB's New Pension Standards.

View Document.

Lust for Bigger Yachts Leads California Port to Tap Bond Market.

Long Beach, a blue-collar California town known for cargo freighters, is selling $112 million of bonds to make itself a beacon for another kind of ship: the yachts of the prosperous Pacific coast.

Catering to the tiny-vessel owner has been a struggling business since the recession, as money-minded sailors left marinas to store their boats on land, said Rick DuRee, chairman of Long Beach's Marine Advisory Commission. That costs about half as much as parking at the docks.

So the city of 469,000 is replacing hundreds of small slips to make way for $2 million pleasure craft, just as nearby wharves have done.

"This is an offshoot of the way the economy was going a few years ago," DuRee said. "Boating is an expensive activity, no way around it. The big boats are getting bigger, while the idea of keeping your boat on land is a better option for the middle-income boater."

Long Beach, an industrial hub known as the hometown of rapper Snoop Dogg, is scheduled to sell the bonds next week. About half the proceeds will repay loans from California for previous improvements. The rest will rebuild the Alamitos Bay Marina, which is some 20 miles (32 kilometers) north of Newport Beach, one of the state's wealthiest enclaves.

Long Overdue

The marina is partially vacant, as crews scoop up garbage from the water and tear up buckled wooden docks to replace them with concrete structures. The work is long overdue, said Phil Friedrich, an Orange County retiree who docks his 60-foot power boat, Blarney, in the marina.

"This work was supposed to be done years ago," he said. "But the finished product is just excellent." The Long Beach sale comes as investors are pushing up municipal bond yields, anticipating the Federal Reserve will raise a benchmark interest rate it's kept near zero since 2008.

The debt is backed by revenue from Long Beach's marina fund, which collects slip fees, rather than the general fund. Fitch Ratings ranks the securities BBB, two steps above junk.

Yields on 10-year revenue-backed bonds rated BBB rose Thursday to 3.27 percent, the highest in almost nine months, according to data compiled by Bloomberg. The difference in yield between those bonds and benchmark munis widened to 1 percentage point from 0.7 percent point in March.

Cautious Buyers

"You definitely have to be cautious about buying lower-rated paper in this environment unless you get paid for it," said Kenneth Naehu, a managing director at Banyan Tree Asset Management in Los Angeles. "Those are the things that widen the most in a rising interest-rate environment."

Long Beach, with a south-facing coastline buffered from the Pacific Ocean waves, is home to the nation's second-busiest container port. With a median household income of $53,000, it has a more blue-collar character than other area marina towns, such as Newport Beach, where the income is twice as high.

Other ports are chasing bigger vessels, too. Los Angeles County, to the north, is eliminating more than a quarter of its slips at Marina Del Rey this year to replace them with larger ones. Dana Point Harbor, in Orange County, is making similar changes.

A recovering economy and retiring baby boomers with money to spend are driving the trend, said Wendy Larimer, legislative coordinator for the Association of Marina Industries in Washington.

$2 Million

New 40-foot sailboats range in price from $159,000 to $565,000 on Yachtworld.com. Power-driven craft that size run as high as $2 million.

Long Beach, whose three marinas can hold more than 3,000 ships, has rehabilitated two already by replacing rotting wooden docks and enlarging boat slips.

Next week's bonds will finance similar work at Alamitos Bay, which is eliminating some slips for boats shorter than 30 feet to add more than 200 spaces for those 35 feet or longer. The city projects that revenue from Alamitos Bay will increase from $7.4 million this year to $11.4 million by 2018, when the docks will be completely redone.

After the recession struck, Alfredo Fernandez, the owner of a 25-foot sailboat, saw mariners like himself move out. He said dry storage costs about $100 a month for a 25-foot boat. A slip costs $287.

"After 2008 I saw the smaller boats disappear," said Fernandez, who's on the board of the Long Beach Marina Boat Owners Association. "But the bigger boats stayed."

Bloomberg

by James Nash

May 14, 2015

BDA Supports Rep. Reed's Bank-Qualified Bond Legislation.

Rep. Tom Reed (R-NY) introduced the Municipal Bond Market Support Act of 2015 (HR 2229), which would increase the annual limit for bank-qualified bonds to $30 million, index the level to inflation in the future, extend the use of bank-qualified bonds to 501(c)(3) organizations, and allow for pooled financing.

In his press release, Reed featured a quote from the BDA supporting his legislation: "The Bond

Dealers of America organization supports this legislation and we hope to see it move forward this year. Bank-qualified bonds are a cost-effective method of financing for local governments and financing authorities, incentivizing community banks to invest in tax-exempt bonds to finance important local projects," said Bond Dealers of America CEO, Mike Nicholas.

Congress approved these measures under the American Recovery and Reinvestment Act of 2009, however they expired at the end of 2010 and bipartisan legislation has been introduced several times since then to make these changes permanent.

The BDA and other industry groups have supported bank-qualified legislation since 2008 and sent a letter of support to Rep. Reed and the five cosponsors in support of the bill. We will continue to work with the House and Senate to promote additional support and passage of the bill.

05-12-2015

Court Fight Revs Up Over Legality of Chicago Pension Reforms.

CHICAGO — Chicago began an uphill battle in court on Wednesday to keep its cost-saving pension reform law from meeting the same fate as an Illinois law that was declared unconstitutional last week by the state supreme court.

The city is trying to salvage a 2014 law aimed at stopping two of its four retirement systems from running out of money. It is also dealing with the aftermath of Tuesday's credit rating downgrade to "junk" by Moody's Investors Service.

Cook County Circuit Court Judge Rita Novak set a July 9 hearing on motions by lawyers for city unions and retirees to toss out the 2014 law based on the high court's sweeping ruling that found the state constitution gives public sector workers iron-clad protection against their pension benefits from being cut.

Michael Freeborn, an attorney who filed one of the two lawsuits challenging the law, said a ruling by Novak could come soon after the July hearing, adding that Friday's supreme court ruling leaves "little if any wiggle room" to keep Chicago's law alive.

At a Wednesday status hearing on the lawsuits, Novak acknowledged that no matter how she rules, her decision will be appealed to the Illinois Supreme Court.

Chicago's top staff attorney, Stephen Patton, urged the judge to hear the case quickly, saying a prolonged process would be "extremely harmful to the city."

"We need certainty no later than the end of this year," Patton said.

Chicago contends its law, which boosted pension contributions by the city and its workers to the municipal and laborers' retirement funds and reduced benefits, differs from the now-voided 2013 law aimed at easing Illinois' $105 billion unfunded pension liability for state workers and educators. Illinois argued its so-called police powers to fund essential services allowed it to cut retirement benefits, but the supreme court disagreed.

"(Chicago's law) doesn't diminish and impair pensions, it saves pensions," Patton told the judge. "That argument has not been addressed."

Without additional funding and reforms, Chicago's municipal and laborers' retirement systems are projected to run out of money in 2026 and 2029. Meanwhile, the city must increase payments to its police and fire funds by $550 million next year.

Moody's downgrade triggered $2.2 billion in accelerated debt payments and fees related to Chicago's debt that banks could force the city to make.

Richard Prendergast, an attorney representing Chicago, said the city was engaged in "time-sensitive" negotiations with banks over those payments.

By REUTERS

MAY 13, 2015, 2:14 P.M. E.D.T.

(Editing by Matthew Lewis)

San Bernardino Bankruptcy Plan: Bondholders Hammered While Pensions Kept Whole.

SAN BERNARDINO, Calif. — The Southern California city of San Bernardino wants to repay its pension bondholders just a penny on the dollar while paying the state pension fund Calpers in full under its long-awaited bankruptcy exit plan released on Thursday.

Under the bankruptcy plan, called a plan of adjustment, San Bernardino also intends to virtually eliminate retiree health insurance costs, and outsource its fire, emergency response and trash services.

Gary Saenz, San Bernardino's city attorney, said of the offer to the pension bondholders: "It's obviously a tiny offer. From a fairness point of view, it looks like an insulting offer. But it is not an insult. Given the city's circumstances, it is all the city can afford."

San Bernardino's bankruptcy blueprint follows the approach taken in the recent bankruptcies of Detroit, Michigan and Stockton, California, where bondholder debt and retiree healthcare costs were slashed or eliminated, while pensions emerged relatively unscathed.

In Detroit, general obligation bondholders received between a 22 percent and 66 percent cut to their debt.

The move could likely make capital market lenders more wary about loaning money to struggling cities, and could increase borrowing costs for cities already in debt.

"The city needs a workforce. And you can't have a workforce without pensions," Saenz told Reuters in January.

That issue was the driving force underpinning the bankruptcy plan, another city official said on the condition of anonymity, noting the city has a daily relationship with its workers that it needs to maintain for survival as a municipality, while its Wall Street lenders are wealthy absentee creditors.

San Bernardino proposes paying the Luxembourg-based bank EEPK, holder of $50 million in pension obligation bonds and the city's second largest creditor, a fraction of its original debt, according to the plan, posted on the city's website.

EEPK, along with Ambac Assurance Corp, which insures a portion of the pension bonds, and Wells Fargo, the bond trustee, have the $50 million principal amount of their debt slashed to just $500,000, or a penny on the dollar, under the bankruptcy plan.

Vincent Marriott, a legal representative for EEPK, said the bank would have no comment until it had fully read and considered the plan.

Under San Bernardino's plan, the city also asks that any creditor, including its pension bondholders, who object to its terms be forced to a judicial "cramdown", where the judge overseeing the case orders that the city's debt cutting wishes be met.

Final approval of a bankruptcy plan, which must be ratified by U.S Federal Bankruptcy Judge Meredith Jury, is likely to take months. Negotiations with city firefighters, who are suing San Bernardino over contract issues, have broken down. The police union still has not signed off on parts of the bankruptcy deal affecting its members. Bondholders are likely to vigorously fight the virtual elimination of their debt under the plan.

In March, San Bernardino revealed terms of a deal with the California Public Employees' Retirement System (Calpers), its largest creditor.

Calpers, which administers San Bernardino's pensions, is America's largest public pension fund, with assets of $300 billion. It is the administrator of pensions for more than 3,000 California state and local agencies, and has long argued that pensions cannot be touched or renegotiated, even in a bankruptcy.

The judges overseeing the bankruptcies of Detroit and Stockton both stated that pension rights are not inviolate in a bankruptcy. But city leaders in Stockton, and now San Bernardino, have chosen not to take on Calpers, despite the fact that the pension giant is hiking city contribution rates by up to 50 percent over the next 10 years.

Under San Bernardino's bankruptcy exit plan, the city under covenant pledges to pay Calpers all arrears and to continue paying Calpers in full in the future.

San Bernardino, a city of 205,000 that is 65 miles east of Los Angeles, declared bankruptcy in August 2012 with a $45 million deficit. Along with Detroit and Stockton, its bankruptcy is one of a handful that have been closely watched by the $3.6 trillion U.S. municipal bond market.

By REUTERS

MAY 14, 2015, 7:41 P.M. E.D.T.

(Editing by Bernard Orr)

Detroit Delays Bond Sale Related to Bankruptcy Exit.

(Reuters) – Detroit's public sale of $275 million of bonds that financed the city's exit from bankruptcy has been delayed but should take place no later than early August, a city official said on Monday.

Detroit is taking advantage of a new law that should give the bonds investment-grade ratings that could save the city between $20 million and $30 million over the life of the issue, according to the office of Michigan Governor Rick Snyder, a Republican.

The law took effect in April and places a specific statutory lien on Detroit income tax revenue pledged to pay off the debt.

The city is hoping the stronger payment pledge on the bonds will result in lower interest rates.

Detroit privately placed $275 million of variable-rate bonds with Barclays Capital to finance its Dec. 10 exit from the biggest-ever U.S. municipal bankruptcy. As part of the city's U.S. Bankruptcy Court-approved plan, that debt was due to be sold in the U.S. municipal market in a fixed-rate mode by May 9. The deal will mark the city's first post-bankruptcy public bond sale.

John Naglick, the city's deputy chief financial officer, said Barclays and Detroit finalized an agreement late last week for a 90-day extension requested by the city. Detroit asked for the delay while awaiting final action on the Michigan bill and the completion of a fiscal 2014 audit by May 31, he said, adding that the public bond sale should occur no later than Aug. 7.

Proceeds from the privately placed bonds were earmarked for retiring a prior $120 million Barclays loan to the city, to pay certain creditor claims from the bankruptcy and to finance city improvements.

By REUTERS
MAY 12, 2015, 2:06 P.M. E.D.T.

(Reporting by Karen Pierog; Editing by Lisa Shumaker)

US Municipal Credit Report, First Quarter 2015.

The municipal bond credit report is a quarterly report on the trends and statistics of U.S. municipal bond market, both taxable and tax-exempt. Issuance volumes, outstanding, credit spreads, highlights and commentary are included.

Summary

According to Thomson Reuters, long-term public municipal issuance volume totaled $103.8 billion in the first quarter of 2015, an increase of 4.7 percent from the prior quarter ($99.2 billion) and an increase of 72.7 percent year-over-year (y-o-y) ($60.1 billion). In-cluding private placements ($1.6 billion), long-term municipal issuance for 1Q'15 was $105.4 billion.

Tax-exempt issuance totaled $94.7 billion in 1Q'15, an increase of 5.5 percent and 77.6 percent q-o-q and y-o-y, respectively. Taxable issuance totaled $6.8 billion in 1Q'15, an increase of 0.7 percent and 23.9 percent respectively, q-o-q and y o y. AMT issuance was $2.4 billion, a decline of 11.9 percent q-o-q but an increase of 77.6 percent y-o-y.

By use of proceeds, general purpose led issuance totals in 1Q'15 ($26.6 billion), followed by primary & secondary education ($25.0 billion), and higher education ($13.0 billion).

Refunding volumes as a percentage of issuance rose sharply from the prior quarter, with 61.0

percent of issuance refunded compared to 53.1 percent in 4Q'14 and 38.5 percent in 1Q'14.

Download the Report.

May 12, 2015

Illinois: Chicago's Credit Rating Is Downgraded.

Days after the Illinois Supreme Court rejected an overhaul aimed at shoring up the state's troubled pension system, Chicago, the state's largest city, saw its credit rating downgraded two levels to junk status on Tuesday by Moody's Investors Service. The move could mean higher borrowing costs for Chicago, which is wrestling with an underfunded pension system of its own. The State Supreme Court opinion, issued last week, barred the state from lowering pension benefits for public employees under a provision of the Illinois Constitution, but it also raised doubts about the legality of changes Chicago has made to two of its pension funds. Mayor Rahm Emanuel criticized Moody's downgrade as premature. "While Chicago's financial crisis is very real and at our doorsteps, today's irresponsible decision by Moody's to downgrade the city's credit by two steps goes far beyond that reality," Mr. Emanuel said.

THE NEW YORK TIMES

By MONICA DAVEY

MAY 12, 2015

- S&P 2014 Annual U.S. Public Finance Default Study and Rating Transitions.
- MSRB Report Shows Delayed Disclosures, MCDC Impact.
- Muni Default History Poses a Ratings Riddle.
- S&P Issuer Credit Ratings for Community Development Finance Institutions (CDFIs).
- Municipal Issuer Brief: Update On Bank Municipal Investment Rules.
- ABA Section Submits Letter to IRS on Definition of Political Subdivision.
- NABL GASB 68 Teleconference.
- Special Assessment Financing: CDFA // BNY Mellon Development Finance Webcast.
- *Morris v. City of Cape Coral* – Supreme Court of Florida holds, in a matter of first impression, that city's two-tier methodology for assessing developed and undeveloped property was a reasonable method of apportioning costs associated with providing fire-protection services and was not arbitrary.
- *Moro v. State* – Supreme Court of Oregon holds that legislation reducing cost-of-living adjustment cap and bank and imposing fixed rates on benefits received impaired the contractual obligations of public employers in violation of the Contract Clause, but public employers could revoke offer of cost-of-living adjustment to Public Employee Retirement System benefit for future work without violating the state Contract Clause.
- And finally, we were initially baffled this week by the Supreme Court of Maine's reference to the construction of a "lobster pound" before concluding that it must by similar to a dog pound, but for homeless crustaceans. We're not sure if lobsters make good pets, but do recommend giving them a long, hot bath.

LIABILITY - CALIFORNIA

Castro v. County of Los Angeles

United States Court of Appeals, Ninth Circuit - May 1, 2015 - F.3d - 15 Cal. Daily Op. Serv. 4248

Arrestee brought action against county, sheriff's department, and two officers under § 1983 for violation of the Fourth Amendment right to be protected from harm by other inmates, arising out of attack against by another arrestee with whom he was jailed. A jury returned a verdict for arrestee, and the District Court denied defendants' motion for judgment as a matter of law. Defendants appealed.

The Court of Appeals held that:

- Right of inmates to be protected from attacks by other inmates was established with sufficient clarity to guide a reasonable officer;
- Substantial evidence supported jury's determination that officer was deliberately indifferent to a substantial risk of serious harm to arrestee;
- Sufficient evidence supported jury's determination that officer's deliberate indifference was actual and proximate cause of harm to arrestee;
- Sufficient evidence supported jury's determination that supervising officer was aware of, but disregarded, risk to arrestee posed by other inmate;
- Design of a jail by municipality is the result of a series of deliberate choices that render the design a formal municipal policy for the purposes of municipal liability under § 1983;
- Arrestee failed to establish that county had actual knowledge of risk of harm from design of jail, as required to establish liability under § 1983; and
- Award of future damages to arrestee was supported by the record.

SPECIAL ASSESSMENTS - FLORIDA

Morris v. City of Cape Coral

Supreme Court of Florida - May 7, 2015 - So.3d - 2015 WL 2095788

City filed complaint to validate special assessment for purposes of funding city's fire-protection services. The Circuit Court entered judgment of validation, and property owners appealed.

The Supreme Court of Florida held that:

- City had the legal authority to levy special assessment for purposes of funding city's fire-protection services;
- In an apparent matter of first impression, city's two-tier methodology for assessing developed and undeveloped property was a reasonable method of apportioning costs associated with providing fire-protection services and was not arbitrary; and
- Property owners were not denied procedural due process.

City's two-tier methodology for assessing developed and undeveloped property was a reasonable method of apportioning the costs associated with providing fire-protection services to all property owners, and was not arbitrary. The city contracted for a study to determine the best method to apportion the costs of fire services, and by adopting the approach recommended in the study, attempted to apportion costs based on the general availability of fire protection services to all property owners in tier 1, and in tier 2, provided the additional benefit to improved property owners of protecting structures from damage.

MUNICIPAL ORDINANCE - ILLINOIS

Wortham v. City of Chicago Dept. of Administrative Hearings

Appellate Court of Illinois, First District, Fifth Division - May 1, 2015 - N.E.3d - 2015 IL App (1st) 131735

Dog owner sought administrative review of ALJ's determination that dog owner's three Rottweilers were dangerous animals. The Circuit Court affirmed. Dog owner appealed.

The Appellate Court held that:

- City ordinance defining dangerous animal did not provide for defense of provocation where a dog provoked another dog, and
- ALJ's consideration of witness's testimony about prior altercation between one Rottweiler and witness's dog did not deprive dog owner of right to fair hearing.

IMMUNITY - ILLINOIS

Nichols v. City of Chicago Heights

Appellate Court of Illinois, First District, Fourth Division - April 30, 2015 - N.E.3d - 2015 IL App (1st) 122994

Homeowners brought negligence action against city for flood damage to their homes. The Circuit Court granted summary judgment in favor of city. Homeowners appealed.

The Appellate Court held that:

- City was immune from liability under Local Governmental and Governmental Employees Tort Immunity Act;
- City was not negligent under doctrine of res ipsa loquitur; and
- Alderman's affidavit satisfied rule governing affidavits in support of summary judgment.

City was immune from liability, under the Local Governmental and Governmental Employees Tort Immunity Act, for purported negligence in homeowners' action arising from flood damage to their homes. Decisions made regarding maintenance and improvement of city's sewer system were discretionary in nature and required deliberation and exercise of judgment, rather than merely executed a set task, as evidenced by letters from mayor that included specific plans for sewer system and engineering invoices for flow monitoring, preparing proposal for sewer cleaning, reviewing sewer cleaning proposals, and meeting with city staff and sanitary district, letter from mayor showed how mayor and city council made policy determination when they recognized that problem with sewer system existed and attempted to find a solution within its budgetary constraints, and, even if city were negligent in maintenance of sewer, it would still be immune from liability under the Act.

City was not negligent under doctrine of res ipsa loquitur for flood damage done to homes. According to homeowners' expert, while city's alleged failure to perform maintenance added to sewer system's existing problems and played a significant role in flooding of homes, there were also many other avenues, such as inflow entering the system from other connections to the system, ground water entering system from defects in main line and private lateral lines owned by homeowners, or any defect causing stoppage in the flow of water in sewer pipe, from which water could have infiltrated the system, resulting in the system to be overwhelmed and eventually causing surcharge into homeowners' basements.

ZONING - MAINE

[Hartwell v. Town of Ogunquit]

Supreme Judicial Court of Maine - May 5, 2015 - A.3d - 2015 ME 51

Abutting landowners sought judicial review of town planning board's site plan review and design review approval of property owner's application to convert his garage into a lobster pound. The Superior Court vacated the approval, and property owner appealed.

The Supreme Judicial Court of Maine held that:

- Town planning board lacked the authority to ignore the plain language of zoning ordinance by waiving any design review submission standards in its approval of property owner's application for approval to convert his garage into a lobster pound, and
- Town planning board's failure to make sufficient and clear findings of fact with regard to the scope of property owner's proposed use of converted garage, and whether certain sues would convert a permissible retail lobster pound into a prohibited restaurant, necessitated remand for the board to make such findings.

INVERSE CONDEMNATION - NEBRASKA

[6224 Fontenelle Boulevard, L.L.C. v. Metropolitan Utilities District]

Court of Appeals of Nebraska - May 5, 2015 - N.W.2d - 22 Neb.App. 872

Metropolitan Utilities District installed a gas regulator station in the public right-of-way in front of home. Homeowner brought an inverse condemnation proceeding alleging that MUD had engaged in a taking which caused damage to the property through the installation of a "dangerous, obnoxious, and unsightly" gas regulator station.

The District Court granted MUD's motion for summary judgment and homeowner appealed.

The Court of Appeals noted that this case featured a question of first impression, due to the fact that the homeowner had alleged an inverse condemnation action where there had been no physical intrusion or taking of its property, but only a damaging of the property by virtue of a loss of value to the property. "Thus, we ask, In an inverse condemnation action, must there be an actual physical taking or invasion of the landowner's property?"

The court concluded that, in an action for inverse condemnation due to a governmental taking or damaging of a landowner's property without the benefit of condemnation proceedings, actual physical construction or physical damaging is not necessary for compensation. As such, the district court erred, as a matter of law, in determining that the homeowner was not entitled to the benefit of inverse condemnation proceedings based on there being no actual taking or physical invasion of the property.

However, the court also found that a diminution in property value alone was not a taking or damaging of the property, but, instead, is a measure of just compensation when such taking or damaging is otherwise proved.

UTILITIES - NEW JERSEY

388 Route 22 Readington Realty Holdings, LLC v. Township of Readington

Supreme Court of New Jersey - May 5, 2015 - A.3d - 2015 WL 1983043

After township declined property developer's demand that the township, in accordance with sewer allocation ordinance, recapture sufficient sewer capacity to allow its construction project to proceed, developer filed a complaint in lieu of prerogative writs against the township and multiple private entities to compel the transfer of allocated but unused sewer capacity. On cross-motions for summary judgment, the Superior Court affirmed validity of the ordinance, but determined that township's blanket policy of not recalling unused sewer capacity violated principles of *First Peoples*. Township appealed. The Superior Court, Appellate Division reversed. Developer appealed.

The Supreme Court of New Jersey held that:

- Ordinance provided adequate standards to guide township's discretion when considering whether to repurchase sewer capacity; but
- As applied, ordinance violated dictates of *First Peoples*; and
- Supreme Court would order township both to undertake a detailed analysis of the unused capacity in the hands of private parties and to explain whether any of that capacity could be recalled.

Sewer allocation ordinance, which provided developers with option to purchase sewer connection permits before making application for development approvals, and which contemplated that township would retain control over sold, but unused, permits by repurchasing such permits, provided adequate standards to guide the exercise of municipal discretion when considering whether or when to repurchase sewer capacity. The ordinance set temporal limits on the right of a property owner to keep unused sewer capacity, and provided that an allocation agreement could be extended upon application to the township if there was a showing of good cause.

Sewer allocation ordinance, providing developers with option to purchase sewer connection permits before making application for development approvals, and which contemplated that township would retain control over sold, but unused, permits by repurchasing such permits, as applied, violated dictates of *First Peoples* and requirements of Municipal Land Use Law, where despite the ordinance, township had maintained a blanket policy of not repurchasing unused sewer capacity allocated to developers.

Supreme Court would order township committee to undertake a critical review of unused sewer capacity, identified by property developer seeking to construct a retail outlet and restaurant, and to determine whether any such capacity could be recaptured from other developers who had purchased sewer connection permits, to satisfy property developer's development needs.

PENSIONS - OREGON

Moro v. State

Supreme Court of Oregon - April 30, 2015 - P.3d - 2015 WL 1955591

Active and retired members of the Public Employee Retirement System petitioned for judicial review of legislation aimed at reducing the cost of retirement benefits, which eliminated income tax offset benefits for nonresident retirees and modified the cost-of-living adjustment.

The Supreme Court of Oregon held that:

- Tax offsets were not contractual as required for their repeal to violate Contract Clause;
- Cost-of-living adjustment requirement was a term of the Public Employee Retirement System benefit offer;
- Public employers could revoke offer of cost-of-living adjustment to Public Employee Retirement System benefit for future work without violating the state Contract Clause, abrogating *Oregon State Police Officers' Ass'n. v. State. of Oregon*, 323 Or. 356, 918 P.2d 765;
- Legislation reducing cost-of-living adjustment cap and bank and imposing fixed rates on benefits received impaired the contractual obligations of public employers in violation of the Contract Clause;
- Supplemental payments were void in whole; and
- Prohibiting payment of tax offset benefits to non-residents did not violate the Privileges and Immunities Clause.

Tax offsets of 1995, which were calculated by applying a formula intended to negate from Public Employee Retirement System benefits the maximum Oregon personal income tax rate, were not contractual, as required for repeal of the tax offsets to violate state Contract Clause, even if the 1995 Legislative Assembly expected that a future legislature would repeal that provision. The legislature had not, in fact, repealed it, statute expressly stated that it was not contractual, and, thus, legislature clearly intended that the 1995 offset would not be contractual.

Tax offsets of 1991, which provided a benefit to both active and retired members of Public Employee Retirement System based on years of service, were not part of the Public Employee Retirement System contract, as required for repeal of the tax offsets to violate state Contract Clause, although it was intended to compensate Public Employee Retirement System members for the losses that they would incur when the state repealed the income tax exemption, as required by federal law. Statute itself was, neither an offer that members had accepted by rendering services nor initially supported by an exchange of consideration, and instead, legislature enacted offset as a type of pre-emptive damage payment to mitigate a claim for breach of Public Employee Retirement System contract that no court had yet sustained, and, thus, it was not a component of the type of employment compensation benefits otherwise found in the contract.

Cost-of-living adjustment requirement for Public Employee Retirement System benefits was a term of the Public Employee Retirement System benefit offer, as required for its amendment to violate the state Contract Clause, rather than merely a continuation of the discretionary dividend payment benefits system that preceded the requirement. By enacting the cost-of-living adjustment system, the legislature made the Public Employees Retirement Board's function ministerial and the application of the adjustment automatic, and legislature continued to make additional discretionary ad hoc payments during periods of particularly high inflation so that employees could reasonably expect that adjustment statute codified some minimum automatic protection of the purchasing power of their future benefits that was separate from any discretionary and gratuitous ad hoc benefits that the legislature might otherwise have provided.

Public employers could revoke offer of cost-of-living adjustment to Public Employee Retirement System benefit for future work without violating the state Contract Clause. Benefit was not an irrevocable term of Public Employee Retirement System benefits offer such that it could not be changed prospectively; abrogating *Oregon State Police Officers' Ass'n. v. State. of Oregon*, 323 Or.

356, 918 P.2d 765.

Legislation that reduced the cost-of-living adjustment cap for Public Employee Retirement System benefits from plus or minus 2% to plus or minus 1.5% for 2013, and, beginning in 2014, eliminated the cap and bank and imposed a fixed rate of 1.25% on benefits received by retired members up to $60,000 and a fixed rate of 0.15% on retirement income in excess of $60,000 impaired the contractual obligations of public employers to apply cost-of-living adjustment provisions to Public Employee Retirement System benefits earned before the effective dates of those amendments in violation of the state Contract Clause. Case involved public employers's financial obligations and, thus, did not automatically fall within reserved powers that could not be contracted away, public employers failed to establish that funding was so inadequate as to justify allowing the state to avoid its own financial obligations.

Amendments to cost-of-living adjustments for Public Employee Retirement System benefits were void as violative of the state Contract Clause only to the extent that they applied retrospectively to benefits already earned, and, thus, Public Employee Retirement System members who earned a contractual right to benefits by working for participating employers both before and after the effective dates of the amendments were entitled to receive during retirement a blended cost-of-living adjustment rate that reflected the different cost-of-living adjustment provisions applicable to benefits earned at different times. Prospective application of amendments was consistent with the legislative intent, because amendments provided employers with long-term savings.

Supplemental payments provided for in legislation amending cost-of-living adjustments for Public Employee Retirement System benefits by reducing cap and imposing a fixed rate could not be severed from the unconstitutional retrospective application of legislation to benefits already earned in violation of the state Contract Clause and were, therefore, void in whole, even though the supplemental payment provision itself was not unconstitutional. Impact on the benefits Public Employee Retirement System members would have received was adverse.

Prohibiting payment of tax offset benefits to non-residents of Oregon, who were members of Public Employee Retirement System, to compensate them for limitations to cost-of-living adjustments for retirement benefits did not upset the substantial equity between resident and non-resident members in violation of the federal Privileges and Immunities Clause, where nonresidents were not subjected to the tax that the tax offsets were intended to offset.

Prohibiting payment of tax offset benefits to non-residents of Oregon, who were members of Public Employee Retirement System, to compensate them for limitations to cost-of-living adjustments for retirement benefits did not violate the Equal Protection Clause; objective was to remedy damages resulting from the imposition of Oregon income tax, and it was rational to provide that remedy to only those who suffered the damages by paying Oregon income tax.

LIABILITY - TEXAS

Molina v. Alvarado

Supreme Court of Texas - May 8, 2015 - S.W.3d - 2015 WL 2148055

Motorist brought action against city and city employee for injuries sustained when employee struck motorist while driving city vehicle under the influence of alcohol. The District Court denied employee summary judgment. The Court of Appeals affirmed. Employee's petition for review was granted.

The Supreme Court of Texas held that motorist's filing of suit against city rather than city employee barred future suit against employee pursuant to election-of-remedies provision of the Tort Claim Act.

MSRB Proposal to Establish the Standards of Conduct and Duties for Municipal Advisors Published in Federal Register.

The Municipal Securities Rulemaking Board's (MSRB) request for approval from the Securities and Exchange Commission (SEC) of a proposal to establish the core standards of conduct and duties of municipal advisors has been published in the Federal Register. Proposed Rule G–42, on duties of non-solicitor municipal advisors, is accompanied by associated proposed amendments to Rule G–8, on books and records.

Read the rule filing.

Read the notice of publication in the Federal Register.

The deadline for submitting comments to the SEC is May 29, 2015.

IRS Rules on Highway Fare Revenues for Tax-Exempt Bond Purposes: Tax Analysts

The IRS ruled that fare revenues collected by a state political subdivision for bus service along two highway lanes are not "payments in respect of" the lanes under section 141(b)(2)(B) for purposes of the tax-exempt bond provisions.

Continue reading. (Subscription required.)

Citations: LTR 201519015

Tax Analysts: Charter School Isn't Instrumentality of State.

In a legal memorandum, the IRS concluded that a charter school doesn't qualify as a wholly owned instrumentality of the state or of a political subdivision of the state for purposes of FICA tax liability under section 3121(b)(7)(F) for compensation paid to the school's employees.

Continue reading. (Subscription required.)

Citations: ILM 201519027

NABL GASB 68 Teleconference.

In May 2012, NABL, with the assistance of a number of national associations, published

"Considerations in Preparing Disclosure in Official Statements Regarding an Issuer's Pension Funding Obligations". The publication described what were then proposed changes in the accounting standards for pension plans and participating employers. The new standards are contained in GASB Statements 67 and 68 and are now effective. The teleconference will provide an overview of the changes in the accounting standards and what should be considered in preparing disclosure materials following implementation of the new accounting standards. The panel will also review how pension funding disclosure has evolved since the release of the "Considerations" publication in 2012.

Date/Time: Tuesday, June 16, 2015, 1:00-2:30pm Eastern

Registration Fees: $25 for members; $75 for non-members.

Registration will close at 5:00 pm (Eastern), Friday, June 12.

Register online or download the registration form to register by email or fax by Friday, June 12.

Moderator:
Kenneth R. Artin, Bryant Miller Olive, Orlando, FL

Panelists:
John M. McNally, Hawkins Delafield & Wood, Washington, DC

Gilbert Southwell III, Wells Capital Management, Milwaukee, WI

Registrants will receive teleconference materials and dial-in instructions via email on Monday, June 15.

CLE is available.

ABA Section Submits Letter to IRS on Definition of Political Subdivision.

The American Bar Association's Section of Taxation submitted comments this week to the Internal Revenue Service requesting guidance on the definition of political subdivision for tax exempt bonds and other tax-advantaged bonds, related to the technical advice memorandum issued in 2013 (TAM 201224038). In the comments, the tax section of ABA said that parts of the 2013 TAM "appear to set forth new substantive requirements not previously considered in the various statutory, administrative or judicial precedents."

The letter voices concern that "auditors of tax-exempt bonds may use the 2013 TAM to apply a new standard not based on existing law, thereby creating significant uncertainty in a well-established transactional practice that relies on unqualified tax opinions."

The 2013 TAM concluded that, since "the Issuer is not directly or indirectly answerable to the electorate, it is not a division of a state or local government," and therefore not a political subdivision. The ABA Section on Taxation argues that "accountability has not previously been required to achieve political subdivision status and control has been analyzed as a factor in whether sovereign power has been delegated."

The letter recommends that, "in light of these new requirements that the 2013 TAM seems to impose to qualify as a political subdivision… [it should] be withdrawn or modified to conform with existing precedent." It also recommends that "the Service and Treasury issue a notice providing interim guidance prior to the issuance of new political subdivision regulations and stating that any change to the definition of political subdivision will apply solely on a prospective basis."

Tax Analysts: Groups Seek Withdrawal of Requirement in Charitable Hospital Rules.

The Association of American Medical Colleges and the American Hospital Association, responding to a request (Notice 2014-27) for 2015-2016 priority guidance plan projects, have recommended the withdrawal of a requirement in the final charitable hospital regulations (T.D. 9708) regarding provider listings in a hospital's financial assistance policy.

Continue reading. (Subscription required.)

MAY 1, 2015

The Bond Buyer's Mid-Atlantic Municipal Market Conference.

The Bond Buyer is committed to elucidating the complexities of the municipal finance market. It's with that in mind that we've launched The Bond Buyer's Mid-Atlantic Municipal Market Conference, September 21 at the Union League Club, Philadelphia, PA—to help the region's municipal issuers explore all avenues available to their community to borrow money when it needs to and at the lowest possible costs while adhering to recent regulatory reforms.

This new conference will present a roadmap for issuers, delving into market changes, best practices, innovative funding options and what other evolutions could be ahead.

View the preliminary agenda.

Register online today!

Or contact Maria Lentz at (212) 803-6076 to register or for more information.

Sponsorship Opportunities Available

For more information about sponsorships and exhibiting, contact Meghan Rath at
(212) 803-6074.

Special Assessment Financing: CDFA // BNY Mellon Development Finance Webcast.

Topic: What's Special About Special Assessment Financing?

May 19, 2015

@ 1:00 pm Eastern

Special assessments are a useful financing tool for communities throughout the country, achieving a variety of development goals in different states. Similar to tax-increment financing, special assessments raise capital without affecting existing tax bases. However, special assessments often cover additional private costs, target specific industries, and incentivize beneficial behaviors. During this CDFA // BNY Mellon Development Finance Webcast, our expert panel will share the elements of this financial tool and showcase its diverse nature with examples from around the nation. Tune in to see how you can apply special assessment financing to promote a healthy economy in your community.

Speakers

Rena Nakashima
The Bank of New York Mellon

Jamie Licko
Centro Inc.

Click on the Register button below to confirm your participation and receive login information. Registration is free and open to all interested stakeholders.

Register.

Bill on Bank-Qualified Bonds Introduced in the House.

WASHINGTON – Rep. Tom Reed, R-N.Y., has reintroduced legislation that would increase the annual issuance limit for issuers of bank-qualified bonds to $30 million from $10 million.

The Municipal Bond Market Support Act of 2015, H.R. 2229, was introduced on Friday. It is co-sponsored by Reps. Richard Neal, D-Mass., Todd Young, R-Ind., John Larson, D-Conn., Randy Hultgren, R-Ill., and Ron Kind, D-Wis. The bill, which is similar to a measure that was offered in July of last year, has been referred to the House Ways and Means Committee.

Currently, banks can buy the bonds of issuers who issue $10 million or less of tax-exempt bonds per year and deduct 80% of their carrying costs, the interest expense they incur from purchasing or carrying an inventory of tax-exempt bonds. The $10 million limit was temporarily increased to $30 million under the American Recovery and Reinvestment Act, but that expired at the end of 2010. Outside of that temporary increase, the bank-qualified limit has never been raised or indexed to inflation.

The bill would raise the bank-qualified limit to $30 million and index it to inflation.

Additionally, it would apply the limit at the borrower level for 501(c)(3) nonprofit bonds. As a result, bonds issued for nonprofits that borrow no more than $30 million in bond proceeds in a year could be bank-qualified even if the issuer sells more than that amount of bonds annually.

“Municipal bonds are a lifeline to local communities looking to expand a high school or repair their infrastructure,” Hultgren said in a release. “These tools of ‘fiscal federalism’ allow municipalities to raise their own funds tax-free, using their own expertise and avoiding the heavy bureaucracy of the federal government. We should expand this Main Street financing tool for municipalities intimately connected to the needs of their communities."

Larson said that under the Municipal Bond Market Support Act, "bank-qualified bonds will enable smaller communities to finance these vital improvements, which in turn will create jobs, improve local economies, and ensure the safety of our citizens through much needed upgrades."

Reed and some of same co-sponsors introduced the similar bank-qualified bond bill last year, but it failed to gain traction.

A version of the Municipal Bond Market Support Act was introduced in the Senate in 2011. The Senator who introduced it – Jeff Bingaman, a Democrat from New Mexico – retired from the Senate in 2013.

Updating the bank-qualified bond rules is a priority for a number of municipal market groups. Associations including the Bond Dealers of America, the Government Finance Officers Association and the Independent Community Bankers of America lobbied for changes to the bank-qualified bond rules in recent letters to the Senate Finance Committee tax reform working group on community development and infrastructure.

"The increased limit and other fixes in the bill will give more opportunities particularly to the smaller issuers that our regional and middle market dealers serve," said Mike Nicholas, BDA's chief executive officer.

The Bond Buyer

by Naomi Jagoda

MAY 4, 2015 7:29pm ET

MSRB Report Shows Delayed Disclosures, MCDC Impact.

WASHINGTON – The annual average length of time between the end of the fiscal year and the date on which audited financial statements were submitted to EMMA was 448 days in 2014, sharply above the average of 342 days in 2013, a Municipal Securities Rulemaking Board report found.

The new study, released Wednesday, is an update to a similar report the board released in 2013. It is an analysis of issuer financial data submitted to EMMA between January 2010 and December 2014.

The second half of 2014 clearly showed increased filings as a result of the Securities and Exchange Commission's Municipalities Continuing Disclosure Cooperation initiative, the MSRB said in a release.

The MCDC initiative offered both issuers and dealers a chance to get lenient settlement terms from the SEC if they self-reported any instances during the past five years in which they falsely claimed in official statements to be in compliance with the issuer's self-imposed continuing disclosure agreements. Issuers were expected to bring their continuing disclosures up to date as part of that, including submitting old audited financials to EMMA that had not been previously filed. The submission of those long-delayed documents pushed the average up, the MSRB concluded.

The SEC lacks the authority to directly require issuers to file information before selling securities, but the commission's Rule 15c2-12 requires that dealers seeking to underwrite bonds review issuers' official statements and reasonably determine that the issuers have contracted in writing to disclose annual financial and operating information, as well as material event notices.

The SEC announced the MCDC in March last year The deadline for MCDC voluntary submissions was Sept. 10 for dealers and Dec. 1 for issuers, and the market is awaiting the release of the first wave of settlement agreements.

The MSRB data showed a sharp increase in the submissions of overdue audited financial statements soon after the program began. The data set analyzed for the study includes approximately 145,000 audited financial statement submissions and over 115,000 annual financial information submissions the MSRB received from 2010 to 2014.

"The significantly higher average number of days in 2014 compared to earlier years coincides with a significant increase in the number of audited financial statement submissions to EMMA in the second half of the year," the report found.

Without the delayed submissions being counted, the average time between the end of the fiscal year and the filing of audited financial statements was 200 days in fiscal 2014, virtually the same as it has been every year since fiscal 2010.

The timing of all annual financial information submissions was 374 days in 2014 compared to 261 days in 2013 counting the delayed submissions, but was 188 days for reports submitted within a year of the end of the previous fiscal year. That number is also consistent with past years.

The SEC has repeatedly declined to discuss specifics of either issuer or dealer participation, but market participants have said they believe most dealer firms and thousands of issuers submitted requests to participate in the initiative.

THE BOND BUYER

BY KYLE GLAZIER

MAY 6, 2015 11:42am ET

Muni Default History Poses a Ratings Riddle.

When is a triple-B bond safer than a triple-A? The answer, based on historical default rates, is when the triple-B is a municipal bond and the other is a corporate security.

The ratings divergence isn't only a consideration for investors trying to choose between munis and corporates. On June 15 a Dodd-Frank Act rule goes into effect that requires rating agencies to adopt procedures designed so credit ratings weigh default risk "in a manner that is consistent" for all rated obligors and securities.

The approaching deadline "creates an imperative to get everything lined up," said Mark Adelson, a former chief credit officer at Standard & Poor's.

S&P and Moody's spokesmen said they were taking the rule seriously.

“We’ve been making preparations for this for years,” a Moody’s spokesman said. “Most of the preparations are pretty much done. We’ve already made most of the changes.”

In the long run, the new rule “will only help the municipal upgrade trend,” said Municipal Market Analytics managing director Matt Fabian. “Historically municipal ratings have been too low and have exaggerated the risk of default.”

An attorney with experience in SEC regulatory compliance, speaking anonymously, said he was skeptical the current ratings for munis and corporates would be acceptable to the SEC.

“There is no way that is a uniform scale, and all it really takes to get the ball rolling is a complaint to the SEC that points out that disparity in default statistics,” he said.

As for the investor implications, since BBB munis offer higher yields than AAA corporates as well as a tax exemption that the corporates lack, some may ask: why should anyone or any entity own corporates?

Default Rates and Yields

Studies published by Moody’s Investors Service and Standard & Poor’s show that the default rates of munis 10 years after being rated BBB are lower than the default rates of corporates 10 years after being rated AAA.

According to a Moody’s report “US Municipal Bond Defaults and Recoveries, 1970-2013,” the 10-year cumulative default rate for munis rated Baa1, Baa2 or Baa3 was 0.32%. According to the same study, the rate for Aaa corporates was 0.49%.

S&P Wednesday released its latest default report. The study by analyst Lawrence Witte found that in the 10 years after municipal bonds were rated BBB-plus, BBB, or BBB-minus, 0.42% defaulted. A March 2014 study by S&P managing director Diane Vazza and several others found that in the 10 years after corporate bonds were rated AAA, 0.87% defaulted.

If that history provides guidance, then Chicago (Baa2) is a safer investment over the long-term than Microsoft (Aaa). Moody’s dropped the city’s general obligation rating in February, citing the city’s high levels of debt and pension obligations and expected growth in unfunded pension liabilities. S&P rates Chicago A-plus.

Even with lower default rates, investors in the munis are getting higher yields. On April 27, according to S&P Global Fixed Income, the average yield for a triple-A corporate bond with a 10 year maturity was 2.69%.

By comparison, according to Municipal Market Data on that date the average yield for a BBB general obligation municipal bond with a 10-year maturity was 2.94% and for a BBB taxable municipal bond with this maturity it was 4.13%. The BBB-rated muni yields are the average for BBB-plus, BBB, BBB-minus, Baa1, Baa2, and Baa3 bonds.

The interest of the GO would be tax-free while the interest from the corporate would be taxable.

After federal taxes, for those in the highest federal tax bracket, a corporate 10-year AAA bond bought on April 27 would have yielded 1.51% and the taxable muni would have yielded 2.31%. For those in a more moderate federal 25% tax bracket, these same bonds would have yielded 2.02% and 3.10% after federal taxes, respectively. These after-tax yields take into account federal taxes but not state or local taxes, which would normally lower the effective yield further.

Triple-B category GO muni bonds have consistently had more yield than AAA corporates. One year ago the spread was 31 basis points, five years ago 43 basis points, and 10 years ago nine basis points. None of these spreads take into account the impact taxes have in lowering corporate bonds' effective yields.

At any given point on the rating scale, munis have far less history of default than do corporates. In the 10 years after being rated Aaa 0.00% of the munis defaulted, while 0.49% of corporates defaulted, according to Moody's. Ten years after being rated Baa1, Baa2, or Baa3, 0.32% of munis defaulted, while 4.61% of corporates defaulted. Finally, in the 10 years after being rated Ba1, Ba2, or Ba3, 3.53% of munis defaulted, but 19.27% of corporates defaulted.

The Differences' Origin and Significance

Given munis' apparent superiority over corporates in terms of both yield and safety, The Bond Buyer asked several investment firms about the wisdom of holding corporates instead of munis. Citi, JPMorgan, Franklin Templeton, OppenheimerFunds, and Bank of America Merrill Lynch declined to answer.

MMA's Fabian said munis were frequently less liquid and less transparent than corporates. As for the liquidity issue, many munis "lack price discovery or ready markets," he said. Corporate bonds "often have a homogenous security pledge while municipal deals are essentially bespoke financings requiring that investors fully read the documents to know what they own."

"Lenders will look past these problems with municipals only because the default rates are so low," Fabian said.

At Charles Schwab, managing director Rob Williams and director Collin Martin wrote in an email that the default studies looked backward not forward. The migration of ratings upward by Moody's and S&P in the munis space in recent years may make their default rates more closely compare to corporates in the future. "Still, we expect that the default rate, on average, for investment-grade munis should remain lower than the default rate on investment-grade corporates," they wrote.

The Schwab officials also said there are fewer high-yield munis to choose from, compared with the selection of corporates. For investors who want to buy higher-yield bonds, corporates offer a wider choice, they said.

Corporate bonds can also be a wise choice for investors who plan to put them into tax-deferred accounts, like 401(k)s, they said.

"While default and recovery statistics appear better for municipal than like-rated corporate debt, that is based on historical information," said Howard Cure, director of municipal research at Evercore Wealth Management. "We are in a new era where we can see more municipal defaults going forward."

Alexandra Lebenthal, chief executive officer of Lebenthal Holdings, said she assumed that most corporate bonds are held in tax-deferred accounts, and people generally want to spread their eggs around.

The default rates and returns "show why munis make more sense," she said.

The U.S. Securities and Exchange Commission provision requiring comparability of ratings within an agency is paragraph (b)(3) of Rule 17g-8 on Nationally Recognized Statistical Rating Organizations.

In the final rule the SEC noted that the divergence between ratings' default rates at ratings agencies are not just between safer munis and riskier corporates. According to one study up to 2005, the five-year default rates of collateralized debt obligations at the lowest investment grade ratings from one ratings agency was about 10 times higher than the five-year default rates for corporate bonds, the SEC said.

The 2010 Dodd-Frank Act requires the SEC to examine each nationally recognized statistical rating organization once a year and issue an annual report summarizing the examination findings. The annual report to Congress is required by the Credit Rating Agency Reform Act of 2006.

In a December 2014 story on the SEC's increased demands on the ratings agencies, Moody's said in a statement to The Bond Buyer, "Moody's continues to enhance our policies and procedures in light of regulatory developments, and the SEC staff's findings and recommendations are helpful in that effort."

Ratings Agencies Respond

How the new rule affects ratings agencies' ratings remains to be seen.

In recent years both Moody's and S&P have engaged in recalibrations or applied new criteria to U.S. public finance, leading to broadly higher ratings for munis.

On average the changes were subtle. For example, in 2013 and 2014 S&P introduced a new local government rating criteria. This led to an approximately average 0.4 notch increase in the local government credits. Local government credits are 28% of all credits that S&P's U.S. Public Finance Group handles. So the changes to the local government rating criteria led to an average increase in ratings of about 0.1 notch across all the credits.

In 2010 Moody's did a recalibration of some of its municipal issuer ratings to address the category's comparative lack of risk at different rating levels. In categories closest to government, like general obligation and public water and sewer utility bonds, it raised ratings about one notch in the Aa category, two in the A category, and about three in the Baa category. Speculative grade ratings were left unchanged. For non-utility enterprise, public university, mass transit and a few other categories, S&P raised the ratings by one notch around the Aa and A categories. It left ratings unchanged for several other categories like nonprofits and public electric power utility bonds.

Neither S&P nor Moody's provided details on the overall average shift in their ratings due to these broad-based rating shifts.

One reason the ratings agencies maintain different levels of credit risks for given ratings between munis and corporates is that, "if you call [all municipal bonds] AAA then one is not creating a lot of value," for the user of municipal ratings, said Adelson, the former S&P chief credit officer, who now is chief strategy officer at BondFactor.

In response to queries from The Bond Buyer about the divergent default histories at a given rating between munis and corporates, S&P and Moody's gave similar answers.

"Comparability of ratings across asset classes and geographies is one of Standard & Poor's main goals and one of the benefits of our global ratings scale," S&P said in an email. "To accomplish this goal, we've adjusted all of our ratings to a common set of stress scenarios and definitions, which are embedded in all of our criteria.

"Our criteria are subject to regular periodic review across sectors to provide additional transparency and comparability. These improvements are intended to help market participants understand our approach to assigning ratings, enhance the forward-looking nature of these ratings, and enable better comparisons across ratings."

Moody's vice president Al Medioli said, "This is why Moody's underwent its recalibration back in 2010, which put all our ratings on a single, universal scale." He added, "Muni default rates are rising although still very low, and recovery rates are now similar to corporates in recent bankruptcies."

Both S&P and Moody's have known that default risks of their ratings diverge between corporates and munis since at least the early 1990s, Adelson said. They have shifted their responses back and forth over time but have never gone beyond making small adjustments to the ratings, he said.

THE BOND BUYER

BY ROBERT SLAVIN

MAY 6, 2015

Kyle Glazier contributed to this article.

Assessing Bond Insurers' Exposure to Puerto Rico Still Tough.

Seven years after their ranks were decimated by the housing crisis, bond insurers are back in the spotlight as Puerto Rico struggles to stave off default.

Companies including Assured Guaranty Ltd., MBIA Inc. and others insure more than $14 billion out of the $72 billion in debt outstanding by the commonwealth's government, utilities and other agencies, according to financial documents from the insurers.

But investors and analysts say the lack of detailed disclosure has made it hard to assess the insurers' capacity to pay potential Puerto Rico claims should the territory default. While companies disclose principal and interest owed across their entire portfolios, sizable interest costs aren't disclosed for individual bonds in some cases–including certain Puerto Rico debt.

Insurance-company financial statements are "more complex than looking at your average government," said Bill Bonawitz, director of municipal research at PNC Capital Advisors, which oversees $6.5 billion in municipal debt. "There's a lot more moving parts."

Puerto Rico has been burdened for years with a sluggish economy and a high debt load, and warned in a report this month that it "may lack sufficient resources" to fund government programs and pay its debt in the upcoming fiscal year. Puerto Rico has been negotiating with creditors, but it is unclear whether the talks will allow the island to avoid what could rank as one of the largest municipal defaults ever.

Puerto Rico bonds are widely held by U.S. mutual funds and individual investors, in part because of generous tax advantages. If an issuer such as Puerto Rico defaults, insurers agree to make the scheduled principal and interest payments.

The island's financial problems represent a major test for a bond-insurance industry that is still recovering from the financial crisis. Insurers lost billions of dollars during the crisis on the default of mortgage-backed securities and some have stopped writing new policies.

Investors have penalized surviving bond insurers in part for the difficulty of analyzing their books. Shares of Assured Guaranty and MBIA trade below their adjusted book value, a measure of net worth. Assured Guaranty stock closed Friday at $27.07, a 50% discount to adjusted book value, according to brokerage firm BTIG. MBIA closed at $8.74, a 65% discount.

"The stock prices of the bond insurers are where they are in part because of the complexity discount," said Mark Palmer, an equity analyst at BTIG.

Assured's stock is up 4.2% on the year and MBIA is down 8.4%, compared with a 2.8% advance on the S&P 500. Both companies' shares, however, are trading higher than they were during the depths of the downturn. From 2007 to 2009, MBIA's stock fell 94% to $4.50, while Assured Guaranty's fell by 58% to $11.29.

Some insurers are planning to improve their disclosures, making it easier for investors to assess their claims-paying abilities. National Public Finance Guarantee Corp., a unit of MBIA, said it plans on Monday to update its website to include both principal and interest exposure for individual bond issues. Currently, only the principal amount is listed.

The distinction is important because bond insurers are on the hook for both principal and interest payments if an issuer defaults.

Assured Guaranty doesn't provide a full list of individual bonds it insures across its various subsidiaries. But a spokesman said it provides principal and interest exposure on specific issuers "where we feel that may be useful to the market." A breakdown of its principal and interest exposure to Puerto Rico entities is available on its website.

For a report in January, research firm CreditSights had to estimate certain figures regarding the insurers' principal and interest exposure to Puerto Rico.

The firm concluded that Assured Guaranty and MBIA are strong enough to withstand defaults from Puerto Rico public agencies that were subject to a restructuring law passed last year. The law has been struck down by a federal court, but is on appeal.

Rob Haines, senior insurance analyst at CreditSights, said it would be "very helpful" if insurers offered more information on both their principal and interest exposure.

"I don't see why the companies can't disclose this themselves," Mr. Haines said. "It won't violate any kind of conflict of interest they have or any kind of confidentiality that they have."

Of particular concern to some investors are so-called zero-coupon or capital-appreciation bonds, which pay no interest until they mature and can cost municipalities more in interest than regular bonds. Puerto Rico has sold billions of dollars of these bonds, including $2.6 billion tied to sales tax revenue in 2007.

Ambac Financial Group Inc., another large insurer, backs $808 million of that. When interest is factored in, Ambac is actually responsible for roughly $7.3 billion. The numbers were disclosed in a special report regarding Ambac's Puerto Rico exposure. In a separate spreadsheet, Ambac lists the principal amount for every bond issue it insures, but it doesn't provide the interest.

"A more accurate disclosure would be to provide full principal and interest," Mr. Bonawitz said. "The issue is more acute when you have a zero, because the difference between the principal and interest is so much greater."

A recent report by Kroll Bond Rating Agency showed insurance policies can still be beneficial, saying bond insurers paid claims in full and on time in 26 of 29 insured municipal-bond defaults between 2008 and the present.

Bond insurance "has some value," said Doug Benton, an analyst at Cavanal Hill Investment Management, which oversees roughly $6 billion in assets. "But anybody that's lived through '07 through '09, you've got to discount it."

THE WALL STREET JOURNAL

By MIKE CHERNEY

MAY 10, 2015

Clean Energy Loan Program Raises Questions In Florida Supreme Court.

The Florida Supreme Court is debating a 2010 clean energy measure allowing homeowners to fund improvements through special assessments. Challengers are attacking the process itself and the agency that administers it.

In 2010 the state Legislature passed the PACE act. The measure allows local governments to set up a program funding home improvements for clean energy or storm preparedness through the Florida Development Finance Corporation, or FDFC. But rather than extending money for the improvements in the form of a loan—which would follow the borrower, this program is funded through the special assessment process. FDFC attorney Raoul Cantero explains.

"This allows a homeowner—let's use an example, to spend $20,000 on solar panels, and later, three years later, if the homeowner sells the house they're not responsible for that $20,000. It stays with the house, so homeowners are more comfortable making these kinds of improvements," Cantero says.

The idea is that homes that can better withstand a storm or place a lighter burden on the power grid provide benefits to the entire community. So to encourage homeowners to make those improvements, liability is tied to the property, and repayment is made through an increase tacked on to the homeowner's property tax.

Justice Fred Lewis says the system could provide an important tool for improving blighted areas.

"You know I could look at this, and I could say Detroit and some of the blighted cities, this could be a way that they could come right back," Lewis says

But he's also skeptical of employing special assessments, which are primarily used for public improvements, to fund projects for private homes.

"You know just because somebody puts a name on something, you know as well as I do you can call it anything," Lewis says. "I have never seen a case where it is benefits to an individual home that are being made like a home improvement loans, and it is qualified as a special assessment."

Those assessments have the Florida Bankers Association upset. While the program looks an awful lot like a loan, it's treated differently in the event of a foreclosure, with repayment of the tax assessment taking priority over the mortgage. Association attorney Ceci Berman says this violates the state constitution.

"And we know that under Florida law that it is an immediate contract impairment when you supersede a lien position," Berman says, "I meant that's been in the law for many years."

The FDFC came up again in the next case Justices heard Thursday; this time the complaint focused on bonding. The money homeowners use for their improvements has to come from somewhere, and Florida's program raises funds by selling municipal bonds. But attorney James Dinkins, argues only local governments can issue bonds—not the state-backed FDFC.

"The reason that these bonds are not valid is not because of any infirmity in section 163.08," Dinkins says, "but instead because Florida Development Finance Corporation is simply not a local government that's authorized to impose these assessments, to enter into financing agreements as is specified in that statute."

"They didn't follow the statute," Dinkins concludes, "therefore the bonds are not valid."

But the lawyer for the finance corporation says it simply administers the program on the municipality's behalf.

WFSU

By NICK EVANS • MAY 7, 2015

[New York Gov. Andrew Cuomo Gave Bond Deals To His Wall Street Donors, Despite Federal Rules.]()

New York Gov. Andrew Cuomo has since 2012 taken in more than $131,000 in campaign contributions from three major financial firms that were then tapped by his administration to manage state bond work, according to an International Business Times review of campaign finance documents and state bond prospectuses. The Democratic governor accepted the money — and his officials handed out the government business without competitive bids — despite federal rules that bar campaign contributors from receiving taxpayer-financed state bond work.

Last week, Cuomo officials designated the three banks that contributed the campaign funds — JPMorgan Chase, Citigroup and Bank of America — as the dealers for a $33 million bond issue, enabling the firms to reap lucrative fees. That came on top of the Cuomo administration assigning the firms to manage a $68 million bond issue last fall, even as federal law enforcement officials were investigating allegations that New York lawmakers were doing favors for political donors.

Federal rules bar states from awarding bond work to parties who have donated to gubernatorial campaigns within the last two years (more than $86,000 of the campaign cash from the firms flowed to Cuomo in the last two years). The rules aim to prevent financial firms from gaining influence over officials who have the power to select which firms receive the lucrative bond business. The rules explicitly seek to stop financial companies from circumventing those strictures: They prohibit firms from channeling contributions to bond overseers through PACs, which are giant pools of money distributed to multiple campaign war chests.

“The pay-to-play rules are very clear,” said Craig Holman, an ethics expert at the watchdog group Public Citizen. “If Andrew Cuomo’s receiving any money from a PAC controlled by a municipal dealer, he’d be in violation of pay-to-play rules.”

Cuomo’s office declined to answer IBTimes’ questions. Bank of America, Citigroup and JPMorgan Chase said they are in compliance with the federal rules. Though the banks acknowledge that their PACs have contributed to Cuomo’s gubernatorial campaign and also acknowledge that they received state bond work from the Cuomo-controlled New York State Housing Finance Agency, they maintain that the individual bond dealers did not contribute to the PAC that gave to Cuomo.

“Citi has two separate PACs, a state and a federal,” said Citigroup spokeswoman Molly Meiners. “To the extent anyone on our Muni team donates money, they are required to give to our Federal PAC only, which has never given to Cuomo.”

Bank of America and JPMorgan Chase echoed that portrayal.

The three banks declined to identify any of the professionals who work on their state and municipal finance deals, making it impossible to verify their claims.

Campaign finance experts and regulators say the banks’ defense is dubious in any case, telling IBTimes that the federal rule bars financial institutions from using indirect means to achieve what is explicitly prohibited.

“Circumvention of the rule through indirect contributions is prohibited,” said Lynnette Kelley, executive director of the Municipal Securities Rulemaking Board.

That interpretation is backed up by the Securities and Exchange Commission, which states that those prohibited from donating include “individuals who have an economic interest in seeing that the dealer is awarded municipal securities business.” The rule itself says it covers “any political action committee controlled” by the bond dealer in question.

Former SEC Chairman Arthur Levitt, who oversaw the implementation of the original rules, questioned the banks’ argument.

“If the entity that does the business has any relationship to the business and somehow or other gets campaign contributions to a political entity that controls the award of that business, it’s certainly a violation of the spirit of the rule,” he said.

The federal “pay-to-play” rule does contain one exception: If bond contracts are awarded by competitive bidding, then the prohibition on campaign contributions does not apply. But a spokeswoman for Cuomo’s New York State Housing Finance Agency, Catie Marshall, told IBTimes that none of the deals in question had been awarded via competitive bid. The agency was headed until January by Bill Mulrow, a former Blackstone lobbyist who is now the governor’s chief of staff.

The bond deals were announced by the Cuomo administration amid a sprawling federal corruption probe of Albany lawmakers’ relationships with political donors in the real estate industry. That investigation has already resulted in the arrest of the state legislature’s top Republican and top Democrat. In February, IBTimes reported that a Cuomo donor at the center of the probe saw his real estate firm receive subsidies from the same state housing agency that gave bond work to Cuomo’s financial industry donors.

As state attorney general five years ago, Cuomo made headlines prosecuting so-called “pay-to-play” cases at New York’s pension fund. His investigations ultimately led SEC officials to subject pension funds to the same “pay-to-play” rules that govern bond deals.

Those original rules, cemented in 1994, are now at issue in the Cuomo administration’s new bond offerings.

Michael Kink, the executive director of the Strong Economy for All Coalition, which has criticized Cuomo’s ties to the financial industry, slammed the governor for accepting the donations and then awarding the bond work to the banks.

“New Yorkers deserve careful compliance with rules against pay-to-play transactions from government officials,” Kink told IBTimes. “These donations are the latest indication that Albany hasn’t really changed under the Cuomo administration — and that top officials are so eager to help big-money Wall Street campaign donors that they’ll bend or break rules, regulations and laws in the process.”

International Business Times

By Matthew Cunningham-Cook

May 11, 2015

Feds Offer Puerto Rico Advice, But No Bailout.

Investors wondering about the U.S. government’s role in the Puerto Rican debt crisis are hearing echoes of Detroit.

In 2013, lawmakers opposed a federal bailout of the auto-producing hub, and the Obama administration didn’t step in to prevent the largest municipal bankruptcy in U.S. history, in July of that year. The Treasury has a similar no-rescue approach with the Caribbean island beset by unsustainable debt.

What Treasury officials are offering Puerto Rico is advice on how to help ease its fiscal burdens and ensure the U.S. territory receives all federal funding it’s eligible for — about $6 billion a year. More extensive aid such as loan guarantees requiring Congressional approval is unpopular with lawmakers, and it’s unlikely the federal government will aid Puerto Rico after refusing to help Detroit, investors said.

“I can’t see any way that they would do that when they didn’t do it for Detroit,” said Brandon Barford, partner at Beacon Policy Advisors LLC in Washington and a former Senate Banking Committee staffer. “Treasury could ask, but it would only exacerbate market disruptions if prices spiked and then fell even further after an inevitable congressional defeat.”

Instead, the Obama administration is making a special effort to support the $100 billion Puerto Rican economy by helping the commonwealth and its residents take full advantage of aid that’s available to it through programs such as Social Security and Medicaid, and funds for nutrition, education and agriculture.

Infrastructure Funds

Another channel is financing for infrastructure expenditures with federal money that allows the

Puerto Rican government to use its own funds elsewhere, said Daniel Hanson, an analyst at Height Securities LLC, a Washington-based broker-dealer.

Puerto Rico and its agencies owe $73 billion. The U.S. municipal debt market, which includes securities of states, cities and counties, is worth $3.6 trillion. While debt sold by the commonwealth and its agencies has lost 2.3 percent this year through Tuesday, the broader municipal market has gained about 0.3 percent.

Even though the law allows the Fed to buy municipal bonds in durations of up to six months, "it would be extraordinarily unlikely that the Fed would take such action on any muni debt, much less that of Puerto Rico," Hanson said in an e-mail Tuesday.

'Political Fallout'

"The Fed would need to be comfortable establishing such a precedent" and "be able to stomach the political fallout," he said.

While Puerto Rico's debt is tax-exempt and was once popular among traditional buyers of municipal bonds such as mutual funds, its financial troubles are pushing more of the securities into the hands of alternative asset managers and distressed buyers speculating on price swings.

As a result of the shift, the Fed no longer sees a Puerto Rico default as a threat to the broader U.S. financial system, Barford said.

A Fed spokesman declined to comment.

The Government Development Bank of Puerto Rico, which acts as the island's fiscal agent, financial adviser on bond sales and handles the same debt-management functions local treasury officials perform in the U.S. states, is not federally regulated and doesn't have access to Fed's discount window, a lending facility aimed at boosting liquidity, according to Hanson.

Weiss Visits

As the crisis dragged on, Treasury officials have traveled to the territory since at least 2013 to discuss its finances. Antonio Weiss, counselor to the Treasury secretary, and Kent Hiteshew, who runs the office of state and local finance, met with officials in San Juan earlier this year.

Secretary Jacob J. Lew spoke by phone with Puerto Rico Governor Alejandro Garcia Padilla, Senate President Eduardo Bhatia and House of Representatives President Jaime Perello Borras on April 28. Lew urged the officials to develop a "credible" budget and implement a long-term fiscal plan.

Treasury spokesman Daniel Watson reiterated on Monday that "federal policy experts are sharing their expertise with the Puerto Rican officials that are leading the Commonwealth's economic policies, but these efforts should not be interpreted as any kind of federal intervention."

Options such as the federal government possibly guaranteeing a Puerto Rico financing haven't been offered by the U.S. Treasury or the Federal Reserve, Senator Jose Nadal Power, said in an interview May 5 in San Juan.

'Helpful' Advice

"So far they haven't been open to that," said Nadal Power, who chairs the Senate Finance Committee in the Puerto Rican legislature. "They've been very helpful in terms of advice. And they’ve been very aware of what is going on on the island.”

The U.S. Treasury’s efforts may include crisis planning and facilitating talks with investors, Barford said.
Another option would be to help Puerto Rico’s electric authority by seeking legislation that would allow it to bypass some federal regulations, said Richard Larkin, senior vice president and director of credit analysis in Boca Raton, Florida, with Herbert J. Sims & Co.

Matt Fabian, a partner at Concord, Massachusetts-based Municipal Market Analytics, said the only situation in which the administration would be willing to provide aid to Puerto Rico would be to help keep order if a default leads to social unrest.

Cash Crunch

Puerto Rico, which has struggled to grow since 2006, faces a cash crunch and has been unable to pass a tax overhaul that would have paved the way for a $2.9 billion debt sale.

Standard & Poor’s, which downgraded Puerto Rico to CCC+ in April, doesn’t expect any extraordinary federal assistance.

“Our general-obligation rating on the commonwealth does not assume any federal intervention to either improve the island’s economy or to provide extraordinary financial assistance,” S&P analyst David Hitchcock said in an e-mail Monday. “To the extent there was extraordinary federal assistance, it would be a positive rating development, but one that we do not expect.”

After the financial crisis of 2008, Congress took some tools away from Treasury. For instance, the Exchange Stabilization Fund, which had been used to help Mexico during the 1990s, can no longer be tapped for emergency purposes, Barford said.

“Beyond asking for Congress to appropriate money or the Fed purchasing bonds — highly unlikely due to politics — there are no other pots of money that could be used for direct and unrestricted fiscal relief,” he said.

Bankruptcy Bill

Even a bill that would allow Puerto Rico to file for Chapter 9 bankruptcy protection is unlikely to pass, according to analysts including Robert Donahue at Municipal Market Analytics in Concord, Massachusetts.
Intervening to rescue the island’s finances could actually spook markets, signaling that problems are larger than investors now believe, Hanson said.

“If Treasury were to take such extraordinary steps, the types of steps that are supposed to be reserved for a Lehman-style crisis, to bail out Puerto Rico, that would send the wrong message,” he said, referring to the $613 billion collapse of investment bank Lehman Brothers Holdings Inc. in 2008.

Bloomberg

by Kasia Klimasinska

May 6, 2015

Puerto Rico Fights to Restore Law Allowing Public Debt Revamp.

Puerto Rico is trying to revive a law allowing its public agencies and utilities to restructure their mounting debt as Detroit and other U.S. cities have done.

Creditors won the first fight in the case by persuading a federal judge in San Juan to throw out bankruptcy protections similar to those alloted municipal entities in the 50 U.S. states.

Puerto Rico on Wednesday is asking the U.S. Court of Appeals in Boston to reverse that ruling as the commonwealth struggles with $73 billion in debt.

By blocking enforcement of the restructuring law, the lower court relegated Puerto Rico “to an anomalous legislative no man’s land,” lawyers for Governor Alejandro Garcia Padilla and Secretary of Justice Cesar R. Miranda Rodriguez said in a court filing. “If Congress had intended to leave utilities, and the people they serve, at the mercy of their creditors, it surely could and would have so indicated.”

Franklin Resources Inc. and OppenheimerFunds Inc. investment funds and BlueMountain Capital Management LLC won a ruling in February from the judge in San Juan that the local restructuring law was in “irreconcilable conflict” with federal statutes. The firms, which at one time held about $2 billion in bonds issued by the Puerto Rico Electric Power Authority, alleged that the new law might force them to accept unfavorable restructuring terms if the heavily indebted utility sought to use it.

Congressional Intent

The dispute springs from the island’s status as a U.S. territory dependent on federal lawmakers to grant it benefits provided states. Congress intended to exclude Puerto Rico from Chapter 9 bankruptcy protections, the investment funds argue.

Commonwealth officials “argue for a topsy-turvy world, where Congress’ expressed preemption of state-enacted municipal bankruptcy laws becomes an option for states to enact such laws,” lawyers for some of the investment funds said in court filings.

The island’s agencies may seek protection under those provisions “only if the legislative body that exercises ultimate control over them — Congress — determines to so authorize,” lawyers for the funds said.

After years of borrowing to balance budgets, Puerto Rico and its agencies have racked up $73 billion of debt, more than any U.S. state except California and New York. Because most of the debt is tax-exempt nationwide, it’s held by mutual funds and individual investors.

Creditor Negotiations

The island has struggled to grow since 2006 and is losing population, spurring speculation it will fail to repay the obligations. Puerto Rico’s power utility has been negotiating with creditors and may ask them to take a loss, which would be the biggest restructuring ever in the municipal-bond market.

The commonwealth’s debt has been trading at distressed levels since August 2013. Prices on Puerto Rico’s newest general obligations touched the weakest yet after the governor’s tax overhaul proposal was rejected by lawmakers.

Bonds maturing in July 2035 traded May 1 at an average price of 77.57 cents on the dollar, the lowest since they were issued in March 2014, according to data compiled by Bloomberg. The average yield on the tax-exempt securities was 10.74 percent.

The Puerto Rico Public Corporations Debt Enforcement and Recovery Act was passed under threat of "fiscal emergency" last year, the bondholders alleged. Investors called the law a "harsher copy" of federal bankruptcy provisions that allow financially distressed municipal entities to seek protection from creditors while negotiating changes to debt terms.

The island's representative in Congress, Pedro Pierluisi, has been advocating for a bill to amend the bankruptcy code to include Puerto Rico. The measure, which was a subject of a House Judiciary Committee subcommittee hearing this year, is supported by most of the island's creditors, Pierluisi said in a statement in February.

The case is Franklin California Tax-Free Trust v. Commonwealth of Puerto Rico, 15-1218, U.S. Court of Appeals for the First Circuit (Boston).

Bloomberg

by Christie Smythe

May 6, 2015

Puerto Rico Appeals for Options to Restructure $9 Billion in Muni Debt.

Puerto Rico's troubled electric utility on Wednesday asked a U.S. appeals court for an alternative to restructure some $9 billion in debt, saying it would otherwise be at the mercy of U.S. bond funds.

The Puerto Rico Electric Power Authority (PREPA) is seeking to reverse a federal judge's decision in February that blocked the utility's bid to restructure its debt under court supervision, much like in a bankruptcy case. The legal battle moved on Wednesday to Boston where lawyers for both sides argued for more than an hour before the U.S. Court of Appeals for the First Circuit.

The Puerto Rico Public Corporation Debt Enforcement and Recovery Act, passed last year, was supposed to give PREPA some breathing room as it slipped into financial crisis. But OppenheimerFunds, a unit of insurer MassMutual Financial Group and Franklin Templeton, immediately sued the utility and argued that the recovery act violates the U.S. Constitution.

The value of PREPA's long-dated bonds dropped about 15 percent as investors feared the Recovery Act would prevent them for getting full payment of principal and interest. Municipal bond funds run by OppenheimerFunds and Franklin Templeton were hit particularly hard, as they were among the largest investors in the PREPA debt.

But as PREPA lawyer Lewis Liman, of Cleary Gottlieb Steen & Hamilton LLP in New York, put it to the appeals court, the absence of restructuring alternatives is "a euphemism for a stick up, a euphemism for pay me or else."

PREPA is largely the only source of electricity for Puerto Rico, which is battling a dwindling population and the exodus of its businesses. PREPA's electric rates, meanwhile, are about two times higher than what mainland U.S. utilities charge, leaving PREPA no room to boost revenue.

“There’s just not a pot of money there to raise rates,” Liman said.

Lawyers representing the interests of the U.S. funds and the insurance companies that back municipal bonds argued that Puerto Rico’s recovery act would undercut the rights of bondholders. Matthew McGill, a lawyer for BlueMountain Capital Management, said Congress passed Section 903(1) of the Bankruptcy Code to prevent states and territories such as Puerto Rico from passing their own bankruptcy laws.

“Congress’ intention was not to give them carte blanche,” McGill told the court. Uniformity, lawyers for investors argue, is essential for the smooth operation of the $3.7 trillion municipal bond market.

Martin Bienenstock, a lawyer for the Government Development Bank for Puerto Rico, said that Congress has affirmed Puerto Rico’s constitution, which allows it to use police powers in a time of crisis.

Bienenstock said those police powers can be used to deal with an economic crisis, too.

The appeals court did not make a ruling in the case, giving no indication of when a decision might be made.

“It’s a very important case and we will work very hard on it,” Chief Judge Sandra Lynch said.

The First Circuit includes the Districts of Maine, Massachusetts, New Hampshire, Puerto Rico and Rhode Island

BOSTON | BY TIM MCLAUGHLIN

(Reporting by Tim McLaughlin; Editing by Diane Craft)

May 6, 2015

TAX - MISSISSIPPI

Castigliola v. Mississippi Dept. of Revenue

Supreme Court of Mississippi - April 30, 2015 - So.3d - 2015 WL 1955575

Taxpayer challenged Mississippi Department of Revenue’s use tax assessment on his purchase of a yacht in Florida involving marketing services of a broker. The Chancery Court granted summary judgment for the Department. Taxpayer appealed.

The Supreme Court of Mississippi held that:

- The Department had burden to prove the purchase was within the state’s statutory authority to tax, and
- As a matter of first impression, taxpayer’s use of a broker did not make the casual sale taxable.

Casual-sales exception to sales and use tax was an exclusion and not an exemption, therefore, Mississippi Department of Revenue had the burden to prove taxpayer’s boat purchase in Florida was within the state’s statutory authority to tax.

Taxpayer’s use of a broker, in what was otherwise a casual sale, to purchase a yacht in Florida, in order for taxpayer to qualify for Florida sales tax exemption, did not trigger Mississippi’s use tax, and therefore, Mississippi Department of Revenue's tax assessment was arbitrary and capricious.

TAX - MICHIGAN

Lucre, Inc. v. City of Grand Rapids

Court of Appeals of Michigan - April 28, 2015 - Not Reported in N.W.2d - 2015 WL 1931223

Lucre, Inc. is a telephone company and one of its business premises is leased from Kent County. The subject property is located in the city of Grand Rapids.

The Michigan Tax Tribunal took up the issue of whether the property should be taxed by the City of Grand Rapids, or the State of Michigan.

The Tribunal concluded that because petitioner did not *own*, use, and occupy the subject property – as required by statute – it was not subject to assessment by the State, and Lucre's interest in the subject property was assessable by the City.

Report Calling for Consolidation of Some St. Louis County Police Departments Draws Angry Reaction.

Northwoods Police Chief Earl Heitzenroeder said Monday that he hadn't heard a Washington-based police policy think tank was calling for the end of his department, but he didn't think much of it.

The department, whose 21 officers patrol 0.71 square mile of north St. Louis County, is one of many police departments in the county that seem more focused on raising revenue through tickets than keeping the public safe, according to a report issued Monday by the Police Executive Research Forum.

As the Post-Dispatch reported Sunday, reforms suggested by the research group include a proposal to combine 18 police departments in north St. Louis County into three clusters. Under the proposal, the police departments in Northwoods and several of the town's neighbors would become part of the much larger University City Police Department, which has 66 officers patrolling 6 square miles. Two other clusters would be part of St. Louis County police precincts.

"I know what they're getting at, but I have no comment on that," said Heitzenroeder. "Might be like me coming down and telling you how to run your newspaper."

The report noted that about a third of the county's municipalities have police departments that cover less than a square mile. The fragmentation makes it difficult to coordinate crime-fighting efforts regionwide, it said.

Several police and municipal officials lashed out at the report on Monday, saying they were upset that the research group did not contact them for comment.

"They haven't come by here," said Velda City Police Chief Dan Paulino. "I don't know what surveys, what audits or what they've looked at. But they certainly have not come here. … I seriously question the research they used to come up with whatever they printed."

The 79-page report recommended centralized training, data collection and communications for police across St. Louis and St. Louis County, and strengthening oversight of officers.

The group said the St. Louis area's fragmented, revenue-oriented policing, uneven standards for law enforcement officers and the perception of racial bias undermine public safety and have contributed to high crime rates and costly services.

The report was commissioned by Better Together, a St. Louis-based nonprofit group studying possible benefits of regional cooperation, which has published a series of reports pointing to inefficiencies in public safety, public finance, public health and economic development.

Chuck Wexler, the research group's executive director, said he was not surprised by the negative reaction.

He said the investigators who studied St. Louis-area policing had never seen anything like the dozens of tiny municipalities stacked on top of one another, using their police to raise revenue. The study found that police departments in a number of those cities were lacking.

"These cities were picked based upon high crime rates, high amounts of tickets written and a high number of officers, and they stopped people at a significant rate for minor things," he said. "So it wasn't like we picked them arbitrarily. We had criteria.

"Ultimately, these decisions are made by the people who live in these communities," he added.

"The people who live there deserve the best type of policing and the best service."

But Alan Baker, the city attorney for Hillsdale, questioned whether the best service would be turning his city's policing over to University City.

He said about a decade ago, "we floated a proposal to St. Louis County about what it would cost and what we would receive if they took over the police department. … I could tell you at the time their bid was between 30 and 40 percent more than we were paying and it was for half the service. They were going to have one officer on a shift instead of a minimum of two."

The study didn't mention anything "about what U. City's officers could do that our officers aren't doing."

Myrtle Spann, mayor of Beverly Hills, said she had not heard about the report calling for her city to join University City's police department.

The policing policy group pointed to her city's massive rate of arrests for nontraffic offenses, such as housing code violations: 1,088 violations per 1,000 residents. By comparison, St. Louis County police make just 21 such arrests per 1,000 people.

"This is something I believe has to be started by our citizens," she said. "They're the ones who started our police force."

St. Louis Post-Dispatch

May 04, 2015 11:15 pm • By Jeremy Kohler

TAX - OHIO

Saturday v. Cleveland Bd. of Rev.

Supreme Court of Ohio - April 30, 2015 - N.E.3d - 2015 -Ohio- 1625

Nonresident professional football player sought income tax refund. The Central Collection Agency, city's tax administration authority, denied claim, and player appealed. The Board of Review upheld Agency's decision, and player appealed. The Board of Tax Appeals ruled that city's municipal-income-tax ordinance and the nonresident-professional-athlete regulation did not operate in contravention of any state statute, and player appealed.

The Supreme Court of Ohio held that player, whose team played a game in city, but who remained in Indianapolis participating in team-mandated activities, was not liable for city municipal income tax.

None of player's work was performed in city, player's service to his employer encompassed his rehabilitation activity outside city on the day of football game in city, player's absence from city and his performance of duties elsewhere on the same day suggested that the imposition of city tax would constitute extraterritorial taxation.

S&P RFC: Not-for-Profit Public and Private Colleges and Universities.

1. Standard & Poor's Ratings Services is requesting comments on proposed changes to its methodology for assigning stand-alone credit profiles (SACPs), issuer credit ratings (ICRs), and issue credit ratings to not-for-profit public and private colleges and universities globally.

2. The request for comment (RFC) proposes changes that are intended to provide additional transparency to help market participants better understand our approach in assigning ratings to not-for-profit public and private colleges and universities globally, to enhance the forward-looking nature of these ratings, and to enable better comparison between these ratings and ratings in other sectors and asset classes.

3. If adopted, these criteria will supersede "Approaches To Rating U.K. Universities Amid Growing Credit Diversity," published March 28, 2003. These criteria would also partially supersede the "Higher Education" criteria, published June 19, 2007. Specifically, the sections "Private College and University Credit Ratings", "Management and Governance", "Debt", and "Rating Public Colleges and Universities" would be superseded by these criteria. This methodology is related to our criteria article: "Principles Of Credit Ratings", published on Feb. 16, 2011.

Continue reading.

08-Apr-2015

S&P 2014 Annual U.S. Public Finance Default Study and Rating Transitions.

U.S. public finance (USPF) exhibited growing credit strength in 2014, following a similar performance in 2013. Upgrades outpaced downgrades by a ratio of 3.38 to 1 for nonhousing bonds and 2.6 to 1 for housing bonds, for an overall ratio of 3.33 to 1. Positive rating trends were more evident across the various sectors as both housing and nonhousing bonds had more upgrades than downgrades in 2014 whereas the ratio of housing upgrades to downgrades was 1 to 3 in 2013. The positive trend was also more consistent in 2014 as upgrades outnumbered downgrades in every quarter for the first time since 2007. Defaults slowed as well, with eight occurring in 2014 compared with 15 the previous year.

A significant factor in the positive rating change trend was the implementation of new criteria for local governments and for unenhanced multifamily properties. More than 4,000 local government ratings fall under the local government criteria. Following a review from mid-September 2013 through Sept. 30, 2014, Standard & Poor's Ratings Services upgraded 41% of these credits based on the new criteria and downgraded 4%. The difference between the actual and anticipated (30% upgrades and 10% downgrades) rating changes is attributable to qualitative analysis and updated information. The impact of the housing criteria was much less in terms of the number of ratings, but the trend was in the same direction as the criteria contributed to 50 upgrades and 19 downgrades. Strengthening economic fundamentals also provided a lift to rating trends, particularly for local government ratings. Furthermore, local government and unenhanced multifamily housing ratings combined for two defaults in 2014, indicating that the criteria accurately capture their credit risk. (Watch the related CreditMatters TV segment titled, "Standard & Poor's Spotlights Its U.S. Public Finance Default And Rating Transition Study," dated May 6, 2015.)

Overview

- Standard & Poor's upgraded 2,224 bond ratings while downgrading 658 in nonhousing USPF in 2014.
- There were 117 housing upgrades and 45 downgrades in 2014.
- All but two sectors in USPF — higher education and health care — had more upgrades than downgrades in 2014.
- Eight defaults occurred in USPF in 2014 compared with 15 the previous year.
- Since 1986, the average annual number of defaults in all of USPF combined is five, out of a universe that now surpasses 21,000 ratings.

[Continue reading.](#)

05-May-2015

[S&P Issuer Credit Ratings for Community Development Finance Institutions (CDFIs).](#)

Standard & Poor's Ratings Services' U.S. Public Finance Housing Enterprise Group assigned and released its 'AA' issuer credit rating (ICR) on Clearinghouse CDFI, Calif. on April 2, 2015. Subsequently, on April 28, 2014, Standard & Poor's assigned and released its 'AA-' ICR on Housing Trust Silicon Valley (HTSV), Calif. For both ratings, despite comprising a very minimal sample, Standard & Poor's found some common trends within the community development finance institution (CDFI) industry involving strategy and management (impact) and financial performance. In particular, we found CDFIs have minimal loss exposure that can typically be absorbed through reserves and unrestricted equity. Moreover, the debt profiles of those assessed, and the first two CDFI entities we rated publicly, have low-risk debt, with little long-term liabilities. In addition, we found the history of loan performance for publicly rated CDFIs has historically been positive, with very few delinquencies. We believe the ratings for Clearinghouse and HTSV are solid and present a level of stability in line with the 'AA' rating category.

Standard & Poor's began analyzing the industry using its housing finance agency (HFA) criteria to assess various CDFIs nationwide, where public financial statements were made available via their respective public websites. We concluded with a small sample of five distinct CDFIs using three to five years of financial statements to assess common trends. We subsequently found each CDFI to be a unique entity, despite having similar core social missions. Each has their own distinct lending activity, ranging from housing finance (first-time homebuyers and affordable multifamily housing) and commercial/small business lending to charter school lending. We determined that our state "Housing Finance Agencies" criteria (published June 14, 2007) was most applicable to form an appropriate credit opinion for each CDFI, factoring core missions, portfolio, credit risk, and management. We also used "Criteria: Principles of Credit Ratings" (published Feb. 16, 2011) to apply U.S. Public Finance ICR criteria for this analysis. As a result, we view CDFIs as similar to HFAs, albeit with a broader range of lending activity for community development, rather than mortgage loan programs, posing the greatest risk.

In our initial financial analysis using the above-mentioned criteria, we found from our publicly rated CDFIs and the small sample assessed that the CDFIs' liquidity ratios tend to be similar to those of state HFAs — and, in some scenarios, with equity ratios in line with or above our rating categories for social lending issuers. In our view, funding sources and equity levels go hand-in-hand. For example, CDFIs with more reliance on federal grants may have more annual revenue volatility. In some instances, however, prudent risk management allows for a gradual increase in equity, leading to very stable financial performance. While some CDFIs' equity may be lower than those of publicly rated social lending institutions, their total equity-to-total debt tends to be either extremely high (representing little debt, with adequate equity), or very steady, coupled with stable financial performance. Despite the size of the CDFIs' balance sheets and overall loan portfolios, their assets and liabilities tend to be adequate or have appropriate ratios.

Continue reading.

07-May-2015

Municipal Issuer Brief: Update On Bank Municipal Investment Rules.

Read the Brief.

Municipal Market Analytics | May 5

Has 'Debt' Become a Four-Letter Word?

States and localities are afraid to take on new debt these days, missing a golden opportunity to invest in infrastructure and other long-term projects.

As states and localities have adjusted to a slow-growth economy, one of the main casualties of the shift has been investments in infrastructure and other long-term programs. In other words, governments aren't taking on new debt these days. It's a surprising development since interest rates are at historic lows, making it cheaper than ever to borrow.

State debt has slowed so much that Iowa State Treasurer Michael Fitzgerald is urging cities, counties and the state to borrow more. “Our infrastructure continually needs to be improved, whether it’s schools, roads, even prisons,” Fitzgerald told the Des Moines Register earlier this year. “With interest rates as close to zero as you’re ever going to find them, we could be missing an opportunity.”

Still, by all indications, the debt shrinkage will continue in 2015 as governments focus much of their bonding efforts on refinancing rather than issuing new debt. “We’ve seen a political anti-debt sentiment build up in parts of the country,” said Emily Raimes, a state government analyst with Moody’s Investors Service. “It’s partly due to the federal debt ceiling that’s made people very aware of the issues around having a lot of debt and partly due to the mood around pensions and issues of funding being a real long-term burden.”

So has debt become a four-letter word for states and localities?

While there are many kinds of healthy debt, there’s also no such thing — despite Fitzgerald’s pleadings — as too little debt from a credit perspective, said Raimes. “To the extent states pay for projects with cash on hand and not with long-term debt,” she said, “we do not see that as any kind of credit negative.”

Different kinds of long-term debt can mean different things for a government’s health and outlook. Most of this debt is viewed as reasonable in the sense that it is typically issued for a public institution or a project that will continue to be a benefit to the community over the lifetime of the debt. And, of course, there are nuances. For example, Moody’s last month downgraded Bristol, Va., largely because the agency saw the city as over-leveraged in risky debt.

But there is one kind of debt that many agree is the equivalent to sending out a distress flare: long-term debt to cover budget shortfalls, also called deficit financing. Governments that take on this type of debt are usually doing so under extreme duress. It’s not unusual for governments to issue short-term debt to cover cash flow throughout the year. That process is akin to a consumer using a credit card to cover payments, then paying off the card at the end of the month when his paycheck comes in. But deficit financing can mask systemic problems with a government’s budget.

Chicago issued roughly $9.8 billion in bonds between 2000 and 2012. An investigation by The Chicago Tribune found that less than a third went to fund capital improvements while nearly half went to meet short-term budget needs like equipment purchases and one-time legal expenses. Chicago’s money troubles have led to multiple downgrades and a deteriorating pension system.

A big unfunded pension liability can also entice lawmakers to issue bonds to pay down that liability. But such a move carries the risk that the government could pay more in bond interest than that investment will earn in the pension system.

What’s important when it comes to debt is what a government can handle financially and politically. California suffered downgrades during the Great Recession as the state faced a budget crisis with little wiggle room to fix it. The state has a volatile income tax revenue stream, a tax hike requires a two-thirds approval from the legislature and it has statutory school funding requirements. Since then, California has passed two major ballot measures that raised taxes and established a new funding formula for its rainy day fund that manages against the state’s revenue volatility. Both of these have significantly contributed to the state’s improved credit picture.

It’s also important not to take on too much debt. Generally analysts like to see states leverage no more than 15 to 20 percent percent of their general fund to service debt. But there are exceptions. A decade ago, Loudoun County, Va., had a substantially higher debt burden, says Moody's local government analyst Julie Beglin. But it was also the fastest-growing county in the country. "It was clear that a lot a developments were going in and they had a very high debt burden because of that," she said. "But we did not take down their rating because we thought they could afford it."

GOVERNING.COM

BY LIZ FARMER | APRIL 30, 2015

[Illinois Bid to Solve $111 Billion Pension Shortfall Is Dead.]

The Illinois Supreme Court rejected the state's solution for its worst-in-the-U.S. $111 billion pension shortfall, handing organized labor a victory while deepening a crisis with national implications.

The court unanimously struck down a 2013 law, saying cuts in cost-of-living increases and a higher retirement age violate the state constitution's ban on reducing worker retirement benefits.

Across the nation, state and local governments grapple with pension deficits that exceed a combined $2 trillion, according to a Moody's Investors Service report last year. Closing that gap by reducing payments to retirees would abrogate union contracts in many states and even constitutional guarantees. In Illinois, Chicago is grappling with $20 billion in unfunded pension liabilities that threaten its solvency.

"Crisis is not an excuse to abandon the rule of law," the seven-member Illinois court ruled. "It is a summons to defend it."

State constitutions have been invoked elsewhere to prevent cuts to public pensions. In Rhode Island, unions settled with the state over cuts before their constitutional challenge could be put to the test. In municipal bankruptcy cases in Detroit and California, judges ruled that federal law can override state bans on cutting pensions.

Illinois Governor Bruce Rauner said he wasn't surprised by Friday's ruling. The Republican told reporters in Chicago that the measure "violates basic contract law." His own pension proposal, which is central to his budget for the coming fiscal year, is legal, Rauner said. He said his plan wouldn't reduce currently promised benefits.

Downgrade Threat

Friday's ruling raised the prospect of further downgrades by credit-rating firms. Investors already have been punishing Illinois. Its 10-year bonds yield about 3.7 percent, the highest since November and the most among the 20 states tracked by Bloomberg.

The Illinois bill was signed by former Governor Pat Quinn, a Democrat, in late 2013. A judge blocked the measure before it took effect after public-worker unions sued. Attorney General Lisa Madigan in March asked the high court to resurrect it.

During arguments before the court in March, Solicitor General Carolyn Shapiro argued the state should be able to make laws to protect public welfare and safety during fiscal crisis.

But the judge who voided the law concluded it violated a provision of Illinois's constitution that bars the diminishment of public-worker retirement benefits. The seven-member high court agreed.

“We do not mean to minimize the gravity of the state’s problems or the magnitude of the difficulty facing our elected representatives,” Justice Lloyd Karmeier wrote. “It is our obligation, just as it is theirs, to ensure that the law is followed.”

Natalie Bauer Luce, a spokeswoman for Madigan, said in an e-mailed statement that, “The Court has provided a definitive interpretation of the Constitution that must now guide the legislature and the Governor.”

Chicago Mayor Rahm Emanuel, a Democrat, drew a distinction between the rejected law and a separate agreement his administration negotiated with some city unions whose members will pay more for fewer benefits.

“That reform is not affected by today’s ruling, as we believe our plan fully complies with the State constitution because it fundamentally preserves and protects worker pensions,” Emanuel said in a statement.
Illinois Republicans lamented the court’s action.

“I respect the Illinois Supreme Court, but disagree with the ruling,” House of Representatives Republican Leader Jim Durkin said in an e-mailed statement. “I am prepared to continue working on meaningful legislative reforms to save our public pension systems.”

Retiree ‘Victory’

Democratic Senate President John Cullerton called the ruling “a victory for retirees, public employees and everyone who respects the plain language of our constitution.”

The outcome, he said, “should be balanced against the grave financial realities we will continue to face without true reforms.”

We Are One Illinois, a coalition of public-worker unions that pressed the legal challenge, applauded the decision.

“With the Supreme Court’s unanimous ruling, we urge lawmakers to join us in developing a fair and constitutional solution to pension funding,” state AFL-CIO President Michael T. Carrigan said Friday in a coalition statement. “We remain ready to work with anyone of good faith to do so.”

The case is In Re Pension Reform Litigation, 111585, Illinois Supreme Court (Springfield).

Bloomberg

by Andrew M Harris and Elizabeth Campbell

May 8, 2015

Muni Quirk Offers Free Money Over Treasuries With Same Guarantee.

Pre-refunded munis, which are tax-exempt bonds whose repayment is guaranteed by holdings of U.S. government debt, yield about 0.9 percent on average, the same as similar-maturity Treasuries, Bank of America Merrill Lynch index data show. The munis typically yield less than Treasuries because investors aren't taxed on the income. In February, the gap was as much as 0.26 percentage point.

That difference disappeared for the first time in 17 months after a jump in refinancings caused muni prices to tumble. Bank of America and Municipal Market Analytics recommend buying pre-refunded munis, anticipating they will outperform and provide a hedge against bond-market losses as the Federal Reserve prepares to raise interest rates.

"This is a way for people who want Treasury credit to buy it extremely cheap," said Phil Fischer, head of muni research at Bank of America in New York. "There are a lot of investors who are concerned that rates are going to rise. You have the benefit of tax-exempt revenue on a Treasury bond."

Bond Rout

U.S. government-bond investors have lost more than $195 billion since mid-April on speculation borrowing costs will increase. Fed Chair Janet Yellen said Wednesday that investors "could see a sharp jump in long-term rates" once the central bank raises its benchmark rate from near zero, where it's been since 2008.

The slide in the price of pre-refunded munis relative to Treasuries is the result of a rush by states and localities to borrow while interest rates are still close to five-decade lows. They've issued $145 billion of debt in 2015, the most to start a year since at least 2003, when Bloomberg data begin. More than two-thirds of the deals have refinanced higher-cost debt, an amount not seen in more than two decades.

Pre-refunded bonds are created by advance refundings, which allow municipalities to refinance securities before their call dates. Municipalities sell bonds and use the proceeds to buy Treasuries or other federally backed debt. The income from the government securities is used to pay off the higher-cost munis as they mature.

The refinanced bonds typically gain in price because repayment is assured. Moody's Investors Service even has a separate rating for debt backed by escrow funds holding U.S.- guaranteed obligations: #Aaa. A rally hasn't happened because public officials have saturated the market with debt.

Honolulu Haven

Pre-refunded Honolulu bonds maturing in July 2018 traded last month at an average yield of 0.95 percent, data compiled by Bloomberg show. Treasury notes with the same maturity traded at a 0.96 percent yield.

The comparable yields mask the fact that the interest rate on the municipal bond is equivalent to 1.68 percent on taxable debt for those in the highest federal tax bracket.

That differential should provide a buffer for investors if fixed-income yields continue to rise, Municipal Market Analytics, a Concord, Massachusetts-based advisory firm, said in a May 4 report. Even if rates don't increase, pre-refunded bonds will probably rally as market demand catches up with the pace of issuance, according to the report.

Ten-year Treasuries yield about 2.23 percent, compared with about 2.2 percent for benchmark munis.

"From a relative value standpoint, why not buy a pre-re?" said Dawn Mangerson, who helps oversee

$8 billion of munis at McDonnell Investment Management in Oakbrook Terrace, Illinois. “There’s no credit risk. They got cheap.”

Bloomberg

by Brian Chappatta

May 6, 2015

Louisiana Bond Blues Deepen as Rating Cut Seen on Budget Deficit.

With tax revenue from the oil industry falling short of projections, the deficit has swelled to $1.6 billion for the fiscal year that starts July 1. Moody’s Investors Service and Standard & Poor’s say they may lower Louisiana’s credit rating if officials don’t come up with sustainable budget solutions.

Louisiana paid the price when it sold $335 million of general obligations Wednesday, its first deal this year. Borrowing costs jumped compared with an issue in November, with the yield spread more than doubling on some maturities.

“They have to make significant cuts across the board — it’s almost a foregone conclusion they’ll be downgraded,” said Tom Metzold, co-director of municipal investments in Boston at Eaton Vance Management, which oversees $25 billion in local debt.

Lawmakers are grappling with the state’s finances in part as the price of crude oil, which along with natural gas generates 13 percent of its revenue, is down about 40 percent from mid-2014. The mounting fiscal strains threaten to pinch funding for programs such as higher education, contributing to a buyers’ revolt last month against a bond sale from the state’s flagship university.

School Deal

Investors asked for extra compensation to own the state’s debt in Wednesday’s offering. Obligations maturing in May 2025 priced at a yield of 2.5 percent, or about 0.3 percentage point above benchmark munis, according to data compiled by Bloomberg. The gap swelled from 0.03 percentage point when the state issued 10-year securities in November.

Louisiana State University scrapped its $114 million bond offering after officials warned that exigency, which would allow it to restructure and fire tenured faculty, may be a worst-case scenario for the school.

Treasurer John Neely Kennedy had warned that the canceled deal might push up the state’s borrowing costs.
“When a state mismanages its money, it can’t expect people to give it more until it proves it changed its ways,” Kennedy said in an interview before the bond sale.

Waiting Game

Both Moody’s and S&P affirmed Louisiana at the third-highest rank last month. The companies dropped their outlooks to negative in February after sinking crude prices led the state to cuts its revenue forecast.

“They’re struggling to figure out how to balance their budget and we’re waiting to see” what happens, Marcia Van Wagner, a Moody's analyst in New York, said in an interview.

As part of the fiscal fix, Governor Bobby Jindal, a potential Republican presidential candidate, is proposing cutting more than $200 million from higher education and lowering corporate tax credits by over $500 million.

"When there are budgetary challenges, we manage them in a timely way," Kristy Nichols, Louisiana's commissioner of administration, said in an interview from Baton Rouge before the bond issue. "There's confidence that we'll move through the legislative process in the next month and a half and walk away with a balanced budget that addresses some structural issues by identifying recurring savings and recurring revenue."

Proceeds from Wednesday's deal will fund hospital and sports-arena projects in New Orleans, nicknamed "The Big Easy," Nichols said.

The yield spreads in recent trading aren't enough for some investors.

Steve Hlavin, who runs a Louisiana fund for Nuveen Asset Management in Chicago, said he hasn't bought state general obligations since 2010 and probably won't dive back in Wednesday.

"For a state that's exhibited chronic structural budget imbalance, you aren't being compensated with a lot of credit spread," Hlavin said. "They're being forced to come to terms with the fact that one-shot solutions are no longer available."

Bloomberg

by Brian Chappatta

May 5, 2015

Oakland's Unwanted Sports Arenas Leave $179 Million Bond Burden.

An authority overseen by the city and Alameda County last month refinanced debt for the home of the National Basketball Association's Golden State Warriors that won't be repaid until 2026, even though the team plans to move in three years. Meanwhile, as the National Football League's Raiders and Major League Baseball's Athletics negotiate with Oakland for new facilities, taxpayers are on the hook for $99 million of bonds for the coliseum those two teams share, bond records show.

The borrowing burden reflects the downside of competition among municipalities to keep teams from leaving. States and cities have sold more than $9 billion of debt for professional sports facilities since the 1980s, including some no longer in use, according to data compiled by Bloomberg.

"Stadiums' economic lives are often shorter than the lives of their debt," said Randall Gerardes, vice president for municipal research at Wells Fargo Securities LLC in New York. "A building may stand for many years after the economic factors that once made it attractive to the owner no longer exist."

Unique Arrangement

When the Oakland-Alameda County Coliseum Authority sold about $80 million of taxable bonds last month to refinance the basketball-arena debt, 10-year securities yielded 3.64 percent, or about 1.8 percentage points above similar-maturity Treasuries.

Fitch Ratings, which ranks the debt AA-, said the risk to investors is low even if the Warriors follow through on a move to San Francisco. Officials will likely continue to pay for the arena's bonds, concerned that they would be punished by higher borrowing costs if they defaulted, Fitch said.

Oakland and surrounding Alameda County pay about $20 million a year combined for their two stadiums, including debt payments.

The A's and the Raiders are pushing for a replacement for the half-century-old O.co Coliseum, the only venue in the U.S. that's shared by a big-league football and baseball team.

Debt Weary

Mayor Libby Schaaf said in an interview that the city is looking for a way to fund any new venues privately and avoid taking on more debt.

"We will not be financing new stadiums," Schaaf said.

Susan Muranishi, the Alameda County administrator, couldn't be reached to comment on the bonds.

The A's and Raiders want new stadiums to replace a coliseum that's considered obsolete: sewage has leaked into the clubhouse. The Raiders played their first game there in 1966, followed by the A's in 1968.
"We are still working on a location in the Bay Area that would work for both us and the majority of our fans," Ken Pries, a spokesman for the A's, said in an e-mail.

The competition for teams has intensified amid efforts to lure the NFL to the Los Angeles area. The Raiders, the St. Louis Rams and the San Diego Chargers have all explored moving there.

Last month, the City Council in Carson, California, outside Los Angeles, approved a $1.65 billion stadium project that may be a rival home for the Raiders. Will Kiss, a Raiders spokesman, didn't respond to requests for comment on the team's plans.

There are precedents for municipalities being stuck with debt for empty venues. King County, Washington, is set to finally pay off bonds for the Kingdome this year, 15 years after the demolition of the former home of the NFL's Seahawks.

"Anytime you have the volatility of sports you have considerable risk," said Alan Schankel, a managing director of fixed-income strategy at Janney Capital Markets in Philadelphia. "There's a lot of dynamics going on, including sports-team economics and media-market economics, that don't always jibe with the interests of a municipality."

Bloomberg

by Darrell Preston

May 4, 2015

[Assured Guaranty Drops Most in 22 Months on Puerto Rico Tax Fail.]

Assured Guaranty Ltd. fell the most since June 2013 after the Puerto Rico House of Representatives rejected a tax-overhaul bill that would have paved the way for a $2.9 billion debt sale needed to avert a cash crunch.

Assured Guaranty shares plunged 4.3 percent to close at $25.99 at 4 p.m. in New York, the lowest price since March 27. The Bermuda-based bond insurer's subsidiaries Assured Guaranty Municipal Corp. and Assured Guaranty Corp. backed a combined $3.6 billion of Puerto Rico obligations as of Dec. 31, company filings show.

The odds of Puerto Rico defaulting on general obligations increased to 50 percent after lawmakers struck down the bill championed by Governor Alejandro Garcia Padilla, according to Daniel Hanson, an analyst at broker-dealer Height Securities. Bond investors agreed on the increased risk, with debt maturing in July 2035 trading Thursday at the lowest price since it was issued in March 2014, data compiled by Bloomberg show.

The Caribbean island and its agencies have $73 billion of bonds, whose interest is tax-exempt nationwide and which are held by mutual funds, hedge funds and individuals.

Shares of MBIA Inc., whose subsidiary National Public Finance Guarantee Corp. also insures Puerto Rico debt, fell 4.5 percent to close at $8.75, the lowest since March 27.

Bloomberg

by Brian Chappatta

April 30, 2015

Bloomberg Brief Municipal Market Expert Series.

Taylor Riggs, an editor at Bloomberg Brief: Municipal Market, talks with Natalie Cohen, head of municipal research at Wells Fargo Securities.

Watch the video.

April 30, 2015

NFL Players Score Court Victory Forcing Cleveland Tax Refund.

Two former National Football League players won refunds after the Ohio Supreme Court ruled that the way Cleveland calculated a tax on their income was improper.

Former Chicago Bears linebacker Hunter Hillenmeyer and former Indianapolis Colts center Jeff Saturday sued Cleveland's tax board separately last year. Saturday is entitled to a full refund and Hillenmeyer to a partial refund, the Supreme Court said in its ruling Thursday. That opens the door for other players to ask for reimbursement.

Seven other U.S. cities besides Cleveland that have major professional sports teams tax visiting players, coaches and others traveling with the team. The issue in Ohio centers on how the city imposes its 2 percent income tax. Cleveland stands to lose at least $1 million a year if it calculates the levy based on days worked in a season, as the players wish, rather than games played, according to a 2013 city analysis.

The city is reviewing the decisions and "considering all available options and any potential economic or operational consequences," according to a statement.

Many players will now file refund claims, said Stephen Kidder, the Boston attorney for the players. "The decisions in both cases represent clear victories for professional athletes who often are unfairly targeted by jurisdictions," Kidder said in a statement.

Cleveland had said its approach was reasonable. Just as entertainers are paid only for performances regardless of how much they rehearse, athletes are paid to perform in games, officials said.

Saturday was a center who played 13 years with the Indianapolis Colts and won the 2007 Super Bowl before retiring with the Green Bay Packers in 2012. He argued that he shouldn't have been taxed because he was injured and didn't travel to Cleveland for a 2008 game.

Tax Bill

He was still hit with a $3,594 tax because of city regulations that count payments an employer makes to a sick and absent employee.

Saturday, now an ESPN analyst, said he was pleased with the result.

"This wasn't about the money; it was the principle of it," Saturday said in a telephone interview. "I'm excited for the guys who won't be unfairly taxed by Cleveland."

Hillenmeyer, a linebacker for the Chicago Bears for eight seasons, said Cleveland improperly uses a calculation based on the number of games in the city divided by total contests in a season. That method means that a player performs a greater proportion of his work in the city.

Other cities and states base the tax on number of days spent in a city divided by days in the season, which yields a smaller proportion and therefore less revenue for a municipality.

Cleveland calculated his taxable income for a 2006 preseason game as $162,002, based on his $3.2 million total salary that year, according to papers Hillenmeyer filed with the Ohio Board of Tax Appeals. The state, using a different method, calculated the taxable income for the game as $38,557, according to the filing.

Hillenmeyer last year called Cleveland's approach "an egregious and shameless money grab." He said Thursday that while he wouldn't expect fans to be sympathetic to well-paid professional athletes avoiding some taxes, the ruling is good for players.

"At a certain point, what's fair is fair," Hillenmeyer said in a telephone interview.

The cases are Saturday v. City of Cleveland Board of Review, 14-0292, and Hillenmeyer v. City of Cleveland Board of Review, 14-0235, both in the Supreme Court of Ohio (Columbus).

Bloomberg

by Sophia Pearson and Mark Niquette

April 30, 2015

[Bloomberg Brief Municipal Market Weekly Video - 05/07/15]

Taylor Riggs, an editor at Bloomberg Brief, talks with Joe Mysak about this week's municipal market news.

[Watch the video.]

May 7, 2015

[Fitch: California Water Credits May Struggle with New Rules.]

Fitch Ratings-New York-08 May 2015: The California State Water Resources Control Board's new water conservation mandate will reduce revenues available to pay bondholders at many agencies and could create an unintended disincentive to invest in necessary local water supply and storage projects, Fitch Ratings says.

The rules adopted this week dictate cuts in customer usage regardless of local supply conditions. The impact will be greatest in Southern California communities that have borrowed billions of dollars to invest in water supply reliability and now must meet some of the highest reductions. The cutback levels and short compliance timeframe set by the board suggest many utilities will likely fail to meet the targets.

The state water board rules require all retail California water utilities to reduce usage from 2013 levels by 8% to 36% between June 2015 and February 2016. Utilities are acting quickly to curtail their retail usage through water conservation ordinances, mandatory use reductions to retail customers and price signals. However, it may be very difficult for utilities required to meet the higher percentage reductions to garner significant water consumption behavior changes in this short time frame. California's Proposition 218 limits the speed at which new rates can be implemented, including rates that incentivize consumers to conserve. Initial compliance will be measured beginning in June 2015, and the state water board has indicated its willingness to work with utilities that are exhibiting a good faith effort to meet the requirements.

We expect the financial impact will occur primarily in fiscal 2016 and to vary across the 49 Fitch-rated retail California water utilities. Utilities that have decoupled revenues from water sales through a number of mechanisms will likely sustain their credit quality during this emergency compliance order. Tools that protect revenues from declines in consumption include drought rates, fixed drought surcharges, higher fixed charges in the overall rate structure, rate stabilization reserves and imported water expenditures that decline with lower usage. However, the speed of the cuts will force some to spend down their reserves or divert capital funds, possibly reducing credit quality in the short run. Fitch believes most utilities will adjust rates appropriately, avoiding widespread credit rating downgrades.

The state water board's decision to impose conservation from the top down ignores various local supply conditions and brings local control regarding water supply planning into question. Fitch's rating criteria assesses the quality of a utility's long-term supply planning and acquisition of supplies, storage and backup arrangements to manage through cyclical hydrological conditions, including severe drought years. To the extent the emergency rules begin to shape long-term water supply planning and investments in the state, the impact could unintentionally delay long-term water supply investments. The board has indicated that the temporary rules are designed to preserve water supply into next year during these extraordinary emergency conditions and should not impair investment decisions during normal times.

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Moody's: Upgrades Outpace Downgrades in First Quarter U.S. Public Finance Rating Revisions.

New York, May 07, 2015 — In the first quarter of 2015, upgrades for US public finance rating revisions continue to outpace downgrades, Moody’s Investors Service says in a new report. As well, the quarter saw the most rating upgrades in nearly seven years.

There were 148 upgrades in the first quarter compared to 115 downgrades in the public finance sector owing to continuing economic stabilization, strengthening financial operations and balance sheet metrics as well as solid managerial oversight. Moreover, upgrades as a percent of total rating revisions was the highest since Q3 2008 at 56.2%.

Among the quarterly upgrades were four obligors raised to the Aaa-rating level, Moody's says in "Upgrades Continue to Lead Downgrades in Q1 2015; Debt Affected by Downgrades is Larger."

"We typically change the rating of only a small number of public finance entities each quarter, but the number of rating revisions in Q1 had a larger number of rating revisions than the past few quarters. We changed the rating on approximately 2.1% of public finance obligors in the first quarter 2015. In contrast, the 924 rating revisions in all of 2014 represented only 7.3% of the public finance rated universe," author of the report and Moody's AVP — Analyst Mark Lazarus says.

However, the dollar value of downgraded debt surged to $89.1 billion compared to$18.1 billion in upgraded debt. The disparity is attributable to the obligor downgrades of the Commonwealth of Puerto Rico (Caa1 negative), the City of Chicago, IL (General Obligation Baa2 negative), Chicago Public Schools, IL (Baa3 negative) and Catholic Health Initiatives (A2 negative), which accounted for $73 billion of the affected debt.

In addition, the publication of an updated methodology for utility revenue bonds resulted in 35 rating revisions subsequent to the completion of Moody's surveillance reviews in the first quarter. From these reviews, 11 obligors were downgraded compared to 24 upgrades, and 14 were confirmed at existing ratings.

The methodology-driven downgrades reflected 9.6% of the first quarter's total downgrades. Conversely, methodology-driven upgrades represented 16.2% of the period's tally.

Even without the methodology-driven revisions, first quarter upgrades still surpassed downgrades.

The report is available to Moody's subscribers here.

Fitch: Oversight Would Challenge US Public Power Credit Quality.

Fitch Ratings-New York-07 May 2015: Legislation introduced in multiple states this year could, if advanced, have a material impact on the credit quality of two large public power utilities. Both Austin Energy (AA-/Stable) and Florida Municipal Power Agency (FMPA; [A+/Stable]) were the intended focus of legislation that would subject each of the utilities to extraordinary oversight by each of their state's respective public service commissions. While Fitch does not anticipate either measure gaining traction, the proposed rules represent a credit concern as enactment would likely lead to negative rating action.

The ability of public power utilities to operate with limited regulatory oversight, particularly as it relates to ratemaking and the preservation of their exclusive service areas remains a hallmark of the sector and a key contributor to credit quality. Although Fitch does not believe that these initiatives represent a broader trend toward the regulation of public power systems, it will continue to monitor legislative developments that could have an impact on the credit quality of rated utilities.

Legislation currently pending in the Texas State legislature (Senate Bill 1945) would allow Austin Energy's customers with load requirements above a certain threshold to effectively appeal their electric rates to the state public utilities commission (PUC). Depending on the PUC's ruling and Austin Energy's response to such a ruling, customers would potentially be permitted to purchase power from another provider in the deregulated market and pay Austin Energy solely to use its transmission and distribution infrastructure. The statutory change would limit Austin Energy's ratemaking autonomy and challenge its monopolistic business nature.

A similar statute (House Bill 773) was proposed in Florida earlier this year, aimed at bringing FMPA under the regulatory authority of the state Public Service Commission. Passage of the bill would have stripped the joint action agency of its independent authority to establish electric rates to its wholesale customers. While the bill did not advance during the most recent legislative session, introduction of the legislation bill remains notable.

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Fitch: Oregon Pension Fund Will Manage Court Decision.

Fitch Ratings-New York-06 May 2015: Last week's Oregon Supreme Court decision to restore a 2% cost-of-living-adjustment (COLA) to approximately 120,000 state retirees and employees who were members prior to the 2013 law change is expected to lower the state's Public Employees Retirement System (PERS) funded ratio and raise ongoing required contributions, according to Fitch. The state estimates its portion of PERS's liability to be funded at 97% before the court's decision. The court ruled that it was legal to reduce COLAs for services accrued after the 2013 reforms as they were not contractually guaranteed. This decision contrasts with other rulings across the country where COLA changes have been upheld by courts under the principle that COLAs differ from core retirement benefits.

In our view, Oregon will be able to manage the immediate impact of the court's restoration of the COLA as it has reserve funds available for retroactive payments and other sources of flexibility.

Before the Supreme Court's decision, PERS had projected plan savings over time of approximately $5 billion from this and other pension reform efforts; a share of these savings is expected to remain in place as the court upheld other parts of the legislation. Funded ratios have also been bolstered in recent years by strong investment results and Fitch expects the state's portion to remain well-funded, albeit at a lower level, than it was before the court decision.

The total impact of retroactive payments due to the employees and retirees from this ruling will be calculated over the next few weeks. The state has two potential sources for funding these payments. There are approximately $600 million in PERS's contingency funds which could offset retroactive payments. And, the state could redirect a portion of a likely personal income tax credit from the current biennium. The state's most recent quarterly report (March 2015) forecast personal income tax as growing by 14.8% in the current biennium with general fund revenues exceeding the kicker threshold by $59 million. This would lead to an income tax credit to be issued to taxpayers in the 2016 tax year of approximately $349 million.

PERS contribution rates for the next biennium (July 1, 2015 through June 30, 2017) have already been set by the pension system, but could be adjusted, subject to applicable rate collars. Any adjustment would have a financial impact on the budget currently being debated in the legislature. Contribution rates for subsequent biennia will include the required COLAs.

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BDA Submits Comment Letter to IRS on Issue Price to Inform 2015-16 IRS Priority Guidance.

The Bond Dealers of America submitted a comment letter to IRS in response to its request for comment on the 2015-2016 IRS Priority Guidance Plan. The purpose of BDA's letter is to reaffirm BDA's concerns with IRS's proposed rule changes related to issue price if IRS choses to move forward on the proposed rule changes in 2015-16.

The letter reaffirms BDA's previously stated concerns with the rule's elimination of the "reasonable expectations" standard, the unworkable nature of the general rule, and the overly burdensome "safe harbor," which would require 25 percent of an issuance to be sold in order to establish issue price.

BDA's December 2013 comment letter on proposed issue price rule amendments can be read here.

BDA's August 2010 joint trade association guidance letter on issue price can be read here.

05-06-15

Illinois Supreme Court Strikes Down Law to Rein in Public Sector Pensions.

The Illinois Supreme Court declared in a ruling Friday that the state's landmark 2013 pension overhaul violates the state constitution, unraveling an effort by state lawmakers to rein in benefits for a public-sector pension system they have consistently underfunded over the years.

The current pension shortfall is estimated at $111 billion, one of the largest nationally.

The high court affirmed a decision in November by a state circuit court that the legislative changes violated pension protection measures written into the state constitution. The decision sided with public-sector unions, who challenged the law. The ruling said the constitution is unambiguous on the issue and dismissed the state's argument that so-called police powers in place to protect public safety and welfare give lawmakers the authority to cut retirement benefits.

"From the beginning of our pension reform debates, I expressed concern about the constitutionality of the plan that we ultimately advanced as a test case for the court," said John Cullerton, Illinois's Senate president and a Democrat. "Regardless of political considerations or fiscal circumstances, state leaders cannot renege on pension obligations."

Last month, the Oregon Supreme Court reversed a core element of that state's controversial 2013 pension overhaul, concluding that annual cost-of-living adjustment cuts to its retired workforce were unconstitutional.

State and local governments have tried to remedy their growing pension-funding gaps by curbing benefits—some for current employees. Those pension cuts have faced legal challenges in more than a dozen states, including Illinois and Oregon, according to the Center for Retirement Research at Boston College.

The Illinois law would have reduced future retirement costs by shrinking cost-of-living increases for retirees, raising retirement ages for younger employees and capping the size of pensions.

Union leaders hailed the victory. "The court's ruling confirms that the Illinois Constitution ensures against the government's unilateral diminishment or impairment of public pensions," said Michael Carrigan, president of the Illinois ALF-CIO, speaking on behalf of the We Are One Illinois coalition of unions.

But the rejection of the law as unconstitutional poses a huge challenge for the state's new Republican governor, Bruce Rauner, who also faces a looming budget deficit after a special recession-era tax increase expired at the end of last year.

A spokesman for Mr. Rauner said the governor's office planned to issue a statement soon.

Meanwhile, the city of Chicago also faces its own pension and budget woes. A spokesman for Mayor Rahm Emanuel, who was re-elected last month to a four-year term, also didn't immediately respond to a request for comment.

Justices acknowledged that the state is in a financial fix, but that doesn't allow lawmakers to violate the constitution. "The financial challenges facing state and local governments in Illinois are well known and significant," the high court said. "In ruling as we have today, we do not mean to minimize the gravity of the state's problems or the magnitude of the difficulty facing our elected representatives. It is our obligation, however, just as it is theirs, to ensure that the law is followed."

THE WALL STREET JOURNAL

By JOE BARRETT And BEN KESLING

Updated May 8, 2015 1:30 p.m. ET

Write to Joe Barrett at joseph.barrett@wsj.com and Ben Kesling at benjamin.kesling@wsj.com

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MSRB Publishes Updated Report on Timing of Annual Financial Disclosures by Issuers of Municipal Securities.

Alexandria, VA – The Municipal Securities Rulemaking Board (MSRB) today released an update to its 2013 report on how many days after the end of the fiscal year that issuers of municipal securities and other obligated persons make their annual financial information available to the public. Timing of typical financial disclosures remained largely unchanged year to year, although the data clearly reflected the effects of a federal enforcement initiative to encourage voluntary disclosure of overdue financial information in the latter part of 2014.

Today's report analyzes submissions of annual financial information and audited financial statements made by issuers and obligated persons to the MSRB's Electronic Municipal Market Access (EMMA®) website between January 2010 and December 2014. The EMMA website is the official repository for financial and other disclosures made by issuers of municipal securities.

Consistent with previous years, the timing of audited financial statement disclosures made in 2014 averaged approximately 200 calendar days after the end of the applicable fiscal year. Annual financial information submissions averaged 188 calendar days after the end of the applicable fiscal year. These averages exclude delayed, "catch-up" submissions made by issuers to correct a prior year's failure to make a timely submission.

The EMMA website experienced a significant increase in catch-up submissions in the second half of 2014 coinciding with the Municipalities Continuing Disclosure Cooperation Initiative, a voluntary program announced by the Securities and Exchange Commission in March 2014 to provide issuers and underwriters the opportunity to self-report previous instances of noncompliance with continuing disclosure obligations. Including these overdue submissions in the data set extended the annual average length of time between the end of the fiscal year and the date on which audited financial statements were submitted to EMMA to 448 days in 2014, up sharply from 342 days in 2013.

Similarly, the timing of all annual financial information submissions was 374 days in 2014 compared to 261 days in 2013.

Audited financial statements and annual financial information report key financial and operating data for municipal bond issuers and obligated persons over time. The timeframe for issuers to make annual financial information available is set forth in continuing disclosure agreements. The MSRB does not regulate issuers of municipal securities or other obligated persons and therefore does not establish requirements or set recommended timeframes for the content or timing of disclosures. As part of its mission to protect investors and enhance market transparency, the MSRB provides educational resources and free tools such as a financial disclosure email reminder service to assist submitters in making timely and complete disclosures.

The MSRB's market data publications like today's updated report ensure municipal market stakeholders have access to objective, factual information about disclosure practices, trade activity and other aspects of the market.

- Fixing Public Sector Finances: The Accounting and Reporting Lever.
- Bill Introduced to Require Bank Regulators to Treat Munis as HQLA.
- Bill Would Create New Type of Bond for Infrastructure.
- Chicago Mayor Pledges End to Scoop-and-Toss Restructurings.
- Risk Transfer Success Leads to Ratings Upgrades for Florida Citizens.
- Save the Date – GASB 68 Teleconference.
- *Nebuda v. Dodge County School District 0062* – Supreme Court of Nebraska holds that lease-purchase agreement that school district entered into with bank in order to fund school improvements after voters rejected a bond proposal did not violate statute governing such lease-purchase agreements, which barred a school district from "directly or indirectly" issuing bonds to fund a lease-purchase plan for a capital construction project exceeding $25,000 without voter approval.
- And finally, Great Moments in Animal Husbandry is brought to you this week by *Texas Student Housing Authority v. Brazos County Appraisal District*, in which we're hit with this bombshell in the middle of an otherwise benign tax opinion, "…the 4-H Roundup had 'definite and intimate relationships' with Texas A&M University." Yikes.

EMINENT DOMAIN - CALIFORNIA

People ex rel. California Deparment of Transportation v. Hansen's Truck Stop, Inc.

Court of Appeal, First District, Division 4, California - April 24, 2015 - Cal.Rptr.3d - 2015 WL 1877332

Department of Transportation brought eminent domain action. The Superior Court entered judgment on special jury verdict awarding compensation between the statutory offer and demand, and denied litigation expenses based on its finding that landowner's demand was unreasonable. Landowner appealed.

The Court of Appeal held that offers and demands used as basis for award of litigation expenses may be made after first phase of eminent domain trial.

Offers and demands used as the basis for an award of eminent domain litigation expenses must be made 20 days before the trial on the amount of compensation to be awarded, not necessarily before phase one of a bifurcated proceeding in which preliminary issues of the property owner's right to seek damages for impairment of access, loss of goodwill, or other severance damages are adjudicated, since the phrase "trial on issues relating to compensation" found in the statute has a particular meaning in eminent domain practice, and refers to the trial in which the trier of fact determines the amount of compensation, including the amount of damages if any, to be awarded to the property owner.

ANNEXATION - KANSAS

Stueckemann v. City of Basehor

Supreme Court of Kansas - April 24, 2015 - P.3d - 2015 WL 1874513

After city unilaterally annexed platted subdivision adjoining city, affected landowners and association for subdivision sued city, seeking to invalidate annexation. The District Court upheld annexation. Landowners and association appealed. The Court of Appeals affirmed. Landowners and association petitioned for review, which was granted.

The Supreme Court of Kansas held that:

- City's description and depictions of land subject to annexation substantially complied with annexation statutes;
- City's correction of erroneous legal description of land substantially complied with annexation statutes;
- City's service plan substantially complied with annexation statutes;
- Adoption of statute permitting landowner to challenge annexation decision did not codify prior annexation caselaw; and
- City's unilateral annexation decision was reasonable.

City's description and depictions of land subject to annexation substantially complied with annexation statutes, such that city's description of land was adequate, despite contention that no one was able to read annexation plan and determine what city was trying to annex. City included a legal description of land to be annexed with its annexation resolutions, city provided sketches delineating area it proposed to annex to affected landowners, and even though there were errors in initial identification of land subject to annexation, affected landowners were able to determine what area city sought to annex.

City's correction of erroneous legal description of land to be annexed in annexation resolution before publication of annexation ordinance substantially complied with annexation statutes, despite contention that city's attempt to correct mistaken legal description violated public hearing provisions of statutes. City gave affected landowners renewed opportunity to voice their opposition to annexation after they were publicly informed of the correction of legal description.

City's service plan for police protection and for street and infrastructure maintenance applicable to land subject to annexation substantially complied with annexation statutes, such that city's plan was adequate, since plan was submitted in a good faith effort to honestly extend and implement municipal services. Plan satisfied statutory requirement of supplying sufficient detail to provide reasonable person with full and complete understanding of intentions of the city, and plan addressed factors required by statute detailing requirements of service plan, including estimated cost of providing services, method by which city planned to finance extension of services, and explanation of how city would provide better service than that currently provided.

Adoption of statute permitting landowner to challenge whether city's unilateral annexation decision was reasonable did not codify prior annexation caselaw addressing reasonableness, but rather, statute expanded grounds on which landowner was permitted to challenge annexation decision to include a challenge for substantive reasonableness. Statute's departure from its predecessors was significant and reflected legislative declaration that original law did not embrace statute.

City's unilateral decision to annex platted subdivision adjoining city was reasonable. Residents of property subject to annexation benefited from their property adjoining city, and annexation provided value to residents by providing them with police protection, street infrastructure and maintenance, trash service, and wastewater treatment services.

IMMUNITY - MARYLAND

O'Brien & Gere Engineers, Inc. v. City of Salisbury

Court of Special Appeals of Maryland - April 28, 2015 - A.3d - 2015 WL 1932332

Engineering firm brought action against city, alleging that city violated non-disparagement clause in a settlement agreement resolving claims relating to new wastewater treatment plant that was designed by engineering firm, and whose failure remained the subject of city's ongoing litigation with non-settling parties. The Circuit Court dismissed action. Engineering firm appealed.

The Court of Special Appeals held that city was immune from liability for the words used in arguing its case at trial against non-settling parties.

City that entered into non-disparagement agreement as part of settlement of claims against engineering firm relating to new wastewater treatment plant that was designed by engineering firm, and whose failure remained the subject of city's ongoing litigation with construction manager, was immune from liability, pursuant to the absolute liability privilege, for the words used in arguing its case against construction manager and presenting evidence at trial. Claims against construction manager and engineering firm were facets of same litigation, evidence about flaws in engineering firm's design and cause of plant failure was indispensable to resolution of city's contract claim against construction manager, evidence of flaws in engineering firm's design would necessarily portray firm in a negative light, city was entitled to use court system to recover losses sustained, and administration of justice would be served by application of privilege.

FINANCE - NEBRASKA

Nebuda v. Dodge County School District 0062

Supreme Court of Nebraska - April 23, 2015 - N.W.2d - 290 Neb. 740

Taxpayers brought action against school district, seeking declaratory and injunctive relief arising out of lease-purchase agreement that district entered into with bank in order to fund school improvements after voters rejected a bond proposal. The District Court entered judgment after a bench trial dismissing taxpayers' claims. Taxpayers appealed.

The Supreme Court of Nebraska held that:

- Taxpayers' claims were moot;
- Public interest exception to the mootness doctrine applied; and
- Lease-purchase agreement did not violate statute barring issuance of bonds to finance such agreements.

Supreme Court could not provide any relief to taxpayers on their claims for declaratory and injunctive relief against school district arising out of a lease-purchase agreement that district entered into with bank in order to fund school improvements after voters rejected a bond proposal, and thus taxpayers' claims were moot. Injunctive relief was not available because construction under the lease-purchase agreement was completed by the time of trial, and taxpayers did not allege that they were entitled to recoup any illegal expenditures.

Public interest exception to the mootness doctrine applied to taxpayers' appeal from the dismissal of their claims for declaratory and injunctive relief against school district arising out of a lease-purchase agreement that district entered into with bank in order to fund school improvements after voters rejected a bond proposal, which was mooted by completion of the construction project and by the fact that taxpayers did not allege entitlement to recoup any illegal expenditures. Meaning of statute allowing school districts to enter into lease-purchase agreements was unquestionably a matter affecting the public interest, and district argued that many school districts were looking for guidance on the issue.

Lease-purchase agreement that school district entered into with bank in order to fund school improvements after voters rejected a bond proposal did not violate statute governing such lease-purchase agreements, which barred a school district from "directly or indirectly" issuing bonds to fund a lease-purchase plan for a capital construction project exceeding $25,000 without voter approval. Plain language of statute did not require voter approval of all lease-purchase agreements exceeding $25,000, interpreting agreement itself as constituting issuance of a bond would be nonsensical, and legislature had acquiesced in prior interpretation of statute as permitting the action district took.

ZONING - NEW JERSEY

Township of Fairfield v. State, Dept. of Transp.

Superior Court of New Jersey, Appellate Division - April 10, 2015 - A.3d - 2014 WL 8514005

Township sought judicial review of final determination of the Director of the Division of Multimodal Services, Department of Transportation (DOT), granting a helistop "special use" license to the applicant.

The Superior Court, Appellate Division, held that:

- Sufficient evidence supported Director's decision to grant helistop special use license, and
- Township was not entitled to a contested case-type hearing concerning the application.

Although helistops were banned in township by zoning ordinance, there was sufficient credible evidence to support Director of Transportation's decision to grant application for a helistop special use license, where the Director had given careful consideration to township's objections to the application and the board of adjustment's resolution denying the use variance application, and contrary to the township's contentions, the Director had conscientiously weighed the local interests, examined carefully whether the proposed aviation facility was compatible with surrounding land uses and consulted the local ordinances and authorities in making his licensing decision.

Director of Transportation did not abuse his discretion by deciding not to conduct a public informational hearing with respect to application for a helistop license, where the Director had explained in his decision that a hearing was not required because there were no material facts in dispute and the issues had been clearly framed by the submissions of the applicant's and the board of adjustment's attorneys.

UTILITIES - NEW YORK

[New York v. F.E.R.C.]

United States Court of Appeals, Second Circuit - April 22, 2015 - F.3d - 2015 WL 1810416

Federal Energy Regulatory Commission (FERC) (2012 WL 6641001) issued orders adopting standards and procedures for determining which power distribution facilities were subject to FERC's regulatory jurisdiction and which facilities fell within statutory exception for "local distribution of electric energy," and clarified its orders on rehearing (2013 WL 1700286). State of New York and Public Service Commission of State of New York petitioned for judicial review.

The Court of Appeals held that:

- FERC did not act unreasonably in including 100 kV threshold to clarify otherwise ambiguous distinction under Federal Power Act as amended by Electricity Modernization Act between power facilities over which it did and did not have regulatory jurisdiction within larger scheme of standards and procedures for clarifying its statutory jurisdiction;
- Orders did not authorize FERC to regulate any facility in advance of factually supported, explicit determination of jurisdiction; and
- Orders were not arbitrary and capricious.

Federal Energy Regulatory Commission (FERC) did not act unreasonably under FPA as amended by Electricity Modernization Act in including 100 kV threshold to clarify otherwise ambiguous distinction between power distribution facilities over which it did and did not have regulatory jurisdiction within larger scheme of standards and procedures for clarifying its statutory jurisdiction, since there was record support for selection of 100 kV threshold as initial standard and that standard was not determinative but subject to general and individualized adjustments.

Federal Energy Regulatory Commission (FERC) orders adopting standards and procedures for determining which power distribution facilities were subject to agency's regulatory jurisdiction and which facilities fell within statutory exception for "local distribution of electric energy" did not impermissibly authorize FERC to regulate any facility in advance of factually supported, explicit determination of jurisdiction. Orders established procedure for factfinding requisite to exercise of such jurisdiction, threshold finding of 100 kV operation was followed by further factfinding as to five specified inclusions and four exclusions, and factfinding process continued still further if facility not found within local distribution exception after operating voltage and configuration consideration petitioned FERC for individualized review.

Final orders of Federal Energy Regulatory Commission (FERC), adopting standards and procedures for determining which power distribution facilities were subject to FERC's regulatory jurisdiction, and which facilities fell within statutory exception for "local distribution of electric energy," did not require facilities, as precondition for petitioning FERC for individualized determination of jurisdiction, to apply for technical exemption to organization that had been certified by FERC to develop standards, and, thus, challenged orders did not impose unwarranted procedural obligations as preconditions. Filing of jurisdictional petition and filing for technical exemption were independent avenues by which facilities could seek different forms of relief.

Determination by Federal Energy Regulatory Commission (FERC) which had been based on factual record and its industry expertise, that 100 kV threshold, together with detailed predefined inclusions and exclusions, would effectively identify power distribution facilities comprising the bulk system while ensuring that most local distribution facilities were excluded from its regulatory jurisdiction as statutorily prescribed, was not arbitrary or capricious, and thus would be upheld on petition for judicial review, particularly where FERC would employ full notice-and-comment process upon request for individualized determination.

SCHOOLS - NORTH CAROLINA

Union County Bd. of Educ. v. Union County Bd. of Com'rs

Court of Appeals of North Carolina - April 7, 2015 - S.E.2d - 2015 WL 1529502

School board brought action against county commissioners regarding adequacy of funding for public school system. The Superior Court entered judgment on jury verdict for school board. Commissioners appealed.

The Court of Appeals held that:

- Error in allowing board to communicate improper legal standard to determine funding was harmless;
- Court improperly allowed evidence outside scope of board's proposed budget at trial;
- Because much of board's evidence should not have been admitted, Court of Appeals would remand for new trial;
- Jury instruction defining amount legally necessary maintain school system was proper; but
- Jury instruction that suggested that if any student was not performing at grade level, the county was not providing a sound basic education, likely misled the jury.

EMINENT DOMAIN - NORTH CAROLINA

Town of Matthews v. Wright

Court of Appeals of North Carolina - April 21, 2015 - S.E.2d - 2015 WL 1788729

Town filed complaint against homeowners, seeking to condemn homeowners' private right-of-way that had been subject of years of litigation with town, which claimed that the right-of-way was a public street. The Superior Court held town's claim to homeowners' property by eminent domain was null and void. Town appealed.

The Court of Appeals held that:

- Homeowners had burden to show condemnation would serve no public use or benefit, and

- The condemnation would serve no public benefit.

No public benefit would be achieved from town's proposed condemnation of homeowner's land containing private right of way for purposes of opening the easement for access to neighbors, utilities, firefighters, and the community, where there was no evidence that homeowner blocked access to the easement, homeowner's portion of easement was not the sole private portion of an otherwise public street, condemnation of only homeowner's portion of easement would not open access to anything except homeowner's land, and personal conflicts between town and homeowners motivated town officials' decision to condemn.

ZONING - RHODE ISLAND

Hines Road, LLC v. Hall

Supreme Court of Rhode Island - April 28, 2015 - A.3d - 2015 WL 1914658

After town and neighbor had entered into agreement regarding neighbor's retaining wall, abutting property owners filed an appeal with town's zoning board of review challenging the agreement. The board held that it did not have jurisdiction. Owners did not appeal. Subsequently neighbor commenced action to litigate issues relating to the agreement. Owners moved to intervene. Following a bench trial, the Superior Court denied the motion. Owners appealed.

The Supreme Court of Rhode Island held that:

- Status as abutting property owners did not entitle owners to intervene as a matter of right;
- Owners' interest in underlying action was contingent, not direct; and
- Court did not abuse its discretion in considering owners' failure to appeal board's decision in denying motion to intervene.

EMINENT DOMAIN - TEXAS

State v. Clear Channel Outdoor, Inc.

Supreme Court of Texas - April 24, 2015 - S.W.3d - 2015 WL 1870306

State brought action to condemn two parcels of land containing billboards, and billboard owner filed claims for inverse condemnation of billboards. After state settled with billboard owner and landowners for compensation due for leasehold and fee interests, the Civil Court granted partial summary judgment for billboard owner, and, following a jury trial, entered judgment awarding damages for taken billboards. State appealed, and the Court of Appeals affirmed. The Supreme Court granted the State's petition for review.

The Supreme Court of Texas held that:

- Billboards were "fixtures" such that compensation for their loss was part of compensation for taken property, and
- Measure of compensation for billboards was based on the structures themselves, rather than based on the profits generated by their use in advertising.

Billboards on leased land taken by State were "fixtures" such that compensation for their loss was part of compensation for taken property, where billboards were firmly embedded in the earth and their removal required that the poles be cut and the signs dismantled, and billboards were perfectly suited to the use of the realty, which was outdoor advertising alongside a busy freeway, such that an owner would have intended the structures become part of the real estate.

Compensation due billboard owner for billboards taken when state condemned underlying land was to be based on the structures themselves, rather than based on the profits the structures generated by their use in advertising. State did not take billboard operations or business, but only took the land and the billboards, billboard owner was free to continue to operate its business on new site, and business income potentially was indication of the value of the land, rather than the billboards.

INSURANCE - TEXAS

JAW the Pointe, L.L.C. v. Lexington Insurance Company

Supreme Court of Texas - April 24, 2015 - S.W.3d - 2015 WL 1870054

Owner of apartment complex damaged by hurricane brought action against primary property insurer and others, asserting claims for breach of insurance contract and violations of the Texas Insurance Code and the Texas Deceptive Trade Practices Act.

The Supreme Court of Texas held, as a matter of first impression, that losses incurred in demolishing and rebuilding to comply with city ordinances were excluded under policy's anti-concurren--causation clause.

Hurricane caused both wind damage, covered by all-risk property insurance policy, and flood damage, excluded by the policy, which together combined to cause enforcement of city ordinances that ultimately required owner of insured apartment building to demolish and rebuild, and thus insurance policy's anti-concurrent-causation clause excluded coverage for insured building owner losses in demolishing and rebuilding apartment building in order to comply with city ordinances. While the policy covered the cost of complying with city ordinances, such coverage only applied if the policy covered the property damage that triggered the enforcement of the ordinances, and, pursuant to the anti-concurrent-causation clause, the policy did not cover damage caused by the hurricane, as the policy excluded flood damage, which was a concurrent cause of the damage to the building.

IMMUNITY - TEXAS

Brown & Gay Engineering, Inc. v. Olivares

Supreme Court of Texas - April 24, 2015 - S.W.3d - 2015 WL 1897646

Representative of driver who was killed when his vehicle was struck by a vehicle driven by an intoxicated driver traveling the wrong way on a tollway brought an action against various entities, including private engineering firm that was contracted by county toll road authority to design the tollway.

The District Court granted firm's plea to the jurisdiction based on governmental immunity under the Texas Tort Claims Act. Representative appealed. The Houston Court of Appeals reversed and remanded. Firm petitioned for review.

As matters of apparent first impression, the Supreme Court of Texas held that:

- Extension of sovereign immunity to firm would not further the doctrine's rationale, and
- Firm was not entitled to share in authority's sovereign immunity on the ground that authority was statutorily authorized to engage firm's services and would have been immune had it performed those services itself.

Extension of sovereign immunity to private engineering firm that was contracted by county toll road authority to design a tollway would not further the doctrine's rationale, in a case in which firm was sued by representative of driver who was killed when his vehicle was struck by a vehicle driven by an intoxicated driver traveling the wrong way on the tollway. Sovereign immunity was designed to guard against the unforeseen expenditures associated with the government's defending lawsuits and paying judgments that could hamper government functions by diverting funds from their allocated purposes, and immunizing firm would in no way further that rationale.

Private engineering firm that was contracted by county toll road authority to design a tollway was not entitled to share in authority's sovereign immunity on the ground that authority was statutorily authorized to engage firm's services and would have been immune had it performed those services itself, in a case which firm was sued by representative of driver who was killed when his vehicle was struck by a vehicle driven by an intoxicated driver traveling the wrong way on the tollway. The lawsuit did not threaten allocated government funds and did not seek to hold firm responsible merely for following authority's directions, and firm was responsible for its own alleged negligence as a cost of doing business and could insure against that risk.

Fixing Public Sector Finances: The Accounting and Reporting Lever.

Abstract:

The finances of many states, cities, and other localities are in dire straits. In this Article, we argue that partial responsibility for this situation lies with the outdated and ineffective financial reporting regime for public entities. Ineffective reporting has obscured and continues to obscure the extent of municipal financial problems, thus delaying or even preventing corrective actions. Worse, ineffective reporting has created incentives for accounting gimmicks that have directly contributed to the dramatic decline of public sector finances. Fixing the reporting regime is thus a necessary first step toward fiscal recovery. We provide concrete examples of advisable changes in accounting rules and advocate for institutional changes, particularly Securities and Exchange Commission involvement, that we hope will lead to better public accounting rules generally.

Download the Paper.

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Harvard Law School

March 1, 2015

UCLA Law Review, Vol. 62, No. 3, 2015

Harvard University John M. Olin Center for Law, Economics, and Business Discussion Paper No. 814

Successful Investing In Charter School Bonds: Orrick Webinar, Part I.

Successful Investing In Charter School Bonds

> Finding Best Practices in a High-Yielding Sector
>
> Bond Buyer Web Seminar – June 5, 2013

OVERVIEW

- State Law Differences
- Basic Legal Structure for Charter Bond Financing
- Variations on the Theme

STATE LAW DIFFERENCES

43 states permit the formation and operation of charter schools under statutory schemes that are fundamentally similar in purpose, though often differing in ways that are relevant to bond financing.

Charter Authorization

- Charter schools are formed by the approval of the school's constitutional document called a "charter" or "contract".
- Charters are approved by "authorizers" which may be governmental entities, such as the state board of education, state university system, local governments or local school districts, or by quasi-governmental or nongovernmental entities.
- In New York, only [three] governmental authorizers exist for the 300+ charter schools in the state.
- In Ohio nearly 70 authorizers include private nonprofit corporations, universities and quasi-governmental entities for over 350 charter schools.
- In California each of the over 1000 school districts has power to authorize charters, and over 1000 charter schools are operating in the 2012-13 year.

Organization and Independence

- Charter schools may be formed as nonprofit corporations, for profit corporations, unincorporated associations, limited liability companies or cooperatives, depending on local law.
- Control of the charter school's governing board may be autonomous, controlled entirely by the authorizer, or some combination thereof, depending on local law.
- In California, charters may, but aren't required to, be established as nonprofit corporations, and can exist instead as quasi-governmental entities with no specific corporate character.
- In Nevada, charter schools may not be established as nonprofit corporations, and must exist as quasi-governmental entities.
- In Ohio and Texas, the law provides for independent charter school boards for some schools, but not others.
- Statutory independence of the board can affect a range of operational concerns such as employee eligibility for public pensions, collective bargaining rules, and federal tax status.

Corporate Powers

- Ordinary powers of a private corporation may be granted to charter schools entirely, or only in

part or subject to statutory limitations, depending on local law.
- In states where charter schools may be organized as nonprofit corporations under local laws, the typical powers of a nonprofit corporation are granted to charter schools, including the power to own or lease property and enter into contracts.
- In states where charters are organized as associations, cooperatives or quasi-governmental entities, the scope of the charter school's corporate powers may be unclear (unless specifically outlined in law).
- Texas, New Mexico, Nevada and California are examples of states that either require or permit charter schools to be formed as entities other than nonprofit corporations.

Charter Revocation

- Each state's charter school law describes the conditions under which a charter may be unilaterally nullified or revoked by its authorizer.
- Certain states, such as Arkansas, impose a high degree of objectivity and clearly defined criteria upon the revocation process, and some allow for automatic revocation upon the occurrence of certain extraordinary conditions (e.g., misconduct, fraud, chronically low test scores, etc).
- Other states permit a high degree of subjectivity in the revocation process, or provide little definition of the criteria or conditions justifying revocation.
- Some states, such as Colorado and California, maintain revocation appeals procedures that mirror or simulate constitutional due process procedures, while other states have no appeals process at all.
- Finally, in states with multiple charter authorizers, schools may be able to avoid revocation by simply "shopping" for a new authorizer without addressing the conditions that gave rise to the original revocation process.

Charter School Funding

- Charter schools are almost uniformly funded based on attendance, from the same public money that funds traditional K-12 school districts. The per-pupil funding may vary in amount, however, from the level provided to traditional public schools.
- Certain states, such as the District of Columbia and California, augment charter school operating funds with separate per-pupil funding specifically available for facilities expenses.
- Charter school funding may typically be pledged to secure indebtedness, pursuant to corporate powers of the school, however certain states such as New York specifically prohibit any security interest in charter school funds.
- Other states, such as Arizona and California, permit charter school funds to be "intercepted" before disbursement to the charter school, for direct transfer to a bond trustee as security for bond repayment.

EXEMPLAR TRANSACTIONS

Bronx Charter School for Excellence (Bronx, NY) (2013)

Structure

- Bonds issued to finance acquisition, construction and renovation of facilities.
- Charter school entity is the borrower.
- Senior lien on financed facility given to bond trustee.

- Track record of school garners “BBB-” rating.

Observations

- Pledge of school’s per-pupil revenues not permitted under New York law, and no intercept of funds available.

Rocketship Alma Academy (San Jose, CA) (2011)

Structure

- Bonds issued to refinance construction loan and finance additional project costs.
- Borrower (landlord) is limited liability company (LLC) sole member of which is nonprofit corporation controlled by the CMO.
- Borrower complies with financial covenants in loan agreement.
- Charter school (tenant) complies with financial covenants in lease agreement.

Observations

- Borrower (LLC) may pledge revenues (rental receipts) to bond trustee.
- Liquidity and coverage covenants require charter school to maintain cash and balance sheet, but CA rent reimbursement law creates disincentive to pledge charter school revenues.

Aspire Public Schools (multiple cities, CA) (2010)

Structure

- Bonds issued to acquire and construct charter school facilities.
- Nonprofit borrower/landlord uses operating leases to schools (short terms with renewals).
- Multiple properties/leases secure bond repayment, with ability of landlord/borrower to adjust “Additional Rent” to capture payments from one school to cover shortfall of another, if needed.

Observations

- California law limits power of charter school A to pay obligations of charter school B, but special purpose entity landlord may comingle rental revenues from multiple tenants to pay bonds.

New Plan Learning (Dayton and Lorraine, OH; Chicago, IL) (2011)

Structure

- Bonds issued to finance acquisition, construction of facilities and refinance existing debt.
- Leases from multiple landlord entities (commonly controlled) to multiple charter schools, landlords own property and improvements.
- Landlord entities pool property and revenues to secure single obligation.
- Borrower is obligated group representative, but repayment is joint/several obligation of entire group.

Observations

- Neither Ohio nor Illinois laws permit intercept of school revenues.
- Financial covenants embedded in school leases as well as borrower documents.

Tri-Valley Learning Corporation (Livermore, CA)

Structure

- Bonds issued to finance tenant improvements, including construction and renovation of facilities, on leased property.
- Charter school is tenant and borrower.
- Payments to ground lessor subordinate to bond debt service.

Observations

- California law permits intercept of bond debt service payments directly from state controller to bond trustee.
- Intercreditor agreement controls exercise of remedies by bondholders and landlord against charter school borrower/tenant.

Last Updated: April 29 2015

Article by Eugene H. Clark-Herrera

Orrick

Cyber Legal Seminar: Cybersecurity Law for Financial Institutions.

The Cyber Legal Seminar is a full-day program that will provide attorneys and compliance professionals with insights and regulatory perspectives on cybersecurity law, and how legal and compliance professionals should take an active role in your firm's cyber defense plan.

The seminar will cover current cybersecurity threats, the framework and guidance to best defend against those threats, and the global nature of cyber issues and their cross border legal implications. The speakers and panelists include senior officials from the U.S. Department of the Treasury, FBI, SEC, OCC and other federal regulators, as well as the European Union. You will hear perspectives from senior in-house counsel at banks and broker-dealers, as well as their trusted advisers.

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Build America Champion Wyden Has New Infrastructure-Bond Plan.

U.S. lawmakers are renewing efforts to expand the use of municipal bonds to attract private investment in the nation's crumbling roads and bridges.

Senator Ron Wyden, the Democrat who backed legislation creating the $188 billion market for Build America Bonds, introduced a bill Monday with Republican Senator John Hoeven of North Dakota that would facilitate the use of private-activity debt for transportation projects. Separately, Republican Representative Todd Young wants to double the limit on the securities for transportation and allow their use for facilities such as courthouses. Companies use private-activity bonds to borrow in the municipal market.

The plans may face an uphill battle because of their cost and gridlock on Capitol Hill. Yet increasing financing options for public-private partnerships would be a boon for municipalities and help fill a void, the lawmakers said. Authorization for federal highway funding is set to expire May 31, and Congress has been unable to agree on a plan to address what Treasury Secretary Jacob J. Lew says is a $1 trillion backlog of infrastructure work.

“You can come up with bipartisan approaches to get private-sector money off the sidelines and into transportation,” Wyden, 66, the ranking Democrat on the Finance Committee, said in a phone interview. “The transportation system needs more than a face lift; it basically needs full re-constructive surgery.”

Debt Limit

States and localities issue private-activity bonds on behalf of companies that build and operate facilities such as airports, ports and highways. There’s a limit to how much of the debt can be sold: as of April 15, $11.1 billion of the $15 billion allotted for transportation had been issued or approved, including for the replacement of the Goethals Bridge between New York City and New Jersey.

Municipalities nationwide sold Build America Bonds, taxable debt with a federal subsidy on interest costs, for infrastructure. Wyden, who represents Oregon, has tried unsuccessfully to revive the program, which debuted in 2009 and expired at the end of 2010.

The senator calls his latest proposal the “Move America” program. It would authorize as much as $180 billion of tax-exempt bonds over 10 years and provide as much as $45 billion in new infrastructure tax credits to match private-equity investment.

Cost Consideration

Interest on the bonds wouldn’t be subject to the alternative minimum tax, which limits the tax benefits and exemptions that high-earning individuals can claim. The plan would change other rules, including allowing use of the bonds for privately owned public infrastructure, such as highways.

The proposal would cost as much as $15 billion in foregone tax revenue over 10 years, Wyden’s office said.

“Move America bonds and tax credits are an effective way to leverage private-sector dollars to build the infrastructure we need across the country to grow America’s economy and create jobs,” Hoeven said in a release.

Young, a member of the House Ways and Means Committee, said he’d double the cap on issuance of private-activity bonds for transportation work to $30 billion and expand their use, including for public buildings.

“It’s almost inevitable that this will be part of the solution,” the 42-year-old Indiana representative said in a phone interview. “There’s no reason we should be lagging behind countries like Canada in bringing in private-sector expertise as well as capital to ensure we build more of these projects."

'Uphill Slog'

Young acknowledged hurdles, including resistance to the cost. He said he's exploring introducing his proposal or incorporating it with other plans.

In January, President Barack Obama proposed tax-exempt debt, dubbed Qualified Public Infrastructure Bonds, that would have no issuance cap and wouldn't be subject to the alternative minimum tax.

At the time, it had a low probability of being enacted by the Republican-controlled Congress, said Matt Posner, a managing director at Municipal Market Analytics, a Concord, Massachusetts-based research firm.

While getting approval to expand the use of private-activity bonds would be "an uphill slog," interest is picking up, he said.

The debt might expedite work on badly needed projects, Christopher Leslie, New York-based chief executive officer of Macquarie Infrastructure Partners Inc., said in an interview last week at a Bloomberg Government event in Washington. He oversees almost $9 billion in three funds dedicated to investments in the U.S. and Canada.

"The private sector remains keen to invest and, in fact, sees itself potentially as part of the solution to the slowness of Congress," Leslie said.

Bloomberg Muni Credit

Mark Niquette

May 3, 2015 9:01 PM PDT

Bipartisan Bill to Include U.S. Munis as High-Value Assets Introduced.

May 4 (Reuters) – A bipartisan group of U.S. lawmakers has introduced legislation that would require federal regulators to allow banks to include muni bonds as liquid assets, an issue that cities and states say could increase their borrowing costs.

In September, U.S. regulators tightened rules on which assets banks can sell in the event of a credit crunch. They also excluded debt issued by U.S. states and cities from banks' high-quality liquid assets, or HQLA.

Since then, many municipalities lobbied against the decision, arguing that if municipal debt is no longer considered a high-liquid asset, banks will have less incentive to buy their bonds, hiking borrowing costs.

On Friday, a group of five Republicans and five Democrats on the House Financial Services Committee introduced a bill that would require regulators to treat munis that are investment grade, liquid and readily marketable as a "2A" high-liquid asset.

The legislation was introduced by Republican Luke Messer from Indiana and New York Democrat

Carolyn Maloney.

“We shouldn’t allow Federal bureaucrats to promote policies that disincentivize investment in our local communities,” Messer said in a statement.

Maloney said: “States and cities rely on municipal bonds to finance critical infrastructure, build schools, and pave roads. This important legislation ensures that municipal bonds, which are among the safest investments available, are treated fairly by the regulators.”

The bill appears to have a good chance of passage out of the committee and onto the floor of the House of Representatives for a full vote, given that Maloney and another of the bill’s co-sponsors, veteran Republican Peter King, are highly ranked.

Without legislation, there appears little prospect of regulators reversing course on the rule. A rule change would require agreement of three bank regulators: the Office of the Comptroller of the Currency (OCC); the Federal Deposit Insurance Corporation (FDIC); and the Federal Reserve.

The Fed has publicly said it wants to amend the rule to include munis, while the OCC appears most opposed to a rule change.

Retail investors are the largest holders in the $3.7 trillion municipal bond market. Households hold about 40 percent of all outstanding municipal bonds, $1.5 trillion, while banks hold about $485 billion, or around 12 percent, according to Federal Reserve data.

BY TIM REID

(Reporting by Tim Reid in Los Angeles; Editing by Grant McCool)

Latest Victim of California’s Drought: Water Bonds.

California’s drought is starting to spread to the market for bonds issued by water utilities, long considered one of the safest types of debt sold by state and local governments.

Some investors are steering clear of the bonds from hard-hit areas of the U.S. west, amid concerns that restrictions on water use will drive down water-authority revenue. Some authorities may have a tough time raising rates to offset that lost income.

If shortages persist, credit ratings may weaken and prices for outstanding bonds fall, according to analysts and rating firms.

California water and sewer bonds lost value in April for the second month in three, falling 0.61% after Gov. Jerry Brown imposed mandatory water restrictions. All California municipal bonds posted a 0.55% decline for the month, counting price moves and interest payments, according to Barclays PLC.

California is in its fourth year of drought, one of the worst on record for the nation’s most populous state. It is costing billions of dollars in losses in its agricultural sector and prompting the first-ever mandatory statewide cutbacks in water use.

It is also a rare fissure in one of the most-secure and widely traded sectors of the $3.7 trillion municipal-bond market. During last year’s rally in bonds, water and sewer debt nationwide outperformed the market, rising 9.7% compared with 9% for tax-exempt bonds overall, according to Barclays. California water and sewer agencies have issued about $28.8 billion in bonds since 2010, according to Thomson Reuters.

Water-utility bonds seldom default because they're typically backed by residents' payments on an essential service. And so far the drought hasn't kept water authorities from tapping the debt market.

But the persistent water shortages show how a market prized for safety and stability can contain hidden pockets of risk, some investors said.

"The way investors have looked at water in California in the past needs to go through some evolution," said Michael Johnson, co-chief investment officer at Gurtin Fixed Income Management LLC, in Solana Beach, Calif.

Mr. Johnson said heavy investor demand for California debt of all types has raised the prices of most water bonds. That means investors may be overpaying for debt from districts with growing but unacknowledged financial problems.

His firm, which manages about $9 billion, has avoided some authorities facing challenges such as limited water storage or small financial reserves.

An April report by Moody's Investors Service warned investors that the state's water restrictions could curb revenue at water agencies. While rate increases can offset declining water use, utilities have little time to make them, and such increases may further discourage consumption.

Fitch Ratings said downgrades could occur if policy makers hesitate to make rate increases.

California isn't the only place these bonds are under scrutiny. Robert Fernandez, director of environmental, social and governance research at Boston-based Breckinridge Capital Advisors, said his firm sold bonds from at least one water authority in Texas because of inconsistent revenue and water supplies.

Breckinridge, which manages about $21.4 billion, uses 11 indicators to analyze how water availability, demand and oversight can affect an agency's ability to repay debt, looking for factors including adequate backup supplies and contingency planning, Mr. Fernandez said.

"We're not looking to say, 'we want to avoid all water systems in this area,'" he said. "We want to look for the ones that are well managed and know how to manage through these issues."

Sharlene Leurig, who directs the sustainable water infrastructure program at Ceres, a nonprofit group that promotes sustainable investing, said that while bondholders are beginning to pay more attention, the threat posed by water shortages is still poorly understood.

"I think we have a long way to go before those risks are properly disclosed and priced," she said.

'I think we have a long way to go before those risks are properly disclosed and priced.'
—Sharlene Leurig of Ceres
Maintaining investor demand will be important in California, where officials are accelerating parts of a voter-approved plan to sell more than $7 billion in general obligation bonds to pay for new water projects. That plan includes grants to local authorities, who may sell their own bonds.

Gary Breaux, chief financial officer for the Metropolitan Water District of Southern California, a consortium of 26 cities and water authorities that provide drinking water to about 19 million people in cities including Los Angeles and San Diego, said he's spoken with investors to reassure them that the triple-A-rated agency has plenty of sources for water and isn't foreseeing effect on its budget. Several water agencies' recent bond sales were well received, he added.

"I think investors feel reassured that we're watching all these different variables and we'll take them into account when we set our next budget, as well as the rates," he said.

Jamison Feheley, head of banking for public finance at J.P. Morgan Chase & Co., said California issuers are well prepared by prior droughts and haven't had to adjust bond offerings, though investors are paying attention.

"There are a lot of discussions with investors and rating agencies about `what's the plan? How do you expect to manage the drought issue?'" he said.

Demand for water utility debt has grown nationwide since Detroit's bankruptcy, because those investors proved better-protected than those holding tax-supported bonds, said Matt Fabian, partner at Concord, Massachusetts-based research firm Municipal Market Analytics. And while water bills may go up as the drought goes on, they're still a small portion of most households' expenses.

"Frankly, they just need to charge more for it," he said. "Once they start laying in new capital, either to fund conservation, or reuse, or desalination or whatever, it's just going to cost a lot more money."

THE WALL STREET JOURNAL

By AARON KURILOFF

May 4, 2015 2:19 p.m. ET

Write to Aaron Kuriloff at AARON.KURILOFF@wsj.com

Bill Would Create New Type of Bond for Infrastructure.

WASHINGTON – Sens. Ron Wyden, D-Ore. and John Hoeven, R-N.D., on Monday introduced legislation that would create Move America Bonds, which would generally be treated as exempt-facility, private-activity bonds but would have fewer restrictions and separate state volume caps that could be converted into tax credit allocations.

The bill, called Move America Act of 2015, would also allow states to convert volume cap for the bonds to allocations for tax credits. The Senators' proposal, which is designed to increase private investment in infrastructure, has some similarities to, and also differences from, the Obama administration's proposal for qualified public infrastructure bonds (QPIBs).

"Move America will turbocharge investment and give states and localities the flexibility they need to quickly and efficiently break ground on projects," Wyden, the top Democrat on the Senate Finance Committee, said in a news release. "An injection of private capital, in addition to sustainable funding for transportation programs, will help get America's economic engine running at full speed."

Move America Bonds could be used to finance airports, docks and wharves, mass commuting facilities, railroads, highways and freight transfer facilities, flood diversion projects and inland waterway improvements.

The bonds would generally follow the same rules as exempt-facility bonds, with some exceptions.

Move America Bonds would not be subject to the alternative minimum tax. Exempt-facility bonds for airports, docks and wharves and mass commuting facilities have to be governmentally owned, but Move America Bonds used for those purposes could be privately owned. Up to 50% of the proceeds of Move America Bonds could be used for land acquisition, compared to 25% for most types of PABs. Also, certain rules for exempt-facility bonds for high-speed rail facilities and for highway and freight transfer facilities would not apply to these new bonds.

Move America Bonds would be subject to new, separate state volume caps equal to 50% of the state volume caps for PABs. As with PABs, states could carry forward unused volume cap for up to three years, but with Move America Bonds any volume cap unused after the three years could be reallocated to states that fully used their cap.

Wyden and Hoeven's bill would also authorize Move America Credits — tax credits aimed at attracting private investment in infrastructure. The credits could be used on projects financed with Move America Bonds and they could be combined with the bonds and other federal and state funding.

States would have to trade in some of their Move America Bond volume cap to get allocations for the credits. They would receive $0.25 of credit allocation for every $1 of volume cap converted. The amount of credits on a project could not be more than 20% of the project's estimated cost and could not be more than 50% of the project's total private investment.

States could sell the credits or allocate them to sponsors of projects. The sponsors could claim the credits themselves or sell them to raise capital. The credits would be available to taxpayers once projects are placed into service, and taxpayers could claim the credit at 10% for 10 years.

Move America Bonds would be similar to Obama's proposed QPIBs in that both would be new types of PABs used to finance infrastructure projects that would be exempt from the AMT. However, QPIBs would have to be used for governmentally-owned projects and would not be subject to any volume caps. Also, there would be no tax credits associated with QPIBs.

Municipal bond experts were generally positive about the bill.

"Tax-exempt bonds have been a cost-effective way to finance critical infrastructure and community investment projects for more than 100 years," said Bond Dealers of America chief executive officer Mike Nicholas. "Creating additional opportunities to use these bonds will increase their benefits to the small issuers that regional and middle-market dealers work with and, particularly, to taxpayers and local communities."

"Senator Wyden's proposal represents a creative and thoughtful approach to bridging the gap between infrastructure funding needs and available resources," said Michael Decker, managing director and co-head of municipal securities at the Securities Industry and Financial Markets Association. "We are particularly encouraged that Senator Wyden's bill proposes to leverage the existing and well-proven tax-exempt bond market, which is the single most important tool for funding infrastructure in the U.S."

Susan Collet, president of H Street Capitol Strategies, said that the goal of the bill appears to be to provide as much flexibility as possible to private investors for infrastructure projects. "It's great to see a thought-provoking, bipartisan bill" on this topic, she said.

Micah Green, a partner at Squire Patton Boggs, said that while he's not prepared to comment on the specifics of the bill, “this is yet another example of the broad based bipartisan support that exists to not only infrastructure finance, but also for ideas utilizing the municipal bond market as a mechanism for delivering lower cost financing for this needed public investment.”

THE BOND BUYER

BY NAOMI JAGODA

MAY 4, 2015 3:52pm ET

Bill Introduced to Require Bank Regulators to Treat Munis as HQLA.

WASHINGTON — A bipartisan coalition of House members has introduced legislation that would require federal banking regulators to treat certain municipal securities held by large banks and other financial institutions as high-quality liquid assets.

The bill, H.R. 2209, is sponsored by Rep. Luke Messer, R-Ind., with at least nine other co-sponsors, including several who have been prominent on muni issues such as: Rep. Steve Stivers, R-Ohio; Rep. Randy Hultgren, R- Ill.; Rep. Gwen Moore, D-Wisc.; and Rep. Michael Capuano, D-Mass. All 10 sponsors are members of the House Financial Services Committee, including high-ranking members Rep. Peter King, R-N.Y. and Rep. Carolyn Maloney, D-N.Y.

The bill is a response to a rule jointly adopted by the Federal Reserve, Comptroller of the Currency, and Federal Deposit Insurance Corporation late last year that requires the country’s largest banks and other financial institutions to maintain a certain liquidity coverage ratio, or LCR, to ensure they can better deal with periods of financial stress. An LCR is defined as the ratio of HQLA to total net cash outflows. Assets would qualify as HQLA if they could be easily and quickly convertible to cash with or no loss of value during a period of liquidity stress.

Bank regulators failed to include munis as HQLA in the rules, contending are not liquid or easily marketable. They also said banks don’t hold munis for liquidity.

The rule, which banks have to comply with by Jan. 1 2017, is designed to protect the U.S. financial system during times of stress by ensuring that banks with at least $250 billion of total assets or consolidated on-balance sheet foreign exposures of at least $10 billion have the flexibility to weather the storm.

Market groups and lawmakers have warned that the exclusion of munis will raise borrowing costs for issuers, as well as decrease liquidity and increase volatility in the muni market.

The Fed has seemed receptive to amending the rule to include at least some investment grade munis as HQLA, and Fed chair Janet Yellen told the Financial Services committee earlier this year that Fed staff were working “very expeditiously” to identify the munis that could qualify. But the OCC and the FDIC have been reluctant to make the change, though they have not ruled it out.

The Messer bill would require that the LCR rule treat munis that are investment grade and actively traded in the secondary market as “2A” liquid assets, the same tier as some sovereign debt and claims on U.S. government entities like Fannie Mae and Freddie Mac. Securities and bonds in the 2A category can account for up to 40% of a bank’s HQLA under the rule. It is the second highest level of HQLA, below federal government securities and the strongest foreign debt.

Market groups are welcoming the bill.

"Bond Dealers of America supports efforts by legislators and regulators to accurately define municipal bonds as high-quality liquid assets," said BDA chief executive officer Mike Nicholas. "In times of extreme market stress, as in 2008 and 2009, highly-rated municipal bonds were a solid store of value, and to exclude municipal bonds from the liquidity coverage ratio would negatively impact demand and raise the cost of infrastructure and other job-producing municipal projects for issuers."

Dustin McDonald, director of the Government Finance Officers Association's federal liaison center, said his group's members support the Messer bill.

"The GFOA applauds the introduction of this important legislation and appreciates Congressman Messer's leadership on this issue," McDonald said. "GFOA and a number of our association partners have presented a very strong case to regulators about the need to admit muni securities as HQLA, and the liquidity of munis. There is no reason why investment grade munis should not be classified as HQLA."

Michael Decker, managing director and co-head of municipals at the Securities Industry and Financial Markets Association, also applauded the bill.

"We are encouraged that Congress is focused on the issue of bank investment in the municipal market," Decker said. "Banks provide a key source of demand for municipal securities, and the liquidity coverage ratio rule as finalized last fall will over time discourage bank investment in the market, to the detriment of state and local governments."

Sources said that a unilateral move by the Fed to amend the rule to include munis as HQLA, without the OCC or the FDIC, would probably not do much to resolve the HQLA problem because most of the banks big enough to impact liquidity are nationally-chartered institutions primarily regulated by the OCC.

According to Fed data, all but two of the nine institutions with more than $250 billion in holdings at the end of 2014 were banks primarily regulated by the OCC, and sources said such institutions would probably not feel free to count munis as HQLA just because the Fed alone amended the rule.

"It doesn't solve for what the market needs," said one bank analyst who asked not to be identified. The banks that would get some flexibility from a unilateral Fed change are those that control "a much smaller portion of the liquidity," then the OCC-regulated institutions, the analyst said.

Messer's bill is awaiting action before the Financial Services Committee, and could have a bright outlook there due to the support of the high-ranking Republicans as well as Democrats who co-sponsor it.

THE BOND BUYER

BY KYLE GLAZIER

MAY 4, 2015 1:38pm ET

IRS Webinar: Taxability of Fringe Benefits, Part One.

What: Free Webinar – Taxability of Fringe Benefits Part One: What Is A Fringe Benefit and When Is It Taxable?

When: May 19, 2015; 2 p.m. (Eastern)

How: Register for this event. You will use the same link to attend the event.

Learn about:

- What fringe benefits are
- Which fringe benefits are taxable
- Special accounting rules for fringe benefits
- What is a working condition fringe benefit
- What is a *de minimis* fringe benefit
- Taxability of per diem payments
- The accountable plan rules

Chicago Mayor Pledges End to Scoop-and-Toss Restructurings.

CHICAGO – Chicago will phase out the use of scoop-and-toss debt restructuring, convert $900 million of floating-rate debt to fixed rate and exit the attached interest rate swaps under measures announced by Mayor Rahm Emanuel Wednesday.

The city also plans over the next four years to reduce its reliance on debt to cover operating expenses like judgments and legal settlements and continue rebuilding reserves partially drained before Emanuel took office four years ago.

"They are the right steps" for the financial well-being of the city, Emanuel said during an address to the Chicago Civic Federation, a government research organization that follows the city's budgeting and fiscal policies and has chided some of its borrowing practices.

Canceling the interest rate swap agreements attached to the city's general obligation and sales tax-backed floating-rate debt would result in costly termination payments based on recent negative mark-to-market valuations of about $200 million. The city will use its short-term commercial paper line to cover the costs and eventually fold it into a long-term GO bond sale, said Chicago's chief financial officer Lois Scott.

The city has three general obligation-backed floating rate deals outstanding from 2003, 2005, and 2007 with swaps attached that are negatively valued at $162 million. Another 2002 sales tax deal has a swap attached that's negatively valued at $29 million. The city's most recent downgrade triggered swap termination events on four derivative contracts, adding to the city's fiscal headaches.

The city's 24 swaps tied to $2.4 billion of floating-rate general obligation and revenue-backed paper were almost $400 million underwater based on market valuations at the close of 2014, but the mayor did not propose any changes to revenue-backed credits.

In announcing the debt-related measures, Emanuel is taking aim at practices attacked by his critics during the recent mayoral election and criticized by many market participants as shoddy fiscal maneuvers used by distressed issuers for near-term relief that add to the city's long-term structural budget woes.

Emanuel acknowledged as much, saying the debt maneuvers "mask the true costs of government."

The time is right, Emanuel said to take a "bigger step forward" on righting the city's fiscal ship with the debt reforms as the local economy is on the mend following the recession and the budget's structural deficit has been cut in half.

The plan, dubbed a roadmap for reform, comes three weeks after Emanuel won a second term following a runoff contest during which the city's deteriorating credit ratings and fiscal hardships took center stage. The city's massive $19 billion tab of unfunded liabilities and the burden of funding a $550 million increase in its pension contribution for police and firefighters next year have driven the credit rating dive.

The debt-related policy changes don't solve the city's most daunting challenge, its pension funding shortfalls, and will actually pose a near-term burden as the city uses more operating funds to cover legal costs and phases out the practice of pushing of upcoming debt principal payments off.

Emanuel acknowledged the measures may not stabilize or boost the city's credit standing, but he's hoping analysts and investors will view them "as very good and positive steps."

Moody's Investors Service in late February knocked the city's down one notch to Baa2, only two levels above speculative-grade territory, but assigned a negative outlook.

The downgrade triggered termination events on four swaps with a combined negative valuation of nearly $60 million. BMO Harris Bank agreed to lower the rating threshold on one swap relieving the city from a potential $20 million payment if demanded by the bank. Wells Fargo Bank, the counterparty of the other three, has so far refused.

The city is expected to soon shift the 2003 floating-rate paper attached to one of those swaps to a fixed-rate and cancel out the swap and three others on the transaction that all combined carry a negative valuation of $33 million.

To cover any swap expenses, the city could tap its short-term borrowing program, although that is one of the practices Emanuel is targeting in his reform plan. The city last year drew $36.3 million from its short-term borrowing program to cover termination payments on two of its swaps on a notional principal amount of $206 million from a 2002 issue. The city then planned to convert the paper to a fixed-rate structure.

THE BOND BUYER

BY YVETTE SHIELDS

APR 29, 2015 5:05pm ET

MSRB To Publish Best Ex Guidance.

WASHINGTON – The Municipal Securities Rulemaking Board plans to publish interpretive guidance on its best execution rule no later than July, MSRB chair Kym Arnone said Monday.

Arnone, a managing director and head of municipal securitization initiatives at Barclays Capital, made the comments during a press call following the board's quarterly meeting at its Alexandria, Va. headquarters late last week.

The meeting did not feature any formal regulatory action, but Arnone said staff updated the board on the development of the guidance, which will be in a frequently-asked-questions, or FAQ, format.

The best execution rule, G-18, will become effective on Dec. 7. It generally would require dealers to use "reasonable diligence" to determine the best market for a security and then buy or sell the security in that market so the resulting price to the customer "is as favorable as possible under prevailing market conditions."

Some dealers have voiced questions about how traders will be able to demonstrate due diligence. MSRB chief legal officer Robert Fippinger said the FAQs will purely be interpretive of the rule, and will not modify it in any way.

The staff also provided the board with an update on its exploration of adding certain pre-trade pricing information to EMMA. Arnone said the MSRB has been working with at least one alternative trading system to find out what kinds of data might be available as a useful addition to EMMA. Earlier this year the Financial Industry Regulatory Authority proposed requiring ATS' to provide information to FINRA "solely for regulatory purposes," and panelists at the National Municipal Bond Summit in Florida last month said they expected the MSRB would likely not be far behind

MSRB executive director Lynnette Kelly said it is premature to discuss a timeframe for when the board might make a decision about collecting and adding more pre-trade information, but that the MSRB could eventually either require it by rule or request that ATS' supply some set of information to EMMA.

"The goal is to review a broad spectrum of information," Arnone said.

The board also discussed comments it received on its proposal to require dealers, when acting as principals, to disclose to customers on their confirmations, a "reference price" of the same security traded that same day. The MSRB made that proposal jointly with a FINRA proposal for corporate bonds last year, and the Securities Industry and Financial Markets Association told the MSRB in a January comment letter that the approach is wrong and that enhancements to EMMA are a better way to inform investors about pricing information.

Arnone said the board spent "considerable time" discussing the reference price proposal, and agreed to continue evaluating the proposal in coordination with FINRA.

"There's no question that this is a very complex issue," Arnone said.

The next MSRB board meeting will be July 29-31, the last one of the fiscal year.

THE BOND BUYER

BY KYLE GLAZIER

APR 27, 2015 2:46pm ET

Fund Manager Seeks City Projects With High-Yielding Bonds.

When Steve Czepiel talks about traffic on the Pennsylvania Turnpike or retirement communities in Florida, odds are he isn't referring to his daily commute or plans for his golden years. As co-manager of the $944 million Delaware National High-Yield Municipal Bond fund (ticker: CXHYX), Czepiel spends his days thinking about the economics of toll roads, charter schools, hospitals, and other projects financed by municipal bonds.

Over the past decade, his fund has averaged 5.6% returns annually, putting it in the top 2% of Morningstar's high-yield muni category, with most of its total return coming from income. Those results, however, aren't the product of interest-rate bets—the fund keeps its duration in line with its Lipper peer group—or wagers on places like Puerto Rico or Detroit. It is the product of careful securities selection. "Our focus is on building the portfolio bond by bond," Czepiel says.

Those bonds are typically rated just above or below investment grade or, in the case of 22% of its holdings, not rated at all. The managers' goal: Find a mismatch between the viability of a project and the rating of its bond to deliver high yield to investors without an inordinate amount of risk. "At times, it's like finding a needle in a haystack," says Czepiel of choosing the right securities; high-yield muni bonds represent just a sliver of the muni-bond market. "It's a regionalized and fragmented market that can be very quirky." Investors who understand the twists and turns are earning 5% to 7% in tax-exempt income.

Czepiel, 57, for his part, has made a career of navigating the nuances of the muni market. After graduating from high school, the Pittsburgh native worked road construction for three years to save up enough to study finance and economics at Duquesne University. When he graduated in 1982, he was the first person in his family to have gone to college. "I always tell people I'm most proud that I put myself through school," says Czepiel, who landed a job at Kidder Peabody after graduation and went on to trade muni bonds for more than two decades. In 2004, Patrick Coyne, president of Delaware Investments, and Joe Baxter, head of municipal bonds, recruited Czepiel to join the Philadelphia firm.

In a typical week, Czepiel, his two co-managers, and seven credit analysts look at a dozen deals, ultimately passing on most. They add about 30 new holdings to the portfolio a year, with most of these bonds coming in as new issues. "Once these bonds are issued, you may never see them again," Czepiel says, noting that most are owned by individuals and held to maturity. Because of this, the team spends two to three weeks peeling back the many layers of each project and deal structure. "In some cases, we'll suggest changes to the underwriter," he adds.

The fund's universe is composed of revenue-based bonds that get dinged by credit-rating agencies for any number of reasons. "An example would be a hospital in a lower-income area," says Baxter, who is a co-manager on the fund. "It might get a lower rating because of its location, but that doesn't mean it's going to default."

Delaware Nat. High-Yield Muni Bond

	Total Returns* 1-Year	5-Year	10-Year
CXHYX	9.7%	7.0%	5.6%
Barclays Muni Bd Idx	5.0	4.8	4.7

Top 10 Holdings	Coupon	% of Portfolio**
Buckeye Tobacco Settlement Financing Authority	5.88%	2.6%
County of Jefferson, Ala., Sewer Revenue	6.50	2.1
Golden State Tobacco Securitization	5.75	1.8
Salt Verde Financial	5.00	1.6
Tobacco Settlement Financing Corp/N.J.	5.00	1.5
New York Liberty Development	5.25	1.3
Pennsylvania Turnpike Commission	5.25	1.1
New York Liberty Development	7.25	1.0
Foothill-Eastern Transportation Corridor Agency	6.00	1.0
California Statewide Communities Development Authority	5.50	1.0
Total		15.0%

*Returns are as of 4/29; three- and five-year returns are annualized.
**as of 3/31 Sources: Morningstar; company reports

Unlike general-obligation bonds, which are backed by the taxing authority of local and state governments, these high-yield bonds are typically earmarked for specific projects and depend on relatively narrow sources of revenue to repay that debt. Investors need to go into these deals with their eyes wide open, says Czepiel, but the default rate among below-investment-grade municipal bonds is significantly lower than that of junk-rated corporate bonds. Between 1970 and 2013, for example, the cumulative default rate for U.S. speculative-grade muni bonds was 6.5%, versus 33.1% for speculative global corporate bonds, according to Moody's Investors Service.

One of the more interesting sectors is health care—more than 22% of the fund. This group includes hospitals, nursing homes, assisted-living facilities, and continuing-care retirement communities. The fund recently owned debt tied to six such developments in Florida, including one in Boca Raton with a 6.75% coupon. "This facility was a start-up," says Czepiel, "but we were reassured by a number of factors, including a high level of investment from the developers."

Corporate issuers make up 19% of the fund. "You see corporate debt in the muni world if the bonds are being issued for the public good," Czepiel says. These bonds provide financing for everything from tobacco settlements and pollution control to opening new gates at airports.

Education is another area rich in tax-exempt income. The fund recently owned debt from dozens of charter schools in 16 states and the District of Columbia. One such holding is View Park Preparatory Accelerated Charter School in Los Angeles, which raised $15 million in BB-rated bonds last fall to build a new facility. "This is an established school that had gone through several charter renewals," says Czepiel. "They have good test scores, a strong school board, and a 94% student-retention rate."

The revenue, based on per-pupil payments from the state, is enough to cover its debt and expenses, says Czepiel, but the slim margins of charter schools tend to lead to lower credit ratings. In this case, the bonds yield nearly 6%.

Though turnover is low, “the ongoing surveillance of these projects is critical,” says Czepiel, who keeps tabs on everything from construction timelines and budgets to revenue and operation costs. “If we see that something isn’t tracking properly, we’ll sell.”

One trend that Czepiel is keeping a close eye on is the intersection of private investors and public issuers in what’s known as a public-private partnership, or P3. The fund has invested in a number of these deals, including one that is building and repairing bridges in Pennsylvania, putting a light rail line from downtown Denver to its airport, and helping water-starved California desalinate seawater. If everything goes according to schedule, the Carlsbad Desalination Project will begin producing 50 million gallons of fresh water daily by 2016. “It will provide 7% of San Diego County’s daily water usage,” says Czepiel. In the meantime, the municipal bonds that financed the lion’s share of the $1 billion project are pumping out 4.5% tax-free income.

BARRON’S

By SARAH MAX

May 2, 2015

Muni Issuance Dipped in April, But Spiked So Far in 2015.

May 1 (Reuters) – Issuance of U.S. municipal bonds fell slightly in April, but sales for the first four months of 2015 jumped over 67 percent compared with the same period a year earlier, according to Thomson Reuters data released on Friday.

Total sales in April were $39.3 billion, 9.5 percent lower than March, but 55 percent higher than the $25.3 billion sold in April 2014.

The spike in sales this year – there has been $143.2 billion of municipal issuance in the first four months of 2015 compared to $85.4 billion during the same period last year – is due to more issuers refinancing, market watchers say.

Issuers sold $101.2 billion of refunding bonds in 2,544 deals during the first four months of this year, more than double the $42.2 billion of refunding bonds sold during the same period in 2014 across 1,244 deals, the data shows.

“The story for the first part of 2015 – and April specifically – has been low interest rates,” said Tom Kozlik, managing director and municipal credit analyst at Janney Capital Markets. “That environment has created refundings, refundings, refundings.”

New debt sales rose slightly in April as issuers sold $14 billion in new bonds across 579 deals, compared to $13 billion over 474 deals in April 2014. Overall, new money deals fell slightly in the first four months of 2015 with $41.9 billion compared to the same period in 2014 with $43.2 billion of new sales.

“New issuance has been down,” said Kozlik. “Muni credits do not want to add more fixed costs than they already have.”

Next week’s sales will be relatively small in size, with an estimated $9.8 billion of issuance, according to Thomson Reuters data. This week, municipal issuance totaled $4.9 billion.

Next week’s four largest deals are the state of Louisiana with $335 million of general obligation bonds; the Los Angeles Unified School District with $330 million of general obligation refunding bonds; the Los Angeles Community College District with $310 million of general obligation refunding bonds, and the Indiana Finance Authority with $302 million of stadium lease appropriation refunding bonds.

BY ROBIN RESPAUT

(Reporting by Robin Respaut, editing by G Crosse)

Risk Transfer Success Leads to Ratings Upgrades for Florida Citizens.

It’s an exceedingly rare thing that I’d ever point to anything my adoptive state of Florida does in the area of insurance markets as an example that others might want to copy. But in at least one important respect, recent moves by the state-run Citizens Property Insurance Corp. offer a model not only for other residual markets, but also for the National Flood Insurance Program and, perhaps most importantly, for Citizens’ sister agency, the Florida Hurricane Catastrophe Fund.

Citizens’ efforts to slim down its portfolio and shift more risk to private reinsurance markets already are paying off in a big way. Late last week, the rating agencies Moody’s and Fitch both upgraded Citizens’ debt credit rating ahead of a planned $1 billion municipal bond issuance, Citizens’ first in three years.

Moody’s upgraded both Citizens’ personal lines and commercial lines accounts from A2 to A1, and assigned an A1 rating to the pending $750 million of tax-exempt senior secured bonds and $250 million of floating-rate notes.

> *The upgrade to A1 on all the Accounts notes CPIC’s track record and expertise with administering the assessment mechanism, during and after heavy storm seasons, as well as the state’s robust economy and* ***the corporation’s successful efforts to transfer risk and reduce the necessity for post-event bonding in coming years.***

Fitch upgraded more than $2.6 billion of Citizens’ outstanding senior secured debt from AA- to A+. Those bonds include $746.6 million issued in 2009, $1.24 billion issued in 2010 and $645 million issued in 2011. For the forthcoming issues, Fitch again assigned an AA- rating.

> *The upgrade to ‘AA-‘ from ‘A+’ on the senior secured bonds reflects Citizens’* ***successful efforts to lower and transfer risk****, reducing its exposure to claims and reducing the magnitude of potential future borrowing.*

How these changes, particularly the Moody’s upgrade, ultimately affect Citizens’ cost of borrowing will be seen more definitively when the issues come to market May 18. The last time Citizens did a bond issuance, in 2012, its 10-year bonds were priced at 3.77 percent, about 180 basis points above the benchmark.

As seen in the ratings guidance, credit goes to Citizens management for embarking on a bold plan to leverage soft pricing conditions in the private reinsurance markets. Citizens previously only received reinsurance from the Cat Fund, thus multiplying the solvency risk should the state be hit by a major storm. In addition to purchasing billions in traditional reinsurance in recent seasons, Citizens also followed the lead of entities like North Carolina's Beach Plan, Massachusetts' FAIR plan and Louisiana's own all-purpose Citizens by jumping into the catastrophe bond market in a major way.

Between them, Citizens' Everglades Re and Everglades Re II entities have issued catastrophe bonds for $750 million in April 2012, $250 million in March 2013, $1.5 billion in May 2014 and, most recently, a $250 million issuance this coming month. The $1.5 billion 2014 cat bond remains the largest single issuance in history, and Citizens' combined $2.75 billion in cat bonds represents about 12 percent of the $23 billion global market.

Credit also belongs to Citizens' successful depopulation program, as its policy count has fallen by more than half in the past three years (from 1.5 million to about 600,000) and their total insured value has over the past four years fallen from $518 billion to less than $200 billion.

Of course, these improvements have only been made possible by an unprecedented nearly decade-long drought of major storms hitting the Sunshine State. Citizens ended 2005, following the strike of Hurricane Wilma, with a deficit of $1.8 billion. Were it a private company without the ability to assess "hurricane taxes" on other privately sold policies, that would have been the end of the line for Citizens. Instead, policyholders across Florida were forced to pick up the slack and, thanks to the lucky streak, Citizens was able to end 2014 with a surplus of $7.4 billion.

Now, the next step is to import that same success to the Cat Fund. Earlier this month, the Florida Cabinet approved a plan by the fund to buy $1 billion of retrocessional reinsurance cover, which would mark its first ever private reinsurance deal. The Citizens upgrades suggest similar improvements are possible for the Cat Fund should it follow through with these risk-transfer plans.

Not only would transferring more risk back to the private market better protect Florida taxpayers and policyholders from future hurricane taxes (and given current pricing, with no or close to no impact on rates) but it would mean cheaper borrowing costs in the long term. Approving the final deal should be a no brainer for the State Board of Administration.

By Ray Lehmann | Right Street Blog | April 30, 2015

Insurance Journal

A Cautionary Tale For Bond Buyers.

We are all aware of sticker shock. We are aware of those pesky gummed price stickers on things we buy. Your kids and grandkids grew up with stickers that adorned their schoolbooks, art projects, hands and arms. You get the picture.

After 36 years of being a bond professional I was not acquainted with the process of stickering a municipal bond Official Statement until the week of April 20.

Stickering simply is amending, correcting, or supplementing information in a new issue Official Statement (OS) during the offering period. The amendment is supposed to clarify or correct information in the OS. Sounds simple, doesn't it? Read on.

Our firm purchased Beaumont Special Tax municipal bonds for some higher risk-taking clients. The city of Beaumont is 80 miles east of Los Angeles. This bond was a refunding issue, secured by revenues collected from a special tax levied on a specific group of homes in a designated area. We studied the area, the number of homes, loan-to-value, how much of the area is developed, and any overlapping debt. All the essential facts that needed to be studied before purchasing the new issue.

We purchased the bonds (yes, I personally did too), which had an extended settlement like many new issues. Fast forward to April 23. The brokerage firm that underwrote the deal contacted us. Bad news. The FBI and Riverside District Attorney's office raided Beaumont City Hall and Urban Logic Consults with search warrants. They also served warrants in Temecula and Palm Desert.

The investigation is about Urban Logic's business relationship with the city. Apparently Urban Logic has provided consulting and management services to Beaumont for more than 20 years.

Does this investigation affect the Special Tax bonds we purchased? Or the homes in the area whose tax revenues go to pay timely interest and principal? It doesn't matter. I've learned over my decades of investing in bonds that there's rarely ever one cockroach. Ever live in or visit the desert and see a big, fat cockroach skitter across the floor at night? If there's one, there is always, without fail at least another.

Because this FBI investigation was new information the underwriter had to initiate the stickering process. Investors who purchased the newly issued bonds—which had yet to settle—now had a choice of closing the purchase or canceling the trade. We cancelled out as an abundance of caution.

During the same week, Louisiana State University—which had already priced and offered municipal bonds—had to cancel their deal before it closed. The reason cited was Governor Bobby Jindal has to make deep budget cuts. Louisiana faces $1.6 billion in budget shortfalls, partly due to falling energy prices.

Since the LSU bond deal was cancelled school officials are crafting a financial exigency plan. This is similar to a bankruptcy plan. "Exigent" means immediate action or attention, urgent, critical—all words rarely seen in the municipal bond space. Clearly this was a exigent circumstance not covered in the OS. Some of the information disseminated in the aftermath of the LSU deal mentioned material declines in state support. I'll say! As a result LSU cancelled the deal.

The numerous lessons in telling these two municipal bond sagas are: Whether non-rated as were Beaumont's Special Tax bonds or LSU's rated bonds (A by Moody's and AA- by Fitch), things can happen. Do-it-yourself investors need to keep up on their municipal bonds as much as they do with their other investments. Buying municipal bonds with a set it and forget it mindset is like using an old Motorola flip phone and wondering why there's no text messages or news.

Forbes

Marilyn Cohen, Contributor

4/29/2015

Marilyn Cohen is president of Envision Capital Management, Inc., a Los Angeles fixed-income money manager.

TAX - OHIO

Hillenmeyer v. Cleveland Bd. of Rev.

Supreme Court of Ohio - April 30, 2015 - N.E.3d - 2015 -Ohio- 1623

Nonresident professional football player filed applications for refunds of income taxes paid to city. The Central Collection Agency (CCA), city's tax administration authority, upheld its imposition of tax using the games-played method of allocation, and player appealed. City's Board of Review upheld the CCA's position, and player appealed. The Board of Tax Appeals (BTA) affirmed, and player appealed.

The Supreme Court of Ohio held that:

- Statutory occasional-entrants rule did not violate player's equal protection rights;
- City's application of its games-played method of allocating income violated due-process rights of player; and
- Duty-days method comported with due process and ensured that the tax collected was not disproportionate to the income received for work in city.

Nonresident professional football player's election of appellate avenues, namely appealing to Board of Tax Appeals (BTA), rather than the common pleas court, did not waive his constitutional claim that city's allocation method known as "games-played," under which the taxable portion of professional athlete's income was based on the number of games the athlete played in city in relation to the total number of games played that year, violated due process. Statute, governing appeal from final determination of local board of tax review, set forth appellant's right to choose the forum and imposed no restrictions on its doing so.

Nonresident professional football player did not ignore statutory grounds for relief in order to present a constitutional argument, namely that city's allocation method known as "games-played," under which the taxable portion of professional athlete's income was based on number of games the athlete played in city in relation to total number of games played that year, violated due process. Player argued that Central Collection Agency's regulation conflicted with city ordinance and that the games-played method was preempted by statutory occasional-entrants rule, stating that municipal corporation shall not tax the compensation paid to a nonresident individual for personal services performed by the individual in the municipal corporation on twelve or fewer days in calendar year unless individual is a professional athlete.

Statutory occasional-entrants rule, stating that municipal corporation shall not tax the compensation paid to a nonresident individual for personal services performed by the individual in the municipal corporation on twelve or fewer days in a calendar year unless individual is a professional athlete, did not violate nonresident professional football player's equal protection rights. Classification of professional athletes as distinct from other occasional entrants neither involved fundamental rights nor proceeded along suspect lines, there was rational relationship between disparity of treatment and legitimate governmental purpose, professional athletes were typically highly paid so that a city could earn significant revenue with comparative ease, professional athletes and their events incurred much larger public burdens relating to police protection and traffic and crowd control than did other occasional entrants, and imposing limit on local taxation while protecting cities' interest in collecting existing taxes constituted adequate rational basis for General Assembly's actions.

Although city had right to tax the compensation earned by a nonresident professional athlete for his work performed in city, the city's application of its games-played method of allocating income violated due-process rights of nonresident professional football players. Under games-played method, taxable portion of a professional athlete's income was based on number of games the athlete played in city in relation to the total number of games played that year, games-played method resulted in city allocating approximately 5 percent of player's income to itself on the basis of two days spent in city, games-played method reached income that was performed outside of city because it foreseeably imposed city income tax on compensation earned while player was working outside city, and thus, city's income tax, as applied to players, was extraterritorial and violated due process.

Consistent with the rule that the taxing authority could not collect tax on a nonresident's compensation earned outside its jurisdiction, the duty-days method, whereby the numerator represented the number of days spent in the taxing city and denominator represented the total number of work days, properly included as taxable income only that compensation earned in city by accounting for all the work for which nonresident professional football player was paid, rather than merely the football games he played each year, and as such, the duty-days method comported with due process and ensured that the tax collected was not disproportionate to the income received for work in city.

TAX - TEXAS

Texas Student Housing Authority v. Brazos County Appraisal District

Supreme Court of Texas - April 24, 2015 - S.W.3d - 2015 WL 1870013

Higher education facility authority sought review of county appraisal district's denial of tax exemptions for a student residential facility that it used as summer housing for non-college students attending university-sponsored instructional programs. The District Court affirmed the denial. Authority appealed. The Court of Appeals affirmed in part, reversed in part, and rendered in part. Both parties appealed.

As a matter of first impression, the Supreme Court of Texas held that authority did not forfeit its tax exemption by using the facility as it did.

Higher education facility authority did not forfeit its tax exemption for a student residential facility, under a provision of the Education Code, by using the facility as summer housing for non-college students attending university-sponsored instructional programs. The provision exempted property owned by a properly constituted higher education facility authority and did so without conditions, and county appraisal district did not dispute authority's assertion that authority was properly constituted.

S&P: U.S. Regulated Water Utilities' Credit Quality Remains Buoyant, But Key Risks Remain That Could Weigh It Down.

Standard & Poor's Ratings Services continues to maintain high-investment-grade ratings on most U.S. regulated water utilities (USRWUs) even though we estimate these companies' capital spending will exceed more than $2 billion in capital spending annually by 2020. We've identified three key areas that we expect will likely affect USRWUs' ability to manage regulatory and operating risks in coming years: Regulatory lag, drought, and declining sales. USRWUs have fared well thus far in managing these risks. And this is reflected in USRWU ratings, which compare favorably to ratings for regulated gas and electric utilities (see chart 1). Nevertheless, USRWUs will continue to confront these three aforementioned issues, which could likely affect their credit quality over the long term. In evaluating these…

Purchase the Report.

White House Hopes to Boost P3s in Promise Zones.

The Obama Administration this week announced eight additional Promise Zones across the country. Promise Zones are high-poverty communities where the federal government partners with local leaders to increase economic activity, leverage private investment, improve educational opportunities, reduce violent crime, enhance public health and address other priorities identified by the community, according to the U.S. Department of Housing and Urban Development. Through the Promise Zone designation, these communities will work directly with federal, state and local agencies to give local leaders proven tools to improve the quality of life in some of the country's most vulnerable areas.

The new Promise Zone communities are:

- Camden, New Jersey
- Hartford, Connecticut
- Indianapolis, Indiana
- Minneapolis, Minnesota
- Sacramento, California
- St. Louis/St. Louis County, Missouri
- Pine Ridge Indian Reservation of the Oglala Sioux Tribe, South Dakota
- South Carolina Low Country

"The Promise Zone effort is proof positive that partnerships are the key to community economic development," said Agriculture Secretary Tom Vilsack. "Families and children in rural and tribal communities are full of potential to compete and succeed in the 21st Century. When we invest our resources and establish long-lasting public-private alliances to strengthen educational opportunities, deliver health care, build infrastructure and create jobs, we are investing in our country's future."

The newly designated zones join five others that were named in January 2014 — San Antonio; Los Angeles; Philadelphia; Southeastern Kentucky Highlands and the Choctaw Nation of Oklahoma.

All Promise Zones will receive priority access to federal investments that further their strategic plans, federal staff on the ground to help them implement their goals, and five full-time AmeriCorps VISTA members to recruit and manage volunteers and strengthen the capacity of the Promise Zone initiatives.

A competition to select a third round of Promise Zones will commence later this year. HUD will publish this summer a notice in the Federal Register requesting public comment on the proposed selection process, criteria, and submissions for the final round of the Promise Zones initiative.

NCPPP

By Editor April 30, 2015

[S&P's Public Finance Podcast (Rating Actions On Puerto Rico And Louisiana's Universities).]

In this week's Extra Credit, Senior Director Dave Hitchcock discusses our recent rating action on Puerto Rico and Director Sussan Corson and Associate Director Debra Boyd explain the rationale behind our rating actions on Louisiana's universities.

Listen to the Podcast.

Apr 30, 2015

Municipal Issuer Brief: Superdowngrades

Read the Brief.

Municipal Market Analytics | Apr. 28 |

Moody's: Regardless of Legal and Political Outcomes, Chicago's Pension Pressures Will Grow for Years.

New York, May 01, 2015 — Chicago's (Baa2 negative) pension plans face an uncertain future. Statutes that govern the city's pension funding requirements have come under legal and political fire, particularly during the last year, as pensioners, politicians, taxpayers and investors have questioned the laws' constitutionality and affordability, Moody's Investors Service says in a new report.

Regardless of the ultimate answers, one outcome is certain: Chicago's unfunded pension liabilities and ongoing pension costs will grow significantly, forcing city officials to make difficult decisions for years to come.

If current laws stand, Chicago's annual pension contributions are projected to increase by 135% in 2016; by an average annual rate of 8% in 2017-21; and by an average annual rate of 3% in 2022-26.

The 2016 increase alone equals a significant 15% of the city's 2013 operating revenue, Moody's says in "Chicago's Pension Forecast — Tough Choices Now or Tougher Choices Later."

"Although the growing contributions will place enormous strain on the city's operating budget, the initial payments will still be insufficient to cover the annual interest accruing on the plans' massive accumulated unfunded liabilities. By 2027, however, unfunded liabilities should begin to decline and annual contribution increases should begin to moderate," says Moody's Vice President and Senior Analyst Rachel Cortez.

If current laws do not stand, Chicago's annual pension contributions will remain well below the plans' actuarially determined funding needs.

The city's impending contribution increases to the Municipal and Laborer plans will be reduced if the courts find Public Act 98-0641 unconstitutional. The city's impending contribution increases to the Police and Fire plans will be reduced if the state amends Public Act 96-1495 per the city's request. Without the increased payments that current statutes require of the city, the plans will continue to liquidate assets to pay benefits. As the plans approach insolvency, risks to the city's solvency will grow.

The report is available to Moody's subscribers here.

Fitch: CA Court Decision Limited, May Pressure a Few Utilities.

Fitch Ratings-New York-28 April 2015: A court ruling reinforcing the requirement that California water utilities link their tiered fees to the cost of providing water may reduce revenue and increase compliance costs slightly for a few but will likely have limited credit impact, Fitch Ratings says.

Nearly all Fitch-rated water utilities in the state use tiered water rate pricing. Those that have sufficiently justified their tiered water pricing based on direct cost recovery of capital, conservation programs, higher treatment, and purchased water costs will see limited impacts. However, some may be required to re-examine their rate structures, undergo more rigorous analysis of cost of service, and provide greater rate transparency going forward.

Further, Fitch expects utilities to raise rates to account for the higher cost of providing services and reduced revenues, if they have not already done so, in response to the state's recently announced mandatory 25% reduction in water usage.

California's 4th District Court of Appeal ruled in the case of the city of San Juan Capistrano last week that tiered rates are allowable but must be tied to the cost of service, as required by Proposition 218, passed in 1996.

If a utility's rate structure does not comply with the requirements of Proposition 218 and reiterated by the court ruling, a reduction in revenues is possible. However, that reduction would likely be managed in the following fiscal year through reasonable budget modification as well as a change in rate structure and associated public notice and hearing (a legal requirement for local utilities in the state proposing changes to fees).

California water utilities developed a tiered-fee structure because they use a combination of groundwater, surface water, imported water, recycled water, stored water reserve agreements and brackish groundwater. The costs of these supplies vary widely. Desalination, slated to become a more significant component of the state's water supply mix, will be among the most expensive sources. Tiered rate structures can be used to allocate higher cost supplies to higher usage customers, whose above-average demand has resulted in the need for adding costlier supplies.

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Orr to Leave Atlantic City Emergency Management Team.

(Reuters) – Lawyer Kevyn Orr will leave Atlantic City's emergency management team, finalizing his work on the struggling New Jersey gambling hub by the end of the month, Governor Chris Christie's office said on Monday.

Christie appointed the team, led by Kevin Lavin with Orr as an adviser, in January. Orr's previous role as the man who crafted Detroit's historic bankruptcy sparked concern in the $3.7 trillion U.S. municipal bond market that a bankruptcy or bond restructuring could be likely for Atlantic City.

The appointment by Christie, a possible 2016 Republican presidential candidate, also signaled to Wall Street credit rating agencies that New Jersey's historically strong support of its struggling local governments could be eroding.

Moody's Investors Service put seven distressed cities on notice of a possible ratings cut because of their reliance on state aid in a less supportive environment when the state's budget itself is strained.

One of those cities, Trenton, was downgraded a week ago and forced to cancel a bond deal.

Last week, Jones Day announced that Orr, a corporate bankruptcy attorney, would return to the law firm on May 1 to serve as the partner in charge of its Washington office. Orr left Jones Day in March 2013 when he was tapped by Michigan Governor Rick Snyder to serve as Detroit's emergency manager.

"From the start, it was made clear that Kevyn Orr would lend his expertise as a short-term consultant" to Lavin, Christie spokesman Brian Murray said in a statement.

Lavin and his team, which includes Ernst & Young consultants who worked closely with Orr in Detroit, plan to release their next report in June, Murray said.

Casinos, labor unions, bondholders and other creditors will be negotiating through a mediator to keep Atlantic City afloat.

State lawmakers are still pushing a plan to help stabilize the city's free-falling property tax base, which has dwindled rapidly as casinos suffered from increased competition for gambling dollars in neighboring states.

Reuters requested Orr's Atlantic City contract with the state, but was told in March that the Division of Local Government Services, which employs Lavin, had no such document.

"As soon as an executed contract is available, it will be made public and a copy will be provided to you," the state said in its response. No contract was ever provided to Reuters.

By REUTERS

APRIL 27, 2015, 2:34 P.M. E.D.T.

(Reporting by Hilary Russ; Editing by Alan Crosby)

Chicago Mayor's Debt Reforms to Sting Budget.

CHICAGO — Chicago's clean up of its debt practices, including ending interest-rate swaps and phasing out bond restructurings, will cost more than $275 million, the city's top financial officials said on Wednesday.

Mayor Rahm Emanuel unveiled several steps earlier on Wednesday that he said would restore "fiscal sanity" to Chicago's sagging budget.

Lois Scott, Chicago's chief financial officer, said the benefits from converting about $800 million of variable-rate general obligation bonds into fixed-rate bonds and the elimination of related interest-rate swaps should offset the approximately $200 million the city will have to pay banks to end the swaps, due largely to low interest rates.

But that move will lead to more debt as the city would raise the $200 million initially through the sale of commercial paper that would eventually be replaced with long-term bonds.

Chicago is already paying a hefty interest-rate penalty in the U.S. municipal bond market as it struggles with a $20 billion unfunded pension liability and a looming $550 million increase in pension contributions that needs to be made from a budget with a $300 million structural deficit.

"We have to get back to the basics – long-term fixed rate bonds, fund this year's costs with this year's revenues," Scott said.

A rating downgrade of Chicago to two notches above the junk level by Moody's Investors Service in February triggered the termination of four swaps and put the city closer to triggering another 11.

The mayor also called for phasing out over four years the so-called scoop and toss practice of restructuring the city's debt service on bonds to push payments into future years and free up money for operations.

Chicago Budget Director Alexandra Holt said that plan would impact the city's next operating budget by $75 million.

"What that looks like and how we pay for it, don't know yet," she said, adding that the mayor will first look to savings and reforms before turning to taxpayers.

The budget for the fiscal year beginning Jan. 1 would also have to accommodate an increasing share of legal settlements and judgments that have been funded in part with bond proceeds, under the mayor's reforms.

Chicago's $8.9 billion all-funds budget, which includes a $3.54 billion operating fund, is already buckling under escalating pension costs at the same time Illinois Governor Bruce Rauner has proposed cutting about $135 million in funding for the state's biggest city.

By REUTERS

APRIL 29, 2015, 7:06 P.M. E.D.T.

(Reporting By Karen Pierog; Editing by Cynthia Osterman)

Save the Date – GASB 68 Teleconference.

NABL will present a teleconference, "It is 2015: Pension Disclosure and GASB 68" on Tuesday, June 16, 1:00-2:30 pm Eastern.

In May 2012 NABL, with the assistance of a number of national associations, published "Considerations in Preparing Disclosure in Official Statements Regarding an Issuer's Pension Funding Obligations". The publication described what were then proposed changes in the accounting standards for pension plans and participating employers.

The new standards are contained in GASB Statements 67 and 68 and are now effective. The teleconference will provide an overview of the changes in the accounting standards and what should be considered in preparing disclosure materials following implementation of the new accounting standards. The panel will also review how pension funding disclosure has evolved since the release of the "Considerations" publication in 2012.

Stay tuned – additional details, CLE and registration information will be available soon.

- The Bond Lawyer – Spring 2015
- Federal Securities Laws of Municipal Bonds Deskbook, Sixth Edition.
- Katten: Municipal Advisors and "Bank Purchase" Bonds: What's All the Commotion About?
- MSRB Releases Content Outline for First Municipal Advisor Professional Qualification Exam.
- Opportunities and Risks in Municipal Underwritings and Derivatives: WilmerHale
- PA Treasury Successfully Completes Commonwealth's First-Ever Competitive Bidding Process for Bond Counsel.
- SIFMA Forum: Alternative Financing in the Muni Market.
- *AHF-Bay Fund, LLC v. City of Largo* – Appeals court invalidates all state PILOT agreements that require a party to make payments that are the equivalent of ad valorem taxes that would otherwise be due but for a statutory tax exemption; certifies to the Florida Supreme Court as a question of great public importance.
- *Louisiana Local Government Facilities and Community Development Authority v. All Taxpayers* – Supreme Court of Louisiana holds that Community Development Authority's motion to validate certain municipal bonds pursuant the Bond Validation Act was not rendered defective by the Authority's failure to introduce the resolution authorizing the bonds into the record.
- *Radian Asset Assurance Inc. v. Madison County, Miss.* – District Court sides with bond insurer, holding that provision of Contribution Agreement entered into between County and (failed) Improvement District giving District two years to reimburse County for any bond payments made

by County did not constitute a two-year cap on County's obligation to make bond payments; insurer's ultimate obligations to bondholders awaits adjudication.

- And finally, Fish/Barrel is brought to you this week by *City of Magee v. Jones*, in which the Supreme Court of Mississippi waded delicately into a case in which raw sewage entered a residence via a shower drain and flooded the home. Could there perhaps exist a common vulgarity applicable to this scenario? Golly, can't for the life of me figure out what that could possibly be.

EMINENT DOMAIN - CALIFORNIA

Jefferson Street Ventures, LLC v. City of Indio

Court of Appeal, Fourth District, Division 3, California - April 21, 2015 - Not Reported in Cal.Rptr.3d - 2015 WL 1838772

In 2007, the City of Indio conditioned approval of Jefferson Street Ventures, LLC's 2005 application for development of a shopping center upon Jefferson leaving approximately one-third of its property undeveloped to accommodate the reconstruction of a major freeway interchange that was in the planning stages.

Jefferson sued the City contending the development restrictions were invalid because they constituted an uncompensated taking of its property. Following a hearing on the writ petition, the trial court found the development restrictions were permissible and denied the writ. Although the court originally declined to consider whether the facially valid development restrictions nonetheless amounted to an uncompensated taking, it subsequently granted the City's motion for judgment on the pleadings on the inverse condemnation causes of action agreeing the ruling on the writ petition included a finding there was no compensable taking.

The appeals court reversed, holding that the City's development restrictions constituted an uncompensated de facto taking of the development-restricted portion of Jefferson's property.

BOND VALIDATION - LOUISIANA

Louisiana Local Government Facilities and Community Development Authority v. All Taxpayers

Supreme Court of Louisiana - April 17, 2015 - So.3d - 2015-0417 (La. 4/17/15)

The Louisiana Local Government Environmental Facilities and Community Development Authority (LCDA) filed a motion for judgment pursuant to the Bond Validation Act seeking to validate the issuance of certain municipal bonds.

The District Court denied the motion, expressing concerns over publication of notice. On appeal, the Court of Appeal found the district court erred in finding proper notice was not given. Nonetheless, the majority of the Court of Appeal, over two dissents, affirmed the District Court's judgment on different grounds, finding LCDA did not introduce into the record the resolution authorizing the issuance of the bonds.

The Supreme Court of Louisiana reversed, finding that the LCDA's motion to validate was not defective because it failed to introduce the resolution into the record.

The Court noted that the legislature chose not to specify what evidence a governmental entity must introduce to meet its burden of proof under the Bond Validation Act and that it was not the function of the judicial branch in a civilian legal system to legislate by inserting provisions into statutes where the legislature had chosen not to do so.

ZONING - MARYLAND

Anne Arundel County v. Bell

Court of Appeals of Maryland - April 21, 2015 - A.3d - 2015 WL 1798953

Objectors brought action against county, seeking declaratory relief, challenging comprehensive rezoning ordinance. The Circuit Court dismissed complaint with prejudice. Objectors appealed. The Court of Special Appeals vacated and remanded. County petitioned for certiorari.

The Court of Appeals held that:

- Objectors lacked property owner standing to bring action, and
- Objectors lacked taxpayer standing to bring action.

Objectors lacked property owner standing to bring action for declaratory relief challenging county's adoption of comprehensive rezoning ordinance. Objectors were not specially aggrieved by the ordinance merely because they owned property in the area affected by the ordinance, and expanding the doctrine of property owner standing to a challenge to comprehensive zoning legislative action would be unwarranted and unprudential.

Objectors lacked taxpayer standing to bring action seeking declaratory relief challenging county's adoption of comprehensive rezoning ordinance, since objectors failed to sufficiently allege that their taxes would be increased or that the allegedly illegal action would result in any other form of pecuniary loss. Objectors' alleged frustration with increased traffic, annoyance with increased noise, and violations of a right to participate in zoning changes, even if within the purview of taxpayer standing, were not unique to objectors, as opposed to the general public.

PENSIONS - MICHIGAN

FT Michigan v. State

Supreme Court of Michigan - April 8, 2015 - N.W.2d - 2015 WL 1578785

In 2010, the Michigan Legislature enacted Public Act 75, which modified retirement benefits for current public school employees. The statute supplemented and altered the Public School Employees Retirement Act (Retirement Act), which governs the Michigan Public School Employees' Retirement System (MPSERS). The most controversial provision of 2010 PA 75 required all current public school employees to contribute 3% of their salaries to the MPSERS to assist in funding retiree healthcare benefits for current and future public school retirees.

Labor organizations representing public employees challenged the constitutionality of 2010 PA 75.

The Supreme Court of Michigan held that:

- PA 75 did not constitute an uncompensated taking under either the Michigan or United States Constitutions;

- PA 75 did not impair the obligation of contracts in violation of either the Michigan or United States Constitutions; and
- PA 75 did not violate the guarantee of due process in violation of either the Michigan or United States Constitutions.

IMMUNITY - MISSISSIPPI

City of Magee v. Jones

Supreme Court of Mississippi - April 23, 2015 - So.3d - 2015 WL 1848083

Landowner brought action against city after raw sewage entered her house through a shower drain and flooded several rooms. The Circuit Court denied city's motion for summary judgment. City sought review.

The Supreme Court of Mississippi held that:

- To determine if city's sewage-system operation was discretionary under Tort Claims Act, court must first determine overarching governmental function, and
- Remand was required in light of drastic change to test.

To determine if city's sewage-system construction, operation, and maintenance was discretionary for the purpose of discretionary function exception of Mississippi Tort Claims Act (MTCA), court must first determine whether overarching governmental function at issue is discretionary or ministerial, examine any narrower duty associated with the activity to determine whether a statute, regulation, or other binding directive renders that particular duty a ministerial one, notwithstanding that it may have been performed within the scope of a broader discretionary function.

For a plaintiff to defeat a claim of discretionary-function immunity for the purpose of discretionary function exception of Mississippi Tort Claims Act, the plaintiff must prove that an act done in furtherance of a broad discretionary function also furthered a more narrow function or duty which is made ministerial by another specific statute, ordinance, or regulation promulgated pursuant to lawful authority.

BONDS - MISSISSIPPI

Radian Asset Assurance Inc. v. Madison County, Miss.

United States District Court, S.D. Mississippi, Northern Division - April 20, 2015 - Slip Copy - 2015 WL 1780190

In 2002, Madison County created the Parkway East Public Improvement District. In 2005, the District issued bonds to finance improvements. The bonds were to be repaid by special assessments on the landowners within the District. Radian insured the bonds.

The County entered into a Contribution Agreement with the District, which provided that: 1) If the County was satisfied with the District's performance, it would step in and pay the District's bonds if the District experienced an assessment shortfall; 2) If the County made such a payment, the County could take the proceeds of tax sales to recoup the money it spent on bond payments; and 3) The District had two years to reimburse the County for the County's bond payments.

The subsequent collapse of the economy caused the District to fail. It was unable to attract the development necessary to make its bond payments. When the District failed, Madison County made the District's bond payments between October 2011 and September 2013. The County then stopped, arguing that the contribution agreement required it to cover bond payments for only two years.

Madison County contended that it was now Radian's duty as insurer to step forward and repay the bonds.
Radian filed suit seeking a declaration that Madison County remained responsible for bond payments.

The District Court held that the two-year limit in the Contribution Agreement does not constitute a two-year time limit on the County's obligation to make bond payments, but refers solely to the amount of time the District has to reimburse the County.

The Court was sympathetic to the County's contention that it could not be forced to make bond payments "ad infinitum," since the Contribution Agreement also recites that the bonds are not backed by the full faith and credit of the County. Radian conceded this, but argued that the County must make bond payments as long as it has "sufficient unrestricted funds in its General Fund." The Court noted that Radian's position may be contradicted by the plain language of the contract and may cut against the very purpose of purchasing bond insurance, but that that question was not at issue in this proceeding.

"Nor are other arguments raised by the parties, ranging from the County's acceptance of the Landspan Property to the adequacy of Radian's underwriting process, ripe for adjudication. It is enough at this juncture simply to say that the contribution agreement does not state how long Madison County agreed to cover the District's bond shortfall. The County agreed to make the District's bond payments for some period of time, but whether the parties contemplated payments of one year, two years, five years, or something else is not contained within the four corners of the contract and cannot be inferred by the Court. Additional proceedings are necessary to answer that question, whether in the form of a trial (given the fact dispute suggested by the briefing, but not before the Court today) or additional motion practice."

PENSIONS - NEW JERSEY

In re I/M/O Town of Harrison

Superior Court of New Jersey, Appellate Division - April 15, 2015 - A.3d - 2015 WL 1736801

Municipalities and collective bargaining agents for municipal police officers and firefighters brought declaratory judgment action challenging decision by Acting Director of the Division of Pensions and Benefits to refuse to implement final determination of Board of Trustees of the Police and Firemen's Retirement System (PFRS) concerning certain senior officer and longevity pay provisions of collective bargaining agreements.

The Superior Court, Appellate Division, held that Acting Director of the Division of Pensions and Benefits did not have authority to act unilaterally to refuse to implement a final decision reached by the Board of Trustees of the PFRS concerning what constitutes creditable compensation for calculation of policemen and firemen pension benefits.

Under statutory and regulatory scheme established to administer PFRS pension system, the PFRS Board of Trustees was the only administrative body authorized to make a final administrative determination regarding what can be considered creditable compensation.

LIABILITY - NEW YORK

Staten v. City of New York

Supreme Court, Appellate Division, Second Department, New York - April 22, 2015 - N.Y.S.3d - 2015 N.Y. Slip Op. 03347

High school student, by his mother and guardian, brought action against city, city department of education, and camp owner to recover damages for personal injuries sustained at football camp when fellow student broke window near his face. The Supreme Court, Richmond County, denied city's and department's motion for summary judgment, and entered summary judgment in owner's favor. Parties filed cross-appeals.

The Supreme Court, Appellate Division, held that:

- City was not liable for school officials' alleged negligence, and
- Other student's disciplinary history did not place board on notice of dangerous conduct requiring greater level of supervision.

Fact that student was previously involved in altercation, for which he received in-school suspension, did not place city board of education on notice of dangerous conduct requiring greater level of supervision at football camp operated by public high school, and thus board was not liable for personal injuries sustained by camp participant when student broke window near him, where participant's injury was result of spontaneous, unanticipated act that could not have been averted through exercise of greater supervision.

TAX - WASHINGTON

New Cingular Wireless PCS, LLC v. City of Clyde Hill

Court of Appeals of Washington, Division 1 - April 20, 2015 - P.3d - 2015 WL 1788055

Taxpayer that was assessed municipal fine for allegedly making false statements or misrepresentations in its utility tax returns brought action against city, seeking declaratory judgment that the municipal fine was invalid. The Superior Court entered summary judgment for city and dismissed taxpayer's complaint. Taxpayer appealed.

The Court of Appeals held that:

- Taxpayer was not limited to appellate review of city mayor's dismissal of its protest of the fine;
- Statute governing writs of review did not prohibit taxpayer from invoking trial court's original trial jurisdiction; and
- Taxpayer was not barred from seeking declaratory judgment, despite availability of appellate review as a remedy.

Provision of city code stating that determination by mayor regarding municipal fine was "final" unless a "judicial appeal" was filed in the superior court could not limit the superior court to its appellate jurisdiction and, thus, did not preclude taxpayer from bringing declaratory judgment action in superior court to challenge assessment of municipal fine for allegedly making false statements or misrepresentations in its utility tax returns.

Taxpayer was not limited to appellate review of city mayor's dismissal of its protest of municipal fine, imposed for allegedly making false statements or misrepresentations in its utility tax returns, and thus it could challenge the fine by invoking trial court's original trial jurisdiction by filing a declaratory judgment complaint, where no statute required appellate review or any specific procedure for challenging the legality of a municipal fine, and taxpayer had exhausted its administrative remedies.

Statute governing writs of review did not prohibit taxpayer, after dismissal of its protest by city mayor, from invoking trial court's original trial jurisdiction through declaratory judgment complaint to challenge the legality of a municipal fine, imposed for allegedly making false statements or misrepresentations in its utility tax returns. The statute provided a means of invoking trial court's appellate jurisdiction and explained the circumstances under which a writ of review should be granted, but the statute did not say that a writ of review was the exclusive means of resolving a dispute over the validity of a municipal fine.

Taxpayer was not barred from seeking declaratory judgment in action challenging legality of municipal fine, which taxpayer filed after city mayor dismissed its protest, even though an alternative remedy was available in that taxpayer could have challenged the mayor's decision by obtaining a writ of review. The availability of appellate review as a remedy was not an absolute bar to seeking declaratory judgment, and city identified no statute establishing strict procedural rules or short time limits in connection with the mayor's decision concerning the validity of the fine that would weigh against granting declaratory judgment as an alternative remedy.

The Bond Lawyer - Spring 2015

The Spring 2015 issue of The Bond Lawyer® is now available.

The Bond Lawyer®: The Journal of the National Association of Bond Lawyers is published quarterly, for distribution to members and associate members of the Association. Members may access current and past issues here. Article submissions and comments should be submitted to Linda Wyman, (202) 503-3300.

Click here to read.

MSRB Board of Directors Meeting Summary.

The Board of Directors of the Municipal Securities Rulemaking Board (MSRB) met April 22-23, 2015 where it discussed the following rulemaking topics:

Pre-Trade Information
The Board received an update from staff on the potential addition of pre-trade information to the Electronic Municipal Market Access (EMMA®) website and supports staff's plan to review data voluntarily provided by market participants as part of its continued analysis.

Best Execution Interpretive Guidance

The Board directed staff to continue developing interpretive guidance for municipal securities dealers for MSRB Rule G-18, on best execution, which is effective December 7, 2015.

Pricing Reference Information
The Board discussed comment letters received on its proposal to require dealers to provide pricing reference information on retail customer confirmations and agreed to continue evaluating the proposal in coordination with the Financial Industry Regulatory Authority.

Rep. Larson: Munis 'The Lifeline of Any Given Community'

WASHINGTON – House Ways and Means Committee member Rep. John Larson considers municipal bonds to be “the lifeline of any given community.”

“Without the ability to use municipal bonds, both municipalities and not-for-profits, 501(c)(3)s, have a very difficult time in funding the projects that they need,” the Democrat from Connecticut said. Munis help cities and towns, including those in rural areas, address issues like infrastructure and housing, he added.

Larson, 66, talked about bonds and other topics in a recent interview with The Bond Buyer, part of an ongoing series of profiles of members of Congress, particularly those with backgrounds in state and local government.

A former teacher and insurance agency owner, Larson previously served on the Board of Education and Town Council of East Hartford, Conn., as well as in the Connecticut State Senate. He was elected to the U.S. House of Representatives in November 1998 and is currently in his ninth term.

The congressman, in 2005, was named to the House Ways and Means Committee which has jurisdiction over tax policy and has co-sponsored bond bills. These include the Municipal Bond Market Support Act, which would have increased the annual issuance limit for issuers of bank-qualified bonds to $30 million from $10 million, and the Build America Bonds Act, which would have reinstated the popular direct-pay bond program at lower subsidy rates. Both bills were pending in the last Congress but failed to gain traction.

Larson said he worked closely with Rep. Richard Neal, D-Mass., as well as with Republicans such as Rep. Tom Reed of New York, on the legislation. He said he plans to get the bills reintroduced in the current Congress.

“The concept is that you want to create both capacity and also, in this time of lack of work, you want to be able to help create jobs,” Larson said. “And I think there’s a direct correlation between both creating capacity — and by that I mean what municipalities can borrow — and then also tying it to specific initiatives that are usually primarily infrastructure-related.”

The idea is that, “you’re both enhancing the community’s ability to deliver a service to pay for roads, to build whatever’s necessary, but also making sure that it’s easing the burden on taxpayers as well,” he added.

In any tax reform legislation, Congress should not just protect bonds but also preserve and expand municipalities’ abilities to finance their own projects. But this becomes more difficult to do if tax reform isn’t done through “regular order” and instead Congress votes on bills whose contents are only known by the chairmen of the tax-writing committees, Larson said.

Congressional Democrats want tax reform in “as open and as transparent a manner as you can,” Larson said. He praised former Ways and Means Committee Chairman Dave Camp, R-Mich., for setting up working groups in 2013 that brought in industry groups to talk about the impacts of tax-code changes. Larson was vice chairman of the working group on financial services.

Larson hopes current Ways and Means chairman Paul Ryan, R-Wis. continues along the same lines. He was not happy that Ryan held votes on making certain expired tax provisions permanent because the legislation would lose revenue that could be used for tax reform.

During the last Congress, Larson was a co-sponsor of the Marketplace Fairness Act, which would allow states to require out-of-state online retailers to collect their sales taxes if the states simplified their sales tax laws. Larson said the online sales tax issue is important to Connecticut Gov. Dan Malloy and Commissioner of Revenue Services Kevin Sullivan.

Currently, states can only require a remote seller to collect its sales taxes if it has a physical presence in the state. While customers are supposed to pay use tax on their remote purchases, they typically don’t and this requirement is not well-enforced.

States are losing revenue and their finances will improve if they can recoup the money, Larson said.

Infrastructure

Larson is also an advocate for the federal government helping state and local governments to fund infrastructure.

He has introduced legislation last year called the America’s Energy Security Trust Fund Act that would use revenue from a carbon tax to make up for the shortfalls in the dwindling Highway Trust Fund. He plans to reintroduce the bill in this Congress.

He also recently co-sponsored the Bridge to Sustainable Infrastructure Act, H.R. 1846, which would index federal gasoline and diesel taxes to inflation and create a bicameral, bipartisan commission that would be tasked with making recommendations for sustainable transportation funding.

“If you don’t have a steady stream of revenue coming in, a predictable stream, then how can any business, or any municipality, or any state plan?” Larson asked.

On the day The Bond Buyer interviewed Larson, groups from a transportation construction coalition met with the congressman. Representatives from the groups were “nearly distraught,” Larson said, noting that it will be difficult if “we have to go through another kick-the-can-down-the-road” temporary extension of funding for the HTF.

Don Shubert, the executive director of several of the construction groups that visited the congressman, said Larson is important because of his position on the Ways and Means committee, which is responsible for the funding portion of surface transportation legislation.

When it comes to the benefits of investing in infrastructure, Larson “really understands the whole picture,” Shubert said. The groups visit Larson “not to lobby, but to learn,” Shubert added.

Ray Oneglia, vice chairman of construction company O & G Industries who also attended the meeting, said Larson is good at bringing people together who are interested in infrastructure. Larson brought House Transportation and Infrastructure Committee Chairman Bill Shuster, R-Pa., the committee’s top Democrat Peter DeFazio of Oregon, and others to Connecticut to meet with transportation industry groups, Oneglia said.

The New England Water Environment Association also met with Larson that day to bring attention to the need to improve water infrastructure, said that group's executive director, Mary Barry.

In the Hartford area, there are levees that are in great need of repair. "There is always going to be the need for federal and state assistance," Larson said.

Lengthy Public Service Career

A life-long resident of East Hartford, Conn., Larson has always had an interest in public service. He learned politics from his mother, who served on the East Hartford Town Council and was active in the Federation of Democratic Women and the Democratic Town Committee. His interest in serving the public also was piqued when John F. Kennedy was president.

Kennedy viewed giving back to the community as an important value and "something that one should aspire to," said Larson, who was sitting near a picture of the former president during the interview.

Larson was a high-school teacher from 1971 to 1976 and then owned a Mom-and-Pop insurance agency until around the time he was elected to Congress. As he was leaving the education profession, there was an opening on the East Hartford Board of Education. "I ran and I got the most votes and the rest is history," he said.

After serving on the Board of Education from 1977 to 1979, Larson then served on the East Hartford Town Council from 1979 to 1983. The two entities are intertwined. The BOE is a "creature of the state," but its members are elected locally. The board develops its budget separately from the town council, but the council has to approve it.

"You get very intimately involved and understand and appreciate the need for the bonding capacity of a town and specifically where it most frequently it comes up is on educational and infrastructure needs," he said.

Larson served in the Connecticut State Senate from 1983 to 1995, and for eight of those 12 years, he served as Senate President Pro Tempore, a position that is third in line to the governor. Following a loss in the 1994 Connecticut gubernatorial Democratic primary election, he returned to the private sector, lectured at Yale University's Bush Center in Childhood Development and Social Policy, now the Edward Zigler Center in Childhood Development and Social Policy, and continued to stay active in community service. He was elected to Congress four years after that election.

When asked how his time in state and local government has influenced his role in Congress, Larson referenced the famous quote from former House Speaker Tip O'Neill: "All politics is local." His background helped him learn about the needs and concerns of municipalities, which are very different from those of the federal government.

"In terms of an education and in terms of understanding at a grassroots level the needs of a constituency, a background first in local government … puts you in touch at a level where government is most directly in touch with the people," Larson said. "And whenever you are most directly in touch with the people, it creates a greater demand, but also I think gives you better access and better opportunity to understand their needs."

THE BOND BUYER

BY NAOMI JAGODA

APR 24, 2015 11:45am ET

PREPA Calls Bondholders' Plan Overly Optimistic.

The Puerto Rico Electric Power Authority said that the forbearing bondholders' plan to revamp its business and avoid default on more than $8 billion of debt was overly optimistic on costs.

Over the course of nine years the forbearing bondholder plan is at least $3.1 billion or 7.75% overly optimistic on costs, PREPA said in a public statement late Thursday.

"PREPA continues to work on a business plan that will provide a roadmap for a complete operational and financial transformation over the next several years," chief restructuring officer Lisa Donahue said in the written statement. "We will continue to work with [the forbearing bondholders] and all of PREPA's stakeholders to create a consensual plan that provides the best outcome."

PREPA has openly been in financial distress since the summer of 2014, when a group of bondholders agreed to forbear as the authority worked to transform itself. PREPA has about $8.3 billion in bond debt outstanding.

On Thursday PREPA responded to a plan presented at the end of March by the Ad Hoc Group of PREPA Bondholders (the forbearing bondholders). The plan included $2 billion in capital investments to modernize PREPA's plants, comply with environmental regulations and help the authority to meet debt obligations.

Donahue had expressed doubts about some of the plan's assumptions on April 1. The authority's formal response came Thursday.

PREPA's said the Ad Hoc Group's assumptions were incorrect or unrealistic in the following ways:

- Accounts payable terms. The proposal assumes unrealistic credit terms that artificially increase the authority's cash flow;
- Aguirre Offshore Gasport Project. The plan's assumptions for this capital project are not possible under existing permits. Its assumptions about timing of completion and flexibility of permits are not achievable and thus allow the bondholders' plan to produce higher and more immediate savings than possible;
- Environmental compliance. The plan relies on fuel blending, which will not work in the authority's plants, to achieve this compliance. This leads to artificially lower authority costs;
- Securitization financing. The proposal has financing assumptions that do not reflect what should be expected and artificially decreases PREPA's costs;
- Renewables. The plan relies on a rapid increase in the use of renewable energy sources that is neither technically nor commercially realistic;
- Fuel costs. The plan assumes that future fuel prices will be lower than leading forecasts, thereby lowering the authority's projected costs;
- Electrical use forecast. The plan predicts higher use, which is inconsistent with recent trends. This assumption allows the plan to include higher than realistic revenue levels.

PREPA said it doesn't yet have exact projections of fuel costs or electrical use but is sure that if these were also factored in, the actual costs will add to the $3.1 billion extra that will need to be covered.

“We appreciate PREPA and its advisors providing detailed feedback in response to the Ad Hoc Group’s revitalization plan,” said Stephen Spencer of Houlihan Lokey, the Ad Hoc Group’s financial advisor. “The Ad Hoc Group looks forward to working with PREPA and its professionals to refine a long-term plan for PREPA that is in the best interest of all stakeholders. However, while we have had limited time to review PREPA’s critiques, we believe that a number of the criticisms are based on fundamentally flawed analysis or a misunderstanding of our proposal.”

PREPA said in its presentation to the bondholders that it did not expect the Aguirre Offshore Gas Port to start operating until July 1, 2017. In December 2013 PREPA chief executive officer Juan Alicea Flores told The Bond Buyer he expected this port to be operating in the summer of 2015.

The forbearing bondholders as well as other forbearing creditors have agreed to continue their forbearance until at least the end of April 30. Donahue has said she hopes this forbearance agreement will be extended into the summer.

THE BOND BUYER

BY ROBERT SLAVIN

APR 24, 2015 1:19pm ET

[Federal Securities Laws of Municipal Bonds Deskbook, Sixth Edition.]

Federal Securities Laws of Municipal Bonds Deskbook, Sixth Edition

Another essential resource from LexisNexis® and the National Association of Bond Lawyers®—the gold standard for municipal bond research.

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Opportunities and Risks in Municipal Underwritings and Derivatives: WilmerHale

In the current economic climate, opportunities are expanding significantly for municipal underwriters and derivatives specialists as states and municipalities across the country clamor to pay for infrastructure and services, fill expanding budget gaps, and shore up unfunded or underfunded pension obligations. In evaluating and pursuing these opportunities, however, banks need to proceed with caution. Regulators are ever more focused on the activities of financial institutions in the municipal market due to possible disparities in sophistication between underwriters and municipal decisionmakers, the potential for municipal financial advisor conflicts of interest, and issues surrounding the adequacy of disclosure concerning the risk profile of different financial products in a period of elevated volatility in global financial markets. In particular, banks should cautiously assess and carefully document the appropriateness and suitability of proposed financing solutions and the disclosure to counterparties of risks associated with those solutions.

The Securities and Exchange Commission (SEC), Municipal Securities Rulemaking Board (MSRB), and the Financial Industry Regulatory Authority (FINRA) are all paying greater attention to these issues in 2015. The importance of scrutinizing transactions in this area cannot be overstated – a finding by the SEC of inadequate or inaccurate risk disclosure or a conflict of interest can lead to significant liability.

Continue reading.

Benjamin Neaderland and Harriet Hoder

WilmerHale

April 21, 2015

Michigan Governor Signs Bill to Aid Detroit Bond Sale.

(Reuters) – Michigan Governor Rick Snyder on Wednesday signed into law a bill aimed at reducing interest rate costs for an upcoming Detroit bond sale.

Detroit privately placed $275 million of variable-rate bonds with Barclays Capital to finance its Dec. 10 exit from the biggest-ever municipal bankruptcy. As part of the city's U.S. Bankruptcy Court-approved plan, that debt is due to be sold in the U.S. municipal market in a fixed-rate mode by May 9. The deal will mark the city's first post-bankruptcy public bond sale.

"We need to ensure Detroit's debt is repaid under the terms of the bankruptcy to allow the city to continue its recovery," the Republican governor said in a statement. "The savings from lower interest costs will allow Detroit to reinvest in critical areas like public safety and municipal services."

The new law boosts security for the bonds by placing a specific statutory lien on Detroit income tax revenue pledged to pay off the debt. The move is expected to result in investment-grade ratings for the bonds, which in turn could save Detroit between $20 million and $30 million over the life of the issue, according to the governor's office.

There was no immediate comment from Detroit Mayor Mike Duggan's office on the status of the bond sale.

Proceeds from the bonds were earmarked for retiring a prior $120 million Barclays loan to the city, to pay certain creditor claims from the bankruptcy and to finance city improvements.

Wed Apr 22, 2015

(Reporting By Karen Pierog in Chicago; Editing by Lisa Shumaker)

MSRB Releases Long-Awaited MA Test Outline.

WASHINGTON – The Municipal Securities Rulemaking Board has released a "study outline" of its qualification exam for municipal advisors — the first mandatory competency exam for professionals giving bond-related advice to state and local governments.

The Series 50 exam testing muni advisor competency, which the MSRB plans to administer in a pilot program this year and to all MAs next year, will be required for MAs in or entering the profession.

According to the outline released Wednesday, the exam will contain 100 multiple choice questions, 12 of which will test knowledge of MSRB and Securities and Exchange Commission rules governing MAs. Thirty-five of the questions will test the understanding of muni finance, 12 will be related to credit analysis and due diligence, 31 will touch on structuring, pricing, and executing muni debt products, and 10 will test the understanding of the requirements for issuing municipal debt.

All MAs will be required to pass the Series 50 exam within one year of its launch. Some market participants had asked that certain MAs be exempt from the exam on the basis of having considerable experience or having passed broker-dealer exams testing much of the same knowledge, but the MSRB said all MAs will be required to take test.

"Today is an important day for the municipal advisor profession," said MSRB executive director Lynnette Kelly. "Requiring municipal advisor professionals to demonstrate a minimum level of knowledge of the business and applicable rules will help ensure that state and local governments are advised on municipal bond transactions and financial products by qualified advisors."

There will be four choices for each question, with each answer worth one point. Candidates will have three hours to complete the examination, after a thirty-minute tutorial about the exam's administration. Candidates should answer every question, even if they are unsure of them, the outline said. Any materials needed to complete the examination will be provided by the test center or within the test itself.

"The MSRB will publicly announce the passing score for the examination after a committee of municipal advisors determines the passing score, which reflects the level of performance the committee judges necessary for registration as a municipal advisor representative," the outline said.

The outline also contains five sample questions covering topics such as swaps, private-activity bond rules, and other post-employment benefits besides pensions. It also provides an answer key.

To help municipal advisors prepare to take the exam, the MSRB has scheduled a webinar on June 11, to review the content outline, provide more information about participating in the pilot and discuss the administration of the exam.

The development of the competency test is another major step in the MSRB's efforts to complete rulemaking to help implement the SEC's MA registration rule. The Dodd-Frank Act subjected MAs to SEC and MSRB regulation and oversight. It also imposed on the advisors a fiduciary duty to put their state and local clients' interests ahead of their own.

THE BOND BUYER

BY KYLE GLAZIER

APR 22, 2015 12:57pm ET

SIFMA Forum: Alternative Financing in the Muni Market.

June 9, 2015 | SIFMA Conference Center, NYC | 1:30 – 5:45 PM

Join SIFMA for a half-day forum that will take a fresh look at alternative financing in the municipal market. Recently, there has been an increase by state and local governments turning to banks as a source of debt finance, instead of using a traditional public markets debt offering. However, with limited legal and regulatory guidance, the convergence of the public (underwriting) and private (bank loan) markets has investors and others calling for disclosure of private market transactions similar to those required in public market transactions.

The lack of guidance compels each financial firm to establish its own standards for legal and accounting purposes. The scarcity of legal and regulatory guidance on this topic has led to fundamental changes in our industry. During this event, our speakers will discuss the legal, regulatory, accounting and compliance questions that have arisen from this uncertainty. We invite you to participate through sponsorship opportunities available during this event.

[Ed. Note: We'll keep you posted on webinar opportunities for this event.]

REGISTER.

TAX INCREMENT FINANCING - ARIZONA

City of Apache Junction v. Doolittle

Court of Appeals of Arizona, Division 1 - March 17, 2015 - 345 P.3d 138 - 708 Ariz. Adv. Rep. 4

Cities brought actions against county treasurer, seeking writ of mandamus ordering treasurer to distribute all past and future owed tax increment financing (TIF) funds. The Superior Court entered judgment in favor of county treasurer, and cities appealed.

The Court of Appeals held that:

- Repealing act did not leave intact cities' right to TIF distributions arising from taxes levied after December 31, 1998;
- Repealing act did not violate the rule of statutory construction that "no right accrued is affected by the repealing act"; and
- Repealing act's abrogation of a municipality's authority to include a TIF based repayment provision in any new redevelopment plan did not violate the deeply rooted policy against retroactive legislation.

Repealing act, which abrogated a municipality's authority to include a tax increment financing (TIF) based repayment provision in any new redevelopment plan, did not leave intact cities' right to TIF distributions arising from taxes levied after December 31, 1998, even though they had adopted their plans before the repeal. The act also repealed the obligation of taxing agencies like the county treasurer to allocate, collect and pay the portion of property taxes generated when redevelopment property exceeds its base value.

Cities' authority to include a tax increment financing (TIF) based repayment provision in any new redevelopment plan did not accrue when they approved their respective plans, but rather were expectant and contingent on property values within the redevelopment areas exceeding their base values, taxes being levied, allocated, and collected, and thus, the repealing act did not violate the rule of statutory construction that "no right accrued is affected by the repealing act."

Repealing act's abrogation of a municipality's authority to include a tax increment financing (TIF) based repayment provision in any new redevelopment plan did not violate the deeply rooted policy against retroactive legislation, absent any claim by cities to a vested right to TIF distributions.

TAX - FLORIDA

AHF-Bay Fund, LLC v. City of Largo

District Court of Appeal of Florida, Second District - April 22, 2015 - So.3d - 2015 WL 1809577

In December 2000, RHF Brittany Bay, LLC (RHF) acquired the subject property. RHF was a tax exempt 501(c)(3) organization. RHF planned to develop the property to provide affordable housing for persons with low to moderate income pursuant to chapter 420, Florida Statutes. As set forth in section 196.1978, Florida Statutes (2000), affordable housing projects owned by a 501(c)(3) organization are exempt from ad valorem taxation.

To finance the project, RHF reached an agreement with the City wherein the City would arrange for the issuance of tax-exempt bonds that carried a considerably lower interest rate than RHF could have obtained using traditional bank financing. In exchange for the issuance of the bonds, RHF entered into a "payment in lieu of taxes" (PILOT) agreement, thereby agreeing to make annual payments to the City "in an amount equal to the portion of ad valorem taxes to which the City would otherwise be entitled to receive for the [p]roperty as if the [p]roject were fully taxable in accordance with standard taxing procedures."

AHF–Bay Fund, LLC (AHF) subsequently purchased the property but failed to make the payments as required. As a result, the City sued, and the trial court entered summary judgment on the two claims, followed by entry of final judgment in the City's favor. AHF appealed.

The District Court of Appeal reversed, holding that:

- Based on the statutory exemption from ad valorem taxation as set forth in section 196.1978, the City did not have authority to collect ad valorem taxes from AHF via enforcement of the PILOT agreement;
- The PILOT agreement violates the public policy of promoting the provision of affordable housing for low to moderate income families and is therefore void;
- A PILOT agreement that requires a party to make payments that are the equivalent of ad valorem taxes that would otherwise be due but for a statutory tax exemption violates article VII, § 9(a) of the Florida Constitution, which permits municipalities to impose taxes only as authorized by law.

"Finally, we recognize that PILOT agreements similar to the one in this case abound in municipalities throughout Florida. Thus, the magnitude of our opinion holding that these types of agreements violate Florida law may pose a significant hardship on municipalities that rely on such payments to meet their budget requirements. We therefore certify to the Florida Supreme Court the following question to be of great public importance:

DO PILOT AGREEMENTS THAT REQUIRE PAYMENTS EQUALING THE AD VALOREM TAXES THAT WOULD OTHERWISE BE DUE BUT FOR A STATUTORY TAX EXEMPTION VIOLATE SECTION 196.1978, FLORIDA STATUTES (2000), AND ARTICLE VII, § 9(a) OF THE FLORIDA CONSTITUTION?"

TAX INCREMENT FINANCING - INDIANA

Redevelopment Com'n of Town of Munster v. Indiana State Bd. of Accounts

Court of Appeals of Indiana - March 16, 2015 - N.E.3d - 2015 WL 1186102

Town redevelopment commission filed complaint against the State Board of Accounts, seeking declaratory relief allowing it to use tax increment financing funds to maintain redeveloped parks. The Circuit Court granted summary judgment in favor of the Board. Commission appealed and Board cross-appealed.

The Court of Appeals held that:

- Commission had standing to bring action for declaratory relief, and
- Statutes did not permit commission to use tax increment financing funds for the continued maintenance of completed, redeveloped parks.

Town redevelopment commission had standing to bring action against State Board of Accounts for declaratory relief to determine its authority to use tax increment financing funds to pay for the maintenance of completed, redeveloped parks, where the commission had already budgeted and utilized tax increment financing funds to pay for park maintenance, and the Board sent letter to commission stating such funds could not be used to maintain park land.

Statutes listing permissible uses of tax increment financing funds by redevelopment district, authorizing the use of tax increment financing funds for the maintenance of buildings before redevelopment is complete, and prohibiting fund allocation for redevelopment commissions' operating expenses, did not permit town redevelopment commission to use tax increment financing funds for the continued maintenance of completed, redeveloped parks.

State Refinances $1 Billion of Bonds, Saving Taxpayers Over $180 Million.

State Treasurer John Chiang today announced the successful sale of $1.09 billion in State general obligation bonds, which included the refinancing of approximately $1 billion in previously-issued bond debt.

"This successful sale is a strong indicator that investors are bullish about the Golden State. From approval of a rainy day fund to aggressively paying down debt accumulated during the Great Recession, California has made significant strides to put its fiscal house back in order and Wall Street has taken notice," said Chiang. "Importantly, my office was also able to save taxpayers more than $180 million in debt service payments by refinancing more than $1 billion in previously-issued, higher interest rate borrowings."

Since he took office earlier this year, he has carried out six different re-financings that will together save taxpayers more than $1.79 billion over the life of the bonds.

Some key facts from the sale:

- Final Size: $1.09 billion, the largest competitive sale in the U.S. markets in 2015.
- Final yields ranged from a low of 0.10% for a 2015 maturity to a high of 3.5% for a 2035 maturity.
- Today's offering included $105 million in taxable bonds for infrastructure projects, providing much needed funds to transportation, education, and children's hospitals.
- Notably, California enjoyed pricing that outperformed its credit rating. The $105 million portion of the sale was sold at a yield of just one basis point (i.e. 0.01%) above comparable taxable AAA municipal bonds. California's current general obligation bond rating is Aa3 by Moody's Investors Service, A+ by Standard & Poor's, and A+ by Fitch Ratings.

The next State general obligation bond sale is expected to occur in the summer or fall of 2015.

The State Treasurer has broad responsibilities and authority in the areas of public investment and finance. In particular, he oversees the issuance of State debt and is responsible for crafting best practices for the sale of debt and the investment of public funds for California's more than 4,000 local bond issuers, including the State, school districts, cities, counties, and special districts.

For more news, please follow the Treasurer on Twitter at @CalTreasurer, and on Facebook at California State Treasurer's Office.

This article was released by the Office of the State Treasurer.

New Jersey Capital City, Trenton, Scraps Bond Deal.

(Reuters) – New Jersey's capital city, Trenton, has canceled a bond refunding sale because a credit downgrade on Monday left it unable to save enough money for the deal to meet legal standards, Trenton's finance director told Reuters.

The scrapped deal is one of the first signs of local financial fallout from broader concerns about New Jersey's public pension problem and Governor Chris Christie's appointment of an emergency manager for the struggling gambling hub Atlantic City.

Cash-strapped Trenton had planned to sell about $17.8 million of general improvement and sewer utility refunding bonds on April 28. As a result of the ratings cut by Moody's Investors Service, however, the city would have to pay a higher interest rate and therefore would not have met the minimum 3 percent savings required by state law, Trenton Finance Director Ronald Zilinski said.

"The state's getting hammered, hence we're getting hammered," Zilinski said.

Christie, a likely 2016 Republican presidential candidate, appointed an emergency manager in January to run Atlantic City. The appointment signaled to investors in the $3.7 trillion U.S. municipal bond market that the state's historically strong support of its struggling cities could be eroding.

Christie also slashed $1.6 billion from the state's 2015 pension contribution, which New Jersey could now be forced to pay anyway with just over two moths left in the fiscal year. That would put further strain on the already tight state budget and could prompt cuts in state aid to Trenton and other struggling cities.

In March, Moody's warned that it could downgrade seven distressed New Jersey cities, including Trenton, Newark and Paterson.

Moody's cut its rating on the state a week ago, New Jersey's ninth credit downgrade by Wall Street since Christie took office in 2010.

Debt from six of the seven cities subject to Moody's review was priced weaker on Thursday than at the start of the year, according to a Reuters analysis of price evaluation data provided by Markit.

One of those cities, Newark, saw the price of one of its bonds drop by $1.74 since Jan. 2, but it's still above par at $104.57, according to Markit.

Overall, though, the seven cities' bonds have mostly charted the same path as benchmark 10-year muni yields, according to Municipal Market Data, a unit of Thomson Reuters.

Cities are also getting a lift from yield-hungry investors, who are paying higher prices even for riskier credits amid a shortage of available new muni bonds.

"Tax-free bonds are in huge demand, so people are willing to pay a little more to get yield than in the past," said Ben Eiler, a partner at Georgia-based muni bond broker dealer First Southern Securities.

That could be good news for Trenton. It is still planning to sell $10.6 million of new bonds on May 28, though it will now have to pay more to insure them, Zilinski said. The city is also planning a bond anticipation note sale on June 3.

NEW YORK | BY HILARY RUSS

Apr 23, 2015

(Reporting by Hilary Russ; Editing by David Gregorio)

U.S. Municipal Bond Sales Next Week Fall Back from High Levels.

(Reuters) – Sales of U.S. municipal bonds and notes next week will total about $4.9 billion, according to Thomson Reuters estimates, a decrease from the more robust and much-heralded issuance levels so far this year.

No deal next week is expected to top the $275.4 million offering from the Dormitory Authority of the State of New York, a late entry on Thursday to the negotiated calendar.

The authority is selling State University of New York dormitory facilities revenue bonds on Thursday through lead manager Siebert Brandford. The bonds will refund outstanding lease revenue bonds the authority issued from 2003 through 2007, according to the preliminary official statement.

Separately, the authority plans to price $68.9 million of Orange Regional Medical Center Obligated Group Revenue bonds, rated Ba1 by Moody's Investors Service, through lead manager JP Morgan.

Next week’s low level of issuance is a change from the first quarter, when primary muni sales spiked upward, driven mostly by refundings. By comparison, this week an estimated $9 billion of muni bond deals priced.

The low-interest rate environment has been favorable for refundings, with a “subdued transition upward across the curve” for the rest of the year expected, CreditSights analysts Isaac Codrey and Howard Sitzer said in a commentary on Friday.

With that interest rate outlook, “we would continue to expect strong refunding volumes over the remaining course of the year, just not at the remarkable levels that were realized” in the first quarter of 2015, they wrote.

NEW YORK, APRIL 24

(Reporting by Hilary Russ; Editing by Jonathan Oatis)

Katten: Municipal Advisors and "Bank Purchase" Bonds: What's All the Commotion About?

There has been a renewed focus in recent months on how to determine which regulatory regimes apply to the various parties involved in private placements of municipal debt. The very public controversy over the question of whether a municipal advisor that is not a registered broker-dealer may facilitate the purchase of a municipal loan by a bank directly from the municipality is an example of this renewed attention. This advisory summarizes the applicable legal tests and briefly describes their implications for stakeholders in a typical transaction.

As shown in the chart below, the determination of whether the debt instrument in a private placement should be treated as a loan or a security has significant legal and regulatory implications for borrowers, lenders and advisors:

PARTY	REGULATORY IMPLICATIONS
Issuer or Borrower	• Treatment as a security as opposed to a loan would invoke applicable federal securities laws, including anti-fraud provisions (SEC Rule 10b-5). • State and local law may treat a security differently from a loan for purposes of authorization, pledge of security, tax levy and many other pivotal considerations.
Lender	• Treatment as a security as opposed to a loan may have the effect of converting a loan participation or assignment into a transfer of securities, exposing the lender to federal securities laws (including anti-fraud provisions) and broker-dealer regulations.
Municipal Advisor	• Treatment as a security as opposed to a loan may subject municipal advisors to broker-dealer regulations, federal securities laws and several additional MSRB rules. • If a municipal advisor were to be reclassified as a placement agent its participation in the transaction may be restricted under MSRB Rule G-23.

While the determination of whether a municipal debt in a private placement constitutes a loan or a security is based on many factors, as a whole, the factors that have been identified comprise a vague "facts and circumstances" test rather than a bright-line safe harbor. The Securities and Exchange Commission (SEC) has issued no-action letters[1] advising intermediaries to register as broker-dealers if they are engaged in making introductions to, or negotiating with, potential investors on behalf of an issuer of securities and receive transaction-based compensation from the issuer (e.g., fees conditioned on the closing of the transaction and/or representing a percentage of the transaction amount). Regarding whether a note does or does not constitute a security, the US Supreme Court[2] has held that a note would generally be presumed to be a security unless it (1) fell within a limited category of non-security notes[3] or (2) shared a strong "family resemblance" to such non-security notes based on an analysis of the following factors:

Family Resemblance Factors
1. Would reasonable parties be motivated to enter the transaction for commercial or investment purposes?
2. Does the plan of distribution involve common trading for speculation or investment?
3. What are the reasonable expectations of the investing public?
4. Are there any other risk-reducing factors, such as an alternate regulatory regime?

The first factor (commercial vs. investment purpose), oft-criticized for vagueness[4] and subject to varied interpretations by subsequent courts[5], is likely to be the most concerning for typical private placement structures—particularly those that relate to instruments secured by enterprise revenues. Regarding the second and third factors (plan of distribution; investor expectations), many common traits of private placements, including one-on-one negotiations[6], a lack of an offering prospectus[7] or CUSIP number and transfer restrictions, should weigh significantly toward the determination that the instrument in question is not designed for, and would not be viewed by the public as intended for, common trading. Additionally, insofar as it relates to the fourth factor (alternative regulatory protections), many private placements involve lenders that are qualified institutional buyers, entitled to only limited protections even if the transaction were subject to federal securities laws.

While the stakes in how the securities laws are applied to these transactions remain high, the standards for applying the laws are still unfortunately far from clear. We hope to keep you advised of developments as they occur.

Expanded Options for Qualified Management Contracts: IRS Notice 2014-67

Late last year, the IRS "amplified" the rules for qualified management contracts currently contained in Rev Proc 97-13 by, among other things, providing a new five-year term category for ordinary management contracts. This category now permits many types of compensation other than net revenue (replacing the specified compensation types that were permitted before) and eliminates the need for two- or three-year terms and early termination rights by the qualified user. Consumer Price Index and similar adjustments are permitted as are certain incentive and productivity rewards and renewals that can be vetoed by the qualified user. The chart below summarizes these changes.

Type of Compensation	**Maximum Term**
95% periodic fixed fee	Lesser of (1) 80% of project useful life and (2) 15 years (20 years in the case of certain public utility property)
80% periodic fixed fee	Lesser of (1) 80% of project useful life and (2) 10 years (20 years in the case of certain public utility property)

Any combination of a stated amount; periodic fixed fee; capitation fee; per-unit fee; or percentage of gross revenues, adjusted gross revenues or expenses of the facility (but not both revenues and expenses)	5 years

Please note that the IRS left the other principles of its management contract guidelines untouched. For example, the following tests must still be satisfied even if the terms of the contract satisfy the revised compensation and term provisions described above:

- compensation and expense reimbursement to service provider must be "reasonable";
- service provider (including directors, officers, shareholders and employees) may not control more than 20 percent of the voting power on the board of the facility owner;
- any overlapping board members may not include the chief executive officers of the service provider or the facility owner; and
- facility owner and service provider may not be related persons.
- And the following arrangements continue to be generally exempt from these guidelines entirely:
- services that are incidental to the primary function of the facility (such as janitorial, equipment repair and billing services);
- hospital admitting privileges on an equal basis to all qualified doctors;
- public utility property, where compensation is limited to reimbursement for the service provider's expenses (including overhead); and
- non-public utility property, where compensation is limited to reimbursement for the service provider's expenses (excluding overhead).

[1] See C&W Portfolio Management, Inc. (July 20, 1989); Davenport Management, Inc. (Apr. 13, 1993); John Wirthlin (Jan. 19, 1999); and Revocation of Prior No-Action Relief Granted to Dominion Resources, Inc. (March 7, 2000).

[2] Reves v. Ernst & Young, 494 U.S. 56 (1990).

[3] Notes evidencing consumer loans, mortgage loans, certain short-term secured small business loans, short-term accounts receivable loans, "character" loans to bank customers and notes formalizing open-account debt incurred in the ordinary course of business.

[4] See Cori R. Haper, Sometimes Promising Is Not So Promising: The Breakdown of the Family Resemblance Test, 29 Dayton L. Rev. 71, 71 (2003) describing it as "unpredictable," "confusing," "jumbled," and "haphazard."

[5] See, for instance, the US Court of Appeals for the Sixth Circuit decision in Bass v. Janney Montgomery Scott, Inc.,210 F.3d 577, 585 (6th Cir. 2000) which determined that a financing "to launch a new enterprise" was "a washout, since the motivation prompting the transaction on [borrower]'s end is one typical in commercial loan transactions … but from [lender]'s perspective looks more like a transaction for profit." A description that would likely fit almost every lending transaction.

[6] See e.g. Marine Bank v. Weaver, 455 U.S. 551, 560 (1982) and Bass at585.

[7] See e.g. Marine at560.

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Lower Oil Prices Have Varied Effect On Municipal Bond Market.

Summary

- Declining oil prices should be of particular interest to municipal bond investors, as many U.S. state and local budgets have a substantial dependence on oil production and exploration revenue.
- The impact of lower oil prices varies from state-to-state, with states with a heavier dependence on oil revenue being affected most negatively.
- The increased consumer spending that is typically associated with a decline in oil prices may offset the decline in oil-related revenue in some states.

Continue reading.

Seeking Alpha

By Stephanie Larosiliere, Client Portfolio Manager, Invesco

Apr. 21, 2015 5:56 PM ET

S&P: U.S. State Budgets Face Lean Margins Despite Mature Economic Expansion.

By most measures, U.S. state budget conditions are adequate to favorable—and they should be. Not only is the economic expansion mature at this point, it showed signs of accelerating during the middle of 2014. And yet, a majority of states—32 by our count—face budget gaps in either fiscal 2015, 2016, or both. In most cases the gaps are manageable and do not represent an immediate threat to credit quality. But in Standard & Poor's Ratings Service's view, the fact that so many states confront shortfalls at all serves as an early warning of sorts. After all, if a state is grappling with a budget deficit now, with the economic expansion approaching its sixth anniversary, what will be its condition when the next slowdown strikes?

Benefitting from the myriad advantages that come with being sovereign entities, U.S. states comprise one of the most creditworthy sectors we rate. We rate 43 'AA' or higher. At the same time, a large majority of the states rely on a combination of sales or personal income taxes to fund their operations. That means that at any time, current economic conditions—over which the states only have limited influence—effectively dictate the tone of their budget negotiations. What tends to differentiate the direction of any individual state's credit quality, therefore, is financial management. Indeed, the states are among the least passive of all the credit sectors within U.S. public finance; fiscal policy decisions have a significant effect on the degree to which economic conditions will affect their credit quality.

Overview

- A majority of states face budget gaps this year or next; most will be manageable.
- Yet this serves as an early warning, as the recovery nears its sixth anniversary.
- Thus the state sector could be approaching a period of rating volatility.

Continue reading.

27-Apr-2015

Public Works Financing Exclusive: Rapid Bridges Financial Close a Game Changer.

The financial close of the $899-million Pennsylvania Rapid Bridge Replacement Project on March 18 is a game changer for the P3 market.

- It is the first big U.S. P3 deal to close since Florida's I-4 Ultimate six months ago.
- Rapid Bridges is the largest road project in Pennsylvania history. Yet the concession agreement survived untouched in the transition from conservative Republican Gov. Tom Corbett to liberal Democrat Gov. Tom Wolf.
- Developer Plenary Walsh Keystone Partners and its financial advisor, Plenary Group, arranged the largest Private Activity Bond financing of a P3 deal in U.S. history: $721.5 million in appropriation-risk debt, rated BBB, which drew 40 different investors. No TIFIA loan was sought by Pennsylvania Department of Transportation (PennDOT). $59 million of equity was contributed by Plenary Group (80%) and Walsh Investors (20%).
- It is the first bundling of publicly owned assets under a single, fixed-price construction program

management contract. The agreement also shares permitting risk on 558 discrete projects between PennDOT and the Plenary-Walsh project company.

(This is the project's greatest risk, and greatest potential benefit. PennDOT negotiated a SEP-15 waiver from the Federal Highway Administration that allows it to delegate the NEPA documentation to the private program managers. If it works well, other states may pursue the same categorical exclusion from FHWA rules and this approach could become standard procedure. Key to its success is the extensive technical due diligence done by the joint venture to prepare its bid.)

"I think that one of the things that will make our project hugely successful or frankly cause a lot of consternation for the Plenary-Walsh team is how smoothly the permitting process goes," says Bryan Kendro, Director for the PennDOT Public-Private Partnership (P3) Office (until recently a one-man shop but now also run by Deputy Director Dale Witmer and supporting staff.)

- Rapid Bridges involved the first use of a UK-style performance bond, adapted for this project by Walsh Group, its surety, Travelers, and Standard & Poors (see below).
- The secret sauce: To gain the support of local labor and small contractors, all of the bridge rehabilitation work will be subcontracted, and long-term maintenance will be staffed locally—"to make the workforce in each community look like the people who live in that community," says Matthew Walsh, chairman of The Walsh Group of Chicago, Illinois.

Also, money to fund the Rapid Bridges project came from a large increase in annual highway funding to $2.5-billion, which was enacted just as the RFQ for the P3 project was being issued in December 2013.

That new money allowed PennDOT to increase design-bid-build lettings in 2014 from $1.5 billion to $2 billion.

"We passed a massive funding increase, so basically there was a lot of design-bid-build work going out at the same time, so if you didn't like the P3 program, there was plenty of other work to bid on," says Kendro.

The leadership at PennDOT took a risk on Rapid Bridges in hopes that it would help energize local contractors to be more efficient. "I think we're envisioning that this is going to be kind of a shock to our local contracting community, just how fast they can actually build a bridge if they are incentivized to do so and when given the opportunity to be more innovative," says Kendro. "We think that [Rapid Bridges] is going to be proof that there are certain things that can be done differently with our bridge program, and we're going to do them differently."

Where Credit Is Due

Plenary Walsh Keystone Partners has contracted with joint venture Walsh Construction Company (60%) and Granite Construction Company (40%), with HDR, to permit and manage the design and replacement of 558 mostly small bridges by December 2017.

Major maintenance over 25 years will be performed by Walsh Infrastructure Management, LLC (an affiliate of The Walsh Group.)

Advising Plenary Walsh Keystone Partners are Fasken Martineau, of Toronto (legal); BTY Group (technical); InTech (insurance); and Plenary Group (financial).

Advising PennDOT are KPMG (financial and overall strategic advisor); URS (program management); CDM Smith/ Lochner (technical); Allen & Overy (transactional counsel); Ballard Spahr (bond counsel).

Bond underwriters are J.P. Morgan and Wells Fargo, advised by Ashurst LLP (legal).

An American Performance Bond

What Travelers' construction services calls an "Expedited Dispute Resolution Performance Bond" is described by S&P "as a new form of performance bond, which we view as providing liquidity equaling as much as 10% credit to the performance bond for contractor replacement.

"Although typically performance bonds have the potential for protracted arbitration, under the terms of this policy, the maximum number of days before resolution/payment is 82, and we thus provide credit for some project downside costs. In addition, the bond provider has documented its obligation under the performance bond as a financial obligation, such that its failure to pay could result in ratings consequences for the insurer."

In fact, the Rapid Bridges financing is the first time in the U.S. that a rating agency has recognized the value of a performance bond, according to Stan Halliday, chief underwriting officer for Travelers construction services group. Zurich American and Federal (Chubb) worked as co-sureties with Travelers.

Walsh has also proposed using the new performance bond to help secure its $408-million contract with WMB Heartland Partners (Meridiam/Walsh Investors/Balfour Beatty Capital) to build the Marion County Consolidated Justice project in Indianapolis. The fate of that social infrastructure P3 project will be determined in April.

As use of the new bond spreads, the hope is that letters of credit will no longer be required from contractors on P3 deals. If so, says Halliday, that would eliminate a competitive advantage now held by non-U.S. contractors who have broader access to LOCs. "This sets the stage for U.S. contractors to have a greater role in P3s," he says. "It's a solution that works in North America."

The total security package provided by Walsh-Granite includes a $22.5 million letter of credit (2.5% of the construction value), and retainage of $22.5 million. The contractors also will provide a performance bond equal to about 100% of the contract price, in addition to parent guarantees with a liability cap of 40% under the design-build agreement.)

Public Works Financing is a monthly newsletter covering P3s in all infrastructure markets, since 1988. It is widely read and cited in the media, academic research, federal reports and congressional testimony.

NCPPP
By Editor April 24, 2015

Editor's note: As part of our strategic partnership with Public Works Financing, NCPPP will republish two articles each issue of the journal of record on public-private partnerships in infrastructure development. For a limited time, NCPPP Members can receive a 10% discount on a subscriptions to and advertising within this outstanding publication. – PK

By William Reinhardt, PWF editor

Public-Private Infrastructure Investment Can Spur Economy, Says Treasury Department.

Private capital has a critical can play role in supplementing public spending on the nation's infrastructure, according to a new white paper released Thursday by the Treasury Department.

"Years of underinvestment in our public infrastructure have imposed massive costs on our economy," said Elaine Buckberg, the department's deputy assistant secretary for policy coordination, said in a blog post. "We can more easily meet our nation's infrastructure needs by expanding sources of investment and using those dollars as effectively as possible to advance the public's interest."

Advanced economies from around the world have come to rely on private sector financing for infrastructure investment, according to Buckberg.

"Executed well, PPPs harness private sector capital and management expertise to address the challenges of modernizing and more efficiently operating infrastructure assets," Buckberg said.

The white paper, "Expanding the Market for Infrastructure Public-Private Partnerships: Alternative Risk and Profit Sharing Approaches to Align Sponsor and Investor Interests," explains new ways to share risk and profit between state and local governments and potential investors in P3s.

"For example, the private partner may transfer a portion of its earnings directly to the government, creating opportunities for more infrastructure investment, or the private partner's cost savings may lower the price of using the infrastructure, thus sharing those savings with consumers," Buckberg said. "Profit-sharing on a toll bridge operated as a PPP could translate into lower tolls for drivers. Or, in a PPP-operated water system, it could mean more investment to replace aging pipes."

The white paper is part of the Build America Investment Initiative launched by the Obama administration in July 2014. The initiative is aimed at increasing public-private collaboration in infrastructure investment and spuring economic growth.
