

Bond Case Briefs

Municipal Finance Law Since 1971

MSRB Investor Guide to Monitoring Muni Bonds.

Are muni bonds part of your retirement savings plan? Check out our [investor guide](#) on monitoring bonds.

Less Water, More Risk: Exploring National and Local Water Use Patterns in the U.S.

Amidst a rising number of extreme weather events, service fluctuations, and other investment concerns, America's water infrastructure is at a crossroads. Frequently overlooked and taken for granted, water is not just vital for life, but also provides an economic foundation for millions of businesses, farms, power plants, manufacturers, and households that depend on a reliable supply each day in the United States.

Despite seeing declining levels of water use in recent years, the U.S. still depends on nearly 355 billion gallons each day, an enormous total speaking to the breadth of uses nationally. Water use remains high in many cases, but it is also falling across the board as new conservation measures and technologies have been introduced. Utilities must confront several competing needs as a result: fixing aging, brittle infrastructure systems in service of a productive economy while generating less predictable revenues from lower levels of water use. Rising water bills, in turn, are helping to cover these costs and are often hitting lower-income households and other vulnerable users the hardest.

To provide reliable, cost-effective service, utilities—alongside local planners, economic development officials, and other leaders—need more detailed metrics and a better understanding of how regional water needs are shifting. By providing a comprehensive comparison of metropolitan and non-metropolitan water use, this report helps to meet this need. It not only highlights the scale and complexity of how users in different areas depend on water, but it also points to difficulties these users—and providers—face managing this scarce resource in an economically efficient and equitable way.

[Download full report.](#)

by Joseph Kane

Senior Research Analyst and Associate Fellow - Metropolitan Policy Program

October 20, 2017

The Brookings Institute

[Explore the MSRB's New Compliance Center.](#)

Municipal advisors and municipal securities dealers can now get easier access to rule summaries, compliance advisories and other educational material about municipal market regulations in a new online [Compliance Center](#) on MSRB.org. The Municipal Securities Rulemaking Board (MSRB) today launched a series of website enhancements to elevate the prominence and accessibility of compliance information.

The website enhancements support the MSRB's [long-term strategic goal](#) to facilitate industry understanding of and compliance with MSRB rules. The MSRB will continue to add new resources to the Compliance Center to support regulated entities' ability to comply with new and existing standards of conduct.

[GASB Survey on Note Disclosure Requirements.](#)

The Governmental Accounting Standards Board (GASB) is conducting a survey of users of state and local government financial information regarding certain note disclosure requirements. The survey is part of a GASB research effort to evaluate the effectiveness of those note disclosures. The survey, including background, objective and instructions, can be accessed [here](#). The deadline for completing the survey is Friday, November 17, 2017.

As someone who needs financial information about state and local governments, your views are vital to the GASB's efforts to improve financial accounting and reporting. If you have any questions about this survey, please contact Pam Dolan at 203-956-3473 or pdolan@gasb.org.

[IRS Notice 2017-66: New Clean Renewable Energy Bonds.](#)

The Internal Revenue Service (IRS) released Notice 2017-66, inviting public power providers to submit applications for an allocation of the available volume cap to issue new clean renewable energy bonds. Interested public power providers must submit applications pursuant to the requirements set forth in section 3 of the IRS Notice. Applications must be submitted on or before June 19, 2018.

Notice 2017-66 is available [here](#), and will appear in IRB 2017-45 dated November 6, 2017.

[NABL: IRS Withdraws Proposed Political Subdivision Regulations.](#)

The IRS has withdrawn its proposed regulations on the definition of political subdivision, an action the Treasury Department recommended in its final report for reducing the burden of significant tax regulations.

NABL previously urged Treasury to withdrawal the proposed regulations, warning that they would cause disruption in the municipal market, including creating significant uncertainty about whether governmental organizations qualify as political subdivisions because of multiple facts and

circumstances tests.

You can find the notice of withdrawal of the proposed regulations [here](#). It is expected to be published in the Federal Register on Friday, October 20, 2017.

[How Optimistic Math Conceals Depth of America's Public Pension Crisis.](#)

Minnesota's funded ratio fell more than 30%, leaving its state pension funded at 52.10%, according to S&P Global Ratings

Minnesota's state pension funds became the seventh most underfunded in the country in 2016 after its largest fund lowered its expected rate of return to a more realistic level.

The move highlighted how optimistic return estimates for public pension funds have helped disguise the extent of America's pension crisis and underscored how teachers, firefighters and other public employees may end up looking forward to a smaller safety net.

Minnesota's actions were prompted by the Government Accounting Standards Board, which has pushed state pension funds to base their funding ratios on more conservative forecasts on their investments. In response, its largest pension fund for public-sector workers slashed its expected return from 7.90% to 4.17% for fiscal 2016.

[Continue reading.](#)

MarketWatch

by Sunny Oh

Published: Oct 23, 2017 8:19 a.m. ET

[Treasury Issues Priority Guidance Plan for Municipal Bonds.](#)

WASHINGTON — The Treasury Department's priority plan for the 12 months after July 1, 2017 contains rules or guidance on private activity bonds, remedial actions, and bond reissuance.

[The 2017-2018 Priority Guidance Plan](#), published on Friday, covers the period through June 30, 2018 and contains several muni bond regulatory projects that were on the previous 2016-2017 plan, including the public notice and approval rules for private activity bonds under TEFRA (the Tax Equity and Fiscal Responsibility Act of 1982).

The TEFRA rules were proposed on Sept. 28. Muni issuers were allowed to opt to immediately use them between the day they were proposed and their effective date, which still must be determined. Otherwise the rules will be prospectively effective when finalized. Treasury and the IRS have asked for comments on the proposed rules and requests for a public hearing to be submitted to them by Dec. 27 of this year.

The plan also includes another item on the previous 2016-2017 plan — actions that issuers can take to remediate certain tax law or rule violations for tax-advantaged bonds, which include tax-exempt,

taxable direct-pay, and taxable tax-credit bonds.

Bond reissuance rules remain on the list from the previous plan. Treasury and the IRS have released several guidance documents on reissuance, which is when the terms of bond issues have been materially changed such that they are considered to be new bonds subject to the latest tax laws and rule. The agencies have been working on a project to modernize and possibly consolidate this guidance.

The plan appears to contain one new item not listed in last year's plan — guidance on private activity bonds. But it does not elaborate on the kind of guidance envisioned.

Also listed on the 2017-2018 plan is guidance on the overpayment of arbitrage that had been rebated. That guidance was in Revenue Procedure 2017-50, which was published on Aug. 25, 2017 and took effect at that time. It extended the deadline for issuers that file claims for recovery of excess arbitrage they inadvertently rebated to the federal guidance.

By Lynn Hume

SOURCEMEDIA | MUNICIPAL | 10/23/17 07:02 PM EDT

[Bonds + Financing Sustainability: BNY Mellon // CDFIA Webcast Series](#)

Bonds + Financing Sustainability November 14, 2017 @ 1:00 PM Eastern

Bonds are considered the bedrock tool for development finance because of their common use funding traditional projects however they also can be adaptable for new types of projects. In the current day and age sustainability has become a key focus in development finance and bonds have more frequently been used to finance this new wave of projects. During this installment of the BNY Mellon // CDFIA Webcast Series our expert speakers will look at outside the box ideas for issuing bonds to fund sustainable areas of finance including renewable energy, adaptive reuse for infrastructure, food systems projects and sustainable water solutions.

Speakers:

Rena Nakashima, Moderator
Vice President & Senior Product Manager
The Bank of New York Mellon

Sharon Wojda
Finance Director
City of Bend, Oregon

Stephen Pearlman
Founding Partner
Pearlman & Miranda, LLC

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

[Register.](#)

[Putting Private Capital to Work In Rural Infrastructure.](#)

[Putting Private Capital to Work In Rural Infrastructure.](#)

CDFA

September, 2017

[Planning For the End of LIBOR: Holland & Knight](#)

By 2021, it is likely that LIBOR will no longer exist, and even more likely that it will no longer be the leading global benchmark interest rate. This news comes from the U.K. Financial Conduct Authority's (FCA) announcement that after 2021, it will no longer make the reporting of interbank lending transactions on which LIBOR is based mandatory.¹ That change, together with criticism that LIBOR rates are no longer supported by sufficient underlying market data and the rate fixing scandals in recent years suggest LIBOR's days are numbered.

The discontinuance of LIBOR would affect most financial markets, including the aviation finance industry. Many aviation finance transactions incorporate some form of a floating rate based on LIBOR whether it be in the form of a floating rate loan, floating rent rate, or default interest rate pegged to the benchmark. It is prudent to assess existing and future transactions that will remain in place past 2021 to ensure that they contain suitable provisions for selecting a replacement rate.

Lack of Data and Scandal

The London Interbank Offered Rate (LIBOR) was created almost 50 years ago to track the interest rate at which certain large institutional banks lend unsecured funds to each other in multiple currencies and for twelve different tenors on the London interbank market. LIBOR rates are created based on information supplied to the ICE Benchmark Administration by a panel of 20 banks that participate in the London interbank market. The panel is required to submit interest rate data from actual interbank loan transactions, and where no such transactions have taken place, the LIBOR rate is based on the submitting bank's traders' estimates of what the rate of an actual interbank loan on that date would have been. The published rates are the average of all submissions.

A dramatic decrease in interbank lending has left LIBOR as more a representation of expert opinion than a summary of actual market activity.² According to Andrew Bailey, the head of the FCA, the number of certain interbank loan transactions has dropped down below 20 per year. For a rate that is set daily, this means that on most days the rate is set based on expert opinion alone. This lack of actual data, coupled with the recent LIBOR rate fixing scandals, are likely to spell the end of the benchmark. Since 2012, banks have been fined over USD\$ 9 billion for fraud, collusion and manipulation of LIBOR rates.³

Alternatives to LIBOR

Belief that the end of LIBOR is near is strong enough that governments worldwide have started

looking at replacement options. A few alternatives are starting to build momentum, but there is no consensus around which rate will replace LIBOR as the market standard benchmark. In fact, there is speculation that no single replacement will emerge and instead LIBOR could be replaced by multiple benchmarks, leading to a more fractured market and greater complexity for negotiating parties.

To address the end of LIBOR, the United States government created a panel of fifteen large U.S. banks called the [Alternative Reference Rates Committee \(ARRC\)](#). In June, the ARRC endorsed the use of what has come to be called the Broad Treasury Financing Rate (BTFR), which will be published by the Federal Reserve Bank of New York as the best practice for U.S. dollar derivatives and financial contracts.⁴ The intricacies of the BTFR are currently undergoing a public review and comment period, after which it is expected that the rate will be published beginning in the middle of 2018. Generally, the BTFR will represent the interest rate at which banks and others will fund overnight loans secured by U.S. government debt.

In the United Kingdom, the leading alternative appears to be the [Sterling Overnight Index Average \(SONIA\)](#), which reflects the rates for unsecured short-term transactions tied to the pound.⁵ SONIA's scope is more limited than LIBOR since it only covers sterling while LIBOR covers five different major currencies, and SONIA only measures the overnight rate while LIBOR covers seven maturities from overnight to 12 months.⁶ These limitations may hinder SONIA's adoption globally.

Existing Documentation

Aviation finance industry participants should review their existing documentation which incorporates LIBOR and may have a term or tenor through 2021 or beyond. LIBOR is used in loan documentation (secured and unsecured), all varieties of leases (with or without floating rent rates), MRO general terms agreements, and even guaranties or other credit support documentation. Even where the principal payment obligation is not a floating rate, documentation can have other types of floating rates that incorporate LIBOR such as default interest rates, or fixed to floating rate conversion options.

Documentation that incorporates LIBOR but lacks a mechanism for selecting a replacement when LIBOR is no longer available should be amended in the coming years if it is expected to remain in place past 2021.

However, documentation that incorporates LIBOR usually includes a mechanism for determining the applicable interest rate if LIBOR becomes unavailable. Here are some thoughts on assessing the adequacy of three of the most common varieties of replacement provisions:

- *Successor Provisions.* These provisions indicate that if another entity takes over the publishing of LIBOR from the ICE Benchmark Administration, or if the LIBOR rates are published in a different way in the future, that such successor publisher or means will be the new rate. These provisions won't be of much use if LIBOR ceases to exist.
- *Interpolation and Alternative Information Source Provisions.* Provisions that empower one party to interpolate between other available LIBOR rates if the LIBOR rate of the selected tenor is no longer available will not be of use if the benchmark itself no longer exists. Similarly, provisions that empower one party to select a different source for the screen rate will not be of use if the underlying benchmark is not available anywhere.
- *Unilateral Selection.* Another type permits the creditor party to unilaterally select a suitable replacement if the LIBOR rate is no longer available or no longer the market standard. Sometimes these provisions require consultation with the borrower, sometimes not. While we are likely to experience a period without a clear market standard alternative to LIBOR, generally speaking this type of a provision will still give the parties sufficient certainty that a suitable replacement will be

selected when that time comes. In syndicated loan documentation, borrowers may wish to have the selection of a replacement rate require the approval of a majority of lenders, rather than requiring unanimous approval to expedite the selection of a new rate once a market consensus is reached.

- *Reference Bank*. Finally, so called “Reference Bank” provisions specify that a particular interest rate offer from a specified private bank or the average of rates supplied by a few banks will be the replacement rate if LIBOR is unavailable. This type of provision, which is found in standard LMA and LSTA documentation, is intended to resolve short-term LIBOR interruptions, but leaves considerable uncertainty if utilized indefinitely and should not be viewed as a practical permanent solution. For example, it is likely to result in a party paying different rates of interest under different deals that are on the same commercial terms but appoint different reference banks.

By the time LIBOR reporting is no longer mandatory, there ought to be greater consensus around the suitability of available replacements. For now, parties should be cautious about incorporating a LIBOR replacement they are not already familiar with. Until consensus grows in the financial sector, parties need to ensure that their existing documentation and new documentation contain adequate provisions for selecting a suitable replacement in the future.

Footnotes

1 <https://www.fca.org.uk/news/speeches/the-future-of-libor>

2 In 2015, about 70% of the bank submissions were experts guesses.

<http://www.businessinsider.com/demise-of-libor-part-of-massive-global-trend-many-overlook-2017-9>

3 <https://www.lexology.com/library/detail.aspx?g=342c165d-5c56-4cb5-a1cb-5a15696e91ca>

4 <https://www.newyorkfed.org/medialibrary/microsites/arrc/files/2017/ARRC-press-release-Ju-22-2017.pdf>

5 <https://www.lexology.com/library/detail.aspx?g=342c165d-5c56-4cb5-a1cb-5a15696e91ca>

6 <https://www.lexology.com/library/detail.aspx?g=342c165d-5c56-4cb5-a1cb-5a15696e91ca>

Last Updated: October 17 2017

Article by Nathan Leavitt and Yue Qi

Holland & Knight

Nathan Leavitt is a Partner and Yue Qi is an Associate in the San Francisco office

The content of this article is intended to provide a general guide to the subject matter. Specialist advice should be sought about your specific circumstances.

TAX - WASHINGTON

[End Prison Industrial Complex v. King County](#)

Court of Appeals of Washington, Division 2 - September 26, 2017 - 402 P.3d 918

Nonprofit corporation sued county seeking declaratory and injunctive relief regarding county’s calculation of property tax increases under local ballot measure that authorized property tax levy at a rate above established statutory limit and asserting that measure’s language did not expressly

state that increased base tax amount in the first year could be used to calculate future years' increases and that the measure did not expressly state that tax proceeds could be used to construct a juvenile detention facility, as were required by statute.

The Superior Court granted county's motion for summary judgment, denied nonprofit's motion for partial summary judgment, and dismissed nonprofit's claims with prejudice. Nonprofit appealed.

The Court of Appeals held that:

- Nonprofit was not required to bring its claim regarding measure before measure was put to election;
- Language in measure did not satisfy statutory requirement for an express statement of how subsequent years' levies would be calculated, and thus county improperly implemented measure; but
- First sentence of measure was a clear and express statement of the limited purpose of the funds created by the levy.

Nonprofit corporation was not required to bring its claim challenging county's calculation of property tax increases under local ballot measure that authorized property tax levy at a rate above established statutory limit before measure was put to election, under statute providing a preliminary procedure by which dissatisfied persons could object to a ballot title and seek its amendment. Nonprofit sought to enforce terms of ballot title as written and approved by voters, rather than claiming that ballot title was infirm under statute, and did not object to language of ballot title.

Language in local ballot measure, which authorized property tax levy at a rate above established statutory limit, that implied that levy amount during first year would be used to compute the amount of levies in subsequent years was insufficient to satisfy requirement for an express statement of how subsequent years' levies would be calculated under statute governing elections to increase property taxes, and thus county improperly implemented measure in calculating property tax increases under measure for subsequent years, where measure's statement concerning subsequent levies only stated that subsequent levies would be subject to limitations of statutory chapter governing limitations on property taxes.

First sentence of local ballot measure, which authorized property tax levy at a rate above established statutory limit for a replacement facility for juvenile justice and family law services, was a clear and express statement of the limited purpose of the funds created by the levy, as was required by statute governing elections to increase property taxes. Measure's use of word "replace" rather than "construct" did not make measure's limited purpose unclear, no voter was likely to have been deceived or misled when county inaccurately named the existing facility in measure, and measure was neither vague nor obscure and its limited purpose was clear.

TAX - OHIO

[MacDonald v. Cleveland Income Tax Board of Review](#)

Supreme Court of Ohio - September 26, 2017 - N.E.3d - 2017 WL 4296394 - 2017 -Ohio-7798

City income tax board of review and tax administrator appealed determination of the Board of Tax Appeals determining that taxpayers' supplemental executive retirement plan (SERP) was not subject to income tax.

The Supreme Court of Ohio held that:

- SERP was “pension” within meaning of ordinance excluding “pensions” from taxable income;
- Definition of “pension” in pension exclusion ordinance was not limited by administrator’s rules and regulations defining “pensions”;
- City ordinance defining “qualifying wages” for income tax purposes did not override exclusion of SERP from taxable income under pension exclusion ordinance; and
- City’s election to tax income on qualifying-wage basis under state law did not require city to impose income tax on SERP.

Supplemental executive retirement plan (SERP) received by married taxpayers upon husband’s retirement as corporate executive was “pension,” within meaning of city ordinance excluding “pensions, disability benefits, annuities, or gratuities not in the nature of compensation for services rendered” from taxable income, though city asserted pension was compensation for services rendered. SERP was sum of money regularly paid to taxpayers as retirement benefit, and stated purpose of SERP was to provide for payment of pension, disability, and survivor benefits in addition to benefits that might be payable under other plans of corporation.

City ordinance defining ‘qualified wages’ on which taxes would be imposed to include compensation attributable to nonqualified deferred compensation program, which included supplemental executive retirement plan (SERP) received by married taxpayers upon husband’s retirement as corporate executive, did not override exclusion of SERP from taxable income under conflicting ordinance excluding ‘pensions, disability benefits, annuities, or gratuities not in the nature of compensation for services rendered’; two ordinances were at odds, and more general definition of ‘qualifying wages’ was limited by more specific provision excluding pensions from the broad definition.

City’s election to tax income on qualifying-wages basis under state law defining ‘qualifying wages’ did not require city to impose income tax on supplemental executive retirement plan (SERP) received by married taxpayers upon husband’s retirement as corporate executive; SERP was specifically excluded from taxable income under city ordinance governing pension exclusion, and city could not be commanded to impose tax on specific income when it had chosen not to tax that income.

[KBRA Affirms the Long-Term Rating of AA+ with a Stable Outlook for the City of Indianapolis, IN General Obligation Bonds.](#)

Kroll Bond Rating Agency (KBRA) has affirmed the long-term rating AA+ with a Stable Outlook to the City of Indianapolis, IN’s General Obligations Bonds.

The affirmation is based on [KBRA’s U.S. Local Government General Obligation Methodology](#). KBRA’s rating evaluation of the long-term credit quality of local government general obligation bonds focuses on four key rating determinants:

- Governance, Management Structure and Policies
- Municipal Resource Base
- Debt and Additional Continuing Obligations
- Financial Performance and Liquidity Position

To access the full report, please click on the link below:

[City of Indianapolis, IN General Obligation Bonds](#)

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

[**KBRA Assigns LT Rating of BBB+/Stable Outlook to Harrisburg International Airport, Airport System Revenue Bonds, Series 2017 \(AMT\)**](#)

Kroll Bond Rating Agency (KBRA) has assigned a long-term rating of BBB+ with a Stable outlook to the Susquehanna Area Regional Airport Authority's (SARAA) Airport System Revenue Bonds Series 2017 (AMT) ("the Series 2017 bonds"). In addition, KBRA has affirmed the long-term rating of BBB+ with a Stable outlook on all outstanding SARAA Airport System Revenue Bonds. As of September 28, 2017, SARAA had approximately \$147.7 million of Airport System Revenue Bonds outstanding.

To access the full report, please click on the link below:

[Harrisburg International Airport, Airport System Revenue Bonds, Series 2017 \(AMT\)](#)

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

[**KBRA Upgrades Wisconsin's GO Bonds and Master Lease COPs & Assigns Rating to the State's GO Refunding Bonds of 2017, Series 2.**](#)

Kroll Bond Rating Agency (KBRA) has assigned a AA+ long-term rating and Stable Outlook to the State of Wisconsin's General Obligation Refunding Bonds of 2017, Series 2 (the "Bonds"). Concurrently, KBRA has taken additional rating actions to the State's various debt obligations displayed in our report.

In preparing this report, KBRA has spoken to State officials about their plans for new debt; reviewed the State's Annual Fiscal Report (budgetary basis) which was released on October 16, 2017; reviewed the State's most recent Audit of the Wisconsin Retirement System which was released on September 28, 2017; and also reviewed the State's 2017-2019 Biennium budget which was adopted on September 21, 2017. and also reviewed the State's 2017-2019 Biennium budget which was adopted on September 21, 2017.

KBRA's rating reflects, among other observations, that in recent years Wisconsin has consistently and accurately budgeted within its means and has prioritized a combination of tax, spending, and debt restraints that have improved the State's reserves and liquidity. The State has also simultaneously pursued policies to stabilize and reduce historically high tax burdens. Meanwhile, the economy as measured by employment and income indicators, continues to grow at a healthy pace. These factors combined with the State's large and fully funded pension system (which increasingly makes Wisconsin a positive relative outlier on the landscape of states and other large municipalities) have improved the State's operational and financial flexibility. Wisconsin recently adopted a 2017-19 biennium budget that reflects this improved flexibility. In this budget the State has chosen to make sizable but affordable increased investments in transportation, education, and other policy priorities while also prioritizing financial reserves and holding the line on taxes.

To access the full report, please click on the link below:

[State of Wisconsin's Outstanding GO Bonds and Master Lease COPs & GO Refunding Bonds of 2017, Series 2](#)

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

KBRA Assigned LT Rating of AA+/Stable on MTA's Transportation Revenue Bonds, Subseries 2014D-2 (SIFMA Floating Rate Tender Notes)

Kroll Bond Rating Agency (KBRA) assigned a long-term rating of AA+ with a Stable Outlook on the Metropolitan Transportation Authority's (MTA) Transportation Revenue Bonds, Subseries 2014D-2 (SIFMA Floating Rate Tender Notes). KBRA has also taken rating actions on the series/bonds listed in the table located in the report. KBRA's ratings do not apply to bonds backed by a letter of credit or liquidity facility. For mapping of the long-term rating to the short-term rating, please refer to the short-term KBRA Rating Scale.

KBRA's long-term rating for MTA is based on the [U.S. Public Toll Roads, Bridges, & Tunnels Rating Methodology](#). Please see our initial rating report published on May 8, 2015, [Metropolitan Transportation Authority Transportation Revenue Bonds](#), for a full discussion of the credit.

To access the full report, please click on the link below:

[MTA Transportation Revenue Bonds, Subseries 2014D-2 \(SIFMA Floating Rate Tender Notes\)](#)

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

KBRA Affirms the Long-Term Rating of AA/Stable Outlook for Upper Southampton Municipal Authority, Township of Upper Southampton.

Kroll Bond Rating Agency (KBRA) has affirmed a long-term rating of AA with a Stable outlook on the Township of Upper Southampton general obligation ("GO") debt and the Upper Southampton Municipal Authority ("Authority"), Pennsylvania's GO guaranteed notes. The Authority's GO guaranteed debt consists of guaranteed sewer and water system revenue notes which are first payable from the Authority's sewer and water system revenues and are ultimately guaranteed by the full faith and credit tax pledge of the Township of Upper Southampton, Pennsylvania.

This rating is based on KBRA's [U.S. Local General Obligation Rating Methodology](#).

To access the full report, please click on the link below:

[Upper Southampton Municipal Authority, Township of Upper Southampton](#)

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- [SIFMA Submits Comments to SEC on MSRB Clarification of Rule G-34\(a\)\(i\) on the Use of CUSIPs.](#)
 - [Dealers, Issuers, Advisors Call for Changes to CUSIP Proposal.](#)
 - [MSRB Seeks to Collect Additional Fee Information About ABLE Programs and 529 College Savings Plans.](#)
 - [Commentary: Questions Remain as Bond Market Prepares for Markup Disclosure Rule.](#)
 - [New IRS Audit Procedures: Hawkins Advisory](#)
 - [S&P: Rising OPEB Liabilities For The 15 Largest U.S. Cities Could Strain Budgets And Pose Credit Risks.](#)
 - [IRS Releases New Public Approval Proposed Regulations: Mintz Levin](#)
 - [Proposed TEFRA Rules Get Positive Reception from Bond Attorneys.](#)
 - And finally, So Many Questions/So Few Answers, Theological Edition, is brought to us this week by [Schmitz v. Denton County Cowboy Church](#), in which the court jumps directly to the business at hand - why on earth the town granted a permit to construct a massive rodeo complex on a parcel zoned single family residential - without addressing the glaring question: WHAT IN THE NAME OF ALL THAT IS HOLY IS A "COWBOY CHURCH?" Do they worship the Great Buckaroo in the Sky? Is calf roping a sacred ritual? Are rodeo clowns their clergy? Is John Wayne a patron saint? Your guess is as good as ours, pardner.

IMMUNITY - KENTUCKY

[Board of Trustees of Kentucky School Boards Insurance Trust v. Pope](#)

Supreme Court of Kentucky - September 28, 2017 - S.W.3d - 2017 WL 4297333

Deputy Rehabilitator of the Kentucky School Boards Insurance Trust Workers' Compensation Self-Insurance Fund and the Deputy Rehabilitator of Kentucky School Boards Insurance Trust Property and Liability Self Insurance Fund brought action against board of trustees for negligence, negligence per se, and breach of fiduciary duties.

The Circuit Court denied board's motion for summary judgment based on governmental immunity. Board appealed, and rehabilitator's motion to transfer to the Supreme Court was granted.

The Supreme Court of Kentucky held that:

- Trust was created by non-profit corporation, rather than by public schools, and thus governmental immunity did not apply, and
- Trust did not serve function integral to state government, and thus governmental immunity did not apply.

Local public schools' self-insurance trust was created by non-profit corporation, rather than by public schools, and therefore governmental immunity did not apply to negligence action against board of trustees; even though corporation had public school districts as members and trust was created for local public school boards, trust agreement showed corporation undertook creation of trust, corporation was not alter ego or surrogate of public school members, and trust agreement failed to mention any public school board as a creator of trust.

Local public schools' self-insurance trust did not serve function integral to state government, and therefore governmental immunity did not apply to negligence action against board of trustees; managing self-insurance fund that enabled public schools to meet workers' compensation required

was not governmental function, but was conducted almost exclusively by private sector, and trust's function was not matter of statewide concern.

EMPLOYMENT - MICHIGAN

[Mullendore v. City of Belding](#)

United States Court of Appeals, Sixth Circuit - August 23, 2017 - F.3d - 2017 WL 3614451 - 2017 Wage & Hour Cas.2d (BNA) 295, 291

Former city manager brought action against city and members of its city council, alleging that her termination violated the Family and Medical Leave Act (FMLA).

The United States District Court for the Western District of Michigan granted summary judgment in favor of city and council members. Manager appealed.

The Court of Appeals held that:

- Manager failed to demonstrate that she was terminated because she was using FMLA leave, and
- Manager failed to demonstrate that city's reason for terminating her was not legitimate.

Former city manager failed to demonstrate that she was terminated because she was using FMLA leave and, thus, failed to establish a prima facie case of FMLA interference against city and members of its city council; although manager was terminated while she was not present for city council meeting, council members believed it was personally or politically expedient to terminate her behind her back, and there was no indication that the termination, as opposed to its timing, was because manager was on leave.

Former city manager failed to demonstrate that city's proffered reason for terminating her, political strife, was not legitimate, and thus city and its council members were not liable for FMLA interference in connection with manager's termination; even if terminating manager in her absence made it easier to get one council member's vote, that did not mean that manager was terminated because she was on FMLA leave.

SCHOOL CONSTRUCTION AUTHORITY - NEW YORK

[AMCC Corp. v. New York City School Const. Authority](#)

Supreme Court, Appellate Division, Second Department, New York - October 4, 2017 - N.Y.S.3d - 2017 WL 4399479 - 2017 N.Y. Slip Op. 06935

General contractor brought breach of contract action against city's school construction authority, alleging that agency had not paid it for all work performed.

The Supreme Court, Queens County, granted agency's motion to dismiss as untimely. Contractor appealed.

The Supreme Court, Appellate Division, held that revised proposed change order submitted by general contractor to city school construction authority was not sufficiently detailed to constitute a statutorily-required notice of claim. Proposed change order contractor submitted failed to set forth a specific and detailed description of how contractor calculated amount it demanded, as required by

statute.

EMINENT DOMAIN - NORTH CAROLINA

[Department of Transportation v. Adams Outdoor Advertising of Charlotte Limited](#)

Supreme Court of North Carolina - September 29, 2017 - S.E.2d - 2017 WL 4322754

Condemnee, an outdoor-advertising company, sought review of state Department of Transportation's determination of just compensation for its taking of condemnee's leasehold interest in a parcel of land in which Department had purchased a fee-simple interest, but on which condemnee had a billboard.

The Superior Court found that the Outdoor Advertising Control Act governed compensation and that money owed to condemnee had to include the value of the outdoor advertising, taking into account the lease portfolio, including any reasonable expectation of renewal, the physical structure, and the accompanying permits. Department appealed. The Court of Appeals reversed. Condemnee petitioned for discretionary review.

The Supreme Court of North Carolina held that:

- General fair market valuation provision of statute on powers of the Department, rather than the Outdoor Advertising Control Act, governed the determination of compensation;
- Value that billboard added to the leasehold interest was admissible to help the trier of fact determine leasehold interest's fair market value;
- Income that condemnee received from renting out space on billboard was admissible to help the trier of fact determine the fair market value of leasehold interest;
- Evidence of condemnee's permits as to its billboard was admissible to help the trier of fact determine the fair market value of leasehold interest;
- Automatic ten-year extension provision in condemnee's lease was a proper factor for the trier of fact to consider in determining the fair market value of leasehold interest; but
- Trier of fact could not consider condemnee's optional ten-year lease extensions in determining the fair market value of leasehold interest; and
- Bonus-value method used by Department's appraiser was inadmissible to determine fair market value of leasehold interest.

General fair market valuation provision of statute on powers of the state Department of Transportation, rather than the Outdoor Advertising Control Act, governed the determination of compensation resulting from Department's condemnation of a leasehold interest in a parcel of land in which Department had purchased a fee-simple interest, but on which condemnee, an outdoor-advertising company, had a billboard, and thus the fair market value of the leasehold interest determined the compensation; Act gave Department the power to condemn a billboard specifically when the Department was condemning the billboard because it was prohibited by the Act, but Department's condemnation of the leasehold interest was to widen a highway, not because the billboard that sat on the fee was nonconforming.

In a proceeding to determine the fair market value of property under statute that gives the state Department of Transportation the power to condemn property when condemnation of that property is necessary for a state road or highway, all factors pertinent to a determination of what a buyer, willing to buy but not under compulsion to do so, would pay and what a seller, willing to sell but not

under compulsion to do so, would take for the property must be considered; in other words, the fair market value is the price to which a willing buyer and a willing seller would agree.

Value that billboard added to the leasehold interest was admissible to help the trier of fact determine the fair market value of that interest in regards to state Department of Transportation's condemnation of leasehold interest in a parcel of land in which Department had purchased a fee-simple interest, but on which condemnee, an outdoor-advertising company, had the billboard, even though billboard was condemnee's personal property; value that billboard added to leasehold would not have just come from rental income, but also from the inherent value of billboard's presence on the property.

Billboard on parcel of land in which state Department of Transportation had purchased a fee-simple interest and in which condemnee, an outdoor-advertising company, held a leasehold interest was a "trade fixture," and thus the billboard was condemnee's personal property; the billboard was attached to the land for the purpose of conducting an outdoor-advertising business, and condemnee's lease stated that all structures erected by or for the condemnee were at all times the property of the condemnee and could be removed by the condemnee notwithstanding that such structures were intended to be permanently affixed to the property.

Income that condemnee, an outdoor-advertising company, received from renting out space on a billboard on a parcel of land in which state Department of Transportation had purchased a fee-simple interest and in which condemnee held a leasehold interest was admissible in condemnation action to help the trier of fact determine the fair market value of condemnee's leasehold interest; the billboard was essentially self-operating rental property.

Evidence of permits of condemnee, an outdoor-advertising company, as to its nonconforming billboard on a parcel of land in which state Department of Transportation had purchased a fee-simple interest and in which condemnee had a leasehold interest was admissible in condemnation action to help the trier of fact determine the fair market value of the leasehold interest; condemnee's lease permitted it to cancel the lease or to seek rent abatement if it were unable to maintain its permits, and evidence of the permits would have helped inform the trier of fact about the value of a leasehold interest that existed solely to maintain and use the very billboard whose use was sanctioned by the permits.

Automatic ten-year extension provision in lease of condemnee, an outdoor-advertising company, was a proper factor for the trier of fact to consider in determining in condemnation action the fair market value of condemnee's leasehold interest in a parcel of land on which condemnee's billboard was located and in which state Department of Transportation had purchased a fee-simple interest; a provision that guaranteed a contractual right to renew was a proper factor for the trier of fact to consider in determining the fair market value of a leasehold interest, and under the terms of the automatic-extension provision, the lease extension would occur without condemnee taking any action.

Trier of fact could not consider the optional ten-year lease extensions of condemnee, an outdoor-advertising company, in determining in condemnation action the fair market value of condemnee's leasehold interest in a parcel of land on which condemnee's billboard was placed and in which state Department of Transportation had purchased a fee-simple interest; the optional extensions could have been cancelled at will by either party, and the extensions did not give condemnee a right to renew the lease, but rather created only an expectancy in the renewal of the lease.

Bonus-value method used by state Department of Transportation's appraiser did not properly reflect the fair market rental value of condemnee's leasehold interest in a parcel of land on which

condemnee's billboard was located and in which Department had purchased a fee-simple interest, and thus Department's bonus-value evidence was inadmissible in condemnation action to determine leasehold's fair market value, where appraiser determined the leasehold interest's market rental value solely by using the rent specified in two of condemnee's other leases for nearby sites, but he did not determine whether the nearby leases were truly comparable to condemnee's lease in question with respect to the rights granted.

ZONING & LAND USE - TEXAS

[Schmitz v. Denton County Cowboy Church](#)

Court of Appeals of Texas, Fort Worth - August 31, 2017 - S.W.3d - 2017 WL 3821886

"When a municipality allegedly refuses to enforce its zoning regulations against a property owner subject to those regulations and takes void actions attempting to change the zoning designation of that owner's property, what recourse, if any, does a neighboring property owner have against either the municipality or the purportedly nonconforming property owner?"

Owners of property near church brought action against church and town, seeking temporary restraining order and temporary and permanent injunctions prohibiting church from continuing construction of arena on church property and requiring town to suspend issued building permit and any future building permits.

The District Court denied request for temporary injunction and granted pleas to the jurisdiction. Owners appealed.

The Court of Appeals held that:

- Town's actions in granting zoning change and issuing specific use permit were not an "ordinance" for which town's immunity was waived;
- Property owners failed to allege viable takings claim;
- One owner sufficiently alleged at least a reasonable likelihood that his claim against town would soon ripen;
- Nuisance claims were ripe; and
- Declaratory judgment action against church was ripe.

Pleadings of owner of property adjacent to church sufficiently alleged at least a reasonable likelihood that his claim against town would soon ripen, as required for owner to have standing in action for declaratory and injunctive relief against town and church for alleged zoning violations based on church's construction of arena in which church planned to conduct rodeos and other events, even though construction was not yet complete; owner alleged that new arena would be operated in same manner as old arena, which had substantially interfered with owner's use and enjoyment of his property due to excessive noise, light, and odor.

Property owner's claims for nuisance against town and church that owned adjacent property were ripe; owner's testimony established effects of church's existing arena on his use and enjoyment of property, testimony established that church was building new arena for same purpose and with same frequency, and no evidence supported finding that construction and use of new arena was anything other than imminent.

Property owner's action for declaratory judgment against church that was constructing arena on adjacent property was ripe; owner's suit included underlying argument that arena never would have

been allowed to be constructed in such close proximity to his home if church had property complied with town's zoning ordinance.

MUNICIPAL ORDINANCE - UTAH

[Bivens v. Salt Lake City Corporation](#)

Supreme Court of Utah - September 26, 2017 - P.3d - 2017 WL 4276112 - 848 Utah Adv. Rep. 50 - 2017 UT 67

Recipients of parking tickets when city had installed pay machines, but when ordinance still defined parking infractions by reference to parking meters, brought putative class action against city alleging unjust enrichment and due process violations.

The Third District Court granted city's motion to dismiss. Recipients appealed.

The Supreme Court of Utah held that:

- Notice provisions in parking tickets did not deprive recipients of due process;
- Notice provisions in small claims information document did not deprive recipients of due process; and
- Recipients forfeited their claims of unjust enrichment and that attorney fees provision of city code violated their due process rights.

TAX - WYOMING

[Town of Pine Bluffs v. Eisele](#)

Supreme Court of Wyoming - October 3, 2017 - P.3d - 2017 WL 4370276 - 2017 WY 117

Town, as taxpayer, filed complaint against county, county treasurer, and county assessor, seeking injunction against assessment of tax on daycare that town owned and operated on land that town owned.

The District Court granted defendants motion to dismiss for town's failure to exhaust administrative remedies, and town appealed.

The Supreme Court of Wyoming held that:

- Statute authorizing action in district court to enjoin assessment of illegal tax did not require exhaustion of administrative remedies, as prerequisite to suit, and
- Town was required to exhaust administrative remedies, as prerequisite to judicial review.

Statute authorizing action in district court for injunction to enjoin assessment, levy, or collection of illegal tax did not require taxpayer to exhaust administrative remedies before county board of equalization and state board of equalization, as prerequisite to suit.

Town's claim that county assessor illegally assessed tax on daycare operated on property that town owned, based on assessor's determination that daycare was not used primarily for public purpose, within meaning of exemption for property that was used primarily for public purpose, was actually challenge to assessor's allegedly erroneous determination that daycare was not entitled to exemption, and not claim that tax was illegally assessed, and thus, town was required to exhaust

administrative remedies before county board of equalization and state board of equalization, as prerequisite to judicial review.

An “illegal tax assessment” that may be challenged in an action in the district for an injunction, is one imposed without authority or in violation of federal or state law, while an erroneous tax assessment, for which a taxpayer must exhaust administrative remedies before the county board of equalization and state board of equalization, as a prerequisite to judicial review, includes clerical errors, assessments of tax-exempt property, and assessments based on the wrong millage rate, but not assessments based on the county’s failure to consider every relevant fact in establishing an assessed value.

[SIFMA Submits Comments to SEC on MSRB Clarification of Rule G-34\(a\)\(i\) on the Use of CUSIPs.](#)

On October 10, SIFMA submitted comments to the Securities and Exchange Commission (SEC) in response to the Municipal Securities Rulemaking Board’s (MSRB) proposed rule filing SR-MSR-2017-06, which would amend MSRB Rule G-34, on CUSIP numbers, new issue and market information.

SIFMA urged the SEC to institute disapproval proceedings regarding the Proposal in its current form, because the amendment, as filed, is unduly restrictive for market participants and lacks clarity in material respects. If approved, the rule would codify the MSRB’s interpretation that municipal securities dealers are required to obtain CUSIP numbers for new issue securities sold in private placement transactions, including direct purchases. Additionally, if approved, non-dealer municipal advisors advising on competitive offerings would be required, like dealer municipal advisors under the current rule, to apply for CUSIP numbers.

“SIFMA questions the expressed rationale for the MSRB’s proposed rulemaking, as the sole purpose for the original proposal to adopt Rule G-34 was merely to facilitate clearance and settlement of municipal securities; not to define the term ‘underwriter’,” said SIFMA managing director and associate general counsel Leslie Norwood.

[SIFMA Comment Letter](#)

[MSRB Filing](#)

[Dealers, Issuers, Advisors Call for Changes to CUSIP Proposal.](#)

PHOENIX – Municipal market participants are asking the Securities and Exchange Commission to reject at least parts of a Municipal Securities Rulemaking Board proposal to codify that dealers are required to obtain CUSIP numbers for new issue securities sold in private placement transactions.

Trade groups representing dealers, municipal advisors, issuers, banks, and individual firms weighed in on the proposal in comment letters to the SEC this week.

CUSIP numbers are used to identify securities, and one is assigned to each maturity of a municipal issuance. The MSRB said when it proposed the change to its Rule G-34 that it has always considered it a requirement for dealers to acquire CUSIPS when acting as placement agents, and is trying to clarify that.

Dealers have contended that such a requirement is new.

The MSRB is also proposing to require that non-dealer municipal advisors be subject to the CUSIP requirement for new issue securities that are sold in a competitive offering. Although the MSRB made some tweaks to the proposal during its own comment process, commenters still told the SEC that they see serious problems with it.

The Securities Industry and Financial Markets Association asked the SEC not to approve the proposal, which SIFMA believes would expand G-34 beyond its intent, since dealers acting as placement agents do not “acquire” securities as underwriters do. Dealers have always interpreted G-34 as not requiring CUSIPs if a dealer does not acquire a new issue in a transaction that is not a distribution.

“SIFMA questions the expressed rationale for the MSRB’s proposed rulemaking, as the sole purpose for the original proposal to adopt Rule G-34 was merely to facilitate clearance and settlement of municipal securities; not to define the term ‘underwriter,’” wrote SIFMA managing director and associate general counsel Leslie Norwood.

Norwood also told the Bond Buyer that SIFMA would like the SEC to confirm that there would be no retroactive enforcement of this rule change for transactions that already occurred.

Some commenters told the SEC that they see problems with the proposal’s exception to the CUSIP requirement. Under the exception, CUSIP numbers are not needed for direct purchases by banks, their non-dealer control affiliates and consortiums, where the dealer or municipal advisor reasonably believes the purchaser’s intent is to hold the securities to maturity. SIFMA, the National Association of Municipal Advisors, Government Finance Officers Association, and American Bankers Association all characterized that language as impractical. Munis may have 20- or 30-year maturities commenters pointed out, and usually feature a much earlier call provision.

“We are concerned that the investor will not express present intent to hold the securities ‘until maturity’ as required by the proposal, and therefore will be deterred from purchasing the security,” wrote Emily Brock, director of the GFOA’s Federal Liaison Center.

“The terms ‘reasonably believe’ and ‘is likely’ are very open to different interpretations and should be further clarified within the rule to allow for MAs and underwriters to use the same standard in all transactions,” wrote Susan Gaffney, executive director of NAMA.

Cristeena Naser, vice president and senior counsel at the American Bankers Association’s Center for Securities, Trust & Investment, told the SEC it should consider an alternate wording to the exception language that the ABA had discussed with the MSRB.

“The language ABA proffered for the exception included a representation that the municipal securities are being purchased for the purchaser’s own account, with no present intent to sell or distribute the municipal securities,” wrote Naser. “This language reflects the realities of direct purchase transactions and, critically, that there is no intent that the securities will enter the public market.”

The GFOA said in its letter that the SEC should heed the ABA’s suggestion. Both the GFOA and

SIFMA also commented that the SEC should expand the exception to include purchases by local governments and not just banks.

Muni advisors told the SEC that they object to being required to obtain CUSIPs, a task they view as outside the role of an MA.

“NAMA’s position is that no MAs – broker/dealer or independent – should be responsible for securing CUSIPs in competitive deals,” Gaffney wrote. “Rather, the underwriter should be the party responsible for obtaining CUSIPs, as they assist with the selling and trading of securities.”

Steve Apfelbacher, president of muni advisory firm Ehlers and a former MSRB board member, told the SEC that the proposal would be asking MAs to act outside their roles, potentially inviting controversy as to whether they would be operating in some cases as unlicensed broker-dealers.

“Requiring the municipal advisor to have a conversation with the purchasing entity about the intent of the purchasing entity is a conversation that crosses the line and is an underwriter activity,” Apfelbacher wrote. “Once that line is crossed, why are other transaction related conversations between the purchaser and municipal advisor not allowed?”

The SEC could choose to approve the MSRB proposal as written, or it could reject it. If the SEC does not approve the proposal, the MSRB could choose to make changes to it and re-submit it.

By Kyle Glazier

BY SOURCEMEDIA | MUNICIPAL | 10/12/17 07:25 PM EDT

[New IRS Audit Procedures: Hawkins Advisory](#)

The IRS Tax Exempt and Governmental Entities division has announced new procedures for conducting audits of tax-exempt and tax advantaged bonds. Based on our understanding of these new procedures, we would recommend issuers engage in oral discussion with the examining agent prior to submitting a written response in an effort to avoid any unintended consequences of such submission.

[Read the Hawkins Advisory describing the changes.](#)

[IRS Releases New Public Approval Proposed Regulations: Mintz Levin](#)

On September 28, 2017, the Internal Revenue Service (IRS) withdrew previous proposed regulations and released new proposed regulations (the “Proposed Regulations”) relating to public approval requirements for tax exempt private activity bonds. The Proposed Regulations (found [here](#)) are intended to update and streamline implementation of the public approval requirement for tax exempt private activity bonds provided in section 147(f) of the Internal Revenue Code, including scope, information content, methods and timing for the public approval process. They generally do not change the requirements for issuer approval and host approval set forth in the current temporary regulations originally promulgated in 1983.

[Timing and Dissemination of Reasonable Notice](#)

Despite the move from 14 days to 7 days that was included in the previous proposed regulations, the Proposed Regulations unfortunately go back to providing that notice is presumed reasonable if given no fewer than 14 calendar days before the hearing. The preamble to the Proposed Regulations explains that commenters responding to the previous proposed regulations expressed concern that 7 days' notice would not provide sufficient time to make arrangements to be present at the hearing. It also referenced the legislative history of the original public hearing legislation that references a 14 day notice period.

Perhaps the most helpful part of the Proposed Regulations is the expansion of the permitted methods of providing reasonable public notice. In an attempt to recognize advances in technology, the Proposed Regulations allow for postings on a governmental unit's public website or alternative methods permitted under general State law for public notices for public hearings of a governmental unit (the "alternative notice provision") in addition to radio or television broadcast or newspaper publication. Although it is probably likely that more residents do not have access to a printed newspaper than do not have access to the internet, in the case of public notice posted on the approving governmental unit's website, the Proposed Regulations require that there must be a publicly known alternative method for obtaining the information for those who do not have access to the internet. Practitioners also have raised questions about the requirement to post the notice on the approving governmental unit's website. The Issuer's website would generally be the more logical place to post. Provided that the approving governmental unit's website links to the Issuer's website and the notice could be found through a search of the approving governmental unit's website, this should be acceptable. The alternative notice provision will likely prove more beneficial than the website method that requires an alternative to posting. If a governmental unit has a public meeting law that allows posting on a website alone, that should satisfy the alternative notice provision.

Content of Reasonable Notice

The Proposed Regulations generally retain the notice requirements set out in the existing regulations but require less project detail in the description. The Proposed Regulations helpfully allow the Issuer to describe the category of bonds being issued and the type and use of the project rather than providing specific project information. For example, "exempt facility bonds financing an airport pursuant to section 142(a)(1) of the Internal Revenue Code", "qualified small issue bonds, as defined in section 144(a) of the Internal Revenue Code, financing a manufacturing facility " and "qualified 501(c)(3) bonds, as defined in section 145 of the Internal Revenue Code, financing a hospital facility and working capital expenditures" would all be sufficient project descriptions under the Proposed Regulations.

The notice and approval must include the maximum stated principal amount of bonds to be issued for each project. The existing regulations use the term "facility" and state that a facility may be on separate tracts of land if part of an integrated operation. The Proposed Regulations use the term "project" and a project is defined as "one or more capital projects or facilities, including land, buildings, equipment and other property to be financed with an issue that are located on the same site, or adjacent or proximate sites used for similar purposes." This essentially means that a separate maximum amount of bonds will need to be stated for each project location. In practice, it should meet the requirements of the Proposed Regulations to state a maximum aggregate amount of bonds and say that not more than that amount will be spent at each different location.

Insubstantial Deviations and Curing Substantial Deviations

Perhaps the second most helpful part of the Proposed Regulations is the expanded description of what is an insubstantial deviation and the new ability to cure a potential substantial deviation with a subsequent approval. A deviation in actual principal amount allocated for a project is insubstantial

under the Proposed Regulations if it is no more than 10% greater than the maximum amount in the notice or is any amount less. In addition, any amount used to finance working capital related to any project specified in the notice is an insubstantial deviation and any deviation in the name of an owner or user of the project named in the notice is an insubstantial deviation if the parties named in the notice and the actual parties are related parties on the issue date of the bonds.

All deviations that are not specifically treated as insubstantial deviations in the Proposed Regulations will need to be analyzed based on all the facts and circumstances. In the event a deviation is determined to be substantial, a new public approval can cure the deviation. In order to take advantage of the supplemental public approval, the issue must have had a public approval and the Issuer must have reasonably expected there would be no substantial deviation on the issue date, the substantial deviation must be as a result of unexpected events or unforeseen changes in circumstances that occur after the issue date, and the supplemental public approval must be obtained prior to using proceeds of the bonds in a manner or amount not provided for in the original public approval.

Optional Application

Issuers may apply the Proposed Regulations in whole but not in part to bonds that are issued pursuant to a public approval that occurs on or after September 28, 2017, and should give careful consideration to the potential benefits of applying the Proposed Regulations, including the ability to get new public approval in the event of a substantial deviation from the original public approval. The Proposed Regulations cannot be applied to bonds already issued or to be issued pursuant to an approval that occurred prior to September 28, 2017.

By Len Weiser-Varon on October 13, 2017

Mintz Levin

[The Next Green Revolution: An Overview of the Rapidly Evolving Green Bond Market.](#)

This article is from the Nonprofit Quarterly's fall 2017 edition, "*The Changing Skyline of U.S. Giving.*"

Responsible investment means incorporating environmental, social, and governance (ESG) factors into investment decisions to generate sustainable returns and better manage risk. On a human level, it means incorporating the desire to make a difference in the world into the investment process. Green bonds, fixed income instruments that fund projects with environmental and/or climate benefit, are a type of responsible investment.¹ More broadly, they are an example of leadership from the investment community in addressing the threat of climate change. In the wake of recent catastrophic hurricanes, this article provides an overview of the green bond market for potential investors and issuers seeking to do more to protect the planet.

Market Size and Trajectory

Green bonds have grown rapidly since they were invented by investors in 2007 to fund projects with climate or environmental benefits. Since then, two categories of green bonds (labeled and unlabeled) with four main structures (use of proceeds, revenue, project, and securitized) have emerged from a broadening range of issuers. Global green bond issuance is projected to double in 2017 from \$93.4

billion of issuance in 2016,2 after doubling from \$42 billion in 2015.3 With the Paris Climate Agreement and China's clean energy campaign as drivers of continuing growth, this deep dive into the emerging asset class is warranted. By way of background: under the Paris Climate Agreement, investors with an aggregate \$11 trillion of assets under management (AUM) committed to build a green bond market,4 and the United States committed to reducing its greenhouse gas emissions 26 to 28 percent below the 2005 level by 2025.5

[Continue reading.](#)

NONPROFIT QUARTERLY

By BHAKTI MIRCHANDANI | October 10, 2017

[Market Commentary: Muni Market Digests Large Supply With Much More to Come This Week.](#)

This Market Commentary is part of *Court Street Group's Perspective*. A PDF of the full report is available [here](#).

The first full week of October saw municipal bond interest rates move into lower ranges amid larger supply and continued anemic fund flow figures. The end of the third quarter saw high-grade bonds track about 20 basis points higher in the intermediate and longer-ranges of the yield curve.

[Continue reading.](#)

by Lynne Funk Posner

Posted 10/13/2017

Neighborly Insights

[Credit Focus: State Revenue Scoreboard - CA, MA, MO, AR, GA, MS](#)

This *Credit Focus* is part of *Court Street Group's Perspective*. A PDF of the full report is available [here](#).

Disclosure of Revenues a Credit Positive

It seems that the states are realizing that more regular and timely disclosure of state revenues can have a beneficial impact in supporting their debt both during and after the marketing for their bonds. They seem to be realizing the municipal analysis is moving in a more quantitative direction all the time and that data is the key to this analysis. The demand for information — historically available to a limited number of inside government players — is bolstered by a more information savvy generation of analysts and investors as well as the ability of states to disseminate data through the internet that satisfies any regulatory concerns. As a result, the availability of such information expands constantly.

As as a result, we are able to comment on current state revenue results like the following:

[Continue reading.](#)

by Joseph Krist

Posted 10/13/2017

Neighborly Insights

Proposed TEFRA Rules Get Positive Reception from Bond Attorneys.

CHICAGO — Bond attorneys are giving proposed Tax Equity and Fiscal Responsibility Act rules a positive reception, saying the update is long overdue while suggesting some tweaks before they are finalized.

The TEFRA rules proposed Sept. 28 by Treasury and the Internal Revenue Service would update public notice and approval requirements for private activity bonds from temporary rules that were issued back in 1983.

The proposed rules take into account tax law changes that have expanded the kinds of PABs that can be issued and technological changes that have occurred since 1983 such as the Internet and electronic communications.

“They are much more flexible than what’s out there now and should save issuers a lot of money because they won’t have to publish in newspapers, which in certain states can be very expensive,” Howard Zucker of Hawkins Delafield & Wood in New York City said at the National Association of Bond Lawyers’ Bond Attorneys’ Workshop here.

The proposed regulations reduce the burden of having to describe the projects to be financed with PABs in detail and also take into account the fact that mortgage revenue bonds and student loan bonds are portfolio loan financings or non-project based.

Practitioners attending the BAW said the proposed rules don’t provide enough specific advice on which websites will satisfy the public notice requirement. They also asked why Treasury didn’t defer to state law in covering other notice requirements.

Two senior Treasury Department attorneys who briefed practitioners on the new proposed TEFRA rules during three hot topics tax sessions advised them that posting the notice on the issuer’s website would satisfy the notice new requirement.

To the dismay of many attorneys who were encouraged by 2008 proposed rules that would have shortened the public notice requirement from 14 days to seven, the new proposed rules keep the 14 days.

Vicky Tsilas, supervisory general attorney at the IRS, one of the two principal authors of the new proposed rules, said 14 days for notice was retained because of criticism labor unions gave to the seven days.

“There were a lot of suspicions that this was a nefarious regulation,” Tsilas said, noting that the 2008 proposed rules came out at the end of the Bush administration. Several practitioners said that

14 days can be a difficult standard to meet. One suggested a compromise of 10 days.

Tsilas said Treasury officials welcome suggestions for improvements during the 90-day comment period.

Treasury also plans to hold a public hearing before the end of the comment period. Issuers have the option of using the new proposed rules in the interim.

Several bond attorneys suggested that Treasury should allow issuers to use the new rules for “old bonds” with respect to insubstantial and substantial deviations.

The new proposed rules allow a change of up to 10% to be considered insubstantial.

An issuer can deal with a substantial change in a bond-financed project by issuing a second public notice that covers those changes and by holding another hearing.

Brian Organ of Hawkins Delafield & Wood in San Francisco said he was particularly happy to see “the post issuance ability to TEFRA for substantial deviations.”

“On occasion issuers issue their bonds for a particular project and that project’s scope changes,” said Organ. “Another project comes up that they would like to allocate bond proceeds to. So this will allow them to do that. Under the temporary regulations, that wasn’t possible.”

Tsilas said she believes the proposed rules “provide greater flexibility to state and local governments.” She joked that her work on TEFRA dates back to the proposed 2008 rules that were issued when she was pregnant with her son, who is now 10 years old.

Christie Martin of Minz Levin in Boston, a panelist for the tax hot topic sessions, said the attorneys in the audience were “generally happy” about the update.

“I think there are some things that need to be ironed out,” Martin said. “A couple of questions people have raised are ripe for comment projects. But on the whole I think they are a good step forward and a good modernization.”

The new rules have been proposed to implement the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), which first imposed the public notice and approval requirements for PABs. At that time the only PABs existed were industrial development bonds.

The Tax Reform Act of 1986 greatly expanded the types of projects and financings for which PABs could be used to mortgage revenue bonds, qualified student loan bonds, and qualified 501(c)(3) bonds.

By Brian Tumulty

SOURCEMEDIA | MUNICIPAL | 10/06/17 07:09 PM EDT

[MSRB Seeks to Collect Additional Fee Information About ABL Programs and 529 College Savings Plans.](#)

The Municipal Securities Rulemaking Board (MSRB) today filed with the Securities and Exchange Commission (SEC) a proposed rule change to amend [MSRB Form G-45](#) under [MSRB Rule G-45](#), on

reporting of information on municipal fund securities. The MSRB seeks to collect additional information about the transactional fees primarily assessed by programs established under the Stephen Beck, Jr., Achieving a Better Life Experience Act of 2014 (ABLE), as well as any variance in account maintenance fee based on the residency of the account owner.

The proposed rule change would require underwriters to ABLE programs as well as underwriters to 529 college savings plans to submit additional fee information, as applicable, beginning with the reporting period ending June 30, 2018. The reporting period ending June 30, 2018 is the first reporting period that underwriters to ABLE programs are required to submit data to the MSRB on Form G-45.

[View the filing.](#)

Commentary: Questions Remain as Bond Market Prepares for Markup Disclosure Rule.

As broker-dealers prepare for bond markup rules slated to take effect by May 2018, questions remain about the implications for the fixed income industry as well as how broker-dealers will report trading disclosures to customers.

While few would argue the benefits of having a more transparent, easy-to-use mechanism in place to provide more information to the marketplace, broker-dealers are now tasked with devising a systemic, robust way of determining prices for securities, including values for hard-to-price, illiquid bonds. Yet, guidance from the Financial Industry Regulatory Authority and Municipal Securities Rulemaking Board has been vague, especially with respect to illiquid bonds.

The regulations approved by the Securities and Exchange Commission require dealers to disclose markups and markdowns on fixed income transactions for securities held for no longer than a day. This disclosure, which is calculated from the bond's prevailing market price and expressed as a total dollar amount and percentage amount, is the culmination of a decades-long attempt to bring more transparency to a market where trades are largely conducted via telephone and prices are somewhat nebulous.

The new rules are designed to narrow the mark-up differential between what retail and institutional investors pay for similar trades. Regulators have long supported this oversight, claiming that retail fixed income customers almost never compare prices between dealers. In contrast to other types of securities, no central marketplace for bond quotes currently exists. As a result, rule makers argue that customers are in the dark regarding the often wide disparities between quotes provided by various broker-dealers. In fact, retail investors sometimes pay more than 2% in markup, while institutional investors only pay about 0.05%. While much of the higher markup for smaller retail trades factors in spreading the high cost of sourcing bonds over less principal, proponents of the regulations claim there is room to narrow the gap between retail and institutional trades.

While retail investors should certainly benefit from increased transparency, not everyone is sanguine about the prospects for these new regulations. Critics argue that investors already have access to price information through the FINRA and MSRB websites, and that markups are a fair way to generate income, just as traditional retail stores selling consumer goods have done for years.

In addition to adhering to the new regulations and navigating the challenge of implementing these

new systems, broker-dealers are faced with a number of significant questions. Can markups be done manually? If fully automated, can they accurately tabulate prices for illiquid bonds?

Broker-dealers will now have to disclose markups on all trades for which they have an offsetting transaction that day, including those that do not fall under the category of riskless principal transactions. Transactions that fall outside of the “riskless principal” categorization occur when firms enter into trades that are undertaken as principal but then receive a client order for the same bond during the same day. In this scenario, firms are now required to disclose the markup, however there is often not an interdealer print from which to source the market price. As a result, the firm must resort to waterfall analysis – analyzing “comparable” bonds to determine the market price. This step is difficult to automate, and can provide unreliable data.

Waterfall analysis begins with an examination of trades in a specific bond. For illiquid bonds, data from other trades may not exist, and in this case broker-dealers are directed to use the pricing of “comparable” bonds in their analysis. This presents a significant challenge, as finding “comparable” bonds is much more of an art than a science, and again this process is difficult to automate.

Even more questions about the markup disclosure rule remain. Could these regulations meant to help retail investors cause some firms to stop servicing them because of the increased cost of compliance? How will commission be affected? Will broker-dealers be forced into a basis point model? How can these new systems be implemented within the next 12 months?

While questions certainly remain, markup disclosure rules are sure to change how retail investors and broker-dealers alike participate in the fixed-income market.

The Bond Buyer

By Mark Davies

October 16 2017, 11:38am EDT

Mark Davies is co-founder and chief executive office S3, which provides customized analytics tools that provide transparency into those factors impacting best execution.

[S&P: California Local Government Ratings Currently Unaffected By Fires Ravaging The State; Long-Term Effects Still Unknown.](#)

While damage from natural disasters in recent months has been extremely visible in the public sector, the disasters haven't immediately affected our ratings on the associated local government bonds.

[Continue Reading.](#)

Oct. 13, 2017

[S&P: Rising OPEB Liabilities For The 15 Largest U.S. Cities Could Strain](#)

Budgets And Pose Credit Risks.

S&P Global Ratings' survey of the 15 largest (by population) U.S. cities' other postemployment benefits (OPEB) liabilities shows that these remain largely unfunded, face funding pressures, and pose a long-term credit risk. This is especially the case as health care costs continue to rise, the U.S. population continues to age, and uncertainty persists regarding the Affordable Care Act and Medicaid.

[Continue reading.](#)

Oct. 10, 2017

South Dakota Asks Supreme Court to Consider Online Sales Tax.

For years, local authorities have tangled with online retailers over sales tax collection within communities. But this fall, a new development in a blockbuster Supreme Court case could force the issue into the national spotlight.

In *Quill Corp. v. North Dakota* (1992), the Supreme Court held that states cannot require retailers with no in-state physical presence to collect sales tax. Now, the state of South Dakota has filed a petition in *South Dakota v. Wayfair* asking the U.S. Supreme Court to hear a challenge to its law requiring out-of-state retailers to collect sales tax.

In March 2015, Justice Kennedy wrote a concurring opinion, stating that the "legal system should find an appropriate case for this court to reexamine *Quill*." Justice Kennedy criticized *Quill* in *Direct Marketing Association v. Brohl* for many of the same reasons the State and Local Legal Center stated in its amicus brief. Specifically, internet sales have risen astronomically since 1992 — and states and local governments are unable to collect most taxes due on sales from out-of-state vendors.

Following the Kennedy opinion, a number of state legislatures passed legislation requiring remote vendors to collect sales tax. South Dakota's law is the first to be ready for review by the U.S. Supreme Court. In September, the South Dakota Supreme Court ruled that the South Dakota law is unconstitutional because it clearly violates *Quill* and that it is up to the U.S. Supreme Court to overrule it.

Ruling in South Dakota's favor will require the U.S. Supreme Court to take the unusual step of overruling precedent. In its petition, South Dakota explains why the court should agree to hear this case and rule in its favor: *Quill* clearly needs to go.

When the court considers overruling its precedent, it looks to whether the existing rule: (1) is constitutional or statutory; (2) has engendered reliance interests; (3) has been undermined by changed circumstances; (4) has been consistently criticized as inconsistent with broader doctrine; and (5) has proven "unworkable" or "outdated" with experience.

Quill fares poorly on every measure. It is a severely criticized, constitutional holding that itself warned when decided that it might later be reconsidered. It is also, in Justice Gorsuch's words, a "precedential island ... surrounded by a sea of contrary law." And after 25 years of technological progress and economic changes, it has proven entirely out of date.

At this point, the only thing South Dakota's petition asks the U.S. Supreme Court to do is agree to

hear its case. U.S. Supreme Court review is discretionary; four of the nine justices must agree to hear any case. If the U.S. Supreme Court refuses to do so, the South Dakota Supreme Court ruling that South Dakota's law is unconstitutional will stay in place.

It is possible the court could hear this case this term — meaning it would issue an opinion by the end of June 2018.

National League of Cities

by Lisa Soronen
Executive Director, State & Local Legal Center

October 11, 2017

[Fitch Webinar Replay: Summary of Healthcare Criteria Revision & Demonstration of Through-the-Cycle Tool.](#)

[Listen: Summary of Healthcare Criteria Revision & Demonstration of Through-the-Cycle Tool.](#)

[Bloomberg Brief Weekly Video - 10/12](#)

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

[Watch video.](#)

October 12th, 2017

Bloomberg

[As Towns Ban Pot, States Withhold Legalization's Profits.](#)

Massachusetts is deciding whether to keep marijuana tax revenue from anti-pot municipalities, stirring a debate that some states have already settled and others may face in the future.

Whenever a state legalizes recreational marijuana, there's always a local backlash. Have your drugs, towns and cities say, but keep them away from us. If a municipality bans pot, though, should they reap the financial benefits of it being legal?

Some states just say no.

Oregon has already started keeping marijuana tax revenue from localities that effectively ban the substance. California plans to withhold pot-funded law enforcement and health grants from places with a commercial marijuana ban. And now, an effort is underway in Massachusetts to reduce the

amount of money that cities and towns with bans and other restrictions on operations get from the state's 17 percent tax on marijuana sales.

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BY LIZ FARMER | OCTOBER 13, 2017

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Finally: Withdrawal of the Political Subdivision Regulations Is Announced

The eagerly awaited verdict on the proposed political subdivision regulations ([Proposed Political Subdivision Regulations](#)) ("Proposed Regulations") is finally in and their withdrawal has been announced. These regulations have been a frequent subject of our posts ([here](#), [here](#), [here](#), [here](#), [here](#), and [here](#)) Treasury issued its interim Report on June 22, 2017 ([here](#)) under Executive Order 13789 ([here](#)) identifying eight regulations for review, including the Proposed Regulations. (Discussed in previous blogs by Michael Cullers and Johnny Hutchinson [here](#) and [here](#).) Now Treasury has issued its "Second Report to the President on Identifying and Reducing Tax Regulatory Burdens," ("Second Report") dated October 2, 2017, announcing its recommendations on those eight regulations as well as potentially far-reaching plans for further review of burdensome regulations. Of the eight regulations reviewed, Treasury recommended full withdrawal of only two, one being the Proposed Regulations (the other being an anti-taxpayer regulation addressing transfers of family businesses, which could be an especially sympathetic area under the Trump administration). In recommending withdrawal of the Proposed Regulations, Treasury noted that "some enhanced standards for qualifying as a political subdivision may be appropriate" but that "regulations having as far-reaching an impact on existing legal structures as the proposed regulations are not justified." So what might we expect in the future?

[Continue Reading](#)

The Public Finance Tax Blog

By Bob Eidnier on October 12, 2017

Squire Patton Boggs

TAX - OHIO

[Buckeye Terminals, L.L.C. v. Franklin County Board of Revision](#)

Supreme Court of Ohio - September 21, 2017 - N.E.3d - 2017 WL 4195675 - 2017 -Ohio-7664

City school board filed a complaint challenging the auditor's valuation of real property for tax purposes. The Franklin County Board of Revision increased the value of the property.

Taxpayer appealed. The Board of Tax Appeals affirmed. Taxpayer appealed.

The Supreme Court of Ohio held that:

- Taxpayer bore the burden of demonstrating that the value reported on its initial conveyance-fee statement did not reflect the property's true value;
- Board of Tax Appeals was required to independently determine whether taxpayer had demonstrated that the value reported on its initial conveyance-fee statement did not accurately reflect the property's true value;
- Spreadsheet offered by taxpayer was admissible under the business-record exception to the hearsay rule;
- Board of Tax Appeals abused its discretion by rejecting taxpayer's appraiser's testimony and appraisal report as evidence that the conveyance-fee statement did not accurately reflect the property's value;
- Board of Tax Appeals abused its discretion in rejecting testimony regarding the property's value based on the witnesses lack of involvement prior to consummation of the bulk sale; and
- Board of Tax Appeals was required to independently determine the property's true value.

Board of Tax Appeals was permitted to supplement record transmitted from county board of revision with original conveyance-fee statement and deed in dispute over valuation of real property for tax purposes; conveyance-fee statement and deed had been submitted to board of revision, and board of revision was required to preserve and transmit the documents to the Board of Tax Appeals, but failed to satisfy its statutory duties.

A school board, as the proponent of using a reported sale price to value real property, makes a prima facie case when it submits basic documentation of the sale, the conveyance fee and deed; the conveyance fee and deed create a rebuttable presumption that the sale met the requirements that characterize true value.

Taxpayer bore the burden of demonstrating that the value of real property reported on its initial conveyance-fee statement did not reflect the property's true value for tax purposes; property had been purchased as part of a bulk sale, and, because conveyance fee and deed created a rebuttable presumption that they reflected the true value, taxpayer's burden was not to simply show that it made a mistake in allocating the bulk-purchase price or in completing the conveyance-fee statement.

Board of Tax Appeals was required to independently determine whether taxpayer had demonstrated that the value reported on its initial conveyance-fee statement for real property purchased as part of a bulk sale did not accurately reflect the property's true value for tax purposes, where taxpayer alleged and presented evidence that the fee statement's listed value was in error.

Spreadsheet offered by taxpayer purporting to show that value reported on its initial conveyance-fee statement for real property purchased as part of a bulk sale was incorrect was admissible under the business-record exception to the hearsay rule, in proceedings in front of Board of Tax Appeals relating to the property's value for tax purposes; taxpayer's property-tax manager testified that taxpayer's employees prepared the spreadsheet, that it was kept in the ordinary course of business, and that she was the custodian of the record, and any conflict between the spreadsheet and other evidence regarding the property's value went to the weight of the evidence, not its admissibility as a business record.

Board of Tax Appeals abused its discretion by rejecting taxpayer's appraiser's testimony and appraisal report as evidence that the allocation of a bulk sale price to a particular parcel of real property reported on taxpayer's initial conveyance-fee statement did not accurately reflect the parcel's true value for tax purposes; because taxpayer contended that its reported allocation was erroneous, the Board was required to determine the propriety of the allocation based on the totality of the evidence, including the appraiser's testimony.

Board of Tax Appeals abused its discretion in rejecting testimony regarding the value for tax purposes of property that was purchased as part of a bulk sale based on the witnesses lack of involvement prior to consummation of the bulk sale; taxpayer had engaged witnesses to allocate the bulk-purchase price among the assets it acquired for financial-reporting purposes, which they did guided by generally accepted valuation principles, and fact that the witnesses were not involved in the negotiations of the purchase contract, and instead became involved shortly thereafter, did not undermine their valuations.

In light of the conflicting evidence regarding the true value of real property for tax purposes, Board of Tax Appeals was required to independently determine the property's true value, and not simply value the property, which had been purchased as part of a bulk sale, based on taxpayer's initial conveyance-fee statement; taxpayer presented significant evidence that the conveyance-fee statement did not accurately reflect the parcel's true value for tax purposes.

[Pay for Success and the Savings Trap.](#)

Saving money isn't the point. The conversation should be about government effectiveness and positive outcomes.

"So, how does this *really* save our jurisdiction money?" I get this question about "pay for success" projects all the time, and I dread it — not because I can't answer it but because it's pernicious. It sounds practical and technocratic, but it's neither. It conceals an intricate web of misunderstanding about why and how to fund, manage and evaluate public programs.

What's more, this is largely a self-inflicted wound. From its inception nearly a decade ago, many of us involved with pay for success (PFS) have described it as a way to deliver "cashable savings." It's not. Framing it that way is both an over-simplification and a fundamental misreading of how the public sector works.

PFS projects are a way for governments to fund social programs on the basis of their performance. Parties agree on what outcomes constitute success and how to measure them, and then put a price tag on how valuable each outcome is. But most nonprofits that provide program services can't afford to wait to get paid until outcomes are achieved and can't bear the financial risks of a negative result. That's why working capital for PFS programs is often provided by "impact investors," those who seek to generate social and environmental impact alongside a financial return.

Cost savings aren't the point — not for PFS projects and not for governments. The point is to create safe, just and prosperous communities at a reasonable cost to taxpayers. The idea that, for example, helping the homeless find stable housing has to save money is ludicrous; we support the homeless because the kind of society we want doesn't let the most vulnerable among us live, and too often die, on the streets. In plenty of areas this is obvious: K-12 education is incredibly expensive, doesn't show any fiscal return for decades and pays off over a lifetime — and is one of our most important public institutions.

Of course, some programs do drive down costs, and good cost-benefit analyses are valuable tools for making decisions. But we should be humble about our ability to predict the future. Sophisticated models can't tell us whether a new drug will stop a disease in its tracks, or whether treatment costs will plummet, or whether policies will change. Each of these dynamics changes the "savings" picture dramatically.

What is really misleading about the idea of cashable savings, though, is that "cashing" them is ultimately about effective governing. If, for example, a PFS program reduces days people spend in jail by 25 percent, it will mean fewer incremental costs, such as for inmates' food and clothing. But most of the real value will come from personnel. There will be less work for staff members — corrections officers, janitors — to do. A county can decide to "cash" those "savings" by downsizing jail staff, or it can decide to put these staffers to work on other tasks. Deciding to extract savings from the budget is a political question separate from programmatic success. It's the job of public leaders to decide what to do with the value created by good programs: extract and reallocate it, or reinvest it.

A better way to talk about programmatic success is in terms of effectiveness. Instead of focusing on the cost of services, we need to start focusing on the cost of getting good outcomes. Take the cost of high school. If our state spends \$10,000 per student per year and graduates half of the class, we're paying \$80,000 per graduate. If by spending another \$1,250 per student per year we can boost graduation rates to 90 percent, we won't "save" any money, but we'll get a lot more bang for taxpayer's buck by paying only \$50,000 per graduate.

This is what pay for success is about: not cashable savings but government effectiveness.

We need to start having a more sophisticated conversation about the value of programs and stop hiding behind the false simplicity of cashable savings. Governments need to redefine the terms of engagement to more thoughtfully make tough decisions about where to spend taxpayers' money. That's the only way we'll be able to accomplish something refreshingly bipartisan: getting more value out of our government spending.

GOVERNING.COM

By Jake Segal | Contributor
Director of advisory services for Social Finance

October 16, 2017

[The Week in Public Finance: California's Wildfires, Illinois Going Into More Debt and Kentucky Embraces P3s.](#)

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

GOVERNING.COM

BY LIZ FARMER | OCTOBER 13, 2017

[FAST Act Modernization and Simplification of Regulation S-K.](#)

[FAST Act Modernization and Simplification of Regulation S-K.](#)

[Shield Exemption, Spend More on Infrastructure, Congress Told.](#)

PHOENIX - Tax-exempt bonds and other infrastructure financing tools need to be protected even though they are insufficient to support America's surface transportation needs, stakeholders told a House panel Wednesday.

Witnesses representing issuers and manufacturers made that case to lawmakers during a hearing of the House Committee on Transportation and Infrastructure's subcommittee on highways and transit. The session was called as part of a series of hearings to solicit stakeholder views on 21st century infrastructure. Those witnesses told committee members that state and local spending is important but doesn't substitute for federal spending.

Patrick McKenna, director of the Missouri Department of Transportation, representing the American Association of State Highway and Transportation Officials, told lawmakers that AASHTO supports federal grant programs over expanded financing options. The group denies that merely incentivizing local investment or public-private partnerships, as the Trump administration has proposed, will be enough to deliver on the country's infrastructure needs, he said.

"AASHTO and its members disagree with any notion that federal transportation funding displaces or discourages state and local investment," McKenna said. "Financing instruments such as subsidized loans, tax-exempt municipal and private activity bonds, and infrastructure banks are insufficient to meet most types of infrastructure investment needs."

Ray McCarty, president and chief executive officer of the Associated Industries of Missouri, representing the National Association of Manufacturers, stressed the importance of protecting the tax exemption for munis as lawmakers consider tax reform, rather than letting less traditional financing methods crowd bonds out.

"Tax-exempt municipal bonds should be protected as policymakers consider ways to expand the funding and financing toolbox with public-private partnerships and leveraging opportunities,"

McCarty told lawmakers. When asked to expand on that point by committee member Rep. Bob Gibbs, R-Ohio, McCarty said that scrapping the tax exemption would make bonds less desirable for

investors and eliminate that tool from the funding toolbox.

“As tax reform is being considered, we think it’s very important that we preserve the ability to deduct the interest from those municipal bonds,” McCarty said.

Trump campaigned on a ten-year \$1 trillion infrastructure plan, but subsequently proposed only \$200 billion of total federal infrastructure spending from fiscal 2018-2027 to support that \$1 trillion. Though the administration initially indicated that private investment in infrastructure would be a major driver of the plan, Trump last month told lawmakers that public-private partnerships do not work.

An angry Rep. Peter DeFazio, D-Ore., the senior Democrat on the transportation committee, said Congress was making seemingly no progress on the infrastructure front despite the general agreement that it is a bipartisan issue.

“All we’re doing around here is talking,” DeFazio said.

Rep. Bill Shuster, R-Pa., who chairs the full transportation committee, urged consideration of a variety of funding means, including foreign investment in U.S. infrastructure.

Congressional leaders have indicated that tax reform is the next major agenda they will tackle, and lobbyists have said they generally expect more robust infrastructure discussions to take place after that.

By Kyle Glazier

SOURCEMEDIA | MUNICIPAL | 10/11/17

[US Infrastructure: Land of Opportunity.](#)

Investors are poised to rebuild America after President Donald Trump revealed a \$1trn infrastructure plan. But progress has been slow, writes Christopher O’Dea

Blackstone’s announcement in May that it was launching a new business to invest up to \$100bn (€84bn) in US infrastructure brought into sharp focus a major question for institutional investors: how to deploy more capital into the massive US infrastructure sector.

President Donald Trump has called for private investors to inject \$1trn in capital to refurbish, rebuild and replace all manner of infrastructure. But aside from the initial proposal to use \$200bn in federal funds as seed money to attract the rest, details about the plan have been sketchy. The infrastructure initiative remains stuck, a distant third behind the stalled efforts at healthcare and tax reform, and increasingly hamstrung by the administration’s own missteps.

[Continue reading.](#)

BY CHRISTOPHER O’DEA

SEPTEMBER/OCTOBER 2017 (MAGAZINE)

IPE REAL ASSETS

Campaign to Block Promotion of PPPs Launched.

Public-private partnerships are too expensive, high risk and “encourage corruption and bad decision-making”, civil society organisations said as they launched a campaign to stop their promotion.

These partnerships are a threat to public finances because they are more costly in the long run than conventional public funding, according to a cross-NGO campaign launched at the World Bank-IMF annual meeting in Washington DC today.

The campaign aims to reverse the promotion of public-private partnerships (PPPs) and is calling on western governments, the World Bank and development banks to stop pushing them over traditional public borrowing to finance infrastructure and services.

Promotion of PPPs is increasing and being “pushed onto countries in the global south as the answer to development finance shortfalls”, said Maria Jose Romero, policy and advocacy manager at the European Network on Debt and Development (Eurodad), a member of the campaign.

She said: “This dangerous trend means the very countries which are already most vulnerable to debt and most in need of development aid are saddled with expensive, high risk, undemocratic and unaccountable projects.

“PPPs also encourage corruption and bad decision-making because contracts are often negotiated in secret and covered by commercial confidentiality.”

The 146 organisations from 45 countries behind the campaign manifesto said the experience of PPPs “has been overwhelmingly negative” and did not deliver enough results in the public interest.

A statement from Eurodad added that PPPs expose governments to financial risk because of the cost and “can have disproportionately negative impact on women and children” as well as undermining democracy and human and environmental rights.

The campaign highlighted examples of failed PPPs including a hospital in Lesotho, which cost three times more than the one it replaced and took up a quarter of the country’s health budget. It also flagged up a PPP road linking Brazil and Peru, the cost of which rose from \$800m to \$2.3bn because of a corruptly secured renegotiation processes.

Last year, the World Bank also highlighted PPP problems. Its report found that most countries are not up to standard in at least one of the analysed areas - preparation, procurement, unsolicited proposals and contract management.

Public Finance International

By: Simone Rensch

11 Oct 17

Citizens Will Hopefully Get Involved in This Issue.

The president’s proposed \$1 trillion national infrastructure plan has become something of an

anomaly. Once a highly touted campaign promise, the long-awaited plan has been void of any specifics and last spring was reduced to a set of ambiguous “principles.” However, both pre-campaign and post-inauguration, Trump’s proposal relied heavily on capital investment by the private sector.

Just a week ago, the president started walking back his often-stated commitment to use \$200 billion in federal funding to leverage another \$800 billion in private capital and other non-federal funds for an infrastructure plan. Word from the Beltway this week is that a new “outline or principles” for an infrastructure plan will be forthcoming from the Trump administration, possibly in the next week or so.

In the meantime, a group of House Democrats this week announced their own “principles” regarding how to rebuild the nation’s infrastructure. Their plan relies on revenues created through repatriation, dedicating funds realized from taxing corporate earnings overseas that are returned to the United States, and a congressional commitment to long-term, adequate funding of the Highway Trust Fund. And, unlike Trump’s sudden lack of interest in P3s, this new proposal encourages more public-private collaborations.

The American Society of Civil Engineers says that the U.S. is currently facing a \$4.6 trillion deficit in infrastructure spending for critical needs. Infrastructure projects in dire need of repair include roads, bridges, airports, water resources, wastewater treatment plants, ports and energy-related projects. Absent a federal commitment to increased funding or support for private capital investment, state and local officials will be seeking funding sources that will likely fall on citizens and taxpayers. Some funding may come from increased state gas taxes, local fees and passage of infrastructure-related bond issues.

At a time when many communities need billions for infrastructure repair because of damages caused by some of the nation’s costliest disasters – hurricanes Harvey, Irma and Maria – if ever it seemed reasonable to find ways to support collaborative efforts and private investment, it might be now. But, perhaps Congress can find other ways to allocate funding.

U.S. Reps. Tom Reed and Bill Pascrell recently filed legislation to expand funding options to help pay for storm damage in Texas, the Florida coasts and Puerto Rico. H.R. 3679 would create federal Disaster Recovery Bonds, a permanent federal tax-exempt bond that allows state and local governments to finance public infrastructure projects resulting from a disaster. The bonds would provide immediate funding once a presidential disaster is declared. State and local officials would be granted authority to issue private activity bonds that could be used to leverage private investment in many of these projects. Private investment was called “a vital component to cash-strapped governments during disaster recovery” by Toby Rittner, president and CEO of the Council of Development Finance Agencies.

Government officials are beginning to realize the lower risk, potential cost savings and increased efficiencies of entering into public-private partnerships (P3s). One of the nation’s bellwethers of change regarding collaboration between the public and private sectors is the Pennsylvania Department of Transportation’s (PennDOT) Rapid Bridge Replacement project. Arguably one of the nation’s most successful infrastructure P3s, the state’s transportation agency partnered with a consortium of private-sector firms to replace 558 aging bridges in the state. The program, which began in mid-2015, completed its 200th bridge replacement in January. An additional 200 bridges are expected to be replaced this year, and 100 more in 2018.

So successful is this program that PennDOT this week announced it is accepting unsolicited proposals from the private sector for other infrastructure needs. The agency is seeking proposals to

address innovative solutions for delivery of roads, bridges, aviation and ports or proposals that will address how to more efficiently manage current PennDOT transportation-related services and programs.

Regardless of what type of funding mechanism is used, disaster recovery and infrastructure rebuilding must occur. Every citizen and taxpayer should carefully monitor how Congress proposes to resolve the country's crumbling infrastructure. And, citizens who really care about preserving the country's greatest assets will hopefully urge members of Congress to hurry and find consensus on this important issue.

by Mary Scott Nabers

Oct 6th 2017

Strategic Partnerships, Inc. is one of the leading procurement consulting companies in the U.S. Contact them today to learn how to increase your public sector sales.

[Trump's Apparent About-Face on Partnerships Injects 'Huge Question Mark' Into Infrastructure Plan.](#)

It's too soon to know if President Trump's seemingly off-the-cuff skepticism toward public-private partnerships represents a policy shift, but key constituents of the infrastructure initiative say the comments inject uncertainty into a slow-moving process that has yet to result in the White House offering a concrete plan.

The infrastructure industry and public officials are trying to figure out how to interpret President Trump's recent move to back off what had been a major pillar of his \$1 trillion infrastructure investment plan.

Trump said he doesn't favor using public-private partnerships to finance infrastructure projects because they don't always work, he told Democrats on the House Ways and Means Committee during a Sept. 26 meeting.

In the spring, the White House released a six-page outline of its infrastructure priorities that encouraged public-private partnerships as part of an incentive program in which the federal government offers up to \$200 billion to state and local governments that enter into the agreements and other private sector deals.

It's too soon to know if Trump's seemingly off-the-cuff skepticism toward public-private partnerships represents a policy shift, but key constituents of the infrastructure initiative say the comments inject uncertainty into a slow-moving process that has yet to result in the White House offering a concrete plan.

"It's very dismaying," said Robert Poole, director of transportation policy at the Reason Foundation, a free-market research group. "You saw during the first six months of this year, everyone involved with public-private partnerships, including the construction and finance industries, were all saying, the U.S. will be the big next frontier for these deals. That now has a huge question mark on it," Poole told the Washington Examiner.

A public-private partnership acts as it sounds, with private investors helping fund construction and

repair of roads, bridges, and airports in exchange for a share of future revenue. It is not quite privatization, in which a government sells a public asset to a private company.

Lawmakers who participated in the meeting with Trump say he cited the experience of Vice President Mike Pence, who was Indiana's governor when a private group helped the state operate a major toll road and the developers went bankrupt.

The U.S. market for public-private partnerships is barely formed, but supporters say the deals can be quicker and more efficient and entail less taxpayer risk if structured properly.

But such deals are also financially complex, which public officials can struggle to understand, leading to agreements that don't work.

"They are not the answer to the infrastructure needs in this country, but can be a part of some of these projects," said Aubrey Lane, Virginia's secretary of transportation, who has briefed Trump administration officials on infrastructure. "I didn't believe the first hype from the administration that public-private partnerships would be all the answer, and I don't believe this new hype they aren't good at all," Lane told the Washington Examiner.

Virginia is an outlier in the U.S. with its deep experience with public-private partnerships, which are known as PPPs or P3s in transportation circles.

Since 2007, the state has closed five public-private partnership deals worth more than \$9 billion collectively, with more than \$2.5 billion coming from private equity, less than \$1 billion in public funds, and the remaining from privately backed debt.

The Trump administration had seemed to like such projects before the president's recent comments.

Trump chose an expert on public-private partnerships as his top White House official focused on infrastructure.

D.J. Gribbin, Trump's special assistant for infrastructure policy, previously worked on public-private partnerships for Macquarie Capital and Koch Industries.

Gribbin spoke at the P3 Hub Americas conference, a major industry gathering promoting public-private partnerships, on Sept. 26, the same day Trump met with House Democrats.

"It's so frustrating someone would make off-the-cuff comments like that about P3s," Poole said of Trump. "I can't imagine that he was coordinating with his staff. The whole reason Gribbin was hired was to do P3s. That has been his specialty for the last 20 years both in government and out of it. It's very strange."

The White House did not respond to emailed questions from the Washington Examiner about Trump's comments and whether they represent a policy change.

Experts interpreting Trump's comments have different perspectives on their significance.

Supporters of a more robust federal investment in America's infrastructure say Trump's comments don't necessarily reflect a flip-flop on public-private partnerships, but rather an appreciation for the different funding solutions needed to tackle the issue.

"It just shows the totality of the problem we are trying to address," said Ed Mortimer, executive director of transportation infrastructure at the U.S. Chamber of Commerce. "The private sector has

to have a role. It's also a recognition there has to be a significant federal investment in infrastructure."

He said his engagement with the Trump administration has not changed in recent weeks.

"We have not sensed any reticence from the administration to move forward, and we will continue to push them to move forward on this," Mortimer said. "It's too important to economic growth. We cannot continue to fall behind the rest of the world."

Democratic lawmakers, meanwhile, cheered Trump's comments, viewing them as proof he is willing to extend his recent embrace of bipartisanship to infrastructure, and ready to rely on significant direct federal funding to pay for projects.

"I was actually very encouraged to hear that," said Rep. Peter DeFazio of Oregon, the top Democrat on the House Transportation and Infrastructure Committee. "I guess he is a businessman and can see through that concept as a false promise. Hopefully, he sees infrastructure as capital expenditures as opposed to operating costs and is willing to get innovative on how we are going to finance it."

But conservatives have long opposed major funding initiated by the federal government, and deficit hawks likely will recoil even more in light of the tax cuts recently proposed by Republicans.

"The president is clearly frustrated with Republicans in Congress," said Michael Sargent, an infrastructure policy expert at the Heritage Foundation. "Doesn't this open the door to working with Democrats on infrastructure? That is something I am wary of. If we are moving away from public-private partnerships, if you want to spend \$1 trillion you will need more offsets to raise that money, or tack it onto the debt. Either way, that's a very large bill that will have to come from somewhere."

Infrastructure spending boosters realize they will need conservative support for any plan to become law.

"It's just not going to happen to have an infrastructure bill out of the Republican House and Senate that doesn't have some private financing," Marcia Hale, president of Building America's Future, told the Washington Examiner.

Layne, Virginia's transportation secretary, would just like some clarity, as he prepares to fulfill the infrastructure needs of his state.

"I am glad to hear all the infrastructure talk, but I don't want it to be all talk and expectations and find out nothing is going to happen," he said. "I still don't know where we are nine months into the administration. I don't know what their plan is. I don't see specifics I can act on as the person in charge of the construction program for the state with the nation's third-largest road network."

The Washington Examiner

by Josh Siegel | Oct 9, 2017, 12:01 AM

[California Extends Wells Fargo's Ban From Bond, Investment Work.](#)

- **Nationwide backlash from scandal has cost bank business**
- **Extension cuts Wells off from one of biggest muni-bond issuers**

California extended its ban on hiring Wells Fargo & Co. because of the bank's fraudulent account scandal, leaving it cut off from one of the biggest municipal-bond issuers in the U.S.

Treasurer John Chiang on Monday said he decided to leave the sanctions in place against the San Francisco-based bank, whose reputation has suffered because of revelations employees opened bogus accounts in customers' names to meet sales quotas. Chiang's decision will prevent his office from hiring Wells Fargo as an underwriter or investment broker. The ban was first imposed in September 2016.

The scandal at Wells Fargo prompted a nationwide backlash, with public officials in New York and Illinois also moving to sever ties to the bank. Chief Financial Officer John Shrewsberry previously said such measures have cost it "tens of millions of dollars" in revenue, and it has lost ground to other municipal-bond underwriters this year.

Chiang said there has been an "alarming drum beat of new reports of egregious, unethical or illegal actions by the bank over the past year," including allegations that it denied loans to those brought to the country illegally as children and overcharged veterans for mortgages.

"The opaque manner with which the bank continues to do business and the frequency of new disclosures of wanton greed and lack of institutional control makes this decision so clear that there really was no choice at all," Chiang said in a statement.

Bloomberg Markets

By Danielle Moran

October 16, 2017, 12:01 PM MDT

[California Extends Ban on Wells Fargo Business For at Least Another Year.](#)

(Reuters) - California will extend sanctions against Wells Fargo & Co for at least another year, Treasurer John Chiang said on Monday, after the state suspended doing business with the bank in 2016 as punishment for a sales practices scandal.

Chiang cited progress by the bank in certain areas, but expressed concern over an "alarming drumbeat of news reports of egregious or illegal actions over the past year" in extending the sanctions, which apply only to business his office oversees.

In a statement, Wells Fargo spokesman Gabe Boehmer said the bank "is in the business of banking, not politics," and had "met and exceeded all of Treasurer Chiang's expectations."

The sanctions, announced in September 2016, include suspending Wells Fargo as a managing underwriter on state negotiated bond sales. California manages a \$75 billion investment portfolio and is the nation's largest issuer of municipal debt.

The sanctions also suspend state investments in all Wells Fargo securities and halt the use of Wells Fargo as a broker-dealer for investment purchasing.

Boehmer said on Monday Wells Fargo loaned \$500 million this year to California's Department of Water Resources and had underwritten \$800 million in bond issuance for the state this year. He

declined to disclose how much business Wells Fargo did with California before the ban was enacted.

Wells Fargo has acknowledged opening perhaps 3.5 million accounts in customers' names without their permission, signing others up for unwanted auto insurance, charging some for a mortgage rate-lock feature they did not request and tacking other costly add-ons to accounts.

California's decision comes less than a week after Ohio Governor John Kasich extended the state's ban on Wells Fargo, saying the bank had not done enough to turn around its culture.

New York City, Chicago, Massachusetts, and Illinois have all enacted similar bans, though Boehmer said Chicago recently lifted its ban.

By REUTERS

OCT. 16, 2017, 2:03 P.M. E.D.T.

(Reporting by Dan Freed in New York; Editing by Susan Thomas)

[Trump Puts Spotlight on Sports Tax Breaks.](#)

WASHINGTON — President Donald Trump's attacks on protests by some National Football League players shifted to tax policy on Tuesday, as the president floated the possibility of pushing to change laws that benefit the league.

"Why is the NFL getting massive tax breaks while at the same time disrespecting our Anthem, Flag and Country?" the president asked on Twitter.

The comments marked his latest criticism of the league after some players have knelt rather than stood during the playing of the national anthem in recent weeks. The movement began more than a year ago to protest police actions toward African-Americans. Mr. Trump reignited the issue in a speech last month.

Mr. Trump didn't say exactly what he had in mind on taxes. Still, the comments shine a light on two tax advantages the NFL historically enjoyed: the claiming of nonprofit status, which the league renounced two years ago, and the issuance by cities and states of tax-free bonds to pay for new publicly financed stadiums to host NFL teams, which continues.

"While the NFL may have given up its tax exempt status a few years ago, it's been well documented that billions of taxpayer dollars continue to subsidize the construction and renovation of professional sports stadiums," White House press secretary Sarah Huckabee Sanders said Tuesday. "If this industry is going to use money from American taxpayers to build the very fields they play on, is it really too much to ask that they show respect for the American flag at the beginning of the game?"

Some of the protesting players have said they are trying to call attention to broader inequality, not disrespecting the flag or the anthem.

Many stadium tax subsidies happen on the state and local level, but some rely on the ability to issue municipal bonds that generate income that is exempt from federal taxes.

Ending the tax break for pro-sports stadiums has support in Congress. Rep. Steve Russell (R., Okla.) and Sen. Cory Booker (D., N.J.) are the primary sponsors of a bill that would prevent tax-exempt

bonds from being used to finance the projects.

In a statement Tuesday, Mr. Russell said the issuance of tax-free bonds to pay for stadiums distorts the goal of helping municipalities pay for infrastructure projects. He said the issue has more urgency given the recent protests.

An Obama administration proposal to repeal the tax break for pro sports stadiums would have raised \$542 million over a decade, according to a Treasury Department estimate in 2016.

A 2016 Brookings Institution study found that subsidies for pro stadiums had cost the federal government \$3.7 billion since 2000.

“This is not the greatest fiscal problem that we face today,” said Ted Gayer, a Brookings senior fellow and co-author of the study. Still, he added, the tax break “doesn’t have any logical reason, economic or otherwise.”

The other often-discussed change that would have a much narrower fiscal impact would be removing the ability for sports leagues to get tax-exempt status, akin to some business trade associations.

Reps. Matt Gaetz (R., Fla.) and Blake Farenthold (R., Texas) have proposals to prevent sports leagues from claiming tax-exempt status.

For the NFL, there would be no impact from the bill. The NFL’s teams pay taxes on their profits, as well as on player salaries and merchandise sales. The NFL central office, which coordinates and manages the league’s affairs, for years claimed tax-exempt status, meaning it didn’t pay taxes on its income. But amid criticism of the practice, the league renounced the status in 2015, calling it a “distraction.”

“The NFL gave up its tax-exempt status in 2015,” said NFL spokesman Joe Lockhart on Tuesday. “The idea that we receive a tax break is not true.”

The league said on Tuesday that its owners would discuss at meetings next week whether to unilaterally change league policy to require players to stand during the national anthem.

In reaction, the White House’s Ms. Sanders said: “We would certainly support the NFL coming out and asking players to stand, just as the president has done.” She added: “We’re glad to see the NFL taking positive steps in that direction.”

A 2014 estimate by the Joint Committee on Taxation found that removing the status for sports leagues that claimed the tax break would raise about \$100 million in taxes over a decade.

It isn’t clear yet whether GOP lawmakers would include the sports-team-related changes in the tax-code overhaul they are writing this year, but they will be looking for every dollar they can find to lower tax rates.

While ending the tax exemption for sports stadiums would be a blow to NFL franchise owners, Mr. Trump’s broader tax proposals could mean a much bigger benefit for them.

For instance, Mr. Trump wants to set a top tax rate of 25% on so-called pass-through income of businesses, down from today’s top rate of 39.6%. That is a structure that sports teams commonly use. Depending on how the rules are written, they could see smaller tax bills on their annual income.

Mr. Trump also wants to repeal the estate tax, which would help sports owners. The president has

pointed to the one-year repeal of the estate tax in 2010 as helping the Steinbrenner family, owners of the New York Yankees.

“When George Steinbrenner died, like with the estate taxes, the estate paid nothing,” Mr. Trump said in an interview with The Wall Street Journal in July. “And if he would have died like two weeks later, they would have paid 50% of the Yankees.”

Mr. Steinbrenner died in July 2010, months before the repeal expired and a new 55% rate was scheduled to take effect on Jan. 1, 2011; that rate was later set by Congress at 35% for 2011. Forbes estimated his net worth at \$1.1 billion when he died, meaning the lack of an estate tax potentially saved his heirs hundreds of millions of dollars.

The Wall Street Journal

By Richard Rubin

Updated Oct. 10, 2017 3:53 p.m. ET

—Andrew Beaton and Eli Stokols contributed to this article.

Write to Richard Rubin at richard.rubin@wsj.com

[Fitch Rates \\$6 Billion Illinois GOs 'BBB'; Outlook Negative.](#)

The ‘BBB’ rating reflects the state’s weak operating performance and fiscal decision making over the course of several years that has led to a credit position well below the level that the state’s solid economic base and still substantial independent legal ability to control its budget would support.

[Continue reading.](#)

[Factbox: Can Trump Kill NFL Stadium Tax Breaks? Five Facts to Consider.](#)

NEW YORK (Reuters) - U.S. President Donald Trump on Tuesday stepped up his war of words over National Football League players’ silent protests against racial injustice, saying the world’s top-grossing sports league should not be given tax breaks while athletes kneel during the national anthem.

The NFL gave up its tax-free status two years ago, but new or renovated stadiums are often funded at least in part by tax-exempt municipal bonds issued by local governments or states. Team owners benefit from government financing via lower interest rate bonds backed by team lease payments, stadium-generated revenue and even tax dollars.

The administration could push for changes to the laws that allow professional sports teams to enjoy tax breaks normally aimed at city governments.

Below are five facts about the financing of sports stadiums.

1) Laws allowing teams to fund stadiums with tax-exempt bonds have cost the United States \$3.7

billion in lost tax revenue from 2000 through 2014, according to a Brookings Institution paper released last year, a figure that reflects the lower interest rates paid on municipal debt and the tax exemption for bondholders.

2) Of the 16 NFL stadiums built or renovated from 2000 through 2014, 13 were financed in part by tax-exempt bonds with an average financing worth \$360.2 million, according to Brookings, a Washington-based policy think tank.

3) Trump could propose tax reform legislation to remove the federal tax exemptions on debt financing for stadiums. However federal changes would not necessarily hinder any potential incentives offered by state and local authorities. The latest and largest subsidy offered to an NFL franchise is the \$750 million Las Vegas is using to lure the Oakland Raiders to a \$1.9 billion stadium. The money will come from public funds raised via a visitors' tax on Las Vegas strip hotel rooms.

4) There are two bipartisan bills, one in the Senate and one in the House, before the U.S. Congress that seek to remove federal tax exempt status for bonds tied to sports stadiums by treating them as private activity bonds.

5) Former U.S. President Barack Obama proposed in two previous budgets for 2015 and 2016 legislation to eliminate the tax exemptions on stadium financing, Brookings said.

by Daniel Bases

OCTOBER 10, 2017 / 2:20 PM / 5 DAYS AGO

[Trump's NFL Tax Credit Tweet Raises Confusion Among Tax Pros.](#)

One hundred forty characters, but a barrage of questions.

President Donald Trump's tweet questioning the legitimacy of the tax credits received by the National Football League had tax analysts scrambling to determine the potential hit for state and federal tax regimes.

"Why is the NFL getting massive tax breaks while at the same time disrespecting our Anthem, Flag and Country? Change tax law!" Trump tweeted Oct. 10. The tweet is partly a result of several weeks of national anthem kneeling protests by players, of which Trump has been a ferocious opponent. Vice President Mike Pence left the Oct. 8 game between the Indianapolis Colts and the San Francisco 49ers because of players kneeling.

The tweet is unclear, but it could be leading down only one of two paths, according to Matthew Gardner, senior fellow at the Institute on Taxation and Economic Policy.

Gardner told Bloomberg BNA that Trump could be referring to the NFL's federal tax-exempt status. However, the NFL ended its decades-long status as a nonprofit organization in 2015 and therefore is no longer federally exempt from taxes.

"The NFL's current status is something that would not change. Congress doesn't want to give a whole candy store to the NFL, and, policy-wise, there isn't a lever for Congress to pull on this," Gardner said.

“On the other hand, Trump could be talking about cutting state and local tax subsidies, which do provide teams with lavish incentives and could be worth exploring,” Gardner added. However, he noted that the president has no authoritative say over tax incentives at the state and local level.

‘Can’t Make Sense’

Richard Auxier, research associate at the Urban-Brookings Tax Policy Center at the Urban Institute, shared Gardner’s confusion over Trump’s message.

“If Trump is tweeting here about the federal exemption status of the NFL, he’s clearly mistaken,” Auxier said. “I really can’t make sense of the president’s tweet.”

The White House didn’t immediately respond to a request for clarification of Trump’s tweet.

Tax Breaks

Gardner and Auxier said that NFL teams do receive varying tax subsidies from their respective municipalities, ranging from incentives like free rent of a state-owned arena, or the ability to keep all profits from anything sold in stadiums—tax free. The subsidies act as incentives for NFL teams to stay in their jurisdictions.

Lawmakers in at least two states—Louisiana and Tennessee—are proposing to cut millions in state tax subsidies received by the New Orleans Saints and the Tennessee Titans in response to athletes kneeling during the national anthem. In New Orleans alone, the Saints and owner Tom Benson are estimated to rake in \$392 million from state tax subsidies by 2025.

NFL teams are also able to take advantage of tax-exempt municipal bonds when it comes to building stadiums, many of which cost over \$1 billion.

For example, the Minnesota Vikings were issued \$392 million in tax-exempt municipal bonds for the construction of U.S. Bank Stadium, which opened in 2016. The Dallas Cowboys were issued \$337 million in bonds to construct the team’s \$1.32 billion dollar AT&T Stadium.

When investors buy municipal bonds, they lend a local or state government money for a fixed period of time, often to pay for roads, schools, and other construction projects. In exchange for an investment, the local or state governments pay the investor interest throughout the term of the bond. Currently, interest isn’t taxable.

In total, tax-exempt financing of sports stadiums has cut \$3.7 billion from federal tax revenue since 2000.

Bloomberg BNA

By Ryan Prete

October 11, 2017

To contact the reporter on this story: Ryan Prete in Washington at rprete@bna.com

To contact the editor responsible for this story: Jennifer McLoughlin at jmcloughlin@bna.com

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[KBRA Affirms Long-Term Rating of A-/Stable on City of Manchester General Airport Revenue Bonds.](#)

Kroll Bond Rating Agency (KBRA) has affirmed the following rating for the City of Manchester, NH General Airport Revenue Bonds (GARBs). The GARBs are special obligations of the City, payable solely from and secured by a pledge of the net airport revenues of Manchester-Boston Regional Airport. This rating applies to all of the City's \$150.4 million in GARBs outstanding as of August 2, 2017.

This affirmation is based on [KBRA's U.S. General Airport Revenue Bond Methodology](#). KBRA's rating evaluation of the long-term credit quality of general airport revenue bonds focuses on six key rating determinants:

- Management
- Economics/Demographics
- Airport Utilization
- Airport Debt/Capital Needs
- Airport Finances
- Legal Mechanics and Security Provisions

To access the full report, please click on the link below:

[City of Manchester General Airport Revenue Bonds](#)

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

[KBRA Affirms Rating on Casino Reinvestment Development Authority Luxury Tax Revenue Bonds, Series 2014](#)

Kroll Bond Rating Agency (KBRA) has affirmed the A- long-term rating and Stable Outlook on the Casino Reinvestment Development Authority (CRDA) Luxury Tax Revenue Bonds, Series 2014 (the "Bonds"). As of December 31, 2016, CRDA had approximately \$233 million of Luxury Tax Revenue Bonds outstanding.

The affirmation is based on [KBRA's U.S. Special Tax Revenue Bond Rating Methodology](#). KBRA's rating evaluation of the long-term credit quality of special tax revenue bonds focuses on five key rating determinants:

- Legal Framework,
- Nature of Special Tax Revenues,
- Economic Base and Demographics,
- Revenue Analysis, and
- Coverage and Bond Structure.

To access the full report, please click on the link below:

[CRDA Luxury Tax Revenue Bonds, Series 2014](#)

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

[KBRA Assigns Short-Term Rating on the MTA Transportation Revenue 2017C BANs.](#)

Kroll Bond Rating Agency (KBRA) has assigned a short-term rating of K1+ on the Metropolitan Transportation Authority's (MTA) Transportation Revenue Bond Anticipation Notes, Series 2017C ("the 2017C BANs"). The 2017C BANs are expected to mature in 2019. KBRA has affirmed the long-term rating of AA+ with a Stable Outlook on all outstanding MTA transportation revenue bonds, except for bonds backed by a letter of credit or liquidity facility. For mapping of the long-term rating to the short-term rating, please refer to the short-term KBRA Rating Scale.

KBRA has also affirmed the short-term rating of K1+ on the MTA Transportation Revenue Bond Anticipation Notes, Series 2015B-2f (Taxable) (maturing February 1, 2018) and Series 2017B (maturing February 1, 2018).

To access the full report, please click on the link below:

[MTA Transportation Revenue 2017C BANs](#)

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

[KBRA Affirms Rating of AA/ Stable on Chicago Park District G.O. Bonds.](#)

Kroll Bond Rating Agency (KBRA) has Affirmed the long-term rating of AA with a Stable Outlook on the Chicago Park District's general obligation debt. This rating applies to all of the District's outstanding general obligation bonds.

This rating affirmation is based on [KBRA's U.S. Local Government General Obligation Methodology](#). KBRA's rating evaluation of the long-term credit quality of local government general obligation bonds focuses on four key rating determinants:

- Governance, Management Structure, and Policy
- Municipal Resource Base
- Debt and Additional Continuing Obligations
- Financial Performance and Liquidity Position

To access the full report, please click on the link below:

[Chicago Park District G.O. Bonds](#)

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

[Reminder: Register for the Joint Compliance Outreach Program for Municipal Advisors.](#)

Compliance Outreach Program for Municipal Advisors

Join the SEC, MSRB and FINRA for the Compliance Outreach Program for Municipal Advisors. Topics of discussion will focus on the duties and standards of conduct for non-solicitor municipal advisors under [MSRB Rule G-42](#) and the Securities and Exchange Act of 1934, as well as municipal advisor compliance with rules concerning supervision, registration and books and records. [View the agenda.](#)

[Register to attend in person.](#)

[Register to attend via webcast.](#)

Date: Wednesday, November 8, 2017

Time: 9:00 a.m. - 4:00 p.m. ET

Location: SEC's Atlanta Regional Office
(also available via webcast)

[House Passes Disaster Relief, Puerto Rico Credit Bill.](#)

Measure would provide \$36.5 billion in aid for victims of hurricanes and wildfires as well as low-interest Treasury loan to island territory

WASHINGTON—The House of Representatives on Thursday passed legislation that would provide \$36.5 billion in disaster relief for victims of recent hurricanes and wildfires, as well as emergency credit to help Puerto Rico keep its government functioning.

The 353-69 vote came hours after President Donald Trump questioned in Twitter posts how long the federal commitment to the island should last and suggested that Puerto Rico had mismanaged its finances. Congressional leaders of both political parties defended the need to send resources to the U.S. territory, which was devastated by two hurricanes this summer. Most of the island still lacks electric power and there is limited access to health care and other basic needs.

“Puerto Rico survived the Hurricanes, now a financial crisis looms largely of their own making.’ says Sharyl Attkisson,” Mr. Trump tweeted Thursday morning, referring to a television journalist with Sinclair Broadcasting .

“We cannot keep FEMA, the Military & the First Responders, who have been amazing (under the most difficult circumstances) in P.R. forever!” Mr. Trump said, using shorthand for the Federal Emergency Management Agency.

A FEMA spokesman said Thursday that the agency still has personnel at work in Louisiana supporting local and state recovery efforts dating back to Hurricane Katrina in 2005. FEMA personnel are also supporting New York's and New Jersey's continuing recovery from superstorm Sandy of 2012. The spokesman said the agency aims to foster recoveries that are as swift as possible and that the length of their support varies based on the circumstances of each natural disaster.

House Speaker Paul Ryan (R., Wis.) said it was the federal government's responsibility right now to respond to the humanitarian crisis in Puerto Rico, but added he wanted to see the island become more self-sufficient.

"At the moment there's a humanitarian crisis that has to be attended to and this is an area where the federal government has a responsibility and we're acting on it," said Mr. Ryan, who will be visiting Puerto Rico on Friday.

At a White House briefing, White House Chief of Staff John Kelly was asked whether Mr. Trump believed Puerto Ricans were American citizens deserving of the same access to federal aid as Texans and Floridians. He said, "Yes."

He added: "There will be a period in which...we hope sooner rather than later, to where the U.S. military and FEMA, generally speaking, can withdraw because then the government and the people of Puerto Rico are recovering sufficiently to start the process of rebuilding."

The island was in financial peril before the storms Maria and Irma hit. Puerto Rico and its agencies owe more than \$70 billion to creditors. In May, it was placed under court protection in what amounted to the largest-ever U.S. municipal bankruptcy. A federal judge is presiding over the island's debt restructuring under a bankruptcy-like legal framework approved by Congress last year, known as Promesa.

"We've got to do more to help Puerto Rico rebuild its own economy so that it can be self-sufficient," Mr. Ryan said.

Democrats objected to the tone of Mr. Trump's tweets, saying the posts didn't sufficiently acknowledge the magnitude of the disaster gripping Puerto Rico.

"It's heart breaking and it lacks knowledge" of the federal government's responsibility "to the people of our country," House Minority Leader Nancy Pelosi (D., Calif.) said of Mr. Trump's tweets Thursday. "We're all Americans and we owe them what they need."

No Democrats voted against the bill Thursday.

Carmen Yulin Cruz, the mayor of San Juan, Puerto Rico's capital city, said the president's tweets were meant to "mask your administration's mishandling of this humanitarian crisis." The remark came in a statement distributed by Rep. Luis Guterrez (D., Ill.) to reporters. Mr. Trump has criticized the mayor over what he described as her "complaints" and "poor leadership ability."

"Your tweets and comments just show desperation and underscore the inadequacy of your government's response to this humanitarian crisis," Ms. Cruz said in the statement. "It is not that you do not get it, it is that you are incapable of empathy and frankly simply cannot get the job done."

The House bill would provide \$18.7 billion for FEMA's disaster-relief fund, \$16 billion to replenish the nation's flood-insurance program and \$576.5 million for wildfire efforts.

On Wednesday, Heritage Action, the political arm of the conservative Heritage Foundation, encouraged GOP lawmakers to vote no on the bill, calling the money for the federal flood-insurance program a bailout.

Rep. Mark Walker (R., N.C.), chairman of the Republican Study Committee, a group of about 150 House Republicans, said conservatives would make a stronger push to offset disaster aid with budget cuts the next time Congress weighs emergency funding, likely in December.

“We for eight years have said to the former president and administration ‘you can’t be doing this,’ but we’re looking the other way [now], it’s a little hypocritical,” said Mr. Walker, who voted against the bill.

The national flood program, which is set to expire on Dec. 8, is intended to help homeowners living in flood-prone areas that private insurers wouldn’t cover and is already several million dollars in debt.

“There are people waiting for that money so they can start making repairs to get back into their houses,” said Rep. Blake Farenthold (R., Texas), who voted for the bill.

In supporting the program, members of Congress are divided along regional rather than party lines, based on how prone the area a lawmaker represents is to flooding. Democrats are expected overwhelmingly to support the bill, as are Republicans from Texas and Florida, where residents have also been battered by recent hurricanes.

The disaster aid in the House package is more than the \$29 billion requested last week by the Trump administration, but less than the total sought by lawmakers in states hit by hurricanes in August and September. The Senate is expected to take up the bill early next week.

The storms that hit parts of the U.S. in August and September are draining FEMA’s disaster relief fund. The fund received a \$15 billion injection from Congress in September after Hurricane Harvey and an additional \$7 billion on Oct. 1, the start of the federal government’s fiscal year. On Tuesday, the fund contained \$6.72 billion.

The bill would give Puerto Rico access to a \$4.9 billion low-interest Treasury Department loan to help the territory pay salaries and other expenses to avoid a government shutdown. Puerto Rico’s Treasury Secretary Raúl Maldonado said last week that the government was poised to run out of money at the end of October, and may have to furlough government employees, a move that would hinder recovery efforts.

The Wall Street Journal

By Kristina Peterson and Natalie Andrews

Updated Oct. 12, 2017 5:50 p.m. ET

Write to Kristina Peterson at kristina.peterson@wsj.com and Natalie Andrews at Natalie.Andrews@wsj.com

[There Could Be Good News for Puerto Rico Bondholders.](#)

A proposed Treasury loan aimed at Puerto Rico would add to the island’s long list of creditors, but it could also help improve bondholders’ chances of getting their money back.

The proposed loan of up to \$4.9 billion appeared in a bill released late Tuesday night by House Republicans. The money could help avert a government shut down in the hurricane-ravaged commonwealth, making it a likely positive for bondholders.

“If it helps get Puerto Rico up and running again, it advances the cause of repaying their debts,” said

Matt Fabian, a partner with Municipal Market Analytics.

In May, Puerto Rico was placed under court protection in what amounted to the largest-ever U.S. municipal bankruptcy. The commonwealth and its agencies owe more than \$70 billion to creditors.

The legislation leaves it up to the Treasury and Homeland Security departments to determine the terms of repayment and the security on the loan. It's not clear from the bill whether a Treasury loan would take priority over the commonwealth's existing debt and potentially lower bondholder recoveries.

The House is expected to vote on the measure at the end of this week, according to a GOP aide, and the Senate could take it up early next week.

"We certainly know that Texans and Floridians and residents of Puerto Rico have been suffering mightily and we want to get as much money out the door as possible to help them, because I think they are in desperate need," House Appropriations Committee Chairman Rodney Frelinghuysen, (R., N.J.) said in an interview.

Community disaster loans like the one that would be available to Puerto Rico under the bill are typically capped at \$5 million. The bill lifts that cap and gives the Homeland Security or Treasury departments the power to forgive the loans. It doesn't say under what conditions the debt would be forgiven.

The Federal Emergency Management Agency already has the ability to forgive such loans after three years under existing law, and close to 70% of debt from the disaster loan program already gets forgiven, according to a 2012 Congressional Research Service report.

In addition to Puerto Rico, the Virgin Islands and local governments in Florida and Texas affected by the hurricanes are also eligible for portions of the \$4.9 billion in low-interest Treasury loans. In Puerto Rico, the money could be used help pay salaries and other expenses to avoid a government shutdown. Puerto Rico Treasury Secretary Raul Maldonado said last week the government was poised to run out of money at the end of October, and may have to furlough government employees, a move that would hinder recovery efforts.

A federally appointed control board in March outlined how much the island would pay creditors over the next decade — about a fourth of what is owed. But the board could decrease that amount in the wake of the hurricane, the Journal has reported. A benchmark general obligation bond traded at about 35 cents on the dollar Wednesday, up from a record low of about 30 cents a week ago.

Hurricane Maria, which devastated Puerto Rico late last month, has disrupted the ability of the government and its agencies to collect revenues. With power still out across much of the island, the state-owned electric company can't collect electricity fees. With stores shut down for lack of electricity, sales taxes don't flow in either.

The Wall Street Journal

By Heather Gillers

Oct 12, 2017 8:25 am ET

-Natalie Andrews contributed to this article.

[How To Wipe Out Puerto Rico's Debt Without Hurting Bondholders.](#)

During his visit to hurricane-stricken Puerto Rico, President Donald Trump shocked the bond market when he told Geraldo Rivera of Fox News that he was going to wipe out the island's bond debt. He said on October 3rd:

You know they owe a lot of money to your friends on Wall Street. We're gonna have to wipe that out. That's gonna have to be - you know, you can say goodbye to that. I don't know if it's Goldman Sachs but whoever it is, you can wave good-bye to that.

How did the President plan to pull this off? Pam Martens and Russ Martens, writing in Wall Street on Parade, note that the U.S. municipal bond market holds \$3.8 trillion in debt, and it is not just owned by Wall Street banks. Mom and pop retail investors are exposed to billions of dollars of potential losses through their holdings of Puerto Rican municipal bonds, either directly or in mutual funds. Wiping out Puerto Rico's debt, they warned, could undermine confidence in the municipal bond market, causing bond interest rates to rise, imposing an additional burden on already-struggling states and municipalities across the country.

[Continue reading.](#)

Seeking Alpha

by Ellen Brown

Oct. 12, 2017

[Come On, Bondholders! Give Puerto Rico a Break.](#)

You took on risk. You lost. That's life. Now think of the victims of Hurricane Maria.

Is it possible that Puerto Rico's bondholders are finally coming to their senses? For a few of them at least, it certainly looks like an overdue change of heart has taken place. And to think: All it took was a Category 4 hurricane that destroyed the island.

It's hardly a secret, of course, that Puerto Rico owes its bondholders far more money than it can ever possibly repay: a staggering \$74 billion for an island with population that hovers around 3.2 million. (By contrast, the nation of Argentina, which had a population of 37 million when it defaulted in 2001, owed its bondholders only \$6 billion more at the time.)

But while the debt has received a great deal of attention in the three weeks since Hurricane Maria hit — especially once President Donald Trump started mentioning it in tweets — Puerto Rico has been struggling to find a way out of its predicament at least since the summer of 2015, when the government first began defaulting on bond payments.

[Continue reading.](#)

Bloomberg View

By Joe Nocera

October 11, 2017, 9:26 AM MDT

[Maria Made Puerto Rico's Giant Debt Even Trickier for Hedge Funds.](#)

A larger federal role in helping the island recover from the devastating hurricane could increase the pressure for bondholders to share the burden.

After President Trump said in an Oct. 3 television interview that Puerto Rico's debt would have to be forgiven, the price of bonds issued by the U.S. territory fell as much as 31 percent, a massive move in the staid world of municipal credit. The president has no direct control over a question that's being hashed out in the courts, yet the market's panic attack underscored a simple truth: Puerto Rico's insolvency, already a complicated and painful problem, has become thornier since Hurricane Maria slammed into the island on Sept. 20.

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Bloomberg BusinessWeek

By Katherine Burton, Rebecca Spalding, and Michelle Kaske

October 12, 2017

[Political Stalemate Buys Municipal Bonds.](#)

Relatively scant issuance this year also helps the market for city and state debt

Inaction in Washington has been a boon for municipal-bond investors this year.

In the two months after the 2016 election, investors took \$27 billion out of muni-bond funds. The fear was that President Donald Trump's agenda for taxes, infrastructure and health care would drive up interest rates, and thus make outstanding bonds less attractive.

Washington has made scant policy changes, and those concerns have since abated. In addition, the GOP tax framework leaves the tax-deductibility of municipal bonds intact. In short, little has changed, and investors are again doing what they had done in previous decades: buying munis.

"So far this year has been very good for returns for munis, and somewhat unexpectedly," said Jim Colby, senior municipal portfolio manager at VanEck.

Also driving up prices: Cities and states have so far issued much less debt than last year, leaving investors hungry for municipal bonds.

Though prices have drifted downward slightly over the past month alongside Treasuries, the S&P Municipal Bond Index is back to its pre-election level, 4.4% higher than at the beginning of January.

In trading this month, a New York state general-obligation bond carried a yield of 1.2%, compared

with 2.1% in December. Yields fall as prices rise.

About \$28 billion flowed into municipal-bond mutual funds and exchange-traded funds from January through September, according to the Investment Company Institute.

These investors are largely shrugging off two potentially disruptive events: multiple ratings downgrades in Hartford, Conn., where the mayor in July hired restructuring advisers; and what amounts to the largest-ever municipal bankruptcy, in Puerto Rico.

“Munis had a pretty good year,” said J.R. Rieger, managing director of fixed-income index product management at S&P Dow Jones Indices LLC. “That’s kind of a surprise to me given all the headline headwinds that the muni market is facing.”

Increasing demand also came from foreign buyers. More than \$3 billion flowed into municipal bonds from outside the U.S. in the second quarter, bringing the total amount of munis held by foreign investors to a record \$98.6 billion, according to Federal Reserve data. With global interest rates still low, munis appeal to foreign institutional investors seeking safe long-dated securities, even though they don’t benefit from federal and state tax exemptions.

Despite high demand in both the U.S. and abroad, munis are in fairly short supply. Municipalities this year have issued \$276 billion in new bonds as of last week, down 18% from this time last year, according to Thomson Reuters. The state of Massachusetts has sold about \$1.7 billion in general-obligation bonds this year, half the amount it had issued by this time last year, according to Municipal Securities Rulemaking Board data.

The drop-off comes as cities and states are doing far fewer refinancing deals this year; many governments typically refinance before a new presidential administration, to head off potential uncertainty, said Matt Fabian, a partner at Municipal Market Analytics.

One of the few hiccups to the rebound in prices this year was in September. Since last month, bond prices have fallen slightly alongside Treasuries after the Federal Reserve signaled it remained on course to steadily raise interest rates.

But that dip barely dented the upward trend in muni prices since January. Some bondholders were relieved after a Trump infrastructure plan that could have diverted the assets of large infrastructure investors away from muni bonds didn’t materialize. Given that failure, the inability to repeal the Affordable Care Act and other setbacks for the Trump administration, investors became increasingly confident big changes weren’t coming from Washington this year.

“As the year has worn on, there has been this understanding that these things, if they happen, they’re not going to happen any time soon, and they may not happen at all,” said Gary Gildersleeve, partner and portfolio manager at Evercore Wealth Management.

The Wall Street Journal

By Heather Gillers

Oct. 12, 2017 9:00 a.m. ET

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

Little-Known Wisconsin Finance Authority Draws Scrutiny for Debt Deals Worth Billions.

MADISON – With the aid of a few local governments, a prominent lobbyist and politicians of both parties, a Wisconsin group has carved out a niche doing billions of dollars in tax-free debt deals, becoming a national player that’s virtually unknown in its nominal home state.

But that may be changing for this entity with a Madison address but no direct employees in Wisconsin and relatively little business here.

One deal done by the Public Finance Authority of Wisconsin has angered lawmakers in Kansas and another has received some unwanted attention from federal tax officials and investment regulators.

The once-obscure group is also getting more scrutiny in Wisconsin. State lawmakers are now asking why the Finance Authority should have powers such as the ability to issue bonds for projects that are outside Wisconsin and even potentially outside the country.

“I’m skeptical of the public benefit,” said Rep. Scott Allen (R-Waukesha), who voted against the state budget in large part because of Finance Authority provisions. “It doesn’t make sense to have a local public agency created by Wisconsin taxpayers and the Wisconsin Legislature that doesn’t provide public benefit to the people of Wisconsin.”

“As more people learn about this, I’ve got a feeling I’m not going to be the only one scratching (my) head,” he said.

Authorized in 2010 by lawmakers and then created by five local governments, the Finance Authority helps clients around the country borrow money from investors using tax-exempt bonds. The group generates some revenue for local governments in Wisconsin and government associations, but critics question whether it’s providing more benefit to out-of-state developers than to the public.

Though the Wisconsin group has a board of largely former local elected officials and a local law firm, much of the Public Finance Authority’s work is done by a California bond firm, GPM Municipal Advisors, and a law firm based in San Francisco.

The Finance Authority has done 238 bond deals around the country totaling \$8.3 billion for projects ranging from a conference center and parking garage to charter schools and a massive shopping mall and entertainment complex in New Jersey. One project was in the U.S. Pacific island territory of Guam.

Only \$168 million of the deals — or about 2% — have been in Wisconsin. Many of the bond offerings were sold to sophisticated investors and did not receive a credit rating from an independent agency that would assess how risky they were.

The Finance Authority pays fees to the five local governments and to several sponsoring groups like the Wisconsin Counties Association. Mark O’Connell, the executive director of the counties association, said the Finance Authority brings benefits to the state with no risks.

“Wouldn’t we want this entity to engage in business everywhere? There’s no risk to the state of Wisconsin. There’s no taxpayer dollars put into it or at risk,” O’Connell said in an interview.

Part of the controversy around the Finance Authority focuses on whether one of its bond deals

produces the kind of public benefit needed to qualify for tax-free status from the U.S. government.

In July, the federal Internal Revenue Service [told the Finance Authority](#) of its proposed conclusion that the bonds for a Dallas luxury tower development shouldn't be exempt from federal taxes.

That matters because the investors who had bought the bonds had done so expecting that the interest they would be paid on them would be free from federal income taxes. The Finance Authority's outside attorney, the San Francisco firm of Orrick, Herrington & Sutcliffe, concluded the bonds should be tax free.

O'Connell insists that the Finance Authority has no legal risk from a potential investor lawsuit and that the group will be successful in challenging the IRS finding.

"The PFA will not do a project unless there's a public benefit attached to it," said Andrew Phillips, an attorney with von Briesen & Roper in Milwaukee who serves as general counsel to the Finance Authority and the counties association.

In the meantime, the U.S. Securities and Exchange Commission has also asked the Finance Authority to turn over documents related to the Dallas deal. It's not clear why the investment regulators are looking at this particular deal, but in the past the SEC has charged participants in bond deals with fraud for misleading investors about whether the bond are tax free.

In a statement, O'Connell said the SEC inquiry may have arisen out of a dispute between partners in the tower's development company and that there's "nothing to suggest that the investigation involves PFA in any fashion."

But Mark Scott, an attorney in the field, said it was unusual that the IRS had taken note of the bonds so quickly after they were issued last year. Scott, the head of the IRS tax-exempt bond office from 2000 to 2005, said auditing can take years to reach such a finding unless the IRS is tipped off or has a local employee who raises a concern.

Typically, Scott said, "it would have been years after the issue, not months."

Scott said he wasn't as sure as O'Connell that the Finance Authority has no potential liability from the deal.

"They're probably right but there's no guarantees," he said.

Another Finance Authority deal sparked controversy in 2016 when the University of Kansas borrowed nearly \$330 million through the authority for a science building, dormitory and student union. If the university had used a Kansas agency to borrow the money, it would have needed the approval of that state's legislature, [the Wichita Eagle has reported](#).

The Public Finance Authority started out without controversy.

A group in California had been doing similar deals in that state but had been unable to get lawmakers there to sign off on the group doing such projects in other states, O'Connell said. Staff from the National Counties Association reached out to their counterparts in Wisconsin to see if they'd be willing to seek legislation to do that here, he said.

In 2010, the Wisconsin Legislature, then controlled by Democrats, passed a measure unanimously that allowed the creation of the authority and Democratic Gov. Jim Doyle signed it into law.

The legislation allowed a group of Wisconsin communities to form a government entity that can issue bonds on behalf of certain other borrowers around the country, who then hold the responsibility of paying off the loans.

Five communities then formed the Finance Authority — the City of Lancaster and the counties of Adams, Bayfield, Marathon and Waupaca.

As part of the 2011 state budget, Gov. Scott Walker and GOP lawmakers then gave the Finance Authority the power to refinance projects, purchase bonds and delegate some of its powers to its officers or board members.

In the 2013 budget, lawmakers went along with a Walker plan allowing the authority to issue bonds for projects outside the country if the borrowing entity was incorporated in the United States.

GOP legislators approved additional powers for the Finance Authority in both the 2015 and 2017 budgets, but Walker vetoed them.

The Finance Authority's lobbyist is Eric J. Petersen, whose clients include insurers, road builders, a title loan company, a tobacco maker and a trade group for liquor wholesalers.

"He has a high profile and a record of getting things done," O'Connell said of Petersen.

The Finance Authority is sponsored by the National Association of Counties, National League of Cities, Wisconsin Counties Association and League of Wisconsin Municipalities. The League of Wisconsin Municipalities received \$74,500 from the Finance Authority in 2016 and O'Connell said the other three groups or their affiliates got about the same amount each.

Since 2010, the five communities that formed the authority have received about \$26,000 each — or \$130,000 in total — to carry out certain duties on behalf of the Finance Authority.

Jason Stein and Patrick Marley, Milwaukee Published 3:05 p.m. CT Oct. 13, 2017 |

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- [MSRB Mark-Up Disclosure Implementation Forum: Webcast](#)
 - [NFMA Summary: GASB 87, New Governmental Lease Accounting Standards.](#)
 - [BDA's 2016-17 Federal Regulatory and Legislative Priorities and Accomplishments.](#)
 - [Why Governmental Accounting and Financial Reporting Is - and Should Be - Different: GASB White Paper](#)
 - [MSRB Provides Continuing Education Planning Tool for Municipal Advisors.](#)
 - [MSRB Releases New MuniEdPro® Courses on Best Execution and Gift-Giving.](#)
 - [IRS Tax Exempt & Government Entities FY 2018 Work Plan.](#)
 - ["TEFRA is a Four-Letter Word"](#)
 - [Wittemyer v. City of Portland](#) - Supreme Court of Oregon holds that city "arts tax," imposing \$35 tax on each resident of city who was at least 18 years old, had income of \$1,000 or more per year, and did not reside in household that was at or below federal poverty guidelines, took income and household resources into account, and thus was not unconstitutional "poll or head tax," though income was not taken into account in determining amount of tax.
 - And finally, What Could Possibly Go Wrong? Ingrate Edition, is brought to us this week by [Lycourt-Donovan v. Columbia Gas of Ohio, Inc.](#), in which gas company learned of naturally-occurring concentrations of natural gas forming in neighborhood basements and - by all accounts -

did an exemplary job of detection, prevention, remediation, communication, etc. And still they were sued by the ingrate homeowners for doing what certainly must be Plan A in any such scenario - TURNING OFF THE BLEEPIN' GAS! Somewhere (probably in Ohio), Columbia Gas of Ohio executives sleep - vengeful visions of fireballs dancing in their heads.

BANKRUPTCY - CALIFORNIA

[In re Gardens Regional Hospital and Medical Center, Inc.](#)

United States Bankruptcy Court, C.D. California, Los Angeles Division - September 25, 2017 - B.R. - 2017 WL 4232986 - 64 Bankr.Ct.Dec. 183

State department of healthcare services moved for allowance of administrative priority claim in connection with Chapter 11 debtor-hospital's obligation to state for quarterly Hospital Quality Assurance (HQA) fees which it was required to pay, and which state then used, along with federal matching funds, to make supplemental HQA payments to debtor and other hospitals.

The Bankruptcy Court held that:

- Debtor-hospital's obligation to state for HQA fees was a fee, and not a tax entitled to payment as an administrative priority claim, and
- Even if debtor-hospital's HQA liability was a tax, the claim arose prepetition and therefore was not entitled to administrative priority.

Chapter 11-debtor hospital's obligation to state for quarterly Hospital Quality Assurance (HQA) fees which it was required to pay, and which state then used, along with federal matching funds, to make supplemental HQA payments to debtor and other hospitals, was a fee, and not a tax entitled to payment as an administrative priority claim. The HQA exactions were not imposed for a public purpose, as hospital industry rather than the public principally benefited from the fees, because purpose of fees was to increase the total amount of funding available to hospitals.

State department of healthcare services's claim for quarterly Hospital Quality Assurance (HQA) fees that Chapter 11 debtor-hospital was required to pay, and which state then used, along with federal matching funds, to make supplemental HQA payments to debtor and other hospitals, arose prepetition, and thus, even if the obligation was a tax, the state's claim was not entitled to administrative priority claim. Department of healthcare services could fairly contemplate its claim against debtor prepetition even though it did not know the exact amount of the claim.

PENSION FUNDING - ILLINOIS

[Board of Trustees of City of Harvey Firefighters' Pension Fund v. City of Harvey](#)

Appellate Court of Illinois, First District, Fifth Division - August 4, 2017 - N.E.3d - 2017 IL App (1st) 153074 - 2017 WL 3388848

Firefighters' pension board brought action against city seeking a declaratory judgment, a writ of mandamus, injunctive relief, and an order compelling enforcement, alleging that city had underfunded firefighters' pension fund and breached a settlement agreement in which city agreed to make certain contributions to the fund.

On motions for summary judgment, the Circuit Court granted pension board's motion for declaratory judgment, injunctive relief, and enforcement of settlement agreement, and denied summary judgment for a writ of mandamus. City appealed and pension board cross-appealed.

The Appellate Court held that:

- Evidence supported a finding that fund was on the verge of default, establishing an enforceable constitutional right to funding;
- City's funding of firefighters' pension fund failed to comply with requirements of Pension Code;
- City breached settlement agreement by failing to make certain agreed-upon contributions;
- Pension board was statutorily authorized to bring action against city for violations of the Pension Code;
- Pension board's delay in bringing suit did not waive its right to enforce settlement agreement;
- Evidence supported damages award; and
- Enactment of pension tax levy was not a mere ministerial act subject to a writ of mandamus.

Evidence of city's blatant disregard for firefighters' pension fund over a long period of time, and of the dwindling status of pension fund assets, supported a finding that fund was on the verge of default, establishing a valid and enforceable state constitutional right to funding. Fund was surviving on contributions paid into the plan by the firefighters and the interest and other money received on the funds invested, fund was being forced to sell assets to pay current pension benefits, fund had not undergone an audit for a number of years, city comptroller invoked his Fifth Amendment privilege against self-incrimination and refused to answer questions concerning city's financial conditions, city had contributed less than ten percent of the annual actuarial requirement six out of nine years, and city had no plans to correct its handling of pension crisis.

City's funding of firefighters' pension fund failed to comply with requirements of Pension Code; city failed to follow any apparent statutory formula in its contributions to fund, city had failed, over the course of multiple years, to levy any money for the pension fund, city had contributed less than ten percent of the annual actuarial requirement six out of nine years, and fund was using firefighters' contributions and interest payments to pay its beneficiaries.

City's enactment of pension tax levy was not a mere ministerial act subject to a writ of mandamus. Even though Pension Code mandated annual contributions to pension fund according to an annual actuarial evaluation, city retained discretion in making calculations as to the amount it must levy to produce the amount necessary to meet required contributions.

City breached settlement agreement by failing to make certain agreed-upon contributions to firefighters' pension fund, notwithstanding city's claim that it experienced a shortfall and had to allocate its resources accordingly. City was entitled to charge a proportionate amount of the shortfalls to the pension fund's levy, but given its contractual obligation, city could not charge the entirety of the shortfall to the pension fund.

Damages awarded firefighters' pension board in action against city for failure to adequately fund pension fund properly consisted of the accumulated contribution deficiency, rather than merely the recommended contribution amount from the most recent annual actuarial valuation.

[Harstad v. City of Woodbury](#)

Court of Appeals of Minnesota - September 18, 2017 - N.W.2d - 2017 WL 4104728

Developer filed an action against city seeking a declaration that a major roadway assessment was unauthorized and unenforceable, and demanding relief compelling the city to approve its subdivision application, in addition to an inverse condemnation claim.

The District Court declared that the assessment was unenforceable and dismissed the other two claims. City appealed and developed cross-appealed.

The Court of Appeals held that:

- Developer's declaratory judgment claim was ripe for judicial determination;
- City lacked express or implied statutory authority to impose the major roadway assessment as a condition for subdivision approval;
- Developer's takings claim was moot; and
- Developer's subdivision application was incomplete and therefore unable to trigger the time period for automatic approval via statute due to a city or agency's inaction.

LIABILITY - MISSISSIPPI

[Hathorn v. Louisville Utilities Commission](#)

Supreme Court of Mississippi - September 28, 2017 - So.3d - 2017 WL 4314629

Pedestrian brought personal injury action against automobile parts store, city, and city utilities commission alleging that her foot unexpectedly sank into hole few inches deep in sidewalk in front of store, causing her to twist her ankle and fall due to uncovered utility box set within sidewalk.

The Circuit Court granted summary judgment for commission following pedestrian's settlement with store and city. Pedestrian appealed.

The Supreme Court of Mississippi held that pedestrian released all claims against commission when she executed release following settlement with city.

Pedestrian released all claims against city utilities commission when she executed her release following settlement with city with respect to her personal injury action against city and commission alleging that her foot unexpectedly sank into hole few inches deep in sidewalk, causing her to twist her ankle and fall due to uncovered utility box set within sidewalk; release discharged claims against city and its subsidiaries, commission was subsidiary of city, pedestrian knew when she filed her complaint that commission was municipal commission, as she referred to that fact in her complaint, and notice pedestrian sent to city and commission before filing complaint claimed that they were liable for negligence by not making sure utility box set within sidewalk was installed properly and maintained in safe condition.

PUBLIC UTILITIES - OHIO

[Lycourt-Donovan v. Columbia Gas of Ohio, Inc.](#)

Supreme Court of Ohio - September 13, 2017 - N.E.3d - 2017 WL 4097808 - 2017 -Ohio-7566

Owners of residential properties sought judicial review of Public Utilities Commission's order in favor of gas utility, in proceeding brought by owners challenging utility's discontinuation of service upon discovery of excessive concentrations of natural gas on the properties.

The Supreme Court of Ohio held that:

- Gas utility did not abandon service, within meaning of statutes governing abandonment by a public utility;
- Gas utility did not violate statute governing level of service required by a public utility; and
- Commission properly placed burden of proof on owners.

Gas utility did not abandon service to residential properties, within meaning of statutes governing abandonment, by discontinuing service after discovering excessive concentrations of natural gas on the properties. Utility repeatedly affirmed its intention to restore service once the gas issue was remedied, utility had a continuing obligation to provide service upon remediation, and probative evidence supported the Public Utilities Commission's determination that utility intended to reestablish service upon completion of remedial measures.

Gas utility did not violate statute governing the services utility was required to provide by acting unreasonably in failing to communicate its reconnection standards to owners of residential properties after utility discontinued service upon discovery of excessive concentrations of natural gas on the properties; no authority supported proposition that such failure constituted a violation of the statute, but rather the failure to communicate reconnection standards was only one factor of several considered by the Public Utilities Commission, and owners did not challenge the other factors taken into account by the Commission.

Public Utilities Commission properly placed the burden of proof on residential property owners in their proceeding challenging gas utility's discontinuation of service upon discovery of excessive concentrations of natural gas on the properties; gas utility did not abandon service to the properties by discontinuing service, so that utility had no obligation to file an abandonment proceeding at which utility would have had the burden of proof, but instead the case was properly treated as a complaint proceeding at which owners had burden of proof.

BANKRUPTCY - PUERTO RICO

[In re Financial Oversight and Management Board for Puerto Rico for Puerto Rico](#)

United States Court of Appeals, First Circuit - September 22, 2017 - F.3d - 2017 WL 4216438 - 64 Bankr.Ct.Dec. 173

Unsecured creditors' committee moved to intervene in adversary proceeding arising within the Commonwealth of Puerto Rico's debt adjustment case under Title III of the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA).

The United States District Court for the District of Puerto Rico denied motion, and committee appealed.

The Court of Appeals held that:

- Provision of the Bankruptcy Code incorporated into PROMESA, indicating that parties in interest, including creditors' committees, would have right to appear and be heard on any issue in

bankruptcy case, gave unsecured creditors' committee an "unconditional right to intervene," within the meaning of Rule governing motions to intervene, but

- Scope of that intervention was a matter committed to district court's discretion.

While unsecured creditors' committee had unconditional right, pursuant to provision of the Bankruptcy Code incorporated into the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA), to participate in adversary proceeding arising within the Commonwealth of Puerto Rico's debt adjustment case under Title III of PROMESA, mere fact that committee had right to participate said nothing about the scope of that participation, which was a matter committed to district court's discretion.

EMINENT DOMAIN - TEXAS

[Boerschig v. Trans-Pecos Pipeline, L.L.C.](#)

United States Court of Appeals, Fifth Circuit - October 3, 2017 - F.3d - 2017 WL 4367151

Property owner brought action alleging that pipeline company's condemnation of permanent right-of-way and easement for natural gas pipeline across his property violated due process.

The United States District Court denied owner's motion for preliminary injunction, and owner appealed. Company moved to dismiss.

The Court of Appeals held that:

- Owner's appeal was not moot;
- Younger abstention was not warranted; and
- Owner failed to establish likelihood of success on merits of his claim.

Property owner's appeal of district court order denying his request to enjoin gas pipeline company's condemnation proceeding against it was not rendered moot by company's completion of pipeline across owner's property during appeal's pendency, where company did not begin construction of pipeline on owner's property until district court denied owner's request, and Court of Appeals could order that company return property to its precondemnation state.

Pipeline company's condemnation of permanent right-of-way and easement for natural gas pipeline across property was not civil proceeding uniquely in furtherance of state courts' ability to perform their judicial functions, and thus *Younger* abstention was not warranted in property owner's federal court action alleging that state's condemnation procedures violated due process.

Property owner failed to establish likelihood of success on merits of his claim that Texas's condemnation scheme for public utilities violated due process, and thus was not entitled to preliminarily enjoin ongoing state condemnation process. Texas eminent domain laws were longstanding and had withstood previous legal challenges, precedent blocked owner's argument that he had right to predeprivation hearing, Texas scheme allowing gas pipelines to condemn property did not appear to violate private nondelegation doctrine, and utility's assessment of whether public necessity standard had been satisfied was subject to judicial review.

[MSRB Adds Bloomberg BVAL to Municipal Market Yield Curves on EMMA.](#)

Washington, DC - The Municipal Securities Rulemaking Board (MSRB) today expanded the availability of municipal market yield curves and indices on its [Electronic Municipal Market Access \(EMMA®\) website](#). The addition of [Bloomberg's BVAL Municipal AAA Curve](#) to EMMA today gives investors another tool intended to help monitor the level and direction of municipal bond interest rates, and compare relative yields of specific municipal securities.

"The MSRB's vision is for EMMA to evolve into a comprehensive transparency platform that brings together data, documents and tools that support fair and efficient transactions and facilitate decision-making in the municipal market," said MSRB Executive Director Lynnette Kelly. "We are excited to provide free access on EMMA to municipal market yield curves and indices for investors who in the past may not have been able to take advantage of these powerful benchmarking and analytical tools."

Bloomberg's BVAL municipal curve uses real-time trades and contributed sources to reflect market movement as it happens. Bloomberg's BVAL service prices 2.5 million fixed income securities, including nearly 1 million municipal bonds which are priced three times a day.

"Bloomberg is proud to work with the MSRB to bring more transparency to the municipal bond market by offering the BVAL Municipal AAA curve on the EMMA site," said Varun Pawar, global head of Bloomberg's evaluated pricing service. "BVAL is the primary pricing source for the Bloomberg Barclays indices, which are widely used by institutional fund managers to measure investment performance. Retail investors now have access to yield curve data that correlates to these muni market benchmarks."

Bloomberg's BVAL Municipal AAA Curve is available on EMMA's [Tools and Resources page](#), as are a daily yield curve from the Associated Press (AP) and historical index data for five different indices from Standard & Poor's (S&P), which were made available in July 2017. [Access yield curves and indices on EMMA.](#)

Market indicators, including the AP and Bloomberg yield curves and S&P indices available on EMMA, are useful tools for evaluating bond prices and yields, measuring market direction and performance, and determining pricing on new bond issues. [Read about understanding yield curves and indices in the MSRB Education Center.](#) The MSRB may add more yield curves and other tools over time as part of its ongoing effort to enhance the availability of market-wide data, in addition to information about individual bonds. Earlier this month, the MSRB began the [daily release of previously unavailable market statistics](#) on EMMA. The MSRB also has provided access on EMMA to two interactive calendars that display upcoming bond offerings and upcoming economic reports and events.

The MSRB's EMMA website is the official source of data and disclosure documents on more than one million outstanding municipal securities. The MSRB operates the EMMA website in support of its mission to protect investors, state and local governments, and the public interest by promoting a fair and efficient municipal market.

Date: October 5, 2017

Contact: Jennifer A. Galloway, Chief Communications Officer
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[Reminder: Compliance Outreach Program for Municipal Advisors.](#)

Wednesday, November 8, 2017

9:00 a.m. - 4:00 p.m. ET

Join the SEC, MSRB and FINRA for the Compliance Outreach Program for Municipal Advisors. Topics of discussion will focus on the duties and standards of conduct for non-solicitor municipal advisors under MSRB Rule G-42 and the Securities and Exchange Act of 1934, as well as municipal advisor compliance with rules concerning supervision, registration and books and records.

[View the agenda.](#)

[Register to attend in person.](#)

[Register to attend via webcast.](#)

[IRS Tax Exempt & Government Entities FY 2018 Work Plan.](#)

[Read the Work Plan.](#)

[KBRA Releases Surveillance Report: MTA Transportation Revenue Bonds.](#)

Kroll Bond Rating Agency (KBRA) has assigned a long-term rating of AA+ with a Stable Outlook on the Metropolitan Transportation Authority's (MTA) Transportation Revenue Variable Rate Revenue Bonds, Series 2011B (LIBOR Floating Rate Tender Notes) and the Transportation Revenue Variable Rate Refunding Bonds, Subseries 2012G-4 (LIBOR Floating Rate Tender Notes).

KBRA has also affirmed the long-term rating of AA+ with a Stable Outlook on all outstanding MTA transportation revenue bonds, except for bonds backed by a letter of credit of liquidity facility.

KBRA also affirmed the short-term rating of K1+ on the Series 2015B-2f (Taxable) (maturing February 1, 2018) and Series 2017B (maturing February 1, 2018) Bond Anticipation Notes (BANs). For mapping of the long-term rating to the short-term rating, please refer to the [short-term KBRA Rating Scale](#).

To access the full report, please click on the link below:

[MTA Transportation Revenue Bonds](#)

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

[KBRA Affirms Rating on Chicago O'Hare Int'l Airport Senior Lien Revenue](#)

Bonds.

Kroll Bond Rating Agency (KBRA) has Affirmed the long-term rating of A+ with a Stable Outlook on the City of Chicago, IL Chicago International Airport General Airport Senior Lien Revenue Bonds.

This affirmation is based on [KBRA's U.S. General Airport Revenue Bond Methodology](#). KBRA's rating evaluation of the long-term credit quality of general airport revenue bonds focuses on six key rating determinants:

- Management
- Economics/Demographics of the Service Area
- Airport Utilization
- Airport Debt/Capital Needs
- Airport Finances
- Legal Mechanics and Security Provisions

To access the full report, please click on the link below:

[Chicago O'Hare Int'l Airport Senior Lien Revenue Bonds](#)

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

MSRB Provides Continuing Education Planning Tool for Municipal Advisors.

To assist municipal advisor firms in complying with continuing education (CE) requirements, the Municipal Securities Rulemaking Board (MSRB) is providing a sample needs analysis checklist and training plan template. The fillable checklist and template is intended to help municipal advisor firms evaluate and prioritize their firm's specific training needs and develop a plan for delivering appropriate training. View the *Developing a CE Needs Analysis and Written Training Plan* document [here](#).

CE requirements for municipal advisor firms are outlined in [MSRB Rule G-3](#) and effective January 1, 2018. The MSRB will host an educational webinar about the CE requirements on **Thursday, October 12, 2017 at 3:00 p.m. Eastern Time**. [Register now](#).

The MSRB plans to provide additional webinars and resources throughout the year as part of its [long-term goal](#) to facilitate understanding of and compliance with MSRB rules.

MSRB Releases New MuniEdPro® Courses on Best Execution and Gift-Giving.

The Municipal Securities Rulemaking Board (MSRB) today made available [two new online courses](#) for municipal market participants, adding courses covering MSRB rules on best execution and gift-giving to the MuniEdPro® catalog.

One course, **Gifts, Gratuities, Non-Cash Compensation and Expenses of Issuance: MSRB Rule G-20**, uses common scenarios to illustrate compliance with limitations and exclusions on the

value of gifts and gratuities that regulated entities and their associated persons can give to officials of a bond issuer. The course also addresses restrictions related to expenses of issuance.

At the end of the course, the learner will be able to:

- Explain the requirements of Rule G-20;
- Understand exclusions from the \$100 limit per year, per person; and
- Describe the recordkeeping requirements under MSRB Rule G-8 that apply to dealers and municipal advisors under Rule G-20.

The other course, **Best Execution of Transactions in Municipal Securities: MSRB Rule G-18**, demonstrates how municipal securities dealers handle and execute customer transactions in municipal securities, and how to ascertain the best market by applying reasonable diligence and evaluating market conditions.

At the end of the course the learner will be able to:

- Describe fundamental best-execution obligations under Rule G-18;
- Identify considerations for determining best execution;
- Navigate scenarios that challenge the learner to apply a process to achieve best-execution; and
- Understand transaction obligations to Sophisticated Municipal Market Professionals (SMMPs).

Dealer and municipal advisor firms: enhance your firm's compliance program by offering your municipal finance professionals access to all MuniEdPro® courses at the [discounted rate of \\$100 per person](#). The discounted rate, which is available from October 1 to December 31, 2017, is a \$270 value per person, saving firms over 60 percent on the course catalog.

For more information about MuniEdPro® or to inquire about subscription options, contact Ritta McLaughlin at rmclaughlin@msrb.org or 202-838-1306.

[Intro PACE Finance WebCourse](#)

Announcing the Intro PACE Finance WebCourse

Register By November 17 for Early Bird Rates

Join CDFA for the two-day [Intro Property Assessed Clean Energy Finance WebCourse](#) on **December 5-6**. This course will explore the process of creating, operating and maintaining a community based PACE program. The two day course will feature a comprehensive overview of PACE including program design, capital markets analysis, investor attraction, legal and regulatory considerations, market potential, operations and much more.

The Intro Property Assessed Clean Energy Finance WebCourse is an ideal opportunity to enhance your knowledge and maximize your community's ability to catalyze energy efficiency improvements on industrial, commercial and residential structures. Topics covered include:

- How PACE works
- Why use PACE as a financing tool
- Addressing barriers to PACE implementation
- Financing process & terms
- Important regulations & guidelines

- Management structures
- How to create a PACE program for a community
- Example PACE programs from start to finish
- Residential vs. Commercial
- PACE Bonds
- Eligible PACE Products
- Players involved – designer, administer, contractor, investor, financier, property owner
- Marketing your PACE program
- Finding potential investors and contractors
- Lender consent process

View the Intro Property Assessed Clean Energy Finance WebCourse [agenda](#) for a full outline of the timing and topics to be covered.

This course qualifies for the CDFA Training Institute's [Development Finance Certified Professional \(DFCP\) Program](#). Start down the road to personal and professional advancement today!

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[Surge in Multifamily Housing Bond Issuance Linked to Tax Incentives.](#)

WASHINGTON – A surge in issuance of tax-exempt multifamily housing bonds in 2016 should continue for the foreseeable future, experts say.

The only major potential obstacle is Congress. Lawmakers could use tax reform to eliminate the tax exemption for multifamily housing bonds or other federal incentives being used by public housing agencies and private developers to help finance multifamily housing bond transactions.

In many cases, multifamily housing bonds are issued in connection with federal low-income tax credits and two programs operated by the Department of Housing and Urban Development — the Rental Assistance Development (RAD) program and Section 8 low income housing rental assistance vouchers.

Michael Bodaken, president of the nonprofit National Housing Trust, which is dedicated to housing preservation, said he thinks the future of housing tax provisions are “in jeopardy, a concern.”

“I think it is very important for Congress, HUD and others to realize how important the housing credit, tax exempt bonds and Section 8 all are,” said Garth Rieman, director of Housing Advocacy and Strategic Initiatives for the National Council of State Housing Agencies.

Republican leaders of Congress and the Trump administration have only issued a nine-page outline of their tax plan that proposes ending many tax breaks as a way of broadening the base and lowering rates.

It doesn't mention multifamily housing, nor has multifamily housing policy been part of the tax debate.

Senior administration officials recently told The Bond Buyer that the tax exemption for municipal bonds will be fully preserved under the Republican tax plan. That presumably would include tax exemption for PABs, but Republicans have not offered any written assurance.

The House and Senate committees with jurisdiction over tax policy will work out the details of the tax overhaul in the coming weeks.

Multifamily housing bond issuance more than doubled in 2016 to \$14 billion from \$6.61 billion in 2015, an increase of 112%, according to a recent survey by the Council of Development Finance Agencies.

The percentage of American households who are renters has reached a 50-year high and is driving the demand for multifamily housing, according to the National Housing Trust. The demand for rental housing, including the urgent need to rehabilitate public housing, is expected to continue for the foreseeable future.

Last year's \$7.39 billion increase in issuance for multifamily housing bonds was helped by the federal low-income housing tax credit program, experts said.

This tax credit is "one of the federal government's primary policy tools for encouraging the development and rehabilitation of affordable rental housing," according to the nonpartisan Congressional Research Service, which estimates its annual cost at about \$9 billion.

"These non-refundable federal housing tax credits are awarded to developers of qualified rental projects via a competitive application process administered by state housing finance authorities," Mark Keightley, a specialist in economics wrote in a CRS report issued in May.

"Developers typically sell their tax credits to outside investors in exchange for equity. Selling the tax credits reduces the debt developers would otherwise have to incur and the equity they would otherwise have to contribute. With lower financing costs, tax credit properties can potentially offer lower, more affordable rents," Keightley wrote.

The low-income housing tax credit is 4% for rehabilitation projects and 9% for new construction. Kansas, Kentucky, New Mexico and Wisconsin allocated 100% of their 4% credits to housing preservation projects in 2014, according to the nonprofit National Housing Trust. Not far behind were Michigan at 94% and Ohio and 92%.

Another federal program operated by the U.S. Department of Housing and Urban Development, the RAD program, is so popular that there's a waiting list beyond the 225,000 housing units authorized by Congress.

The Trump administration supports RAD because it transitions public housing "to a more sustainable funding and rational regulatory environment that permits debt and promotes other non-federal leveraging," HUD Secretary Ben Carson told lawmakers in June.

"The RAD program relies on significant leverage of every dollar of HUD funding," Carson said in his written testimony. "It has leveraged more than \$4 billion in capital investment in order to make critical repairs and improvements to this segment of the nation's affordable housing stock."

Ruth Anne Visnaukas, commissioner of New York State Homes and Community Renewal, said her agency has completed two RAD deals this year, has four or five in the works for the remainder of this year, and 10 more in the pipeline for next year.

"We are great fans of RAD and think it is key to investing in public housing which is often housing for the lowest income families, seniors and the disabled," Visnaukas said. "It's sort of an unprecedented way to invest in large swathes of housing across the country."

The \$450 million rehabilitation of the Ocean Bay apartment complex in the Far Rockaway section of Queens in New York City, announced in June, used multifamily housing bonds and was the nation's largest single RAD transaction.

The project included about \$350 million for upgrades such as new bathrooms and new kitchens for the 1,395 apartments located in 24 buildings. The remaining \$194.4 million came from a Federal Emergency Management Agency grant for storm resiliency to prevent a recurrence of the damage caused to the waterfront complex by Hurricane Sandy.

HUD has asked Congress to lift the ceiling on the number of multifamily units eligible for RAD, which currently is 225,000 and has a waiting list. The Senate committee has agreed to eliminate the cap, but House appropriators didn't address that issue in their fiscal 2018 funding legislation for HUD.

It's not clear whether the Senate and House will address RAD if they hold negotiations over the 2018 budget, according to Matt Dennis, spokesman for Rep. Nita Lowey of New York, the ranking Democrat on the House Appropriations Committee.

The government began fiscal 2018 on Oct. 1 with a stopgap spending measure that expires after Dec. 8, which gives both chambers additional time to complete work on a long-term spending bill.

By Brian Tumulty

BY SOURCEMEDIA | MUNICIPAL | 10/03/17 07:01 PM EDT

[MSRB Mark-Up Disclosure Implementation Forum: In-Person Attendance](#)

November 02, 2017

1:00 PM - 4:30 PM ET

Attend the Mark-up Disclosure Implementation Forum in Washington, DC, hosted by the MSRB to further support understanding of and compliance with mark-up disclosure requirements under amendments to MSRB Rule G-15. The forum will provide municipal securities dealers the opportunity for an in-depth discussion of the mark-up disclosure requirements and methods of calculating prevailing market price.

[View the agenda.](#)

[Register.](#)

[MSRB Mark-Up Disclosure Implementation Forum: Webcast](#)

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[View the agenda.](#)

[Register.](#)

[Proposed Changes to Procurement Regulations May Facilitate Florida P3s.](#)

Miami-Dade County, the largest jurisdiction in South Florida, is currently evaluating public-private partnerships (P3s) for several major infrastructure projects. These include multi-billion-dollar upgrades to the County's water and sewer infrastructure, new transportation infrastructure, and social infrastructure, including a new County courthouse. As we have discussed in [previous posts](#), the P3 model can be used to expedite delivery, reduce public costs, and transfer risks for major public projects of this type. However, many P3s unfortunately do not make it out of the procurement phase, in part because existing procurement regulations were drafted decades ago, with traditional procurement, not P3s, in mind.

Fortunately, the County is currently considering two significant amendments to its procurement procedures, both of which may facilitate the utilization of the P3 model. First, the Charter Review Task Force (which proposes changes to the County's voter-adopted Charter, which in a sense serves as the County's constitution) is considering a [substantial restructuring of the procurement process](#). The proposed changes would, in effect, make the procurement process more administrative and less legislative, with more authority delegated to the County's professional staff, as opposed to the elected officials. Because P3s are generally more complex than traditional procurements, delegating more authority to professionals with appropriate expertise may help avoid pitfalls in the procurement process for P3s.

Second, the Board of County Commissioners is considering [new legislation](#) that would implement the State of Florida's new process for the consideration of unsolicited P3 proposals. Under the State process, which has not yet been fully implemented in the County, a firm can submit a proposal for a qualifying P3 project prior to the issuance of a formal solicitation, and that proposal is exempt from disclosure as a public record until after the government makes a decision on the project. Furthermore, the new proposed legislation provides for an RFQ/RFP procurement process for P3s (first weeding out the least qualified firms, and then selecting the best proposal based on technical and price criteria) which is a best practice for P3s.

Ultimately, regardless of whether either of these proposals move forward, P3s are going to continue to be utilized in South Florida. The infrastructure needs are great, and there are insufficient public dollars to pay for what is needed using traditional delivery methods. However, these proposals may help expedite and improve the procurement process for important infrastructure projects.

by Albert E. Dotson, Jr and Eric Singer

October 5, 2017

Bilzin Sumberg

[**A Slide in Capital Spending by States and Local Governments.**](#)

Moody's cautions that putting off infrastructure investments could lead to a "form of 'soft' debt that will compete with pension liabilities and other governmental mandates for funding."

Capital spending by state and local governments around the U.S. has been on the decline, with jurisdictions pushing off infrastructure costs into future years.

That's according to a report the credit ratings agency Moody's Investors Service issued this week. The ratings agency looks at U.S. Bureau of Economic Analysis figures and says the information suggests an "ongoing buildup of deferred infrastructure maintenance."

This comes as costs tied to areas like public employee pensions and education continue to put pressure on many state and local budgets.

Moody's notes that state and local capital investment, unadjusted for inflation, hit a peak in 2009 as a percentage of gross domestic product at about 2.6 percent. Since then, it has steadily declined, hitting a low in the first quarter of this year of about 1.7 percent.

If states and localities had maintained 2009 capital investment levels, they would have invested an additional amount of roughly \$685 billion in the past seven years, or about 27 percent more than the \$2.5 trillion spent during that time, according to Moody's

"Over time," the report says, "we expect that the deferral of such fixed investment will lead to poor asset quality...and require even greater investment in the future—a form of 'soft' debt that will compete with pension liabilities and other governmental mandates for funding."

As Route Fifty reported earlier this year there are unanswered questions about how to best measure the financial costs of deferred infrastructure maintenance among state and local governments and what it means in terms of risk for investors and taxpayers.

The Trump administration has promised an ambitious infrastructure spending package.

But details are still forthcoming. And some state and local officials are skeptical about how far it will go toward addressing what many see as a sweeping need for greater infrastructure investment.

Route Fifty

by Bill Lucia

October 6, 2017

Bill Lucia is a Senior Reporter for Government Executive's Route Fifty and is based in Washington, D.C.

[**Community Development Lenders Go Where Amazon Goes When It Needs Cash.**](#)

There are \$92 trillion in bond markets around the world. Corporations have ready access to those dollars. For example, when Amazon needed \$16 billion to acquire Whole Foods, it borrowed it through [the bond market](#).

Now, nonprofit lenders in the U.S. with a mission to make capital meet the needs of poor communities have a foothold into that world.

“When I was in the capital markets I always said, how come we aren’t investing enough here domestically,” says Lisa Jones, who works at the U.S. Treasury’s [Community Development Financial Institution \(CDFI\) Fund](#), which supports those lenders — community development financial institutions, or CDFIs — nationwide. “We can make investments all over the world, and we can assess the risk. Why can’t we assess the risk here in some of our underserved and low-income communities?”

[Continue reading.](#)

NEXT CITY

BY OSCAR PERRY ABELLO | OCTOBER 5, 2017

[Municipal Market Update.](#)

[Read the Update.](#)

Stern Brothers & Co. | Oct. 5

[Tax Battle Lines Shift in Cities and Suburbs.](#)

Local income taxes were once blamed for causing businesses to flee to the suburbs. Not anymore.

For the past 30 years, local government finance has revolved around a simple, controversial idea known as the “suburban exploitation thesis.” As the theory goes, suburbs have prospered at the expense of central cities. They’ve stolen taxpayers and businesses, and left behind hollowed-out shells of once-great communities. They benefit from unique central city amenities like parks, museums, universities and downtown business districts, but contribute nothing in exchange.

Of course, suburbanites see it differently. They pay a bevy of taxes and fees to regional entities for transit, airports, sports stadiums and other infrastructure that mostly serves central cities. And that’s to say nothing about state and federal policies that redistribute resources — some of it coming from their pockets — toward struggling central cities.

The front line of this conflict has often been local income taxes. But now, for the first time in three decades, those battle lines are shifting.

Let’s take a quick look at the numbers. Roughly 1 in 7 local governments levies a tax on income earned within their boundaries. Sometimes the tax applies to income earned within the city limits. Sometimes employers pay it based on their number of employees (also known as a “head tax” or

“commuter tax”). Sometimes it applies to income earned by city residents regardless of where they work. Local income taxes are designed to ensure that those who use city services, whether they live there or not, pay for those services.

The argument opponents of the tax make is that local income taxes have hastened the demise of central cities. Businesses are mobile and can easily relocate someplace without a local income tax. Moreover, cities have offered generous local income tax abatements and exemptions to keep employers within their borders. All this adds up to a vicious cycle where a tax meant to preserve and protect central cities has driven away jobs or lowered tax revenues. For evidence, opponents say, look no further than Cleveland, Detroit, Kansas City, Mo., and Philadelphia. All saw a huge outmigration of jobs roughly 30 years ago, shortly after they imposed a local income tax designed to keep jobs within their borders.

Yet local income taxes persist. In fact, they’re more popular than ever. Last year, voters in Kansas City and St. Louis overwhelmingly approved measures to renew their local income taxes. The Seattle City Council recently passed an income tax on the “One Percent” of residents who earn more than a half-million dollars annually. It’s also considering a modified commuter tax to fund badly needed investments in local transportation infrastructure. Los Angeles and San Francisco have both floated proposals for a local “millionaire’s tax” to fund homeless services. Columbus, Ohio, is one of several cities to retool its local income tax rather than get rid of it. The city used a system of credits and differential rates to make their tax fairer by ensuring residents pay only slightly more than nonresidents.

Meanwhile, as my colleague Scott Allard points out in his new book *Places in Need: The Changing Geography of Poverty*, there are more poor people living in suburbs today than in cities. What’s worse is that suburbs don’t have the government and nonprofit infrastructure to deliver assistance to those in need. Without the appropriate fiscal policy tools, suburbs will continue to struggle just as central cities did 30 years ago.

In other words, in many regions today we’re seeing the suburban exploitation thesis in reverse. Talent and capital are flowing back into central cities and leaving behind their suburban neighbors. That’s also why it’s no surprise that an unpopular tax like the local income tax is back in vogue. If the future is in cities, then the local income tax might become the go-to tax for the next 30 years.

Governing.com

By Justin Marlowe | Columnist

Endowed Professor of Public Finance and Civic Engagement at the Daniel J. Evans School of Public Policy & Governance at the University of Washington

Oct | 2017

[Dreyfus Bet on Tobacco Bonds Pays Off With Top Muni Fund Returns.](#)

- **Fund avoided Puerto Rico, FirstEnergy Solutions bonds**
- **Nuveen, Goldman Sachs high yield funds rounded out top three**

Dreyfus Corp.’s \$170 million high-yield municipal-bond fund is beating bigger and better-known competitors by riding a rebound in tobacco bonds while avoiding pitfalls such as Puerto Rico debt.

The fund returned 10.2 percent through the first three quarters of the year. High-yield tax-exempt funds managed by Nuveen Asset Management and Goldman Sachs Asset Management ranked second and third, respectively.

Dreyfus's fund held almost 11 percent of its portfolio in tobacco bonds at the end of July and benefited from a 18.5 percent run-up in the debt in the year's first half. Tobacco bonds rebounded after money managers dumped the securities — among the most liquid high-yield municipal bonds — to meet redemptions during the bond-market rout that erupted after President Donald Trump's victory.

Refinancings by New York City and California and moderate smoking declines have also boosted performance.

"After it became clear Trump wasn't going to enact his agenda, there was a strong tobacco rally and we were well positioned for that," said Dan Barton who co-manages the Dreyfus fund with Jeffrey Burger in Boston. "A lot of funds are looking for yield-ier alternatives to Puerto Rico."

High-yield munis returned 7.7 percent through the third quarter, three percentage points more than investment grade municipal bonds, according to Bloomberg Barclays Indexes. The sector has benefited from an imbalance in supply and demand.

Two-thirds of the \$10.5 billion investors added to the municipal market this year flowed into high-yield funds, according to Lipper U.S. Fund Flows data. Meanwhile, just \$2.5 billion unrated or speculative grade municipal bonds has been issued through the third quarter, a 50 percent decline from the same period last year, according to data compiled by Bloomberg.

"You just buy anything under the sun because you have to utilize your cash," said Mikhail Foux, head of municipal strategy in New York at Barclays Plc.

In a year full of retail bankruptcies, the deal was postponed so the underwriter, Goldman Sachs Group Inc., could drum up more buyers. Since American Dream's \$1.1 billion bonds were sold in June, prices on the longest-maturity securities have risen to 116 cents on the dollar from 103 cents.

It's "one of the last really exciting and last really cheap deals priced in the high yield area with size and liquidity in the last couple of months," said John Miller, Nuveen's co-head of fixed income.

Nuveen's \$15.6 billion high yield fund owned \$370 million American Dream bonds as of August 31. The fund returned 9.3 percent through the third quarter. Miller invested about 7.5 percent of the fund's assets in tobacco debt.

Nuveen also reaped a windfall from its bet on its hometown school district. Chicago school bonds rallied after Illinois Governor Bruce Rauner signed a measure that boosts funding to the district by an additional \$1.1 billion over the next five years. Chicago Board of Education bonds with a 7 percent coupon maturing in 2044 have returned 27 percent this year, Miller said. Nuveen owns \$263 million of the securities.

The performance of the American Dream bonds took Dreyfus, which doesn't own any, by surprise. Not so, tobacco debt, whose cash flows can be modeled assuming varying degrees of cigarette consumption declines, Barton said.

Under a 1998 national settlement, the major tobacco companies agreed to make annual payments to the states in perpetuity to resolve their liability for health-care costs attributed to smoking. Some states and cities borrowed against the payments, which are based on cigarette shipments.

Altria Group Inc., estimated that domestic cigarette industry shipment volume decreased by about 3.5 percent in the first half of 2017. Moody's Investors Service projects 80 percent of the securities won't make scheduled payments based on historical declines of 3 percent to 4 percent in U.S. smoking.

A U.S. Food and Drug Administration proposal in July to cut the amount of nicotine in cigarettes to non-addictive levels cut tobacco bond returns 0.4 percentage point in the third-quarter, a potential buying opportunity, Barton said. Tobacco companies are expected to vigorously oppose the proposal.

"Near-term, we don't see a ban of nicotine in cigarettes," Barton said.

There's also value in certain zero-coupon tobacco bonds trading at discounts of more than 50 percent to accreted value that may be refinanced, said Ben Barber, who manages Goldman Sachs Asset Management's \$5.2 billion high-yield muni fund. The fund returned 8.2 percent through the third quarter and had 8.8 percent of assets in tobacco debt at the end of August.

Nuveen stumbled on its investment in FirstEnergy Solutions, the power-generation unit of FirstEnergy Corp. The Akron-based owner of coal-fired and nuclear plants aims to exit the generation business and restructure FES's debt. Nuveen owns about \$300 million of secured and unsecured FirstEnergy Solutions bonds with a market value of \$193 million.

Dreyfus doesn't hold FirstEnergy debt or bonds issued by Puerto Rico or the U.S. Virgin Islands.

Performance is about "as much what you don't own as what you do," said Barton.

Bloomberg Markets

By Martin Z Braun

October 3, 2017, 10:21 AM PDT

[Don't Think You Own Muni Bonds? Check Your Robo Adviser Account.](#)

- **Betterment and Wealthfront are top holders of iShares muni ETF**
- **Republican proposal could unleash tax-deductible debt demand**

Financial planners have long advised individual investors to carve out some portfolio space for municipal bonds. Most likely, though, only those wealthy enough to hire an investment manager actually went out and bought any.

Well, check your portfolio. Because you just might be the proud owner of at least a slice of a muni bond, especially if you use a robo-adviser — the increasingly popular form of electronic financial guidance for individual investors.

Betterment and Wealthfront Inc., two of the most popular robo-advisers, are also two of the biggest holders of the iShares National Muni Bond ETF, ticker symbol MUB, the largest municipal bond exchange-traded fund with nearly \$9 billion in assets. Based on their June 30 filings with the Securities and Exchange Commission, Betterment owned about \$500 million of the fund and Wealthfront held about \$430 million. That makes them the second- and fourth-largest holders, respectively.

Munis appeal to the wealthy because their interest income is shielded from federal and, in most cases, state income taxes. Their importance to investors could grow if the full Republican tax plan is enacted into law, particularly the proposal that would end deductions for state and local taxes. The change could unleash demand within the tax-deductible muni bond market, particularly from investors in high-tax states like New York and New Jersey.

Bloomberg

By Brandon Kochkodin

October 4, 2017, 9:12 AM PDT

[Bloomberg Brief Weekly Video - 10/05](#)

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

[Watch video.](#)

Bloomberg

October 5th, 2017

[BDA's 2016-17 Federal Regulatory and Legislative Priorities and Accomplishments.](#)

The following issue list highlights the BDA regulatory and legislative priorities over the past twelve months and the noted accomplishments achieved through direct Hill and regulator lobbying and by utilizing the BDA membership through meetings in Washington, DC and at BDA roundtables and conferences throughout the year. Thanks to your time and efforts, the BDA continues to expand our presence and impact and thus adds more value than ever to all member firms. Please don't hesitate to contact me with any questions or comments.

Tax Reform and the Municipal Bond Tax-Exemption

After steady focus by the BDA over 8+ years, and while various tax reform proposals have been released by Congressional leaders and the administration, the tax-exemption remains out of scope and off the table - for now. Through direct federal advocacy with state and local government organizations, issuer groups and middle-market broker dealers, the BDA-led Municipal Bonds for America (MBFA) Coalition continues to be the leading voice in Washington to protect the tax-exemption for municipal bonds. The BDA and MBFA coalition will continue to ensure that the tax-exemption remains intact during the legislative process in tax reform this fall and into 2018.

FINRA Rule 4210

BDA was successful in getting FINRA and SEC to file a last-minute amendment to the rule in June 2016 that significantly expanded the "gross open position" exception from \$2.5 million to \$10

million. BDA had advocated for a more expansive gross open position limit throughout the rulemaking and the \$10 million level does expand the universe of counterparties and trades where the transfer of margin will typically not apply. In May 2016, BDA submitted amendment language at the SEC's request that would have exempted all transactions, including transactions over \$10 million, if those trades settled on the next good settlement date. While, this advocacy didn't result in the exact change BDA wanted, getting the \$10 million exemption limit is a result of direct BDA advocacy at the SEC, especially. BDA had two fly-ins at the SEC to discuss this rule with Trading and Markets and the accomplishment is the higher "gross open position limit". More recently, BDA was supportive of a delayed effective date and lobbied FINRA directly for the delay, which is a significant and valuable delay for BDA member firms who would have been challenged severely by a December 2017 effective date.

Retail Confirmation Disclosure Rules

As a result of direct engagement, including two joint meetings with MSRB and FINRA and a direct BDA Board Meeting with Robert Cook and Bob Colby at FINRA, Robert Cook specifically sought a BDA amendment recommendation for improving the rule. This proposed amendment was then subsequently sent to SEC for a discussion with Trading and Markets. The accomplishment is in the value of direct engagement in a member-engaged process that delivered a serious policy proposal to the regulators at their request.

MSRB Rule G-15 Minimum Denomination Rule

As a result of direct lobbying efforts of the BDA, the MSRB withdrew a proposed rule to amend MSRB Rule G-15 for minimum denominations (Proposed and withdrawn MSRB Rule G-49). The withdrawal of the rule took place after a BDA conversation with MSRB Counsel Mike Post that was supported by Dan Deaton from Nixon Peabody. During that call, BDA highlighted that the rule proposal and the existing G-15 framework was harming the marketplace, especially retail investors. After withdrawing the rule, the MSRB sought additional input from the BDA on conference call with BDA members. The accomplishment is that BDA advocacy resulted in the rule being withdrawn. BDA educated MSRB and they appear committed to updating G-15 in a way that would focus the minimum denomination rule on issuances with minimum authorized denominations of \$100,000 and above, removing a significant burden on the retail municipal market.

DOL Fiduciary Duty

While the rule and exemptions are extremely burdensome, BDA and dealer firms were successful in getting significant changes included in the final rule. Initially the Best Interest Contract Exemption (BIC) and the Principal Trading Exemption excluded a series of assets including municipal bonds, UITs, CDs, and mortgage securities. While municipal bonds are still excluded from the Principal Trading Exemption (PTE), the other assets are not, and the list of assets that can be recommended to retirement investors under the Best Interest Contract Exemption is now unlimited.

Review and Withdrawal of IRS Political Subdivision Rule

The IRS political subdivision rule was proposed in 2016. BDA opposed the proposal. Due to market participant feedback the rule was not approved during the Obama Presidency. The Trump Administration review IRS rule proposals in 2016 and identified the political subdivision rule as a particularly burdensome rule. BDA and MBFA wrote to the IRS confirming that the rule was burdensome, unnecessary, and would harm economic growth. Currently, the proposal is identified as a rule that should be rescinded and this is very likely to occur in the fall of 2017. IRS repeatedly identified the comments of market participants as a reason why it identified this rule as particularly

burdensome.

MSRB States Intent to not File Bank Loan Disclosure Concept Release

Although BDA is a proponent of bank loan disclosure, it opposed the MSRB's concept release on bank loan disclosure. That proposal would have required MAs to be the party responsible for making the disclosure. BDA said it would be preferable to have an amendment to 15c2-12 which would make certain bank loans subject to material event notices. The MSRB stated that due to the comments it received it would not turn the concept release into a rule filing.

SEC Proposes Amendment to 15c2-12 for Bank Loan Disclosure

BDA supports the disclosure of bank loans and the most effective way to require the disclosure of bank loans would be for the SEC to amend 15c2-12. In 2017, SEC released a proposed rule to amend 15c2-12 to require the disclosure of bank loans. This proposal is a BDA accomplishment. While the rule is not yet final, BDA has engaged in direct advocacy with the SEC prior to and after the rule proposal on the subject of bank loans.

High Quality Liquid Asset (HQLA) Legislation/Regulation

Working in tandem with state, local, and issuer groups BDA has supported the introduction and re-introduction in the House and Senate and passage through the House of legislation to define municipal bonds as HQLA in the new banking liquidity rule. Additionally, BDA has urged federal banking regulators to amend the rule to allow municipal securities to be defined as Level 2A assets. Legislation to define municipal securities as HQLA (either as 2A or 2B) has bipartisan support and is discussed as a bill with a real chance to pass into law during this current session of Congress.

Potential

SEC Fixed Income Market Structure Committee

In August, BDA recommended four candidates (Craig Noble, Brad Wings, Horace Carter, Mike Marz) for the SEC's Fixed Income Market Structure Advisory Committee. Since that time, we have contacted each SEC Commissioner and the Office of Municipal Securities.

Municipal Bonds for America (MBFA)

In 2016, the MBFA Coalition went through extensive transformation structurally to enhance its advocacy efforts in Washington and beyond. The Coalition instituted formal bylaws, which helped to improve how the coalition operates and functions. Additionally, the Executive Committee was refreshed with new and impassioned leaders, while maintaining the incoming president of the U.S. Conference of Mayors, Steve Benjamin as our Executive Chair. These actions have proved to be valuable as the Coalition continues to receive record turnout and Congressional participation through its Muni Bonds 101 seminars on Capitol Hill, meets with staff members of influence at the White House, and continues to develop and maintain its relationship with members of Congress to preserve the tax-exempt status of municipal bonds. The MBFA completed a data project in 2016 that focuses on key members of Congress on the House Ways & Means and Senate Finance Committees, which demonstrates "by the numbers," the benefits of the municipal tax-exemption in the respective district or state of the member. The MBFA also led an effort in February 2017 that saw 385 organizations and individuals sign an advocacy letter, representing nearly all 50 states, to House and Senate leaders urging them to retain the current law status of municipal bonds as they begin deliberation on comprehensive tax reform.

Op-Eds

The BDA and MBFA continue to advocate for the value of municipal bonds and the importance they add to American society through various forms, including op-eds. For example: In September 2017, BDA Board Chair Tom Dannenberg was featured in Crain's Chicago Business, commenting on the disbanded White House Advisory Council on Infrastructure and touting the essential role of municipal bonds in financing our nation's growth, which drives our economy. Also, in September 2017, MBFA Executive Chair Steve Benjamin, mayor of Columbia, SC, was featured in an article in The Hill that focused on how those faced with the devastation left behind by Hurricanes Harvey and Irma can look to the traditional bond market to rebuild stronger, smarter, and more resilient communities. In November 2016, BDA CEO Mike Nicholas contributed to an op-ed in The Hill, which highlighted the importance of tax-exempt bonds as a viable solution for project finance and was written in response to the piece, "Bonds are Taxes," that argued local governments have the capacity to pay for needed projects out of current tax revenues.

Bond Dealers of America

October 2, 2017

[New Chicago Debt Structure Wins Initial Approval.](#)

CHICAGO — A proposal by Chicago Mayor Rahm Emanuel to lower borrowing costs through a new debt structure aimed at insulating investors from the city's financial problems won approval on Thursday from the city council's finance committee.

A chronic structural budget deficit and a huge unfunded pension liability that totaled \$35.76 billion at the end of 2016 have lowered the city's general obligation (GO) credit ratings and raised its borrowing costs.

Emanuel's proposal calls for refunding up to \$3 billion of outstanding bonds, including all \$700 million of the city's sales tax revenue bonds and about \$2.3 billion of its \$9.8 billion of GO bonds, through a new corporation. That entity would be assigned all of the city's sale tax revenue collected by the state of Illinois, which totaled \$661 million in fiscal 2016, and would pledge that money to pay off the bonds. Revenue not needed for debt service would eventually flow back into city coffers.

If passed by the full city council next week, the first of four deals using the structure would be issued in late November, according to Carole Brown, Chicago's chief financial officer. That deal would total \$600 million to \$700 million.

Brown said the structure, which was authorized for home-rule Illinois governments like Chicago by the state legislature in July and used in a few other major cities, gives bond investors a statutory lien to shield the debt from municipal bankruptcy, which is currently not allowed under state law.

She added that the debt issued through the corporation should result in higher credit ratings and could lower the city's borrowing costs by 2 percentage points.

"The goal is to reduce the amount of funds going to debt service," Brown told the finance committee.

Any savings would help Chicago plug its lingering budget gap, which has been shrinking since hitting a high of \$654.7 million in fiscal 2011.

The nation's third-largest city is projecting a \$114.2 million shortfall in fiscal 2018, which begins on Jan. 1. The mayor is scheduled to release his spending plan on Oct. 18.

Fitch Ratings has said debt issued under the new structure could be rated higher than Chicago's current GO rating of BBB-minus, which is one notch above junk.

Chicago is also rated BBB-plus by S&P Global Ratings and has a junk rating of Ba1 from Moody's Investors Service.

By REUTERS

OCT. 5, 2017, 5:15 P.M. E.D.T.

(Reporting by Karen Pierog; Editing by Matthew Lewis)

[Detroit Mayor Unveils \\$125 Million Bond Plan to Aid Neighborhoods.](#)

(Reuters) - Detroit would use proceeds from a \$125 million bond issue to spruce up neighborhoods and spark the revitalization of commercial corridors, Mayor Mike Duggan proposed on Thursday.

His plan is aimed at making business districts outside of the downtown area more attractive and accessible in order to spur retail development.

"Using these bond funds, we are going to revitalize many of our neighborhood commercial corridors to create vibrant, attractive districts so Detroiters have a place to shop in their own neighborhood," Duggan said in a statement.

The bonds would be backed solely by Detroit's share of gasoline taxes and vehicle registration fees, which were increased state-wide by the Michigan Legislature in 2015. That revenue for the city is expected to grow from \$54 million in 2016 to \$95 million in 2021.

John Naglick, the city's finance director, said the bonds would be issued through the Michigan Finance Authority and privately placed with J.P. Morgan Chase in November, pending approval of the city council and the Detroit Financial Review Commission, a state oversight board created as part of the city's bankruptcy exit plan.

Naglick said the bank direct-draw term loan will generate a total interest cost of around 3 percent and annual debt service of no more than \$13 million.

In addition to the bond financing, Detroit plans to spend \$193 million of city, state and federal money to fix hundreds of miles of city roads, as well as sidewalks, over the next five years.

By REUTERS

OCT. 5, 2017, 5:27 P.M. E.D.T.

(Reporting by Karen Pierog in Chicago; Editing by Matthew Lewis)

[New York Towns' New Deal: We'll Make Your Signs, You Sweep Our Streets.](#)

HAUPPAUGE, N.Y. — In Suffolk County, officials are trying something that would be sort of a Craigslist for municipalities: an online municipal store that will allow local mayors and supervisors to save money by shopping for common services.

For example, if some towns had a robust road-resurfacing army or a graffiti-removal machine, they might be able to offer such services to smaller towns, which otherwise would have to spend far more money to replicate those services.

Suffolk County has other ideas: sharing services like recycling or youth programs; cooperative bidding on everything from uniforms to desks to asphalt.

“We make this and you make that,” said Jon Kaiman, Suffolk County’s shared-services czar. “Why don’t we work together and be more efficient?”

Across New York State, counties are coming up with ways to achieve economies of scale through municipal cooperation — a mandate last spring from Gov. Andrew M. Cuomo and state lawmakers through a so-called [Shared Services Initiative](#).

The new statute, enacted into law when the state budget passed in April, laid out a timeline by which leaders in every county outside New York City had to appoint a panel of local elected officials, brainstorm ideas for sharing services, draft a plan and hold a vote. As an incentive, the state said that in 2018, the first full year of implementation, it would match any savings the towns and counties achieved.

Nearly three dozen counties approved such plans earlier this month, for a total savings to taxpayers next year of \$220 million, state officials said. The other counties decided to punt the initiative to next year, when they will have to follow a similar timeline. If panels reject a shared-services plan, the law requires any members who cast nay votes to explain their decisions to constituents.

The goal of leaders in Albany is to reduce taxes — a formidable task, given that New York State makes up a taxable kingdom. There are county, city, town and village governments, along with school districts, each with their own budgets and taxing authority. Then there are fire districts, water districts, sewer districts, park districts and on and on.

The layers of services, and taxes, have made the tax bill an object of dread, particularly in suburbs like Westchester and Nassau, which frequently top rankings for the nation’s highest property taxes. Yet historically, the push to consolidate by regionalizing a high school, say, or merging two police departments has been anathema to many residents who are loath to even share their snowplows.

In announcing passage of the state budget, Mr. Cuomo, a Democrat, called high property taxes “the single greatest problem in this state,” pointing out that the median state income tax was \$1,800, compared to the median property tax of \$4,700. In 2011, the governor and the Legislature approved a cap on property taxes in an effort to limit the annual growth to 2 percent or the rate of inflation.

“We’ve tried attacking property taxes in all different ways,” he said. “But you need structural changes on the local and county level if you’re going to make a real difference in property taxes. This budget empowers citizens to say to their local governments, ‘Enough is enough. We need you to make structural changes and we need you to do it now.’”

The new statute stopped short of making local governments combine village halls or even municipal

departments, avoiding the unpopular term “consolidation” altogether. Nonetheless, some county officials still viewed the initiative with skepticism, even cynicism.

Steve Bellone, the Suffolk County executive, saw it as an opportunity.

A few years ago, Mr. Bellone oversaw the merger of the county comptroller and treasurer departments. “It’s human inclination to want to keep things the same,” he said. “These were two departments within county government and that was a massive challenge. So getting separate and distinct governments working together is a monumental task.”

Mr. Bellone immediately appointed Mr. Kaiman to become the shared-services czar; Mr. Kaiman, a former supervisor of North Hempstead, had managed to swap services and streamline government functions in that sprawling town, which has no fewer than 30 incorporated villages and 11 school districts.

“This wasn’t a volunteer scenario,” Mr. Bellone said from his 12th-floor office in the county government complex here. “But I viewed it as an opportunity to have leaders in our region communicate and collaborate in a way that we never have before, with the idea that positive things could come from that.”

Getting a majority of the 48 mayors, supervisors and school leaders on the shared-services panel to a yes vote was not easy, however.

In fact, in the days before the shared-services statute became law, the Suffolk County Village Officials Association passed a resolution opposing it. In a letter to Mr. Bellone, the association said the initiative “poses a serious threat to home rule, restricts village budgets and jeopardizes the ability of local municipalities to adequately govern.”

Mr. Kaiman’s first priority was to meet with mayors and town supervisors to reassure them that the state initiative was more about sharing than consolidating.

“It’s about identity,” said Mr. Kaiman, explaining the resistance. “I identify with my local school and my local village or town. People don’t want to lose that. But we can still come up with ways to benefit from our common resources, our excess capacity.”

After meeting throughout the summer, the panel drafted a plan that is projected to save a potential \$37 million over two years.

As an example, Mr. Kaiman said that if one municipality had a graffiti-cleaning truck, but only used it part of the year, officials could rent the truck to towns and villages that don’t have one. “I can call up Islip and ask to rent their graffiti truck,” he said. “Otherwise, I would have to hire some company or dedicate 10 workers to scrape off graffiti. The town with the resource is making money. The town that’s getting the resource is saving money by not going to the private sector.”

When Mr. Kaiman led North Hempstead, the town’s sign shop made 2,000 signs for local schools and governments. “Villages and schools were getting estimates of \$1,250 for one sign, so we did it for \$450,” he said.

Robert Mujica, the state budget director, praised Suffolk’s plan. “It’s robust,” he said. “They took it very seriously. They looked at not only sharing services but using technology and auditing processes to make sure the savings are there. All the things you should be doing — it looks like they did.”

State officials said that some 400 initiatives were included in the plans approved by counties this

year. In Montgomery County, changes to the way records are retained is expected to yield \$1.5 million in taxpayer savings. Nassau County's plan included more than a dozen ideas for sharing services among villages, from pothole repair to code enforcement. The initiative should save \$130 million over a number of years.

Virtually all of the savings in the Nassau plan — \$128 million — would result from the conversion of Long Beach's antiquated sewage treatment plant to a pump house, diverting the city's wastewater to a county plant.

In Suffolk, its shared-services plan was passed unanimously on Sept. 12. Mr. Kaiman believes the key to securing the panel's support was the emphasis on autonomy. In other words, no one will be forced to share or buy or barter.

"If it's not exactly the product you want, go use the local sign shop," he said. "You never lose your independent authority as a municipality. We believe in local government too. We don't believe in waste and inefficiency."

THE NEW YORK TIMES

By LISA W. FODERARO

OCT. 8, 2017

[Why Governmental Accounting and Financial Reporting Is - and Should Be - Different: GASB White Paper](#)

Read the [White Paper](#).

[NFMA Summary: GASB 87, New Governmental Lease Accounting Standards.](#)

The National Federation of Municipal Analysts has a committee to review releases and new standards from the Governmental Accounting Standards Board. They have prepared a summary of changes related to GASB 87, New Governmental Lease Accounting Standards.

To download this summary, [click here](#).

[House OKs Bill To Equalize Muni Bonds In Liquidity Rules.](#)

Law360, Washington (October 3, 2017, 6:41 PM EDT) — The U.S. House of Representatives passed a bipartisan bill Tuesday that would spread a Federal Reserve rule on the treatment of municipal securities across the financial industry.

Rep. Luke Messer's Municipal Finance Support Act of 2017, which passed on a voice vote Tuesday, would mandate that banks treat otherwise qualified municipal debt as part of their calculations of high-qualified liquid assets under the liquidity coverage rule. That corrects what Messer, R-Ind.,

called an unintended effect of the liquidity coverage rule that raised borrowing costs for municipalities and put domestic municipal securities against similar foreign municipal securities.

“Frankly, they messed up,” Messer said, referring to a prohibition on the treatment of municipal securities as high quality liquid assets.

Messer and others said the legislation is needed to correct a problem with the calculation of the liquidity coverage ratio, a measure of assets that can be easily converted into cash should a financial institution face a sudden cash crunch.

The original liquidity coverage ratio rules by the Fed and other agencies did not allow banks to include municipal securities in their measures of high-quality liquid assets over concerns that those securities would not be as easily sold as corporate debt, Treasury securities or other assets that were included.

After an outcry from municipalities, legislators and others, the Fed revisited the issue in 2016. Its final rule allowed all the banks it regulates with \$50 billion or more in assets, plus any nonbank firms designated as systemically important financial institutions, to include debt issued by local governments in their calculations.

The Federal Reserve’s final rule is similar to Messer’s bill, but the Office for the Comptroller of the Currency and the Federal Deposit Insurance Corporation did not issue updates to their 2014 rule since the Fed changed its high-qualified liquid asset calculations. The bill passed by the House Tuesday would require the regulating agencies to treat all municipal securities that would otherwise meet the rule’s HQLA qualifications the same as other financial instruments.

Rep. Bill Huizenga, R-Mich., and others said the continued exclusion of municipal securities from the liquidity coverage calculation would hurt municipalities because their otherwise high-quality securities would be less attractive to financial institutions.

“Excluding municipal securities from treatment as HQLAs will result in higher borrowing costs for municipalities in times of financial strain for state and local governments,” Huizenga said.

Rep. Maxine Waters, D-Calif., one of the Democratic backers of the bill, noted that not every town across the country would benefit from the change, but “for those who do, I think it is important for us to recognize that when we have the opportunity to come together to make borrowing easier for municipalities.”

Waters noted that the bill would correct a regulatory split for municipal securities, where the governing law would change depending on the institution.

Messer’s bill, which had Republican and Democratic backing, would also require that the Federal Reserve, the FDIC and the comptroller of the currency all issue new regulations to handle the change.

Under the new rule, qualifying municipal securities would have to be treated as at least Level 2B liquid assets, which corresponds to as much of a 50 percent “haircut” on the asset’s face value in the calculation.

A similar bill is being considered by the U.S. Senate Banking Committee.

By Michael Macagnone

-Additional reporting by Evan Weinberger. Editing by Jill Coffey.

TAX - OHIO

[McNair v. City of Brecksville](#)

Court of Appeals of Ohio, Eighth District, Cuyahoga County - August 31, 2017 - N.E.3d - 2017 WL 3774850 - 2017 -Ohio- 7401

Taxpayer brought action against city and Regional Income Tax Agency (RITA) challenging city tax ordinance reducing tax credit as unlawful.

The Court of Common Pleas granted city's and RITA's motion for judgment on the pleadings. Taxpayer appealed.

The Court of Appeals held that ordinance was validly enacted as nonemergency legislation.

City ordinance reducing tax credit for residents paying employment taxes on income earned in the city was validly enacted as nonemergency legislation, although ordinance stated that it was an emergency measure, where ordinance was read three times at three city council meetings and was approved by a vote of four council members in compliance with city charter's requirements for nonemergency legislation.

TAX - TENNESSEE

[Islamic Center of Nashville v. Tennessee](#)

United States Court of Appeals, Sixth Circuit - September 20, 2017 - F.3d - 2017 WL 4159484

Religious nonprofit organization brought action alleging that state board of equalization's denial of its application for retroactive property tax exemption violated Religious Freedom Restoration Act (RFRA), Religious Land Use and Institutionalized Persons Act (RLUIPA), Elementary and Secondary Education Act, Establishment Clause, and state law.

The United States District Court dismissed complaint, and organization appealed.

The Court of Appeals held that:

- Tax Injunction Act (TIA) barred action, and
- District court did not abuse its discretion in failing to grant organization leave to amend.

Tax Injunction Act (TIA) barred federal district court from considering religious nonprofit organization's action alleging that Tennessee Board of Equalization's assessment of property taxes while legal title to its property was being held by bank pursuant to ijara agreement violated Religious Freedom Restoration Act (RFRA), Religious Land Use and Institutionalized Persons Act (RLUIPA), Elementary and Secondary Education Act, Establishment Clause, and state law, even though organization had already paid assessed taxes, and sought only prospective injunctive and declaratory relief, where organization challenged validity of state tax statute, Tennessee law explicitly directed appeals of Board decisions to relevant chancery court, and procedures available to challenge tax in Tennessee were plain, speedy, and efficient.

District court did not abuse its discretion in failing to grant religious organization leave to amend its complaint following dismissal of its action challenging validity of state tax statute as barred by Tax Injunction Act (TIA), where organization never filed motion to amend or proposed amendment, and any anticipated amendment would likely be fruitless.

TAX - OREGON

[Witemyer v. City of Portland](#)

Supreme Court of Oregon - September 21, 2017 - P.3d - 361 Or. 854 - 2017 WL 4173473

Taxpayer filed action alleging that city's so-called "arts tax," which imposed \$35 tax on each income-earning city resident to support the arts in public schools, except for residents living in households at or below federal poverty line, violated constitutional provision prohibiting imposition of a "poll or head tax" and sought to enjoin city from collecting the tax

The Circuit Court granted summary judgment in favor of city. Taxpayer appealed. The Court of Appeals affirmed. The Supreme Court allowed review.

The Supreme Court of Oregon held that:

- Unconstitutional "poll or head tax" was one that applied uniformly, on per capita basis, without taking taxpayer's income, property, or other resources into account in any way, and
- City "arts tax" took income and household resources into account, and thus was not unconstitutional "poll or head tax."

City "arts tax," imposing \$35 tax on each resident of city who was at least 18 years old, had income of \$1,000 or more per year, and did not reside in household that was at or below federal poverty guidelines, to support the arts in public schools took income and household resources into account, and thus was not unconstitutional "poll or head tax," though income was not taken into account in determining amount of tax. Tax did not apply to individuals earning income of less than \$1,000 per year, certain types of income did not count in determining income for purposes of tax, including Social Security benefits, and federal poverty guidelines, in turn, were graduated according to size of household.

[Munis For Dotards.](#)

My friend John Mauldin is doing a great job beating the drum about the coming pension crisis (actually it has already arrived). The shortfalls in public and private pensions are staggering. Ben Bernanke and his colleagues at the Federal Reserve either didn't consider the effects of prolonged low interest rates on pension funds when they implemented their destructive policies a decade ago or didn't care or figured they had bigger problems to deal with, but the bill is coming due and cannot be paid.

The only question is how long states, cities and counties as well as the federal government can keep lying to people. According to a new report from the Pew Charitable Trusts, the shortfall in state pension and retiree healthcare benefits is now \$1.1 trillion and \$645 billion, respectively, based on 2015 data (the numbers are larger today). And remember, this comes nearly a decade into an epic bull market in stocks that lifted the value of the funds set aside to pay these benefits; imagine what

will happen when the bull market ends (which, despite reports on CNBC to the contrary, will actually happen!).

New accounting rules require states and cities to book these obligations beginning in 2018, which will significantly weaken their financial statements and likely their credit ratings if the rating agencies are paying attention (something that is always questionable). According to Pew, states had only \$48 billion in assets set aside in 2015 compared with \$693 of retiree healthcare liabilities (though they do retain their taxing authority, though it is reaching its limit in many states). If you do the math, that's a mere 6.9% of the assets needed to pay these liabilities, which is both alarming and pathetic.

Municipal bond managers may have some serious explaining to do to their clients if this moribund but important market sells off as the true state of municipal finance is revealed. The municipal bond market is notoriously illiquid and opaque. It may turn out that Meredith Whitney wasn't wrong, just early in her warning a few years ago that munis aren't as safe as they seem.

Any asset class that offers virtually no upside and significant downside needs to be looked at with a jaundiced eye. Munis are one such asset class. Based on my three decades in the credit markets, it is clear that you don't need to be a rocket scientist to manage municipal bonds. Anyone paying someone more than a couple of basis points to manage munis is paying too much.

States and municipalities count on the limited capabilities and knowledge of municipal bond managers and buyers to fund themselves (and the municipal bond underwriting business is rife with corruption. But apparently even that low bar is too much for some muni managers who are wetting themselves in excitement over an upcoming bond offering by the hopelessly corrupt and insolvent state of Illinois, whose unpaid bills to vendors ballooned to a new all-time high of more than \$16 billion (yes, that "billion" with a "b").

These managers are cheering an upcoming \$6 billion Illinois General Obligation bond deal because a recent stop-gap two-year budget deal that kicked the can down the road to nowhere led to a short-term rally in Illinois municipal bonds. We all know about short memories in the financial markets, but the memories of municipal bond managers give fruit flies a run for their money.

These dotards should stretch their little minds and try to remember how hot and bothered they got when the similarly corrupt and insolvent territory of Puerto Rico sold 8% bonds due in 2035 at a discount (93 cents on the dollar) a few years ago. I warned readers away from those bonds at the time; hopefully you listened—they were trading at 51.75 cents on the dollar on September 27.

Just as Puerto Rico had no prospect of repaying those bonds (and defaulted on them and the rest of its \$75 billion of debt), Illinois has no ability to repay this upcoming certificate of stupidity. Now, as Puerto Rico wrestles with the aftermath of Hurricane Maria, the island's bondholders are looking at even deeper losses as the board overseeing PROMESA (the acronym for the Puerto Rico Oversight, Management and Economic Stability Act that should be called NOPROMESA) decides if it can shift up to \$1 billion of funds from bondholders to emergency rebuilding measures. What politician is going to vote against that?

Nonetheless, some of the most highly regarded names in the business (by the financial media, certainly not by me) are telling investors to run out and buy Illinois' debt (or more likely rationalizing why they intend to buy it for their clients). If you are a client of one of these firms, it is not too late for you to instruct them not to put this garbage in your account or to pull your money. Nuveen Investments' co-head of fixed income John Miller claims that the state has "turnaround potential." So does Zimbabwe.

Guy Davidson, director of municipal investments at AllianceBernstein, claims that the state has “stopped the bleeding. It’s not like we think they have solved their problems. We just think they’ve stabilized their problems.” Tell that to the vendors waiting for \$16 billion of their bills to be paid (which will soon be \$17 billion, then \$18 billion—you get the picture). And Dennis Derby, a portfolio manager at Wells Fargo Asset Management, tells us that Illinois is “not under the gun as much as far as ratings go.” That’s because the gun is pointed at bondholders’ heads and all of the chambers are loaded. Not to put too fine a point on it, but these comments should freak out anyone whose money is managed by these gentlemen and their firms.

Clearly the best and the brightest are not managing municipal bond portfolios and if any of these bright lights are managing yours and buy this new Illinois bond, you are in big trouble. Illinois’ will be far from the last bankrupt municipality to sell worthless paper in the coming months and years and anyone incapable of avoiding this one is bound to throw more of your money down the rat hole if you give them a chance.

Forbes

by Michael Lewitt

Oct 5, 2017

[“TEFRA is a Four-Letter Word”](#)

The title of this post is taken from an observation that a client once made when the strictures of the notice, hearing, and approval requirements set forth in Internal Revenue Code Section 147(f), which with limited exceptions apply to all issues of tax-exempt private activity bonds, worked to prevent a hoped-for use of proceeds of a qualified private activity bond issue. These notice, hearing, and approval requirements were originally enacted as part of the Tax Equity and Fiscal Responsibility Tax Act of 1982, so the acronym “TEFRA” is commonly used in connection with these requirements. According to urban legend, the coarsest of the four-letter words is also an acronym, the components of which the esteemed etymologists Van Halen detailed in the title to the band’s triple platinum [1991 album](#).^[1]

If the application of the bureaucratic acronym has ever exasperated you to the point that you’ve uttered the vulgar one, take heart - relief is at hand. On September 28, 2017, the Treasury Department issued proposed regulations (“[Proposed Regulations](#)”) that make the TEFRA rules much more manageable and that can be used before the Proposed Regulations become final. For a summary of the Proposed Regulations, hit the jump below (or, in keeping with the Van Halen references, go ahead and jump).

[Continue Reading](#)

The Public Finance Tax Blog

By Michael Cullers on October 2, 2017

Squire Patton Boggs

Proposed TEFRA Rules Get Positive Reception from Bond Attorneys.

CHICAGO — Bond attorneys are giving proposed Tax Equity and Fiscal Responsibility Act rules a positive reception, saying the update is long overdue while suggesting some tweaks before they are finalized.

The TEFRA rules proposed Sept. 28 by Treasury and the Internal Revenue Service would update public notice and approval requirements for private activity bonds from temporary rules that were issued back in 1983.

The proposed rules take into account tax law changes that have expanded the kinds of PABs that can be issued and technological changes that have occurred since 1983 such as the Internet and electronic communications.

“They are much more flexible than what’s out there now and should save issuers a lot of money because they won’t have to publish in newspapers, which in certain states can be very expensive,” Howard Zucker of Hawkins Delafield & Wood in New York City said at the National Association of Bond Lawyers’ Bond Attorneys’ Workshop [here](#).

The proposed regulations reduce the burden of having to describe the projects to be financed with PABs in detail and also take into account the fact that mortgage revenue bonds and student loan bonds are portfolio loan financings or non-project based.

Practitioners attending the BAW said the proposed rules don’t provide enough specific advice on which websites will satisfy the public notice requirement. They also asked why Treasury didn’t defer to state law in covering other notice requirements.

Two senior Treasury Department attorneys who briefed practitioners on the new proposed TEFRA rules during three hot topics tax sessions advised them that posting the notice on the issuer’s website would satisfy the notice new requirement.

To the dismay of many attorneys who were encouraged by 2008 proposed rules that would have shortened the public notice requirement from 14 days to seven, the new proposed rules keep the 14 days.

Vicky Tsilas, supervisory general attorney at the IRS, one of the two principal authors of the new proposed rules, said 14 days for notice was retained because of criticism labor unions gave to the seven days.

“There were a lot of suspicions that this was a nefarious regulation,” Tsilas said, noting that the 2008 proposed rules came out at the end of the Bush administration. Several practitioners said that 14 days can be a difficult standard to meet. One suggested a compromise of 10 days.

Tsilas said Treasury officials welcome suggestions for improvements during the 90-day comment period.

Treasury also plans to hold a public hearing before the end of the comment period. Issuers have the option of using the new proposed rules in the interim.

Several bond attorneys suggested that Treasury should allow issuers to use the new rules for “old bonds” with respect to insubstantial and substantial deviations.

The new proposed rules allow a change of up to 10% to be considered insubstantial.

An issuer can deal with a substantial change in a bond-financed project by issuing a second public notice that covers those changes and by holding another hearing.

Brian Organ of Hawkins Delafield & Wood in San Francisco said he was particularly happy to see “the post issuance ability to TEFRA for substantial deviations.”

“On occasion issuers issue their bonds for a particular project and that project’s scope changes,” said Organ. “Another project comes up that they would like to allocate bond proceeds to. So this will allow them to do that. Under the temporary regulations, that wasn’t possible.”

Tsilas said she believes the proposed rules “provide greater flexibility to state and local governments.” She joked that her work on TEFRA dates back to the proposed 2008 rules that were issued when she was pregnant with her son, who is now 10 years old.

Christie Martin of Minz Levin in Boston, a panelist for the tax hot topic sessions, said the attorneys in the audience were “generally happy” about the update.

“I think there are some things that need to be ironed out,” Martin said. “A couple of questions people have raised are ripe for comment projects. But on the whole I think they are a good step forward and a good modernization.”

The new rules have been proposed to implement the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA), which first imposed the public notice and approval requirements for PABs. At that time the only PABs existed were industrial development bonds.

The Tax Reform Act of 1986 greatly expanded the types of projects and financings for which PABs could be used to mortgage revenue bonds, qualified student loan bonds, and qualified 501(c)(3) bonds.

BY SOURCEMEDIA | MUNICIPAL | 10/06/17 07:09 PM EDT

By Brian Tumulty

[IRS Publishes Revised Proposed TEFRA Public Notice, Hearing and Approval Regulations: Hawkins Advisory](#)

On September 28, 2017, revised proposed regulations addressing the guidelines for the TEFRA Public Notice, Hearing and Approval process were published in the Federal Register. Attached is a Hawkins Advisory discussing these revised proposed regulations.

[Read the Advisory.](#)

[Treasury Department Formally Withdraws Political Subdivision Rule Proposal.](#)

On October 4, the Treasury Department announced that it is formally withdrawing a rule proposal issued last year to redefine “political subdivision” for the purpose of determining eligibility to issue

tax-exempt bonds. The withdrawal means that the current political subdivision definition will remain in effect. The action comes in response to President Trump's executive order, from earlier this year, directing Treasury to review tax regulations and identify regulatory initiatives that are overly burdensome and inefficient.

Michael Decker, managing director and co-head of SIFMA's municipal securities division said in a statement to The Bond Buyer, "SIFMA commends the Treasury Department for withdrawing its proposal related to the definition of political subdivision. That change would have excluded important local issuers from accessing the tax-exempt market, imposed undue requirements on issuers who would have remained eligible, and raised the cost of financing infrastructure."

[Treasury Department Press Release](#)

[NABL: Treasury to Withdraw Political Subdivision Regs.](#)

The Treasury Department released a report today with its planned actions concerning the eight tax regulations identified earlier this year as imposing an undue burden, including the proposed definition of political subdivisions. Treasury will withdraw the proposed political subdivision regulations in their entirety.

Treasury and the IRS now believe that because of the far-reaching impact on existing legal structures the proposed regulations would have had, they are not justified. However, the Treasury and IRS continue to believe that some enhanced standards for qualifying as a political subdivision may be appropriate. Thus while Treasury and the IRS will continue to study the legal issues relating to political subdivisions, Treasury and the IRS currently believe that the proposed regulations should be withdrawn in their entirety, and plan to publish a withdrawal of the proposed regulations shortly in the Federal Register. Treasury and the IRS may propose more targeted guidance in the future after further study of the relevant legal issues.

You may find the link to the report [here](#) and to Treasury's press release [here](#).

[When Underfunded Pensions Become Debt.](#)

With concerns about the sustainability of states' underfunded pensions growing, and with "\$70 billion in US municipal bonds across our asset management business" analysts at JP Morgan have set out to try and determine the riskiest states to invest in.

The findings of this analysis were published in a report last week, which ranked the 20 most risky cities and eight most risky counties by credit profile. On average, while a few states have very large debts relative to their revenues, many are in decent shape.

However, in general, US cities and counties have substantially more debt relative to their revenues than US states. While most have several years to undertake remediation measures, some "very difficult choices will be required in order for them to meet all of their future obligations."

What's of more concern to investors is the fact that, according to JP Morgan, when rare municipal bankruptcies do occur, bondholders have "usually received lower recoveries than pensioners."

When underfunded pensions become debt

JP Morgan's analysts point out in the report that cities' debt is not just limited to interest-paying bonds. Debt also includes unfunded obligations related to "pensions and retiree healthcare along with bonds, leases and other obligations supported by each municipality's general account."

Interestingly, when all of these factors are added in, bonds and leases only represent around one-third of the total debt of US cities and counties.

[Continue reading.](#)

ValueWalk

by Rupert Hargreaves

October 9, 2017

[Pension Math: Public Pension Spending and Service Crowd Out in California, 2003-2030](#)

[Pension Math: Public Pension Spending and Service Crowd Out in California, 2003-2030](#)

by Joe Nation, Ph.D

October 2, 2017

Stanford Institute for Economic Policy Research

[On Infrastructure, Now What? Trump's Sudden Turn Away from Public-Private Model Brings Uncertainty.](#)

Advocates for increased spending on the nation's roads, bridges, tunnels and other infrastructure programs are considering ways to move forward after President Trump unexpectedly rejected using private money to pay for the federal program.

Trump's policy shift is significant for an administration that spent the last nine months advocating private investment as the linchpin to generating \$1 trillion in infrastructure spending.

Trump told members of the House Ways and Means Committee last week that he no longer favored private investment — also known as P3s — and was focused more on using money directly from the treasury to pay for the program, according to Rep. Brian Higgins, who was in the private meeting. "He said that they were more trouble than they were worth," recounted Higgins, a Democrat from New York.

A White House official confirmed Trump's reversal, saying private financing is "certainly not the silver bullet for all our nation's infrastructure problems." The administration wouldn't make anybody available to explain the change or the timing.

The uncertainty around Trump's infrastructure plan is frustrating private investors and fund managers who were hoping for opportunities to deploy a record amount of money raised for building projects in North America — \$68 billion so far this year, according to one analysis. White House officials have been advocating the use of private investment, believing that private money could get projects done faster than traditional government financing.

Public-private partnerships allow states and local governments to enter into a contract with a private investor to either renovate an existing project or build a new one. In exchange, the private entity could collect user fees like tolls or collect regular payments from the government.

Another idea pushed by the White House — called asset recycling — would have provided federal incentives to government entities that were willing to sell existing projects to private investors and then use the proceeds of the sale to build new projects.

White House officials have been pitching both ideas to transportation officials, state and city leaders and construction firms over the past few months. State and city leaders have been reluctant to embrace any ideas because of scarcity of details from the administration.

Higgins said Trump's comments came in response to his question about whether Trump would be willing to cut the tax on corporate profits kept overseas and then use the additional tax dollars to pay for infrastructure. The congressman said Trump replied that he wasn't interested in using those funds for infrastructure, adding that he needed direct federal investment for infrastructure because P3s "don't work." He said Trump pointed to Vice President Mike Pence — the former governor of Indiana — and said P3s weren't successful in that state.

"The revelation that he was rejecting public-private partnerships toward a direct federal expenditure was very, very clear," Higgins said. "It was something that he offered, not something that was implied. It was very explicit."

Higgins said he does not support public-private partnerships. He'd rather see federal borrowing or increasing the federal gas tax to help pay for the nation's infrastructure needs. Nine months into his presidency, Trump's apparent abandonment of the model has created yet another level of uncertainty for groups pushing to build new projects across the U.S. and for the investors who have lined up tens of billions of dollars. The American Society of Civil Engineers says there's a national need to fix the nation's infrastructure. The group has given the system, including the nation's roads, bridges, tunnels and sewer lines, a grade of a D+.

Most states, however, aren't changing their approach to infrastructure planning in response to Trump's recent comments.

Colorado officials are even thinking further ahead because it's one of few states that has already tapped private financing for road and bridge projects.

"What we need are funding solutions, not financing solutions," said Shailen Bhatt, executive director of the Colorado Department of Transportation. He wants to increase federal funding for road and bridge projects because Colorado is facing a \$1 billion a year shortfall to maintain and build new transportation projects.

He said Trump's initial plans for private funding would have helped Colorado accelerate one or two bigger projects in his state but "it doesn't solve our transportation funding need."

One obvious mechanism for the federal government to raise money to spend on infrastructure is the gas tax, which was last increased in 1993 to 18.4 cents per gallon.

Trump's budget calls for \$200 billion in federal funding with the hopes of creating \$1 trillion of total infrastructure spending. The president and several members of his cabinet point out that private investors — via public pension funds, sovereign wealth funds and private equity — have billions lined up to finance projects.

But an APM Reports [analysis of more than 500 projects](#) submitted last winter to the White House shows that only a small percentage are being considered for private investment. The analysis also found the bulk of the projects considered for private financing are [located in urban areas](#).

The appetite for the private financing of public works projects has received significant pushback in recent years. The Texas Legislature defeated a measure that would have allowed for an expansion to private financing for road projects after receiving citizen pushback over an increase in toll roads. A privately financed road project in southwest Indiana is also facing significant delays. And rural lawmakers have worried that projects in their areas will attract less interest from the private sector because there isn't the population to pay for the projects through user fees like tolls.

Trump advocated for increased private investment during the 2016 presidential campaign. He's also hired infrastructure investment consultant D.J. Gribbin to lead the program. Gribbin worked at two firms that pushed private investment, Macquarie Group and HDR.

Todd Herberghs, executive director of the National Council for Public-Private Partnerships, said the administration has not released a specific plan so it isn't certain whether Trump has completely ruled out private financing or will use it in a more limited role.

Herberghs said he'll continue to remind the Trump Administration and Congress that privatization should be another option. "The current way of doing things isn't working as well as it potentially could," he said. "As an industry, we just want public entities — whether they be federal, state or local — to use (private investment) as an option."

Critics of privatization also say they aren't convinced Trump has completely ruled out including investors.

Donald Cohen, executive director of the union-backed organization In the Public Interest, said he thinks Trump will reconsider after realizing Republican party leaders don't support a gas tax hike or increased borrowing. "It's pretty challenging to do what they say they want to do, meaning \$1 trillion of infrastructure spending without using private capital, if they can't get the Congress to actually spend real money," he said.

Construction firms and investment advisers are also waiting to see whether Trump's plan has any movement.

Tom Carr from data analysis firm Preqin — which estimated the \$68 billion raised this year — points to the Blackstone Group as an example of a firm eager to invest money from a \$40 billion fund it has built.

Stocks in the building sector skyrocketed after Election Day but trended down after Trump and Congress put the issue on the back burner of the legislative agenda.

Kathrin Heitmann, a senior analyst for Moody's Investors Service, says Trump's recent statements as to his overall plans remain unclear.

In July, Moody's said it was unlikely that an infrastructure plan would be passed into law this year and that funds wouldn't be released until 2020. Heitmann's report also found that there's been little

political support for private investment on the state and local level. She said without knowing how much money the Trump Administration plans to commit and where the other funding would come from, she's not changing her outlook.

"Not having an infrastructure bill from the federal administration creates uncertainty for investors," she said. "And uncertainty is never good for the private investor."

By Tom Scheck, APM Reports

October 05, 2017 | 5:42 PM

[Puerto Rico Was the Muni Bond Bloodbath That Wasn't.](#)

- **Island's debt saw more customer buying than selling Wednesday**
- **Benchmark 8% G.O. hit low in morning, rose thereafter**

The \$3.8 trillion municipal-bond market suffered an existential threat Wednesday after President Donald Trump's comments on wiping out Puerto Rico's debt. On the face of it, the island's benchmark bond plunged to a new low as investors panicked, but what really happened was that people lined up to buy Puerto Rico.

There were, quantitatively speaking, twice the number of buyers than sellers, of Puerto Rico's benchmark security, the 8 percent general obligation bonds.

At 8:13, prices had already declined to the 30s. That is, dealers had marked down Puerto Rico GOs, and sold a \$1 million lot to a customer at 34 cents on the dollar. At 8:25, someone bought a \$2 million lot at 35.

At 8:39, fourth trade of the day, a dealer bought \$5 million of Puerto Rico GOs at 32 cents on the dollar. Trading proceeded in an orderly fashion from then on, with prices in the 30s. At 9:16, a dealer purchased \$475,000 worth of the Puerto Rico GOs at a price of 30.25. This was the low price of the day. At, again, 9:16.

What happened after that? Of the 105 trades listed for the day, 49 were sales to customers; 30 were interdealer. This means, the entire grand narrative of the market selloff turns on 25 trades where dealers purchased bonds from customers.

You can only tell so much from the Municipal Securities Rulemaking Board's trade reports. Blocks larger than \$5 million are listed only as "5MM+." These were presumably the "smart" investors, including hedge funds, distressed debt buyers and mutual funds who had finally, we were told, decided to throw in the towel.

Even there, however, the narrative isn't so clear. Yes, there were five transactions of 5MM+, where an investor sold bonds. But there were seven transactions where investors bought blocks of more than \$5 million.

In total, as municipal credit strategist Eric Kazatsky of Bloomberg Intelligence pointed out in his note today, of the \$773 million of Puerto Rico bonds that changed hands yesterday — not just GOs — customers bought \$391 million and sold \$298 million. That doesn't strike me as a "bloodbath."

Bloomberg Markets

By Joe Mysak

October 5, 2017, 7:00 AM PDT

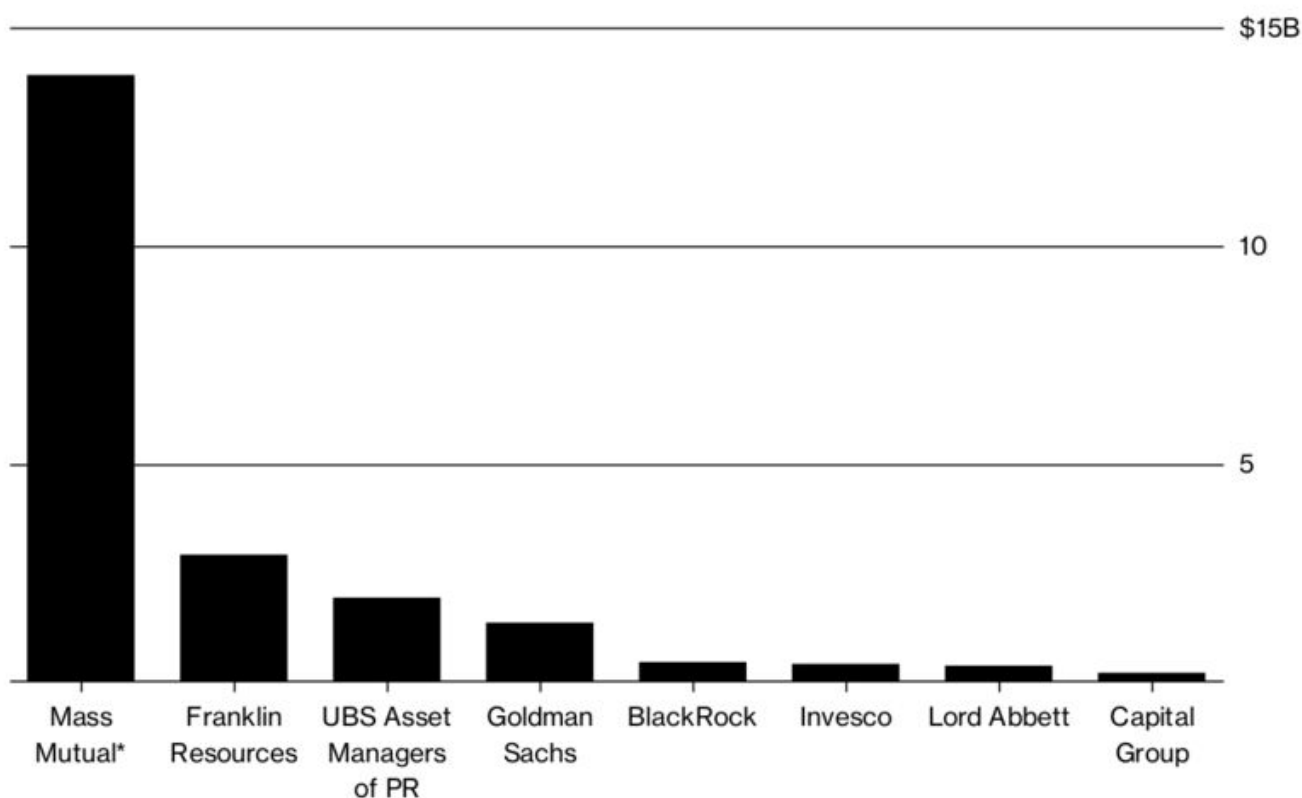
[Here Are the Top-Eight Holders of Puerto Rican Debt.](#)

Mass Mutual's OppenheimerFunds, Franklin Resources are among the island's biggest institutional creditors

Who Holds Puerto Rican Debt?

U.S. mutual funds are among the commonwealth's biggest institutional creditors

■ Amount held



*Mass Mutual is the parent company of OppenheimerFunds, whose municipal-bond funds oversee the bulk of debt shown.

Note: Based on face value at maturity; excludes derivatives, insured and refunded bonds

Data: Bloomberg, public filings; graphic by Bloomberg Businessweek

OppenheimerFunds Inc.'s municipal bond-fund holders might not want to check their share prices tomorrow. The OppenheimerFunds Rochester Fund Municipals and other funds overseen by the asset manager, a unit of Massachusetts Mutual Life Insurance Co., represent the biggest institutional holdings of Puerto Rican debt. At \$13.9 billion, including the \$2.13 million owned by Mass Mutual, the debt is 58 percent of the uninsured, unrefunded \$24.2 billion of publicly reported holdings in the bankrupt commonwealth's bonds by asset managers. Prices on Puerto Rico's general obligation bonds, which were already trading at about 50 cents on the dollar before the devastation

wrought by Hurricane Maria, plunged to a record low of 32 cents Wednesday morning after President Donald Trump suggested the island's \$74 billion debt needs to be wiped out.

Bloomberg Businessweek

By Nancy Moran and Martin Z Braun

October 4, 2017, 9:39 AM PDT

[Puerto Rico's Human Catastrophe is Hedge Funds' Inhuman Nightmare.](#)

But the recovery may allow the hedgies a chance at redemption.

Amid Donald Trump's most brain-dead tweets about the humanitarian crisis in Puerto Rico was one implying that he would have more sympathy for the gut-wrenching events there if the various debtors on the island had repaid the \$70 billion they owe creditors, many of which are American hedge-fund managers. "Texas & Florida are doing great but Puerto Rico, which was already suffering from broken infrastructure & massive debt, is in deep trouble," he wrote. "Much of the Island was destroyed, with billions of dollars owed to Wall Street and the banks which, sadly, must be dealt with." Water, food, and medical supplies, he added, are "top priorities." But the first two-thirds of his statement showed that it was Wall Street on his mind.

As usual, Trump's Twitter storm was beyond contemptible for all the obvious reasons. It was also obscene for the less obvious reasons that Trump himself knows well what it's like to stiff creditors bigly, since he made a habit of doing it regularly with properties such as his casinos in Atlantic City, the Plaza Hotel, and the Trump Shuttle. Companies he owned, or managed, left creditors holding the bag for billions of dollars. Closer to home in Puerto Rico, in 2008, Trump had a big hand in causing the government to lose its \$33 million investment in a golf resort when a licensing and management arrangement with the Trump Organization fell apart. Not for nothing did Lin-Manuel Miranda tweet to Trump, "You're going straight to hell, no long lines for you."

Back in the real world, the people of Puerto Rico—American citizens all—are experiencing unparalleled devastation, nearly two weeks after Maria hit. Many still have no power, no food, no water, and no way to communicate their needs. It is a moment for the American government and the American people to show their compassion and support for their fellow citizens, just as they did for the people of Houston and in Florida. There is nothing to debate.

But let me digress for one moment to discuss the fate of Puerto Rico's creditors, the ones various entities on the island owe \$70 billion. No one should feel terribly sorry for them. They are big boys, so to speak. They more or less knew what they were getting themselves into when they decided to invest in the island. There was plenty of risk, and they knew it and were hoping to be paid to take that risk. They bet wrong and will lose billions. Indeed, this was already pretty much the case before Maria hit the island. It's a near certainty now. One former Wall Street banker who has followed the Puerto Rico financial saga told me that he thinks much of the \$50 billion of debt owed generally by the island will get wiped out now.

Then there is the Puerto Rico Electric Power Authority, known as PREPA, which owes \$9 billion to creditors comprised of hedge funds such as Blue Mountain Capital, and bond funds managed by Oppenheimer and Franklin Templeton. Other large creditors include Assured Guaranty and The National Public Finance Guarantee Corporation, an indirect subsidiary of the insurer MBIA, Inc.,

which essentially will have to make up the difference between what some bond holders get from PREPA in a restructuring and 100 cents on the dollar. Before Maria hit the island, these creditors had negotiated a deal with the company where they were to get around 75 cents on the dollar, in present value terms, for their bonds as part of a restructuring that would have required them to invest capital into PREPA to upgrade its physical plant and its power grid. That deal was scuttled, though, by the oversight board on the island created by the June 2016 passage of the Puerto Rico Oversight, Management, and Economic Stability Act, known as PROMESA. In rejecting the deal between PREPA and its creditors, the PROMESA oversight board correctly decided that the deal was too generous to creditors and too much of a future burden on PREPA's customers. In July, PREPA filed for bankruptcy.

The two sides were back at the negotiating table when Maria hit. And things weren't going that well for the creditors, having had the judge in the bankruptcy case rule against them in appointing a receiver and in forcing a rate increase. (The creditors are appealing both rulings.) Now, the PREPA bonds are trading around 35 cents on the dollar, and are probably on their way to zero or something close to it. As we have heard repeatedly in the past few weeks, the island's electric grid has been all but wiped out. It was already in terrible need of a long neglected and overdue upgrade, but now it appears the company has the chance—indeed will have little choice—but to rebuild from scratch. That could mean anything from solar power or wind power to a new version of the old power system with more efficient components.

This, it seems to me, is where the deep-pocketed creditors come in. Their only chance for a decent recovery on their \$9 billion of debt is if the company's power lines are rebuilt in a state-of-the-art way so that the current rate of 21 cents per kilowatt hour paid by PREPA's customers can be lowered to something more affordable. Lower rates would probably lead to higher usage and help the island achieve some semblance of an economic recovery. The choice is stark for PREPA's hedge fund, mutual fund, and bond insurance creditors. Either face nearly a wipe out, save for whatever money makes its way to PREPA from FEMA, or step up and invest serious money into the redesign and recovery of PREPA's power grid, giving them a shot at a total recovery down the road. So far, the PREPA creditors have gambled and lost.

But they might be beginning to get some religion. According to Reuters, in recent days, PREPA creditors have offered the utility a new \$1 billion loan and a discount on a portion of its existing debt. The new loan would help PREPA do its part to enable it to get FEMA funds of at least \$3 billion, and possibly as much as \$9 billion. That kind of money would allow for a rebuild of the power grid and a chance for creditors to get a recovery. The new \$1 billion from creditors would have a priority over the debt owed to other creditors and would need to be approved by the bankruptcy judge. The creditors might also think about working closely with new outside investors—for instance the Blackstone Group has a new \$20 billion or so infrastructure fund that might find PREPA an interesting opportunity—or a private utility on the mainland to rebuild PREPA to upgrade its physical plant and lower its costs.

At this particular moment, there's no reason to feel sorry for PREPA's creditors, especially when thousands of human lives still remain at risk on the island in the wake of Maria. But the dire straits for PREPA and its creditors leave them little choice but to stop bickering and to propose a restructuring plan—either alone or with new outside investors—that gets the utility into the 21st century and gives the creditors a viable chance to get more of their money back. Anything less does a terrible disservice to millions of people already suffering enough.

VANITY FAIR

BY WILLIAM D. COHAN

[Four Considerations for Infrastructure Policy.](#)

Statement before the New Democrat Coalition 21st Century Infrastructure Task Force

Tracy Gordon, a senior fellow at the Urban Institute and the Urban-Brookings Tax Policy Center, spoke before the New Democrat Coalition 21st Century Task Force on October 4, 2017. She shared four things that Congress may want to keep in mind when considering changes to infrastructure policy.

[Continue reading.](#)

The Urban Institute

Tracy Gordon

October 4, 2017

[Trump Wants Puerto Rico Debt Handled in Court, White House Says.](#)

- **Resolution should follow existing process, Sanders says**
- **Trump had said in interview island's debt should be wiped out**

President Donald Trump wants Puerto Rico's \$74 billion debt to be addressed through the bankruptcy process established under a law passed last year, White House press secretary Sarah Huckabee Sanders said, not eliminated, as he suggested in a television interview.

"There's a process for how to deal with Puerto Rico's debt. It will have to go through that process to have a lasting recovery and growth. This is a process that was put in place and set up under Obama," Sanders told reporters at the White House on Thursday. "The president wants it to go through that process, and that's the stage we're at on that."

Her remarks were another attempt by administration officials to clarify Trump's intentions regarding the territory's debt after he rattled the \$3.8 trillion municipal bond market on Tuesday with an interview suggesting he wanted the debt eliminated.

"We have to look at their whole debt structure," Trump said in a Fox News interview. "They owe a lot of money to your friends on Wall Street. We're going to have to wipe that out. That's going to have to be — you know, you can say goodbye to that. I don't know if it's Goldman Sachs but whoever it is, you can wave goodbye to that."

White House officials quickly sought to walk back the statement. Trump's budget director, Mick Mulvaney, said Wednesday morning — as Puerto Rico's bond prices sunk to a record low — not to take Trump literally.

"I think what you heard the president say is that Puerto Rico is going to have to figure out a way to solve its debt problem," Mulvaney said.

The price of Puerto Rico bonds rallied after Mulvaney's comments and were little-changed on Thursday, steadying after the rout triggered by Trump's remarks. Its general-obligation bonds due in 2035, one of the most actively traded securities, changed hands for about 38 cents on the dollar, roughly where the price closed on Wednesday.

Trump's remarks on the debt stirred calls from Democratic lawmakers for new steps to ease the commonwealth's financial situation in the wake of the devastation caused by Hurricane Maria. In addition to its existing debt load, Puerto Rico is facing a massive rebuilding effort that the its federal oversight board says could cost \$95 billion.

Senator Chuck Schumer, the Democratic leader in the chamber, said Wednesday that Puerto Rico needs "a far fairer solution" to its debt burden. Schumer's House counterpart, Representative Nancy Pelosi of California, joined calls for the Treasury Department to extend a loan to help Puerto Rico in the short term, as the administration and Congress seek to aid the U.S. territory in rebuilding.

Trump's statement may have been a needed jolt for Puerto Rico's bond market, said Matt Fabian, a partner with Municipal Market Analytics.

"Prices should have gone lower after the hurricane than they did, so the president's statement, however ill-tempered, maybe did help," Fabian said. "Maybe this is helping the market wake up to the fact that prospects are diminished post-storm."

The island began a bankruptcy-like proceeding in May to restructure its debt, the largest such process in this history of the U.S. municipal bond market. The island's debt service payments have been on hold while it restructures its obligations in court.

Even before the storm, Puerto Rico said it could only pay a fraction of what it owed its creditors. The island's fiscal plan, approved by the federally appointed oversight board with broad control over the commonwealth's finances, allocated an average of about \$800 million annually to bondholders over the next decade of the more than \$3 billion it owed each year.

Hurricane Maria's devastation of the island casts doubt that it will be able to afford the payments in the near term given government funds will likely be spent on the recovery. Tax collection has also been disrupted, local officials say.

Hedge funds aren't the only holders of the island's debt: billions of dollars worth of Puerto Rico's bonds are held by local residents, many of whom are retirees. Bonistas Del Patio, or backyard bondholders, a group that represents the interests of local investors, said in a statement that forgiving the commonwealth's debt would not only wipe out these residents' portfolios, but may also impede the island's economic growth as it recovers from the storms.

Bloomberg Politics

By Justin Sink, Toluse Olorunnipa, and Rebecca Spalding

October 5, 2017

— *With assistance by Erik Wasson*

Debt Alone Won't Crush Puerto Rico. Depopulation Is the Curse.

Erasing the island's bond obligations would not be sufficient, if migration continues.

The trend lines in Puerto Rico are going only one way. Photographer: Xavier Garcia/Bloomberg
“They owe a lot of money to your friends on Wall Street,” Donald Trump told Geraldo Rivera. “We’re going to have to wipe that out. That’s going to have to be — you know, you can say goodbye to that. I don’t know if it’s Goldman Sachs but whoever it is, you can wave goodbye to that.”

Bond markets didn’t appreciate the verbal wave. The territory’s bonds, already weak from the pounding of Hurricane Maria, fell another 31 percent. White House budget director Mick Mulvaney hastened to say the president didn’t mean what he said. “I wouldn’t take it word for word with that,” he said demurely. Nor should you; as debt expert Cate Long told CNN Money, “Trump does not have the ability to wave a magic wand and wipe out the debt.”

Yet the fact remains that Puerto Rico is not going to be able to pay all of its debts. Prior to the hurricane, the territory had \$73 billion in outstanding debt, and a population of 3.4 million people. That’s approximately \$21,500 for every man, woman and child on the island – just about enough to buy each of them a brand new Mini Cooper, provided that they don’t insist on the sport package or the heated seats.

Puerto Rico couldn’t afford to buy 3.4 million Mini Coopers before; they certainly can’t now that Maria has washed out so many roads. Even before the hurricane, Puerto Rico’s GDP was around \$100 billion, meaning that repaying its debt would consume nearly nine months of everything the island earned. And while there will probably be a brief bump in economic activity as disaster relief funds pour in and the destruction is cleared away, over the long term the hurricane represents a huge setback: businesses destroyed, people killed or injured, funds that could be generating economic growth instead diverted to simply replacing what has been lost.

So whatever President Trump does, or does not do, investors in Puerto Rican bonds are going to have to take a substantial haircut. The problem is, we’re not going to wipe out the debt entirely. And even if we could, it wouldn’t be enough to get Puerto Rico back to economic or fiscal health.

“If it’s that bad,” you may be thinking, “surely we ought to simply wipe out the debt holders? After all, they’re investment professionals. They can afford to take the loss; ordinary Puerto Ricans can’t.” The problem is that most of the folks holding Puerto Rico’s debt aren’t vulture hedge funds sitting on wads of ill-gotten gains; the overwhelming majority of the debt is held by ordinary folks who buy bonds or bond funds. Like, say, your parents. Or maybe you. And also, a lot of Puerto Ricans, who would be hit very hard if the value of their investments were wiped out.

That’s because Puerto Rican debt was doubly attractive to the prospective investor. It offered relatively high yields at time when interest rates were rock-bottom, and it was “triple exempt”: you didn’t have to pay federal, state or local taxes on the interest income. This allowed Puerto Rico to wildly overborrow its actual fiscal capacity to repay the debt.

And why was the government borrowing so much? For one thing, because the government doesn’t work very well. The operations of the Puerto Rico Electric Power Authority, for example, defy belief: It essentially gave unlimited free power to municipalities and government-owned entities, which used it to do things like operate skating rinks in the tropics. Everywhere you look, you see signs of a government struggling to perform basic tasks: collect taxes, maintain the infrastructure, improve the health system. In the jargon of development economists, the island lacks “state capacity”: It is simply unable to exert the amount of power over its operations that we on the mainland mostly take

for granted.

But you can't entirely blame the Puerto Rican government for the state of the underlying economy, which is what had plunged the island into a bankruptcy crisis even before the hurricane. For that you have to look to the federal government, which eliminated a tax break that had given companies incentives to locate in Puerto Rico, and then oversaw a financial crisis that sent them into an even deeper spiral. We also made sure that a relatively poor island was forced to adopt the federal minimum wage, which was too high for the local labor market. That has contributed to the 11.5 percent unemployment rate. And Puerto Rico uses the U.S. dollar, leaving it unable to adjust monetary policy to overcome economic stagnation.

None of those things will change just because we wipe out the bondholders. And the bondholders are not Puerto Rico's only creditors; it has an unfunded pension liability of roughly \$50 billion. Covering the current liability will consume more 20 percent of the budget.

That figure will only grow, because the biggest problem of all is Puerto Rico's rapid demographic decline. There has long been a steady migration from Puerto Rico to the mainland. By 2008, there were more Puerto Ricans in the rest of the U.S. than there were in Puerto Rico. But the economic crisis has accelerated that flow to staggering levels. Worse still, the flow is selective: young families, professionals and skilled workers migrate in search of better opportunity, while the old and the dependent stay home. In just one year, 2014, almost 3.5 percent of the young adult population migrated.

Undoubtedly, the hurricane will make this worse. Some businesses will never reopen, and workers will start looking across the water. Some people will decide it's easier to move elsewhere and start over than to rebuild their destroyed home. A look at the experience of New Orleans after Katrina is instructive: Between the 2000 and 2010 censuses, the city lost 30 percent of its population.

As people move, the effect won't only be economic. The debt burden will stay the same size, but it will be spread over fewer and fewer people. The same will happen to all the other fixed expenses of the government — things that also cannot be easily ordered away by a president, or a court: the pension bill, the roads, the hospitals and airports. Whatever happens with Puerto Rico's debt, the Wall Street bankers will probably be fine. But unless we find a way to help the territory reverse these catastrophic trends, Puerto Rico will not.

Bloomberg View

By Megan McArdle

October 6, 2017, 7:00 AM PDT

Megan McArdle is a Bloomberg View columnist. She wrote for the Daily Beast, Newsweek, the Atlantic and the Economist and founded the blog Asymmetrical Information. She is the author of “The Up Side of Down: Why Failing Well Is the Key to Success.”

This column does not necessarily reflect the opinion of the editorial board or Bloomberg LP and its owners.

[Trump Could Push the Justice Department Into Puerto Rico's Debt Fight.](#)

- **Instead of a bailout, Trump could try to join court battle**
- **Island's status as a U.S. territory may provide an opening**

After President Donald Trump said Puerto Rico's debt will be wiped out, White House officials rushed to rule out any U.S. bailout of bondholders, who lent the commonwealth about \$74 billion.

But Trump, who used bankruptcy to restructure billions owed by his former businesses, has other ways to insert the federal government into one of the most complicated insolvency cases ever filed in a U.S. court.

He could order the U.S. Justice Department to defend the 2016 federal law that Puerto Rico is trying to use to slash its debt and about \$49 billion in pension obligations. Bondholder Aurelius Investments LLC is trying to have that law, known as Promesa, declared unconstitutional, which would throw the restructuring into chaos.

But he has to move soon. The judge overseeing the Title III bankruptcy case has given the justice department a Nov. 6 deadline to decide whether to defend the constitutionality of Promesa, or leave the job to a federal oversight board.

Another option: the Justice Department becomes a party to the bankruptcy, which would give the White House the chance to directly influence a final restructuring plan of the island's debt load and what Wall Street creditors get repaid. That plan will be put together by the federal oversight board, which is responsible for prosecuting the bankruptcy case and was appointed before Trump got elected.

Dynamic Uncertainty

In any event, bringing the U.S. into the fray would make a difficult case even more complicated, bankruptcy experts say.

"You don't need any more dynamic uncertainty," said James Spiotto, managing director at Chicago-based Chapman Strategic Advisors LLC, whose firm advises on municipal restructurings.

In order to get into the case, the Department of Justice would need permission from the judge overseeing the bankruptcy, U.S. District Court Judge Laura Taylor Swain. To do that, lawyers could point to the fact that because Puerto Rico is a territory, not a state, it's considered property of the U.S. under the constitution.

"That could give Trump the opening to become a party and get involved," said Bruce Markell, a professor at Northwestern University School of Law and a retired bankruptcy judge.

Creditor Benefit?

Even if Trump did push the U.S. into a direct role in Puerto Rico's bankruptcy, he would have to abide by the same rules as any creditor or other participant, Spiotto said. The oversight board would still be in charge of proposing a debt-adjustment plan and the judge would still have the final say over whether that plan is approved.

Being a party to the case would simply mean that the U.S. could participate in hearings and file motions supporting or opposing any of the dozens of legal fights that will need to be resolved before Puerto Rico can exit bankruptcy.

Outside of the bankruptcy case, Trump can't do much to help Puerto Rico eliminate its debt, said

Richard Cooper, a restructuring lawyer with Cleary Gottlieb Steen & Hamilton LLP, which until earlier this year had been advising Puerto Rico on its debt troubles.

“Other than using his bully pulpit power or seeking to amend Promesa in a manner that seems to favor the government or the oversight board, there isn’t much the U.S. government can do to eliminate or reduce Puerto Rico’s debt stock,” Cooper said.

Inside the case, there is a risk that dragging the U.S. into a direct role could be used by creditors to their benefit, Spiotto said. Creative bankruptcy lawyers could “try to argue that the debts of Puerto Rico should be debts of the federal government.”

The case is *In re Commonwealth of Puerto Rico*, 17-03283, U.S. District Court, District of Puerto Rico (San Juan).

Bloomberg Politics

By Steven Church

October 5, 2017, 5:30 AM PDT October 5, 2017, 6:23 AM PDT

— With assistance by Jef Feeley

[How to Make Private Investment in Infrastructure Really Work.](#)

PPPs hold big promise for projects in urban America—if Congress eliminates regulations and perverse incentives.

During the 2016 presidential campaign, Donald Trump—like his opponent Hillary Clinton—spoke glowingly about infrastructure spending, alluding to Franklin Roosevelt’s Works Progress Administration and Dwight Eisenhower’s Interstate Highway System as examples of how spending on roads, bridges and airports helped unite the country. For 2017, the American Society of Civil Engineers has given America’s infrastructure an overall grade of D+, estimating it would cost more than \$4 trillion to upgrade properly. But President Trump’s \$1 trillion dollar, 10-year infrastructure plan has so far moved along at a halting pace.

This tortoise-like progress may offer an opportunity to think more strategically about the means and ends of infrastructure—and increase the chances of final passage down the road. The odds are still good that Congress will act, since infrastructure spending is the closest thing to a free lunch in American politics.

If done right, the sky is the limit for U.S. infrastructure. Smart grid technologies, buried electrical lines and well-designed mechanical back-ups could advance both grid resiliency from future hurricanes and the growing threat from cyber-terrorism. New highway construction should help the country transition to electric vehicles and driver automation in the coming decades. Upgraded air traffic control systems could increase the nation’s air capacity by 50 percent, while shortening flights and saving passengers money.

[Continue reading.](#)

CITY LAB

by WILLIAM MURRAY

National Public Finance Guarantee Voluntarily Dismisses Adversary Proceeding Challenging the Commonwealth of Puerto Rico's Fiscal Plan.

PURCHASE, N.Y.-(BUSINESS WIRE)-National Public Finance Guarantee Corporation (National), an indirect subsidiary of MBIA Inc. (NYSE:MBI), today announced that, together with the other plaintiffs in the case, it has voluntarily dismissed without prejudice the adversary complaint filed on May 3, 2017 which challenged the Commonwealth of Puerto Rico's fiscal plan dated March 13, 2017.

"Hurricane Maria's impact on lives, property and infrastructure on the island of Puerto Rico is without precedent," said Bill Fallon, CEO of National Public Finance Guarantee Corporation. "With the focus quite rightly on rescue, recovery and the restoration of basic services to Puerto Rico's citizens and a strong likelihood that the existing fiscal plan will have to be amended in the wake of the hurricane, we do not believe it would be appropriate to move forward with the litigation at this time. As it has for more than three decades, National will continue to support the people of Puerto Rico and we look forward to working with the Commonwealth and the Oversight Board on a revised fiscal plan that allows Puerto Rico to rebuild its infrastructure, restore its fiscal health and return to the municipal markets."

Trump's Apparent About-Face on Partnerships Injects 'Huge Question Mark' into Infrastructure Plan.

The infrastructure industry and public officials are trying to figure out how to interpret President Trump's recent move to back off what had been a major pillar of his \$1 trillion infrastructure investment plan.

Trump said he doesn't favor using public-private partnerships to finance infrastructure projects because they don't always work, he told Democrats on the House Ways and Means Committee during a Sept. 26 meeting.

In the spring, the White House released a six-page outline of its infrastructure priorities that encouraged public-private partnerships as part of an incentive program in which the federal government offers up to \$200 billion to state and local governments that enter into the agreements and other private sector deals.

It's too soon to know if Trump's seemingly off-the-cuff skepticism toward public-private partnerships represents a policy shift, but key constituents of the infrastructure initiative say the comments inject uncertainty into a slow-moving process that has yet to result in the White House offering a concrete plan.

"It's very dismaying," said Robert Poole, director of transportation policy at the Reason Foundation, a free-market research group. "You saw during the first six months of this year, everyone involved with public-private partnerships, including the construction and finance industries, were all saying, the U.S. will be the big next frontier for these deals. That now has a huge question mark on it," Poole told the Washington Examiner.

A public-private partnership acts as it sounds, with private investors helping fund construction and repair of roads, bridges, and airports in exchange for a share of future revenue. It is not quite privatization, in which a government sells a public asset to a private company.

Lawmakers who participated in the meeting with Trump say he cited the experience of Vice President Mike Pence, who was Indiana's governor when a private group helped the state operate a major toll road and the developers went bankrupt.

The U.S. market for public-private partnerships is barely formed, but supporters say the deals can be quicker and more efficient and entail less taxpayer risk if structured properly.

But such deals are also financially complex, which public officials can struggle to understand, leading to agreements that don't work.

"They are not the answer to the infrastructure needs in this country, but can be a part of some of these projects," said Aubrey Lane, Virginia's secretary of transportation, who has briefed Trump administration officials on infrastructure. "I didn't believe the first hype from the administration that public-private partnerships would be all the answer, and I don't believe this new hype they aren't good at all," Lane told the Washington Examiner.

Virginia is an outlier in the U.S. with its deep experience with public-private partnerships, which are known as PPPs or P3s in transportation circles.

Since 2007, the state has closed five public-private partnership deals worth more than \$9 billion collectively, with more than \$2.5 billion coming from private equity, less than \$1 billion in public funds, and the remaining from privately backed debt.

The Trump administration had seemed to like such projects before the president's recent comments.

Trump chose an expert on public-private partnerships as his top White House official focused on infrastructure.

D.J. Gribbin, Trump's special assistant for infrastructure policy, previously worked on public-private partnerships for Macquarie Capital and Koch Industries.

Gribbin spoke at the P3 Hub Americas conference, a major industry gathering promoting public-private partnerships, on Sept. 26, the same day Trump met with House Democrats.

"It's so frustrating someone would make off-the-cuff comments like that about P3s," Poole said of Trump. "I can't imagine that he was coordinating with his staff. The whole reason Gribbin was hired was to do P3s. That has been his specialty for the last 20 years both in government and out of it. It's very strange."

The White House did not respond to emailed questions from the Washington Examiner about Trump's comments and whether they represent a policy change.

Experts interpreting Trump's comments have different perspectives on their significance.

Supporters of a more robust federal investment in America's infrastructure say Trump's comments don't necessarily reflect a flip-flop on public-private partnerships, but rather an appreciation for the different funding solutions needed to tackle the issue.

"It just shows the totality of the problem we are trying to address," said Ed Mortimer, executive

director of transportation infrastructure at the U.S. Chamber of Commerce. “The private sector has to have a role. It’s also a recognition there has to be a significant federal investment in infrastructure.”

He said his engagement with the Trump administration has not changed in recent weeks.

“We have not sensed any reticence from the administration to move forward, and we will continue to push them to move forward on this,” Mortimer said. “It’s too important to economic growth. We cannot continue to fall behind the rest of the world.”

Democratic lawmakers, meanwhile, cheered Trump’s comments, viewing them as proof he is willing to extend his recent embrace of bipartisanship to infrastructure, and ready to rely on significant direct federal funding to pay for projects.

“I was actually very encouraged to hear that,” said Rep. Peter DeFazio of Oregon, the top Democrat on the House Transportation and Infrastructure Committee. “I guess he is a businessman and can see through that concept as a false promise. Hopefully, he sees infrastructure as capital expenditures as opposed to operating costs and is willing to get innovative on how we are going to finance it.”

But conservatives have long opposed major funding initiated by the federal government, and deficit hawks likely will recoil even more in light of the tax cuts recently proposed by Republicans.

“The president is clearly frustrated with Republicans in Congress,” said Michael Sargent, an infrastructure policy expert at the Heritage Foundation. “Doesn’t this open the door to working with Democrats on infrastructure? That is something I am wary of. If we are moving away from public-private partnerships, if you want to spend \$1 trillion you will need more offsets to raise that money, or tack it onto the debt. Either way, that’s a very large bill that will have to come from somewhere.”

Infrastructure spending boosters realize they will need conservative support for any plan to become law.

“It’s just not going to happen to have an infrastructure bill out of the Republican House and Senate that doesn’t have some private financing,” Marcia Hale, president of Building America’s Future, told the Washington Examiner.

Layne, Virginia’s transportation secretary, would just like some clarity, as he prepares to fulfill the infrastructure needs of his state.

“I am glad to hear all the infrastructure talk, but I don’t want it to be all talk and expectations and find out nothing is going to happen,” he said. “I still don’t know where we are nine months into the administration. I don’t know what their plan is. I don’t see specifics I can act on as the person in charge of the construction program for the state with the nation’s third-largest road network.”

Washington Examiner

by Josh Siegel | Oct 9, 2017, 12:01 AM

[**The State of U.S. Infrastructure.**](#)

Introduction

The \$18 trillion U.S. economy relies on a vast network of infrastructure from roads and bridges to freight rail and ports to electrical grids and internet provision. But the systems currently in place were built decades ago, and economists say that delays and rising maintenance costs are holding economic performance back. Civil engineers raise safety concerns as well, warning that many bridges are structurally deficient and that antiquated drinking-water and wastewater systems pose risks to public health. Meanwhile, Americans' international peers enjoy more efficient and reliable services, and their public investment in infrastructure is on average nearly double that of the United States.

As President Donald J. Trump enters his first budget negotiations with Congress, debate has intensified over how to improve the nation's infrastructure. Skeptics of federal spending have pushed for new models of private sector involvement, arguing that it is more efficient and cost-effective. Others argue that increased public spending will be necessary to meet the country's growing needs and ensure that development is in the public interest.

[Continue reading.](#)

The Council on Foreign Relations

by James McBride

October 6, 2017

Fearing Bankruptcy, Hartford Creditors Prepare For Court Battle.

As Hartford edges closer to bankruptcy, the city's creditors are gearing up for what could be a protracted, bitter court battle.

Two of Hartford's largest employee unions - the police and firefighters - have begun seeking advice from lawyers specializing in Chapter 9, the bankruptcy code covering fiscally strapped municipalities. A third, the American Federation of State, County and Municipal Employees Council 4, Local 1716, which represents about 400 city workers, has tapped its national leadership for assistance and counsel.

And recently, the city's two biggest bond insurers, Assured Guaranty and Build America Mutual, brought on a financial expert to assess Hartford's situation and come up with solutions outside of bankruptcy.

"It's starting to dawn on them now - it's real," Vincent Fusco, the head of Hartford's fire union, said of his members. "If bankruptcy goes through, it's over. Forget everything we gave up, it's over."

In August, Fusco told union members that he approached two bankruptcy attorneys for guidance, though he hasn't hired anyone yet. Mayor Luke Bronin's threat of filing has rattled city employees and retirees, and the bargaining groups want to be ready.

"We are getting substantial assistance from our national AFSCME union to prepare and mobilize for all possibilities, including Chapter 9," said Larry Dorman, a spokesman for Local 1716. "Part of those discussions certainly includes conversations with legal experts."

Bronin, who has long suggested the city could file for bankruptcy, drew a line in the sand last month, warning the governor and lawmakers that if Hartford didn't get the necessary state aid by early November, he would press ahead with a Chapter 9 petition.

Hartford, facing a \$65 million deficit, has mounting debt and widening cash flow problems this year. City leaders are anticipating a shortfall of nearly \$40 million in December.

The state budget stalemate has created a headache for many cities and towns, but it's posing exceptional issues for Hartford. By this point last year, the city had received \$63.6 million from the state. Since the current fiscal year began in July, Hartford has received no state funding.

"If the state fails to enact a budget and continues to operate under the governor's current executive order, the city of Hartford will be unable to meet its financial obligations in approximately 60 days," Bronin wrote in his Sept. 7 letter. "If there is no budget or additional state funding in place at that time, we anticipate seeking authority to file Chapter 9."

The mayor's window to receive that state aid closes Nov. 6.

'We Would Fight'

With the November deadline looming, Hartford workers and retirees have become increasingly unsettled.

Days after Bronin's letter, members of the city council called union officials and former employees to city hall to share their fears.

Carol Vinnick, a West Hartford resident who worked as a nurse practitioner for the Hartford school district, said she worries the city's pensions would be harmed.

"When people have worked hard for years and didn't go for the big bucks ... We're dependent on those pensions and we're concerned that the city of Hartford is looking to a solution that puts those pensions in jeopardy," she said.

Labor groups share that concern.

John Szewczyk, president of the Hartford Police Union, said the organization has "contingency plans" in place should Bronin file for bankruptcy, including keeping a lawyer on standby.

"We've met with counsel, and obviously we'll be protecting our members that are relying on their pensions they paid into their whole careers," he said. "We would fight to keep our pensions.

"This has been very, very hard on retirees and on active employees, especially employees near the end of their careers."

Dorman, the Local 1716 spokesman, said he hopes city leaders won't "eviscerate" the quality of employment for longtime workers.

"What we don't want to have happen is some kind of grand bargain that destroys the quality of life for dedicated public servants and destroys the quality of work they do for the residents and businesses of Hartford," he said.

Hartford's fire union last year agreed to concessions that are expected to save the city \$6 million over the life of its four-year contract. The teachers union approved a contract extension that kept

wages flat and benefits unchanged. But many of the city's labor groups are still negotiating.

Local 1716 in May rejected a tentative agreement that would have saved Hartford \$4 million over six years. Its president said members couldn't absorb the hefty give-backs built into the deal.

Meanwhile, city bond insurers, who last month extended an offer that would allow Bronin to refinance debt, hired Robert Lamb, a finance expert who has helped several Connecticut communities through fiscal difficulty.

Robert Tucker, a spokesman for Assured Guaranty, which insures \$311 million of Hartford's debt, said Lamb has already attended meetings in the capital city and is weighing options.

A Long Battle

In many cases, Chapter 9 bankruptcy is a costly, contentious process that can take years, legal experts said.

San Bernadino, Calif., emerged from bankruptcy in June, five years after city administrators filed their petition. Vallejo, Calif.'s bankruptcy took three years to resolve, and the case in Jefferson County, Ala., lasted two years.

Other cities, like Detroit and Central Falls, R.I., have been speedier - taking 15 months and a year, respectively.

Sometimes, a large part of the battle involves convincing the court to move ahead with the petition.

"Typically, what's happened and what I expect would happen here is that various constituencies - bond holders and employee unions - would fight the bankruptcy," said Eric Henzy, a lawyer with the Bridgeport firm Zeisler & Zeisler who has experience in Chapter 9 cases, including Orange County, Calif.'s bankruptcy. "There's a test that the city has to meet to in order to be able to file."

That test involves demonstrating Hartford is insolvent, he said, and that it has negotiated in good faith with creditors to try to satisfy obligations.

Bronin must get approval from Gov. Dannel P. Malloy to file for bankruptcy. In Hartford, there's been some debate about whether the mayor also needs the city council's permission. Bronin says no. Some council members say yes.

"If the council hasn't approved the filing, that would probably be a good year of work for lawyers," Henzy said. "There's no question that bondholders and employee unions would seek to dismiss the bankruptcy on that basis.

"The first step is probably a big fight on whether or not the city has properly filed."

Council President Thomas "TJ" Clarke II has said he's against bankruptcy, but acknowledged last month that it is "an option."

"If we are forced to take that option," he said, "then I think everybody would be on board."

Asked recently if the council would try to block a Chapter 9 petition, Clarke said he was unsure.

"I think that's something we really have to sit down and discuss," he said.

Officials with Assured Guaranty declined to comment on whether they would fight bankruptcy in

court. But Holly Horn, chief surveillance officer of public finance for the company, told The Courant last month that “bankruptcy is not the solution.”

“It’s going to be a long, expensive [process] and there are no guarantees. There are no guarantees that Luke is going to get any certain percent of haircut out of the creditors,” she said. “We think there are solutions outside of bankruptcy that are much more beneficial for the state and for Hartford.”

Though Bronin has said he wants to avoid bankruptcy, the state’s budget gridlock has left Hartford in a bind.

“If legislative leaders of both parties are not prepared to make a long-term fiscal commitment, I would rather know that now, because putting a Band-Aid on the problem for another year or two is not the way to build a strong capital city,” he said recently. “Ongoing uncertainty and perpetual crisis is damaging to both the state and the city, and it’s time for us all to pick a path and go forward.”

The Hartford Courant

by Jenna Carlesso

October 7, 2017

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- [SEC Continues Public Finance Enforcement Agenda Two Recent Cases Filed: Orrick](#)
 - [IRS Issues New Proposed Regulations on the TEFRA Public Approval Requirement: Greenberg Traurig](#)
 - [IRS Issues New Proposed TEFRA Regulations: Nixon Peabody](#)
 - [The Future For the Municipal Bond Tax Exemption is Bright Following the Release of the Unified Framework For Tax Reform.](#)
 - [Good Jobs First Subsidy Tracker Makes GASB 77 Data Accessible.](#)
 - [MSRB: Issuers Shouldn’t Choose Underwriter’s Counsel.](#)
 - [Foreign Cash Fleeing Low Yields Flows Into U.S. Muni Bonds.](#)
 - [What Are Cities Spending Big On? Increasingly, It’s Debt.](#)
 - And finally, Then Again, I’ve Been to Yonkers is brought to us this week by [Lockwood v. City of Yonkers](#), in which a firefighter trainee was “instructed to jump, head first, out of a second story window approximately ten to eleven feet off the ground.” Which he did. Gravity - cruel taskmistress that she is - interceded and he “fell directly onto the concrete ground below.” Simply dumbfounding. Peer pressure? Hazing? You tell me. “But, mom, all the cool kids want to be Yonkers firemen!”

IMMUNITY - ALABAMA

[Ex parte Venter](#)

Supreme Court of Alabama - September 22, 2017 - So.3d - 2017 WL 4215183

Estate of deceased motorist brought wrongful-death action against city and firefighter employed by city.

The Circuit Court denied defendants' motion for summary judgment based on State-agent immunity. Defendants filed petition for writ of mandamus.

The Supreme Court of Alabama held that firefighter was not entitled to State-agent immunity.

City firefighter was not entitled to State-agent immunity from wrongful-death suit arising from automobile accident that occurred after firefighter had stopped at grocery store while exploring and identifying fire rescue routes for city; firefighter's actions were routine actions requiring exercise of due care.

EMINENT DOMAIN - ILLINOIS

[Enbridge Pipeline \(Illinois\), LLC v. Monarch Farms, LLC](#)

Appellate Court of Illinois, Fourth District - July 28, 2017 - N.E.3d - 2017 IL App (4th) 150807 - 2017 WL 3205839

Pipeline operator brought condemnation action seeking right-of-way and easement interests and determinations as to just compensation.

Following stipulated bench trial, the Circuit Court granted directed verdict to operator and awarded compensation. Landowners appealed.

The Appellate Court held that:

- Trial court acted within its discretion in excluding proposed valuation testimony by landowners' experts, but
- Trial court erroneously considered landowners' traverse motions to be motions to dismiss asserting an affirmative matter outside complaint that barred or defeated action.

Trial court acted within its discretion in excluding proposed valuation testimony by landowners' experts, in easement condemnation action brought by oil pipeline operator, where experts based their valuations on numerous improper factors, including fear and stigma associated with oil pipelines, potential for oil leaks, and unfounded speculation that hydrostatic testing would pose unspecified safety concerns.

Trial court erroneously considered landowners' traverse motions, challenging oil pipeline operator's condemnation action pursuant to Eminent Domain Act, to be motions to dismiss asserting an affirmative matter outside complaint that barred or defeated action, and thus remand was required for proper traverse hearing, where, at hearing on motions, trial court did not allow landowners opportunity to call witnesses in support of motions, and trial court refused landowners' offer of proof.

EASEMENTS - MASSACHUSETTS

[Athanasiou v. Board of Selectmen of Westhampton](#)

Appeals Court of Massachusetts, Suffolk. - August 22, 2017 - N.E.3d - 92 Mass.App.Ct. 94 - 2017 WL 3597316

Landowners brought action against town, seeking declaration that they were the rightful fee title

owners of a disputed area, and town counterclaimed, alleging that it had a prescriptive easement.

The Land Court Department granted summary judgment to landowners on the ownership claim and to town on the easement counterclaim. Landowners appealed.

The Appeals Court held that town acquired prescriptive easement rights over the disputed area.

Town acquired prescriptive easement rights over triangle parcel of property and abutting roadway, which were owned by landowners, where public's adverse use of disputed area was continuous and uninterrupted for 20 years, and town's highway superintendent and others maintained the area, plowed, sanded, oiled, and graveled the roadway, patched potholes, removed trees and fallen limbs from the area, and cleared sediments from the triangle parcel.

LAND USE - MISSOURI

[Koch v. St. Louis County](#)

Missouri Court of Appeals, Eastern District, Division One - August 29, 2017 - S.W.3d - 2017 WL 3707492

County taxpayers brought action against county, seeking declaration that county lacked authority to transfer any part of park for development as cemetery.

The Circuit Court granted summary judgment to county. Taxpayers appealed.

The Court of Appeals held that:

- Clause of conveyance of land to county, stating that conveyance was in consideration for the "continuous use and maintenance of the premises by the County as and for public park and recreational purposes," did not establish intent of transferor, which was the federal government, to dedicate land to public for use as a park only;
- Federal government's retention of right to occupy conveyed park land for national emergencies did not establish intent to dedicate land to public as park; and
- Bond measure for improvement of parks did not impose implied trust on county to hold park at issue for public use.

INVERSE CONDEMNATION - NEBRASKA

[Essink v. City of Gretna](#)

Court of Appeals of Nebraska - September 19, 2017 - N.W.2d - 25 Neb.App. 53 - 2017 WL 4159584

Homeowners brought inverse condemnation action and a negligence action under the Political Subdivisions Tort Claims Act against city following two sanitary sewer backups into their homes.

The District Court entered judgment on jury verdict for homeowners on inverse condemnation claim and entered judgment in part for homeowners on Tort Claims Act claim. City appealed.

The Court of Appeals held that:

- Sewer backups were not intended or the foreseeable result of authorized governmental action, and

thus were not a compensable taking, and

- Cleaning bills which homeowners delivered to city clerk's office pertaining to sewage backups did not demand the satisfaction of an obligation required by the Tort Claims Act.

Sewer backups were not intended or the foreseeable result of authorized governmental action, and thus were not a compensable taking of homeowners' property; backups were not frequent or recurring but occurred twice, several weeks apart, as a result of two blockages at different areas of the sewer system, and no other backups had occurred on street before that time.

Cleaning bills which homeowners delivered to city clerk's office pertaining to sewage backups did not demand the satisfaction of an obligation and thus did not constitute notice of claim under the Political Subdivisions Tort Claims Act; although the bills showed the dates the work was performed, the location of the work, the water damage reason for the work, and the specific amount owed for such work, the bills were addressed to homeowners, which indicated they were responsible for payment of the bills, and bills did not allege that city caused the water damage, refer to sewer backups, or indicate why city would be responsible for the bills, but only indicated that homeowners would be submitting them to the city for payment.

LIABILITY - NEW YORK

[Lockwood v. City of Yonkers](#)

Supreme Court, Westchester County, New York - September 12, 2017 - N.Y.S.3d - 2017 WL 4018749 - 2017 N.Y. Slip Op. 27290

Firefighter brought action against his city employer for personal injuries allegedly sustained while participating in training exercise. Firefighter moved to renew motion to file late notice of claim.

The Supreme Court, Westchester County, held that:

- Firefighter was entitled to renew motion to file late notice of claim based on change in law, and
- City had actual knowledge of essential facts constituting firefighter's personal injury claim on date of accident.

City firefighter, who was not receiving workers' compensation benefits, was entitled to renew motion to file late notice of personal injury claim against his city employer arising from same line-of-duty injury for which he was receiving disability benefits, where intervening Court of Appeals opinion changed the law to allow the recipient of disability benefits under the Municipal Law to commence a tort action against city employer when city elected not to provide workers' compensation coverage.

City's actual knowledge of essential facts constituting firefighter's personal injury claim on date of accident combined with firefighter's short delay in seeking permission to file late notice of claim upon his city employer warranted granting firefighter's motion to file late notice of claim. City prepared medical leave report on date of accident which provided date and time of injury and stated firefighter injured his back and right ankle while at bailout system training, firefighter's application for disability benefits which was made less than three weeks after accident also stated in detail how accident occurred, and motion to file late notice of claim was filed less than two months after 90-day period expired.

IMMUNITY - NEW HAMPSHIRE

[Kurowski v. Town of Chester](#)

Supreme Court of New Hampshire - September 21, 2017 - A.3d - 2017 WL 4182905

Father, individually and as next friend of minor son, brought negligence and intentional tort claims against town after son was injured in accident at pond owned by town.

The Rockingham Superior Court dismissed action. Father appealed.

The Supreme Court of New Hampshire held that:

- Son's conduct in attempting to slap the feet of a person who was using a rope swing above the pond constituted an "outdoor recreational activity" to which recreational land use immunity statute could apply, and
- Even if town had previously acknowledged that rope swing was a hazard, town did not have actual or constructive knowledge that injury was a probable result of danger, as would support finding that town did not act willfully and thus that recreational land use immunity statute applied to bar action.

LAND USE & ZONING - OHIO

[State ex rel. Rocky Ridge Development, L.L.C. v. Winters](#)

Supreme Court of Ohio - September 21, 2017 - N.E.3d - 2017 WL 4182961 - 2017 -Ohio-7678

Township filed a complaint for declaratory and injunctive relief against permittees under Land Application Management Plan (LAMP), alleging permittees were violating terms of LAMP, were in violation of local ordinances, and were creating a public nuisance.

The Court of Common Pleas issued a temporary restraining order. Permittees commenced an original proceeding for a writ of prohibition.

The Supreme Court of Ohio held that:

- Environmental Review Appeals Commission (ERAC) had exclusive jurisdiction over allegations by township directly challenging the wisdom of the LAMP permit;
- Allegations by permittees that local zoning ordinances were preempted fell within jurisdiction of trial court; and
- Writ of prohibition as to township's nuisance claim was improper.

Environmental Review Appeals Commission (ERAC) had exclusive jurisdiction over allegations by township directly challenging the wisdom of a Land Application Management Plan (LAMP) permit issued to permittees, and therefore, trial court lacked jurisdiction to consider such matters. Township claimed that the LAMP was issued to an improper party, that one of the permittees was violating the express terms of the LAMP, and that such permittee was conducting operations in violation of state law, and these allegations all directly challenged the validity of the LAMP or the permittee's compliance with the LAMP and so fell under ERAC's exclusive jurisdiction.

Allegations by permittees under Land Application Management Plan (LAMP) that local zoning ordinances were preempted fell within jurisdiction of trial court, and therefore, prohibition did not

lie as to township's declaratory action asserting violations of the ordinances. Preemption was not a question committed to the exclusive jurisdiction of the Environmental Review Appeals Commission (ERAC).

Permittee under Land Application Management Plan (LAMP) would not be issued a writ of prohibition relating to nuisance claim alleged by township arising out of permittee's excavation activities pursuant to the permit. Trial court did not patently and unambiguously lack jurisdiction to determine whether the nuisances alleged by township were a result of permissible operations or a consequence of permittee breaching the conditions in its LAMP, permittee had an adequate remedy by way of appeal from any decision the trial court rendered, and governing statute did not support assertion that the Environmental Review Appeals Commission (ERAC) had exclusive jurisdiction over the claim.

IMMUNITY - TEXAS

[Turner v. Robinson](#)

Court of Appeals of Texas, Houston (14th Dist.) - August 17, 2017 - S.W.3d - 2017 WL 3581636

Taxpayers brought action against mayor and city seeking a declaration that two propositions for amendments be added to city charter.

The District Court denied city's plea to jurisdiction, and city appealed.

The Court of Appeals held that:

- Taxpayers had standing to bring action;
- Ultra vires exception to sovereign immunity applied; and
- City's sovereign immunity was waived.

Taxpayers had standing to bring action against mayor and city seeking a declaration that two tax propositions for amendments be added to city charter. Taxpayers did not seek to recover funds previously expended but sought to restrain future collection and spending of illegal taxes and reimbursement of illegally collected, but unspent, taxes.

Ultra vires exception to sovereign immunity applied to action brought by taxpayers against mayor and city seeking a declaration that two tax propositions for amendments be added to city charter, and thus trial court properly denied city's and mayor's plea to jurisdiction. Taxpayers sought prospective relief to enforce propositions rather than retroactive relief, and pleadings did not claim mayor failed to perform a purely ministerial act, but that the mayor acted without legal authority.

City's sovereign immunity as to taxpayer's declaratory judgment action was waived in action brought against mayor and city seeking a declaration that two propositions for amendments be added to city charter. Declaratory Judgment Act expressly waived a municipality's immunity for a declaratory-judgment action involving the validity of a municipal ordinance, and while taxpayers challenged actions taken under the ordinances, they also sought a declaration as to their validity.

ZONING & PLANNING - UTAH

McElhaney v. City of Moab

Supreme Court of Utah - September 21, 2017 - P.3d - 2017 WL 4216543 - 2017 UT 65

Applicants appealed from city council's denial of a conditional use permit to operate a bed and breakfast. The Seventh District Court reversed, and the city and city council appealed.

The Supreme Court of Utah held that the District Court erred in overturning the council's decision without remanding to permit the council to craft findings of fact and conclusions of law capable of appellate review.

While district court correctly concluded that city council failed to issue findings sufficient to support its denial of application for conditional use permit to operate a bed and breakfast, it erred in overturning the council's decision without remanding to permit the council to craft findings of fact and conclusions of law capable of appellate review. The council concluded that the proposed bed and breakfast use did not meet the criteria set forth in the city's municipal code but prepared no written findings of fact.

Puerto Rico Faces Restart on Financial Plan After Maria.

Federal board supervising the bankruptcy meets this week and could change the island's fiscal map

It took months to put together a financial overhaul plan for Puerto Rico. Now officials may have to start over following Hurricane Maria.

The federal board supervising Puerto Rico's bankruptcy plans to meet Friday and is likely to discuss possible changes to a commonwealth fiscal plan [it approved in March](#), according to a person familiar with the matter.

The conversations could affect the severity of write downs on Puerto Rico's \$73 billion in debt.

The oversight board placed Puerto Rico under court protection in May in what amounted to the largest-ever U.S. municipal bankruptcy. Restructuring legislation approved by Congress charged the board with drafting [a financial plan](#) for the U.S. territory.

The initial plan stipulated Puerto Rico would pay bondholders roughly a quarter of what they were owed over the next 10 years. The numbers were based on pre-hurricane projections about government cash flows, economic activity and migration.

Any accelerated migration of Puerto Rico's 3.4 million citizens to the U.S. mainland would further drain its ability to service its debt obligations. The plan also called for government cuts.

"The board and governor urgently need to revisit the fiscal plan including austerity in the plan," said Antonio Weiss, a former senior Treasury official who worked on Puerto Rico's restructuring plan.

One analyst who studies Puerto Rico debt, Andrew Gadlin, said he believed estimates for the first year of the fiscal plan would be revised. "But in terms of the numbers I'd argue that this is more of a one-time capital expense than an ongoing need," said Mr. Gadlin, who works for broker dealer Odeon Capital Group.

The financial fallout from the natural disaster may already be affecting some Wall Street firms invested in the commonwealth. Investors have been selling Puerto Rico securities since the hurricane, pushing prices on its benchmark general obligation bond down to 51.75 cents on the dollar, a 9% drop. The S&P Municipal Bond Puerto Rico Index has fallen 5% to a one-year low.

President Donald Trump, who said he would visit the island next week, tweeted Monday that Puerto Rico's obligations to bondholders "sadly, must be dealt with."

Reconstructing Puerto Rico's power grid may prove particularly costly because of financial difficulties at its struggling electric utility. The public power monopoly known as Prepa owes \$9 billion in bonds and loans, and has been operating under bankruptcy protection since July. Maria's winds wrecked much of Prepa's already outdated distribution grid, plunging the island into almost total darkness. The prolonged loss of service is expected to deprive Prepa of fees it normally collects for powering homes and businesses.

Congress is starting to debate how best to rebuild Prepa. Setting up a reliable power system will require expensive modernization using federal dollars.

Prepa is a flashpoint in Puerto Rico's financial crisis because power rates are a drag on family incomes and company budgets. The oversight board has said it wants to privatize power generation to lower costs and transition Prepa to a regulated utility model. Creditors are skeptical of privatization, concerned that by selling off assets Prepa would lose the revenue streams backing its debt.

But raising power rates to repay creditors is politically toxic in Puerto Rico, where the cost of importing fuel from oil tankers has driven power prices higher than in any U.S. state but Hawaii. One week before Maria's arrival, a bipartisan group in Congress urged the oversight board to lower its target power rate of 21 cents per kilowatt-hour to lower consumers' power costs and revive the local economy.

"Even if new federal aid money comes into Prepa, there's real uncertainty about whether a brand new grid improves recoveries for creditors," Mr. Gadlin said.

The Wall Street Journal

By Heather Gillers and Andrew Scurria

Updated Sept. 26, 2017 6:50 p.m. ET

Write to Heather Gillers at heather.gillers@wsj.com and Andrew Scurria at Andrew.Scurria@wsj.com

[With Puerto Rico in Ruins, Bondholders Offer Cash for Gains.](#)

- **Creditors reprise once spurned deal with 15 percent haircuts**
- **Group says \$1 billion loan would help secure federal funds**

In late June, Puerto Rico's federal overseers rejected a plan that would have let big investors recover 85 cents on the dollar from bonds backed by the island's distressed electric company, wagering a better deal for the impoverished U.S. territory could be won in bankruptcy.

The Puerto Rico Electric Power Authority has since been devastated by Hurricane Maria, which caused billions of dollars of damage and left virtually the entire island still without power.

So on Wednesday, a group of investment funds that hold \$3 billion of the utility's bonds — including OppenheimerFunds Inc. and Franklin Advisers Inc. — revived the spurned deal: In return for a \$1 billion loan, they said they'd be willing to accept the same terms on a third of their holdings. The price is roughly twice what some of the utility's debt has been trading for.

"They keep bringing it back from the dead and hope that they'll hold on to a 15 percent haircut," said Matt Dalton, chief executive officer of Rye Brook, New York-based Belle Haven Investments, which manages \$6 billion of municipal bonds, including insured Puerto Rico debt. He predicted the island won't accept it. "It's a time for money to be offered, but not with contingencies surrounded around it."

Puerto Rico and U.S. Department of Energy officials are still struggling to restore electricity, a week after the storm. Governor Ricardo Rossello has pleaded for more help to avoid a humanitarian crisis. In Washington, House Speaker Paul Ryan and other Congressional officials are still assessing how much aid to send to the island, whose financial collapse has effectively blocked it from raising more money in the financial markets.

The bondholders' loan — which would need approval from the island's oversight board — could help Prepa, as the utility is known, meet local matching requirements to receive Federal Emergency Management Agency funds, according to the group. FEMA may allocate as much as \$9 billion to Prepa, depending on the federal agency's matching thresholds. Among the group is Marathon Asset Management LP, BlueMountain Capital Management LLC, Angelo, Gordon & Co. LP, and Knighthead Capital Management LLC.

"What we're trying to do is lend where our investors are not disadvantaged," Thomas Wagner, co-founding partner of Knighthead, said on Bloomberg TV. "But where we can have a win win — where the capital is not expensive, but ultimately it achieves the goals of bringing even more capital in on a zero-cost basis."

A spokeswoman for Puerto Rico's fiscal agency, which has been handling inquiries about the utility, didn't have immediate comments. Natalie Jaresko, the executive director of the oversight board, said it welcomes the support from creditors and will review the proposal, in consultation with the Puerto Rico officials.

The broad terms effectively reprise a deal creditors struck with Puerto Rico after months of negotiations and before Congress enacted emergency legislation giving it authority to have debts discharged in court.

The latest iteration would have the investors exchange \$1 billion of outstanding bonds for \$850 million of new debt through so-called debtor-in-possession financing, which is routinely extended to corporations working under court protection from creditors. Those new notes — as well as the \$1 billion loan — would receive priority over all other Prepa bonds, giving them higher standing than other creditors in the bankruptcy proceedings.

The exchange rate received under the offer is well above where the bonds have been trading. Debt maturing in 2032 changed hands Tuesday at an average 43.2 cents on the dollar, down from nearly 56 cents at the start of the month, data compiled by Bloomberg show. The securities rose to 47 cents Wednesday, after the proposal was announced.

"Our thoughts are with the people of Puerto Rico and its residents during this difficult time,"

Stephen Spencer, managing director at Houlihan Lokey, which is advising the bondholder group, said in a statement. “We hope that this capital commitment will provide bridge financing and matching funds as required by FEMA legislation while supporting the commonwealth’s recovery.”

Bloomberg Markets

By Michelle Kaske

September 27, 2017, 5:00 AM PDT September 27, 2017, 2:26 PM PDT

— With assistance by Erik Schatzker

[Puerto Rico Bondholders Face Bigger Loss After Hurricane.](#)

- **Debt tumbles by most since governor warned of looming defaults**
- **Federal oversight board said to meet to reassess fiscal plan**

Even before Hurricane Maria devastated Puerto Rico, leaving billions of dollars in damage and crippling the electricity system, the island’s government said it could repay less than a quarter of what’s owed to bondholders over the next decade. Now, even that may be optimistic.

Prices of the U.S. territory’s bonds have plunged to record lows, signaling investors expect that there will be even less money available to repay its \$74 billion of debt. On Friday, Puerto Rico’s federal overseers, who are in charge of pulling it from a financial collapse, plan to reassess the island’s fiscal plan — including how much debt it can pay — in light of the storm, according to a person familiar with the matter.

Bondholders “will have to experience some amount of pain or financial devaluation of their stakes,” said David Tawil, president and co-founder of Maglan Capital LP, which no longer owns Puerto Rico bonds. Tawil estimates some prices will need to drop by as much as 20 percent, given the hit that Maria will deal to tax collections. “I don’t think anybody has any appreciation for how devastating the effects of the storm will be.”

Puerto Rico has little financial ability to navigate the disaster on its own, leaving the recovery heavily dependent on how much aid comes from Washington. It began defaulting on its debts two years ago, seeking to avoid draconian budget cuts officials said would deal another blow to an already shrinking economy. With nearly half of its 3.4 million residents living in poverty, the government filed for bankruptcy protection in May.

Municipal bankruptcies are rare, so it was already difficult for analysts to estimate how much bondholders will recoup, especially given that Puerto Rico’s broke pension fund owes some \$49 billion to workers and retirees.

Moody’s Investors Service estimated bondholders would get 65 cents to 80 cents on the dollar from general-obligation bonds and senior sales-tax debt, which have the strongest repayment pledges. This week, Fitch Ratings said the storm will likely weigh on recoveries despite the uncertainty about how much it will ultimately affect the economy.

“If you’re really going to solve the problem, you have to really slash their debt,” said Matt Dalton, chief executive officer of Rye Brook, New York-based Belle Haven Investments, which manages \$6

billion of municipal bonds, including insured Puerto Rico debt. “Sixty-five to 80 cents on the dollar, we just don’t see how the island supports that long term.”

Trading prices reflect those doubts. An index of Puerto Rico securities fell by 4 percent last week, marking the steepest weekly decline since July 2015, after then Governor Alejandro Garcia Padilla said the government’s debts were too onerous to pay. It’s fallen by another 3 percent this week, with general-obligation bonds maturing in 2035 slipping Thursday to an average of 48 cents on the dollar, the lowest since they were first sold in March 2014, according to data compiled by Bloomberg.

One key issue is how general-obligation bonds — which the island’s constitution says must be repaid before other expenses — will fare against sales-tax debt that’s repaid by a dedicated share of that revenue.

“No one has any idea of what’s a good value, especially now,” said Matt Fabian, a partner with Municipal Market Analytics.

The commonwealth’s fiscal plan, which the federal board approved in March, allocated \$8 billion for debt payments between now and 2026, far short of the \$33.4 billion that’s owed.

The island is now even more desperate for cash. This week, Puerto Rico’s federal overseers approved using as much as \$1 billion of this year’s budget to cover emergency spending. And with the storm paralyzing the economy, revenue will likely be further squeezed in the months ahead.

That financial pressure may leave Puerto Rico and its bondholders allies in Washington, where officials in Congress have vowed to provide the aid needed to rebuild, though the timing and size have yet to be determined.

“You’re going to see a meaningful fall in tax collections,” said Brad Setser, senior fellow at the Council on Foreign Relations. “That will certainly limit the availability of funding to make any near term debt service payments.”

Bloomberg Markets

By Michelle Kaske

September 28, 2017, 2:50 PM PDT September 29, 2017, 5:47 AM PDT

[Ex-Morgan Stanley Broker at Center of Puerto Rico Bond Disputes.](#)

Hurricane damage to island may complicate settlement of claims on munis and closed-end funds

The Puerto Rico municipal bond mess has landed on the doorstep of Morgan Stanley, with mounting arbitration claims against the firm stemming from sales of the bonds and closed-end funds from a former broker in Miami.

The broker, Angel Aquino-Velez, is no longer with Morgan Stanley and his registration at the firm ended in July, according to his BrokerCheck report. The report provides no explanation for his change of employment status.

Mr. Aquino-Velez started working at Morgan Stanley in 2010. He had previously worked at Merrill Lynch and UBS Financial Services Inc.

The six pending Financial Industry Regulatory Authority Inc. arbitration claims against Morgan Stanley and Mr. Aquino-Velez allege close to \$7 million in damages, according to BrokerCheck. The allegations included unsuitability and misrepresentation regarding the purchase of municipal securities and closed-end funds. Three of those claims were filed over the summer since he left the firm.

HUGE LOSSES

Mr. Aquino-Velez recently sold clients Puerto Rico Cofina bonds, which are backed by the island's sales tax revenue, according to Jeff Erez, a plaintiff's attorney involved in four claims by the broker's clients against Morgan Stanley.

"Some people's portfolios are down 80%," Mr. Erez said. "I just filed a claim for a client who had \$5 million and now she has \$1 million. Aquino-Velez fell in love with Puerto Rico bonds. He felt he knew better and continued to send that message till the day he left."

Mr. Erez said the claims against Morgan Stanley stemming from the bonds are far less than those involving UBS, which in 2014 said it faced almost \$1 billion in damages from investor claims.

A spokeswoman for Morgan Stanley Wealth Management, Bernadette Rhodes, did not return calls to comment. The broker, Mr. Aquino-Velez, could not be reached to comment.

In May, Puerto Rico filed for bankruptcy under the weight of \$70 billion of municipal debt. Ten years earlier, Puerto Rico had \$43.5 billion in debt obligations. The bonds and closed-end bond funds were popular with investors and retirees because of their triple-tax free status.

STORM DEVASTATION

Hurricane Maria struck Puerto Rico on Sept. 20, and soon wiped out the island's outdated electricity system, flooded cities and ruined crops, leaving bondholders increasingly worried, according to Bloomberg News.

In some 300 investor claims involving Puerto Rico bonds that he has worked on, Mr. Erez said that about 190 have closed, with investors recovering \$90 million. He added that he is speaking to other Morgan Stanley clients about potentially filing claims stemming from losses in Puerto Rico bonds and closed-end funds.

Morgan Stanley has already settled four Finra arbitration claims worth \$2.4 million stemming from Puerto Rico municipal bond investments involving Mr. Aquino-Velez, according to BrokerCheck.

Meanwhile, Finra's Office of Dispute Resolution, which runs the arbitration group, said last week that it had stayed or temporarily halted all cases based in Puerto Rico until Oct. 20.

Investment News

Sep 28, 2017 @ 2:13 pm

By Bruce Kelly

[Puerto Rico Considers Options to Close Financing Gap.](#)

Gov. Ricardo Rosselló favors taxpayer-financed credit lines to aid in island's recovery

Recovery efforts following Hurricane Maria could create a cash crunch for Puerto Rico's government, already mired in the largest-ever U.S. municipal bankruptcy, despite an influx of federal disaster relief in coming months.

The cost of restoring critical infrastructure that was destroyed in the storm will largely fall to the Federal Emergency Management Agency, but funding for other essential services, such as police, may remain the U.S. territory's responsibility, according to FEMA experts.

Puerto Rico's liquidity was already under pressure from a dwindling population, spiking pension costs and a looming health-care-funding cliff. Now, with hundreds of thousands of residents still without power and other basic necessities, economic activity will be interrupted, curtailing the government's tax collections for a time, said Jim Millstein, a financial restructuring adviser to Puerto Rico's previous gubernatorial administration.

[Continue reading.](#)

The Wall Street Journal

By Andrew Scurria

Sept. 29, 2017 2:30 p.m. ET

[Puerto Rico May Get Help from Unlikely Source: Its Lenders.](#)

After wondering for seven sweltering days who would pay to rebuild their ruined electrical grid, Puerto Ricans got a possible answer from an unexpected source on Wednesday: investors holding the island power company's defaulted bonds.

The bondholders, a group that includes mutual-fund giants and hedge funds, have offered to lend Puerto Rico \$1 billion to pay for urgent repairs and to cancel \$150 million of the power company's outstanding debt in the process.

Because of how it is structured, the proposal by the bondholders could help them even as it helps Puerto Rico.

The loan would not be enough to replace the island's aged electrical system, which was knocked out by Hurricane Maria, leaving more than three million people without power and, in some cases, water.

But the bondholders say that in addition to covering immediate repairs, their offer would allow Puerto Rico to apply for federal grants for long-term rebuilding that would not have to be repaid.

Various federal agencies offer such grants after natural disasters, but require recipients to put up a share of a project's cost, usually 25 percent. The Federal Emergency Management Agency typically coordinates such grants.

Puerto Rico's power company, known as Prepa, was insolvent even before the hurricane hit and would have a hard time producing such upfront money on its own.

"This capital commitment will provide bridge financing and matching funds as required by FEMA legislation," said Stephen Spencer, a managing director at the investment bank Houlihan Lokey who is the bondholder group's financial adviser in Puerto Rico's bankruptcy case.

Mr. Spencer said the package offered by his group, which includes Franklin Templeton, Knighthead Capital Management and OppenheimerFunds, would qualify Prepa for at least \$3 billion in federal grants, and possibly as much as \$9 billion.

The potential benefits for the bondholders are tied to the package being offered as debtor-in-possession financing, which is normally used to keep bankrupt corporations afloat during Chapter 11 cases.

Debtor-in-possession financing requires court approval because it increases a bankrupt party's total insolvency. Parties that extend such financing typically jump to the top of the creditors list in a bankruptcy, notable given that some of Puerto Rico's creditors are fighting one another over where they rank on that list.

Not only would the bondholders' loan take priority over some of Puerto Rico's other debts, but it would also offset some losses the bondholders may face if the original debt were not repaid in full.

In a statement, Natalie Jaresko, the executive director of the federal board overseeing Puerto Rico's finances, said: "We welcome and appreciate the expression of support from creditors. The board will carefully consider all proposals in coordination with the government."

With about \$9 billion in outstanding debt, Prepa is among the most troubled branches of a Puerto Rican government saddled with around \$74 billion in total debt, mostly in municipal bonds. Prepa declared itself insolvent in 2014 and stopped making debt payments, leading bondholders to start negotiations to slow the original repayment schedule.

A preliminary agreement to restructure a sizable portion of Prepa's debt was reached in September 2014 with terms that included a rate increase for its customers. Much has changed since then, though, and a final restructuring deal is in limbo.

Last year, an investigation by Puerto Rico's Senate uncovered evidence of a cabal within Prepa that appeared to have cheated the island's 1.5 million ratepayers out of more than \$1 billion. The scheme involved buying cheap, dirty sludge to burn in the island's power plants, but billing ratepayers for clean, high-grade fuel.

Many Puerto Ricans now associate Prepa with corruption, abuse and a \$9 billion debt they believe they should not have to repay.

Prepa was not originally included when Puerto Rico sought court protection from its creditors in May, under a special law for insolvent territories, known as Promesa. The power company filed its own case in July, under the guidance of the federal oversight board, which wants a more drastic restructuring than the bondholders had negotiated.

Under the terms of the \$1 billion loan being offered by bondholders, Puerto Rico would not have to make principal or interest payments for two years. During that time, interest would accumulate at a variable rate starting at about 5.5 percent and following market rates up or down. The bondholders also offer not to charge an early payment penalty should Puerto Rico find a better deal after

accepting the loan.

The \$150 million in canceled debt would come via an arrangement known as a roll-up, in which participating bondholders would exchange \$1 billion of outstanding defaulted bonds for new, viable bonds with a face value of \$850 million.

The deal would have to be approved by both the Puerto Rican government and Judge Laura Taylor Swain of Federal District Court in New York, who is presiding over Puerto Rico's case.

THE NEW YORK TIMES

By MARY WILLIAMS WALSH

SEPT. 27, 2017

[Chesapeake Bay Foundation Offers Pa. Municipalities Private Funding Method for Clean-Up.](#)

The Chesapeake Bay Foundation announced Thursday, Sept. 28 an opportunity for municipalities to participate in a pilot program, which offers financial backing when implementing natural solutions that reduce runoff that damages local rivers, streams, and the bay.

Pennsylvania was invited to participate, according to the foundation. The application process opened Friday, Sept. 15, and closes Tuesday, Oct. 31.

In order to help municipalities reach its clean-up goals, the foundation is partnering with Quantified Ventures, the Kresge Foundation and other funders.

"Because some local governments and lenders may be less familiar with implementing natural solutions, these kinds of projects may be seen as riskier and more difficult to finance," Chesapeake Bay Foundation Vice President Kim Coble said.

The idea stems from an arrangement made between DC Water and Quantified Ventures, which last year pioneered a new financial tool called Environmental Impact Bond.

It was structured to privately finance and share the risk for implementing natural solutions to manage storm-water runoff into the Potomac River, according to a Chesapeake Bay Foundation statement.

The pilot project would offer the same financial tool.

A utility can raise funds from impact investors Goldman Sachs and the Calvert Foundation to finance projects like permeable pavement and bioswales, the foundation reports. Additional community benefits, foundation leaders said, are introduced to communities, like reduced local flooding, improved climate resiliency, and local job creation.

The financial structure provides up-front capital for environmental projects. In its most basic form, a municipality or municipal entity, like a utility, issues Environmental Impact Bonds and sells them to private investors to obtain financing to pay the cost of environmental projects.

The municipal issuer is required to pay interest on the bonds and to repay the principal amount of

the bonds on scheduled payment dates, the foundation reports.

After an evaluation period, if the project reduces significantly more pollution than expected, investors receive a higher rate of return. If the project reduces significantly less pollution, investors will receive a lower rate of return.

"In our pilot program, we will coordinate with up to four local jurisdictions' financial advisors toward the creation of an Environmental Impact Bond or loan tailored to their community's financial and environmental needs to implement green infrastructure solutions," said Coble.

York Dispatch

by Jana Bencoter

Sept. 29, 2017

[World's First Green Exchange Lists \\$74 Billion in Its First Year.](#)

The Luxembourg Green Exchange, the world's first bourse for securities related to climate change, listed 63 billion euros (\$74 billion) of bonds after one year.

"This far outstripped what we expected," Jane Wilkinson, head of sustainable finance at the Luxembourg Stock Exchange, said in a phone interview. "It clearly outstrips the growth we've seen in Luxembourg on the regular market, which was stable."

The Luxembourg Green Exchange, also known as the LGX, was set up as a place where investors could be certain that what they were buying was really a green bond. The industry is unregulated to date, although issuers can voluntarily follow frameworks such as the Green Bond Principles or the Climate Bond Initiative. The LGX obliges its issuers to provide full documentation, both before and after issuance.

The 63 billion euros makes up about 1 percent of the Luxembourg Stock Exchange, in terms of value of listed assets, according to Wilkinson. The global green bond market reached \$95 billion last year. After a record-breaking 2017 first half, Bloomberg New Energy Finance raised its 2017 forecast for issuance to \$130 billion from \$123 billion. Wilkinson said the figure could be as much as \$140 billion.

The LGX receives as many as two to three questions and requests daily from parties such as treasury departments and law firms that are interested in issuing green bonds, according to Wilkinson.

"There's definitely an increased interest by potential issuers," Wilkinson said. "New players that are waking up and thinking this could be an interesting market for us and starting to do their homework."

There is rising interest in China, U.S. municipalities and Latin American financial institutions, she said. Corporate issuers are also getting more involved.

"It's still a bit of a nascent market, if you're a big company I feel like they should lead the way," Wilkinson said. "I understand that they don't need to list because they have enough interest, but that kind of issuer can use their influence."

Some large companies in the clean energy industry haven't labeled their bonds as green, even if they could, such as Tesla Inc.'s recent \$1.8 billion offering. This may be because of the additional reporting that's generally expected from investors to prove that the funds raised are only being used for environmentally-focused projects, Wilkinson said.

Bloomberg Markets

By Anna Hirtenstein

September 27, 2017, 2:00 AM PDT

[Foreign Cash Fleeing Low Yields Flows Into U.S. Muni Bonds.](#)

- **Overseas holdings of state, local bonds hits new record high**
- **Even low payouts look good against Japanese, German bonds**

The era of record low interest rates around the world has unleashed an unprecedented tide of overseas cash for U.S. municipal-bond fund managers like Gregory Gizzi, who hopscotched around Asia this month courting would-be investors.

"We've been witnessing a big increase of interest," said Gizzi, a senior portfolio manager with Macquarie Investment Management, which holds \$8.9 billion of municipal debt.

It's showing no signs of pulling back. Foreign investors increased their holdings of debt issued by states, cities and local agencies by \$3.1 billion during the second quarter to \$98.6 billion, an all-time high and more than triple what it was a little over a decade ago, according to Federal Reserve data. They've added to their holdings every quarter for the past five years.

The globalization of the municipal market, still largely a low-yielding haven for risk-averse Americans seeking tax-exempt income, has helped increase demand for the securities. With the pace of borrowing slowing this year and money still flowing in, state and local bond yields are lower now than they were in January. Even after the market's recent slide on increased speculation the Federal Reserve will raise interest rates in December, municipal debt has returned 4.8 percent this year, more than twice as much as Treasuries, according to Bloomberg Barclays indexes.

On Thursday afternoon in New York, 10-year benchmark bonds were yielding 1.98 percent, according to Bloomberg indexes, about seven basis points higher than where they stood at the beginning of the week. Even with the rise in yields, that's still about four times what similar German bonds are paying. In Japan, yields barely exceed zero.

The allure for overseas buyers is even larger when it comes to taxable municipal debt, which carry higher yields than corporate debt. A 10-year Illinois bond with payments that are subject to the U.S. income tax yields about 1.3 percentage point more than those issued by Ford Motor Co.

State and local bonds are also carry far less risk than other securities: The 10-year default rate for municipal bonds is only 0.07 percent compared with 10.3 percent for corporate bonds issued in the U.S. and abroad, according to Moody's Investors Service.

"These taxable munis are the cheapest thing around if you're an international investor right now," said Kyle Gerberding, director of trading at Atlanta-based Asset Preservation Advisors, which has

more than \$3 billion invested in tax-exempt and taxable municipal bonds.

Mizuho Securities' U.S. strategist, Tetsuo "Harry" Ishihara, says he still receives calls from Japanese clients interested in investing after he published research about the sector last year. Ishihara said the municipal market, once obscure in Japan, has gained enough traction that many firms now market them to customers.

"The good thing about Japanese investors is once they like you, they are very loyal," he said in a telephone interview.

"When they know their money is going to bridges and schools, they love that," he said. "It's very deeply indebted in their training from day one. You have a social role."

Bloomberg

By Rebecca Spalding and Carrie Hong

September 28, 2017, 9:19 AM PDT September 28, 2017, 1:38 PM PDT

[Bloomberg Brief Weekly Video - 09/28](#)

Taylor Riggs, a contributor to Bloomberg Briefs, talks with Amanda Albright about this week's municipal market news.

[Watch video.](#)

Bloomberg

September 28, 2017

[The Future For the Municipal Bond Tax Exemption is Bright Following the Release of the Unified Framework For Tax Reform.](#)

Efforts to overhaul the Internal Revenue Code have been spearheaded thus far by a group of Republicans referred to as the "Big Six."^[1] Earlier today, the Big Six released a "unified framework to achieve pro-American, fiscally-responsible tax reform" (the "Framework"). The Framework proposes many changes to the U.S. tax system, but **does not propose any changes to the municipal bond tax exemption itself.**

[Here is a link](#) to the Framework, a 9-page document that provides an overview of the various measures that may be included in tax reform. The Framework was preceded by the blueprint for tax reform released by House Republicans on June 24, 2016 (discussed in a [previous blog post](#)). This post addresses a few of the highlights from the Framework.

Highlights

The Framework proposes wholesale reform of the US tax system. Specific to the municipal bond industry, the Framework includes the following proposals (or lack thereof):

- Like the blueprint, the Framework does not include any specific mention of the municipal bond tax exemption. The lack of any specific reference is not surprising in light of the brevity of the Framework.
- The Framework includes a catch-all statement that “[n]umerous other exemptions, deductions and credits” will be repealed (more on this below).
- The Framework proposes to eliminate all itemized deductions except the mortgage interest deduction and the charitable contribution deduction. Of course, this would not affect municipal bonds because the tax exemption for municipal bonds is not an itemized deduction (this was a test for our readers).
- The top income tax bracket will be reduced from 39.6% to 35% for individuals and to 20% for corporations (although the Framework holds out the possibility that an additional tax bracket above the 35% bracket could be applied to the “highest-income taxpayers”).
- Like the blueprint, the Framework proposes to eliminate the individual and corporate alternative minimum tax (AMT).

In the days leading up to the release of the Framework, senior legislative officials have provided assurances to members of our [Financial Services and Tax Policy group](#) that the municipal bond tax exemption will be retained. In light of their comments, the catch-all statement regarding the elimination of scattered exemptions, deductions, and credits should not be read to jeopardize the municipal bond exemption. Furthermore, although the reduced individual income tax rates would slightly diminish the value of the municipal bond subsidy, the repeal of the AMT could offset the diminution in value (as could an increased demand for municipal bonds if they remain one of the few tax-advantaged investments after the enactment of tax reform).

On the whole, the Framework is very positive for the municipal bond community and it suggests that lawmakers appreciate the value of the exemption to state and local governments and to qualified borrowers.

Important Disclaimer

Although the Framework represents the efforts of certain influential lawmakers, it is no more than a roadmap towards tax reform. In recent months, similar roadmaps unrelated to tax reform have failed in the face of significant opposition. The Framework’s success is far from certain.

[1] The Big Six are Paul Ryan (House Speaker), Kevin Brady (House Ways and Means Committee Chairman), Mitch McConnell (Senate Majority Leader), Orrin Hatch (Senate Finance Committee Chair), Steven Mnuchin (Treasury Secretary), and Gary Cohn (White House chief economic adviser).

The Public Finance Tax Blog

By Joel Swearingen

September 29, 2017

Squire Patton Boggs

[More Questions Surface About Shadowy Public Finance Authority.](#)

[Madison, Wis...] In 2016, the University of Kansas bypassed the state Legislature in securing nearly \$327 million in bonds for a slate of building projects.

Instead of seeking approval from lawmakers, the university appealed to the Wisconsin-based Public Finance Authority, the shadowy, quasi-public agency described as the “bonding house of last resort.”

The PFA came under fire this month, in the closing days of Wisconsin’s extended budget-writing process, when lawmakers slipped in a provision that would have expanded the authority’s powers. Under the measure, the PFA would have been granted the ability to take private property through eminent domain.

[Continue reading.](#)

MacIver News Service | September 28, 2017

By M.D. Kittle

What Trump Finally Got Right About Infrastructure.

While I don’t have Maggie Haberman’s fly on the wall access to internal White House process, I will say that President Trump’s decision to jettison his tax credit/private investment based infrastructure plan is sound and its stated rationale is based upon a well-informed analysis. Simply stated, the plan wasn’t going to work and the President said just that.

Trump’s original plan, both pre- and post election, was to encourage private investment in infrastructure via a tax credit. More recently, a few more details appeared including pushing the burden of project development down to the states and providing (mandating?) tolling or other revenue generators so as to allow repayment of private investment. While this proposal filled in a few more blanks (tax credits, tolling, states), the basic idea—that a modest amount of public investment combined with modern infrastructure investment models would leverage a much larger amount of private capital to create new bridges, roads, rails and waterworks—is a myth that has been told for years before the 2016 election and by leaders of both major political parties.

In almost every State of the Union message President Obama promoted the concept of leveraging private investment to build infrastructure. Vice President Biden was a major proponent of the concept of an infrastructure bank, a tool that supports private investment in infrastructure.

The problem is not that private investment in infrastructure can’t work. In fact it works quite well. Rather, the issue is not how the capital is raised but how it’s repaid. So while choosing a financing mode for a bridge may be a more impactful decision than picking a paint color, it doesn’t get the bridge built free of cost. The real question is the funding method, whether the money raised will be repaid with taxes or tolls, so by the general public or the using public. Once you have a viable funding plan, you can choose the most efficient financing mechanism.

And if you want to get some projects actually up and running soon, it makes little sense to take on the entire government civil works and financial establishment which revolves around the issuance of state and local bonds and bid-based construction and procurement. While many quality projects have been undertaken in the United States using what is known as the “PPP” model, a term of art for a private investment based civil infrastructure procurement, these are outliers, so-called “pilot” projects. The vast majority of state and local government undertakings are done the old-fashioned way.

Indeed, the old-fashioned way enjoys a long-standing federal tax benefit in the tax-exemption of

interest paid on municipal bonds, lowering the cost of funds. While Trump's tax credit for private investment may have reduced the comparative value of that benefit, it wouldn't have solved the problem of thousands of financial and procurement officers who would need to be completely retrained to be able to effectively manage an entirely different process and structure. Government is slow to change.

So while private investment and development was never a bad idea, it is an idea whose time has not yet fully arrived in the United States and, moreover, it is an idea which can provide efficiencies of project delivery and performance but will not obviate the need for major direct or indirect public investment.

So will there be a new massive infrastructure program? I doubt it. Congress will not spend the money, particularly after doing tax cuts which will certainly increase the deficit. But I am not alarmed. The most important decision about infrastructure is what to build, not how to pay for it, and while I am momentarily impressed by the White House decision making around the infra funding issue, I have no confidence that a White House that refuses to accept climate science will make the right infrastructure spending choices. Better to wait.

Joel Moser is Founder and CEO of Aquamarine Investment Partners, an Adjunct Professor at Columbia University (International and Public Affairs) and a member of the Council on Foreign Relations.

Forbes

by Joel Moser

Sep 27, 2017

[Restructuring Debt Or Bankruptcy: Hartford Meets Resistance Either Way.](#)

Wherever they turn, Hartford officials are meeting trouble trying to figure out how to repay millions of dollars in debt.

As S&P Global Ratings cut Hartford's general obligation bonds by four notches Tuesday, to 'CC' from 'B-', it said it could reduce it even more, to 'D,' if the city "executes a bond restructuring or distressed exchange or files for bankruptcy."

In a distressed exchange, a borrower proposes that debt holders agree to be repaid less of the loan's principal in exchange for moving up in payment priority.

S&P said it would consider any "distressed offer" to be "tantamount to default."

"In our view the potential for a bond restructuring or distressed exchange offering has solidified with the news that both bond insurers are open to supporting such a measure in an effort to head off a bankruptcy filing," S&P said.

Representatives of Assured Guaranty, the insurer that covers the largest share of Hartford bonds, have said they would help the city restructure its debt — reducing immediate contributions by stretching its payments further into the future. That means, in effect, that Assured would be willing to continue insuring Hartford's debt after a refinancing — a necessary condition, considering the

city's threats of bankruptcy.

If Hartford were to default or otherwise fail to make its debt payments, the bond insurance companies would be responsible for making missed payments. That's why Assured and the other insurer covering Hartford's debt, Build America Mutual, offered to help in a refinancing.

But despite the comments by S&P, it's not clear whether a restructuring based on such a refinancing deal would mean bondholders would end up being repaid less.

Mayor Luke Bronin and lawyers with Greenberg Traurig, the firm hired by the city to explore bankruptcy, held a brief conference call with bondholders and insurers Monday. Hartford faces \$545 million in outstanding general obligation debt.

City officials said that call could be a first step in discussions about restructuring its debt.

Bronin declined Wednesday to discuss details about restructuring.

Michael Stanton, head of strategy and communications at Build America Mutual, one of the two primary companies that insures Hartford's municipal bonds, outlined ways Hartford could avoid bankruptcy. BAM urged the city to avoid such a move, saying it would cause "irreparable harm" to the city, residents, the state and other municipalities.

Stanton said Hartford could take advantage of legislation allowing it to sell bonds that stretch out its obligations over 30 years, up from bond sales that pay off over 20 years.

He said a 30-year term is "very commonplace" in the municipal bond market, which cities tap to raise money for projects such as public buildings that last for 30 years or more.

"This is a transaction the city could execute in the public municipal bond markets today, with no additional legislation, nor a Chapter 9 bankruptcy filing," Stanton said.

Hartford also could sell new "refunding bonds" and use the money it raised to pay off current debt, he said.

Bronin sent a letter to Gov. Dannel P. Malloy and legislators this month threatening to pursue bankruptcy if Hartford didn't get its needed state aid by early November. He has asked for at least \$40 million more from the state this year.

Democrats had set aside \$40 million to \$45 million in their spending plan, but a Republican budget was approved by lawmakers instead, with \$7 million in additional funding for the capital city.

An even deeper cut in bond ratings could make it tougher for Hartford to tap bond markets for financing and drive up interest rates demanded by lenders. To help keep the interest rate on the new bonds as affordable as possible, Build America Mutual and Assured Guaranty, told city officials they would be willing to participate in guaranteeing the payments on those bonds to new investors, if such a guarantee is "economically helpful," Stanton said.

Assured Guaranty also warned against bankruptcy. A "consensual agreement among stakeholders offers the city a better path forward than bankruptcy," it said.

The Hartford Courant

by Stephen Singer

SEC Continues Public Finance Enforcement Agenda Two Recent Cases Filed: Orrick

Just in the last weeks of August, the Public Finance Abuse Unit of the Enforcement Division of the Securities and Exchange Commission (SEC) announced settlements of securities fraud actions involving a city, an underwriter, a municipal advisor and four individuals. The first case concerned inaccurate descriptions by a city of its prior compliance with continuing disclosure undertakings. This was the second instance of SEC enforcement following closure of the voluntary reporting program known as the Municipalities Continuing Disclosure Cooperation Initiative (MCDC).**[i]** The other case was brought against a financial advisory firm for violation of the Dodd-Frank Act obligation that municipal advisors owe a fiduciary duty to their municipal clients. This is one of the first cases to explore the meaning of fiduciary duty for municipal advisors.**[ii]**

I. Beaumont, CA Finance Authority and O'Connor & Company Securities, Inc. and Anthony Michael Wetherbee (August 23, 2017)

Beaumont, CA (a small city between Los Angeles and Palm Springs) created a joint powers authority (the Beaumont Financing Authority, or BFA) to issue bonds on behalf of a Community Facilities District (CFD) to fund infrastructure for housing developments. The CFD signed numerous Continuing Disclosure Agreements (CDAs) in connection with the BFA's bonds requiring annual reports on many aspects of the developments such as tax delinquencies, description of facilities financed, fund balances, etc. During a period from 1995 to 2015, Alan Kapanicas was Beaumont's City Manager and Executive Director of the BFA, and was responsible for overseeing all of the bond issuances and CDA reporting.

Between 2012 and 2013, five bond issuances by the BFA were solely underwritten by a small firm, O'Connor & Company Securities, Inc. (O'Connor). According to the SEC, each of the Official Statements (OS's) in these five issues contained a misstatement about the CFD's compliance with its CDAs. The OS's reported one late filing of an annual report, and stated that except for this occurrence, the CFD had not failed to meet its continuing disclosure obligations. The SEC stated that, in fact, the OS's failed to disclose many other late filings, up to 117 days, and that every annual report was missing one or more elements of information required by the CDA.

Had the BFA and the underwriter reported these instances under MCDC, they would have been subject to certain pre-arranged sanctions. Now, the sanctions were more severe:

1. Beaumont Financing Authority entered a cease and desist order, neither admitting nor denying the SEC's charges, in an administrative proceeding based on violations of Section 17(a)(2) and (3) of the Securities Act of 1933 (a charge based on negligent, rather than purposely intentional, action to make a material misstatement of facts to investors). There was no monetary penalty, although compliance with the settlement terms will cost the City some money. The BFA is required to establish policies and procedures and training for securities law and CDA compliance, and for accounting and record-keeping for bond proceeds. BFA is also required to bring all existing CDA filings up to date if not in compliance. These sanctions are similar to but a little more detailed than those applied in the 71 MCDC issuer settlements. A new requirement for BFA (which previously applied to underwriters under MCDC but not issuers) is to engage an independent consultant to provide a review and recommendations to the BFA on the matters subject to new policies and

procedures. BFA must comply with such independent consultant's recommendations, subject to appeal to the SEC. As with the MCDC settlements, BFA must disclose this settlement in its OS's for five years.

This action reinforces the importance for all issuers to make sure that they have policies and procedures in place to comply with their continuing disclosure agreements.

2. Alan Kapanicas was sued in Federal District Court based on the facts described above, alleging violations of Sections 17(a)(2) and (3). The SEC only released the Complaint in the action, but its press release indicated that, without admitting or denying the charges, Kapanicas agreed to the entry of permanent injunctions against violating Sections 17(a)(2) and (3) and against participating in any offering of municipal securities. He also agreed to pay a civil fine of \$37,500.

This post-MCDC action is significant in that no individual officials were included in any of the 71 issuer settlements. This is consistent with recent SEC policy in which individual officials are included in virtually every new enforcement action involving issuers, and who are usually required to pay some civil fine. Also, as noted above, the sanctions against the issuer entity were somewhat more severe and costly than the issuer would have faced if it had reported under MCDC.

3. O'Connor and its lead underwriter, Anthony Wetherbee, settled administrative proceedings brought under Sections 17(a)(2) and (3), several MSRB Rules, and a section of the 1934 Act which prohibits licensed dealers from violating MSRB Rules. Without admitting or denying the SEC's charges, which were based on failure of adequate diligence in determining if the BFA's description of its CDA compliance was accurate, the following sanctions were imposed:

A. O'Connor is required to engage an independent consultant to review its policies and procedures, and comply with its recommendations. This is similar to the MCDC settlements. O'Connor agreed to a cease and desist order, was censured and was required to pay a civil fine of \$150,000, which is larger than it would have paid under MCDC.

B. Weatherbee agreed to cease and desist from violating Section 17(a)(2) or (3), and is barred for 6 months from association with any municipal dealer, any investment company, or participating in any issuance of penny stocks. He also has to pay a civil fine of \$15,000. None of the 72 underwriter settlements in MCDC included any individuals.

II. Municipal Financial Services, Inc.; Rick A. Smith; and Jon G. Wolff (August 24, 2017)

The SEC brought an administrative action against Municipal Financial Services, Inc. (MFS), a registered municipal advisor (MA) based in Oklahoma, and two of its principals, Smith and Wolff. MFS was hired by an unidentified city in 2011 (City) to act as its MA and to be responsible for preparing the City's OS's for bond offerings, reviewing and commenting on all legal documents for bond issuances, and for assisting the City in compliance with its CDAs.

The City had three bond issues from 2005, 2008 and 2012 which all required annual reports to be filed within 180 days of the end of its fiscal year. In a 2013 bond issue, the City's bond counsel (a sole practitioner now retired) wrote a CDA providing for a 360 day deadline to file its CDAs, and which purported to amend the three prior CDAs to move to a 360-day reporting deadline.

The SEC alleged that MFS violated its fiduciary duty to the City by failing to advise the City that moving to the new 360-day reporting deadline violated the provisions of the 2005, 2008 and 2012 CDAs and that it did not advise the City until three years later to notify bondholders of those prior issues that the CDA deadline had been changed. These actions (carried out by Smith and Wolff)

violated Section 15B(c)(1) of the 1934 Act which requires MAs to act in a fiduciary capacity with their clients, and to use reasonable care to avoid misleading clients. **[iii]**

MFS was censured, agreed to cease and desist from further violations of Section 15B(c)(1), and paid a civil fine of \$50,000. MFS was also ordered to establish written policies and procedures and periodic training on the fiduciary obligations owed to municipal clients. Smith and Wolff each agreed to pay a civil fine of \$8,000.

There are a couple of interesting points in this case. One is that the SEC pointed out that based on advice given in a 1995 letter to the National Association of Bond Lawyers, it is very difficult for an issuer to unilaterally amend a CDA. The SEC strongly implied (although it did not say expressly) that this City's retroactive amendment of its 2005, 2008 and 2012 CDAs was improper, substantively as well as procedurally, since the City's bond counsel did not follow the provisions in those CDAs to make an amendment. Essentially, MFS was sanctioned for failing to tell the City that it could not make such amendments.

Another point to note is that this case was based on the fact that MFS's failure to properly advise the City was serious because investors in the three older bond issues were harmed by not getting their CDAs in the time frame originally promised to them. One commentator raised the question of whether the SEC was trying to do another "round-about" regulation by suggesting that an MA owed a duty to investors, but others point out that since in this case MFS had an express contractual duty to the City to help it with CDA compliance, the outcome was not surprising.

by Roger Davis, Robert Feyer, and Alison Radecki

September 27, 2017

Orrick, Herrington & Sutcliffe LLP

[i] Under MCDC, issuers and underwriters were given the opportunity to voluntarily report to the SEC instances in which the issuer erroneously stated in an Official Statement that it had materially complied with all of its obligations under continuing disclosure agreements for the past five years. The SEC offered a pre-arranged suite of sanctions, relatively mild, for those who participated in the program, but promised harsher penalties for those who did not. Ultimately the SEC settled with 72 underwriting firms and 71 issuers under the MCDC program.

[ii] For more background on the SEC's municipal enforcement activities, please access the recent Orrick - Bond Buyer Webinar.

[iii] This action was based solely on the statutory provision enacted by the Dodd-Frank Act. Subsequent to the time covered by this action, the Municipal Securities Rulemaking Board enacted Rule G-42 which spells out in more detail the duties and responsibilities of municipal advisors to their clients.

[IRS Issues New Proposed Regulations on the TEFRA Public Approval Requirement: Greenberg Traurig](#)

On Sept. 28, 2017, the Internal Revenue Service (IRS) issued a notice of proposed rulemaking (the 2017 Proposed Regulations) that would update and streamline public approval requirements under Section 147(f) of the Internal Revenue Code, as amended (the 1986 Code), applicable to state and

local governments issuing tax-exempt private activity bonds. The 2017 Proposed Regulations withdraw two prior notices of proposed rulemaking on this topic, including the May 11, 1983, notice of proposed rulemaking released in conjunction with temporary regulations (the Existing Regulations) under the predecessor to Section 147(f), Section 103(k) of the Internal Revenue Code of 1954 (the 1954 Code), and the Sept.9, 2008, notice of proposed rulemaking (the 2008 Proposed Regulations) that proposed to amend and supplement, but not revoke, Existing Regulations, thereby allowing the Existing Regulations to continue to apply to the extent not modified by the 2008 Proposed Regulations. Needless to say this odd history created confusion. Once final, the 2017 Proposed Regulations will contain all of the TEFRA public approval requirements because they will incorporate the 2008 Proposed Regulations with modifications in response to public comments and recent developments, and consolidate those rules with rules in the Existing Regulations to the extent not modified.

[Continue reading.](#)

by Rebecca L. Caldwell-Harrigalk, Vanessa Albert Lowry and Linda L. D'Onofrio

USA September 29 2017

Greenberg Traurig LLP

[IRS Issues New Proposed TEFRA Regulations: Nixon Peabody](#)

[Read the Nixon Peabody Public Law Alert.](#)

[Changes to MSRB Fees for Municipal Advisors.](#)

In support of our ongoing efforts to more fairly and equitably assess fees among regulated entities, the Municipal Securities Rulemaking Board (MSRB) today filed with the Securities and Exchange Commission (SEC) amendments to [MSRB Rule A-11](#), on assessments for municipal advisor professionals, to increase the annual municipal advisor professional fee to \$500 from \$300.

The municipal advisor professional fee will be assessed based on the number of associated persons for whom the firm has filed a Form MA-I with the SEC as of January 31 of each year and who are qualified as a municipal advisor representative in accordance with [MSRB Rule G-3](#). The first invoice at the new fee level will be sent to firms in April 2018 for payment by April 30, 2018.

In 2015, the MSRB conducted a holistic review of the organization's funding sources, which is informing efforts to more equitably assess fees among regulated entities. When the first changes stemming from that review were approved in 2015, we did not increase the municipal advisor professional fee to allow municipal advisors time to adapt to regulation post Dodd-Frank. We noted at the time that we would revisit the amount of the fee, considering the substantial costs associated with developing and maintaining a regulatory regime for municipal advisors.

We believe the fee assessment of \$500 per municipal advisor professional is an important step toward supporting the organization's long-term financial sustainability and ability to fulfill its Congressionally mandated mission to protect the integrity of the \$3.8 trillion municipal securities

market. Going forward, we will continue to periodically reevaluate all fees to strive to fairly and equitably allocate fees across the entities that fall under the organization's regulatory mandate.

[View the regulatory notice.](#)

[View the rule filing.](#)

[KBRA Affirms Ratings for NYSHFA Dock Street Housing Revenue Bonds, 2012 Series A and 2013 Series A.](#)

Kroll Bond Rating Agency (KBRA) has affirmed the long-term rating of AA- with a Stable Outlook and the short-term rating of K1+ on the New York State Housing Finance Agency Dock Street Housing Revenue Bonds, 2012 Series A and 2013 Series A (Bonds). The Bonds have a combined par amount outstanding equal to \$100.5 million. Both series of Bonds are scheduled to mature on November 1, 2046. The Bonds were issued as variable rate debt obligations with credit and liquidity support provided by an irrevocable Direct Pay Letter of Credit (DPLC) issued by Wells Fargo Bank, N.A. (Bank) a subsidiary of Wells Fargo & Company, Inc.

The DPLC is sized to ensure timely payment of principal and all accrued interest at the maximum amount permitted by the bond resolution. As such, the credit ratings assigned by KBRA are solely reflective of the credit and liquidity support provided by the DPLC issued by the Bank. Both long-term and short-term ratings will remain outstanding as long as the Bonds are supported by the Bank's irrevocable DPLC, and remain within the weekly variable rate interest mode.

To access the full report, please click on the link below:

[NYSHFA Dock Street Housing Revenue Bonds, 2012 Series A and 2013 Series A](#)

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

[KBRA Hosts Quarterly Public Finance Market Update: Airports](#)

KBRA invites you to join us for our Inaugural Quarterly Public Finance Market Update Conference Call!

This quarter's discussion will provide a market update on airports. Topics discussed will include KBRA's methodology for rating airports and an outlook on the sector.

The conference call details are as follows:

Thursday, October 5th
3:00 PM EDT

The discussion will be held by the following members of the KBRA Public Finance team:

Karen Daly, Senior Managing Director
Harvey Zachem, Managing Director

William Cox, Managing Director

Please click on the following link to register for the conference call: [KBRA's Quarterly Public Finance Market Update: Airports](#)

KBRA comments will be followed by a Q&A session. Please email questions prior to the conference call to info@kbra.com.

[KBRA Rates TBTA's General Revenue Bond Anticipation Notes, Series 2017A.](#)

Kroll Bond Rating Agency (KBRA) has assigned a short-term rating of K1+ to the Triborough Bridge and Tunnel Authority's Series 2017A General Revenue Bond Anticipation Notes (BANs). KBRA understands that the par amount of the Series 2017A BANs will be approximately \$400.0 million. In conjunction with assigning the short-term rating, KBRA has also affirmed the long-term rating of AA and the Stable Outlook on the TBTA's outstanding General Revenue Bonds and the long-term rating of AA- and Stable outlook on the TBTA's outstanding Subordinate Revenue Bonds. The Series 2017A BANs are tentatively scheduled to mature on February 15, 2018.

KBRA's short-term rating is based on the TBTA's long-term ratings and KBRA's review of the factors that may impact the TBTA's ability to issue additional BANs or take-out bonds at BAN maturity. The short-term rating utilizes KBRA's mapping of short-term to long-term ratings, as shown in KBRA's short-term rating scale definitions. For mapping of the long-term rating to the short-term rating, please refer to the [short-term KBRA Rating Scale](#).

To access the full report, please click on the link below:

[TBTA General Revenue Bond Anticipation Notes, Series 2017A](#)

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

[Electronic Trading: The Next Level of Municipal Bond Trading.](#)

The best way to get greater liquidity, handle price transparency requirements and realize cost savings

Oct. 11, 2107 | 2 PM ET/11 AM PT

Are you getting competitive liquidity? Is cost savings a concern? Do you need help with best execution requirements? This web-seminar will cover the challenges that municipal bond traders are facing and how they are leveraging electronic trading to access unique liquidity and increase their trading efficiency to support best execution requirements.

Agenda:

- A walk through on how to access exclusive liquidity and trade transparency

- How an 'all-to-all electronic marketplace' works
- Concrete examples on how dealers and the buy-side community have been leveraging electronic trading

[Register Now](#)

John Gallagher

Head of Municipal Bonds and U.S. High Grade Product Management
MarketAxess
(Speaker)

Hardy Manges

Head of Municipal Dealer Sales
MarketAxess
(Speaker)

Barnet Sherman

Municipal Bond Market Veteran
(Moderator)

[SIFMA Seeks Volcker Rule Exemption for Tender Option Bonds.](#)

SIFMA called for the exemption of tender option bonds from Volcker rule restrictions in a comment letter to the Office of the Comptroller of the Currency on revisions to the post-crisis financial regulation. "Treating these TOBs and other similar financing vehicles as covered funds is inconsistent with the statute and ultimately results in higher financing costs for US businesses," SIFMA wrote.

[Read SIFMA's comment letter.](#)

[S&P: Houston Area's Larger School Districts Won't See Harvey-Related Rating Impact.](#)

DALLAS (S&P Global Ratings) Sept. 26, 2017-S&P Global Ratings believes that the Houston area's five largest rated school districts are well prepared to withstand the effects of Hurricane Harvey, and anticipates no rating impact as a result, according to a report published today on RatingsDirect.

[Continue Reading](#)

[What the New Urban Anchors Owe Their Cities.](#)

Corporations like Google and Amazon reap the spoils of winner-take-all urbanism. Here's how they can also bear greater responsibility.

As some of the main drivers and primary beneficiaries of the recent urban revival, anchor

institutions are often the largest employers in their communities. While typical examples of “anchor institutions” include large universities, hospitals, and medical centers—so-called “meds and eds”—that quite literally anchor urban centers, other powerful anchors, including successful high-tech companies and real estate developers, have the capacity and resources to wield enormous influence on today’s cities.

However, the last decade has given rise to a troubling pattern of [“winner-take-all urbanism”](#) in which a select group of large, dense cities and an even smaller number of neighborhoods reap the spoils of innovation and economic growth. Anchors benefit enormously from this recent urban revival. And as a result, they must commit themselves to generating more inclusive prosperity.

To solve our modern urban crisis, we need a broader, more encompassing strategy of inclusive prosperity that allows all residents and neighborhoods to benefit from urban revival. In a [new study](#) with Steven Pedigo, my colleague from the NYUSPS Urban Lab at the Schack Institute of Real Estate, we outline the role that anchors can and must play in creating inclusive prosperity in our urban centers.

[Continue reading.](#)

CITY LAB

RICHARD FLORIDA SEP 21, 2017

[**S&P: U.S. Transportation Infrastructure Providers Weather Hurricanes With Ratings Largely Unaffected.**](#)

BOSTON (S&P Global Ratings) Oct. 2, 2017—S&P Global Ratings today said it has completed its initial review of U.S. public finance transportation infrastructure issuers affected by Hurricanes Harvey, Irma, and Maria.

[Continue Reading](#)

[**The Week in Public Finance: Trump's Tax Reform Proposal, the Foxconn Deal and More.**](#)

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

GOVERNING.COM

BY LIZ FARMER | SEPTEMBER 29, 2017

[**What Are Cities Spending Big On? Increasingly, It's Debt.**](#)

Many have gotten themselves into a fiscal squeeze paying bills they ran up decades ago. View data for dozens of cities.

When citizens think about where local taxpayer money goes, they often assume it pays for things like public safety, snow removal and trash collection — routine operating expenses that come with running any big city. And that’s mostly true. But what they rarely realize is that legacy costs also eat up large portions of the typical city’s budget. Debt accumulated over many years, contributions to employee retirement systems and the expense of fixing long-neglected infrastructure all take a significant toll.

Merritt Research Services provided *Governing* with [data](#) on current debt service, pension costs and other post-employment benefit (OPEB) expenses for cities with populations exceeding 500,000. These three cost drivers collectively averaged nearly a quarter of total governmental fund expenditures in recent years. What’s worrisome is that legacy costs are rising, taking up ever-larger shares of budgets. For the large cities reviewed, the three line items accounted for a median of 22.4 percent of fiscal 2016 governmental fund spending, up from 19.8 percent in fiscal 2011. In some big cities, the increase has been much greater. Consider Jacksonville, Fla. Debt, pensions and OPEB made up less than 20 percent of expenditures there in 2008. Since then they have climbed to about 32 percent in recent budgets.

[Continue reading.](#)

GOVERNING.COM

BY MIKE MACIAG | SEPTEMBER 2017

[MSRB: Issuers Shouldn't Choose Underwriter's Counsel.](#)

PHOENIX - Issuers should not be the ones selecting underwriter’s counsel in bond transactions because the practice, while common, gives rise to serious conflict of interest concerns, the Municipal Securities Rulemaking Board said Thursday.

The MSRB noted that the practice of issuers either selecting or influencing the selection of underwriter’s counsel for a transaction remains widespread, despite long-held concerns previously raised by the board. The MSRB was worried about the issue as far back as 1997. In 1998, it issued a notice stating that there were “demonstrated problems regarding the practice” and that underwriters must feel free to select their own lawyers in transactions.

“This practice gives rise to actual or potential conflicts of interest in the counsel’s representation of the underwriter, and calls into question counsel’s ability to carry out its responsibilities with the necessary degree of independence from the issuer, to act with undivided loyalty and to be free from conflicting allegiances in providing legal counsel to the underwriter,” the MSRB said in the advisory notice it released Thursday. “Issuer designation of counsel also may compromise an underwriter’s ability to retain counsel that has the requisite expertise and experience with the federal securities laws, and the resources needed to assist the underwriter in fulfilling its due diligence responsibilities.”

The Government Finance Officers Association’s current best practices on underwriter selection do not address whether issuers should avoid designating the underwriter’s counsel, but note that issuers and their municipal advisors inherently sit on the opposite side of the deal table from underwriters.

“The MSRB is responding to the continuation of this practice with this market advisory to restate its

concerns that investors may be harmed in a variety of ways in any offering process that does not properly utilize the review, guidance and counseling of an independent, competent and appropriately critical underwriter's counsel," the advisory concluded.

"To minimize conflicts of interest and to reduce any influence by an issuer that may call into question the qualifications or independence of the underwriter's counsel, the MSRB suggests that an issuer refrain from involving itself in the underwriter's selection of counsel or that an issuer's involvement in such process be minimal and limited to concerns regarding competency, conflicts of interest and the avoidance of excessive costs."

By Kyle Glazier

SOURCEMEDIA | MUNICIPAL | 07/27/17 07:08 PM EDT

Lawyers Critical of MSRB Guidance.

CARLSBAD,CALIF. - The Municipal Securities Rulemaking Board should be focusing its time and resources on being more efficient, rather than commenting on issues over which it has no authority, lawyers said Monday.

Their comments came during a panel discussion on market disclosure and pricing transparency at The Bond Buyer's California Public Finance Conference.

The panel discussion turned to recent MSRB activities and the board's associate general counsel Margaret "Peggy" Blake was among the speakers.

Her fellow panelists took some issue with the MSRB's recent issuance of a notice aimed at issuers, urging them not to selectively disclose information only to certain investors. While the MSRB does have a federal mandate to protect issuers, it has no authority to regulate their activities.

The notice, published on Sept. 13, warned that issuers face the potential for fraud charges if known material information is omitted from required public disclosures. Information generally has been deemed to be material under case law if there is a substantial likelihood that it would be considered important by a reasonable investor making an investment decision.

Dave Sanchez, a senior counsel at Norton Rose Fulbright, said he applauded the MSRB for its efforts to evaluate the efficiency of its current rulebook, a project the board began this year after finally finishing a lengthy list of federally-mandated rulemaking.

But Sanchez added that the board shouldn't be collecting fees from regulated broker-dealers and municipal advisors and then spending time and money talking about issuer behavior rather than undertaking the comprehensive review of its rules that the board has underway.

"If you have a kitchen renovation in progress, you shouldn't be out mowing the neighbor's yard," Sanchez said.

Leslie Norwood, a managing director, associate general counsel, and co-head of municipal securities at the Securities Industry and Financial Markets Association reacted to that statement with an "Amen."

The directive coming down from the Trump administration emphasizes evaluating current rules for ways to make them more efficient, she said, adding, SIFMA supports those efforts. “We applaud any push toward efficiency,” said Norwood.

Bill Oliver, the industry and media liaison for the National Federation of Municipal Analysts, expressed a less forceful opinion of the MSRB notice. But he noted that warning issuers against disclosure can have negative impacts.

“Anytime you tell people they should be careful about what they tell investors, it always leads to less information,” he said.

Blake said that the MSRB’s notice was merely guidance and in no way prescriptive, and had actually been well-received.

“Believe it or not, we have gotten a lot of positive feedback,” she said.

Panelists also discussed other disclosure issues, including the SEC’s proposal to amend its Rule 15c2-12 in a way that would require issuers to file material event notices to EMMA when they incur a material financial obligation such as a bank loan, as well as when debt becomes subject to certain provisions such as one that calls for an acceleration of payments.

Norwood reiterated dealer concerns that such information is sometimes difficult for underwriters to find, leaving them potentially liable if they underwrite bonds with shoddy disclosure. Oliver said such information clearly needs to be disclosed.

By Kyle Glazier

BY SOURCEMEDIA | MUNICIPAL | 09/27/17 07:06 PM EDT

[CDFA Defending Development Finance Interests During Tax Reform.](#)

On September 27, officials from the White House, the Senate Committee on Finance, and the House Committee on Ways and Means ended months of tax reform speculation by releasing a [unified framework](#) for tax reform. Over the coming weeks and months the Congressional tax-writing committees will begin writing legislation based on the unified framework, and we at CDFA will work to ensure that development finance interests are represented throughout this process.

CDFA’s primary focus during the tax reform period will be on four key areas. Those areas are as follows:

- Preserving and Strengthening [Tax-Exempt Bonds](#)
- [Reforming Manufacturing Bonds](#) through the Modernizing American Manufacturing Bonds Act
- Permanently Authorizing and Funding the [New Markets Tax Credit Program](#)
- Launching a Federal Urban Tax Increment Finance Program

For additional information on the CDFA tax reform proposals, please contact Tim Fisher at 614-70-1309.

[Groups Pleased White House to Keep Muni Exemption, But Want to See It In Writing.](#)

WASHINGTON – Municipal market participants said Wednesday that while they are pleased that White House officials say the Republican tax reform plan will fully support the tax exemption for municipal bonds, they would rather see it in writing.

The nine-page framework for the tax reform plan does not mention either munis or the deduction for state and local taxes (SALT). But senior administration officials told The Bond Buyer Tuesday night that they would support the muni tax exemption and seek repeal of the SALT deduction.

“It’s good the White House is saying that, but it would be better if it were explicit in the documents,” said Bill Daly, director of governmental affairs for the National Association of Bond Lawyers.

He noted the plan talks about eliminating most exemptions, deductions and credits, with specific exceptions for only the deductions for mortgage interest and charitable contributions and the tax credits for research and development and low-income housing.

“We’ve heard indications that Congress does not intend to curtail the tax exemption, but the process will be fluid until a bill is signed into law,” said Michael Decker, managing director and co-head of municipal securities for the Securities Industry and Financial Markets Association. “We still perceive a risk to the tax-exemption.”

“We remain fully engaged with Congress to defend the value of the tax-exemption for municipal bonds to ensure that the benefits of the exemption to municipalities, U.S. infrastructure, and investors remains unaffected during the legislative process for tax reform,” said Justin Underwood, director of the Municipal Bonds for America Coalition.

The nine-page framework for tax reform released Wednesday proposes to eliminate both the individual and corporate alternative minimum tax (AMT), which would be a boost for private activity bonds because most of them are subject to the AMT.

“We welcome the repeal of the AMT,” said Decker. “The individual AMT especially forces some municipal borrowers to pay higher interest rates — 25 to 50 basis points — with little or no revenue accruing to the federal government, since most taxpayers know when they make investment decisions whether they fall under the AMT.”

Daly said the repeal of the SALT deduction would hurt state and local governments’ finances and potentially their ability to issue tax exempt bonds because it would make it harder for many jurisdictions to raise taxes. Some bonds are backed by tax revenues.

State and local officials, meanwhile, said they are mobilizing to prevent the elimination of the federal tax deduction for SALT, which prevents double taxation.

Muni representatives and tax experts question whether the framework will ever be enacted, predicting Republicans will encounter the same obstacles that prevented them from passing partisan legislation to repeal and replace Obamacare.

Democrats blasted the tax reform plan, which the Republicans plan to consider through a partisan fiscal 2018 budget resolution and reconciliation bill that would enable the Senate to bypass its filibuster rule requiring a 60-vote supermajority for passage and enact tax reform with a simple

majority vote.

“When Donald Trump was talking about this plan over the last few days he talked about focusing on the middle class,” said Senate Minority Leader Chuck Schumer, D-N.Y. “The plan is a major disappointment because it so deviates from everything the president said.”

Schumer predicted Republicans will face opposition within their own party to repealing the SALT deduction as they did during the 1986 debate over tax reform. “My guess is, you’re going to have 30, 40, 50 Congress members, Republicans, who say they can’t vote for it because ‘It raises taxes on my core constituency,’” he said. “That’s the lesson they learned in ’86. I was part of it.”

The tax reform framework calls for increasing the standard deduction for individuals to \$12,000 and for couples to \$24,000. This is the basis for simplification of the tax system, with Republicans hoping the standard deduction will be high enough that taxpayers won’t miss itemizing deductions.

“Nine out of 10 Americans will be able to file their taxes using a simple postcard system,” said House Ways and Means Committee Chairman Kevin Brady, R-Texas.

But John Buckley, former chief tax counsel of the House Ways and Means Committee, said that, with the higher standard deduction and repeal of the SALT deduction, the plan would be “a de facto repeal of the mortgage interest deduction” which will put downward pressure on home values.

Realtors have already complained about this in congressional hearings, warning the plan will penalize homeowners and reward renters.

The plan would shrink the current seven tax brackets, which range from 10% to 39.6% to three brackets, with rates of 12%, 25% and 35%. There would be flexibility to add a fourth rate for the wealthiest taxpayers.

The corporate rate would be reduced to 20% from 35%. The maximum tax rate that could be applied to the business income of small and family owned businesses conducted by sole proprietorships, partnerships and S corporations would be 25%.

The proposed reduction in the corporate rate to 20% could hurt demand for munis from banks and property and casualty companies, said George Friedlander, a managing partner at Court Street Group Research.

“At 20% tax rate, corporations won’t care nearly as much about munis,” he said, adding, “But I can’t see them ending up with a 20% rate.”

The plan would allow businesses to immediately write off or expense the cost of new investments in depreciable assets other than structures made after Sept. 27, for at least five years. The deduction for net interest expense incurred by C corporations would also be partially limited, but rates were not provided.

The tax reform framework, Republicans say, is only an outline that will be fleshed out by the two tax-policy committees in Congress during the coming weeks.

Friedlander and others said there is still a lot of detail left out of the tax reform framework and that any bill that could be passed would have undergone a lot of changes.

“There are a lot of open questions,” said Friedlander. “How are they going to pay for this? What will the tax rates end up looking like? Nobody I have talked to believes that the corporate rate will be

20%.”

Market participants are relieved that the tax reform framework does not include a proposal that was in the Republican Blueprint that would have potentially made corporate bonds more attractive than munis. The proposal would have allowed families and individuals to deduct 50% of investment earnings such as capital gains, dividends and interest income.

“SIFMA supports favorable tax treatment for all investment income. However it is true that drastically lowered the tax rate for taxable investment income would have eroded the value of the tax exemption for municipal interest,” said Decker.

Tax experts have warned lawmakers that a partisan tax plan would not provide the same kind of long-term economic boost as bipartisan legislation.

Trump already has traveled to several states with Senate Democrats who face re-election in 2018 in the hope of pressing them to support tax reform.

The U.S. Conference of Mayors sent a bipartisan letter Monday signed by 130 mayors urging Congress to not eliminate SALT.

“According to a recent report by the Government Finance Officers Association, if the SALT deduction is eliminated, almost 30% of taxpayers - including individuals in every state and in all income brackets - would be adversely impacted,” the mayors wrote. “This would include over 43 million tax units representing well over 100 million Americans.”

Americans Against Double Taxation echoed that concern. “This plan should concern all taxpayers who itemize, including those who claim the mortgage and charitable deductions, because the loss of SALT will mean fewer households will be able to claim any deductions in the future,” the group said. “Taxpayers should not be lulled into a false sense of security as this proposal threatens all itemized deductions, even though its direct focus is on SALT.”

By Brian Tumulty & Lynn Hume

BY SOURCEMEDIA | MUNICIPAL | 09/27/17 07:06 PM EDT

[Good Jobs First Subsidy Tracker Makes GASB 77 Data Accessible.](#)

[View the Subsidy Tracker.](#)

Good Jobs First | Sep. 28

TAX - ILLINOIS

[In re County Collector](#)

Appellate Court of Illinois, Second District - August 2, 2017 - N.E.3d - 2017 IL App (2d) 160483 - 2017 WL 3276440

Tax sale purchaser filed petition to vacate the tax sale, for a declaration of a sale in error, and for a refund, alleging that property had been classified as farmland but taxed as if it were subdivided

residential land.

The Circuit Court denied the petition. Purchaser appealed, and the Appellate Court Reversed and remanded. On remand, town intervened, and the Circuit Court ordered that tax sale refund should be paid from the tax revenue collected for special service areas that had expired. Purchaser appealed. In separate action, second tax sale purchaser filed petition to vacate a sale on the basis that the assessor had improperly classified the property as farmland. The Circuit Court granted town's motion to intervene and ordered refund from tax revenue collected for expired special service areas. Second purchaser appealed, and appeals were consolidated.

The Appellate Court held that:

- Town had right to intervene;
- County collector was not required to issue refunds on demand but rather could issue refunds after collecting funds from appropriate taxing bodies; and
- Purchasers were entitled to be paid refunds from town's general tax revenue, rather than from special service areas.

Town had right to intervene after tax sale purchaser's petition for sale in error was granted and refund was ordered, where town's interests were not at stake until the trial court granted the sale in error and petition was filed shortly after that order was entered, county collector was not protecting town's interests, as it had expressed no preference as to which taxing body was responsible for the refund, and town would be bound by the trial court's judgment as to whether refund would be paid from town's general tax revenue and/or special service area tax revenue.

County collector was not required to issue refunds on demand or up front to tax sale purchasers who successfully petitioned to vacate tax sales as sales in error, but rather county collector could issue refunds after collecting funds from appropriate taxing bodies. County collector did not have the funds on hand necessary to pay the refunds, and had a component of discretion in deciding the timing of the refunds.

Tax sale purchasers who successfully petitioned to vacate tax sales on basis that properties, which were in expired special service areas, had been improperly classified and assessed were entitled to be paid refunds from town's general tax revenue, rather than from special service areas which made up bulk of unpaid tax assessments. Town had established the special service areas and levied the taxes, and thus was the "taxing body" responsible for the refunds, public policy of encouraging tax sale bidders warranted payment of refunds from general tax revenue as opposed to having purchasers losing their investments, and potential to recover directly from property owners did not preclude recovery from town through county collector.

TAX - OHIO

[State ex rel. Repeal Lorain County Permissive Sales Tax Committee v. Lorain County Board of Elections](#)

Supreme Court of Ohio - September 15, 2017 - N.E.3d - 2017 WL 4183078 - 2017 -Ohio-7648

Voters sought writ of mandamus, seeking to compel board of elections to certify their petition for repeal of county sales and use tax.

The Supreme Court of Ohio held that:

- Court would not strike as scandalous an accusation that county auditor unlawfully refused to accept certified copy of petition, and
- As matter of first impression, voters did not have clear legal right to have petition placed on upcoming ballot, thus precluding mandamus relief.

Supreme Court would not strike as impertinent or scandalous an accusation in voter's affidavit, that county auditor wrongfully and unlawfully refused to accept a certified copy of referendum petition for repeal of county sales and use tax, in voters' mandamus proceeding against county board of elections seeking to compel board to certify the petition; every mandamus petition accused a government official of unlawful conduct, and the worst that could be said about the accusation was that it was immaterial to issue of board's obligation to certify the petition.

Voters did not have clear legal right to have their initiative petition for repeal of county sales and use tax placed on upcoming ballot under statute governing elections to repeal emergency permissive taxes and, thus, were not entitled to mandamus relief compelling board of elections to certify the petition. Statute set out procedures for repeal of emergency tax resolutions, while a separate statute governed nonemergency tax resolutions, and parties stipulated that the county board of commissioners did not adopt the tax on an emergency basis.

Hartford Bond Insurers Hire Long-Time Public Finance Turnaround Pro.

NEW YORK, Sept 28 (Reuters) - Bond insurers for the city of Hartford, Connecticut's cash-strapped capital city, have hired a financial advisor with decades of experience working with the state's most distressed municipalities.

Assured Guaranty Ltd and Build America Mutual Assurance Company (BAM), which together insure at least \$414 million of the city's roughly \$530 million of debt, hired Robert Lamb, who founded Lamont Financial Services Corp in 1987, Lamb confirmed to Reuters on Thursday.

In those cities, Lamb said he created a credit "that we could use to fund a deficit, and use that as a baseline for turning the city around."

Governor Dannel Malloy has proposed a fiscal oversight board for Hartford, where city officials have said they will seek approval for a bankruptcy filing if they do not get enough state aid.

But the state itself is mired in a budget impasse that could delay or slash monetary aid to municipalities. That threat grew on Thursday with Malloy's veto of a Republican-backed budget, putting the state closer to severe automatic spending cuts on Oct. 1.

Earlier this week, Assured Guaranty and BAM offered to help relieve Hartford's mounting annual debt service payments by refinancing existing bonds.

Currently, the city is to pay about \$48 million in fiscal 2019, but the costs are on course to rise significantly in several following years.

The proposed refinancing could create breathing room for the city by leveling out debt payments to \$40 million annually for the next 15 years under a new state law.

Such a “scoop and toss” refinancing would also extend the full term of the bonds from 20 years to 30 years.

By Hilary Russ

[Fitch: Illicit Sales Will Limit California Cannabis Revenues.](#)

Fitch Ratings-New York-25 September 2017: California’s high cannabis taxes will encourage black market sales and limit potential local government revenues from this new market, Fitch Ratings says.

Effective tax rates on nonmedical cannabis will be as high as 45% when accounting for both state and local levies. Taxes include a 15% state excise tax, state cultivation taxes of \$9.25 per ounce for cannabis flowers (\$2.75 per ounce for leaves), and state and local sales taxes ranging from 7.75% to 9.75%. By comparison, Oregon taxes nonmedical cannabis at approximately 20% and Alaskan taxes range from 10% to 20%.

California’s high taxes are likely to keep black market prices competitive into the long term. The state’s black market will also benefit from its long history as a supplier to states where nonmedical cannabis remains illegal. Retail sale of nonmedical cannabis is set to begin on Jan. 1, 2018 following California voters’ approval of the Control, Regulate and Tax Adult Use of Marijuana Act (Proposition 64) in November 2016.

California will become only the latest of the states to contend with black market staying power. Colorado, Washington and Oregon each lowered their cannabis taxes following legalization to address black market competition. Proposition 64 and most local tax measures included provisions that could permit reductions in tax rates over time. However, future tax cuts may be politically challenging to implement.

Federal restrictions pose an additional and ongoing risk to revenues in states that have legalized medical and nonmedical cannabis. The risk of intervention has risen under the current presidential administration following the US attorney general’s call for increased enforcement of drug laws that continue to classify cannabis alongside heroin and LSD. Rising popular support for cannabis legalization nationally may mitigate such risks over the longer term.

Fitch Ratings will publish a report titled “Local Taxes May Challenge Cannabis Legalization in California” in the coming weeks. It will be available for download on www.fitchratings.com.

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The above article originally appeared as a post on the Fitch Wire credit market commentary page. The original article can be accessed at www.fitchratings.com. All opinions expressed are those of Fitch Ratings.

[Fitch: U.S. Cannabis Legalization.](#)

As acceptance for cannabis legalization expands, the widely varied regulation and tax structures at the state and local levels have led to a measurable - and in some cases substantial - revenue boost, according to a new Fitch Ratings report: [US States Experiment with Cannabis Legalization.](#)

[Fitch: California School and Community College District Ratings \(IDRs, GOs and Pledged Special Revenues\)](#)

[Read the Fitch Special Report.](#)

25 Sep 2017

[Counties Fight for SALT Seduction, House GOP's Top 'Pay-For'](#)

State and local governments, National Sheriffs' Association, National Association of Realtors and more are fighting for the SALT deduction

NACo and 20 partner organizations are mobilizing ahead of this week's planned release of details about a Congressional tax reform effort expected to target the state and local tax deduction (SALT). House Republicans will meet Sept. 27 to review the comprehensive tax reform framework developed by House Speaker Paul Ryan (R-Wisc.), House Ways and Means Chairman Kevin Brady (R-Texas), Senate Majority Leader Mitch McConnell (R-Ky.), Senate Finance Committee Chairman Orrin Hatch (R-Utah), Treasury Secretary Steven Mnuchin and National Economic Council Chairman Gary Cohn. The tax-exempt status of municipal bonds, also a county priority, is also a likely target.

Members of Americans Against Double Taxation oppose any proposal that repeals or modifies the deduction, which has been part of the federal tax code since 1913. Changes to the deduction would mean higher bills for taxpayers, even with a potential increase in the standard deduction, and consequently would reduce county and local government revenues and affect public service delivery.

Eliminating the deduction would net the federal government nearly \$1.3 trillion over 10 years, giving Congressional Republicans room for federal tax cuts. Of taxpayers who claim the deduction, 87 percent of have incomes below \$200,000.

"The elimination of the SALT deduction would hurt our residents, especially middle class homeowners, with a triple whammy of higher federal taxes, declines in property values and threats to essential state and local services, like K-12 schools, public safety and infrastructure

improvements,” NACo First Vice President Greg Cox said during a Sept. 21 media call on the coalition’s effort.

“This is not a partisan issue, this about helping everyday American make ends meet. This is about allowing state and communities solve state and local problems.”

Cox is a supervisor in San Diego County, Calif., where half of one million residents took the deduction in 2015, 44 percent of whom earned less than \$200,000.

“This is nothing more than an assault on the middle class if this deduction is lost, it’s going to have a tremendous impact on families and households in San Diego County.”

The coalition includes 21 members representing levels of state and local governments, school boards and education associations and the National Association of Realtors, the National Sheriffs’ Association and the International Association of Fire Fighters. Organizations representing the same sectors successfully fought for the SALT deduction during the debate over the Tax Reform Act of 1986.

“We’re mobilizing because tax reform is real,” said NACo Executive Director Matt Chase. “The White House framework that was released hinted that SALT would be eliminated. We’re hearing that the House Republican blueprint will continue to eliminate SALT, that we are the number one pay-for,” to balance tax cuts.

He noted that the scope of details the coalition expected from Congress next week — a framework or full legislative text — wasn’t clear.

The coalition is fighting attempts to portray this as a benefit to the wealthy or a subsidy for state and local governments.

“If this goes through, instead of allowing working families to deduct the amount they pay in state and local taxes, the federal government will basically be forcing taxpayers, who make up backbone of our community, to pay taxes a second time on the same income,” said Elizabeth Kautz, mayor of Burnsville, Minn. “The loss in local revenues could result in a cut in local services. It will be a further erosion of the partnership that we have offered and continued to seek. Any changes will disrupt the ability of state and local government to raise the revenue they need to support critical public services.”

Little Rock, Ark. Mayor Mark Stodola said SALT repeal would put local governments in a difficult position, not only to fund essential services but to work with citizens.

“America’s cities would face enormous pressure to lower local tax rates to offset the decision,” he said. “Federal leaders would wash their hands of the tough decisions that we on the local level...need to make in order to keep our budgets in the black.”

Of the 20 Congressional districts with the most SALT deductions in 2015, 45 percent are represented by Republicans.

“SALT knows no color, there are significant numbers of itemizers in Congressional districts across the country held by Republicans and Democrats,” said Bob Chlopak, manager of Americans Against Double Taxation. “We are looking far and wide but we believe we have a rich pool from which we are going to target and get the votes we need to make it clear that tax reform cannot be passed if repeal of SALT is part of it.”

[As Hartford Mulls Bankruptcy, Bond Insurer Offers to Help Postpone Payments.](#)

Assured Guaranty says Connecticut's capital could delay payment on as much as \$300 million in debt

Hartford's biggest bond insurer said it had offered to help the city postpone payments on as much as \$300 million in outstanding debt, in a move designed to help prevent a bankruptcy filing for Connecticut's capital.

The insurer, Assured Guaranty, made the announcement before a Monday conference call between Hartford and its bondholders.

During the call Hartford Mayor Luke Bronin said postponement of the city's debt would be inadequate without other fixes such as more revenue from the state, according to a statement released by the city after the call.

"I appreciate Assured's willingness to have constructive discussions," the mayor said, according to the statement, but "this administration is not interested in pushing off this challenge for another mayor or another generation to fix."

Under Assured Guaranty's proposal, debt payments due in the next 15 years would instead be spread out over the next 30 years without bankruptcy or default. The city would issue new longer-dated bonds and use the proceeds to make the near-term debt payments.

Assured Guaranty and another insurer, Build America Mutual, would insure the new bonds, said an Assured Guaranty spokesman.

Assured Guaranty backs 57% of Hartford's roughly \$550 million in outstanding general obligation debt and would be on the hook for any shortfall in payments should the city enter bankruptcy. Build America Mutual backs \$103 million in Hartford debt. About \$163 million in Hartford bonds are held by U.S. mutual funds.

Hartford is in the middle of a fiscal emergency because of a weak tax base and a budget deficit of nearly \$50 million. It also has one of the lowest credit ratings in the nation. Making matters worse, Connecticut lawmakers have been unable to reach agreement on a state budget more than two months into the fiscal year, leaving Hartford short of state funding.

City officials have warned that the city would likely file for bankruptcy this fall unless the state provides more help. Mayor Luke Bronin has said the city cannot afford to make its bond payments on time and will need to restructure its debt even if Hartford does receive state assistance.

The offer from Assured Guaranty would provide Hartford with short-term budgetary relief but wouldn't reduce the city's total liabilities. In fact, it would add to them because delaying when the debt comes due would increase interest costs.

The city's debt payments are scheduled to jump from \$6.6 million to \$56 million in the next four years, according to city financial disclosures. Assured Guaranty's plan would lower those payments by pushing some of the debt out as far as 2047.

It is common for states to issue bonds as a way of refunding old debt, both to take advantage of low interest rates and to put off debt payments. But Hartford, which is rated deep in junk status and has hired restructuring advisers, would likely be unable to complete such a deal without insurance.

"Once you hire restructuring advisers, investors steer clear," said Matt Fabian, partner at Municipal Market Analytics, a municipal bond research firm.

Of cities rated by Moody's Investors Service, only Stockton, Calif., which emerged from bankruptcy protection two years ago, and Atlantic City, N.J., which narrowly avoided it, have lower ratings than Hartford.

Assured Guaranty's proposal takes advantage of state legislation passed in July that for the next five years allows cities to refinance debt with 30-year bonds instead of restricting them to 20-year bonds.

Hartford could receive more than \$40 million in aid under one version of Connecticut's fiscal 2018 budget, which state lawmakers are still debating. But that alone wouldn't be enough to keep Hartford out of bankruptcy, the city said in a notice about Monday's conference call.

Assured Guaranty's proposal wouldn't help Hartford solve all its problems. A continued delay in the budget could strain the city's ability to make payment on a \$20 million short-term loan due on Oct. 31.

The insurer's proposal could be "a part of the solution," said the Assured Guaranty spokesman. "It's not the solution in itself."

The Wall Street Journal

By Heather Gillers

Updated Sept. 25, 2017 3:17 p.m. ET

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

[Budget Battles Drag On in Two Northeast States.](#)

Connecticut and Pennsylvania have seen ratings downgrades and state aid cuts amid stalemates

Connecticut and Pennsylvania lawmakers are still struggling to reach agreements to cover multibillion-dollar budget gaps, and the consequences from the stalemates are adding up.

Nearly three months into their new fiscal calendars, they are the last two states without finalized budget plans. The delay has cost Pennsylvania a ratings downgrade and temporarily stalled payments to Medicaid providers and school districts, while Connecticut cities are facing major cuts in state aid.

"Now the squeeze is happening," said John Hicks, executive director at the National Association of

State Budget Officers.

If Connecticut can't pass a solution by Sunday, a wave of nearly \$1 billion in reductions to municipalities will move forward under the terms of an executive order signed by Gov. Dannel Malloy, a Democrat, to keep state operations running. That could prove damaging for Hartford, the state capital, which had its credit rating downgraded this week. City officials have warned Hartford could file for bankruptcy by early November without more state assistance.

Connecticut and Pennsylvania are required by state laws to pass balanced budgets. Their stalemates follow a bruising year for budget fights around the U.S. Negotiations came down to the wire in many states this summer—the fiscal year starts July 1 almost everywhere—and New Jersey and Maine partially shut down their governments when lawmakers couldn't reach accords in time.

Fiscal challenges differ from state to state, although persistently weak revenue has been a broad challenge in recent years. Pennsylvania faces near-term funding challenges because lawmakers passed a spending plan before shoring up how to pay for it. Lawmakers are now fighting over how to plug the gap.

Connecticut, meanwhile, faces stark longer-term fiscal challenges, according to Moody's Investors Service. Income-tax hikes in the state in 2011 and 2015 haven't stabilized its finances. The state is burdened with a heavy debt load, hefty unfunded pension liabilities and a shrinking population. These factors have contributed to a \$3.5 billion projected deficit in its two-year budget.

With funding for infrastructure, schools and public safety all at stake, towns around the state are worried, said Elizabeth Gara, executive director of the Connecticut Council of Small Towns.

Schools in Groton, Conn., a community on the Thames River, could lose funding for roughly a quarter of the school budget, according to Keith Hedrick, the city's mayor.

S&P Global Ratings placed nine Connecticut municipalities on negative credit watch Thursday, including New Haven, Bridgeport and New London. The rating agency cited the state's budget impasse and the possibility of big cuts to municipal aid beginning Sunday.

"I worry about the impact to residents," Mr. Hedrick said. "Depending on the size of the cut, we are going to have cut education or raise taxes or both."

A spokesman for Mr. Malloy said the executive order can only provide money for cities and towns based on the state's current revenue projections.

"The solution is to pass a balanced budget as soon as possible," he said.

To plug the hole, Mr. Malloy has called for shifting some teacher pension payments to cities and towns, which has been opposed by municipalities across the state. Labor unions have pushed for higher taxes on corporations.

Republican legislators won a surprising victory in early September when they netted enough Democratic votes to pass a GOP budget. That plan includes higher retirement contributions from teachers and steep cuts to the University of Connecticut, the state's higher education flagship.

Mr. Malloy vetoed the plan Thursday, saying the GOP budget was unbalanced and unsustainable.

"I remain committed to engaging in honest dialogue with legislative leaders to reach an agreement," Mr. Malloy said.

Democratic and Republican lawmakers said Thursday that a budget deal before Oct. 1 was unlikely and now aimed to reach an agreement by mid-October. Absent an agreement, Republicans said they would seek to override the governor's veto on Oct. 10.

Meantime, lawmakers in Pennsylvania managed to pass a \$32 billion spending plan on June 30, but not a revenue plan that will fill a \$2.2 billion gap, much of which was caused by weak revenue in the last fiscal year. This caused "a virtually immediate liquidity shortfall that the state is already scrambling to cover," according to Moody's.

Gov. Tom Wolf, a Democrat, instructed the state treasury earlier this month to delay about \$1.7 billion in payments pegged mostly for Medicaid providers and school districts.

The state soon caught up and made the payments, but weak liquidity and the chance for more delays contributed to an S&P downgrade last week.

"The downgrade largely reflects the commonwealth's chronic structural imbalance dating back nearly a decade, a history of late budget adoption, and our opinion that this pattern could continue," S&P analyst Carol Spain said.

The state treasurer and auditor general, also Democrats, warned lawmakers in a recent letter that they were "disinclined" to support more lending to a general fund if the state can't balance revenues and costs.

Pennsylvania's current budget fight hasn't yet trickled down in a way that affects average citizens, said Dan Seymour, a Moody's analyst. This differs from a nine-month impasse, following the end of a fiscal year in mid-2015, which hurt state funding to social-service agencies that help seniors and students.

Gov. Wolf supported a plan in the GOP-controlled state Senate that would raise taxes by roughly \$550 million to \$600 million, but the GOP-controlled House has turned that plan down. A spokesman for the governor said he continues to work with lawmakers to resolve the stalemate.

The Senate, meantime, has spurned a state House plan that would rely more on money shifted from other state funds. "We do not believe that taxes should be the first option, it should be the last option," a spokesman for the House GOP said.

The Wall Street Journal

By Jon Kamp and Joseph De Avila

Updated Sept. 28, 2017 4:25 p.m. ET

Write to Jon Kamp at jon.kamp@wsj.com and Joseph De Avila at joseph.deavila@wsj.com

[SIFMA: U.S. Municipal Securities Holders.](#)

Quarterly or annual breakdowns of municipal outstanding by bond holder type.

[View the Report.](#)

September 22, 2017

[GFOA - Now is the Time to Act on SALT Tax Reform](#)

What Can You Do?

Call Your Representative on the House Ways and Means Committee. Is your Congressional representative on the House Ways and Means Committee? Call them right away and urge them to voice their opposition to eliminating deductibility. The GFOA Report, [“The Impact of Eliminating the State and Local Tax Deduction.”](#) shows the percentage of tax filers in their districts that use the deduction and the potential impact of eliminating it.

Call Your U.S. Senators and Representatives. Even if your Congressional representation is not on the committee, it is still important to let them know how important this issue is. It’s important to bring as much attention as possible to this threat. To make more of an impact, make an appointment to visit with or call their district staff directors.

Activate Your Community. Congress also needs to hear from voters, taxpayers, businesses, realtors, homebuilders, educators, and anyone else in your cities and counties who will be harmed by this proposal.

Share Feedback. Please let GFOA’s Federal Liaison Center know about any actions you take and commitments or feedback you receive by e-mailing Emily S. Brock or Michael Belarmino.

Talking Points

- If our taxpayers lose the federal deduction for their state and local income, property, and sales taxes, they will face “double taxation.”
- Simply put, this change would basically be forcing taxpayers - who make up the backbone of our economy - to pay taxes a second time on the same income instead of allowing working families in every one of our communities to deduct the amount they pay in state and local taxes.
- Research shows that 39% of taxpayers with annual earnings between \$50,000 to \$75,000 use this deduction, as do 70% of taxpayers with annual earnings between \$100,000 and \$200,000.
- The proposal to eliminate deductibility would have a drastic impact on home ownership and the value of current homes. Reducing or eliminating this deduction is a tax hike for homeowners.
- This deduction has existed for more 100 years, since the federal tax code was established.
- States and local governments use revenues from property, sales, and income taxes to help finance long-term infrastructure projects, local law enforcement, emergency services, education, and many other services.
- By eliminating the federal deductibility of these taxes, Congress would shift the intergovernmental balance of income taxation and force cuts in critical state and local services.
- Federal laws or regulations should not preempt, limit, or interfere with the constitutional or statutory rights of states and local governments to develop and operate our own tax systems.
- This is not just a fight over money and taxes. It is perhaps the most important debate about the proper balance and true partnership between local governments, states, and the federal government.

[FINRA Proposed Rule Change - Section 13 of Schedule A.](#)

Proposed Rule Change to Amend Section 13 of Schedule A to the FINRA By-Laws Relating to the

Review Charges for Communications Filed with or Submitted to FINRA

Financial Industry Regulatory Authority, Inc. ("FINRA") is filing with the Securities and Exchange Commission ("SEC" or "Commission") a proposed rule change to amend Section 13 of Schedule A to the FINRA By-Laws ("Section 13") governing the review charges for communications filed with or submitted to FINRA's Advertising Regulation Department (the "Department") to account for upcoming technological changes that will allow websites to be filed in native format.

[Text of Proposed Rule Change.](#)

- [MSRB Identifies Compliance Considerations for Municipal Securities Dealers.](#)
 - [The Bond Lawyer: Summer 2017](#)
 - [S&P: Cyberattacks Pose A Real, If Varying, Credit Risk Across U.S. Public Finance Sectors.](#) **Ed.**
Note: This may serve as a handy guide for new & improved risk factors and disclosures.
 - [As Flood Risks Intensify, Stormwater Utilities Offer a More Resilient Solution.](#)
 - [Someone Left the Crayons Out, and Now the Tax Lawyers Are Drawing Pictures.](#)
 - [California Cannabis Coalition v. City of Upland](#) - Supreme Court of California holds that requirement - under constitutional provision limiting ability of local governments to impose, extend, or increase any general tax - that a general tax be submitted to the voters at a general election does not apply to taxes that are imposed by initiative after securing the electorate's approval in a manner consistent with statute setting forth local government's duty with respect to voter initiatives whose proponents request a special election.
 - And finally, Please Remind Me Again Why We Aren't Paid Hourly is brought to us this week by [Corrigan v. Illuminating Company](#), in which one can positively feel the waves of resigned disgust wafting off the Facts and Procedural Background section of the Supreme Court of Ohio's opinion, which begins, "For over ten years, the parties have litigated the fate of this tree." May visions of chainsaws dance through your heads.
-

UTILITIES - OHIO

[Corrigan v. Illuminating Company](#)

Supreme Court of Ohio - September 13, 2017 - N.E.3d - 2017 WL 4081822 - 2017 -Ohio-7555

Property owners filed a complaint with the Public Utilities Commission against electricity company, seeking to prevent the removal of a tree located on the company's easement across owners' property.

The Public Utilities Commission found that the company's plan to remove the tree was reasonable. Owners appealed.

The Supreme Court of Ohio held that:

- Evidence supported conclusion that continued pruning of tree near transmission line was not a viable option;
- Order permitting removal of tree did not contravene Commission's vegetation-management policy; and
- Evidence supported conclusion that tree could potentially interfere with transmission line.

Evidence supported conclusion by Public Utilities Commission that continued pruning of tree located on electrical company's easement near transmission line was not a viable option, in proceedings brought by property owner seeking to prevent the tree's removal. Certified arborist testified that past pruning operations were ineffective over long term and that future pruning would diminish the tree's vigor, and observed that past pruning had actually shortened the tree's expected life span.

Public Utilities Commission's order permitting removal of tree near transmission line located on electricity company's easement did not contravene Commission's vegetation-management policy. Commission concluded that pruning was no longer a viable option, that property owners failed to rebut company's evidence showing safety hazards posed by tree's continued existence, and that owners failed to prove company acted unreasonably in implementing its right-of-way vegetation-control program.

Evidence supported Public Utilities Commission's conclusion that tree located on electric company's easement could potentially interfere with transmission line, justifying its removal. Tree was outside of the horizontal clearance prescribed by the National Electrical Safety Code, parts of the tree were destined to fail and fall into the transmission lines, and property owners' comparison of disparate risks posed by different activities did not dictate a finding that the tree did not pose a risk to the lines at issue.

IMMUNITY - ALABAMA

[Ex parte City of Selma](#)

Supreme Court of Alabama - September 1, 2017 - So.3d - 2017 WL 3821748

Owner of repossessed motor vehicle brought action against city after city police officer's allegedly told employees of repossession company to take the vehicle after owner had called police to object to repossession.

The Circuit Court denied city's motion for summary judgment. City filed petition for writ of mandamus.

The Supreme Court held that officers were entitled to State-agent immunity.

City police officers were performing discretionary functions within the line and scope of their law enforcement duties, and therefore officers were entitled to State-agent immunity in tort action by owner of repossessed vehicle stemming from incident in which officers allegedly told employees of repossession company to take the vehicle after owner had called police to object to repossession. There was no evidence that officers failed to discharge duties pursuant to detailed rules or regulations, such as those stated on a checklist, or acted willfully, maliciously, fraudulently, in bad faith, beyond their authority, or under a mistaken interpretation of the law.

UTILITIES - IDAHO

[Hill-Vu Mobile Home Park v. City of Pocatello](#)

Supreme Court of Idaho, Boise - June 2017 Term - September 6, 2017 - P.3d - 2017 WL 3880760

Users of municipality's water and sewer systems brought action against municipality for a refund of

a water and sewer charge that had been found unlawful in a previous case, and users sought class certification. The District Court granted summary judgment for city. Users appealed.

The Supreme Court of Idaho held that:

- Idaho Tort Claims Act did not preclude users' state law claims;
- Money is property within the meaning of the takings clause; and
- Trial court did not have discretion to refuse to apply its decision in the previous case that the particular charge was unlawful.

Idaho Tort Claims Act did not bar municipal water and sewer system users' claims under state law for recovery of a charge that was linked to the purported property taxes that municipal water and sewer departments paid to the municipality and that had been held to be unlawful in a separate case, even though Act generally provided that a governmental entity was not liable for a claim that arose out of the assessment or collection of a tax, where municipality did not have authority to add such a charge, municipality did not denominate the charge as a tax, and municipality raised the rates for water and sewer service so that it would not have to take the politically unpopular route of raising property taxes.

Trial court did not have discretion to refuse to apply its decision in a previous case that a particular water and sewer charge by a municipality was unlawful to a new case by water and sewer users who sought a refund of the charge.

UTILITIES - INDIANA

[Duke Energy Indiana, LLC v. Town of Avon](#)

Court of Appeals of Indiana - August 24, 2017 - N.E.3d - 2017 WL 3624282

Energy utility company appealed decision of the Indiana Utility Regulatory Commission, which determined that trial court was proper jurisdiction for company's complaint regarding town ordinance, which ordered company to remove, at company's own cost, utility poles, power lines, and other equipment located either on land owned by town or in town's rights-of-way, and dismissed company's complaint.

The Court of Appeals held that:

- Commission had exclusive jurisdiction to hear company's complaint, but
- Court of Appeals, upon remanding company's complaint to Commission, would decline to instruct Commission to hold hearing.

Indiana Utility Regulatory Commission had exclusive jurisdiction to hear energy utility company's complaint on validity of town ordinance ordering company to remove utility poles, power lines, and other equipment located either on land owned by town or in town's rights-of-way, since statute which granted enforcement powers to Commission explicitly stated that it "shall be [Commission's] duty" to "enforce...all...laws...relating to public utilities [,]" and expressly directed Commission to "inquire into any...violation" of local ordinance by public utility, and statute which permitted municipalities to regulate use of municipal property by public utilities specifically contemplated disputes between towns and utilities regarding access to rights-of-way or other access to public property.

Court of Appeals, upon remanding energy utility company's complaint to Indiana Utility Regulatory

Commission, would decline to instruct Commission to hold hearing on complaint, since statute which expressly applied to complaints filed by public utilities stated that “[a]n order...may be entered by the [C]ommission without a formal public hearing” or that Commission “may...on its own motion require a formal public hearing[.]” and thus statute left decision to hold hearing to Commission’s discretion.

ZONING & PLANNING - MAINE

[Fissmer v. Town of Cape Elizabeth](#)

Supreme Judicial Court of Maine - September 19, 2017 - A.3d - 2017 WL 4126940 - 2017 ME 195

Abutting property owner appealed from a decision of town’s zoning board of appeals, which determined code enforcement officer had properly issued a building permit.

The Superior Court affirmed the zoning board’s decision, and abutting property owner appealed.

The Supreme Judicial Court of Maine held that provision of zoning ordinance that provided no building permit shall be issued until legally binding arrangements for long-term maintenance of a private road were in place had to be applied to the entirety of the road from its intersection with a public way to at least the location of the proposed structure, and not just to the section of the road abutting the permit applicant’s property.

LABOR & EMPLOYMENT - MASSACHUSETTS

[Malden Police Patrolman's Association v. Malden](#)

Appeals Court of Massachusetts, Middlesex. - August 11, 2017 - N.E.3d - 92 Mass.App.Ct. 5320 - 17 WL 3442612

Police union filed a complaint against the city, alleging that the city owed the officers approximately \$410,000 in compensation for the performance of past detail work pursuant to collective bargaining agreement and requesting relief under theories of breach of contract, breach of an implied covenant of good faith and fair dealing, promissory estoppel, unjust enrichment, and violation of the Massachusetts Wage Act.

The Superior Court Department allowed the city’s motion to dismiss with respect to the first four counts of the complaint, and granted summary judgment for the city with respect to the fifth count of the complaint. Union appealed.

The Appeals Court held that:

- Trial court did not abuse its discretion by considering the merits of the city’s motion to dismiss, rather than deeming city’s motion fatally defective because of city’s failure to comply with Superior Court’s rules;
- If there was a collective bargaining agreement (CBA) in effect, police union was required to follow the grievance procedures;
- CBA precluded recovery by police union for compensation for the performance of past detail work under a theory of unjust enrichment;
- Doctrine of promissory estoppel was not applicable;

- When officers' detail work is performed for third parties, statute, governing expenditure of compensation for off-duty or special detail work, governs with respect to detail pay, but, to extent that the city "hires" its own officers as "employees" to perform detail services, payment is governed by the Wage Act; and
- Fact that the municipal finance law, provides that compensation for off-duty detail work shall be paid to employee no later than ten working days after receipt by city, does not render this statute incompatible with the Wage Act.

OPEN MEETINGS - MISSISSIPPI

[Mayor and City Council and City of Columbus v. Commercial Dispatch](#)

Supreme Court of Mississippi - September 7, 2017 - So.3d - 2017 WL 3913910

City and its mayor sought review of state ethics commission's finding that prearranged, nonsocial, and subquorum gatherings of the mayor and city council in the mayor's conference room violated the Open Meetings Act.

The Chancery Court affirmed. City and its mayor appealed.

The Supreme Court of Mississippi held that gatherings in question violated the Open Meetings Act.

Prearranged, nonsocial, and subquorum gatherings of mayor and city council in the mayor's conference room to discuss retail development and renovations of a public building violated the Open Meetings Act, where the discussions were targeted at avoiding or circumventing the Act, public business was discussed at all of the gatherings, and the discussions led to official action by the quorum when they met.

NUISANCE - OKLAHOMA

[Grisham v. City of Oklahoma City](#)

Supreme Court of Oklahoma - September 18, 2017 - P.3d - 2017 WL 4129573 - 2017 OK 69

Two couples who suffered damages as a result of sewer backup brought action against city, asserting claims for property damage, and personal injury/nuisance.

Following jury verdict in couples' favor, the District Court reduced jury award to \$25,000 for each couple. The Court of Civil Appeals affirmed. Couples petitioned for writ of certiorari.

The Supreme Court of Oklahoma held that:

- Couples were not precluded from filing separate notices of claims with city for each separate type of compensable injury, but
- Notices of claim stating "property damage," without stating "any other loss," were insufficient to provide notice of personal injury/nuisance claims arising from same transaction.

Couples who asserted claims against city for property damages that arose out of sewer backup were not precluded from filing separate notices of claims for each separate type of compensable injury. Couples satisfied notice requirements of Governmental Tort Claims Act (GTCA) when they used forms provided by city, provided their names, addresses, date and time of damage, name of city's supervisor who investigated their damage, insurance information, sought monetary relief for their

property damage, and then filed their written notices with city clerk.

While couples' notices of "property damage" on city claim forms were sufficient for city to investigate, correct the situation, resolve the controversy, and determine possible liability for property damage claims that arose from sewer backup, without stating "any other loss," they were insufficient to provide notice of a claim for personal injury/nuisance arising from the same transaction or occurrence, as required to bring their subsequent suit in the district court for both property damage and personal injury/nuisance.

BALLOT INITIATIVES - OREGON

[Unger v. Rosenblum](#)

Supreme Court of Oregon, En Banc - September 14, 2017 - P.3d - 361 Or. 814 - 2017 WL 4053893

Challenger filed petition seeking judicial review of Attorney General's certified ballot title for initiative petition, which proposed statutory amendment in order to allow digital signatures for initiatives and referenda.

The Supreme Court of Oregon held that:

- Caption failed to reasonably communicate major effect of initiative petition;
- Caption of ballot title was not required to inform voters that Secretary of State was responsible for gathering digital signatures; and
- The "yes" result statement of initiative petition failed to sufficiently inform voters that initiative petition required Secretary of State to create a website to be used for gathering digital signatures.

Ballot title caption for initiative petition that, if enacted, would have changed way signatures were gathered to put an initiative measure or a referendum on the ballot, failed to reasonably communicate major effect of requiring Secretary of State to create and administer a website in order for petitions to be signed digitally, where caption merely provided "Secretary of State must enable and accept digital signatures for state initiative and referendum petitions."

Initiative petition that, if enacted, would have changed way signatures were gathered to put an initiative measure or a referendum on the ballot did not make Secretary of State responsible for gathering digital signatures, and therefore caption of ballot title was not required to inform voters that Secretary of State was responsible for gathering digital signatures. Initiative petition would only have made the Secretary of State responsible for creating and administering a website where voters could sign initiative and referendum petitions digitally.

The "yes" result statement of initiative petition that, if enacted, would have changed way signatures were gathered to put an initiative measure or a referendum on the ballot failed to sufficiently inform voters that initiative petition required Secretary of State to create a website to be used for gathering digital signatures. Result statement merely noted that initiative petition required Secretary of State to "manage" a website for gathering of digital signatures.

OPEN MEETINGS LAW - SOUTH DAKOTA

Lee v. Driscoll

United States Court of Appeals, Eighth Circuit - September 7, 2017 - F.3d - 2017 WL 3910129

Property owners, one of whom was township board clerk, filed § 1983 action alleging that members of township's board of supervisors violated their constitutional rights and state law by excluding them from meetings regarding culvert construction project.

The United States District Court dismissed some claims, entered summary judgment in defendants' favor on other claims, but denied supervisors' motion for summary judgment on qualified immunity grounds. Parties filed cross-appeals.

The Court of Appeals held that:

- Supervisors were not entitled to qualified immunity from liability on clerk's claim that her exclusion from township board meetings violated her First Amendment right to freedom of association, and
- Supervisors' exclusion of plaintiffs from non-public board meetings did not violate their First Amendment right to petition.

Fitch: Utah's Economy, Conservative Financial Ethos Foster Strong Municipal Credit Quality.

Fitch Ratings-San Francisco-18 September 2017: Utah's tax-supported cities, counties, and school districts maintain strong Issuer Default Ratings (IDR), thanks to a vigorous state economy, conservative financial management, and robust revenue frameworks, according to new research from Fitch Ratings

Statewide, Fitch's IDRs are in the top 'AA' and 'AAA' categories, with Stable Rating Outlooks across the board.

"The State of Utah is benefiting from rapid population growth, a diversified economy, and very low unemployment," said Alan Gibson, Director for U.S. Public Finance. "Within this context, local governments are also performing well. Even during periods of economic expansion, they tend to emphasize prudent budgeting, careful financial monitoring, affordable fixed costs, and strong reserves -all important factors in overall credit quality."

Other keys to strong Utah local government ratings include robust revenue frameworks and solid expenditure flexibility. Most Fitch-rated Utah local governments enjoy low to moderate revenue volatility, high to superior inherent budget flexibility, and high reserves. Fitch anticipates most of its rated Utah local governments will maintain sufficient reserve safety margins for a 'aaa' financial resilience assessment through future economic cycles.

Fitch expects these positive credit characteristics to continue supporting strong ratings in the future, according to Gibson.

For more information, a special report titled "Credit Strengths of Local Governments in Utah" is available on the Fitch Ratings web site at www.fitchratings.com or by clicking on the link.

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[Bloomberg Brief Weekly Video - 09/21](#)

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

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[When All Else Fails, Sue Wall Street.](#)

There's a lot of blame to go around, but banks have deep pockets and a history of municipal-debt settlements.

Disagreements about money often have a clear solution: Everyone sues each other. That's the American way.

And so it goes for Puerto Rico, the fiscally crippled island that incurred \$74 billion of debt over a period when its population and economy were shrinking. Investors have brought many suits against the commonwealth, which now appears to be setting the stage for its own lawsuit against big Wall Street banks.

After all, going after large banks has turned into standard operating procedure for big municipal insolvencies. Just think of Orange County, California, which worked out \$800 million in settlements from Merrill Lynch & Co. and others after going bankrupt in the 1990s.

[Continue reading.](#)

Bloomberg BusinessWeek

By Lisa Abramowicz

Illinois Bondholders Cheer Reversal of Fortune Before Big Sale.

- **Worst-rated state has stabilized, biggest bondholders say**
- **State plans to borrow to pay down record backlog of late bills**

As Illinois prepares for what may be its biggest debt sale in over a decade, its largest investors are celebrating a rally that's transformed the state's bonds from one of this year's worst performers to one of the best.

Since the state in July resolved a two-year budget impasse that pushed its rating to the brink of junk, debt issued by Illinois and its local governments has vaulted to a 7 percent return this year, more than any other state, according to S&P Municipal Bond Indices. Until June 8, they were the worst performer among the five most-indebted states, which include Texas, California, Florida and New York.

The reversal came after lawmakers enacted a budget — and raised taxes — over Governor Bruce Rauner's objections. They also extended Illinois authority to reduce a record pile of leftover bills by selling as much as \$6 billion of bonds. It would be the state's biggest sale since 2003 if done in a single offering.

What follows is a round-up of the outlook for the state from some of Illinois's largest bondholders and how much their firms own:

Nuveen Investments: \$868 million

"It has turnaround potential," said John Miller, co-head of fixed-income at Nuveen, which bought more Illinois bonds in late June and July as the budget came together. The firm plans to take a "hard look" at the \$6 billion borrowing, calling it a "benchmark-type deal" because it may be one of the largest of the year, according to Miller, who cautioned that the state's rising pension-fund debts are still posing risks.

AllianceBernstein LP: \$583 million

"They've stopped the bleeding," said Guy Davidson, director of municipal investments at AllianceBernstein. He said the firm is interested in buying more Illinois debt. "It's not like we think they have solved their problems. We just think they've stabilized their problems."

Davidson said investors are "getting paid more than we think the risk entails"

Wells Fargo Asset Management: \$428 million

"They're not under the gun as much as far as ratings go," said Dennis Derby, a portfolio manager at Wells, which holds \$40 billion of municipal debt. The firm would be "more comfortable" if the state took action soon to reduce the \$16 billion of unpaid bills

BlackRock Inc.: \$310 million

The tax hike gives the state “more tools” to meet their expenses and obligations, marking an improvement, said Joe Gankiewicz, a credit-research analyst in Princeton, New Jersey, for the company, which oversees about \$124 billion of municipal debt. The state’s unfunded retirement liabilities — \$130 billion, according to the Commission on Government Forecasting and Accountability — remain an issue. “The pension expense is likely to outstrip the organic revenue growth in the state in the coming years,” Gankiewicz said

Illinois G.O. holding figures are based on data compiled by Bloomberg.

Bloomberg

By Elizabeth Campbell

September 22, 2017, 4:00 AM PDT

— Written with the assistance of Bloomberg’s Municipal Global Data team
