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GASB Issues Exposure Draft, Certain Disclosures Related to Debt, including Direct Borrowings and Direct Placements.

[Read the draft.](#)

07/12/17

Bipartisan Mayors to Call on Congress to Save Community Development Block Grants (CDBG) Ahead of Congressional Markup.

WASHINGTON, DC—Today, Tuesday, July 11 at 1 pm ET, a bipartisan group of mayors representing the U.S. Conference of Mayors (USCM) will host a press conference call to call on Congress to reject a White House proposal to eliminate the Community Development Block Grant Program (CDBG), which supports critical housing, infrastructure, and small business and economic development programs in communities across the nation. A House Subcommittee on Appropriations is scheduled to hold a markup later in the day on the Department of Housing and Urban Development's budget, which includes CDBG funding.

During the call, Mayors will point to critical projects funded under the CDBG program, including housing programs, infrastructure/community development, and social services. USCM has outlined the positive effects of CDBG projects in CDBG Works: How Mayors Put CDBG to Work, showcasing the impact of CDBG projects in over 120 cities.

As the most flexible stream of federal dollars allocated directly to local governments that are used for broad purposes, Community Development Block Grants touch the lives of nearly every American in some fashion. Administered through the Department of Housing and Urban Development, CDBG funds reach more than 7,000 rural, suburban and urban communities and support housing investments, public infrastructure improvements, enhanced public safety services, employment training, as well as services for seniors, youth and the disabled.

Most recently, USCM President New Orleans' Mayor Mitch Landrieu issued a new policy proposal, Mayors' Agenda for the Future, which called on the federal government to allocate additional resources directly to cities and counties through the CDBG program - stipulating that these additional funds be first used to invest in low and moderate-income neighborhoods to accelerate infrastructure improvements and make neighborhoods more "investment ready." Such commitments to address street safety concerns and expand mobility options can help address income inequality, specifically by improving access to jobs and lowering household transportation costs.

Bloomberg Brief Weekly Video - 07/13

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

[Watch video.](#)

Bloomberg

July 13, 2017

[The Week in Public Finance: Lobbying Congress on the 'Tax Perk,' Chronic Deficits and the Credit Threat in Illinois.](#)

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

GOVERNING.COM

BY LIZ FARMER | JULY 14, 2017

[Management Strategies for an Era of Budget Uncertainty.](#)

To minimize the impact on services from future spending cuts and economic downturns, governments need to take a proactive, multi-year approach.

The National Association of State Budget Officers recently released its annual [Fiscal Survey of the States](#), and the picture is not a particularly pretty one. Far from having completely rebounded from the Great Recession of 2007-2009, NASBO reports that states have continued to experience a slow recovery: Thirty-three of them projected fiscal-year 2017 revenues to come in slower than anticipated and 23 made mid-year budget cuts.

Moreover, while budgets are expected to recover somewhat for fiscal 2018, many states are preparing for a possible recession by taking actions such as building up their rainy day funds. In addition, there is the wild card of possible federal cuts, to Medicaid and other federally funded programs, that could make both state and local budgets even more volatile. Put all of this together, and it appears that what NASBO previously identified as the “new normal” — a world in which budget constraints are ubiquitous rather than cyclical — may indeed be upon us.

For state and local officials, this kind of budget situation requires an ongoing, conscious strategy of financial and program management to minimize impacts to citizens. Governments and their agencies can lessen the chances of service disruptions and degradations by anticipating and planning. Pushing problems and decisions about them into the future only works if we know that the future environment will be more hospitable than the present one. This seems a dicey proposition for states and localities, given the liabilities — pensions and infrastructure, to name two — that are already present.

Here are some specific actions, in addition to continuing to maintain healthy rainy day funds, that can and should be taken now to be better prepared for the inevitable budget uncertainty of the future:

Focus on efficiency and productivity: Actions that can bring more bang for the buck — carefully contracting out services, consolidating services between agencies and the like — can be considered much more thoughtfully and deliberately now than they can be later when agencies are responding to a mid-year budget cut.

Ask mission questions, prioritize and focus on performance: Many agencies, often through no fault of their own, may have experienced a kind of “mission creep.” Now is the time to reassess priorities by focusing on program performance and reassessing the need for high-cost, low-return initiatives. This increases the odds of avoiding the time-honored but ill-advised practice of across-the-board spending cuts — a strategy that implies that everything is equally important at the margin.

Consider long-term commitments: The underfunding of state and local pensions and retiree health care is well documented. States and local governments need to continue assessing the affordability of these and other future commitments and find ways — and the political will — to get them under control. Once they determine how generous these plans will be in the future, they need to develop a realistic strategy for funding them prudently, including catching up on any underfunding that may have occurred in the past.

There was a time when governments and their agencies could expect to be saved by the natural cycles of budgeting. If an economic downturn created budget problems for a year or two, temporary fixes might be sufficient until more normal times returned. But the new normal requires a new strategy that explicitly recognizes that only a multi-year strategy for budgeting and program management can truly confront the fiscal challenges that governments are virtually certain to face.

GOVERNING.COM

By Philip Joyce | Contributor

Professor at the University of Maryland School of Public Policy

JULY 12, 2017

[The Constitution Prevails as the Political Subdivision Regulatory Project Gets Trumped.](#)

July 7, 2017 witnessed a once-in-a-career moment for any tax practitioner. On that date, the Treasury Department released [Notice 2017-38](#), which acknowledged that eight regulatory projects are unduly burdensome and should be reconsidered for modification or repeal – a rare display of administrative modesty. Included in the list of burdensome regulations are the proposed regulations that would re-define the term “political subdivision” for purposes of which entities can issue tax-exempt bonds under Section 103 of the Internal Revenue Code (the “Political Subdivision Proposed Regulations,” which we have previously analyzed [here](#), [here](#), [here](#), [here](#), [here](#), and [here](#)).

The Political Subdivision Proposed Regulations are indeed unduly burdensome and therefore merited inclusion in Notice 2017-38. As discussed below, the Political Subdivision Proposed Regulations are also of dubious constitutionality.

[Continue reading.](#)

The Public Finance Tax Blog

by Michael Cullers

July 12 2017

Squire Patton Boggs

Treasury: Proposed Political Subdivision Regulations are “Burdensome,” Issue Price Regulations are “Insignificant.”

The noise that you just heard may be another blessed nail in the coffin of Treasury’s proposed regulations that would have made it more difficult for an entity to qualify as a political subdivision so that it can issue tax-exempt bonds on its own behalf. Treasury just issued Notice 2017-38, which sends 8 regulatory projects, including the proposed political subdivision regulations, to the President in response to his order to identify and pare back or eliminate regulations that add undue financial burden or undue complexity.

Issue Price Regulations Sneak Past the Guards

The fact that Treasury included the proposed political subdivision regulations among the list of burdensome regulations that are now on the chopping block will get all of the headlines, but there’s another story here, too. Treasury somehow concluded that the issue price regulations were not a “significant” tax regulation (apparently they aren’t regular readers of this blog). **In other words, Treasury didn’t even consider whether the new issue price regulations might be burdensome.** In fact, Treasury says that the issue price regulations were “minor or technical in nature,” and – you’ll love this – “generated minimal public comment.”

[Continue reading.](#)

The Public Finance Tax Blog

by John W. Hutchinson

July 7 2017

Squire Patton Boggs

About \$330M Left in New Clean Renewable Energy Bond Program.

WASHINGTON – About \$329.7 million of New Clean Renewable Energy Bonds can still be allocated to states, localities and other users, according to the Internal Revenue Service.

The unused allocations stand at \$150.3 million for governmental bodies and \$179.36 million for cooperative electric companies, the IRS stated in its latest update published on July 3.

The overall program was authorized for \$2.4 billion in bonding authority.

One third of the \$2.4 billion New CREBs program was authorized for use by public power companies, but unlike governmental bodies and electric cooperatives they faced a deadline to apply.

Public power companies had a June 3, 2015 deadline to apply for their \$800 million share of the program.

An initial round of New CREBs for public power agencies was over-subscribed at the 2009 deadline, according to the American Public Power Association, which reported there were 38 applications for \$1.446 billion. The IRS prorated the allocations, setting a 2012 deadline for their use.

However, many of the public power projects were not undertaken by the first deadline. A reallocation was undertaken in 2015, but it's not clear how much of the remaining \$516.56 million was used.

School districts, cities and counties around the nation have used new CREBs to finance the installation of solar panels on rooftops and pay for the construction of windmills to produce electricity for schools and government buildings, said Ed Oswald, an attorney at Orrick, Herrington & Sutcliffe here.

No more than \$40 million of New CREBs in the latest round can be used for each project by any governmental body or electric cooperative, according to the IRS.

The IRS hasn't tracked how many of the projects have financed solar power versus wind power or other renewable energy sources. It also hasn't looked at the type of governmental bodies, such as school districts, where New CREBs may be most often used, according to an IRS official.

A database maintained by Thomson Reuters lists the Grant County Public Utility District in Washington State as the largest user of New CREBs with \$222.4 million issued for three projects followed by American Municipal Power Inc. of Ohio with \$136 million for two projects as well as the City of Seattle, Wash. at \$84.9 million for three projects.

Seattle City Light, a municipal owned power company, used New CREBs to rebuild generators at the city's Boundary and Diablo hydroelectric dams. Boundary accounts for about 60% and Diablo accounts for 9.5% of the electricity generated by Seattle City Light.

"New CREBs have been relatively well received by the public finance community," Oswald said.

"It's, if you will, another tool in the toolbox. It's a tax credit bond, not a tax-exempt bond."

New CREBs did not work for every community. The town of Norwich, Vermont received an authorization in 2009 to use new CREBs to finance solar panels for a municipal building, but the town ultimately opted for a private company that offered to supply low-cost solar power to the town, public library and local elementary school.

"Over the length of the project it would have been a plus for the town, but there were certain years where it would be a negative," said Linda Gray, chair of Norwich energy committee. "And I have to say the bonds were pretty weird."

New CREBs are currently taxable and issued in a direct-pay mode, under which the issuer receives a direct subsidy from the federal government to reduce the interest costs. The subsidy equals 70% of interest costs minus cuts from sequestration.

The Energy Improvement and Extension Act of 2008 allocated an initial \$800 million for the New CREBs.

Another \$1.6 billion was authorized under the American Reinvestment and Recovery Act of 2009

signed by President Obama that also contained broader measures to stimulate the economy.

Limiting the financing to \$40 million for individual projects has been a major obstacle for big cities and other potential large users.

“I think that the most significant limitation for these bonds has been the volume cap level,” Oswald said. “If you think about the needs of the nation at large in terms of renewable energy, they are somewhat significant and the volume cap allocated here still falls short of the aspirations of a lot of the issuers.”

The original Clean Renewable Energy Bonds program, also known as Old CREBs, was authorized in 2005 as part of the Energy Tax Incentives Act. The initial authorization for \$800 million in Old CREBs was increased to \$1.2 billion under the 2006 Tax Relief and Health Care Act. Those bonds were issued as taxable tax credit bonds under which purchasers received tax credits.

By Brian Tumulty

Published July 10 2017, 4:40pm EDT

The Bond Buyer

[Downgrade in State Oklahoma Could Impact Borrowing Costs.](#)

Fitch Ratings has downgraded the ratings on several Oklahoma bonds one notch — a move that could increase the state’s borrowing costs on a number of projects.

The American Indian Cultural Center in Oklahoma City, the Oklahoma Museum of Popular Culture in Tulsa, some higher education construction projects and a new state Health Department lab are among upcoming bond-financed projects likely to be impacted by the downgrade.

The rating change won’t impact Oklahoma Turnpike bonds, because they are backed by revenue generated by the turnpike system and are not dependent on state appropriations for the repayment of bonds.

Rating change

Fitch Ratings, one of the big three municipal credit rating services, announced Tuesday that it was lowering the state of Oklahoma’s issuer default rating from AA+ to AA.

Fitch also announced that it was lowering the rating on the state’s general obligation bonds from AA+ to AA and reducing the ratings on the state’s Oklahoma Capitol Improvement Authority and Oklahoma Development Finance Authority bonds from AA to AA-.

Following the downgrade, Fitch’s Oklahoma ratings will closely align to those of Standard & Poor’s credit rating service, which lowered Oklahoma’s rating March 1, and Moody’s rating service, which has been slightly lower than Fitch’s for a number of years, said state Treasurer Ken Miller.

“This downgrade is certainly not surprising ... to anyone who has been paying attention to state finance in the last year or so,” Miller said.

Miller said he and other state leaders warned before the last legislative session that a downgrade

was likely if the Legislature did not take steps to address the structural imbalance that the state has in its revenue sources.

“Clearly, Fitch did not see the necessary corrective steps taken last session and this downgrade is the result,” Miller said.

Oklahoma has relied on a continued drawdown of the state’s Rainy Day Fund and one-time revenue sources to fill large revenue gaps over the last couple of years rather than broadening the tax base, Fitch noted in its downgrade report.

Investors rely on the credit ratings to evaluate the risk of default and generally demand a higher interest rate for bonds with a lower rating.

A drop from a rating of AA+ to AA or from AA to AA- is not a drastic change because all are considered to be investment grade bonds of very high credit quality.

Still, the change is not insignificant.

For every \$100 million the state borrows under a 20-year repayment structure, a difference between a AA and AA- rating means the state may end up paying around \$2.4 million in additional interest over the life of the bonds, an individual knowledgeable in bond financing told *The Oklahoman*.

In 2016, the state sold \$360.2 million in tax-backed obligations, so if a similar amount were to be issued this year, the difference between a one-notch lower rating could end up costing state taxpayers an additional \$8.64 million or so over the life of the bonds.

State Bond Advisor Jim Joseph cautioned that it is impossible to predict with precision what impact a rating change will have on bond interest rates, noting that many other things factor into the decisions of investors, including the size and structure of the deal and general market conditions.

For that reason, Joseph said he has always declined to predict what interest rates might be.

Miller also pointed out that the other two rating agencies already had Oklahoma rated lower, so the lower evaluation is already likely factored into the interest rates the state has been getting.

Still, it’s not going to help, Joseph said.

“Anytime you’re downgraded, it’s going to end up costing you more money in the long run,” Joseph said. “Any investor is going to ask for more yield when they buy a lower-rated bond.”

Besides making new projects more costly, higher interest rates also make it more difficult for the state’s issuers to refinance outstanding bonds at a savings, he said.

The Oklahoma Museum of Popular Culture project in Tulsa will be among the first to test the impact of the credit rating downgrade. Fitch assigned the \$27.315 million deal a AA- rating. The bonds are expected to be sold through private negotiation later this month.

Why the downgrade?

Fitch cited both economic factors and political factors in a five-page paper explaining the downgrade.

Oil and gas prices have been down and “about one-third of the state’s gross state product is attributable to the drilling, production and economic multiplier effects of the oil and natural gas

sectors,” the credit agency said.

“Volatility related to the energy industry is an inherent part of the state’s economy and the industry is expected to be a drag over the medium term,” the report said.

“The state has been unable to address its fiscal challenges with structural and recurring measures and revenue collections continue to reflect subdued energy prices,” Fitch reported.

The report noted that lawmakers are constrained, somewhat, in their ability to tap new revenue sources by a constitutional amendment that requires either a three-fourths vote of the Legislature or majority vote of the people to pass a tax increase.

Constitutional challenges have been filed to revenue-generating moves by the Legislature last session. The court will decide on the legality of new fees on cigarettes, measures involving electric and hybrid motor vehicle registration, motor vehicle purchases and personal income tax deductions.

“The validity of the measures, which are forecast to bring in almost \$320 million in fiscal 2018, will be decided by the state’s Supreme Court in August,” the report said. “If the court rules that the measures are invalid, the state would be required to solve for any resulting budget gaps.”

The Oklahoman

by Randy Ellis

Published: July 13, 2017

[The Impact of Eliminating the State and Local Tax \(SALT\) Deduction.](#)

As part of its tax reform efforts, Congress has discussed whether to eliminate the ability for taxpayers to deduct state and local taxes (SALT). On July 11, 2017, Government Finance Officers Association’s (GFOA) Executive Director, Chris Morrill, will moderate a panel discussion with The Big Seven before Congress about state and local tax (SALT) deduction.

The SALT deduction reflects a partnership between the federal government and state and local governments. The deduction is fundamental to the way states and localities budget for and provide critical public services, and a cornerstone of the U.S. system of fiscal federalism. It reflects a collaborative relationship between levels of government that has existed for over 100 years. Currently, the SALT deduction is an accepted part of the tax structure that is critical to the stability of state and local government finance.

[Download Report - The Impact of Eliminating the State and Local Tax Deduction Report](#)

What is the SALT Deduction

Taxpayers in the United States are granted a range of tax preferences from the federal government. The Revenue Act of 1913, which introduced the federal income tax, states that “all national, state, county, school, and municipal taxes paid within the year, not including those assessed against local benefits,” can be deducted. The Revenue Act of 1964 later named specific state and local taxes that could be deducted, which included: real and personal property, income, and general sales taxes. These tax preferences serve two important goals. First, by allowing taxpayers the ability to deduct state and local taxes (SALT), taxpayers avoid being taxed twice on the same income. Additionally,

the deduction on property taxes, along with deduction on mortgage interest, provides a strong incentive for homeownership. The sales tax deduction provides similar incentives for encouraging spending — which facilitates economic growth.

Compared with other common deductions, the state and local tax deduction has a larger impact than the deductions for both charitable giving and mortgage interest. In recent years, 29.5% of tax units used the SALT deduction. Only 21% used the SALT deduction for mortgage interest, and 15% used the deduction for charitable donations.

How Do Taxpayers Benefit from the SALT Deduction?

Everyone in the United States benefits from SALT, but the SALT deduction is used directly by around 30% of all taxpayers. Currently, taxpayers are given the option of deducting real estate taxes as well as either income taxes or sales taxes paid to state and local governments. While the SALT deduction is used across all income levels, the actual amount of property versus income versus sales tax deducted by lower, middle, and upper income taxpayers provides insight into how those taxpayers benefit. For example, while over 70% of SALT deductions for tax units with an AGI of more than \$200,000 are from income taxes, over 60% of deductions from taxpayers with less than \$50,000 in income come from property tax. This highlights how important the property tax deduction is for middle class homeownership.

In addition to its effect on taxpayers who itemize, regardless of adjusted gross income, the SALT deduction also benefits taxpayers in all 50 states. **The tax deduction is used by Americans living in urban, suburban, and rural locations and across all congressional districts.** The states with the highest percentage of taxpayers using the SALT deduction are in the East and Northeast regions. However, states in the West and Midwest also take advantage of the deduction. Overall, use of the SALT deduction is widespread among all states. The average deduction per tax unit in Connecticut, New York, and New Jersey are all over \$7,000, and close to \$6,000 in California. If the SALT deduction were eliminated, assuming a 25% marginal tax rate, an average taxpayer in New York who currently itemizes SALT would face a tax increase of almost \$1,800.

[Click Here to View State and Local Tax Deduction by Congressional District.](#)

Government Finance Officers of America

July 11, 2017

[MSRB Provides Guidance on Duties of Non-Solicitor Municipal Advisors in Conduit Financing Scenarios.](#)

To facilitate compliance with its [Rule G-42](#), on duties of non-solicitor municipal advisors, the Municipal Securities Rulemaking Board (MSRB) today provided interpretive guidance addressing the applicability of the rule in several scenarios that may arise in connection with the issuance of municipal securities for a conduit borrower. The MSRB's guidance discusses a municipal advisor's relationship(s) with, and duties and obligations owed to, a municipal entity issuer, an obligated person that is a conduit borrower, or both, in these scenarios.

[Read the regulatory notice.](#)

Hedge Funds Disclose Just How Many Puerto Rico Bonds They Own.

- **Ad hoc group holds \$3.3 billion of commonwealth debt**
- **Puerto Rico owes \$13 billion of general-obligation debt**

A group of hedge funds that owns \$3.3 billion of Puerto Rico bonds disclosed in court documents the amount that each of them holds.

The disclosure is related to the territory's May 3 bankruptcy, which will allow Puerto Rico and its agencies to reduce the \$74 billion of debt left after years of economic decline and borrowing to cover operating expenses. The group includes distressed-debt buyers and municipal mutual fund Franklin Mutual Advisers LLC.

The group claims that general-obligation bonds must be paid before other types of Puerto Rico debt because the island's constitution gives those securities the highest claim to the government's cash. The group wants Puerto Rico's sales-tax revenue to help repay general-obligation debt. The island sold sales-tax bonds backed by that revenue stream.

The amounts that each firm holds, as of July 12, are as follows:

- Aurelius Capital Management LP: \$470.9 million of general obligations and \$2.5 million of Highways and Transportation Authority bonds
- Autonomy Capital (Jersey) LP: \$937.6 million of general obligations
- FCO Advisors LP: \$422 million of general obligations and \$10.2 million of junior-lien sales-tax bonds
- Franklin Mutual Advisers LLC: \$294 million of general obligations
- Monarch Alternative Capital LP: \$585 million of general obligations and \$21.5 million of highway debt
- Senator Investment Group LP: \$254.7 million of general obligations
- Stone Lion LP: \$310 million of general obligations and \$15 million of highway debt

A portion of debt held by Aurelius, FCO Advisors, Monarch Alternative and Stone Lion is guaranteed repayment by bond insurers.

Bloomberg Markets

By Michelle Kaske

July 13, 2017, 2:37 PM PDT

PROMESA and Puerto Rico's Political Future.

Two important events have occurred in Puerto Rico in the last couple months that should be noted. First, on May 3, 2017 the Oversight and Management Board created by the federal legislation PROMESA, filed in Federal District Court of Puerto Rico under its Title III provisions for the protection of the Commonwealth of Puerto Rico from its bondholders and creditors.

This bankruptcy-like proceeding under Judge Laura Taylor Swain promises to be a hard and complex litigation for all parties involved. Second, on June 11, 2017 a plebiscite on the various status options

for Puerto Rico was held in which statehood was overwhelmingly favored by a third of able voters, notwithstanding the incoherent call for abstention by the opposing political parties and the bloated voting lists.

Although at first glance apparently unrelated, both events need to be seen as interrelated pieces on the ongoing puzzle that is Puerto Rico's political status question and fiscal and economic spiraling downturn.

As we know, political and legal processes and economic conditions affect one another, at times in unforeseen ways. In July 2016, Congress legislated PROMESA to create an Oversight and Management Board, expressly based on the authority provided by Article IV, Section 3, of the United States Constitution.

Together with the Supreme Court's opinion *Commonwealth of Puerto Rico v. Sanchez Valle* rejecting Puerto Rico's claim of sovereignty for purposes of avoiding the application of the constitutional protection against double jeopardy in criminal cases, this legislation finally put to bed the midsummer's nightmare of those that for decades have argued for the oxymoronic status of "Estado Libre Asociado".

Today, there is no doubt that legally Puerto Rico has been a territory under the plenary powers of Congress since 1898. In this regard, the long held historic fallacy argued by the pro-territory Popular Democratic Party that Puerto Rico had achieved some sort of political autonomy in 1952 not subject to Congress has finally been put to rest.

The underlying causes for the political and fiscal/economic crisis of Puerto Rico can be summarized as a reliance by a top heavy public sector dependent on debt financing and federal transfers and tax exemptions as a strategy for economic development for the last fifty years; a weak private sector dependent on government contracts and patronage; an incompetent and/or corrupt public administration looking out for short term political advantages and private enrichment at the expense of long-term stability and development; a political culture in Washington, D.C. indifferent to the inherent limitations of territorial status, and populist grandstanding by many leading Puerto Rico politicians.

It is a wonder that it took so long for the bubble to burst. It should be noted as a matter of historical record that our fiscal predicament is partly due to the triple exemption tax advantages Puerto Rico bonds had in the municipal bond market for the benefit of all parties, while the going was good. That is, it is the territorial status that has allowed for a beneficial taxation treatment by Congress and the Treasury Department for investors - bondholders as well as "foreign" corporations using Puerto Rico as a tax haven. We should not ignore the fact that the responsibility for our current woes is shared by many.

There are those — including former New York Gov. George Pataki — that argue now acting as a spokesperson for certain bondholders - that Puerto Rico needs to attend its economic and fiscal problems before addressing the political question of our status. Although there is something to be said to the fact that a change in Puerto Rico's political status under current conditions may seem politically untimely, it is also evident that no headway in our economic development can be achieved unless we address the issue of long-term political stability.

It is a chicken and egg question. As the Bush (2007) and Obama (2011) White House Reports on Puerto Rico made abundantly clear, our political lack of definition has been holding back our economic development. A petition for a change in Puerto Rico's political status will always be untimely for somebody, somewhere.

In this context, the June 11, 2017 plebiscite ratifying the 2012 plebiscite favoring statehood, should be understood as a petition by the people of Puerto Rico that our current territorial status and its lack of economic development needs to be addressed by Congress, the sooner the better for all concerned.

THE HILL

BY ANDRÉS L. CÓRDOVA, OPINION CONTRIBUTOR - 07/14/17 08:30 AM EDT

Andrés L. Córdova is a professor at Inter American University of Puerto Rico School of Law.

[The Solution to Puerto Rico's Debt Crisis Isn't Statehood – It's Default.](#)

In an overwhelming majority, Puerto Rican citizens recently voted in favor of becoming the 51st U.S. state. According to poll results, nearly 97 percent of Puerto Ricans were in favor of statehood. Puerto Rico's governor, Ricardo Rosselló, declared the results a clear victory in favor of becoming a state — the solution he preferred. In a televised speech after announcing the results, he said, “the federal government will no longer be able to ignore the voice of the majority of the American citizens in Puerto Rico.”

What he should have said was the federal government could no longer ignore the voice of 23 percent of the American citizens of Puerto Rico because those are all that bothered to turn out for the vote. In a country where voter turnout is normally closer to 80 percent, a 23 percent turnout is hardly exciting.

Here is a territory that is so thrilled to become a U.S. state that over three-quarters of the population did not bother to even show up at the polls. The reason for this low turnout: they are only considering statehood because it seems like the best option to get out of the more than \$70 billion debt crisis they are in.

How Puerto Rico got into this mess

Puerto Rico was forced to declare a form of bankruptcy in May. Its filing represented the largest municipal bankruptcy filing in U.S. history — seconded only by Detroit's \$17 billion bankruptcy under Chapter 9 bankruptcy code. Notably, the Puerto Rican bankruptcy surpasses Detroit by a vast margin, as it has managed to reach \$123 billion in debt across bonds and pensions payments outstanding.

To put the territory's size, and proportionate debt, into perspective, there are 20 states that are less populous and have vastly more expansive geographies than Puerto Rico, according to the U.S. Census Bureau. Since Puerto Rico is not a U.S. state, and thus not entitled to the privilege of bankruptcy — which is a recourse for all U.S. state and local governments — it is entering a court-supervised bankruptcy-esque proceeding made possible by legislation enacted by Congress last year.

With an uncertain outlook on just how its obligations will be restructured, to say the island is drowning in debt would not be an understatement. The island previously enjoyed an exemption from U.S. federal taxes that allowed many U.S. companies to set up manufacturing operations there. These tax breaks ended in 2006, leaving the island with a sudden loss of revenue.

The Puerto Rican government tried to offer tax exempt municipal bonds on the U.S. markets to

generate ready cash, but this came at the cost of even more debt. Unable to pay off all its obligations, Puerto Rico is turning to the U.S. government for relief. The hope is that if they became a state, the federal government would take more responsibility for the island's overwhelming debt.

As U.S. states are not immune from similar troubles — even ones as wealthy as Illinois, which is possibly headed towards a “junk” credit rating — sheltering Puerto Rico from its obligations by allowing it to become a state is not the solution. Debt of this magnitude cannot be whisked away with a granting of statehood.

The solution to get Puerto Rico out

It's not that the U.S. should do nothing for the territory of more than 3 million, but the government shouldn't pretend that statehood is the best solution. Allowing Puerto Rico to default on its debt would be the best thing the U.S. could do for the territory. Looking to Detroit as an example, its municipal default gave the Motor City some breathing room and has allowed for a nascent economic recovery from its crisis.

The best way to remedy the current and desperate financial condition of Puerto Rico is to stop lending money to the government so it can no longer be squandered. Contrary to what certain governments' and stakeholders' actions might suggest, nothing is too big to fail. It is also the best hope we have of ending the trend of countries, states, and cities needing to be bailed out after borrowing more money than they can repay.

Denying Puerto Rico statehood in its time of need may sound like callous indifference, but at the end of the day, it is the best thing for the island. What Puerto Rico needs more than statehood is to be forced to own up to its obligations. 77 percent of Puerto Ricans made it clear that if the U.S. was their only option, they would rather not vote.

If Puerto Rico becomes a U.S. state, let it be because its people want to be an official part of this nation, not because they are desperate for a way out of their debt.

THE HILL

BY CHRIS MARKOWSKI, OPINION CONTRIBUTOR - 07/10/17 09:00 AM EDT

Chris Markowski (@ChrisMarko) is an author, investment banker, stock market analyst, and consumer advocate. He is the personality behind Watchdog on Wall Street and the founder of Markowski Investments.

[Gov. Malloy Signs Legislation Changing The Structuring Of Municipal Bonds.](#)

On July 8, Governor Malloy signed into law Public Act No. 17-147, An Act Concerning State Taxation and Collection, Tax Gap Compliance, Tax Preparers and Facilitators, Changes to the Tax and Related Statutes, a Mental Health Community Investment Account and Municipal Bonds.

The legislation makes noteworthy changes regarding the structuring of municipal bonds. The legislation:

- extends the permitted maximum maturity of general obligation debt issued by Connecticut municipalities from 20 years to 30 years

- permits Connecticut municipalities to issue refunding bonds for a period of up to 30 years; and
- allows such refunding bonds to be secured by a statutory lien on all revenues received by the municipality from its tax levy and collection.

These changes are applicable to obligations issued during the period from July 1, 2017 through June 30, 2022. The refunding provisions require a two-thirds vote of the municipality's legislative body.

Any municipality considering issuing bonds in accordance with this legislation should address the implications of doing so with its municipal financial advisor and bond counsel.

[Click here to read further Insights from Day Pitney](#)

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.

Last Updated: July 13 2017

Article by Judith A. Blank and Namita Tripathi Shah

Day Pitney LLP

[Moody's Cuts Hartford Rating Further, Citing Bronin's Move To Restructure Debt.](#)

Moody's Investors Service knocked its rating for Hartford debt down another three notches Thursday from a level that already classified the city's bonds as junk.

With the downgrade, Moody's has Hartford's credit and most of the city's outstanding bonds rated as B2, down from Ba2. That lowers the rating from "speculative" to "highly speculative," both of which are considered non-investment grade, or junk.

"The downgrade reflects the recent increased likelihood that Hartford will pursue debt restructurings to address its fiscal challenges," Moody's said in a report. "The new rating also reflects the city's challenging liquidity outlook in the current fiscal year and weak prospects for achievement of sustainably balanced financial operations."

The move by Moody's follows a downgrade at Standard & Poor's late Tuesday, to BB, which is equivalent to the Ba2 that Moody's assigned last fall.

Hartford Mayor Luke Bronin said Wednesday the city and its newly hired bankruptcy and restructuring law firm, Greenberg Traurig, will immediately approach bondholders in an effort to persuade them to accept lower payments on the city's debt. That could help the city avert bankruptcy, but some experts in municipal finance said the effort has only small chance of succeeding without a court filing.

As Bronin Seeks Givebacks From Bondholders, Averting Bankruptcy A Huge Challenge
The downgrade could lead to lower values for Hartford debt that's traded in the markets. It also decreases the city's ability to borrow additional money, although more borrowing was already difficult and expensive before the latest Moody's action.

Both Moody's and S&P continue to have Hartford on a watch for further downgrades.

Moody's also has a B2 rating for Detroit, which emerged from the nation's largest municipal bankruptcy in late 2014. In all, Moody's has about 3 percent or fewer of 8,500 local governments rated with junk debt, and many of those are higher than Hartford's rating.

The new rating affects about \$550 million out of slightly more than \$700 million in outstanding city debt.

Moody's said in Thursday's report Hartford's budget is "unlikely to provide a pathway to structural balance over the longer term" even if the state fills this year's estimated \$50 million gap — in part because of escalating debt payments coming due over the next several years.

The report also acknowledged, as Bronin has said, that the city's prospect for raising taxes is extremely limited by high current rates and low incomes, and its ability to cut costs is "limited as the city has already gone through multiple round of expense cutting."

The Hartford Courant

by Dan Haar

July 13, 2017

[As Bankruptcy Looms for Hartford, Conn., S&P Downgrades Its Debt to 'Junk'](#)

Standard & Poor's downgraded Hartford debt to junk bond status late Tuesday, less than a week after the financially troubled capital city hired a New York law firm with expertise in restructuring municipal finances.

The Wall Street ratings agency downgraded most city of Hartford outstanding debt to BB, a level that's classified as speculative, also known as non-investment-grade, or junk, from BBB-. That reflects a strong possibility that Hartford could default on its debt or renegotiate it to pay bondholders less money.

The move, announced on the S&P website just after 4 p.m., follows a series of downgrades by ratings agencies over the last year, as Mayor Luke Bronin has warned that Hartford could file for bankruptcy protection if it doesn't receive tens of millions of dollars in additional aid from the state and concessions from unions.

Moody's Investors Service downgraded Hartford bonds last October to Ba2, which is similar to S&P's BB — non-investment grade, aka junk.

Both Moody's and S&P still have Hartford on a negative watch, meaning more downgrades could happen soon. On Tuesday, S&P also downgraded Hartford Stadium Authority bonds.

The S&P move is related to Hartford on Thursday hiring Greenberg Traurig, a large New York firm, to help sort through options on how to restore the city to financial health.

Even without a bankruptcy filing, one option for the city could be to renegotiate the payback terms of Hartford's outstanding debt. Because of the way the debt was refinanced in recent years, the city's obligations increased sharply this year and will rise further next year.

Bronin confirmed the possibility of bond restructuring negotiations in an interview Tuesday, and in a written statement issued after the S&P action. It's unclear whether such talks would start even before a state budget is reached, as the state began its fiscal year July 1 without a budget — leaving Hartford and other municipalities millions of dollars short in expected state aid.

"I have said for months that we cannot and will not take any option off the table, because our goal is to get Hartford on the path to sustainability and strength," Bronin said in the statement. A long-term solution, he said, "will require every stakeholder — from the State of Connecticut to our unions to our bondholders — to play a significant role."

He added, "Today's downgrade should send a clear message to our legislature, to labor, and to our bondholders that this is the time to come together to support a true, far-sighted restructuring."

Bronin said Tuesday his administration is still actively seeking concessions from city unions, including police.

BY TRIBUNE NEWS SERVICE | JULY 13, 2017

By Dan Haar

[Darien Adopts OpenGov for Financial Reporting.](#)

With the start of the 2017-18 fiscal year the Town of Darien has adopted a new platform for financial reporting. Detailed budget information dating back to 2013 can now be accessed by the public through the [OpenDarien link](#) on the town's website, DarienCT.gov.

Darien's Department of Finance has implemented a module called OpenGov to provide the public with greater financial transparency and clarity on the town budget. Finance Director Jennifer Charneski briefed the Board of Selectmen with an overview of the reporting platform on Monday.

"Darien is excited about our partnership with OpenGov, and the immediate improvements this new platform can bring to our town," Charneski said in a statement. "Through this new site, we will be able to make budgeting and decision making more efficient and effective, and most importantly, better communicate with Darien residents."

Using the online module visitors can organize budget information by department and review monthly expenditures. Data within the program can be organized into a number of different graphs at the user's request and all of the data is available for export. Information for the OpenDarien platform is provided directly from the Department of Finance's accounting software and will be updated on a monthly basis to reflect ongoing changes to the budget. The OpenDarien portal will also be updated to include information about the town's capital projects, such as the upcoming redevelopment of the town's public works garage.

For town officials the OpenGov platform will make financial information more readily available and organized. The Department of Finance will be able to create specific user groups for town officials to access and organize more specific data within the town's budget. Members of the Board of Selectmen suggested those user groups would be useful during budget season, when members of the Board of Finance or RTM Finance & Budget Committee need to review a wide range of information. Furthermore, OpenGov provides another module that can be used to directly generate budgets and related documents, if the town chooses to adopt it.

“This could be the end for the budget books,” Selectmen Marc Thorne joked, referring to the nearly 300-page document used by town officials during budget review.

Currently OpenDarien does not include detailed information on the Board of Education budget as their budget is managed independently from the town’s. Charneski said the Board of Education could choose to adopt the software at a lower cost and be connected to the same OpenGov portal. She said that while the town’s adoption of OpenGov took several weeks to complete, the company has changed it’s implementation process.

If more local towns adopt the OpenGov it would also allow them to easily share and compare budgeting information through the platform. Charneski said Darien is the sixth town in Connecticut to move to OpenGov. Contrasting what Darien’s peer towns earn in parking revenues or how much they pay in police overtime could provide more clarity on financial decisions and trends in the future. For now, the public can use the [OpenDarien portal](#) to access budget data for the new fiscal year.

DarienTimes.com

By Kevin Webb on July 14, 2017

[Fresh From Budget Deal, Illinois Awaits Fate of Credit Ratings.](#)

CHICAGO — A decision on whether Illinois becomes the first U.S. state whose bond ratings tip into junk was not imminent on Monday as credit rating agencies said they were still reviewing the state’s newly enacted budget and tax package.

Analysts at the three major rating agencies, which rate Illinois one or two notches above junk, declined to comment on the timing of their decisions.

With the help of some Republican votes, the Democratic-controlled Illinois Legislature last Thursday overrode Republican Governor Bruce Rauner’s vetoes and enacted a \$36 billion fiscal 2018 budget and a \$5 billion income tax increase.

The action ended an unprecedented two-year budget impasse that ballooned the state’s unpaid bill backlog to about \$15 billion.

Illinois State Treasurer Michael Frerichs, a Democrat, on Monday unveiled a five-step plan to avoid a junk rating that included Rauner taking steps to issue up to \$6 billion of bonds the legislature authorized to begin paying off bills. He also recommended the governor visit credit rating agencies to assure them he intends to implement the budget package.

A junk rating would make future bond sales more difficult and expensive.

Eleni Demertzis, Rauner’s spokeswoman, did not answer questions about the borrowing but underscored the governor’s dissatisfaction with the budget.

“Even with the tax increase, this budget remains \$2 billion out of balance for fiscal year 2018,” she said. “The best thing we can do is to work collaboratively to pass truly balanced budgets that pay down our debt, reform our pension system, and make the changes necessary to drive economic growth in our state.”

Moody's cited the budget's "substantial implementation risk" when the state's Baa3 rating was placed on review last week for a possible downgrade to junk. Analyst Ted Hampton said risks include revenue and cost-saving assumptions built in to the budget for the fiscal year that began July 1.

Hampton and S&P analyst Gabriel Petek said they expected Rauner to implement the budget as required by law.

John Humphrey, co-head of credit research at Gurtin Municipal Bond Management, said optimism that Illinois finally has a budget should be tempered against the state's strained finances and how much execution risk remains.

"I think Moody's has been pretty clear that they view the state's political dysfunction combined with continued unaddressed long-term liabilities, and unfavorable baseline revenue performance as casting some degree of skepticism on the state's ability to manage out of the very fragile financial situation they are in," he said.

By REUTERS

JULY 10, 2017, 5:30 P.M. E.D.T.

(Reporting by Karen Pierog and Dave McKinney; Editing by Matthew Lewis)

[Troubled Chicago School System Sells \\$500 Million Bonds at High Rates.](#)

CHICAGO — The financially troubled Chicago public school system will pay hefty interest rates for a general obligation bond issue that was doubled in size on Monday to \$500 million, up from the \$250 million that the district announced last week.

The refunding portion of the deal was increased on Monday to \$215 million from the previous \$50 million, while the new money portion was raised to \$285 million from \$200 million, according to a preliminary pricing scale.

Underwriters led by J.P. Morgan priced the unrated general obligation bonds targeted at "qualified institutional buyers," with a final 7.65 percent yield and 7 percent coupon for new bonds due in 2046, according to the district. The bonds were initially priced to yield 7.75 percent.

The repricing of refunding bonds due in 2042 dropped the yield 5 basis points to 7.55 percent with a 7 percent coupon. The yield on refunding bonds due in 2030 with a 6.75 percent coupon remained at 7.25 percent.

Escalating pension payments have led to drained reserves, debt dependency and junk bond ratings for Chicago Public Schools (CPS), the nation's third-largest public school system.

"CPS successfully completed the issuance of its GO bond offering, with more than \$1 billion in orders for \$500 million in bonds," Ron DeNard, the district's senior vice president of finance, said in a statement.

The bonds' spreads over Municipal Market Data's benchmark triple-A yield scale ranged from 474 basis points to 489 basis points, indicating the U.S. municipal market was demanding fat yields for the debt. Those so-called credit spreads were narrower than spreads in the district's February 2016

bond sale, in which yields topped out at a massive 8.5 percent.

The refunding will restructure outstanding bonds in a “scoop and toss” that pushes out payments on the bonds. The prospectus included nine pages of potential risks for buyers.

By REUTERS

JULY 10, 2017, 8:09 P.M. E.D.T.

(Reporting By Karen Pierog; editing by Diane Craft)

What Ending Illinois’s Record Budget Impasse Means for Chicago.

- **City won pension fix, averting looming insolvency for funds**
- **Fate of cash-strapped, junk-rated school system is uncertain**

Illinois enacted a full-year budget for the first time in more than two years, ending a record-long stalemate that cast financial uncertainty across the state. Here’s three big takeaways for the city of Chicago, which has been contending with its own fiscal struggles:

- **Pensions:** Chicago won state approval to overhaul its municipal employee and laborer retirement funds, which had been on track to run out of money by 2025 and 2027, respectively. The changes allow Chicago to boost contributions to those pensions and have new city employees pay more into their retirement plans, part of Mayor Rahm Emanuel’s efforts to put all four of the city’s pensions on a path to solvency. The measure became law despite Governor Bruce Rauner’s veto.
- **Borrowing:** State budget includes provisions that allow a home-rule municipality like Chicago to sell debt secured by state funds they receive. By providing greater protection against default, that “should be favorably received by investors and is likely to lower the borrowing cost to the extent that” the city utilizes it, said Richard Ciccarone, the Chicago-based president of Merritt Research Services LLC, which analyzes municipal finances. This could especially come in handy for the city, given that it is rated below investment grade by Moody’s Investors Service and pays a steep premium to sell traditional general-obligation debt.
- **Schools:** Chicago public schools, along with districts statewide, are still in limbo. The enacted state budget dictates that general aid for schools now be doled out through an evidence-based funding model. While the Democrat-led legislature passed legislation that rewrites the formula to do that, its fate is uncertain because Rauner has threatened to veto it, calling it a bailout for the city. Emanuel said Monday that enacting that law is his “number one effort.”

Bloomberg Politics

By Elizabeth Campbell

July 12, 2017, 2:00 AM PDT

Cook County Illinois Soda Tax Temporarily Blocked.

- As previously covered on this [blog](#), a number of local jurisdictions throughout the U.S. – like Berkeley, CA; Philadelphia, PA; San Francisco, CA; Oakland, CA; and Boulder, CO – have sought to

- introduce legislation to tax sweetened beverages. Late last year, on November 10, 2016, the Cook County Illinois Board of Commissioners passed the Cook County Sweetened Beverage Tax Ordinance which would impose \$0.01 per ounce on the retail sale of all sweetened beverages in Cook County. The tax was slated to go into effect on Saturday, July 1, 2017. But on June 27, 2017, the Illinois Retail Merchants Association - which represents more than 20,000 stores - and several grocers filed a [complaint](#) against the Cook County Department of Revenue to block the sweetened beverage tax, arguing that the tax is unconstitutional and too vague for stores to implement. The Plaintiffs further contend that: (1) Cook County's penny-per-ounce beverage tax violates the state constitution by imposing different taxes on similar beverage products and (2) the tax would make retailers vulnerable to becoming ineligible for the federal Supplemental Nutrition Assistance Program (SNAP) as the program prohibits purchasing food that has a state or local sales tax.
- On Friday, June 30, 2017, Cook County Circuit Judge Daniel Kubasiak granted the Plaintiff's request for a temporary restraining order (TRO), effectively putting Cook County's penny-per-ounce tax on sweetened beverages on hold at least until July 12, 2017.
 - Looking ahead, it remains to be seen what, if any, impact the outcome of this lawsuit will have on the appetite of other U.S. jurisdictions to pursue such legislation.

National Law Review

Wednesday, July 5, 2017

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California's Tax Board of Confusion.

The state has more tax agencies than most – and one in particular is badly mismanaged.

No other state has a tax collection system like California's. No other state would want one.

Rather than a single revenue department, California uses three separate agencies to manage different taxes. One of those agencies, the Board of Equalization (BOE), collects sales and property taxes, along with many smaller revenue sources such as levies on jet fuel. Now it's taking on the new role of collecting marijuana taxes. But even as its mission continues to expand, the BOE appears to be badly mismanaged.

A recent audit from the state Finance Department found that the BOE's elected board members have been directing civil servants to work on pet political projects. It also found that those board members, who aren't supposed to receive political contributions exceeding \$250, have been known to accept thousands in bundled donations of \$249 from companies who have business before them. And although the BOE is supposed to meet in open, quasi-judicial hearings, recent legislative testimony revealed members have met privately with parties who were appealing their tax assessments, never reporting the content of those conversations. "The testimony indicated that board members were inappropriately influencing staff members in the performance of their duties," says state Sen. Steven Glazer.

The audit prompted Gov. Jerry Brown to temporarily block the board's ability to hire or make large purchases. He's also requested a fresh investigation from the state's Justice Department, and called on legislators to find a way to overhaul the BOE. Meanwhile, members of the board have joined with outsiders in putting forward their own proposals to revamp parts of the agency. "Clearly it needs to be run significantly better," says state Rep. Phil Ting. "They have trouble answering even the most

basic budget and systems questions.”

For all its faults, however, no one in Sacramento is convinced that big changes are about to hit the agency. Many powerful interests in the state like things the way they are. Those with inroads to the board are able to wheedle favorable opinions on behalf of their clients. Board members enjoy pretty good perks, including sizable staffs. The state controller sits on the board, but other members, who are elected directly by voters in four separate districts, include ex-legislators who have chummy relations with their former colleagues. “It’s those relationships, I believe, that have kept reforms from happening,” says state Sen. Jerry Hill.

The Board of Equalization was set up back in the 19th century as a way of dealing with problems caused by county assessors. Back in those days, taxes were proportionately higher in mining counties than grazing counties. Hence the need to “equalize” taxes.

That function long ago ceased to be important, but the board kept taking on more work. Collection of income taxes, for example, falls under the Franchise Tax Board, but the BOE still adjudicates disputes about those taxes. “With this elected tax board, you’ve got a group of people with really very little knowledge or expertise about taxes, who don’t create any useful body of precedent for people to understand taxation,” says Daniel Simmons, an emeritus law professor at the University of California, Davis. “There’s really no way to fully know how the law will be interpreted and applied.”

Over the years, countless commissions and studies have recommended that state tax collection be consolidated into a single revenue department accountable to the governor — which is how most states do it. But killing off the BOE would require a constitutional revision approved by voters. That isn’t likely.

Still, a summoning of political will could create some meaningful changes to the agency. The board, if it were so inclined, could even fix things, says Sen. Glazer. “This could be resolved with better board policies and a CEO who insists on respect for the chain of command of his office,” he says. “But it’s a big question.”

GOVERNING.COM

BY ALAN GREENBLATT | JULY 2017

[KBRA Affirms AA+, Stable Outlook, for Municipal Assurance Corp.](#)

Kroll Bond Rating Agency (KBRA) has affirmed the insurance financial strength rating of AA+ with a Stable Outlook on Municipal Assurance Corp. (MAC). MAC demonstrates an ability to withstand KBRA’s conservative stress case loss assumptions and to satisfy all claims in full and on time.

As a major part of its analysis, KBRA determined a level of stress losses to be applied to MAC’s insured portfolio. MAC’s ability to pay these aggregated claims, together with other expenses, was assessed in KBRA’s Bond Insurer financial model and MAC met all requirements with a comfortable balance remaining.

Please click on the link below to access the full report:

[Municipal Assurance Corp.](#)

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

[KBRA Affirms AAA Rating and Stable Outlook on the State of Texas' General Obligation Bonds.](#)

Kroll Bond Rating Agency (KBRA) has affirmed the long-term rating of AAA with a Stable Outlook on the State of Texas' general obligation bonds. This rating applies to all of the state's outstanding general obligation bonds, excluding bonds backed by a letter of credit or liquidity facility.

This rating is based on KBRA's [U.S. State General Obligation Rating Methodology](#). KBRA's rating evaluation of the long-term credit quality of state general obligation bonds focuses on four key Rating Determinants:

- Management Structure, Budgeting Practices and Policies
- Debt and Additional Continuing Obligations
- Financial Performance and Liquidity Position
- State Resource Base

In the process of rating the State of Texas, KBRA has reviewed multiple sources of information and spoken with representatives of the State.

Please click on the link below to access the report:

[State of Texas' General Obligation Bonds](#)

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

[KBRA Comments on Chicago Public Schools Latest Transaction.](#)

Kroll Bond Rating Agency (KBRA) has released a public finance research report commenting on the Board of Education of the City of Chicago's recent issuance of Unlimited Tax General Obligation Bonds (Dedicated Revenues) Series 2017A & 2017B.

On July 10, the Board sold a limited offering of \$500 million General Obligation Bonds Series 2017A & Series 2017B. KBRA understands that, prior to delivery of the bonds, the Board intends to establish an additional security feature, the Post Default Security Mechanism, by entering into a State Aid Revenues Escrow Agreement. The Board has stated that it will authorize the state comptroller to intercept state-aid revenues into the escrow fund. In the event of a default, the escrow agent will be required transfer funds to the security account within the escrow fund until 100% of debt service is collected. It is our understanding that this additional security feature will apply only to Alternate Revenue Bonds payable from state aid. The Board has stated that this security feature is intended to apply to all alternate revenue bonds payable from state aid, subject to changes to the legal documents of existing bonds. The legal documents associated with the current issuance have not yet been made available to KBRA. KBRA will evaluate the credit implications of this transaction after we have completed a review of the legal documents.

Please click on the link below to access the full report:

[Chicago Public Schools' Latest Transaction](#)

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

[KBRA Releases Rating Report for the OCTA Toll Revenue Senior Bonds, 2017 TIFIA Series.](#)

Kroll Bond Rating Agency (KBRA) announces the preliminary rating of BBB- for the Orange County Transportation Authority Toll Revenue Senior Bonds, 2017 TIFIA Series, which evidences the \$627 million loan from the United States Department of Transportation to the Orange County Transportation Authority (OCTA). The TIFIA Loan constitutes federal project credit assistance under the Transportation Infrastructure Finance and Innovation Act for the Interstate 405 Improvement Project ("the Project") located in Orange County, California.

The TIFIA loan will have a senior-lien priority in project revenues. The interest rate will be set at closing at the 30-year U.S. Treasury State and Local Government Series rate plus 0.01%. The actual maturity of the TIFIA Loan is limited to the earlier of 35 years after substantial completion of the Project (68 months after financial close) or December 1, 2057. Interest on the TIFIA loan will be paid semi-annually while principal will be paid annually. The TIFIA loan will fully amortize by the projected maturity date, and therefore there is no refinancing risk in the transaction. Proceeds of the TIFIA loan will be used to fund a portion of design-build and other costs for the Project, which are currently estimated at \$1.9 billion. Other sources of funds for such costs include OCTA's Measure 2 sales tax revenue, sales tax revenue bonds issued in relation thereto and various federal and State funds and grants. Senior debt service coverage ratios for the TIFIA Loan average 3.35x under KBRA's rating case and stressed assumptions KBRA used in analyzing project cash flows include higher construction and O&M costs, and lower traffic volumes.

Please click on the link below to access the report:

[Orange County Transportation Authority Toll Revenue Senior Bonds, 2017 TIFIA Series](#)

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

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- **Ed. Note:** Hey, folks. As very little went down this week, please feel free to submit a request for a 1/50 *pro rata* refund of your subscription price. Send enquires to AirborneSwine@bondcasebriefs.com
 - [SIFMA Submits Comments to the SEC on Proposed Rule Change to Amend MSRB Rule G-26, on Customer Account Transfers.](#)
 - [Groups Ask MSRB to Broaden CUSIP Exception for Private Placements.](#)
 - [Unlocking Value from Public Assets: Leveraging Private-Sector Expertise to Generate New Public Benefits.](#)
 - [Goldman Leaps Into Ranks of Top Muni Underwriters With Big Sales.](#)

- [NABL: Political Subdivision Regs on List of Burdensome Regs.](#)
- [Valley Forge Towers Apartments N, LP v. Upper Merion Area School District](#) - Supreme Court of Pennsylvania holds that Uniformity Clause did not permit school district to selectively appeal only assessments of commercial properties, such as apartment complexes, while choosing not to appeal assessments of other types of property, such as single-family residential homes.
- [People v. Superior Court](#) - Supreme Court of California holds that an independent contractor can be a public officer or employee prohibited from having a financial interest in a contract made in his official capacity, disapproving *People v. Christiansen*.
- And finally, Not Exactly the Casino Royale is brought to us this week by [McAnally v. Thompson](#), in which whistleblowing town police captain contacted the FBI to request its assistance in investigating possible municipal malfeasance. The site of their clandestine rendezvous? "In the parking lot behind the Dairy Queen in Wasilla." Captain MacAnally, I knew Bond, James Bond. Bond, James Bond was a friend of mine. You sir, are no....

UTILITIES - ALABAMA

[Ex parte East Central Baldwin County Water, Sewer and Fire Protection Authority](#)

Supreme Court of Alabama - June 30, 2017 - So.3d - 2017 WL 2822788

Town, city, and county sewer services company filed actions against county water, sewer, and fire protection authority and county commission, seeking judgment declaring that commission-approved amendments to authority's articles of incorporation, which expanded authority's geographical service area and expanded authority's services to include sewer services, were void.

The Circuit Court consolidated actions and entered partial summary judgment in plaintiffs' favor. Authority appealed. The Court of Civil Appeals held that town, city, and company lacked standing to bring action. Certiorari was granted. The Supreme Court reversed and remanded. On remand, the Court of Civil Appeals affirmed. Authority filed petition for writ of certiorari.

The Supreme Court of Alabama held that fact questions existed regarding whether there were adequate public water services and adequate public sewer services in expanded service areas covered by authority's proposed expansion.

PUBLIC EMPLOYMENT - ALASKA

[McAnally v. Thompson](#)

Supreme Court of Alaska - June 23, 2017 - P.3d - 2017 WL 2709741

Former city police captain brought wrongful termination employment action against city, mayor, and deputy mayor, alleging a breach of the implied covenant of good faith and fair dealing and retaliatory discharge based on his investigations of mayor.

After dismissing captain's Alaska Whistleblower Act claim that he attempted to add in his trial brief without moving to amend his complaint, the Superior Court entered verdict in favor of defendants and awarded attorney fees and costs to city pursuant to city's prior offer of judgment. Captain appealed.

The Supreme Court of Alaska held that:

- Trial court acted within its discretion in dismissing captain's claim under Alaska Whistleblower Act;
- An employer does not violate the implied covenant of good faith and fair dealing by terminating an at-will employee for a personality conflict with another employee; and
- Rule governing offers of judgment applied to allow trial court's award of attorney fees to city pursuant to offer of judgment city made to captain.

Trial court acted within its discretion in dismissing former city police captain's claim under Alaska Whistleblower Act, which captain attempted to add in his trial brief to wrongful termination suit brought against city, mayor, and deputy mayor three weeks before trial without moving to amend his complaint. Captain was not entitled to pursue claim without pleading it, fact that defendants were aware of facts on which claim was based did not mean that defendants would not be prejudiced by claim, justice did not require granting captain leave to amend his complaint to include claim, and court did not bar captain from presenting a whistleblower theory or whistleblower-related evidence in support of his other claims.

Rule governing offers of judgment applied to allow trial court's award of attorney fees to city, which, along with mayor and deputy mayor, was sued for wrongful termination by former city police captain, pursuant to offer of judgment city made to captain. City's offer came more than 60 days after its initial disclosures and more than 90 days before trial began when it could accurately assess the damages, offer was a reasonable calculation of captain's lost wages given that the city closed the entire police department only three weeks after terminating captain, captain failed to mitigate his damages by accepting comparable employment following his termination, and attorney fees that city incurred over three years of litigation and a three-week trial were reasonable.

PUBLIC CONTRACTS - CALIFORNIA

[People v. Superior Court](#)

Supreme Court of California, California - June 26, 2017 - P.3d - 2017 WL 2729540 - 17 Cal. Daily Op. Serv. 6139

The People charged defendant with being personally interested in a contract made in his personal capacity as public officer or employee.

The Superior Court granted defendant's motion to dismiss the charge. The People petitioned for writ of mandate. The Court of Appeal denied petition. The People petitioned for review. The Supreme Court granted review, superseding the opinion of the Court of Appeal.

The Supreme Court of California held that:

- An independent contractor can be a public officer or employee prohibited from having a financial interest in a contract made in his official capacity, disapproving *People v. Christiansen*, 216 Cal.App.4th 1181, 157 Cal.Rptr.3d 451;
- Defendant could not reasonably believe he was not expected to subordinate his financial interests to the public's;
- Defendant had constitutionally adequate notice that the statute applied to him; and
- Evidence that defendant made a contract in his official capacity was sufficient to overcome his motion to dismiss.

Under the statute forbidding public officers and employees from being financially interested in any

contract made by them in their official capacity, the term “employees” includes outside advisors with responsibilities for public contracting similar to those belonging to formal employees, notwithstanding the common law distinction between employees and independent contractors; disapproving *People v. Christiansen*, 216 Cal.App.4th 1181, 157 Cal.Rptr.3d 451.

A defendant who was, or had been, an independent contractor for a hospital that was a public entity could not reasonably believe he was not expected to subordinate his financial interests to the public’s interest in the hospital’s contract with another physician, and thus the defendant could not rely on any such exception to criminal liability under the statute forbidding public officers and employees from being financially interested in any contract made by them in their official capacity, where the defendant served on the hospital’s independent medical executive committee, the defendant was the hospital’s codirector of surgery, and the defendant was asked “to try to bring physician services to the hospital.”

A defendant who was, or had been, an independent contractor for a hospital that was a public entity had adequate fair notice that he could be subject to criminal liability under the statute forbidding public officers and employees from being financially interested in any contract made by them in their official capacity if he was affiliated with the hospital at the time of the challenged contracts, where the contracts were made before the Court of Appeal erroneously held in *People v. Christiansen*, 157 Cal.Rptr.3d 451, that independent contractors were not “officers” or “employees.”

There was sufficient evidence that a defendant who was, or had been, an independent contractor for a hospital that was a public entity, made a contract in defendant’s official capacity as an “officer” or “employee” of the hospital in recruiting a physician to work at the hospital and negotiating payment, thus precluding the trial court from granting defendant’s motion to set aside the accusatory pleading based on insufficient evidence of the offense of being financially interested in a contract made in one’s official capacity as an officer or employee; hospital’s former CEO testified that defendant was asked “to try to bring physician services to the hospital,” and there was evidence that defendant exploited his position on the hospital’s independent medical executive committee in negotiating against hospital.

ELECTIONS - COLORADO

[Keim v. Douglas County School District](#)

Supreme Court of Colorado - July 3, 2017 - P.3d - 2017 WL 2836165 - 2017 CO 81

County school district appealed from an ALJ decision finding that it made a “contribution,” in violation of the Fair Campaign Practices Act (FCPA), when it commissioned and disseminated a third-party report touting the accomplishments and plans of the district and the county school board during an election year in which four county school board positions were open.

The Court of Appeals reversed and remanded. County school board candidate petitioned for a writ of certiorari.

The Supreme Court of Colorado held that:

- A contribution, for purposes of the state constitution and FCPA, requires that (1) something of value (2) be given to a candidate, directly or indirectly, (3) for the purpose of promoting the candidate’s nomination, retention, recall, or election, and
- Report was not “given to, directly or indirectly,” any candidate running for a school board position,

and thus school district did not make a “contribution” to a campaign in violation of FCPA.

Third-party report, which touted the accomplishments and plans of county school district and county school board and which was commissioned and disseminated publicly by the school district during an election year in which four county school board positions were open, was not “given to, directly or indirectly,” any candidate running for a school board position, and thus school district did not make a “contribution” to a campaign, under the state constitution, in violation of Fair Campaign Practices Act (FCPA), even if candidates who benefited from the contents of the report received the report from school district’s public dissemination; plain language of definition of “contribution” was not so broad as to include anything that might indirectly benefit a candidate.

MUNICIPAL ORDINANCE - ILLINOIS

[City of Chicago v. Alexander](#)

Supreme Court of Illinois - June 15, 2017 - N.E.3d - 2017 IL 120350 - 2017 WL 2590718

Protesters involved in grass roots political movement challenging wealth inequity were arrested and charged with violating park district ordinance prohibiting persons from remaining in parks after closing time.

The Circuit Court dismissed charges, finding ordinance facially unconstitutional and unconstitutional as applied. City appealed. The Appellate Court reversed and remanded. Protesters petitioned for appeal as a matter of right or for leave to appeal. The Supreme Court denied petition, but issued supervisory order instructing the Appellate Court to vacate order and review trial court’s judgment. On remand, the Appellate Court again reversed and remanded. Protestors petitioned for leave to appeal, which petition was granted.

The Supreme Court of Illinois held that:

- As a matter of first impression, the right to assembly afforded by the state constitution is to be interpreted and applied in lockstep with the federal precedents interpreting and applying the assembly clause of the federal constitution’s First Amendment, and
- Protesters forfeited any claim that appellate court failed to properly conduct intermediate review under the applicable First Amendment jurisprudence.

The right to assembly afforded by the state constitution is to be interpreted and applied in lockstep with the federal precedents interpreting and applying the assembly clause of the federal constitution’s First Amendment. Both the state and federal constitutions used the verb “assemble,” with state constitution using adjectival phrase “peaceable manner” and federal constitution using the adverb “peaceably,” and while most recent amendment to state constitution inserted comma after phrase “right to assemble in a peaceable manner,” and before unique language referring to right to consult for common good and right to make opinions known, addition of comma merely corrected inconsistency, with intent of drafters being to express same meaning as federal constitution.

Protesters forfeited any claim that the appellate court failed to properly conduct intermediate review under the applicable First Amendment jurisprudence, when reviewing their challenge, under state constitutional provision governing right to assembly, to park district ordinance prohibiting persons from remaining in parks after closing time, by failing to argue such issue in their brief to Supreme Court except in the context of arguing for departure from lockstep based on their claim of broader

protection of right to assembly under state constitution.

IMMUNITY - NEW YORK

[Farrago v. County of Suffolk](#)

Supreme Court, Appellate Division, Second Department, New York - June 21, 2017 - N.Y.S.3d - 2017 WL 2662589 - 2017 N.Y. Slip Op. 05067

Motorcyclist brought personal injury action against driver of vehicle that motorcyclist struck, alleging negligence, and against county defendants, which included county, county police department, and county highway patrol motorcycle division, alleging the failure to properly control traffic along motorcycle route and at accident location, county defendants asserted a cross-claim for comparative negligence against driver, and driver asserted a cross claim against county defendants for contribution and indemnification.

The Supreme Court, Suffolk County, granted county defendants' summary judgment motion on grounds of governmental immunity. Driver appealed.

The Supreme Court, Appellate Division, held that conduct alleged against county defendants was discretionary, and thus county defendants were entitled to governmental immunity.

Failure of county, county police department, and county highway patrol motorcycle division to properly control traffic along route of motorcycle run, and specifically at location of accident between motorcyclist and driver, involved exercise of police officers' professional judgment, and thus was discretionary, such that county, police department, and highway patrol were entitled to governmental function immunity defense to third party claim by driver seeking contribution and indemnification in motorcyclist's personal injury action against driver, county, police department, and highway patrol.

PUBLIC EMPLOYMENT - OHIO

[State ex rel. Rocco v. Cuyahoga Cty. Bd. of Elections](#)

Supreme Court of Ohio - June 27, 2017 - N.E.3d - 2017 WL 2806748 - 2017 -Ohio- 4466

After county board of elections declined to issue certificate of nomination and to certify candidate's name for placement upon ballot as candidate for city's director of law, candidate filed complaint seeking writ of mandamus.

The Supreme Court of Ohio held that:

- City charter required director of law to have been engaged in practice of law for any period of six years preceding election, and
- Candidate had engaged in practice of law for over six years.

Provision of city charter requiring director of law to have been engaged in active practice of law in state "for a period of six (6) years next preceding his election" required director of law to have been engaged in active practice of law for any period of six years preceding election. Charter contained term "a period" rather than "the period," and charter contained term "next preceding" rather than "immediately preceding," which charter did provide with respect to residency requirement.

Candidate for director of law met city charter's requirement that she engage in active practice of law for any six-year period preceding election. Candidate worked in private practice at law firm for two years, she then served as Assistant Attorney General for over six years, and she worked as prosecutor and assistant director of city law department for 11 years.

ASSESSMENTS - RHODE ISLAND

[Roadepot, LLC v. Home Depot, U.S.A., Inc.](#)

Supreme Court of Rhode Island - June 23, 2017 - A.3d - 2017 WL 2709435

Commercial landlord brought action against tenant seeking declaratory judgment that tenant was responsible under lease to pay fast track assessment for sewer infrastructure costs.

Tenant filed counterclaim for breach of contract, seeking to recover amounts it had already paid city for the assessment. The Superior Court granted tenant's motion for summary judgment on issue of liability for assessment payment, and later entered judgment awarding tenant value of assessments paid. Both parties appealed.

The Supreme Court of Rhode Island held that:

- Under lease, landlord was solely responsible for payment of assessment;
- Court could not apply equitable principles of restitution and unjust enrichment to tenant's breach of contract counterclaim;
- Voluntary payment doctrine did not bar tenant from recovering payments from landlord; and
- Tenant could not recover late fees which city imposed on tenant's late sewer assessment payments.

Under commercial lease, landlord was solely responsible for payment of fast track assessment to construct sewer line and connect premises to sewer treatment facility. While lease assigned tenant the responsibility for paying "Real Estate Taxes," which, as defined in the lease, included "assessments for betterments and improvements that are levied or assessed by any lawful authority," lease excluded from real estate taxes "any fees or other sums paid to a governmental authority in consideration of obtaining any of the [a]pprovals or utility service," and assessment was a one-time fee which landlord's predecessor had elected to pay over 20 years.

Trial justice could not apply equitable principles of restitution and unjust enrichment to commercial tenant's breach of contract counterclaim seeking to recover sewer assessment payments it made to city under lease, which in fact required landlord, rather than tenant, to make assessment payments, without first affording the parties an opportunity to address the issues. Counterclaim did not assert any claims for equitable relief, nor did tenant amend complaint to add claim under equity, and although landlord defended on some equitable grounds, it did not defend on restitution or unjust enrichment grounds.

Voluntary payment doctrine did not bar commercial tenant from recovering from landlord fast track sewer assessment payments tenant made to city sewer line to connect property to sewer treatment plant, which were landlord's responsibility under lease. Tenant's initial payments were made without full knowledge of the facts, as payments had been made by a vendor and there was some confusion as to whether the bills were for usage, for which vendor would have been responsible, rather than infrastructure, and tenant's later payments were made in order to avoid adverse consequences of nonpayment and imposition of lien and protect its leasehold interest.

Commercial tenant could not recover from landlord late fees which city imposed on tenant's late

sewer assessment payments, even though landlord, rather than tenant, was responsible under lease for those payments, as failure to make timely payments was due to tenant's own lack of reasonable diligence, and landlord had nothing to do with the imposition of the late penalties.

[P3 Digest: July 5, 2017](#)

[Read the Digest.](#)

NCPFP

July 5, 2017

[Tax Court Strains to Disallow Charitable Contribution Deduction.](#)

Not unlike the American Broadcasting Company's Wide World of Sports, our blog attempts to provide you the reader with blogs covering a wide variety of topics directly and indirectly related to tax-exempt bonds. In the category of topics indirectly related to tax-exempt bonds, this blog will address a recent Tax Court Memorandum (*Fakiris, George v. Commissioner*; No. 18292-12; T.C. Memo 2017-126) in which the Tax Court upheld an IRS notice of deficiency based on a disallowed charitable contribution deduction. The Memorandum isn't the topic of this week's blog because it is rare for a charitable contribution deduction to be disallowed in full or in part; rather, the Tax Court's decision is noteworthy because of the incredible effort that the Tax Court went through to reach its conclusion!

[Continue Reading](#)

The Public Finance Tax Blog

By Joel Swearingen on July 7, 2017

Squire Patton Boggs

[Groups Ask MSRB to Broaden CUSIP Exception for Private Placements.](#)

WASHINGTON - Market groups are asking the Municipal Securities Rulemaking Board to broaden a potential exception to its proposal to clarify that CUSIPs are required for private placements, saying the current version doesn't go far enough because it excludes non-bank entities.

The groups made their requests in comment letters responding to a modified proposal from the MSRB on its Rule G-34 on CUSIP numbers. The original proposal, released for comment on March 1, clarified that Rule G-34 requires dealers to obtain CUSIP numbers for new issue securities sold in private placement transactions, including direct purchases, where the dealer is the placement agent. The proposal also broached adding a requirement that non-dealer municipal advisors for the first time be subject to the CUSIP requirement for new issue securities that are sold in a competitive offering.

The board recast that proposal in June in response to market concerns by adding an exception for private placements that involve a limited number of participants and are not expected to be resold. The exception would allow a dealer acting as an underwriter or a placement agent in a new private placement with a bank to “elect not to apply for assignment of a CUSIP number if the dealer has a reasonable belief that the purchasing bank is likely to hold the securities to maturity or limit the resale of the municipal securities to another bank.”

It would also apply for MAs in competitive sales of munis where the securities are purchased directly by a bank and the MA believes the bank will hold the securities to maturity or limit any resale to another bank.

Leslie Norwood, managing director and associate general counsel with the Securities Industry and Financial Markets Association, said SIFMA and its members “welcome” the MSRB’s exception but believe “that the exception should be clarified to clearly accommodate similar non-bank purchasers.”

SIFMA, in addition to the American Bankers Association, is proposing language that would provide an exception for dealers or MAs if the underwriter or MA reasonably believes that the purchaser of the munis is: a bank; any entity directly or indirectly controlled by the bank or under common control with the bank other than a broker-dealer; or a consortium of the previous institutions used to participate in a purchase of a new issue of municipal securities.

The SIFMA-proposed exception would also require that the munis are either being purchased with no present intent to sell or distribute or that resales will be limited to the institutions described above or qualified institutional buyers or accredited investors as defined by Securities and Exchange Commission rules.

ABA’s proposed exception differs from SIFMA’s in that it specifies that the exception should apply if the purchasers represent their intentions not to resell and to only resell to the particular investors named, meaning dealers and MAs could rely on the investors’ representations. SIFMA does not specifically include the need for a representation.

Bond Dealers of America agreed that the exception should apply to non-bank affiliates. It, along with Bloomberg’s Open Symbolology Group, also suggested that the MSRB consider moving away from a CUSIP requirement and instead allow other security identifiers.

SIFMA said that in the absence of the language it is proposing, the MSRB should clarify the documentation underwriters and MAs would be required to produce during a regulatory examination. It is asking that a reasonableness standard apply and made clear that written guidance from the MSRB “would be extraordinarily helpful.”

The MSRB said in its June proposal that it expects both dealers and MAs to have policies and procedures in place that are reasonably designed to help them come to conclusions about whether to get a CUSIP number. Dealers and MAs would also be expected to document their findings that play into any ultimate determinations about whether to get CUSIPs. However, it said it would not set prescriptive steps to comply with the exception, specify instances where the exception would apply, or define the parameters for how a dealer should craft its policies and procedures.

Emily Brock, director of the Government Finance Officers Association’s federal liaison center, said GFOA supports the ABA’s representation idea because it would address the group’s concern that the original exception language was not clear enough and would ultimately damp demand for bank loans and direct purchase financings. The language ABA is proposing would “allow for all participants to rely on the investor’s representation and will add certainty that CUSIPs are not assigned to those

securities,” Brock said.

The National Association of Municipal Advisors agreed with GFOA and ABA in its comment letter, saying the inclusion of the “represent” language would mean “all parties will have a better understanding and ability to ensure that the intent of the investor is known based on fact.”

NAMA also said it is concerned that the process for getting CUSIPs under the proposal would require dealers and MAs to get the CUSIPs before they can determine if they are needed and leave them without the possibility of reimbursement if the CUSIPs are ultimately unnecessary.

Both GFOA and NAMA also said the MSRB should consider including exceptions for other situations like state and local government bonds purchased by other state and local governments with no intention to resell.

NAMA also reiterated its opposition to the MSRB’s intent to require non-dealer MAs to be subject to the CUSIP requirement, saying the requirement does not align with the regulatory structure or roles and responsibilities associated with MAs.

The requirement would not benefit MA clients, would create confusion when a competitive deal does not have an MA involved, and would blur the line between MA and dealer activity, according to Susan Gaffney, executive director of NAMA and author of the group’s letter.

“Instead of expanding the current responsibility of MAs to obtain CUSIPs in competitive sales, the MSRB should altogether eliminate the responsibility of having any MA (independent or broker/dealer MAs) obtain CUSIP numbers,” Gaffney wrote. “This is an activity best suited for underwriters who use the identifiers to sell the bonds.”

Gaffney said the MSRB should be aware of the time and cost burdens MAs would face if the proposal were to be approved.

Norwood wrote that there is currently a regulatory imbalance between dealers and MAs because of the existing CUSIP requirements and that the MSRB’s proposal to include non-dealer MAs is “an opportunity to level the regulatory playing field.”

She added that SIFMA understands the concern about non-dealer MAs possibly acting as dealers under the proposed requirements and asked that the SEC confirm that such activity in this context would not constitute dealer activity.

The Bond Buyer

By Jack Casey

07/03/17 07:07 PM EDT

TAX - WYOMING

[Thomas Gilcrease Foundation v. Cavallaro](#)

Supreme Court of Wyoming - June 7, 2017 - P.3d - 2017 WL 2464949 - 2017 WY 67

Taxpayer, which was trustee of trusts that owned eight parcels of property, brought action against county assessor seeking declaratory judgment that trusts were charitable trusts exempt from

property taxation.

The District Court dismissed complaint on basis of primary jurisdiction. Taxpayer appealed.

The Supreme Court of Wyoming held that:

- Taxpayer was required to exhaust administrative remedies prior to bringing action, and
- Primary jurisdiction doctrine warranted dismissal in favor of review through administrative process.

Taxpayer, which was trustee of trusts that owned eight parcels of property, was required to exhaust administrative remedies prior to bringing action against county assessor seeking declaratory judgment that trusts were charitable trusts exempt from property taxation, since taxpayer was not asking court to interpret statutes defining charitable trusts and setting forth charitable trust exemption, but was asking court to determine whether trust was charitable trust exempt from taxation, and such determination was precise function of county assessor and administrative process.

Primary jurisdiction doctrine warranted dismissal in favor of review through administrative process of action by taxpayer, which was trustee of trusts that owned eight parcels of property, against county assessor seeking declaratory judgment that trusts were charitable trusts exempt from property taxation, even if taxpayer was seeking interpretation of phrase “directly beneficial” in statute setting forth charitable trust exemption, since such interpretation did not simply require answer to legal question, but involved significant questions of fact, and determining whether factual situation of trust fell within exemption was best left to expertise of county assessor.

[KBRA Affirms AA+, Stable Outlook, for National Public Finance Guarantee and Releases Corresponding Surveillance Report.](#)

Kroll Bond Rating Agency (KBRA) has affirmed the insurance financial strength rating of AA+, with a Stable Outlook, on National Public Finance Guarantee Corporation and released its surveillance report. National demonstrates an ability to withstand KBRA’s conservative stress case loss assumptions and satisfy all claims in full and on time.

KBRA’s rating methodology and analysis are fundamentally different from those of the rating agency that recently downgraded National. In KBRA’s opinion, bond insurance financial strength ratings should be heavily focused on an assessment of the likelihood a financial guarantor will meet all its obligations to policyholders when claims come due. KBRA disagrees with our competitor’s emphasis on new business production and competitive position in light of National’s substantial balance sheet and book of legacy business.

Please click the link below to access the full report:

[National Public Finance Guarantee](#)

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

Unlocking Value from Public Assets: Leveraging Private-Sector Expertise to Generate New Public Benefits.

In cities and states across the United States, public-sector entities are harnessing new ideas and technologies to transform their assets for broad public benefits. Today, on any given block in New York City, the same spot where a payphone once stood is a digital “Link” kiosk. Here, a worker can charge her phone, a visitor can look up directions, and a resident can register to vote. Along select highways in Oregon, Georgia, and other states, previously underutilized right-of-ways are now home to solar panels positioned to help illuminate roadways and power local electricity grids. In Boston, a paratransit rider is no longer limited to public van services and can now use on-demand transportation providers such as Uber or Lyft to travel throughout the city at lower costs for the local authority.

RBC Capital Markets has sponsored a new report focused on how government and public institutions, including higher education, can create value from their assets by collaborating with the private sector: [*Unlocking Value from Public Assets: Leveraging Private-Sector Expertise to Generate New Public Benefits.*](#)

Through five case studies, this report demonstrates how private sector expertise, when applied to public assets, can generate a range of diverse public benefits. The case studies highlighted in the report include:

- **LinkNYC** is transforming outdated payphones into 7,500 “Links,” communication hubs that provide free Wi-Fi, phone calls, USB charging, access to City services, and maps, among other features.
- **The Ohio State University Comprehensive Energy Management Plan** is leveraging existing energy assets to generate \$1.2 billion in upfront investments for the University’s endowment and sustainability initiatives.
- **Massachusetts Bay Transportation Authority On-Demand Paratransit Program** is re-envisioning paratransit services by supplementing publicly-owned vehicles with private, on-demand Uber and Lyft.
- **Oregon Department of Transportation Solar Highway Program** is working with private utility and equity partners to transform previously unused right-of-ways into solar highways that produce cost savings and feed the private energy grid.
- **University Center of Chicago, The Educational Advancement Fund** – a nonprofit representing Columbia College, DePaul University, and Roosevelt University – has employed an innovative disposition strategy that will redirect university resources toward core academic objectives while retaining high quality student housing.

RBC Capital Markets

July | 2017

Puerto Rico Insured.

We closely follow the bond insurers because they remain an important part of the municipal market, and they are integral to our Insured Puerto Rico Strategy.

Cumberland exited all uninsured Puerto Rico exposure in 2011, as it was clear that population loss and economic circumstances combined with the heavy indebtedness and dysfunctional governance would result in deteriorating credit quality.

In 2014 we saw an opportunity to invest in insured Puerto Rico backed by Assured Guaranty or National (MBIA), because headline risk had caused yields to rise higher than warranted given the claims-paying ability of the insurers.

Assured Guaranty Municipal (AGM) and National Public Finance Guarantee (National or NPPFG) have very strong claims-paying resources and insure billions of dollars of mostly low-risk municipal bonds. On June 6, 2017, S&P placed National and Build America Mutual (BAM) on CreditWatch negative based on competitive position and lack of business-line diversification, particularly in the case of National. Market participants were surprised, because in the early 2000s the rating agencies' concern that the financial guarantors were not diversified enough misled the insurers to expand into subprime and other asset-backed securities that soured and led to downgrades of the bond insurers, which had previously had AAA ratings.

On June 26th S&P downgraded National to A from AA- based on its very low market share compared with AGM and BAM, while - importantly for our strategy - affirming that National continues to have very strong claims-paying resources.

Current ratings



Prior to the financial crisis, the bond insurance industry insured over 50% of municipal bond new issues. Market penetration, or percentage of insured bonds to all new bond issues, is now under 10% (though the figure could grow with higher interest rates or increased credit concerns). AGM and National write less business than is running off, and the companies are not releasing capital at as fast a rate as previously. Thus leverage of claims-paying resources to insured book has been decreasing.

Bond insurers have very strong claims-paying resources for several reasons:

- They possess a large book of high-quality investments relative to bonds insured, a result of having been in business for over 40 years.
- Stress testing by the companies and the rating agencies shows that claims could be paid in many stressful scenarios.
- Insurers are regulated by state insurance commissions, which constrain the amount of capital that can be released - although the insurers have capital well in excess of required minimums to meet internal and external stress testing.
- Premiums are collected up front and earned over the life of the bonds, so that the companies continue to have earnings even if no new business is written.
- Insureds pay only regularly scheduled principal and interest; payments are not subject to acceleration.
- Any claims paid are contractually required to be repaid over time, so the insurer may not be paid on time but will eventually be paid in full.
- Insurers have strong underwriting and surveillance capabilities.
- They have experience with workouts. The large exposure represented and the fact that the companies are protecting bondholders generally gives them a greater voice in negotiations.
- Bond insurers often become part of the solution when an issuer needs market access at a lower cost after emerging from bankruptcy.

The National downgrade caused a blip up in yields of insured Puerto Rico paper, with slight widening in MBIA-insured bonds but not to levels beyond those seen at other points in the past few years. We continue to like the story of insured Puerto Rico municipal bonds. We disagree with S&P's approach on ratings, as they are reviewing business prospects and not claims-paying ability, which they themselves admit is still very strong. At 4.00–4.50% tax-free yields (depending on maturity and calls), we feel that the overall market still presents opportunity.

By Cumberland Advisors

Jul 06, 2017 08:51AM ET

Scoreboard: What If Congress Nixed Federal Stadium Subsidy?

What would happen if Congress eliminated a popular federal tax break used to build sports stadiums?

A bipartisan group of House and Senate lawmakers want Congress to take a second look at recently reintroduced legislation that would eliminate the tax exemption for municipal bonds used to finance construction of professional sports stadiums. The issue has been a hot topic of late, with Nevada embarking on a \$1.9 billion stadium in Las Vegas for the National Football League's Raiders—funded in part with the largest public subsidy for a stadium in the league's history.

The bills—introduced in the House (H.R. 811) by Rep. Steve Russell (R-Okla.) and the Senate (S. 1342) by Sens. Cory Booker (D-N.J.) and James Lankford (R-Okla.)—would eliminate the subsidy by creating a special rule under tax code Section 141(b).

“If a community wants to vote and tax themselves to improve their city or to do something to bring a sports team in, that is up to those local citizens,” Russell told Bloomberg BNA. “But you shouldn't have people in Nevada asking for Oklahoma or New York tax dollars to fund their stadium,” he said.

A September 2016 report from the Brookings Institution found that 36 NFL, National Basketball Association, National Hockey League, and Major League Baseball stadiums that were newly built, extensively renovated, or under construction from 2000 through September 2016 were—at least in part—funded with tax-exempt municipal bonds, costing the federal government \$3.2 billion when calculated using a 3 percent discount rate.

Russell, who has met with House Ways and Means Committee Chairman Kevin Brady (R-Texas) about the bill, said the measure is designed to be included in the tax reform package currently being crafted by Republican lawmakers and the White House. Booker told Bloomberg BNA he would rather see the measure enacted on its own.

The NFL is monitoring the legislation, said Jocelyn Moore, the league's senior vice president of public policy and government affairs. But a similar bill introduced by Russell last session (H.R. 4838) failed to gain traction, she noted. As far as the new legislation is concerned, “I don't think that either bill has garnered a significant amount of bipartisan cosponsors,” Moore told Bloomberg BNA.

The bill's passage may be a long shot, but just how valuable are tax-exempt municipal bonds to the state and local governments and teams that rely on them to build new stadiums?

Costs Shifted to States

The average cost of debt service on the state and local level would increase 25 percent if stadiums lost the ability to use the bonds, said Dennis Zimmerman, director of projects at the American Tax Policy Institute and a former Congressional Research Service analyst who wrote a series of frequently cited reports on tax-exempt stadium financing in the 1990s. “That’s generally the value of the tax subsidy.”

The amount local taxpayers currently pay for the stadiums is equal to the total principal of tax-exempt bonds issued, which was \$13 billion for the 36 stadiums surveyed in the Brookings report, said co-author Austin J. Drukker, a project coordinator and research assistant at the think tank.

“Assuming localities would switch from tax-exempt bonds to taxable bonds with the same principal value and other characteristics, the additional cost to local taxpayers would be equal to the federal subsidy”—\$3.2 billion total—Drukker said in an email. Dividing \$3.2 billion by \$13 billion roughly equals a 24.6 percent increase in debt service, very close to Zimmerman’s estimate.

“However, if localities used other financing options that were cheaper than taxable bonds (which have to pay interest to investors at the expense of the local taxpayers), the expense to the local taxpayer might be lower,” he said.

Worth the Investment?

The NFL’s Moore said stadiums shouldn’t be treated differently than opera houses, cultural centers, or education facilities that states and localities vote to build.

Federal investment in infrastructure is designed to bring in private dollars for local projects that will lead to economic development, “which our stadiums certainly do,” Moore said.

Brett Bolton, principal associate for finance and intergovernmental relations at the advocacy group National League of Cities, echoed Moore’s comments about flexibility in an emailed statement. “If a referendum passes or a council votes to build a large public project, we believe the city should be able to use every tool in the tool chest to finance and advance the project,” he said. “That would include tax-exempt municipal bonds.”

But the Brookings study, citing several research papers, said: “Academic studies consistently find no discernible positive relationship between sports facility construction and local economic development, income growth, or job creation.” Among other explanations, the report said the money people spend attending a game at a newly constructed stadium is largely offset by reduced spending at other local venues.

The NFL provided Bloomberg BNA with reports from the late 2000s that projected stadiums recently built in California, Minnesota, and Georgia—for the 49ers, the Vikings and the Falcons, respectively—would generate hundreds of millions in economic output. The league referred Bloomberg BNA to the individual cities to obtain the actual economic figures now that the first two stadiums are in service and the last one is nearing completion.

The mayor’s office in Santa Clara County, Calif., didn’t return requests for comment; the mayor’s office in Minneapolis referred Bloomberg BNA to the Minnesota Sports Facilities Authority, which didn’t respond; and the mayor’s office in Atlanta said the city uses the Bureau of Economic Analysis for information on economic growth but hadn’t verified the projected numbers.

In general, the tax exemption “has been a cost-effective way for state and local governments to finance infrastructure, and if the tax exemption broadly for municipal bonds were to be eliminated, it would likely result in less infrastructure investment,” said Robin Prunty, a managing director in the

Public Finance Ratings Group at S&P Global Ratings. “I think that would follow through for stadiums.”

Demand Exceeds Supply

If legislation eliminating the tax exemption becomes law, “[w]ill it have an effect on the amount of sports economic activity?” Zimmerman asked. “I think we can say with great assurance, it will not.”

The federal subsidy isn’t the main driver for states and localities looking to finance professional sports stadiums, said Ted Gayer, vice president and director of Brookings’ economic studies program and a co-author of the 2016 report. Other factors play a role, including a local community’s desire to have a team and local politicians who want to bring in a team as part of their legacy, he said. And “most importantly, if you want a football team, you can’t create a football team, you have to go to the NFL,” he said.

The demand for franchises far exceeds the supply, Zimmerman said. “It’s that excess demand that gives them the leverage to extract subsidies from the local and state governments.”

Moore, at the NFL, disagreed with the assessment that the league would be unharmed by the stadium bills. “I think it’s a concern for all sports leagues that build stadiums,” she said, adding that the public financing is used not only for stadium construction, but also for security and technology upgrades.

The NHL, NBA, and MLB didn’t return requests for comment.

Controversial Corner

The tax-exempt bond market probably would fare well if the stadium bills were enacted, according to Matt Fabian, a partner at Municipal Market Analytics Inc.

Tax-exempt stadium financing is a controversial corner of the municipal market. “It accounts for less than 1 percent of the bond market and yet it probably draws 25 percent of the criticism,” Fabian said. Eliminating that small, problematic corner would legitimize the remainder of the market and reduce the risk of other areas losing their tax exemption, he said.

Any negative effects of killing the stadium-bond exemption would likely be felt by public finance bankers, he said.

Cutting stadium financing out of the tax-exempt space would mean that those bankers could no longer charge fees for their underwriting services on stadium bond issues. And while there aren’t a lot of these bond issues in the market, they are generally lucrative for banks to bring in, Fabian said.

Stadium bond issues are complex and tend to be controversial, so an investment bank can generally get a larger spread for selling those bonds than general obligation bonds, he said. “These are harder transactions to structure and complete, which is a welcome change from the low-spread world of GO bond issuance.”

Bloomberg BNA

By Allyson Versprille

July 3, 2017

With assistance from Kaustuv Basu in Washington.

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To contact the editor responsible for this story: Meg Shreve at mshreve@bna.com

[NABL: Political Subdivision Regs on List of Burdensome Regs.](#)

The IRS has issued [Notice 2017-38](#) which responds to Executive Order 13789 that required the IRS and Treasury to review significant tax regulations issued on or after January 1, 2016 and report on those regulations that (i) impose an undue financial burden on U.S. taxpayers; (ii) add undue complexity to the Federal tax laws; or (iii) exceed the statutory authority of the Internal Revenue Service (IRS).

Eight regulations were identified, including the proposed regulation on the definition of political subdivisions. In discussing that regulation, the Notice states: "Commenters stated that the longstanding 'sovereign powers' standard was settled law and had been endorsed by Congress, and additional limitations were unnecessary. Commenters also stated that the proposed regulations would disrupt the status of numerous existing entities and that it would be burdensome and costly for issuers to revise their organizational structures to meet the new requirements of the proposed regulations."

Comments are requested on whether the regulations identified in the report, including the proposed regulation on political subdivisions, should be rescinded or modified. Comments are due by August 7, 2017. Treasury must submit a report to the President by September 18, 2017 recommending specific actions to mitigate the burdens identified.

The proposed regulations are available [here](#).

NABL's comments on the proposed regulations are available [here](#).

[KBRA Releases Rating Report: Riverside County Transportation Commission Toll Revenue Bond, 2017 TIFIA Series](#)

Kroll Bond Rating Agency (KBRA) announces the preliminary rating of BBB for the Riverside County Transportation Commission Toll Revenue Bond, 2017 TIFIA Series. The bond evidences the \$152.5 million loan ("the TIFIA Loan") from the United States Department of Transportation to the Riverside County Transportation Commission (RCTC). The TIFIA Loan constitutes federal project credit assistance under the Transportation Infrastructure Finance and Innovation Act for the I-15 express lanes project ("the Project") located in Riverside County, California.

The TIFIA Loan will have senior lien priority in project revenues. The interest rate will be set at closing at the 30-year U.S. Treasury State and Local Government Series rate plus 0.01%. The maturity of the TIFIA Loan will be limited to the earlier of 35 years after substantial completion of the Project (currently projected for July 1, 2020) or June 1, 2056. Interest on the TIFIA Loan will be paid semi-annually while principal will be paid annually. The TIFIA Loan will fully amortize by the projected maturity date, and therefore there is no refinancing risk in the transaction. Proceeds of

the TIFIA Loan will be used to fund a portion of design-build and other costs for the Project, which are currently estimated at \$471 million. Other sources of funds for such Project costs include RCTC's Measure A sales tax revenue and Measure A sales tax bonds issued in relation thereto and various federal grants. Senior debt service coverage ratios for the TIFIA Loan average 3.13x under KBRA's rating case and stressed assumptions KBRA used in analyzing Project cash flows include higher construction and O&M costs and lower traffic volumes.

Please click on the link below to read the full report:

[Riverside County Transportation Commission Toll Revenue Bond, 2017 TIFIA Series](#)

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

TAX - PENNSYLVANIA

[Valley Forge Towers Apartments N, LP v. Upper Merion Area School District](#) Supreme Court of Pennsylvania - July 5, 2017 - A.3d - 2017 WL 2859007

Taxpayers brought action against school district, as a taxing district, seeking declaratory and injunctive relief on the theory that the district violated the Uniformity Clause of the Pennsylvania Constitution by systematically appealing only assessments of commercial properties.

The Court of Common Pleas sustained district's preliminary objections and dismissed the complaint with prejudice. Taxpayers appealed. The Commonwealth Court affirmed. Taxpayers appealed.

The Supreme Court of Pennsylvania held that:

- Taxpayers could invoke equity jurisdiction of Court of Common Pleas to seek declaratory and injunctive relief based on theory that school district violated Uniformity Clause, and
- Uniformity Clause did not permit school district to selectively appeal only assessments of commercial properties, such as apartment complexes, while choosing not to appeal assessments of other types of property, such as single-family residential homes.

Taxpayers could invoke equity jurisdiction of Common Pleas Court to seek declaratory and injunctive relief based on theory that school district, as taxing district, violated the Uniformity Clause of the Pennsylvania Constitution by systematically appealing only assessments of commercial properties. Statutory appeals process was not designed to provide declaratory or injunctive relief, strict adherence to the process would implicate concerns relating to piecemeal litigation and inadequacy of statutory remedy, and adjudicatory process by board of assessment appeals was solely directed at ascertaining the subject property's value and applying ratio to that value.

Uniformity Clause of the Pennsylvania Constitution did not permit school district, as taxing district, to selectively appeal only assessments of commercial properties, such as apartment complexes, while choosing not to appeal assessments of other types of property, such as single-family residential homes. All property in taxing district was single class, Uniformity Clause did not permit government to treat different property sub-classifications in disparate manner, and nondiscriminatory methods of deciding which properties to appeal existed.

[Monetizing Masterpieces in Detroit's Bankruptcy.](#)

General Motors filed for bankruptcy in 2011 and sold off divisions Hummer, Saab, and Saturn. The city of Detroit filed for bankruptcy in 2013 and faced the prospect of selling off a Matisse, Cezanne, and a Van Gogh. This article discusses the treatment of public assets such as the DIA's art collection in municipal bankruptcy. Municipal bankruptcies are rare, and parties to such a case have little precedent and little research on which to rely. The purpose of this article is to better inform academics, local officials, and bondholders of the consequences of debt adjustment under Chapter 9 of the Bankruptcy Code.

[Read the article.](#)

American Bar Association

By James L. Tatum III

[Harvesting the Value of Water: Stormwater, Green Infrastructure, and Real Estate.](#)

How Stormwater Retention Paid Dividends for Three Sites

Recently, ULI hosted a webinar looking at how three different land uses were able to economically include stormwater diversion infrastructure in ways that added value. From a park in Washington, D.C., to a former department store warehouse in Portland, Oregon, to a Whole Foods site in suburban Raleigh, North Carolina, these diverse projects are linked by a common ingenuity in handling stormwater challenges.

These three examples were among many showcased in the Institute's recent report, [*Harvesting the Value of Water: Stormwater, Green Infrastructure, and Real Estate*](#), which highlighted the numerous ways in which water is not merely a threat requiring defensive measures, but "one that can be harnessed to make cities more sustainable and livable." These examples ranged from a suburb near Dallas to a flood-prone site in New Orleans to a pier development in Boston—locations prone both to excess water and to too little water—and featured an assortment of tools that can be combined given the circumstances. It is both an address of problems for cities and individual properties and sometimes even a means to make a profit. As the report notes:

"Cities across the United States are embracing green infrastructure approaches because they offer social, economic, and environmental benefits while addressing water challenges. Green infrastructure cost-effectively reduces sewer system overflows and manages stormwater runoff, improves local water quality, decreases the use of potable water, reduces heat-island effects, improves public health, enhances recreational opportunities, increases employment, and stimulates economic growth—all at a lower cost than gray infrastructure solutions alone."

The projects featured in ULI's webinar each involved differing approaches to water, designed to turn an unwelcome guest into a helpful one.

Brad Fennell, senior vice president at W.C. Smith, spoke about the public/private partnership of Canal Park in Southeast Washington, D.C., an infill park built in 2012 as an anchor both for the

company's construction nearby and for the neighborhood in general.

Property developers and owners also indicated that design and operation of stormwater projects requires a learning curve, particularly in terms of landscape maintenance for green infrastructure installations such as bioswales and rain gardens. The three-block park replaced a former bus parking lot and public housing, and its foliage and leisure space are immediately apparent. The park is a space for area residents and employees to leave their cares behind, but the park is a warren of underground activity. As Fennell commented, "While lush landscaped areas provide a tranquil area to picnic and engage in a civic way below the surface, the park's hard at work capturing and cleaning stormwater. Most visitors to the park are unaware of the extensive stormwater recycling that's happening under their feet."

A complex system rests beneath the surface: one 40,000-gallon (151,000 liter) holding tank that pumps water to bioplanters that irrigate the landscape. The water is then routed to a second cistern of the same size, where it is then cleansed through microfilters before use in the park's fountains and restrooms, and seasonally, in the park's 10,000-square-foot (929 sq m) ice rink. This water is tested weekly for quality. It is designed not merely with the idea of collecting water from the park itself, but also from nearby blocks that might not accommodate stormwater as effectively. It remains necessary to augment the site's uses with potable water for human consumption, but most needs can be filled by on-site collection.

One person asked whether this eliminated the need for water entirely; it cannot completely, due to inevitable seasonable variation:

"In a perfect world, we would have a big-enough storage facility to hold all the water necessary, but ultimately it rains during the colder seasons when you don't need the irrigation and it tends to be dry during the seasons when you're in drought, so having the ability to funnel more water into the system will help us in the long run."

The second project profiled was of a substantially different nature—not a permeable park, but a solid warehouse, a historically landmarked former department store warehouse in Portland. Working around the building's historic character, plenty of improvements were still possible. Sidewalk bioswales were located on every side of the full-block building, and accentuated by an 11,700-square-foot (1,100 sq m) green roof also featuring a solar array. All water from the rooftop is collected and reused for toilet flushing.

In renovating the building, Gerding Edlen, the property management company, realized that an entirely new foundation would be necessary. Thus, they decided to seize this opportunity to place a cistern beneath that surface, according to Renee Loveland, director of sustainability, Gerding Edlen, "by going deeper into the basement and creating the floor above." She estimated the necessary cost of reconstruction at about \$60,000 in any case; for an additional "\$80,000 in plumbing costs and pumps and motors and those sort of things," they yielded a 169,000-gallon bunker for water in the building's effective sub-basement.

It is an impressive figure that has yielded other impressive benefits. Loveland said that in 2016 "our harvested rainwater met 93 percent of all nonpotable needs in the building." Reclaimed rainwater provided 52 percent of all water use, potable or otherwise, for the building in that year. This system provided a dramatic reduction of 107 percent in the building's water bill. "We actually saved more money than we paid the city last year due to the water savings we achieved." And that is not the only benefit: the green roof has provided for reduced building heat gain and is an amenity to employees in its own right.

The next project shifted yet again, from city to suburb, to a six-acre (2.4 ha) project, the Market at Collonade, which contains a Whole Foods and a smaller additional building. Chris Widmayer, vice president of Regency Centers, outlined the site's constraints. "One is we did not have enough land to do traditional stormwater detention. The typical aboveground systems that we had looked at were too expensive." The site was additionally adjacent to a watershed and at active and frequent risk of stormwater runoff. They ended up with a site that is 80 percent impervious to water, and yet filled with other features to overcome this deficiency. As Widmayer commented, "A combination of cisterns to take the stormwater from the roof, subsurface infiltration systems, bioswales, and bioretention areas to clean the water, and landscape irrigation systems to use the water that has been reclaimed in a massive underground detention chamber." A cistern beneath the parking lot can contain 350,000 gallons (1.3 million liters) of water, used both for storage and to irrigate the landscaping. Another aboveground cistern next to Whole Foods collects all the water from the retailer's roof, then uses it for assorted purposes within the store. It is a system that can absorb a remarkable amount of water. According to Widmayer, "with 36 inches of rainfall, only 0.6 inch [1.5 cm] float out of the system and into public storm systems." In practical terms, "less stormwater runoff than the typical suburban house."

A question emerged as to how these projects are being funded. These do involve varying amounts of resources from government bodies. The District of Columbia provided 65 percent of financing for the Canal Park project, and the North Carolina Clean Water Management Trust fund furnished around \$500,000 for the North Raleigh Project. There are encouraging signs that these are becoming less necessary. The Portland project received a \$25,000 grant from the city's Green Investment Fund, but this grant no longer exists—not for lack of interest, but because such practices have become ubiquitous. Loveland said, "I would say that there are fewer financial incentives in this market currently for stormwater strategies because it's become so much more commonplace."

The Urban Land Institute

By Anthony Paletta

July 5, 2017

[The Week in Public Finance: Late Budgets, Illinois' First in Years and Risky Pension Investments.](#)

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

GOVERNING.COM

BY LIZ FARMER | JULY 7, 2017

[Restructured Federal Freight Grants to Offer 'More Bang for the Buck.'](#)

DALLAS — The Trump administration has reconfigured and renamed a \$4.5 billion discretionary grant program dedicated to freight-related transportation infrastructure to put more emphasis on projects that can leverage additional state, local, or private financing.

The freight infrastructure program authorized by 2015's Fixing America's Surface Transportation Act will now be known as Infrastructure for Rebuilding America (INFRA) grants rather than the Fostering Advancements in Shipping and Transportation for the Long-term Achievement of National Efficiencies (Fastlane) as it was called by the Obama administration, according to a notice published in Thursday's Federal Register.

The revised program is intended increase the impact of projects by leveraging capital and allowing innovation in the project delivery and permitting processes, including public-private partnerships, the Transportation Department said in a fact sheet on the changes.

"We need to take steps to get more bang for the buck," according to the fact sheet. "By getting more of our partners to use federal funding as a supplement — not a substitute — we seek to increase the amount of overall funding that goes to infrastructure."

Though the INFRA grants can be used to fund highway, rail, and port projects, the program is specifically focused on projects in which the local sponsor is significantly invested and is positioned to proceed rapidly to construction, said Transportation Secretary Elaine Chao.

"By ensuring the right incentives, projects selected under this program will be better able to make significant, long-term improvements to America's transportation infrastructure," she said.

The notice of funding opportunity in the Federal Register said approximately \$1.5 billion of the grants would be available through fiscal 2018.

The notice gives states and localities 120 days from publication to submit new applications for the revised grant program. Projects proposed for the 2017 Fastlane grant cycle submitted by the mid December 2016 deadline can be refiled, but the applicants must show how their new proposals address the program's amended criteria.

The FAST Act authorized \$800 million of the discretionary grants in fiscal 2016, \$850 million in 2017, \$900 million in 2018, \$950 million in 2019, and \$1 billion in 2020, the final year of the five year highway funding bill.

The INFRA grant program preserves the statutory requirement in the FAST Act to award at least 25% of funding for rural projects.

"The administration understands that rural needs may well exceed this limit, and the department will consider rural projects to the greatest extent possible," the fact sheet said.

Highway projects in rural areas may not have the revenue stream needed to attract private investments, so the grant process "will consider an applicant's resource constraints when assessing the leverage criterion," the Transportation Department said.

The FAST Act caps the grants at no more than 60% of project costs, although additional loans and grants could boost the federal share to as much as 80%.

The first and so far only round of the annual grants provided \$759.2 million for 18 projects in 15 states and the District of Columbia in 2016. The successful projects were chosen from 212 applications seeking a total of \$9.8 billion.

No more than \$500 million of the \$4.5 billion of grants authorized by the FAST Act may go to freight rail or port projects, with the remainder reserved for highways and bridges. Approximately \$326 million of freight rail and port funding remains after the first round of grants.

More funding for freight infrastructure could be provided by a bill (HB 3001) introduced in the House on June 22 by Rep. Alan Lowenthal, D-Calif. The measure would create a Freight Transportation Infrastructure Trust Fund, funded through a national 1% tax on the cost of transporting goods.

The proposed tax would generate \$8 billion per year dedicated to freight-related infrastructure projects with a focus on multimodal projects and projects to restore aging infrastructure while relieving bottlenecks in the freight transportation system, Lowenthal said.

The Bond Buyer

By Jim Watts

Published June 29 2017, 1:22pm EDT

[Bill Would Lift Caps on PABs Used to Finance Water, Sewer Infrastructure.](#)

WASHINGTON - Advocates of removing state volume caps for tax exempt private activity bonds used to finance water and sewer projects have once again reintroduced bipartisan legislation in the House.

Reps. John Duncan, R-Tenn., and Bill Pascrell, D-N.J. introduced the Sustainable Water Infrastructure Investment Act (H.R. 3009) on June 22 with seven other cosponsors.

No Senate version of the bill has been introduced this year, though there were identical bills cosponsored by Sens. Mike Crapo, R-Utah, and Robert Menendez, D-N.J. in the Senate and Duncan and Pascrell in the House during the previous Congress. Versions of this legislation have been proposed in the House since 2008 and Pascrell has always been a sponsor.

States and territories issue most private activity bonds, including those used for water and sewage projects, under volume caps based on population data from the U.S. Census Bureau and a formula set by the Internal Revenue Service. For 2017, the cap is either \$305.32 million per state or \$100 per capita based on a state's population, whichever is greater.

Nationally the cap for all 50 states, the District of Columbia and Puerto Rico stands \$35.69 billion this year. Nine states have individual caps of more than \$1 billion each with California topping the list with a \$3.93 billion limit.

President Trump campaigned last year on a pledge for a \$1 trillion, 10-year infrastructure initiative that would rely on tax credits to attract private investment.

But the president's fiscal 2018 budget requested only \$200 billion for the federal share of the infrastructure initiative spread out over nine years. Trump also proposed eliminating community block development grants and other programs that provide funds for infrastructure projects.

State and local governments would have to provide matching funds to qualify for some of the \$200 billion in proposed federal funding. But it's still uncertain to what extent there will be a role for tax-exempt bonds, if any, in the plan. Tax-exempt bonds have been the primary way by which states and localities finance infrastructure, including so-called exempt-facility PABs for water furnishing and sewage facilities.

Eliminating the federal cap on PABs for water and sewer infrastructure projects would leverage \$50 billion in private capital investment, the bill's cosponsors said. In addition, they estimate it would create 1.4 million jobs and add \$101.5 billion in tax revenue for federal, state and local governments.

"If we do not start investing in our water infrastructure now, it is going to cost our nation many billions more in the future," Duncan said at the time of the bill's introduction.

The water and wastewater infrastructure projects would help communities comply with safe drinking water and sanitation standards.

"Our deteriorating water infrastructure regularly causes water main breaks in communities across our country, destroying property, disrupting neighborhoods and wasting our limited water supply," Pascrell said. "By encouraging private investment to help fund critical water infrastructure upgrades, we are encouraging stronger investments in our country's future at a reduced cost to the taxpayer."

The Bond Buyer

By Brian Tumulty

Published July 06 2017, 3:48pm EDT

[Free Interactive Course Simulates Decision-Making about Investing in Municipal Bonds.](#)

Washington, DC - The Municipal Securities Rulemaking Board (MSRB) today launched a free, interactive online course to help investors understand how municipal bonds work and assess how they might fit into a balanced portfolio.

"For sheer variety, there is no market quite like the universe of municipal securities," said MSRB Executive Director Lynnette Kelly. "One million securities are outstanding, a total that dwarfs all other equity and bond instruments. The MSRB is committed to providing objective and authoritative information to help investors navigate this diverse marketplace."

"Exploring Municipal Bonds: A Course for Investors" uses real-world scenarios to show investors where to get information about municipal bonds and to highlight considerations for selecting an individual security. Appropriate for both individual investors and professionals, the course was developed to supplement the [MSRB's online Education Center](#), which provides free, objective information about the municipal bond market. [Create an account in MuniEdPro®](#) to take the free, 45-minute course.

The municipal bond investor course is part of MSRB's MuniEdPro® suite of online, interactive courses about municipal market activities and regulations. Other topics in the series include primary market offering disclosure responsibilities, roles and responsibilities of market participants in a primary offering, and the role of the regulator.

"We wanted to leverage the latest in online technology to engage investors seeking a deeper understanding of municipal bonds," said Ritta McLaughlin, MSRB's Chief Education Officer. "Our investor course enables them to experience a variety of scenarios to explore how municipal bond

investing would have an impact on their portfolio and their income. It is an exciting addition to the growing catalog of MuniEdPro® courses.”

The MSRB developed the free course to educate fixed-income investors about municipal bonds and help them evaluate how municipal bonds can fit into a balanced portfolio of investments. Municipal bonds attract perennial interest through ups and downs in the broader financial markets because of their tax advantages and historically low default rates.

Date: July 5, 2017

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Who Pays the Local Tax Bill?

There's disagreement over who bears the biggest burden: the poor or the wealthy.

For the past 15 years, cities have focused on attracting the creative class. The idea is that if you build a thriving creative culture — vibrant communities of artists, writers, musicians and so on — a thriving economy will follow. It's a strategy that's worked well, especially in places like Asheville, N.C.; Denver; and Seattle.

In many cities, it's worked too well. Some creative-class cities have become victims of their own success, unable to keep up with demand for housing, local public services and livable-wage jobs for the lower-middle class. The result is a crisis of affordability driven by huge spikes in home prices, rents and homelessness.

Local leaders have taken steps to respond. In the past 18 months, Los Angeles, San Francisco, Seattle, Silicon Valley in Santa Clara County, Calif., and other localities have proposed new local taxes to expand affordable housing and bolster services for the homeless. As they grapple with this new challenge of affordability, they must also confront an old question at the heart of local public finance: Who actually pays local taxes?

There are two ways to think about who pays. One is the “statutory incidence,” or who is required to remit a tax to the government. The other is the “economic incidence,” or who pays a tax because they're unable to avoid it. The former is easy to measure. The latter is not.

Most local governments have access to the sales tax and the property tax. There's good evidence that the economic incidence of the sales tax is on consumers. Merchants collect and remit the tax, but consumers pay it because there's really no way around buying basic items like clothing. If the goal is for tourists to help pay for local affordability, then the sales tax makes sense. However, for that same reason poor and middle-income people also pay a larger share of their incomes in sales taxes compared to the rich because the sales tax is regressive. For many affordability advocates, that's unacceptable. Why pay for affordability with a tax that falls disproportionately on the poor?

That's why affordability advocates have warmed to the property tax. Middle- and upper-income people are more likely to own property and pay property taxes, so the statutory incidence is inherently less regressive. But if we care about economic incidence, the reality is unclear at best. In fact, for more than 50 years public finance experts have argued over who actually pays the property

tax.

One school of thought says it's really a tax on wealth. But higher property taxes might work against affordability by reducing the demand for housing and discouraging density. Why? It's easy to imagine a homeowner who decides not to add on a new guest room because that will increase property value and the subsequent property tax bill. The same might apply to a landlord who opts against building a new rental property.

Another view says local property taxes are what you pay for the services your local government delivers. This is especially true for zoning, public safety and other services that benefit all property owners in roughly the same way. If that's true, then property taxes are neither progressive nor regressive. Everyone pays a proportional amount for a proportional share of benefits.

Yet another view says the property tax is a tax on the service called housing. In that case, the property tax is like the sales tax. Since lower-income people cannot escape paying for housing (usually as renters) then property owners can send much of the property tax burden down the income ladder.

We're not likely to settle this question any time soon. So for now, the question of who should pay for affordability will be about perceptions, priorities and politics, and not about public finance.

GOVERNING.COM

BY JUSTIN MARLOWE | JUNE 2017

[The Cost of Water Is Rising. Philadelphia Has an Unprecedented Plan to Make It More Affordable.](#)

It's the first city to set water rates based on income.

This week, Philadelphia is launching a first-of-its-kind program to address a common problem: Late and unpaid water bills can leave low-income people without the ability to shower or cook food in their homes.

In Philadelphia, more than 40 percent of the city's water utility customers are delinquent in paying their water bills, amounting to about \$242 million in uncollected revenue, according to the Philadelphia Water Department.

The city's solution? Charge residents based on how much money they make.

[Continue reading.](#)

GOVERNING.COM

BY J.B. WOGAN | JULY 5, 2017

[Illinois Bonds Rally on End of Impasse That Triggered Downgrades.](#)

- **Gap between yields on Illinois debt and benchmark narrows**
- **Despite action, Moody's warns that cut to junk still possible**

Illinois bonds climbed after the state enacted its first full budget in two years and raised taxes to reduce its chronic deficits, ending a long-running impasse that triggered multiple downgrades and pushed the state's rating to the precipice of junk.

The securities were the most actively traded municipal bonds Friday, a day after the legislature overrode Governor Bruce Rauner's vetoes to enact the spending plan. Without that step, Illinois was at imminent risk of another downgrade, which could have scared off individual investors who dominate the market and left some mutual funds unable to buy its debt. That's remains a possibility, with Moody's Investors Service saying this week that it has placed the state on watch for a potential downgrade.

"Investors are breathing a sigh of relief," said Vikram Rai, a municipal-bond analyst with Citigroup Inc. "If it weren't for the overhang of the Moody's downgrade after the recent statement, the bonds would have rallied more."

Over \$21 million of Illinois general-obligation bonds due in 2023 traded Friday morning, according to data compiled by Bloomberg, and the average price rose of 101.4 cents on the dollar from 98 cents on Thursday. That pushed the yield to 2.3 percentage points more than benchmark securities, down from 2.9 percentage points.

The push for lawmakers came largely from major rating companies, which threatened to pull Illinois's investment-grade rank if the government did not produce a budget for the year that began on July 1. Though that deadline was missed, lawmakers worked through the weekend and on the July 4 holiday to avoid the cut, which would have reduced Illinois's rating to an unprecedented low for a U.S. state.

Bloomberg Markets

By Kristy Westgard

July 7, 2017, 9:29 AM PDT

[Los Angeles Schools Face Fiscal Woes.](#)

- **District challenged by deficits, pensions, falling enrollment**
- **Bonds are trading at better levels than that of Texas**

Los Angeles Unified School District has credit ratings others would envy — yet faces challenges that if left unchecked could undermine its stellar reputation with investors.

The bonds of the nation's second-largest school system are ranked AAA by Fitch Ratings and Aa2 by Moody's Investors Service though the district, like others in California, wields little power to raise revenue and relies on a state funding formula pegged to student enrollment. And that enrollment is in steady decline, with the 2019-2020 class rolls projected to be more than a third lower than in 2003.

So far, its borrowing costs don't seem to be reflecting any concern, as a sample of the district's 5-

year and 10-year general-obligation bonds shows them yielding less than similar debt from Texas, a state that carries the top rank from all three major credit raters, data compiled by Bloomberg show.

The school administration, which forecasts deficits within two years, saw contracts for all but one of its bargaining units expire Friday. It's a "significant" time for officials, who haven't built in any related cost increases for future budgets, said Moody's analyst Helen Cregger. Meanwhile, contributions for pensions and lifetime retiree health-care benefits are escalating.

"We may be at an important inflection point," Cregger said. "Going forward, annual increases in state funding may be more moderate. So the pressures will be compounded."

Los Angeles officials are taking action, laying off and reassigning some employees while hoping through contract negotiations to slow the growth in retiree health-care liabilities that have reached \$13.6 billion, or 366 percent of payroll. The district must also contend with a rising pension tab as general-fund contributions for retired teachers will reach \$497 million in fiscal 2021 from \$215 million seen in 2014.

Ksenia Koban, municipal strategist at Payden & Rygel, anticipates the district's debt rating falling within three to five years to the A-level category and spreads over benchmark bonds widening. While the rating companies assign the district a stable outlook, their analyst reports and interviews flag the potential for the school system's challenges to deepen. Administration officials declined to comment on the prospect of future ratings downgrades.

"The fundamental problems it has to address are almost insurmountable," said Koban, who has stopped adding to the firm's holdings of district bonds. "I don't know how you can get out of this in two years, forget ten."

Bloomberg Markets

By Romy Varghese

July 5, 2017, 2:00 AM PDT

[Goldman Leaps Into Ranks of Top Muni Underwriters With Big Sales.](#)

- **Bank of America holds its lead in municipal-bond business**
- **RBC gains most market share during the first half of 2017**

Goldman Sachs Group Inc. vaulted into the ranks of the biggest U.S. municipal-bond underwriters in the first half of 2017 by managing large sales for New York City's Hudson Yards redevelopment, the city of Chicago and American Dream, a long-stalled shopping and entertainment center in New Jersey's Meadowlands.

The New York-based bank oversaw \$9.8 billion of long-term state and local debt issues in the first half of 2017, rising to seventh biggest muni underwriter from 11th. Goldman hasn't finished in the top 10 in a full year since 2014, according to data compiled by Bloomberg.

Meanwhile, Bank of America Corp. held the lead in state and local government debt underwriting, a title it's kept for five straight years, followed by Citigroup Inc. Bank of America managed \$26.5 billion of municipal bond sales in the first half compared with \$23.9 billion for Citigroup.

RBC Capital Markets boosted its market share in the municipal business by 2.4 percentage points in the first half, the most of any bank, by handling 7.5 percent of new issues, according to data compiled by Bloomberg. The Royal Bank of Canada-unit climbed one spot into fifth place, behind JPMorgan Chase & Co. and Morgan Stanley.

The underwriters are chasing fewer deals as the pace of debt sales slows from last year, in part because interest rates have risen from more than half-century lows. There were about \$187 billion of municipal bonds issued through June 30, a 13.1 percent decline from the same period last year. The number of advance refundings, a popular technique used to refinance debt before it can be paid off, has lagged, according to Bank of America Merrill Lynch.

Last month, Goldman managed a \$1.1 billion sale of unrated municipal bonds for American Dream, a planned 2.9 million square-foot amusement mall about 10 miles (16 kilometers) west of Manhattan. It was the year's biggest offering of unrated municipal securities, which are sold for speculative projects that are often risky enough to be awarded below investment-grade ratings.

In May, Goldman managed the refinancing of \$2.2 billion of debt issued to fund infrastructure at Hudson Yards, a 26-acre residential, office and retail development on Manhattan's far west side.

The prices Wall Street banks charged U.S. cities and states to sell bonds in the first half were little changed. Fees averaged \$5.08 per \$1,000 of long-term bonds compared with \$4.95 in 2016.

Bloomberg

By Martin Z Braun

July 3, 2017, 9:55 AM PDT

[Illinois House Overrides Rauner's Veto to End Budget Impasse.](#)

- **Lawmakers override governor's veto to end record budget fight**
- **S&P warned of likely downgrade without budget by July 1**

For the past two years, nearly Illinois Governor Bruce Rauner's entire time in office, his state was locked in a political paralysis that battered its universities, left contractors waiting to be paid and undermined its standing on Wall Street.

Then on Thursday, faced with the risk of becoming the only U.S. state with a junk bond rating, Democrats who control the legislature and almost a dozen of the governor's fellow Republicans voted to override his vetoes of a \$36 billion spending plan and across-the-board tax hikes, enacting a budget for the first time since mid-2015.

"If we don't have a budget, with virtual certainty, we will go to junk status," said Representative David Harris, a Republican who broke ranks with the governor. "At least with a budget, we hold off."

The resolution will ease the cash-flow crisis that threatened to halt payments to pensions, schools and government workers. It will allow the state to borrow money to pay down a record pile of unpaid bills that tripled to \$15 billion during the impasse. Social service providers and universities starved of aid will get some relief. And Illinois will have an actual spending plan for the next 12 months, instead of haphazardly running deeper into the hole by spending more than it's taking in because of

court orders and continuing appropriations.

After the deal came together over the last week, with votes during the weekend and on the Fourth of July holiday, Illinois bond prices rallied on signs that the elected leaders would finally tackle the government's long-building financial strains. On Friday, the state's bonds were the most actively traded municipal securities, with taxable Illinois bonds due in 2033 rising to an average of 96.8 cents on the dollar, up from 91.5 cents on June 30, according to data compiled by Bloomberg. That pushed the yield down to 5.4 percent from 5.9 percent.

The House of Representatives on Thursday followed the Senate by approving the budget bills despite Rauner's objections that it would unduly burden residents by raising their taxes. House Speaker Michael Madigan, a Democrat, praised the the end of a "destructive" impasse while noting there's still work to do.

Even though it's over, the risks to the state may not be. While officials clashed over the budget, the state's obligations to its deeply underfunded pensions grew to about \$130 billion. On Wednesday, Moody's Investors Service, in anticipation of the successful override, said it could still downgrade the state over the next few months, citing potentially optimistic revenue assumptions and the massive retirement fund debts.

"This budget will not solve all our problems tomorrow," Comptroller Susana Mendoza, a Democrat, said in a statement Thursday, praising the passage of the budget, but noting that vendors still won't get paid as fast as they want. "We haven't won the lottery."

The fight between Rauner, who in 2015 became the first Republican to lead the state in more than a decade, and legislative Democrats was stoked in part by the expiration of temporary tax increases just as he took office. Rauner has held the line against any plan that failed to include elements of the agenda he says he was elected to enact, including a property-tax freeze, legislative term limits and changes to the workers' compensation insurance system to cut costs for businesses.

Rauner had said he vetoed the budget measures because they were insufficient. On Thursday, he said the "tax-and-spend plan is not balanced, does not cut enough spending or pay down enough debt, and does not help grow jobs or restore confidence in government."

The break in the record-long impasse came after S&P Global Ratings and Moody's last month dropped Illinois's credit rating to one step above junk and warned of further downgrades if the government failed to take steps to stanch the bleeding. A cut below investment grade would be unprecedented for a U.S. state. That possibility hasn't entirely receded, though Fitch Ratings earlier this week called the budget plan "concrete progress" and S&P said it was a "meaningful step."

"Even with this override, it is one step in a long journey that Illinois is going to need to stay on in order to stabilize its finances," said Laurence Msall, president of the Civic Federation, a Chicago nonprofit that tracks state and municipal finance. He added that there doesn't appear to be a "silver bullet" for addressing the state's unfunded pension liabilities.

Even with the resolution, John Humphrey of Gurtin Municipal Bond Management said he wants to see a more stable political atmosphere before buying Illinois's debt. Gurtin doesn't hold any Illinois general-obligation or sales tax bonds, he said.

"In the short-term yes, they stanching the most immediate liquidity pressures that they were facing," said Humphrey, Gurtin's Chicago-based head of credit research. "But the amount of fiscal discipline that's going to be required each year, every year remains to be seen, especially given the political

environment.”

Bloomberg Politics

By Elizabeth Campbell

July 6, 2017, 2:33 PM PDT July 7, 2017, 6:12 AM PDT

Hartford Hires Restructuring Firm as Fiscal Strains Build.

- **Mayor Bronin: law firm was hired ‘to examine all options’**
- **City facing \$50 million deficit, nearly 10 percent of budget**

Hartford, Connecticut, capital city of the wealthiest U.S. state, hired Greenberg Traurig LLP to evaluate restructuring options for the cash-strapped city, including a potential bankruptcy, as the state’s failure to pass a budget put further pressure on its finances.

Hartford, where a third of its 123,000 residents live in poverty, faces a \$50 million deficit, nearly 10 percent of its budget, and may not receive a lifeline from the state, which hasn’t adopted a budget for the fiscal year that began July 1. Last week, Aetna Inc., its fourth-largest taxpayer, said it was moving its headquarters to New York from the city it’s called home since 1853. Hartford’s credit rating may be downgraded deeper into junk by Moody’s Investors Service.

Greenberg Traurig’s team will be led by Nancy Mitchell, a co-chair of the firm’s restructuring practice, the city said in a news release. When Hartford was soliciting proposals from firms that specialize in bankruptcy, Council President Thomas Clarke told the local newspaper that looking into seeking court protection from creditors would only be a last ditch option.

“Nancy Mitchell and the team at Greenberg Traurig have extensive experience in municipal restructuring, and they will be working with us to examine all options for putting the city of Hartford on a sustainable path,” Mayor Luke Bronin said in a statement. “As we start a new fiscal year without a state budget and with significant uncertainty, we will have the advice and counsel of an experienced and highly respected restructuring firm.”

Hartford’s tax base of about \$4.1 billion is about two-thirds that of neighbor West Hartford, which has far fewer residents, because half of property — state buildings, hospitals, universities, non-profit agencies — is tax-exempt. The city has \$672 million in debt, including \$228 million uninsured bonds, according to data compiled by Bloomberg. It also guarantees about \$70 million in debt for a minor-league baseball stadium downtown and Aetna, Hartford’s fourth-largest property-taxpayer, is moving 250 jobs to New York City. It will still have thousands working in Hartford.

In 2016, Bronin, a Democrat, took over a city that’d been delaying its fiscal reckoning by pushing debt payments into the future, draining reserves and resorting to one-time measures, such as selling a parking garage, while its debt swelled by 52 percent from 2011 to 2015, according to Moody’s Investor Service figures.

Since taking office in 2016, he’s cut 100 jobs and renegotiated leases and energy contracts. Bronin’s been less successful in getting concessions from unions: The city’s fiscal 2017 budget assumed \$16.5 million of concessions, the bulk of which haven’t materialized. Hartford managed to strike a deal with its firefighters that saves about \$4 million a year through 2020 by freezing pay increases,

increasing pension contributions, lowering salaries for new hires and requiring employees to pay more for health care.

Bronin is lobbying the state to fully fund a program that compensates local governments for revenue lost to tax-exempt properties, which alone would provide enough money to close next year's deficit, and has joined with cities pushing to raise Connecticut's 6.35 percent sales tax to 6.99 percent to provide more aid. He also persuaded Hartford Financial Services Group Inc., Travelers Cos. and Aetna to pledge \$50 million to the city over five years as part of a "comprehensive and sustainable solution for Hartford."

Hartford could renegotiate labor contracts and cut debt and pensions in bankruptcy, as a handful of cities have done since the recession. It would need the governor's consent to file chapter 9.

Connecticut, facing a \$5 billion two-year deficit failed to adopt a biennial budget by July 1. Governor Dannel Malloy is controlling spending while legislators continue negotiations.

Bloomberg Markets

By Martin Z Braun

July 6, 2017, 11:24 AM PDT July 6, 2017, 2:17 PM PDT

[In America's Richest State, the Capital Flirts With Bankruptcy.](#)

- **Hartford hires law firm to explore 'all options' available**
- **Officials haven't ruled out filing for bankruptcy protection**

The hedge-fund enclave of Greenwich, on the Connecticut Gold Coast, is about 100 miles and a world away from the state capital.

But the fiscal crisis in Hartford, the historic center of the American insurance industry, is fast becoming more representative than mansions or yachts of the wealthiest state in the U.S. The city is edging closer than ever to the breaking point, waiting for the financially troubled state government to step in.

It may seem crazy that a place as rich as the Nutmeg State, which counts among its residents hedge-funds masters like Ray Dalio and Steven A. Cohen and legions of Wall Street bankers, could be in such fiscal trouble. Last year, the per-capita income there was \$71,033, the highest in the nation, according to the U.S. Bureau of Economic Analysis.

For all that, state-worker pensions have been underfunded for decades. Tax increases aimed at closing deficits have put a strain on an economy struggling from the loss of high-paying finance jobs, leaving it among the few that still haven't recovered from the recession. The hedge fund industry fell on hard times, with about 1,060 shuttering globally last year. UBS Group AG abandoned the world's largest trading floor in Stamford after the financial crisis, and the Royal Bank of Scotland downsized its office there. Pension, debt and health-care costs just kept growing.

"There's a limit to how much you can tax and there's a limit to how much you can cut before you damage the viability and attractiveness of the city," Mayor Luke Bronin said in May. "Right now, from a fiscal standpoint, you have a capital city fighting with its hands behind its back."

Like many other local governments across the country, Hartford — city of Mark Twain and the young John Pierpont Morgan — has been grappling with budget problems for years. On the same day that Illinois lawmakers finally scraped together a long-overdue budget, Hartford hired the law firm Greenberg Traurig LLP to evaluate its options, which include bankruptcy. It would be the first prominent U.S. municipality to seek protection from its creditors since Detroit did so in 2013.

As for Connecticut, it faces a projected two-year deficit of \$5 billion that lawmakers haven't figured out how to close, even though the new fiscal year began on July 1.

In Hartford, the woes have been piling up for a while. Like Puerto Rico, which filed a record-setting bankruptcy in May, or even Greece, the city came to the edge in the usual way: slowly, then suddenly. The population declined 23 percent between 1960 and 2000 and has remained stagnant ever since. A third of its residents live in poverty, a higher share than in Baltimore or Newark. From 2010 to 2014, the metropolitan area saw the fifth-biggest decline in employers in the nation, according to the Economic Innovation Group, a Washington-based public policy organization.

Hartford's tax base of about \$4.1 billion is about two-thirds that of neighbor West Hartford, which has far fewer residents, because half of the property — state buildings, hospitals, universities, non-profit agencies — is tax-exempt. Hartford has the highest property tax rate in the state and faces a \$50 million deficit, nearly 10 percent of its budget. The city's credit rating may be downgraded deeper into junk by Moody's Investors Service.

Uninsured Hartford bonds maturing in 2024 traded at yields of more than 6 percent in late June, compared with about 4.4 percent in January, as investors' jitters mounted. The city has \$672 million in debt, including \$228 million of uninsured bonds, according to data compiled by Bloomberg. It also guarantees about \$70 million in debt for a minor-league baseball stadium downtown.

Governor Dannel Malloy and Republican and Democratic leaders in the legislature agree the bankruptcy of the state's capital isn't another negative headline they need. General Electric Co. has decamped from Fairfield to Boston, and last week Aetna Inc. said it was moving its corporate headquarters from Hartford, where it has been since 1853, to New York. About 250 jobs are going with it, though thousands will stay in town.

"The state needs a budget that supports Hartford, its residents and its employers," said Chris McClure, a spokesman for Malloy. "In the absence of action by the General Assembly on a budget vote, it's entirely appropriate that the city explore all its options and prepare for every contingency."

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Bloomberg Politics

By Martin Z Braun

July 7, 2017, 2:00 AM PDT

[U.S. Municipal VRDO Update, June 2017](#)

A brief historical stat sheet to the municipal ARS, FRN, and VRDO market ending June 2017.

[View the update.](#)

[Bloomberg Brief Weekly Video - 07/06](#)

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

[Watch video.](#)

Bloomberg

[Why Tolling is Often a Political Minefield.](#)

Taxes and tolls have become synonymous in the context of the US.

Taxes and tolls have become synonymous in the context of the US. People often think about tolls as a

tax, and whether merited or not paying the two of them is perceived as double taxation. Part of the reason is because many tolling entities are run by the public sector. As such, these corporations have boards that are appointed by the state and are in turn subject to the political cycle; a cycle that has interwoven decades of these practices into the decision making process. Then you have to factor in what is an anti-tax environment. If you are a politician seeking election and plan to raise taxes, you are automatically placed in a hole irrespective of the merits of your position.

Tolling is not the only public sector where this marriage of business and politics is in play. US airports, for instance, implement user fees called 'passenger facility charges' (PFCs) that are controlled by the government. Though these PFCs are passed down to the passenger, it is not transparent where they are coming from. They blend in with several other taxes and charges added to the airline ticket price, versus the clear transactional nature of paying a highway toll. And despite some resistance from the airlines, it's normally not as political an issue to raise PFCs from the public's perspective. The airlines that have to deal with a total ticket price understandably have a different view. The business and politics relationship is also evident in the structure of public power utilities and electricity prices, albeit in a more indirect and less transparent form. We as consumers have become acclimated to electric prices going up over time. Water, though, is exposed to the political winds but you do need it to live so the value proposition is clearer. Consequently, very essential improvements do get paid for with rate increases.

Raising tolls, by contrast, is transparent but the benefit less clear. The road is almost never unavailable. As a result, the idea of raising tolls may be the toughest sell. That may be due to simple complicity. While tolls by and large have increased in recent years, the cost of operating highways has gone up even more but that increase has not always been passed on. It's a tenuous equilibrium that we as the public have been passively aware of for a long time and have been content to live with. As a result, no politician stepped in to rectify these "minor imbalances" when they were still minor and when the price would have been affordable.

What we're seeing today is these negligible issues that could have been solved incrementally over time have instead morphed into a singularly large issue, one that the American Society of Civil Engineers has placed a US\$4tr price tag to fix all of our infrastructure. So now you have the opposite problem of too large of a bill and not enough people willing to pay for it. So whether it's tolling the interstates or taxing everybody, it's a bitter pill any way you swallow it.

So what is the solution for managing tolling in the US? Part of it could rest with taking business decisions out of the hands of politicians and devolving authority to the lowest level, i.e. an appointed board with no veto authority from elected officials. If a politician is responsible for making business decisions on how to run a business like a toll road or an airport, the politics will be rampant within that process. Creating distance between an elected official and an executive decision and creating transparency in the decision making process is a way to limit the impact of politics. Having a representative board of major stakeholders—not elected officials or their direct appointees—with longer and staggered terms that focuses on the objectives of providing quality services and maintaining financial viability at least cost can also serve to create a sorely needed independent component in the process.

Another possible solution could be the creation of a regulated structure similar to a Public Utilities Commission among power and water authorities. While there remains a degree of political influence in this structure, it can be limited and thus still prove to be a positive.

Conclusion

Highway, road and bridge funding deficits have become a huge chasm for the US economy largely

through inertia. But, this can be alleviated by creating distance between the business of highways and politics. It has proved easier around the world to introduce tolls on new roads rather than introduce a toll on an existing free road. Nonetheless, a common theme exists here: The greater distance to an election cycle, the greater the independence.

Fitch Ratings

by Cherian George

Cherian George is a managing director and head of the Americas in Fitch Ratings' global infrastructure and project finance group. He is based in New York.

[Fitch Downgrades Puerto Rico Electric Power Auth's IDR and Rev Bonds to 'D'](#)

Fitch Ratings-New York-06 July 2017: Fitch Ratings has downgraded the Puerto Rico Electric Power Authority's (PREPA) Long-Term Issuer Default Rating and power revenue bond ratings to 'D' from 'C'. The action follows the authority's failure to pay principal and interest due on the revenue bonds on July 3, 2017 and the commencement of insolvency proceedings under Title III of the Puerto Rico Oversight, Management, and Economic Stability Act (PROMESA) on July 2, 2017.

Both ratings have been removed from Rating Watch Negative.

PREPA had previously disclosed a restructuring plan and related support agreement that anticipated the reduction of existing debt by means of a proposed distressed debt exchange but could have resulted in the continuing performance of certain securities. However, the plan and support agreement were effectively terminated following a vote on June 29, 2017 by the Financial Oversight and Management Board appointed under PROMESA not to certify the agreement as eligible for debt modification procedures under Title VI of PROMESA. On June 30, 2017, the Board certified PREPA to file a voluntary petition under Title III of PROMESA.

RATING SENSITIVITIES

The Puerto Rico Electric Power Authority's Issuer Default Rating and power revenue bond ratings have reached the lowest level on Fitch's rating scale. It is Fitch's intent to continue to monitor PREPA's Issuer Default Rating and reexamine PREPA's credit profile once debt restructuring plans become clear.

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Fitch: Budget Wrangling Continues in Seven States.

Fitch Ratings-New York-06 July 2017: Illinois, Connecticut, Massachusetts, Pennsylvania, Oregon, Rhode Island, and Wisconsin remain without a budget for the new fiscal year, although Fitch Ratings anticipates no immediate rating implications, except potentially in the case of Illinois. Fitch placed the state on Rating Watch Negative, due partly to its inability to enact a budget in the prior two fiscal years.

The Illinois (Issuer Default Rating [IDR] of 'BBB'/RWN) legislature appears close to enacting its first full budget since fiscal 2015 but still needs to override the governor's vetoes. The budget bills approved by the legislature and vetoed by the governor, include permanent income tax increases and recurring expenditure reductions, along with a plan to issue bonds to pay down a portion of the state's significant accounts-payable backlog. The state Senate overrode the governor's vetoes on Tuesday; the House will likely convene this afternoon for its own vote. The original House votes on the budget bills had enough legislative support to override the vetoes.

Weak revenue performance has complicated budget negotiations in several states without enacted budgets while idiosyncratic issues have pushed others beyond their June 30 deadline. Many states retain statutory or constitutional authority to make debt service payments without enacted budgets. Fitch anticipates states will take appropriate measures to make timely payments in accordance with their generally high credit quality.

Revenue shortfalls in the prior fiscal year in Connecticut ('A+' /Stable) and Pennsylvania ('AA-' /Stable) contributed to structural budget gaps for the current year, challenging legislators and governors to come to fiscal agreement. Connecticut's House rejected the governor's proposal for a short-term budget and negotiations are at a standstill on how to address the sizable projected budget gap in the 2018-2019 biennium. The governor has signed an executive order authorizing limited current spending until the budget is resolved.

The Pennsylvania legislature and governor have agreed on a spending bill though negotiations are ongoing for a revenue plan. The commonwealth took the same approach last year and the governor has until midnight on July 10 to sign, veto or allow the spending bill to go into law without his signature.

Massachusetts ('AA+' /Stable) also dealt with a revenue shortfall in fiscal 2017, creating a budget challenge for 2018. The commonwealth has already enacted a one-month interim budget through the end of July to provide additional time to negotiate a full-year budget (similar to the approach taken in recent years). In Wisconsin ('AA' /Stable), legislators have been working to address a shortfall in

transportation funding. The state also enacted its last biennial budget two weeks late.

Oregon's ('AA+' /Stable) budget process includes multiple bills. Most have been approved for the current biennium. The legislature is still deliberating over several measures including a bill to cut state spending through various means including the merger of two boards that provide health benefits to teachers and state employees, and changes to state hiring practices.

Rhode Island's ('AA' /Stable) late budget is arguably the most surprising development. Legislative leadership and the Governor had appeared set to finalize a budget on June 30. Before final approval, the state Senate amended the House's proposed six-year phase-out of a car tax levied by local governments, with the state reimbursing municipalities for the lost revenue. The Senate's amended bill would freeze the phase-out along with state reimbursements if the state accessed its Budget Reserve and Cash Stabilization Account (rainy day fund). The state last drew on the fund in fiscal 2009, during the last recession. Rhode Island's House did not take up the revised bill and the Speaker has indicated he may hold his chamber out of session indefinitely. Without a budget, the state operates under fiscal 2017 appropriations levels per statutory provisions.

Several states resolved budget disputes over the holiday weekend. Delaware ('AAA' /Stable), Maine ('AA' /Stable), and New Jersey ('A' /Stable) all enacted budgets several days into their new fiscal years. Delaware and New Jersey's budgets were delayed primarily by disagreements on policy issues rather than spending plans, and late negotiations in both states led to resolution. Maine's budget was the first to be signed into law by the current governor, rather than enacted over his veto, in three biennia.

Washington ('AA+' /Stable) enacted its budget less than an hour before the start of the new fiscal year, with the legislature voting on a budget bill the same day it was publicly released. The budget includes significant additional state funding, primarily through an increase in the state property tax levy, to address long-standing demands from the state's Supreme Court to address education funding issues.

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Ill-Funded Police Pensions Put Cities in a Bind.

Municipalities that try cutting the retirement plans face pushback both from the officers, some of whom quit, and from a generally pro-police public

When the city of San Jose had trouble affording services such as road repair and libraries because of the cost of police pensions, it obtained voter approval to pare them. What happened next proved sobering for other cities in the same pickle. Hundreds of police officers quit. Response times for serious calls rose.

Faced with labor-union litigation, San Jose this year restored previous retirement ages and cost-of-living increases for existing police officers, and last month it gave them a raise.

Police pensions are among the worst-funded in the nation. Retirement systems for police and firefighters have just a median 71 cents for every dollar needed to cover future liabilities, according to a Wall Street Journal analysis of data provided by Merritt Research Services for cities of 30,000 or more.

The combined shortfall in the plans, which are the responsibility of municipal governments, is more than \$80 billion, nearly equal to New York City's annual budget.

Broader municipal pension plans have a median 78 cents of every dollar needed to cover future liabilities, according to data from Merritt. The 100 largest U.S. corporate pension plans have 85% of assets needed on hand, according to Milliman Inc. data as of March 31.

And yet any attempt to bring police pensions into line with today's municipal budgets and stock-market performance runs into the reality that many officers won't stand for it—and they often have the public behind them.

"They have extra clout because people love police," said Dallas Mayor Mike Rawlings. "I love police. You love police. An electrician—you don't have that emotional tie."

His city, like San Jose, found itself facing widespread police-officer resignations when it moved to cut their pensions. In Dallas, the situation became so difficult the state legislature stepped in this spring to work out a solution.

Police pensions were the first nonmilitary retirement systems to be created in the U.S., in second half of the 19th century. In later years, when municipal budgets were tight, augmenting pension promises in lieu of raises became a way governments could make peace with politically powerful police unions without incurring immediate new spending.

In the 1980s and 1990s, robust investment returns made governments' pension promises look

affordable. By 2001, major police and firefighter plans followed by the Public Plans Database, which tracks 150 major state and local pension plans, had a median 101% of what they needed to pay for future obligations.

The 2008 financial crisis wiped out pension-plan earnings at the same time that it put stress on municipal budgets, leading some cities to contribute less to the plans each year than what actuaries calculated was needed.

Also, many cities continued to assume robust 1990s-era investment returns when they calculated annual pension contributions. Their pension debt grew as those returns failed to materialize and cities didn't adjust their contributions to the plans.

Memphis, Tenn., gambled it could cut police pensions without any impact on public safety. The city council voted in 2014 to end pensions for municipal workers, including the police, with 7.5 years of service or less, and replace the pensions with a hybrid plan combining pension and 401(k)-style benefits.

In the following two years, about 100 officers affected by the changes left the force, out of a total of about 2,000. Homicides rose to a record 228 last year from 167 in 2014. Billboards erected by the police union around town read, "Welcome to Memphis: 228 homicides in 2016, down over 500 police officers." Memphis currently has 1,928 officers, down from 2,416 in 2012.

The city's mayor, Jim Strickland, has since pledged to increase police staffing. A spokeswoman for the city said enrollment in the police academy is increasing despite the reduced benefits package. Even so, city officials recently announced a \$6.1 million grant for retention bonuses. Meanwhile, the police union is trying to get certain benefits restored in court.

One of the first cities that tried to bring police pension costs down was San Jose, where former Mayor Chuck Reed asked voters to approve pension cuts as part of a 2012 ballot measure.

Among the hundreds of police officers who quit after voters said yes to the change was Tim Watermulder, who left to join the Oakland police department in 2013. It had been announced that the police-academy class in which he graduated would be the first to operate under a new system providing lower cost-of-living increases and a retirement age of 60 instead of 50.

"You start to see what police work is really like every day," said Mr. Watermulder, 35 years old, who fought in Iraq with the U.S. military before becoming a police officer. "I really started thinking about 'Can I do this job till I'm 60?'"

About 180 of 1,109 sworn officer positions in San Jose are currently vacant. San Jose has the lowest number of officers per capita among the nation's 35 largest cities, according to a Journal analysis of Federal Bureau of Investigation data from 2015, the most recent available.

Response times for the most serious calls rose to an average of 7.3 minutes last year from 6.1 minutes in fiscal 2011, according to the police department.

San Jose is still safe compared with many other cities, but its violent-crime rate jumped last year to the highest since 2008. "A lot of it had to do with us not having enough officers," said San Jose Police Chief Eddie Garcia. His advice to other cities seeking to shore up their finances by cutting police benefits: "Don't make a crisis into a bigger crisis."

Crime has risen in many cities in recent years, not just in those that have lost officers. Per capita homicide rates are up in 27 of the country's 35 largest cities since 2014, according to homicide data.

The causes of such increases are hard to pinpoint, but there is little doubt “losing hundreds of officers would make a big difference in the ability to control crime,” said Richard Rosenfeld, a criminologist at the University of Missouri-St. Louis.

San Jose, to retain and recruit officers, has gone beyond rolling back changes it had tried to make in retirement ages and cost-of-living increases for existing police officers. Police got a 10% raise last month, to be followed by 3% raises in 2018 and 2019.

Since those measures were put in place, police-academy enrollment has risen sharply. “It looks like we were now on the right track,” a city spokesman said.

Dallas has had an unusual struggle with the police-pension issue. The funding level of its plan for police and firefighters earlier this year fell to just 36%, among the lowest in the nation.

A trouble spot has been a plan created 25 years ago in an effort to keep experienced officers from leaving for police jobs elsewhere after they qualified for police pensions around age 50.

Officials figured they couldn’t afford sufficient wage increases to keep those officers, so instead they would sweeten pension benefits, said Steve Bartlett, who was mayor when the special fund was created.

That deal allowed officers who worked into their 50s to earn a pension and a salary at the same time. Terms provided for a guaranteed 8% to 10% return on the assets contributed to the plan, forcing the pension fund to make up the difference when market returns came in below that threshold. Officers who stuck around long enough could potentially accumulate \$1 million in the special fund.

“They said, ‘Hey, the retirement is top notch. You may not be paid well initially, but in the end you’ll be a millionaire,’ ” said Brad Uptmore, a Dallas police officer for 10 years.

The promised return became harder to deliver after the financial crisis, as real-estate investments the fund made from Hawaii to Paris went sour and triggered more than \$500 million in losses.

Spooked by the losses and talk of benefit cuts, hundreds of police and firefighters quit, withdrawing \$500 million from the roughly \$3 billion fund and pushing it closer to insolvency.

The city sought help from the Texas legislature. In late May the state government approved a package that requires the city to contribute an additional \$25 million to \$40 million a year to the pension plan while also cutting benefits.

Under the legislation, a police officer who is now 40 and retires in 2035 can get a pension that year of \$95,339, compared with \$109,583 under the old pension structure, according to a hypothetical calculated by the pension fund.

The changes may not be enough. The plan will still have less than half what it needs to cover its liabilities, according to an estimate provided by the fund to legislators. A review by S&P Global Ratings concluded that “more reforms will be needed.” Mayor Rawlings agreed the city has “much work ahead.”

Many longtime Dallas police officers won’t be around to see how the changes pan out, including Mr. Uptmore. He left to join the much smaller police department of Southlake, Texas, in the spring of last year—one of 336 Dallas officers who left in 2016.

“Once you realize there’s no gold at the end of the rainbow, I think you stop pursuing that,” Mr. Uptmore said.

The Wall Street Journal

By Heather Gillers and Zusha Elinson

July 4, 2017 10:59 a.m. ET

[Puerto Rico’s Power Authority Effectively Files for Bankruptcy.](#)

Puerto Rico’s troubled power company defaulted on a deal to restructure roughly \$9 billion in bond debt and sought court protection from its creditors, the government said on Sunday.

The government said the move to, in effect, file for bankruptcy was the only way to reduce the existing debt of the Puerto Rico Electric Power Authority “to a sustainable level.” The utility, known as Prepa, had previously negotiated an out-of-court deal to reduce its bond payments by about 15 percent. The bondholders now seem likely to sustain larger losses under court supervision.

Puerto Rico’s Fiscal Agency and Financial Advisory Authority, which announced the move, said it did not expect any disruption of service to Prepa’s residential or commercial customers on the island.

Bondholders had hoped that Prepa’s debt could be reduced consensually, as planned. Some questioned the legality of moving into federal court to redo the deal.

Bill Fallon, the chief executive of National Public Finance Guarantee Corporation, a bond insurer, called the move “improper” and warned that it “would leave Prepa years away from attracting the private investment necessary to modernize.”

Electrical power has long been a drag on the island’s economy. Prepa’s antiquated generating plants burn imported oil to produce electricity. Efforts to modernize the plants and shift to clean and renewable fuels have been delayed repeatedly. Customers pay rates that follow oil prices up and down, and while the rates are relatively low at the moment, they are vulnerable to rising again.

In addition, there are longstanding accusations that Prepa’s fuel-purchasing office for many years bought dirty oil sludge as fuel, charged consumers the much higher price of cleaner distillates, and then created a slush fund with the difference. The Puerto Rican senate held a series of hearings on Prepa’s fuel-purchasing irregularities, and has referred its findings to the Federal Bureau of Investigation.

Prepa got into severe financial trouble before the rest of the Puerto Rican government, when it was unable to pay for fuel in 2014. Its creditors extended fuel-purchasing credit that year, and subsequently negotiated a deal to restructure about \$5.7 billion of Prepa’s \$9 billion in total debt.

The deal was held up as a model at the time, because it was achieved without the sort of leverage that can be exerted in bankruptcy. In addition to taking a 15 percent loss, the bondholders had agreed that Prepa could put a portion of the savings toward its long-promised modernization and conversion to cleaner sources of power.

But the agreement also called for Prepa to continue paying down its remaining debt by adding an

unpopular increase in power customers' monthly bills. It also required the restructured debt to be secured to an investment-grade rating, an insurmountable challenge with the island's central government itself effectively bankrupt, and its economy in a painful decline.

Last week, the federal oversight board that is guiding Puerto Rico's finances voted to authorize Prepa to seek debt relief under Title III of Promesa, which is similar to Chapter 9 municipal bankruptcy. Natalie Jaresko, the board's executive director, said then that talks could continue, and the utility's bondholders said they still hoped to pursue the consensual deal. They also offered to cover a \$170 million interest payment that Prepa was required to make to bondholders on Saturday.

But Prepa declined that offer, defaulting on the payment and paving the way for the move on Sunday for court protection.

THE NEW YORK TIMES

By MARY WILLIAMS WALSH

JULY 2, 2017

[SIFMA Submits Comments to the SEC on Proposed Rule Change to Amend MSRB Rule G-26, on Customer Account Transfers.](#)

SIFMA provided comments to the Securities and Exchange Commission (SEC) on the Municipal Securities Rulemaking Board's (MSRB) proposed rule filing SR-MSRB-2017-03, which would amend MSRB Rule G-26, on customer account transfers. SIFMA incorporates by reference our prior comment letter to the MSRB as part of this proceeding, and specifically request that the SEC consider the issues raised in that letter as part of its consideration of the Proposal. SIFMA and its members strongly urge you to disapprove the proposed rule change in its current form.

[Read the letter.](#)

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- [GASB Establishes Single Approach for Reporting Leases.](#)
 - [BDA Submits Comment Letter: MSRB Second Request for Comment on Draft Amendments to and Clarifications of MSRB Rule G-34, on Obtaining CUSIP Numbers.](#)
 - [MSRB Publishes Compliance Advisory for Municipal Advisors + Webinar](#)
 - [S&P: Typical U.S. Water and Sewer Utilities and the Margin Between High and Medium Investment Grade Ratings.](#)
 - [Tax-Exempt Financing of Churches, Parochial Schools and Other Sectarian Institutions After Trinity Lutheran Church: Permitted? Required? Let us Pray for Answers.](#)
 - [Why Disclosure really Matters Now - The S.E.C. Enforcement Agenda.](#)
 - [BLX/Orrick Post-Issuance Compliance Workshop.](#)
 - [Reminder: GASB Review 2017](#)
 - And finally, Please Let Us Be Wrong is brought to you this week by [Thompson v. City of Albuquerque](#), in which "Minor children brought loss of consortium action against city, police chief, and police officer who shot and killed children's father." It has always been our understanding that loss of consortium was available exclusively for spouses who had been deprived of the uh,

affections, of the other spouse. We pray that we are wrong about that. Otherwise, someone should probably contact social services.

SPECIAL IMPROVEMENT DISTRICTS - ALABAMA

[Aliant Bank, a Division of USAmeribank v. Four Star Investments, Inc.](#)

Supreme Court of Alabama - May 5, 2017 - So.3d - 2017 WL 1787935

Judgment creditor, which was a mortgagee that had agreed to subordinate its interest in a defaulted mortgage to the bonds of special improvement district that comprised land that was subject to the defaulted mortgage, brought action against judgment debtor, district's board members, district, and other entities and persons involved in the development of a subdivision on district's land for allegedly wrongful acts that rendered judgment creditor's security interest worthless.

The Circuit Court dismissed and entered summary judgment for judgment debtor, district's board members, district, and other entities and persons. Judgment creditor appealed.

The Supreme Court of Alabama held that:

- Genuine issue of material fact precluded summary judgment on claims against members of special improvement district's board for negligence and breach of fiduciary duty;
- Collateral estoppel and res judicata did not preclude judgment creditor's action;
- District's management company owed no duty to judgment creditor so as to support creditor's claims for breach of fiduciary duty and negligence;
- Judgment creditor did not rely on representations of construction company that did work on subdivision so as to sustain a cause of action for fraud against company;
- District was immune from judgment creditor's claims of fraud, conspiracy, and wantonness;
- Judgment debtor's president had a duty to make a full disclosure to judgment creditor regarding expenditures from proceeds from district's bond issue;
- Judgment creditor put forth substantial evidence so as to preclude summary judgment on its conspiracy claim against certain parties; and
- Judgment creditor was not a third-party beneficiary of either the completion agreement between subdivision developer and district or the management agreement between district and management company.

Members of board of special improvement district that encompassed a planned subdivision owed a duty of care and a duty of loyalty to judgment creditor, which was a mortgagee that had obtained a default judgment against the mortgagor that owned district's land, as required as an element of judgment creditor's claims against the board members for negligence and breach of fiduciary duty for allegedly wrongful acts that rendered judgment creditor's security interest in the subdivision worthless. Alabama was a "title theory" state, and the district existed primarily to benefit those owning property within its boundaries.

Genuine issue of material fact precluded summary judgment in action against members of board of special improvement district for negligence and breach of fiduciary duty regarding allegedly wrongful acts that rendered worthless the security interest in district's land of judgment creditor, which was a mortgagee that had obtained a default judgment regarding mortgage of judgment debtor that owned district's land.

Provision in statute on immunity of officers of special improvements districts that indicates that no claim can be pursued against a director of an improvement district "for or on account of the

negligence of a district or director or its or his or her agents, servants, or employees” operates only to bar a negligence claim from being asserted against a director based upon the negligence of some other party, not the director’s own negligence.

Judgment creditor’s default judgment against judgment debtor and judgment debtor’s president for failure to repay a mortgage that judgment debtor’s president had personally guaranteed regarding land planned for a subdivision did not preclude on grounds of collateral estoppel judgment creditor’s action for negligence, fraud, and other claims against entities involved with the subdivision and against members of board of special improvement district that comprised the land. The necessary factual issues regarding the claims against the board members and entities were not litigated in the action that produced the default judgment and were not relevant to the default judgment.

Judgment creditor’s default judgment against judgment debtor and judgment debtor’s president for failure to repay a mortgage that judgment debtor’s president had personally guaranteed regarding land planned for a subdivision did not operate as res judicata so as to preclude judgment creditor’s action for negligence, fraud, and other claims against entities involved with the subdivision and against members of board of special improvement district that comprised the land. The prior case was based on evidence that was not needed to establish judgment creditor’s claims in the new action.

Summary judgment that the two-year statute of limitations had run was precluded by factual dispute as to when judgment creditor reasonably should have discovered the basis for its negligence and breach-of-fiduciary duty claims regarding its allegation that board members of special improvement district, which comprised land that was subject to judgment debtor’s unpaid mortgage, committed wrongful acts that rendered judgment creditor’s security interest in the district’s land worthless. Trial court could not properly decide as a matter of law when a reasonable person should have discovered that claims had been fraudulently concealed unless the evidence was undisputed.

No relationship existed between special improvement district’s management company and judgment creditor, which had obtained a default judgment against judgment debtor for an unpaid mortgage on district’s land, so as to create a fiduciary duty or duty to responsibly manage the district, and thus judgment creditor’s claim against company for breach of fiduciary duty failed. Judgment creditor and management company did not deal with each other at all.

Special improvement district’s management company owed no duty to judgment creditor, which had obtained a default judgment against judgment debtor for an unpaid mortgage on district’s land, with regard to company’s management of the district, and thus judgment creditor’s negligence claim against company failed. Judgment creditor was not a party to the contract between company and district, and company was never in a position of control over judgment creditor.

Two-year limitations period for negligence and breach-of-fiduciary-duty claims by judgment creditor, a mortgagee that had agreed to subordinate its interest in a defaulted mortgage to the bonds of a special improvement district that comprised land that was subject to the defaulted mortgage and was for a planned subdivision, against engineering company that did work on subdivision began to run when creditor came into possession of documents that indicated that company had to approve reimbursement requests from district’s funds from its bond issue, and thus creditor’s action against company was untimely, where creditor filed action more than two years after coming into possession of the documents.

Judgment creditor, a mortgagee that had agreed to subordinate its interest in a defaulted mortgage to the bonds of a special improvement district that comprised land that was subject to the defaulted mortgage and was for a planned subdivision, did not rely on allegedly false invoices from

construction company that did work on the subdivision, and thus judgment creditor could not sustain a cause of action for fraud against construction company, where judgment creditor had no knowledge of the allegedly false invoices until the bond proceeds had been disbursed.

Special improvement district was immune from claims of fraud, conspiracy, and wantonness by judgment creditor, a mortgagee that had obtained a default judgment regarding a mortgage on district's land and that had agreed to subordinate its interest in the judgment to district's bonds, that stemmed from acts that allegedly rendered worthless creditor's security interest in district's land, even though district's board members individually were not immune from creditor's claims. Immunity statute regarding special improvement districts absolved a district from liability for the intentional torts of its agents.

Factual issue as to when judgment creditor, a mortgagee that had obtained a default judgment regarding a mortgage on special improvement district's land and that had agreed to subordinate its interest in the judgment to district's bonds, should have known about alleged acts by district's management company's partner that purportedly gave rise to creditor's fraud and conspiracy claims against partner precluded summary judgment for partner based on the two-year statute of limitations.

Affidavit by officer of judgment creditor, a mortgagee that had obtained a default judgment regarding a mortgage on special improvement district's land and that had agreed to subordinate its interest in the judgment to district's bonds, in which officer described alleged misrepresentations made by judgment debtor's president and creditor's reliance on them established a prima facie case for fraudulent misrepresentation so as to preclude summary judgment for judgment debtor's president, company developing a subdivision on district's land, district's management company, and partner in management company, where affidavit alleged that creditor agreed to subordinate its security interest to district's bonds by relying on representations regarding expenditures from district's bond issue.

Allegation by judgment creditor, a mortgagee that had obtained a default judgment regarding a mortgage on special improvement district's land and that had agreed to subordinate its interest in the judgment to district's bonds, that judgment debtor's president made fraudulent misrepresentations to creditor as part of a conspiracy involving judgment debtor, debtor's president's brother, and a real estate broker could not support a claim of fraudulent misrepresentation against the three parties. If the finder of fact thought that debtor's president made fraudulent misrepresentations and that there was a conspiracy, then the three parties were liable for conspiracy, not fraudulent misrepresentation.

No relationship existed between judgment creditor, which was a mortgagee that had agreed to subordinate its interest in a defaulted mortgage to the bonds of a special improvement district that comprised land that was subject to the defaulted mortgage, and district's management company so as to create a duty on the part of management company to disclose that judgment debtor's president was going to use the bulk of the proceeds from district's bond issue to reimburse himself and his companies for work done before the bonds were issued, and thus judgment creditor's claim for fraudulent suppression against management company failed. Judgment creditor and management company had no relationship other than one telephone call whose substance was unknown.

Judgment debtor's president had a duty to make a full disclosure to judgment creditor, which had obtained a default judgment regarding judgment debtor's mortgage on special improvement district's land, as to how proceeds from district's bond issue would be used before creditor agreed to sign a mortgagee-special-assessment acknowledgment subordinating its security interest from the default judgment to district's bonds, thus precluding summary judgment on creditor's fraudulent-

suppression claim, where debtor's president represented to creditor that bond proceeds would be used to develop 270 additional lots in district while allegedly knowing that his companies would actually receive the majority of the bond proceeds for work that had already been performed on the first 80 lots.

Judgment creditor, which was a mortgagee that had agreed to subordinate its interest in a defaulted mortgage to the bonds of special improvement district that comprised land that was subject to the defaulted mortgage and was for a planned subdivision, put forth substantial evidence regarding fraudulent misrepresentation and fraudulent suppression so as to preclude summary judgment on its conspiracy claims against certain entities and persons involved with the district for alleged acts that rendered creditor's security interest worthless, despite argument that the parties could not be liable for conspiracy if they were not liable for the underlying fraud. It was not necessary that each alleged conspirator be the subject of the underlying cause of action.

Judgment creditor, which was a mortgagee that had obtained a default judgment concerning mortgage on special improvement district's land that was planned for use as a subdivision, was not a "third-party beneficiary" of either the completion agreement between subdivision developer and district or the management agreement between district and management company such that creditor could sustain an action against developer and district for breach of contract. Although creditor would receive an incidental benefit from the contracts inasmuch as the property securing creditor's loan would increase in value and creditor's risk of loss in the event of default would decrease, that was far from a direct intended benefit that would support a third-party-beneficiary breach-of-contract claim.

PUBLIC UTILITIES - COLORADO

[Carestream Health, Inc. v. Colorado Public Utilities Commission](#)

Supreme Court of Colorado - June 19, 2017 - P.3d - 2017 WL 2640798 - 2017 CO 75

Customer filed complaint with Colorado Public Utilities Commission, claiming that provider of gas transportation services violated its tariff by failing to use all reasonable means to prevent billing errors.

The Public Utilities Commission denied complaint. Customer appealed. The District Court affirmed. Customer appealed.

The Supreme Court of Colorado held that:

- Determining what means were reasonable required consideration of what errors were foreseeable;
- Customer was not deprived due process; and
- Customer lacked standing to challenge provider's recovery of undercharge from its general customer base.

Determining what means were reasonable within meaning of provision of gas transportation services provider that required provider to use all reasonable means to prevent billing errors required consideration of what errors were foreseeable. Use of the term "reasonable" showed that, rather than requiring compliance with some bright-line rule, the tariff called for appropriate measures to be taken given the circumstances.

Customer was not deprived due process in proceeding concerning complaint filed by customer alleging that gas transportation services failed to comply with provision of its tariff that required

provider to use all reasonable means to prevent billing errors, where customer was provided with ample notice and an opportunity to be heard of issue of whether provider's billing error was foreseeable.

Customer lacked standing to challenge gas transportation services provider's recovery of undercharge from its general customer base, where customer suffered no injury from that action.

CIVILIAN INVESTIGATIVE PANELS - FLORIDA

[D'Agastino v. City of Miami](#)

Supreme Court of Florida - June 22, 2017 - So.3d - 2017 WL 2687694

Police officer filed petition to quash a subpoena issued by city civilian investigative panel (CIP), which was independent body designed to investigate instances of alleged police misconduct, and for a protective order against having to testify in CIP proceeding, and city intervened.

Separately, police union brought declaratory action against city challenging the constitutionality of city ordinances empowering CIP to investigate law enforcement officers.

The actions were consolidated. The Circuit Court granted summary judgment in favor of city and CIP. Officer and union appealed. The District Court of Appeal affirmed. Officer and union filed application for review, which was granted.

The Supreme Court of Florida held that:

- Police Officers' Bill of Rights did not expressly preempt ordinances granting CIP authority to investigate and review police misconduct;
- Ordinance granting CIP authority to issue subpoenas was impliedly preempted by Police Officers' Bill of Rights as to police officers; but
- CIP retained authority to issue subpoenas to non-police officers under ordinance.

Police Officers' Bill of Rights did not expressly preempt ordinances granting city civilian investigative panel authority to investigate and review alleged police misconduct, though the Bill of Rights required every law enforcement agency to establish a system for investigating a complaint, required a municipality to forward complaints to an officer's employing law enforcement agency, and carved out exception for Criminal Justice Standards and Training Commission to exercise its authority. Statutory language did not convey preemption with sufficiently explicit language, and to find statutory provisions to be understood as preclusive would require inferences.

Local ordinance granting city civilian investigative panel (CIP), which was independent body designed to investigate and review instances of alleged police misconduct, authority to issue subpoenas to compel testimony from law enforcement officers in connection with investigations and complaints against them was impliedly preempted as to police officers by Police Officers' Bill of Rights, which provided elaborate framework of rights and obligations for interrogating an officer. Objective of Bill of Rights was to protect officers to a degree from certain means of interrogation, and to uphold CIP's authority to issue subpoenas in connections with investigations of an officer's conduct would impermissibly countermand rights conferred by the statute upon the officer.

City civilian investigative panel (CIP), which was independent body designed to investigate and review instances of alleged police misconduct, retained authority to issue subpoenas to non-police officers under local ordinance granting subpoena power, though authority to subpoena law

enforcement officers was preempted by Police Officers' Bill of Rights.

WATER RIGHTS - IDAHO

[City of Blackfoot v. Spackman](#)

Supreme Court of Idaho, Twin Falls - May 2017 Term - June 20, 2017 - P.3d - 2017 WL 2644703

City filed petition for review of ruling by Idaho Department of Water Resources (IDWR) denying its application for water right, to be offset by mitigation through another water right.

Irrigation districts and canal companies intervened. The District Court denied petition, and city appealed.

The Supreme Court of Idaho held that:

- City could not use its water permit for groundwater recharge without first filing for transfer;
 - Settlement agreement between city and private party did not allow city to use permit for groundwater recharge or mitigation purposes associated with future groundwater rights;
 - Seepage that occurred from city's diversion and use of water from river pursuant to permit could not be used as basis for claim of separate or expanded water right without transfer; and
 - Intervenors were entitled to recover their attorney fees.
-

TELECOM FRANCHISE FEES - KENTUCKY

[Kentucky CATV Association, Inc. v. City of Florence](#)

Supreme Court of Kentucky - June 15, 2017 - S.W.3d - 2017 WL 2591800

Cities filed petition for declaratory relief, alleging that multichannel video programming (MVP) and communications services tax violated their right to grant franchises and to collect franchise fees as provided for in the Kentucky Constitution.

The Circuit Court dismissed. Cities appealed. The Court of Appeals vacated and remanded with instructions to grant judgment in favor of cities. State officials appealed, and Supreme Court granted discretionary review.

The Supreme Court of Kentucky held that:

- Provision of MVP and communications services tax, prohibiting municipalities from levying franchise fees on MVP services, was unconstitutionally void as applied to cities seeking to collect franchise fees for use of their rights-of-way;
- General Assembly did not have the power under provision of Kentucky Constitution, which allowed General Assembly to confer upon municipalities the authority to collect franchise fees, to prohibit cities from collecting franchise fees in exchange for use of their rights-of-way; and
- Prohibition provision of MVP and communications services tax was severable from remainder of tax scheme.

Provision of multichannel video programming (MVP) and communications services tax, prohibiting municipalities from levying franchise fees on MVP services, was contrary to provisions of Kentucky Constitution requiring public utilities to obtain franchise to use city streets and stating requirements

for municipalities to grant franchises, and thus was unconstitutionally void as applied to cities seeking to collect franchise fees for use of their rights-of-way. Framers of Constitution intended that municipalities had the power to grant franchises and collect franchise fees, guiding themes behind enactment of Constitution provisions were municipal control and municipal benefit via the sale of franchises, and assessment of franchise fee was indispensable part of granting franchise.

General Assembly did not have the power under provision of Kentucky Constitution, which allowed General Assembly to confer upon municipalities the authority to collect franchise fees, to prohibit cities from collecting franchise fees in exchange for use of their rights-of-way. Power of municipalities to collect franchise fees was granted in other provisions of Constitution, and founders did not intend Constitution provision to include franchise fees paid by private franchisees as consideration for use of municipality's rights-of-way.

Provision of multichannel video programming (MVP) and communications services tax, prohibiting municipalities from levying franchise fees on MVP services, which was unconstitutionally void as applied to cities seeking to collect franchise fees for use of their rights-of-way, was severable from remainder of the tax scheme. Severance did not render the remainder of the tax scheme incapable of being executed in accordance with intent of General Assembly, severance did not damage one of the intended purposes of the tax, which was to prevent double payment by non-satellite program providers, and tax credit accomplished goal of alleviating perceived inequity among various types of program providers.

ANNEXATION - MICHIGAN

[Township of Lockport v. City of Three Rivers](#)

Court of Appeals of Michigan - May 9, 2017 - N.W.2d - 2017 WL 1927859

Township filed action against city seeking to prevent annexation of 80 acres of real property.

The Circuit Court granted summary disposition in favor of city, and township appealed.

The Court of Appeals held that property that city sought to annex from township was not "vacant," and therefore city could not annex property from township solely by resolution of the city council, where an underground water transmission line located on the land at issue was in constant use, rather than just in use seasonally, and thus property at issue was being "put to use."

IMMUNITY - NEW MEXICO

[Thompson v. City of Albuquerque](#)

Supreme Court of New Mexico - June 19, 2017 - P.3d - 2017 WL 2628216

Minor children brought loss of consortium action against city, police chief, and police officer who shot and killed children's father.

The District Court dismissed the action for failure to state a claim based on sovereign immunity. Children appealed. The Court of Appeals reversed. City, chief, and officer petitioned for certiorari.

The Supreme Court of New Mexico held that:

- Immunity is waived for claims of loss of consortium damages deriving from enumerated tort under the Tort Claims Act (TCA);
- Children sufficiently pled underlying battery claim, as required to state claim for loss of consortium damages; and
- Children's claim for loss of consortium damages was independent of battery claim.

Sovereign immunity is waived for claims of loss of consortium damages deriving from an enumerated tort under the law enforcement officers provision of the Tort Claims Act (TCA).

Children sufficiently pled underlying battery claim, as required to state claim for loss of consortium damages against city, police chief, and police officer based on shooting death of father, even though children did not assert battery cause of action, where children alleged that city, chief, and officer caused deadly shooting of father, which resulted in children losing their relationship with their father.

Children's claim for loss of consortium damages, arising out of shooting death of father allegedly caused by city, police chief, and police officer, was an independent claim, rather than a bystander claim, and thus qualified for waiver of sovereign immunity under Tort Claims Act (TCA), despite contention that father was only individual who suffered direct injury. Children alleged direct injury to their relational interest with their father as result of battery, and children were not merely indirect or incidental victims.

IMMUNITY - NEW YORK

[Town of Turin v. Chase](#)

Supreme Court, Appellate Division, Fourth Department, New York - June 16, 201720 - 17 WL 2604244 - 2017 N.Y. Slip Op. 05016

Town brought action against former town justice to recover damages arising from alleged mishandling of fines and fees and failure to maintain complete and accurate books and records while in office.

The Supreme Court, Lewis County, granted defendant's motion for summary judgment. Town appealed.

The Supreme Court, Appellate Division, held that defendant was acting within his jurisdiction, and thus had judicial immunity.

Former town justice acted in his judicial capacity and within scope of his jurisdiction regarding handling of fines and fees, and keeping of related books and records, which were duties mandated by statute and regulation, and thus former town justice had judicial immunity from town's allegations of mishandling of fines and fees and failure to maintain complete and accurate books and records while in office. Statute and regulations required every town justice to deposit any monies received by the court into a separate bank account pending disposition, and to maintain proper books and records.

COLLECTIVE BARGAINING - PENNSYLVANIA

City of Pittsburgh v. Fraternal Order of Police, Fort Pitt Lodge No. 1

Supreme Court of Pennsylvania - May 22, 2017 - A.3d - 2017 WL 2229859 (Mem) - 209 L.R.R.M. (BNA) 3148

City petitioned for review of interest arbitration panel's supplemental award in favor of police union that modified the parties' collective bargaining agreement (CBA) by inserting a non-residency clause for police officers.

The Court of Common Pleas affirmed the award. City appealed. The Commonwealth Court reversed. Union filed petition for allowance of appeal, which was granted.

The Supreme Court of Pennsylvania held that:

- Interest arbitration panel had authority to modify residency requirement in CBA;
- Amendment to home rule charter to require residency was contrary to Police and Fireman Collective Bargaining Act, and thus violated Home Rule Charter Law;
- City's home rule charter amendment was unenforceable under constitutional provision stating that such charters were subservient to limitations imposed by legislature; and
- City's home rule charter amendment was preempted by the Police and Fireman Collective Bargaining Act.

Where a municipality has the authority to set or not to set a residency restriction under statute providing that a city of the second class may require a police officer to become a bona fide resident as a condition of employment, the interest arbitration panel under the Police and Firemen Collective Bargaining Act has the same authority.

Amendment to city's home rule charter to require all city employees and officials, including police and fire personnel, to maintain their domicile within city violated Home Rule Charter Law, which precluded exercise of powers contrary to statutes applicable across Commonwealth and provisions inconsistent with statutes enacted prior to certain date affecting the rights, benefits, and working conditions of public employees. Residency was mandatory subject of bargaining under Police and Firemen Collective Bargaining Act, Act specifically provided that it was applicable to every political subdivision, regardless of adoption of home rule charter, and amendment was contrary to the Act by removing residency as a subject of collective bargaining.

City's home rule charter amendment, which required all city employees and officials, including police and fire personnel, to maintain their domicile within city, thus divesting officers of right to bargain over residency under Police and Firemen Collective Bargaining Act, was unenforceable under constitutional provision stating that home rule charters and amendments were subservient to limitations imposed by General Assembly. Home Rule Charter Law provided that statutes that were uniform and applicable in every part of the Commonwealth would remain in effect not be changed or modified, Act was applicable to every political subdivision in Commonwealth, and amendment sought to change or modify Act.

City's home rule charter provision, which eliminated residency as mandatory subject of collective bargaining by requiring all city employees and officials, including police and fire personnel, to maintain their domicile within city, was expressly preempted by Police and Fireman Collective Bargaining Act based on explicit preemption clauses in Home Rule Charter Law, under which statutes of statewide application predominated over municipal enactments and municipalities were prohibited from enacting provisions inconsistent with any statute enacted prior to a certain date affecting the rights of any public employee. Act was applicable to all political subdivisions, and public sector bargaining rights under the Act and the Public Employe Relations Act (PERA) became

effective prior to relevant date in Law.

ZONING & LAND USE - RHODE ISLAND

[Key v. Brown University](#)

Supreme Court of Rhode Island - June 27, 2017 - A.3d - 2017 WL 2784864

Property owners brought action against private university and city, seeking declaratory judgment that university's construction of an artificial-turf field hockey field with attendant bleachers, press box, electronic scoreboard, and public-address system was an unlawful use under city zoning ordinances.

The Superior Court granted defendants' cross-motions for summary judgment and denied property owners' cross-motion for summary judgment. Property owners appealed.

The Supreme Court of Rhode Island held that property owners suffered an articulable, particularized injury in fact due to university's construction and use of fields, and thus had standing to bring suit.

Property owners, who brought action against private university and city seeking a declaratory judgment under the Uniform Declaratory Judgments Act (UDJA) that university's construction and subsequent use of new athletic fields and other amenities was unlawful under city zoning ordinances, suffered an articulable, particularized injury in fact due to university's construction and use of fields, and thus had standing to bring suit. Owners' allegations regarding their home provided measurable economic injuries that they suffered as a result of university's project, owners were the proper parties to request an adjudication of the particular issue, and owners' failure to pursue administrative remedies that may have been available to them did not preclude them from seeking declaratory relief.

GOLF - WISCONSIN

[Benson v. City of Madison](#)

Supreme Court of Wisconsin - June 22, 2017 - N.W.2d - 2017 WL 2687891 - 2017 WI 65

Golf professionals who oversaw clubhouse operations of public golf courses owned by city brought action against city alleging that it failed to comply with Fair Dealership Law in terminating its relationships with them.

The Circuit Court granted summary judgment for city and denied partial summary judgment for professionals. Professionals appealed. The Court of Appeals affirmed. Professionals filed petition for review, which was granted.

The Supreme Court of Wisconsin held that:

- City was person under Fair Dealership Law;
- Relationships between professionals and city were dealerships under Law;
- Action accrued when professionals were informed that their agreements with city were not going to be renewed;
- Notice of claim statute applied to action; and
- City did not enjoy governmental immunity.

City was person under Fair Dealership Law and, thus, Law applied to it in action brought by golf professionals who oversaw clubhouse operations of public golf courses owned by city alleging that it failed to comply with Law in terminating its relationships with them. Law's definition of person included corporation, which included municipal corporations such as city, words natural person, partnership, joint venture, and other entity in definition of person under Law did not plainly evidence legislative exclusion of municipal corporations from meaning of corporation, and provision of Law listing certain parties to whom it did not apply did not include cities on list.

Relationships between golf professionals who oversaw clubhouse operations of public golf courses owned by city and city were dealerships under Fair Dealership Law. Agreements between city and professionals granted professional right to sell or distribute goods and services, as city produced golf course and opened it up to public in exchange for money and member of public seeking to golf on city course set reservation through professionals and paid fee to professionals, and relationships fell within definition of community of interest, as professionals put substantial resources into relationship by hiring and training employees and purchasing supplies and equipment, and city and professionals shared duties inherent in maintaining operative course, sharing common goals in business relationship.

Action by golf professionals who oversaw clubhouse operations of public golf courses owned by city alleging that city failed to comply with Fair Dealership Law in terminating its relationships with them accrued when professionals were informed that their agreements with city were not going to be renewed, rather than when city's parks supervisor asked for new proposals. When asked for new proposals, professionals did not know what grantor's decision would be and were not capable of assessing whether city had complied with Law.

Notice of claim statute, which increased statute of limitations from one year to one year and 120 days, applied to action by golf professionals who oversaw clubhouse operations of public golf courses owned by city alleging that city failed to comply with Fair Dealership Law in terminating its relationships with professionals. Law's statute of limitations period of one year was not more restrictive than 120-day notice of claim requirements, and, although Law allowed for injunctive relief, it also permitted damages, and professionals did not seek injunctive relief.

City did not enjoy governmental immunity in action by golf professionals who oversaw clubhouse operations of public golf courses owned by city alleging that it failed to comply with Fair Dealership Law in terminating its relationships with professionals. City did not explain why statutory Fair Dealership Law claim was based in tort, and fact that city's decision might have been high-level planning decision that required exercise of discretion and weighing and balancing of numerous factors inherent in governmental decision-making did not establish its rights to immunity.

[Puerto Rico Bankruptcy-Related Statement Filed.](#)

The Commonwealth of Puerto Rico's ad hoc group of general obligation bondholders, Ambac Assurance, Assured Guaranty, Assured Guaranty Municipal, Mutual Fund Group, National Public Finance Guarantee and Puerto Rico Funds (collectively, "Responding Creditors") filed a statement in response to the Commonwealth's status report regarding (a) financial disclosures to creditors and (b) status of settlement discussions. Because the Responding Creditors occupy different positions in the capital structure of the Commonwealth and its instrumentalities, their interests are diverse and, in certain respects, in conflict with one another; however, the statement notes that all parties are united in their rejection of certain fundamentally misguided and misleading positions set forth by the

Oversight Board the status report.

The statement notes, “The Oversight Board’s Status Report rests on a breathtakingly overbroad conception of the Oversight Board’s authority under the Puerto Rico Oversight, Management, and Economic Stability Act (‘PROMESA’). In the Board’s view, PROMESA confers upon the Board a unilateral – and unreviewable – power to dictate the amount of revenues that will be available to service the debts of the Commonwealth and its instrumentalities, through the certification of a Fiscal Plan. All that is left for creditors to do, the Oversight Board asserts, is ‘negotiate to divide up the money available for debt service under the fiscal plan.’...The Oversight Board therefore contends that creditors may not even obtain discovery regarding the analyses, judgments, and projections that underlie the certified Fiscal Plan...The Oversight Board’s position fundamentally misunderstands PROMESA.”

In addition, “To make matters worse, Commonwealth officials have been engaging in a mad dash to pay certain creditors before a restructuring plan is proposed – trade creditors, tax refund claimants, and others are being paid in full at a rapid rate, without any regard for lawful liens or priorities. The Oversight Board’s insistence that it may dictate to creditors, rather than negotiate with them, also dooms any possibility for a consensual resolution of these Title III cases.”

BANKRUPTCY COMPANY NEWS

BY BRANDY CHETSASON

JUNE 28, 2017

[For Sale: Puerto Rico.](#)

Territory seeks private companies to run ports, airports, ferries, and more; utilities could be next

Puerto Rico has no cash and can’t borrow money anymore. So it is looking to sell itself off in parts.

The troubled U.S. territory is preparing to seek bids in coming months from private companies willing to operate or improve seaports, regional airports, water meters, student housing, traffic-fine collections, parking spaces and a passenger ferry, according to a government presentation reviewed by The Wall Street Journal.

The goal is to attract more than \$500 million in investment starting this summer, according to a spokesman for the Puerto Rico Public-Private Partnerships Authority. Future possibilities include the island’s power utility, water and sewer system and waste management, according to presentations made in April to private investors.

Puerto Rico officials haven’t disclosed exactly how they plan to use any proceeds. The government currently needs cash to pay down debt, run operations and for other purposes.

Potential deals are a cornerstone of a new plan to revitalize the territory, which in May was placed under court protection, the largest-ever U.S. municipal bankruptcy. Gov. Ricardo Rosselló predicts public-private partnerships launched over the next three years will bring \$5 billion in new investment and 100,000 jobs to Puerto Rico. Economic projections in the commonwealth’s revitalization plan are based in part on the completion of public-private partnership deals.

It's an ambitious goal. U.S. public-private transportation projects—the most common type of partnerships—have attracted about \$30 billion in total private and public investment since 1993, according to Public Works Financing newsletter's P3 Projects Database.

"I hope it happens but I recognize it's aggressive," former Puerto Rico Gov. Luis Fortuño, who created the Public-Private Partnerships Authority, said of the \$5 billion target.

In public-private partnerships, the government allows private firms to lease and operate public infrastructure for decades in exchange for upfront cash or a promise of long-term improvements. Some arrangements also involve building new infrastructure. Unlike municipal bonds, public-private partnerships insulate investors from the government's financial distress: The money typically flows straight to the private operator without ever passing through government officials' hands.

Proponents say privately run projects are typically more efficient and well-run than public projects, creating savings that lower the overall cost.

Critics of the partnerships say governments are pledging away revenues they need to fund core services in exchange for infrastructure improvements that could cost less if publicly financed. In one example, after Chicago leased its parking meters to a private firm in 2008, the city's inspector general found the firm's \$1.157 billion upfront payment was \$974 million less than what the city would have gotten from operating the meters itself.

"Just as it is imprudent to sell your house to make a monthly credit card payment, valuable governmental assets shouldn't be viewed as a one-shot budget solution," said Chris Hamel, head of municipal finance at RBC Capital Markets, speaking generally about public-private partnerships.

Puerto Rico has had issues in the past with private partners.

Former Gov. Alejandro García Padilla tried to find partners for a passenger ferry from the mainland to the islands of Culebra and Vieques. But the government couldn't afford to put down collateral to guarantee to a private operator that it would make payments to supplement ferry fares, and prospective partners lost interest.

Rick Newman, a developer and owner-operator of hotels in Puerto Rico who runs a private ferry service, opted against bidding to operate the Culebra and Vieques ferry under Mr. García Padilla's plan. He said the proposed partnership carried too much risk. He said he would consider a new partnership, but not if the private partner is expected to rely solely on passengers for revenue.

"If the request for proposals comes out and says you have to live off of the fare box, the government may not find a private operator," Mr. Newman said.

Other public-private partnerships in Puerto Rico have done better.

In 2009, then-Gov. Fortuño pushed through legislation creating an authority that could move forward with public-private deals without legislative approval. Puerto Rico's largest airport is run by a public-private partnership.

The authority's first major deal was a decision to lease the island's busiest road, the José de Diego Highway, and a shorter nearby road. Puerto Rico got \$1.08 billion in upfront cash—almost all of it went to pay off debt—and a promise from the private firm, Autopistas Metropolitanas de Puerto Rico LLC, to invest about \$350 million in the roads, according to the Federal Highway Administration.

The private firm made a range of improvements, paving and widening the expressway and

enhancing toll-collection efforts. It also raised prices for drivers by 20% since 2011; driving from end to end now costs \$4.45.

Mr. Fortuño said without private investment, he wouldn't have had the upfront capital to make needed safety improvements. "I didn't have a choice," he said.

The private operator's owners, Goldman Sachs Infrastructure Partners and the Spanish infrastructure firm Abertis, each received about \$40 million in earnings before interest, tax, depreciation and amortization from the road last year, according to people familiar with the matter.

Prices on the toll road's bonds have risen by about eight cents on the dollar since October and now are trading at par value. Puerto Rico highway bonds, in contrast, are trading at close to 50 cents on the dollar after the island's highway authority entered a court-supervised bankruptcy process last month.

"This is the solution that Puerto Rico has to move forward," said Wilson Ortiz-Vega, advisory leader with the insurance brokerage Aon, which worked on a previous public-private partnership with Puerto Rico. "They don't have access to capital markets at a reasonable rate, and they don't have the resources."

Even so, Carlos A. Colón De Armas, a professor of finance at the University of Puerto Rico Graduate School of Business, said the commonwealth would have been better off continuing to operate the José de Diego Highway. His 2011 study found the present value of the revenue the government would have collected over 40 years was \$2.1 billion.

The Wall Street Journal

By Heather Gillers

June 26, 2017 7:00 a.m. ET

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

[Opinion: Privatize Puerto Rico's Power.](#)

It would reduce the cost of living and spur economic growth.

This article was written by Andrew G. Biggs, Arthur J. Gonzalez, Ana J. Matosantos and David Skeel, four of the seven members of the Financial Oversight and Management Board for Puerto Rico. They were appointed by President Obama based on recommendations by the Democratic and Republican Congressional leadership.

In July 2016, Puerto Rico defaulted on its more than \$70 billion of debt, putting at risk those liabilities as well as more than \$50 billion in public pension obligations. Just before the default, Congress had enacted the Puerto Rico Oversight, Management and Economic Stability Act, or Promesa, which established the Financial Oversight and Management Board for Puerto Rico. Today, under the board's guidance, Puerto Rico is undertaking the largest municipal restructuring in U.S. history, with the goal of sorting out its longstanding fiscal issues and reigniting economic growth.

The board has worked steadily toward these goals over the past year. After rejecting turnaround

plans submitted by two successive Puerto Rican governors, last March the board approved an amended plan that includes a nearly 30% cut in government health spending, sizable reductions in government subsidies, school closings, consolidations of government agencies, and the most extensive public-employee pension reforms ever passed in the U.S.

This week, after much deliberation, the board rejected the Puerto Rico Electric Power Authority's request to move forward with a restructuring support agreement with its creditors. Puerto Rico's electricity costs are two to three times as high as mainland levels. The board concluded that lowering the price of electricity and spurring economic growth depended on reforming Prepa's operations, not merely restructuring its credit. Affordable electricity could boost growth by up to half a percentage point annually, raising family incomes on the island, stemming outmigration and increasing funds available to repay creditors.

Successful reform will require a true transformation of Puerto Rico's power sector. As the Center for the New Economy, a Puerto Rican think tank, put it in a 2009 report: "PREPA's operations are substantially less efficient than the operations of its U.S. counterparts and it underperforms in virtually every area of operations under consideration." While mainland utilities have reduced costs by shifting to natural gas, Prepa relies on outmoded oil-fired generating plants. The company also loses 12% of sales revenue to faulty billing and theft, three times the U.S. average. Prepa has languished under heavy administrative overhead and politicized management, which contribute to its failure to deliver reliable, cost-effective energy.

We believe that only privatization will enable Prepa to attract the investments it needs to lower costs and provide more reliable power throughout the island. By shifting from a government entity to a well-regulated private utility, Prepa can modernize its power supply, depoliticize its management, reform pensions, and renegotiate labor and other contracts to operate more efficiently. A reformed Prepa is key to restoring opportunity for the people of Puerto Rico.

Prepa's credit restructuring proposal would make effective privatization impossible. Under the proposal, bondholders would grant Prepa a five-year reprieve from principal payments and some would accept a 15% reduction in debt. In return, those bondholders would be guaranteed repayment of remaining debt through an electricity surcharge. If demand for electricity continues to decline, the surcharge will have to rise to compensate the creditors. The Prepa proposal and its guarantee to current creditors would increase costs to ratepayers while leaving new investors—the ones Prepa needs to transform its operations—assuming all the risk.

Private investors would not involve themselves with Prepa on those terms, meaning the company would lack the capital to modernize. Electricity costs would remain high, and economic growth, families and bondholders would suffer. The board's economists estimate that without pro-growth energy reforms, funds available to pay Puerto Rico's creditors would be reduced by \$15 billion.

The Board's decision was not easy. Promesa gave preferential treatment to the credit support proposal, not requiring it to satisfy the same criteria as other debt restructuring settlements. Some members of Congress have suggested that Prepa's credit agreement should have been considered a "done deal." But not all the proponents of Promesa understood its provisions in that way. The law clearly expresses that the board must authorize any voluntary debt restructuring, and the agreement proposed by Prepa itself explicitly requires board authorization.

The board cannot amend the Prepa agreement, as it did with the fiscal plan submitted by Puerto Rico's government. But the board will pursue improved terms of agreement for creditors, and more equal sharing of risk between current creditors and new investors.

Transformation of Puerto Rico's energy sector is only one part of a broader reform agenda, which must include fundamental public pension and welfare reforms, as well as the modernization of labor laws. Prepa's viability must be addressed in the context of these larger solutions to Puerto Rico's fiscal and economic crisis. But unless Prepa can be modernized, Puerto Rico's economic recovery and its ability to repay its debts will suffer.

The Wall Street Journal

June 29, 2017 6:55 p.m. ET

[Illinois Is in Deep Trouble: What Investors Need to Know.](#)

Here are answers to questions investors may be asking

Illinois is locked in a political stalemate, and in danger of becoming the first U.S. state to have its debt downgraded to junk status. S&P Global Inc. threatened to take that action if Gov. Bruce Rauner and Democratic Speaker of the House Michael Madigan can't agree on a package of spending and taxes by the start of the next fiscal year on Saturday. Below is a breakdown of what this unprecedented event would mean for everyone from individual investors to large Wall Street money managers.

Who owns Illinois's debt?

Much of Illinois's \$25 billion in outstanding general obligation debt is held by individual investors seeking a stable source of income, according to analysts' estimates. But Wall Street is also exposed via mutual funds, hedge funds and insurers that purchased the state's bonds. Money management giant Vanguard Group has \$1.2 billion spread across seven mutual funds. It is the biggest holder among all mutual-fund firms that had a total of \$4.5 billion in Illinois bonds, according to the most recent figures from research firm Morningstar.

What would a downgrade do to those investments?

Not much, say analysts. They predict prices would drop only a few cents in the event of a junk downgrade. The state's uninsured general obligation debt traded this week as high as 95 cents on the dollar. Junk bonds don't usually trade near par, but state general obligation debt is considered safer because states have broad power to tax and lack the legal ability to declare bankruptcy.

Will investors still get paid?

A junk rating won't affect the state's ability to pay bondholders. State officials have said those payments are their No. 1 priority.

What does a 'junk' rating mean, anyway?

Ratings firms rank debt according to how safe an investment they believe it is. The 12 safest tiers are considered "investment grade," meaning investors have what S&P terms "adequate" protection against the risk of default. Below that, bonds are considered junk, or "speculative grade," meaning they face "large uncertainties" or "major exposure to adverse conditions," according to S&P. Investors who buy junk may earn greater profits if the bonds perform well but they also face greater danger of losses.

Are mutual funds even allowed to own junk municipal bonds?

Most mutual funds have rules limiting their investment in junk-rated debt, but when bonds drop below investment grade they may not be required to sell them. At Vanguard, mutual funds are allowed to hold a “modest allocation” of junk bonds, a spokesman said. Vanguard’s municipal bond team, a spokesman said, is “comfortable with the risk/reward” of investing in Illinois bonds.

How are investors expected to react to a downgrade?

Bonds are still likely to change hands as holders spooked by the state’s deteriorating credit sell and high-yield investors take advantage of the opportunity to buy. Mutual funds have already sold more than \$100 million in Illinois general obligation bonds since the end of 2016, according to Morningstar, and buyers have been taking advantage of temporary dips. Howard Cure, director of municipal bond research at Evercore Wealth Management, said some of his clients might buy more Illinois bonds if prices drop further.

How would a downgrade affect Illinois?

The most immediate impact would likely be a rise in borrowing costs, making it more expensive to raise money for new projects. Analysts predict investors could demand an additional half-percent to a percent in interest, meaning the state would pay an additional \$5 million to \$10 million for every \$1 billion it borrows. Illinois already pays a premium. When it last sold tax-exempt debt in November 2016, the state paid yields of 4.4% for 20-year bonds. In contrast, 20-year bonds issued by the state of Wisconsin around the same time yielded 2.8%.

Is Illinois on its way to becoming the next Puerto Rico?

Analysts say no, noting that Illinois’s problems are largely political. Unlike Puerto Rico, which is in the midst of a court-supervised restructuring, Illinois has a strong underlying economy and annual revenues that are about 10 times its yearly debt service payments. Puerto Rico, on the other hand, has endured more than a decade of economic distress. “There’s no risk of Illinois losing market access,” said Matt Fabian, a partner at Municipal Market Analytics.

Will a junk downgrade spill over affect other states and cities?

It could. New Jersey and Connecticut, among the lowest-rated states after Illinois, may face more scrutiny from investors, analysts said. Both are wrestling with budget problems and mounting liabilities. But New Jersey and Connecticut still have a long way to go to match Illinois’s ratings dilemma. They are rated several notches higher by S&P and Moody’s Investors Service.

The Wall Street Journal

By Heather Gillers

June 29, 2017

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

[**Puerto Rico Electric Bonds Fall as Restructuring Pact Dashed.**](#)

- **Bonds had been sliding as board delayed approval of deal**
- **Agreement would have given investors 85 cents on the dollar**

Puerto Rico's government electric company bonds tumbled after the island's federal oversight board rejected an agreement with creditors to restructure \$9 billion of debt, pushing the agency toward bankruptcy.

The price of Puerto Rico Electric Power Authority bonds due in 2040, one most actively traded Wednesday, changed hands for an average of 52.7 cents on the dollar, down 15 percent from when they last traded on June 14, according to data compiled by Bloomberg.

A rout followed the board's announcement late Tuesday that it shot down the agency's deal with insurers and investors that would have allowed bondholders to receive 85 cents on the dollar. Prepa, as the utility's known, first struck the agreement in 2015, before Congress enacted emergency rescue legislation that placed Puerto Rico under federal oversight and gave the island the option to file for bankruptcy.

"It's pretty negative from the perspective that you have an agreement and it's been out there for a long time," said Daniel Solender, head of municipals at Lord Abbett & Co., which manages \$19 billion of state and local debt, including Puerto Rico bonds. "It makes it hard to proceed going forward with them if agreements don't hold up."

The restructuring of Prepa, the largest U.S. public power utility by customers and revenue, will likely happen using a form of bankruptcy called Title III, the board said. Puerto Rico's central government took that step on May 3 after negotiations with creditors failed.

Investors had been speculating that the Prepa deal could unravel, given that the board had failed to approve revisions that Governor Ricardo Rossello made nearly three months ago. Without it in place, Prepa may default on a \$423 million principal and interest payment due July 1. It would be the first missed payment for the agency after it negotiated for nearly four years with hedge funds, mutual funds and bond-insurance companies to find an out-of-court solution.

Board members have questioned the deal's ability to lower electricity rates and sufficiently modernize the system.

"Affordable and reliable electricity is central to Puerto Rico's economic turnaround, without which customers will seek alternative measures to satisfy their needs resulting in increased pressure to increase the rates to the remaining customer base, thereby inhibiting growth and long-term viability," the board said in a statement Tuesday.

The board voted four to three against the deal, according to a person familiar with the vote who asked not to be named because the meeting wasn't public.

The vote comes after MBIA Inc.'s National Public Finance Guarantee Corp. and units of Assured Guaranty Ltd. sued the board Monday in U.S. court in Puerto Rico, seeking to prevent the panel from blocking Prepa's restructuring agreement.

Congress last year passed legislation, known as Promesa, that allows Puerto Rico and its agencies to file Title III to force creditors to take losses on their investments. The legislation included language that directed the board to approve any already-crafted creditor agreement. U.S. Representative Rob Bishop, chairman of the Natural Resources Committee, which drafted Promesa, earlier this month urged the board in a letter to approve Prepa's restructuring deal.

The board's decision was criticized by a group of Prepa bondholders, including OppenheimerFunds Inc. and Franklin Advisers, that were involved in the negotiations.

"We do not understand the board's decision to block this deal after more than three years of cooperative, good faith negotiation by all stakeholders, exhaustive third-party review and explicit statements from the chair of the Congressional committee that drafted PROMESA that the law wasn't intended to give the board the power to take this action," the group said in a statement. "At this stage we remain open to working with the oversight board but are considering all options."

Bloomberg

By Michelle Kaske

June 28, 2017, 9:13 AM PDT June 28, 2017, 11:08 AM PDT

[BDA Submits Comment Letter: MSRB Second Request for Comment on Draft Amendments to and Clarifications of MSRB Rule G-34, on Obtaining CUSIP Numbers.](#)

The BDA submitted a comment letter to the MSRB in response to their [second request for comment](#) seeking industry input on draft rule amendments to MSRB Rule G-34, on CUSIP numbers, new issue, and market information requirements. You can find our final comment letter [here](#).

BDA's comment letter addresses the following:

- Expresses support for the changes the MSRB made from the original request for comment
- Requests clarifications exempting direct purchases by banks from the CUSIP and depository eligibility requirements
- Requests a clarification where direct purchase transactions are not purchased by banks but instead by their non-bank affiliates
- Suggests that the MSRB should not refer specifically to CUSIP but to any identification number widely accepted in the municipal securities market

Background on updated proposed amendments:

- Provides a limited exception to the requirement to obtain CUSIP numbers, and to apply for depository eligibility, in the case of a direct purchase of municipal securities by a bank, affiliated banks or a consortium of banks formed for the purpose of participating in the direct purchase.
- Amends the definition of "underwriter" in Rule G-34(a) to cross reference to the definition of "underwriter" set forth in Exchange Act Rule 15c2-12(f)(8) and requires all municipal advisors to obtain CUSIP numbers when advising an issuer in a competitive new issue transaction in municipal securities.
- Requires all municipal advisors to obtain CUSIP numbers when advising an issuer in a competitive new issue transaction in municipal securities, however, the MSRB seeks comment on draft proposed exceptions from each of these requirements in certain limited circumstances.
- The MSRB proposes to make the application of the draft rule amendments set forth in this second request for comment prospective.

You can find BDA's letter to the MSRB for the original proposed amendments [here](#).

Bond Dealers of America

June 29, 2017

[Fitch: US Senate Bill A Risk for Governments, Health Providers.](#)

Fitch Ratings-New York-26 June 2017: A proposed Senate healthcare bill, the Better Care and Reconciliation Act (BCRA), would have negative credit implications for US States and public non-profit hospitals, says Fitch Ratings. It would mean significant reductions in federal funding to states and changes in the payor mix and lower patient volumes for public hospitals. Higher uninsured rates would also act as a structural headwind for growth for corporate healthcare entities, though those issuers would benefit in the near term from the roll back of most of the industry taxes and fees that were implemented under the Affordable Care Act (ACA).

These outcomes are based on an unlikely total adoption of the BCRA and the Congressional Budget Office's (CBO) estimates of the impact of the previous House version of the bill, the American Healthcare Act (AHCA). The CBO will report on the BCRA in the coming days. That report will be seminal to when and how the Senate will vote on it. If BCRA passes the Senate, before going to the President's desk it will need to be passed by the House in its final Senate-approved form, or reconciled with the House's AHCA and then passed by both houses.

Federal aid for Medicaid currently represents approximately 20% of all state budgets. The CBO estimates that the AHCA would lower federal Medicaid spending by 24% by fiscal 2026. The speed and scale of that contraction could be difficult for states to manage and could affect both the states that expanded Medicaid under the ACA and those that did not. The 2020 and 2021 implementation dates for most Medicaid provisions would likely result in pressure on states to cut funding to local governments, public colleges and universities, and healthcare providers.

Amongst healthcare providers, acute care hospitals would be the most pressured by those state cuts and by the rise in uninsured patients. The CBO estimates that the AHCA would raise the uninsured rate of the non-elderly segment of the US population to 19% from its current 10%. That change would mean hospitals would have a higher percentage of uninsured patients and lower patient volumes as people will opt out of less critical care. Unless offset by cost savings or higher reimbursement from insured patients, this would pressure margins and could result in downward ratings pressure.

In the near term, acute care hospitals and other healthcare providers would get a reprieve from the pressures of a decline in the number of insured people as the bill includes federal appropriation for approximately \$7 billion (annually, through 2019) of cost-sharing subsidies for middle income enrollees to the individual health plan market. Healthcare companies would also benefit from the repeal of the taxes and fees imposed by the ACA. This will boost financial results for many companies in the near term since those taxes and fees mitigated much of the initial financial benefits of the ACA's insurance expansion.

However, that initial positive benefit will evaporate as higher uninsured rates will be an important structural headwind to topline growth for healthcare companies over the longer term.

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[Fitch: Rising Debt Expected for Florida Water Utilities.](#)

Fitch Ratings-New York-26 June 2017: Florida water utilities have seen a rise in debt outstanding over the past three years, according to Fitch Ratings' 2017 Florida Water and Sewer Sector Update. Fitch believes this will continue as concurrent increases in capex have not resulted in declines in the average age of water plants.

Renewal and replacement of water infrastructure has driven the majority of capital spending for Florida water and sewer utilities. However the average age of the state's water utilities has remained mostly stable, at 14.5 years in fiscal year 2016.

"Increasing focus on alternative water sources and efforts around water quality most likely mean more financing will be required to meet needs that go above and beyond regular renewal and replacement," says Eva Rippeteau, Director, U.S. Public Finance.

Regulatory requirements for wastewater quality, storm water and flood mitigation are major capital spending drivers throughout the state.

Nutrient reduction, in particular, remains a big focus and has both environmental and economic implications. In early May, Governor Scott authorized a \$1.5 billion plan aimed at mitigating algae blooms caused by nutrient accumulation in Lake Okeechobee, the largest such plan to date. Increasingly, storm water capture and disposal systems are under greater scrutiny due to persistent flooding and pollution risk. Utilities requiring system changes to address these methods may require additional financing.

Some utilities have on-going requirements to expand or seek alternative water sources to accommodate renewed population growth. Certain supply projects can be expensive and necessitate regional coordination in order to finance, operate and sustain. One example is the Central Florida

Water Initiative, which spans five counties, three water management districts, the Florida Department of Environmental Protection and other stakeholders.

Despite the increase in debt, most Florida water and sewer utilities saw significant improvements in finances in fiscal 2016 relative to the year prior. Four upgrades and only one downgrade comprised the year's ratings changes. The ratings for 34 other systems were affirmed. The average Florida water and sewer utility rating continues to be 'AA'. Fitch anticipates credit quality will remain high.

The 2017 Florida Water and Sewer Sector Update was published in conjunction with the 2017 Fitch Analytical Comparative Tool (FACT) for Florida Water and Sewer credits. The 2017 FACT contains financial data for 58 water and sewer utilities in Florida, including historical statistics and metrics going back to 2012.

The FACT includes a dashboard feature to plot annual issuer metrics and median performance, a peer analysis tool which allows users to review and compare metrics of two issuers, and a charting tool which generates a comparison of issuer metrics against rating category medians.

The full reports, "Florida Water and Sewer Sector - 2017 Update," and "Florida Water & Sewer - Fitch Analytical Comparative Tool (FACT) - 2017," are available at www.fitchratings.com.

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[Fitch: New York State Leaves Local Tax Revenue in Limbo.](#)

Fitch Ratings-New York-23 June 2017: The New York State legislature is expected ultimately to approve extending key revenue sources for local governments, despite adjourning its 2017 session without approving the extensions, says Fitch Ratings. However, there may be a lapse in tax collections by local governments if the legislature does not arrive at an agreement prior to its next scheduled session in 2018.

The legislature adjourned its 2017 session on Wednesday without an agreement on a bill that would extend the right for 53 counties to charge sales taxes above the 3% base sales tax rate and New York City to continue its current income tax rate. Many counties levy an additional 1% or more, some of which may be shared with their municipalities. This tax must be renewed biennially by the

legislature. The bill would also have continued mayoral control of the New York City public school system.

We do not believe the legislature's intention was to deprive local governments of a revenue source that for many funds a significant portion of their budgets. However, the parts of the bill concerning the schools were highly politicized.

State officials are reportedly discussing arrangements to vote on a bill incorporating the tax extensions before the next session. Fitch expects the extensions to ultimately be extended before they expire, but Fitch will take any rating actions it deems appropriate if this expectation is not met.

In addition to potentially affecting government operations, failure to extend taxes would impact debt service coverage for a number of state-created authorities whose bonds are secured by sales tax revenue. The New York City Transitional Finance Authority's (TFA) bonds are secured by both sales and income tax revenues. While only a minimal portion of the city's sales tax revenue is at risk, the loss of the extension of the current income tax base rate and 14% surcharge could result in a loss of tax revenues of \$8.1 billion by fiscal 2021, according to an analysis by the TFA. Debt service coverage on TFA bonds is very strong, as it is for bonds issued by the Nassau County Interim Finance Authority, the Buffalo Fiscal Stability Authority and the Erie County Fiscal Stability Authority - all rated 'AAA'/Stable.

TFA reports the effects on fiscal 2018 revenues of a reduction in the income tax rate, effective Jan. 1, 2018, would be \$2.9 billion. This has a modest impact on TFA coverage yet would create a gap in the city's fiscal 2018 budget (beginning July 1, 2017) as the income taxes reduced represent 3.4% of budgeted revenues. However, for those with fiscal years ending December 31 and taxes expiring on November 30, current year budget adjustments would be needed.

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Additional information is available on www.fitchratings.com. 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: Mixed Outcome in Southern California Water Rate Litigation.](#)

Fitch Ratings-Austin-26 June 2017: On June 21, in a decision that Fitch Ratings found to be credit-neutral, the California Court of Appeal gave both parties reason to claim victory in its decision on

litigation between the Metropolitan Water District of Southern California (Metropolitan, rated 'AA+' /Stable) and the largest of its 26 member agencies, the San Diego County Water Authority (CWA, rated 'AA+' /Stable). The court ruled in favor of the CWA on most points, but the ruling favored Metropolitan on the core financial aspect of the case. The appellate court affirmed the legality of the aspect of Metropolitan's rate-setting methodology that includes State Water Projects (SWP) costs, reversing the trial court decision of Nov. 2015. We believe the most recent appellate court ruling is credit-neutral for Metropolitan in that the bulk of its transportation rate was found to be appropriate, and credit-neutral for San Diego CWA, since it could receive some relief in the transportation rate that would be credited back to its members. The case is expected to be appealed to the State Supreme Court.

Water Transportation Rate at Heart of the Case

CWA pays water transportation rates to Metropolitan for the movement of imported water CWA purchases from the Imperial Irrigation District. Metropolitan's transportation rate-setting methodology includes SWP charges (charges associated with the 444-mile California aqueduct that moves water from northern California to southern California), which CWA has contested as costs that are more appropriately characterized as water supply costs and not allocable to transportation costs. Based on the 2010 legal filing, CWA asserted that the inclusion of SWP costs resulted in an overcharge of at least \$24.5 million per year and inclusion of the water stewardship rate resulted in a further overcharge of \$5.4 million per year, in comparison to CWA's full payments to Metropolitan of approximately \$328 million in recent typical years.

The trial court, in its 2015 decision, had awarded San Diego CWA \$188.3 million in breach of contract claims to San Diego CWA for rate overcharges (both SWP and water stewardship rate) during the years 2011-2014 plus additional amounts for interest and legal costs. While there is legal precedent that affirms water transportation rate methodology can include system costs broader than just the facilities used to convey specific water supplies in an individual contract, the trial court found Metropolitan's inclusion of the SWP charges improper because the SWP is not directly owned by Metropolitan. However, the appellate court's recent ruling reversed the trial court's determination, finding that the SWP, while not owned by Metropolitan, is an integral component of its water supply system and can be included in the transportation rate.

The remaining points in the litigation on which the appellate court found in favor of the CWA are 1) in regard to the exclusion of Metropolitan's water stewardship rate in its water transportation charge methodology (in agreement with the Nov. 2015 trial court decision); 2) the more generous calculation methodology of CWA's rights to preferential water during a shortage (also in agreement with the trial court decision); and 3) a finding that CWA has standing to challenge an unconstitutional component of Metropolitan's water conservation program contracts that allowed Metropolitan to cut off conservation program funding to a member that is in active litigation to challenge the Water Stewardship Rate. The trial court had found this aspect of the conservation program to be unconstitutional but determined that CWA lacked the standing to challenge the provision.

Credit Rating Outcomes Expected to be Relatively Neutral

Fitch believes the current credit ratings of Metropolitan and CWA provide sufficient room to incorporate any potential outcomes in the case pending ultimate resolution. Fitch believes Metropolitan is positioned to absorb the costs and required rate restructuring required by the appellate court ruling if it were upheld. This outcome would allow Metropolitan to include SWP costs but exclude the water stewardship rate in its transportation rates and pay certain damages to CWA, assumed to be substantially less than those awarded by the Nov. 2015 trial court decision. The

appellate court's decision would lower the transportation rates charged to CWA in the future by removing the water stewardship rate but Metropolitan could recover those lost revenues through an incremental rate increase to other members. Metropolitan's revenue stability will depend on the timeliness of rate restructuring to recover the revenues at issue from other members. Metropolitan's cash reserves were spent down in fiscal 2016 related to the state drought but should recover to more typical robust levels prior to a final decision by the Supreme Court. Reserves could be necessary to provide financial cushion until rate restructuring could be put into place. If a final ruling is instead consistent with the original trial court decision, resulting in a more urgent need for rate restructuring among Metropolitan's members, strong reserves and rapid Board action will become more critical credit considerations.

San Diego CWA's credit quality is unlikely to shift regardless of the outcome, given the upside potential of receiving financial damages and the intent to return any funds directly to customers. If the appellate court ruling is upheld, CWA would receive a smaller portion of the damages being sought but the higher rates have already been paid to Metropolitan and recovered in CWA's own rates charged to its customers. CWA has committed to returning any funds received from the litigation to its customers (net of legal costs). Fitch believes the credit impact would be neutral for San Diego regardless of whether the final ruling includes the large \$188.3 million settlement awarded by the trial court or the smaller amount related only to the water stewardship rate component implied by recent appellate ruling. Future water rates may be higher than what CWA had hoped, but CWA has cautiously assumed a continuation of current rates in its conservative forecast planning and rate methodology.

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[Bloomberg Brief Weekly Video - 06/29](#)

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

[Watch video.](#)

Bloomberg

June 29, 2017

Illinois Blows Budget Deadline, Pushing It Closer to Junk.

- **House plans Sunday vote after adjourning without agreement**
- **S&P warns of downgrade if the impasse isn't soon resolved**

Republican Governor of Illinois Bruce Rauner. Photographer: Scott Olson/Getty Images
Illinois entered its third straight fiscal year without a budget as Republican Governor Bruce Rauner and Democratic lawmakers struggle to agree on how to rein in the government's chronic deficits, pushing it closer toward becoming the first junk-rated U.S. state.

State legislators failed to enact a budget by the end of Friday, the last day of the fiscal year, though negotiations continued. Speaker Michael Madigan, a Chicago Democrat, said in a statement on Saturday the House would vote Sunday "on a revenue package that is modeled on the bill supported by the governor, and House and Senate Republicans."

The failure marked a continuation of the unprecedented impasse that's left Illinois without a full-year budget since mid-2015. Without a deal around July 1, S&P Global Ratings has warned that the nation's fifth-most-populous state will likely get downgraded again, losing its investment-grade status.

After Madigan, 75, appeared briefly on the House floor, Republicans stood and chanted in objection, with one member shouting "Speaker Junk" as Madigan left the floor.

On Friday, Madigan, who controls much of the legislative agenda, pleaded with rating companies to "temporarily withhold judgment" as lawmakers negotiate.

'Job Done'

"Much work remains to be done," Madigan said on the floor of the House Friday, before the chamber adjourned for the day. "We'll get the job done."

Without a spending plan, the state has effectively been on autopilot, leaving it with a record \$15 billion of unpaid bills as it spent over \$6 billion more than it brought in over the past year. The impasse has devastated social-service providers, shuttering services for the homeless, disabled and poor. The lack of state aid has wrecked havoc on universities, putting their accreditation at risk.

If the standoff isn't resolved, Illinois officials have said they won't be able to pay contractors and road construction will shut down, putting thousands out of work. The yields on the state's bonds have risen as investors anticipate a downgrade.

At its root, the fight is a showdown between former private equity executive Bruce Rauner, who in 2015 became the first Republican to lead Illinois since 2003, and Madigan, who's served as speaker for decades. The two can't agree on how to end deficits that were exacerbated when tax hikes expired just as Rauner took office.

The partisan gridlock has created the longest budget standoff ever for a state, according to the National Conference of State Legislatures. Rauner has demanded any plan come with parts of his self-described pro-business reforms, like a property-tax freeze and legislative term limits. Democrats

have resisted, saying his agenda would devastate the middle class. They've passed some of his initiatives, but Rauner argues they didn't go far enough.

School Funding

Without a budget that includes borrowing to pay down the bill backlog, Illinois by August will run out of money for key expenses for the first time since the stalemate began, according to Comptroller Susana Mendoza, a Democrat. That means school funding, state payroll, and pension payments could be affected, she said. There won't be enough money for these mandated or court-ordered payments.

This won't jeopardize debt-service payments, she said. Illinois hasn't missed any bond payments and state law requires it to make monthly deposits to its debt-service funds.

Investors have been punishing Illinois for its fiscal woes. Yields on the state's 10-year bonds have soared to 4.8 percent, 2.8 percentage points more than those of benchmark debt. That's the highest yield of all 22 states that Bloomberg tracks.

"Recognizing that they're continuing to work through the weekend, it doesn't look good to adjourn halfway through your last day," said John Humphrey, the Chicago-based head of credit research for Gurtin Municipal Bond Management, which oversees about \$10.1 billion of state and local debt.

Bloomberg Politics

By Elizabeth Campbell

June 30, 2017, 9:01 PM PDT July 1, 2017, 2:53 PM PDT

[Citigroup Likes Illinois's Fundamentals, Dislikes Its Politics.](#)

- **The state's G.O. bonds offer attractive spreads for HY buyers**
- **Build Illinois Bonds (BIBs) 'somewhat on par with GOs'**

Illinois general-obligation debt may be attractive for high yield investors as the state contends with a two-year budget impasse that has its rating on the verge of junk, according to Citigroup's municipal research team led by Vikram Rai.

General-obligation bonds are trading from 1.55 percentage point to 2.05 percentage points more than securities with the lowest investment-grade ratings, though large-scale, forced selling in the event of a downgrade to junk is unlikely, the analysts stated in a note. Investors should show a preference to the 5- to 7-year part of the curve, they said.

The analysts also note:

- Build Illinois Bonds (BIBs) are "somewhat on par with GOs" as state law provides for irrevocable and continuing appropriation in much the same manner seen for the GOs and sales-tax revenue bonds. In addition, the amount outstanding is low and payment is backed by a first lien on the state's share of sales tax revenue.
- The state's appropriated debt (Metropolitan Pier & Exposition Authority) have already been downgraded to junk and have outperformed GOs of late; this may continue as the notional amount is just about \$3.6 billion and is backed by dedicated sales tax revenues.

- Taxable pension obligation bonds have limited upside.
- Expect Illinois bonds to rally only after a budget passes; even a stopgap measure should lead to some price improvement.
- The state “has the ability to continue to pay for most debt service and pension contributions” whether or not a budget is passed. State law mandates a monthly set aside for debt service on GOs and sales-tax revenue bonds and this mandate has not been breached.

The state’s budget impasse shows little sign of resolution by the end of the week. Republican Governor Bruce Rauner, who called a special session to breach the stalemate between the Democratic-led legislature, called the first few days of talks “a waste of time.”

Bloomberg Markets

By Kristy Westgard

June 27, 2017, 1:59 PM PDT

[American Dream Mall Bonds Climb.](#)

- **Prices rise by more than 2 percent in secondary market trades**
- **Offering by Goldman was year’s biggest of unrated muni bonds**

Investors are seeing quick profits from the American Dream.

Prices of some unrated bonds issued for the long-stalled shopping and entertainment center in New Jersey’s Meadowlands have risen 2.4 percent since they were issued last week, cutting the yields by more than 0.3 percentage point to 6.3 percent. The price increase surprised some investors, given that the sale had been delayed amid speculation over whether there was sufficient demand for the risky securities. Borrowers frequently sell unrated bonds to avoid the potential taint of being labeled junk.

“It’s a little bit bigger and quicker in narrowing than I expected,” said John Miller, who oversees more than \$120 billion in municipals at Nuveen Asset Management, including its \$14.8 billion high-yield open end muni fund, the market’s biggest. “There’s a difference between negotiating the structure and not knowing whether they will have a complete financing package to get the mall built, to now that you’re certain it’s settled, maybe you want in.”

The outcome of the sale illustrates the growing appetite for risk in the municipal market after a rally pushed yields to the lowest since early November. Prices have been supported in part because traders are building up inventory, anticipating investors will need to reinvest a flood of cash from July 1 coupon and principal payments, Miller said.

Goldman Sachs Group Inc., which managed the \$1.1 billion bond issue for Canadian mall developer Triple Five Group, postponed it for a week as it fielded questions from investors and gauged where to set the price. The 2.9 million square-foot mall will have indoor amusement and water parks, a skating rink, ski slope, Ferris wheel, aquarium, and performing arts theater with 500 stores, anchored by Saks Fifth Avenue and Lord & Taylor. The total cost of the project is estimated at \$2.8 billion.

Bonds due in 2050 that are backed by payments the developer will make in lieu of taxes were priced

to yield 6.63 percent on June 22. They fell to an average yield of 6.29 percent the following day and traded Monday at 6.27 percent.

“There were a lot of negotiations,” said Miller, who declined to say whether he bought any of the debt. “It was a relatively large deal, perhaps a bit controversial, doing some things that haven’t been done before.”

Bloomberg Markets

By Martin Z Braun

June 27, 2017, 10:51 AM PDT

[The Week in Public Finance: Alaska Avoids Its Problems, More Health-Care Pain and Municipal Defaults Are Up.](#)

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

GOVERNING.COM

BY LIZ FARMER | JUNE 30, 2017

[A Model for Regulating the Ride-Sharers.](#)

By putting the burden on the companies, Chicago is keeping its costs low while providing an efficient framework and better mobility.

Around the country, cities are grappling with the question of how best to regulate the rapidly expanding ride-sharing industry. While many mayors and local transportation regulators are pre-empted by their state legislatures, others are free to test different policy solutions and experiment with how best to conduct background checks on drivers, ensure vehicle safety, set insurance requirements and ultimately decide who gets to be on the road.

Chicago’s approach may be one that could serve as a model for other cities. In Chicago, regulators and transportation network providers (TNPs) such as Uber and Lyft agreed early on that getting good drivers on the road with minimal friction would be a key priority for the city. When ride-sharing services were first becoming popular in Chicago, the city worked with (and sometimes at odds with) TNPs to devise a licensing and regulatory framework that aims to guarantee basic safety standards for passengers while minimizing permitting expenses for drivers, ultimately giving the city new mobility options while keeping the city’s overhead costs low.

To ensure baseline safety standards for ride-sharing drivers, Chicago regulators required that each prospective operator take courses and be tested on the rules of the road, how to transport passengers safely and how to provide access to people with disabilities, among other essential skills. The city tasked ride-share companies with developing the courses and administering the tests. Rather than subject prospective drivers to expensive multi-day, in-person instructional programs, TNPs instead designed their coursework to be accessed via smartphones, which made the classes far

less onerous for prospective drivers.

The city also set requirements for background checks that must be undertaken for each driver. The TNPs use third-party vendors to perform these checks by running drivers' names and Social Security numbers through a series of databases and public records, singling out individuals with violations who don't meet the city's minimum standards. Background-check reports are submitted to the city, and the TNPs must keep drivers' personal information — name, contact information, address and driver's license number — up to date with the city.

And whereas city vehicle inspections are typically costly and wait times build up quickly, TNPs worked with the city to develop and partner with certified inspection shops to ensure that cars can be seen in just a few minutes for as little as \$20. A standard form is used by each TNP to guarantee that a car's essential safety components, such as lights, brakes and suspension, are in good working condition. Once a car is inspected, the form is submitted to the city and the driver must keep a copy in the car. To minimize the risk of fraud, the city maintains wide discretion to review documentation, request information and impose penalties on rule-breakers.

Once the city has ensured baseline safety standards, it utilizes the TNPs' internal customer feedback systems, such as app ratings and customer support, to identify unsafe drivers and driving practices. Each TNP must have in place a process to notify the city of any driver who has been deactivated due to complaints from riders that give rise to public safety concerns. Moreover, the city requires that each car has a 311 sticker so that riders are aware of how they can take complaints directly to the city.

Chicago has done well to put the burden of training, background checks, inspection and disclosure on its ride-sharing companies. By doing so, regulators have kept obstacles to becoming a driver to a minimum while helping to ensure customer safety and keeping the city's regulatory costs low. And by partnering with TNPs, the city has enhanced job opportunities and consumer choice while expanding Chicagoans' mobility options.

GOVERNING.COM

BY WYATT CMAR | JUNE 29, 2017

[S&P: Typical U.S. Water and Sewer Utilities and the Margin Between High and Medium Investment Grade Ratings.](#)

S&P Global Ratings maintains long-term ratings on more than 1,600 waterworks, sanitary sewer, and drainage utilities in the U.S. In this sector, roughly half of all ratings are 'AA-' or higher, and roughly half are 'A+' or lower. We therefore believe it's worthwhile to highlight noteworthy distinctions that differentiate utilities at these two rating levels.

[Continue reading.](#)

Jun. 27, 2017

[**Tax-Exempt Financing of Churches, Parochial Schools and Other Sectarian Institutions After Trinity Lutheran Church: Permitted? Required? Let us Pray for Answers.**](#)

The U.S. Supreme Court's June 26 opinion in *Trinity Lutheran Church of Columbia, Inc. v. Comer*, precluding states from discriminating against churches in at least some state financing programs, raises anew the question of whether states may, or are required to, provide tax-exempt conduit bond financing to churches and other sectarian institutions. The Supreme Court's decision further complicates an already complicated analysis of that question by bond counsel, and in some instances may tip bond counsel's answer in favor of green-lighting tax-exempt financing of some capital projects of sectarian institutions.

The First Amendment to the U.S. Constitution precludes Congress and, via the Fourteenth Amendment, states from legislating the establishment of religion (the "Establishment Clause"), or prohibiting the free exercise thereof (the "Free Exercise Clause"). Under a line of Supreme Court cases that has been cast into doubt but never expressly repudiated by a majority of the U.S. Supreme Court, the Establishment Clause has been held to prohibit state financing of "pervasively sectarian" institutions, i.e. institutions that "are so 'pervasively sectarian' that secular activities cannot be separated from sectarian ones." *Roemer v. Board of Publ. Works of Maryland* (1976).

[Continue Reading.](#)

By Len Weiser-Varon on June 27, 2017

Mintz Levin

[**GASB Establishes Single Approach for Reporting Leases.**](#)

Norwalk, CT, June 28, 2017 — The Governmental Accounting Standards Board (GASB) today issued guidance that establishes a single approach to accounting for and reporting leases by state and local governments. This single approach is based on the principle that leases are financings of the right to use an underlying asset.

[GASB Statement No. 87, Leases](#), provides guidance for lease contracts for nonfinancial assets—including vehicles, heavy equipment, and buildings—but excludes nonexchange transactions, including donated assets, and leases of intangible assets (such as patents and software licenses).

Under the new Statement, a lessee government is required to recognize (1) a lease liability and (2) an intangible asset representing the lessee's right to use the leased asset. A lessor government is required to recognize (1) a lease receivable and (2) a deferred inflow of resources. A lessor will continue to report the leased asset in its financial statements.

A lessee also will report the following in its financial statements:

- Amortization expense for using the lease asset (similar to depreciation) over the shorter of the term of the lease or the useful life of the underlying asset
- Interest expense on the lease liability
- Note disclosures about the lease, including a general description of the leasing arrangement, the amount of lease assets recognized, and a schedule of future lease payments to be made.

A lessor also will report the following in its financial statements:

- Lease revenue, systematically recognized over the term of the lease, corresponding with the reduction of the deferred inflow
- Interest revenue on the receivable
- Note disclosures about the lease, including a general description of the leasing arrangement and the total amount of inflows of resources recognized from leases.

“The Board’s new leasing guidance better aligns the accounting and financial reporting of these arrangements with their economic substance,” said GASB Chairman David A. Vaudt. “The new single model for reporting governmental leasing agreements is designed to result in greater transparency and usefulness for financial statement users. It also is meant to reduce complexity in application for preparers and auditors of governmental financial statements.”

Limited exceptions to the single-approach guidance are provided for:

- Short-term leases, defined as lasting a maximum of 12 months at inception, including any options to extend
- Financed purchases
- Leases of assets that are investments
- Certain regulated leases, such as between municipal airports and air carriers.

Other issues addressed in the Statement include:

- Accounting for lease terminations and modifications
- Sale-leaseback transactions
- Nonlease components embedded in lease contracts (such as service agreements)
- Leases with related parties.

The full text of Statement 87 and a [high-level overview](#) featured in the current issue of the GASB Outlook are available on the GASB website, www.gasb.org.

Considerations Related to Costs and Benefits

One of the principles guiding the GASB’s setting of standards is that the costs incurred through the application of its standards, compared with possible alternatives, are justified when compared to the expected overall public benefit. Although the costs of implementing the changes required by this Statement may be significant, the Board believes that the expected benefits that will result from the information provided through implementation of the Statement, both initially and on an ongoing basis, are significant.

The exceptions identified above, as well as exclusions of supply contracts and leases of inventory, will reduce the cost of implementation. The Statement also includes cost-reducing provisions regarding reassessment of the lease term, allowing governments to report multiple-component contracts as a single lease unit when a best estimate of individual components is not practicable, and not requiring lessors to derecognize underlying assets, among other provisions.

About the Governmental Accounting Standards Board

Established in 1984, the GASB is the independent, private-sector organization based in Norwalk, Connecticut, that establishes accounting and financial reporting standards for U.S. state and local governments that follow Generally Accepted Accounting Principles (GAAP). These standards are recognized as authoritative by state and local governments, state Boards of Accountancy, and the

American Institute of CPAs (AICPA). The GASB develops and issues accounting standards through a transparent and inclusive process intended to promote financial reporting that provides useful information to taxpayers, public officials, investors, and others who use financial reports. The Financial Accounting Foundation (FAF) supports and oversees the GASB. For more information, visit www.gasb.org.

[MSRB MA Compliance Guidance Details Rules for Firms, Professionals.](#)

WASHINGTON - The Municipal Securities Rulemaking Board has released a compliance advisory for municipal advisors that details rules applicable to MAs and provides examples of potential violations.

The document, released on Thursday, follows the board's announcement of its new strategic goals, which include an organizational shift toward assisting regulated entities with their compliance efforts.

The MSRB said that goal prioritizes initiatives like issuing regulatory guidance and advisories to support compliance with its rules. The board said it issued the MA compliance document "to aid advisor firms with understanding recently implemented MSRB rules and identifying potential compliance risks."

"This advisory is designed to aid municipal advisors in the process of establishing, maintaining, reviewing, testing and modifying written compliance policies and supervisory procedures," the MSRB said in the advisory. "The MSRB engages in an ongoing dialogue with municipal market participants through outreach events and education activities so that the compliance resources it prepares are appropriately tailored and responsive to market needs."

The MSRB also said the guidance is intended for general information purposes only and included links in each section to give MAs the ability to access more information about the rules.

One rule the guidance covers is MSRB Rule G-42 on core duties of municipal advisors. Rule G-42 applies to MAs engaging in municipal advisory activities other than the solicitation of municipal entities or obligated persons on behalf of certain third parties. The rule subjects MAs to a duty of care and a duty of loyalty.

The duty of loyalty, among other things, requires that an MA deal honestly with the municipal entity client and with the utmost good faith. It also requires an MA act in the best interest of its municipal entity client without regard to self-interest. The duty of care covers requirements like ensuring the MA possesses the degree of knowledge and expertise needed to provide a municipal entity client with informed advice.

One violation of the rule can occur if the MA fails to inform their municipal entity client that the underwriter the MA is recommending has agreed to recommend the MA for services on another transaction it is underwriting. If an MA tells its client that it has chosen to limit the scope of the due diligence it will undertake to identify any conflicts of interest that may need to be disclosed, the MA would also be in violation of the rule.

The MSRB recommends, among other things, that MAs assess how they are ensuring their professionals are adhering to the rule as well as how well it is structuring client agreements and detailing the responsibilities of each party.

The board also included considerations for MAs associated with its Rules G-37 on political contributions and G-20 on gifts and gratuities.

G-37 is designed to address pay-to-play practices in the market and generally prohibits MAs from engaging in advisory business with a municipal entity within two years of certain contributions to an official of such municipal entity. The MSRB said a failure to track payments made by MA professionals at fundraising events and failures to submit required quarterly disclosure filings to the board could count as violative conduct.

Rule G-20 generally prohibits an MA from giving any item or service of value in excess of \$100 per year, in aggregate, to any recipient if the gift or service is in relation to the municipal securities or MA activities of the recipient's employer. A failure to review regular business expenses to gauge the frequency of gifts of meals or entertainment hosted by the firm could lead to potentially violative conduct, the MSRB said.

The board included considerations and possibly violative conduct in relation to rules that ensure MA firms and professionals are properly qualified as well as rules that firms have appropriate compliance programs and properly maintain their books and records.

The Bond Buyer

By Jack Casey

Published June 29 2017, 2:42pm EDT

[Florida Train Developer May Switch Tracks on Federal Financing.](#)

BRADENTON, Fla. - The private company preparing to offer new passenger rail service in Florida appears to hedging its bets on whether to use private activity bonds to finance the project.

All Aboard Florida and its parent company, Florida East Coast Industries, inquired in recent months about obtaining a low-interest loan to finance its Brightline-branded train service from the U.S. Department of Transportation's Federal Railroad Administration, according to correspondence obtained by The Bond Buyer.

"As a follow-up to our call today, I write to advise you of All Aboard Florida-Operations LLC's intention to submit promptly an application for a Railroad Rehabilitation and Improvement Financing loan," Brightline Chief Executive Officer Dave Howard wrote in an April 11 letter to Roger Bohnert, deputy executive director of USDOT's Build America Bureau.

Howard said the loan would be used to complete AAF's express passenger railroad system between Miami and Orlando.

All Aboard Florida received a \$600 million PAB allocation from the USDOT to finance the initial service route from Miami to West Palm Beach, which it expects to begin operating this fall.

When asked if AAF planned to forego using tax-exempt bonds to finance its project, the company said in a statement that it remains open to using PABs and other forms of federally supported financing.

“Brightline is considering all funding options,” the company said. “We continue to explore financing mechanisms that exist for projects that incent private companies to invest in infrastructure used by the public.”

Private activity bonds are funded by private investors, who don’t pay income tax on the interest they receive.

Letters and emails between All Aboard Florida, Florida East Coast Industries and transportation officials during April and May show that meetings have been scheduled to discuss updates to AAF’s financing plan, a new ridership and revenue study that is underway, and what will be necessary for the RRIF application to complete the underwriting process.

This is not the first time AAF has sought a RRIF loan. In 2014, the company said it applied for a \$1.6 billion RRIF loan to finance its 235-mile project. The application triggered an extensive environmental review process under the National Environmental Policy Act.

While the NEPA review was underway, the company changed course and received a \$1.75 billion private activity bond allocation from USDOT.

Martin and Indian River counties challenged the bond allocation in early 2015, filing federal lawsuits contending that the bonds should have been considered in the NEPA environmental review process.

As the company defended the suits, All Aboard Florida was unsuccessful several times attempting to sell the bonds using the Florida Development Finance Corp. as the conduit issuer.

In August 2016, U.S. District Judge Christopher R. Cooper said – in a potentially precedent setting ruling – that the counties proved that the private activity bond allocation should have been subject to the NEPA process.

The decision prompted AAF to withdraw its \$1.75 billion PAB application for the entire project. The company then received \$600 million to finance phase 1 of the route from Miami to West Palm Beach, stopping short of passing through Indian River and Martin counties.

Cooper ruled on May 10 that the county lawsuits were moot because the \$600 million PABs would finance a portion of the project that does not affect them. The ruling is not yet final, and could be appealed. Indian River County has not made a final decision with respect to Cooper’s ruling, County Attorney Dylan Reingold said Friday.

Last week, Florida East Coast Industries Executive Director Michael Reininger discussed a number of difficulties All Aboard Florida has encountered – and how those problems affect the private sector – when he testified before the U.S. House Transportation and Infrastructure Subcommittee on Railroads, Pipelines and Hazardous Materials.

“Regulatory hurdles” and “opaque and complex” rules for federally supported financing such as tax-exempt bonds create uncertainty for private companies like his to develop new transportation projects, Reininger said.

“In the face of so many regulatory hurdles, combined with the ease by which narrow interests can delay worthy projects through legal and administrative challenges, rationalization of this reality will dramatically improve the interest and motivations of private investment capital,” said Reininger, who is also AAF’s former president.

Reininger also said when All Aboard Florida submitted its original application for a RRIF loan, it

triggered a comprehensive study through the NEPA process that required nine different entities to follow “prescriptive guidelines” in order to sign off on the federal environmental impact study.

The EIS was released in 2015, although the NEPA process remains incomplete because a “record of decision” – a USDOT official’s signature signing off on the project – has not been issued.

“We believe a two-year goal, from initiation to record of decision for NEPA reviews, is not only achievable, but a necessary regulatory requirement in order to attract private investment,” Reininger told the subcommittee.

Opponents of the train project view the situation differently. Reininger’s testimony before the subcommittee was disingenuous, said attorney Stephen Ryan, who represents Martin County and the local anti-train group CARE (Citizens Against Rail Expansion).

“He should get the chutzpah award for claiming that NEPA and other program rules are difficult and opaque, when AAF and USDOT have used the rules to prevent the appropriate path to a legal challenge of the railroad,” he said.

Ryan contended that All Aboard Florida in conjunction with the USDOT has purposely withheld the release of the record of decision on the environmental impact statement, because once the ROD is released it can be challenged in U.S. District Court by the citizens impacted by it.

“They have manipulated the process in an unfair way,” he said. “It insults the intelligence of voters who pay taxes that AAF would complain in a congressional hearing room about the problems in the process when they’ve deliberately manipulated and frustrated the process the way they have.

“We did not delay [AAF] a day,” he added. “They tried four times to sell the bonds and failed.

Now they are giving up on tax subsidized bonds and switching back to a different form of subsidy, a federal loan.

The irony is they previously abandoned the subsidized loan for subsidized bonds in 2014. As Yogi Berra would have said: ‘Its déjà vu all over again.’”

CARE Chairman Brent Hanlon said his organization has worked the past three years to “shed light on the All Aboard Florida project and how it threatens the health and safety of our communities.”

He also decried payments that local taxpayers must make in perpetuity for new train crossing and safety equipment maintenance because of the new passenger train service.

“We have also tried to reveal the facts about AAF’s insatiable need for public subsidies of its business plans,” he said, referring to the interest payments that the federal government does not receive from the issuance of tax-exempt bonds.

Hanlon also said that AAF’s latest strategy to seek a low-interest federal loan from the FRA also amounts to a “multi-billion-dollar loan subsidized by the U.S. taxpayers.

“The new RRIF loan poses many new risks to the taxpayers because there are no guarantees that AAF will be able to repay the loan,” he said. “If that happens, taxpayers will be left holding the bag for potentially billions of dollars.”

During last week’s House subcommittee meeting, Reininger said All Aboard Florida is “not publicly funded at all. It’s completely an investment of private-sector capital.”

Rep. Brian Mast, R-Fla., asked Reininger about the potential subsidy the project would receive from the use of a RRIF loan or private activity bonds. The RRIF loan would be from the federal government and the bonds are “100% capital” from the private sector, Reininger said, adding, “That’s not the same as an investment by the federal government.”

All Aboard Florida plans to run 32 trains per day between Miami and Orlando, at speeds up to 120 mph.

Company officials have said the service will begin this fall initially between West Palm Beach and Fort Lauderdale, with the addition of a stop in Miami later.

Work on the second phase between West Palm Beach and Orlando has not begun, although construction is underway on a new terminal at Orlando International Airport where AAF has said it will rent space at fair-market prices.

The Bond Buyer

By Shelly Sigo

Published June 28 2017, 12:40pm EDT

[Public vs. Private Financing for KCI? Officials Say the Details will Count.](#)

Tax-exempt bonds are usually the best, lowest-cost way to finance major public projects, but it’s not yet possible to say that’s superior to privately financing Kansas City International Airport improvements, city finance officials said Wednesday.

Other factors can include speed of construction, capitalized interest, other financing costs, timing of when bond funds versus private funds become available, and private equity in a project, City Finance Director Randy Landes told the council’s finance and airport committees.

“We would encourage you to be open-minded,” Landes urged the council members as they weigh the best financing approach to building a \$1 billion single terminal at KCI.

One assurance from both Landes and Aviation Department Chief Financial Officer John Green was that, regardless of financing, the city will retain ownership of the airport and operations would not be privatized.

Green said basic maintenance and operation expenses would be covered first, with surplus funds going for debt service or capital lease costs. He said the airlines would cover any debt service gap or private lease obligation, as they always have, and no general city taxpayer dollars would be at risk. The additional cost of a \$1 billion terminal, financed over time, would allow Kansas City to remain among the country’s more affordable airports.

In early May, Mayor Sly James and City Manager Troy Schulte announced their support for a proposal from Kansas City-based engineering firm Burns & McDonnell to design, build and privately finance a new single terminal at KCI.

Burns & McDonnell and supporters argued the private financing option could be as affordable as public airport revenue bonds, and the airport improvements could be completed two years faster, in

2022 instead of 2024. They also said private financing would assure a skeptical public that no taxpayer dollars are used, even though the airport is already totally funded by user fees and other enterprise funds, not by Kansas City general taxpayer dollars.

But Councilwoman Katheryn Shields and some others argued that public financing is cheaper and still does not involve taxpayer dollars, so it could be the preferable option for airport improvements and should be given fair consideration.

Shields has sponsored an ordinance that the committees considered Wednesday, calling for a Nov. 7 election and authorizing up to \$990 million in aviation bonds, which would clearly signal voter preference for the public financing alternative. The committees took no action Wednesday, and Shields' idea remains on hold.

Shields argued Wednesday that, because KCI is healthy financially and has a good credit rating, and because public financing usually carries a lower interest rate, the public approach could potentially save \$400 million in interest payments over 30 years, at no risk to taxpayers.

"It is only the revenue at the airport that will pay off those bonds," she said, adding that she thought a design-build approach could be just as swift as a private construction model. She said voters need a clear comparison between public and private airport financing to judge the best solution.

But Landes and Green said it's not possible yet to make a fair cost comparison with private financing, since the Burns & McDonnell pro forma and other engineering firm proposals haven't yet been submitted.

After the Burns & McDonnell proposal surfaced, the city decided it was more fair to open up the bid process to other engineering firms. The deadline for firms to submit qualifications and airport concepts is July 27.

The city may then narrow the field before asking the finalists to submit their financing plans by Aug. 10. Presentations are expected Aug. 14.

All of this is a tight timeframe, because the City Council still wants to put an airport improvement plan to voters in November. The council's deadline to adopt ballot language for the November election is Aug. 24.

Councilman Scott Wagner asked whether the city can realistically evaluate the private financing proposals against a public finance model between Aug. 10 and Aug. 24.

"It's a matter of how much we sleep," quipped Assistant City Attorney Galen Beaufort.

"This is arithmetic," Landes replied. "It should work."

Several economic development and labor representatives reiterated their support Wednesday for Burns & McDonnell as the hometown team with a reputation for hiring a diverse local workforce. They argued voters are more likely to support private financing in November, because they equate public financing with public taxes, even though that's not accurate for the airport.

But Jim Fitzpatrick, a former longtime Kansas City Star reporter and editor and now a blogger, said public financing gives the public more control and more assurance of the best cost, and he said voters are smart enough to figure that out.

THE KANSAS CITY STAR

BY LYNN HORSLEY

Lynn Horsley: 816-226-2058, @LynnHorsley

TAX - FLORIDA

[Treasure Coast Marina, LC v. City of Fort Pierce](#)

Supreme Court of Florida - June 15, 2017 - So.3d - 2017 WL 2590803

After city was granted exemption from ad valorem taxes on two marinas it owned and operated, owner of private marina, which was not exempted, brought suit seeking declaratory and injunctive relief against application of exemption to city's marinas.

Parties moved for summary judgment. The Circuit Court granted summary judgment to owner. City appealed. The District Court of Appeal reversed and certified question.

The Supreme Court of Florida held that marinas were exempt from ad valorem taxation as property owned and used exclusively by municipality for municipal or public purposes.

Marinas that were owned by municipality were exempt from ad valorem taxation as property owned and used exclusively by municipality for municipal or public purposes, even though locks were placed on some of the docks. Protection of boats and other property from vandalism and crime was entirely consistent with operation of a marina, marinas were open to public, and marinas did not charge any fee for boaters who wished to dock for the day.

[KBRA Releases 1st Published Project Finance Rating.](#)

KBRA Assigns Preliminary Rating to the Riverside County Transportation Commission Toll Revenue Bond, 2017 TIFIA Series

Kroll Bond Rating Agency (KBRA) announces the preliminary rating for the Riverside County Transportation Commission Toll Revenue Bond, 2017 TIFIA Series. The bond evidences the \$152.5 million loan ("the TIFIA Loan") from the United States Department of Transportation to the Riverside County Transportation Commission (RCTC). The TIFIA Loan constitutes federal project credit assistance under the Transportation Infrastructure Finance and Innovation Act for the I-15 express lanes project ("the Project").

The TIFIA Loan will have senior lien priority in project revenues. The interest rate will be set at closing at the 30-year U.S. Treasury State and Local Government Series rate plus 0.01%. The maturity of the TIFIA Loan will be limited to the earlier of 35 years after substantial completion of the Project (currently projected for July 1, 2020) or June 1, 2056. Interest on the TIFIA Loan will be paid semi-annually while principal will be paid annually. The TIFIA Loan will fully amortize by the projected maturity date, and therefore there is no refinancing risk in the transaction. Proceeds of the TIFIA Loan will be used to fund a portion of design-build and other costs for the Project, which are currently estimated at \$471 million. Other sources of funds for such Project costs include RCTC's Measure A sales tax revenue and Measure A sales tax bonds issued in relation thereto and various federal grants. Senior debt service coverage ratios for the TIFIA Loan average 3.13x under KBRA's rating case and stressed assumptions KBRA used in analyzing Project cash flows include

higher construction and O&M costs and lower traffic volumes.

The Project consists of the design-build, operations and maintenance of improvements to approximately 15 miles of the I-15 freeway, in particular the construction of one to two tolled express lanes in each direction along the median of the approximately 15 mile project corridor from Cajalco Road in the City of Corona in Riverside County to just south of the I-15 freeway's intersection with State Route 60. The Project is expected to reduce congestion for motorists using the I-15 freeway and traveling between the Inland Empire and Los Angeles and Orange Counties. As noted above, the Project is projected to open to traffic on July 1, 2020.

RCTC is partnering with the California Department of Transportation and the Federal Highway Administration in the implementation of the Project and to ensure that development is in compliance with all applicable federal laws and regulations. Other key project participants include Skanska-Ames, a Joint Venture, as design-build contractor, Kapsch TrafficCom Transportation NA, Inc., as toll services provider, Parsons Transportation Group Inc., as independent engineer and RCTC's project and construction management consultant, and Stantec Consulting Services Inc., as traffic and revenue consultant.

KBRA analyzed the transaction using the [Project Finance Rating Methodology](#) published on November 15, 2013. KBRA will review the final operative agreements and legal opinions for the transaction prior to closing.

The preliminary rating is based on information known to KBRA at the time of this publication. Information received subsequent to this release could result in the assignment of a final rating that differs from the preliminary rating.

The rating report will follow.

[MSRB Publishes Compliance Advisory for Municipal Advisors + Webinar](#)

Just a few weeks ago, the Municipal Securities Rulemaking Board (MSRB) announced [new strategic goals](#) that include an organizational shift to assisting regulated entities with their compliance efforts. This goal prioritizes such initiatives as issuing regulatory guidance and advisories to support compliance with MSRB rules.

The MSRB is providing this [Compliance Advisory for Municipal Advisors](#) to aid municipal advisor firms with understanding recently implemented MSRB rules and identifying potential compliance risks. The advisory addresses applicable MSRB rules implemented since the publication of the MSRB's first compliance advisory for municipal advisors.

This updated advisory describes factors a municipal advisor firm should consider when evaluating the effectiveness of its compliance controls and the need to implement measures to mitigate its exposure to compliance risks. Proactively addressing compliance risks benefits municipal advisors, their municipal entity and obligated person clients and, ultimately, investors and public confidence in the municipal securities market.

[Register to attend a free educational webinar on compliance risks identified in this advisory on Thursday, August 3, 2017 at 3 p.m. ET.](#)

We look forward to your participation and feedback during the webinar and on an ongoing basis to

help ensure our future compliance resources are appropriately tailored and responsive to market needs. We plan to publish a compliance advisory for municipal securities dealers soon. The next annual Compliance Advisory for Municipal Advisors, as well as one for municipal securities dealers, will be published in early 2018.

For additional compliance resources, municipal advisors are encouraged to visit the MSRB's website (www.msrb.org).

[Moody's: Government Default Trend Is Expanding.](#)

There has been a trend certain hedge fund managers, many with a mathematical bent, have been aggressively following since the 2008 financial entanglements. The topic of how voters in a democracy react to tough decisions regarding government debt has been modeled to a wide degree, with fund managers having behind the scenes and in public discussions to address the issue. This one-time whisper topic is now trending to the point of the the unthinkable: the State of Illinois, as one example, might have their bonds downgraded to junk. Enter into this conversation a June 27 Moodys report on "US Bond Defaults and Recoveries" and the force of this Bond Default Rate trend becomes visible.

[Continue reading.](#)

ValueWalk

By Mark Melin on June 29, 2017 10:52 am

[Why Disclosure really Matters Now - The S.E.C. Enforcement Agenda.](#)

Jul. 26, 2017 | 12 PM ET/9 AM PT

Topics To be Discussed in the Webinar:

- What Are the Priorities of the Public Finance Abuse Unit?
- What Sanctions Can the S.E.C. Bring Against Issuers, Underwriters, Their Officers and Officials?
- Summary of Recent S.E.C. Enforcement Cases - What Patterns Can We Find?
- Recent Increases in Exposure of and Enforcement Against Public Officials.
- How Should An Official Respond if Contacted by the Public Finance Abuse Unit?

[Register Now](#)

Speakers:

Leeann Ghazil Gaunt

Chief, Public Finance Abuse Unit, Enforcement Division
Securities and Exchange Commission

Robert Feyer

Senior Counsel, Public Finance Group
Orrick, Herrington & Sutcliffe LLP

George Greer

Senior Counsel, White Collar, Securities Litigation and Investigations Group
Orrick, Herrington & Sutcliffe LLP

Alison Radecki

Partner, Public Finance Group
Orrick, Herrington & Sutcliffe LLP

[Reminder: GASB Review 2017](#)**Event Details****Start Date:** 7/13/2017 2:00 PM EST**End Date:** 7/13/2017 3:50 PM EST**Organization Name:** NASACT**Contact:** Pat HackneyEmail: phackney@nasact.org

Phone: (859) 276-1147

Overview - [Click here](#) for complete details

NASACT is pleased to announce the latest in its series of training events addressing timely issues in government accounting, auditing and financial management.

As fiscal year-end for most state governments quickly approaches and a new year begins, it's an opportune time for financial statement preparers and auditors to get a refresher on standards that will be effective for June 30, 2017, financial statements, as well as recently released GASB statements that will require attention in fiscal year 2018.

This webinar will provide "must know" guidance on previously-issued GASB statements that are effective for June 30, 2017 and 2018.

For 2017, these statements include:

- Statement 73—pensions not within the scope of 67/68
- Statement 74—OPEB (plans)
- Statement 77—tax abatement disclosures
- Statement 78—certain multiple-employer pension plans
- Statement 79—certain investment pools and participants
- Statement 80—blending requirements
- Statement 82—pension issues
- Implementation Guide 2016-1
- Statements effective for 2018 are:
- Statement 75—OPEB (employers)
- Statement 81—irrevocable split-interest agreements

Other recently issued GASB statements that will be covered include:

- Statement 83—certain asset retirement obligations
 - Statement 84—fiduciary activities
-

[2017 CDFA Wisconsin Financing Roundtable Webinar](#)

**August 16 , 2017
1:00 - 3:00 PM Central**

Overview

Join the CDFA Wisconsin Financing Roundtable for a special one-day Webinar. This event will feature a number of economic development finance experts from around the state discussing development finance tools, authorities, resources and approaches, and how these can affect the Wisconsin economy going forward.

To learn more, and to register, [click here](#).

[CDFA 2016 Volume Cap Report and Mid-Year Capital Markets Review.](#)

August 22, 2017 @ 1:00 PM Eastern

The 2016 Volume Cap Report has been released, and our expert panelists are ready to analyze CDFA's findings. Did the issuance of Industrial Development Bonds increase in 2016, or has this category's recent downward trend continued? How much unused allocation was carried-forward by states in 2016, and what factors influenced their decision-making? During this installment of the CDFA/BNY Mellon Development Finance Webcast Series, we'll take a mid-year look at the capital markets, consider the financing trends that volume cap data is showing us, and discuss what you can expect during the last months of 2017.

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

[Register.](#)

[Registration Opens for 2017 California Economic Summit.](#)

Registration for the 2017 California Economic Summit, to be held in San Diego on November 2-3, is now open.

The sixth annual statewide gathering of the state's largest public- and private-sector network will build on the progress made in workforce preparation, housing and community development, infrastructure and working landscapes.

[Read the 2017 Summit Agenda](#) and [register today](#).

Californians from all regions will join the Summit coalition to bolster economic security, middle-

wage jobs with a future, and sustainable communities. The 2017 Summit will seek to advance these ambitious themes:

- **Create a unifying triple-bottom-line vision** for increasing economic security and upward mobility
- **Expand the strength and diversity of the Summit network** to increase its influence on state and local policy decisions
- **Mature the Summit as a formal civic partner** with government to advance triple-bottom-line policies

The Summit's yearlong process has made steady progress along the [2017 Roadmap to Shared Prosperity](#), which was created through the contribution of hundreds of Californians and contains detailed plans to:

1. Improve the workforce pipeline so more Californians can develop the skills they need to earn livable wages
2. Increase the supply of housing near jobs and transit to reduce California's sky-high cost of living, redirect wages into local economies, and ensure more people in the state have a safe place to live
3. Expand regional water management to ensure all Californians live in healthy watersheds with reliable water supplies

We also know there are warning lights on the road ahead. The California Economic Summit is the premier venue for Californians from different regions and perspectives to craft solutions to the driving questions of our times:

California is leading on carbon reductions and has set some of the world's most ambitious climate goals. How can we also make sure we are restoring upward mobility and producing middle-wage jobs that allow workers to flourish in a low-carbon economy?

California is the epicenter of the tech revolution, but amidst the rise of the robots, many workers fear for their jobs. How do we prepare Californians to thrive in an automated workplace?

California has one of the world's largest, most dynamic and diverse economies. Faced with rising living costs and infrastructure challenges, how can California maintain a competitive advantage?

No one else is going to solve this problem for California. None are more capable of finding innovative answers. You can be part of the solution and register for the 2017 California Economic Summit today.

[Estimating Economic Damage from Climate Change in the United States.](#)

Global warming will intensify regional inequality in the United States, according to a revolutionary new economic assessment of the phenomenon.

Climate change will aggravate economic inequality in the United States, essentially transferring wealth from poor counties in the Southeast and the Midwest to well-off communities in the

Northeast and on the coasts, according to the most detailed economic assessment of the phenomenon ever conducted.

[The study](#), published Thursday in Science, simulates the costs of global warming in excruciating detail, modeling every day of weather in every U.S. county during the 21st century. It finds enormous disparities in how rising temperatures will affect American communities: Texas, Florida, and the Deep South will bleed income in the broiling heat, while some chillier northern states gain moderate benefits.

“We are really sure the South is going to get hammered,” says Solomon Hsiang, one of the authors of the paper and a professor of public policy at the University of California, Berkeley. “The South is really, really negatively affected by climate change, much more so than the North. That wasn’t something we were expecting going in.”

[Continue reading.](#)

THE ATLANTIC

ROBINSON MEYER JUN 29, 2017

[NASBO Fiscal Survey of the States.](#)

With data gathered from all 50 state budget offices, this semi-annual report provides a narrative analysis of the fiscal condition of the states and data summaries of state general fund revenues, expenditures, and balances. The spring edition details governors’ proposed budgets; the fall edition details enacted budgets.

Overview - Spring 2017

Governors’ budgets for fiscal 2018 are extra cautious as states contend with slow revenue growth, limited budget flexibility and substantial federal uncertainty.

Key findings from the report include:

- State general fund spending would increase just 1.0 percent compared to current estimated spending levels under governors’ fiscal 2018 budgets.
- States experienced sluggish general fund revenue growth in fiscal 2017 of 2.4 percent, with 33 states reporting collections below budget projections.
- At least 23 states have already made net mid-year budget cuts totaling \$4.9 billion in fiscal 2017.
- General fund revenues are projected to grow 3.1 percent in fiscal 2018 based on governors’ budgets.
- States continue to strengthen their reserves, despite slow revenue growth.
- General fund spending on Medicaid grew at an estimated median rate of 5.2 percent in fiscal 2017, with a median growth rate of 4.3 percent projected for fiscal 2018.
- States that expanded Medicaid expect to spend \$8.5 billion from state funds on expansion in fiscal 2018.
- Governors’ proposed tax and fee changes would result in a net increase of \$3.7 billion.

[View the Survey.](#)

National Association of State Budget Officers

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BLX/Orrick Post-Issuance Compliance Workshop.

WHO: 501(c)(3) Organizations and State and Local Government Issuers Who Utilize Tax-Exempt Financing

WHAT: A Comprehensive Overview of Post-Issuance Compliance - IRS Tax Law and SEC Continuing Disclosure

WHEN: November 9th and 10th, 2017

WHERE: Vdara Hotel & Spa | Las Vegas, Nevada

RECEIVE: CPE and CLE Credits

Reserve your place today at the 5th annual **BLX/Orrick Post-Issuance Compliance Workshop**. It's happening again in Las Vegas at the AAA Four Diamond Award winning Vdara Hotel and Spa at City Center.

PROGRAM DESCRIPTION AND AGENDA

This BLX/Orrick Workshop offers timely discussion of topics related to post-issuance compliance and tax law for the public finance and 501(c)(3) tax-exempt communities. With open forums allowing for attendee participation, BLX and Orrick professionals will lead the program and assist participants with identifying and calculating Private Business Use, best practices relating to Post-Issuance Compliance, and complying with IRS Schedule K reporting requirements.

[Click here](#) to learn more, and to register.

SEC Probes Bankers From Barclays, Morgan Stanley on Puerto Rico Bond Sales.

(Reuters) - The U.S. Securities and Exchange Commission may take action against bankers from Barclays Plc and Morgan Stanley for their roles in Puerto Rico bond sales, according to filings with the Financial Industry Regulatory Authority (FINRA).

According to records filed with FINRA, the SEC's staff has recommended the agency file an enforcement action against Barclays' Luis Alfaro and James Henn for alleged violation of fair dealing rules for their roles in the island's debt sales.

The SEC staff suggested that Henn, who has worked at Barclays since 2008, and Alfaro, who worked at First Bank Puerto Rico Securities before moving to Barclays in 2013, allegedly violated securities

and municipal bond rules on fraud, deception and misrepresentation during the sale of Puerto Rico bonds.

The SEC staff also suggested sanctioning Morgan Stanley's Charles Visconsi, the co-head of public finance, and his former colleague Jorge Irizarry, in connection with disclosures Puerto Rico made in documents circulated to investors, according to FINRA records.

Barclays, Morgan Stanley and the SEC were not immediately available for comment. Reuters could not obtain contact information for Alfaro, Henn and Visconsi.

Bloomberg earlier reported on the allegations on the bankers.

Puerto Rico's financial oversight board said on Wednesday that it was still in debt restructuring talks with creditors of the island's power utility, PREPA, a day after rejecting a proposed deal to restructure \$9 billion of the utility's bonds.

By REUTERS

JUNE 28, 2017, 9:33 P.M. E.D.T.

(Reporting by Parikshit Mishra in Bengaluru and Lisa Lambert in Washington; Additional reporting by Kanishka Singh in Bengaluru; Editing by Andrew Hay and Leslie Adler)

[State-by-State Coverage and Government Spending Implications of the Better Care Reconciliation Act.](#)

Abstract

The Better Care Reconciliation Act (BCRA) was introduced in the Senate on June 22, 2017, and is now under debate. The bill would eliminate much of the Affordable Care Act. In this report, we present state-by-state estimates of the impact of the BCRA on health care coverage and costs. Nationwide, we find that there would be 24.7 million more uninsured people under the BCRA by 2022. Federal funding for Medicaid, premium tax credits, and cost sharing reductions would be \$140.4 billion lower under the BCRA in 2022, while state Medicaid spending would increase by \$565 million.

[Click here to view map of projected changes in uninsured rate under BCRA](#)

[Click here to view map of projected changes in federal health care spending under BCRA](#)

[Click here to download tables with state-by-state data by adults, children, race, and ethnicity](#)

The Urban Institute

by Linda J. Blumberg, Matthew Buettgens, John Holahan, Bowen Garrett, & Robin Wang

June 28, 2017

[New House FAA Bill Text Released; Good News for County Priorities.](#)

FAA reauthorization bill increases Essential Air Service funding, topping out at \$350 million

House Transportation and Infrastructure Committee Chairman Bill Shuster (R-Pa.) introduced his much-anticipated FAA reauthorization bill June 21. With the current one-year extension expiring on Sept. 30, this new bill would last for six years, providing more long-term certainty regarding aviation policy. While the national headlines may gravitate to the intention of privatizing air-traffic control, there are several provisions included in the bill that are positive for county governments.

Chairman Shuster's bill, the 21st Century Aviation Innovation, Reform and Reauthorization Act (21st Century AIRR Act) will be brought before the House transportation committee this week for a markup with the hopes of a full floor vote when Congress returns from the July 4 recess. The Senate will soon introduce its own version of a long-term FAA bill in the coming days as well.

The bill contains several key features for counties. The Essential Air Service (EAS) program, which supports commercial flights for the nation's most rural communities, would see increased funding each year throughout the bill's lifetime. In fact, the final year of the authorization would fund EAS at \$350 million, almost double the current funding level.

This vital program to connect the nation's most rural communities with larger transportation hubs will ensure continued travel options for county residents as well as key opportunities for economic development. In his budget blueprint earlier this month, President Trump had advocated for the program's elimination.

Also included in the bill is language that acknowledges NACo's call for greater local government involvement in the development and implementation of policy regarding unmanned aerial systems, or drones, within their boundaries. The bill mandates that recommendations for local government roles and responsibilities be addressed specifically through the Drone Advisory Committee's (DAC) Task Group on Roles and Responsibilities (TG1).

NACo is the only local government group with representation both on the DAC and TG1. This will make NACo a primary voice as these federally-formed groups continue their work to develop an appropriate framework for local government involvement and successful UAS implementation.

Another NACo priority, the Airport Improvement Program (AIP), a key grant mechanism to assist airports in starting new projects, would see an increase in the 21st Century AIRR Act. Funding levels under the bill would increase each year through 2023, in total raising AIP funding from the current level of \$3.35 billion to slightly more than \$3.8 billion, which amounts to a \$467 million increase.

With committee markup scheduled for this week, amendments to the bill may be made in hopes of patching together enough support to pass the full House. NACo will continue to advocate for county priorities, including raising the Passenger Facilities Charge (which remained unchanged), which has not been increased since 2000. Currently capped at \$4.50, an increase in this ticket fee would allow all airports to address their infrastructure needs in a timelier manner.

Other provisions in the bill address passenger rights, including banning airlines from bumping a passenger once they have boarded the airplane— a direct result of the United Airlines incident earlier this year — to new requirements to provide space for mothers to nurse at medium and large-sized airports. Additionally, commercial airlines will now be required by law to notify the public of

any system-wide power outages, which have caused substantial delays for passengers over the past few years.

The future of the bill, though, remains uncertain, primarily due to the inclusion of language that would privatize the air traffic control system. Some fear the measure could see a repeat of last year, where the insistence on privatizing air-traffic control as part of the bill resulted in time running out on the congressional calendar, forcing the one-year extension that is now in place.

Currently there is both support and opposition on both sides of the aisle, and given the potential for debate over privatization and other provisions of the bill, it is unclear how quickly the legislation will be able to proceed.

National Association of Counties

Jun. 26, 2017

by Kevan Stone

Associate Legislative Director - Transportation

Kevan Stone serves as NACo's Associate Legislative Director for Transportation and Infrastructure. He is responsible for all policy development and advocacy pertaining to the county role in ownership and maintenance of roads, bridges, airports and other important infrastructure.

[NACo's Analysis of Senate Health Proposal: Massive Costs for Counties.](#)

On June 22, 2017 Senate Republicans released a 142-page discussion draft of their health overhaul bill, the "Better Care Reconciliation Act (BCRA) of 2017." It builds off H.R. 1628, the "American Health Care Act (AHCA)," which the U.S. House of Representatives passed on May 4 after multiple attempts. The legislation, originally intended to repeal and replace the Affordable Care Act (ACA), makes major changes to the nation's health care system.

The National Association of Counties (NACo) opposes the "Better Care Reconciliation Act" because it would:

- Adversely alter the federal-state-local partnership for Medicaid
- Significantly shifts costs to county taxpayers, and
- Negatively impact counties as health providers, payors, administrators and employers.

[Continue reading.](#)

NATIONAL ASSOCIATION OF COUNTIES

By BRIAN BOWDEN Jun. 23, 2017

[Ratings Firms Warn Albany Over Tax Extenders.](#)

Lawmakers fail to approve routine measure tied to legislation over mayoral control of New

York City

Albany lawmakers failed to approve a series of tax extenders tied to an elusive agreement over mayoral control of public schools, leading to stern warnings from the three major credit-ratings firms.

Fitch Ratings, S&P Global Ratings and Moody's Investors Service said Albany lawmakers had failed to approve a routine measure allowing New York City to levy personal income taxes, a critical source of revenue. That tax extender went unapproved when lawmakers linked it to deadlocked legislation extending mayoral control of New York City schools.

The legislature also failed to pass measures affecting tax revenues in 53 counties and three other cities outside New York City.

New York Gov. Andrew Cuomo has summoned Albany lawmakers back to session to reach a deal on mayoral control. The ratings firms said they expected the tax extenders would eventually be approved before they were allowed to sunset in November and December. But they said any lapse of the extenders could have a severe impact on local governments.

If the measure allowing New York City to levy personal income tax isn't approved by Dec. 31, when it expires, the city could lose \$2.9 billion in personal income tax revenue, Fitch said, leading to an immediate budget gap. Moody's said Tuesday the city's personal income tax revenue would decline by more than 60%.

Fitch said a lapse could also ultimately affect credit ratings for New York City municipal bonds, and those of several other cities across the state secured by personal income taxes.

"Fitch expects the extensions to ultimately be extended before they expire, but Fitch will take any rating actions it deems appropriate if this expectation is not met," the ratings firm said June 23.

On Tuesday, S&P said it estimated revenues for the Transitional Finance Authority, which funds the city's capital projects, could decrease by 15% in fiscal year 2018 if the tax extender is allowed to lapse. Fiscal year 2018 begins July 1 and ends June 30 of next year.

Maria Doulis, a vice president of the Citizens Budget Commission, a nonpartisan watchdog group, said it was unfathomable Mr. Cuomo and lawmakers would allow the series of tax extenders to lapse.

"The personal income tax is so essential to New York City and to funding its operations that there is no way this won't be renewed," Ms. Doulis said. "We're not terribly worried about it. We think it will be in whatever deal they come up with on mayoral control."

But Dick Dadey, executive director of the Citizens Union, a good-government group, said it was "extraordinarily irresponsible" for Albany lawmakers to use local taxing authority to gain political leverage.

"It's these kind of shenanigans the legislature and governor are able to participate in that puts the health at the state's economy at risk," Mr. Dadey said. "It just shows how brazen our elected officials have become in thinking they can play with taxpayer dollars."

The Wall Street Journal

By Mara Gay

June 27, 2017 4:01 p.m. ET

Write to Mara Gay at mara.gay@wsj.com

[Municipal Debt Lures Yield-Hungry Investors in Second Quarter.](#)

Bond inflows this year show that investors view public debt as a safe way to make money

For evidence of investors' appetite for municipal debt, look no further than New Jersey.

That is where delays have plagued the planned megamall American Dream for more than a decade. Nevertheless, investors last month flooded into unrated public authority bonds designed to revive the 2.9 million-square-foot project.

The \$1.1 billion offering, which promised returns of as much as 6.86%, is a sign of how hungry investors are for new municipal debt despite mounting fiscal problems in some cities and states around the country.

Buyers have snapped up nearly \$88 billion in new public bonds this year through Friday, up 8% from the same period last year, according to Thomson Reuters. That happened as annual borrowing by local governments rose to a seven-year high.

It also comes as ratings firms have downgraded Illinois and Hartford, Conn., to the brink of junk status, and the troubled U.S. territory of Puerto Rico was placed under court protection as a way of sorting through its mountain of liabilities.

"The market is able to take these individual events in stride," said John Miller, co-head of global fixed income at Nuveen Asset Management.

The demand for new bonds is driving down costs for government borrowers and making existing debt more expensive for investors. The S&P Municipal Bond Index gained 3.25% year to date through Friday.

One high performer was a bond issued by the Harris County Sports Authority to refinance Houston's NRG Stadium. It returned 20.7% during the second quarter through Thursday, according to bondholder Nuveen Asset Management.

The same authority struggled during the latest recession with soured debt deals, a cash crunch and ratings downgrades. But it has now been able to set aside enough money to repay the bonds, making them more valuable.

Many investors still view public debt as a relatively safe way to make money because municipal defaults are rare and states aren't allowed to seek bankruptcy protection. But some observers say they see greater potential for losses as public expenses rise.

"Risk in the municipal market is building," said Matt Fabian, a partner at Municipal Market Analytics, in a recent note.

The performance of the municipal-debt market in 2017 is a surprise to many observers, who expected a pullback following the election of President Donald Trump. The S&P Municipal Bond Index fell 3.46% last November largely because of expectations that tax cuts and higher inflation

would reduce the value of tax-exempt debt, analysts said.

About \$27 billion flowed out of municipal-bond mutual funds and exchange-traded funds during the last two months of 2016, according to the Investment Company Institute.

But those outflows reversed at the start of 2017 as tax cuts and higher inflation looked less likely in the near term. Inflows have totaled \$15 billion so far in this year. Lower inflation expectations typically give investors confidence that the debt will retain its value.

“People got more comfortable with the fact that tax reform is not going to happen anytime soon,” said Triet Nguyen, a managing director at New York-based NewOak Capital, a research and advisory firm.

A drop in municipal-bond refinancing combined with an increase in debt coming due during 2017 have also driven up bond prices as investors look for ways to use their cash, analysts said.

“Despite the Illinois and Connecticut headlines, munis have performed just fine,” added J.R. Rieger, managing director of Fixed Income Index Product Management at S&P Dow Jones Indices, LLC.

The Wall Street Journal

By Heather Gillers

July 1, 2017 7:00 a.m. ET

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

[Chicago Schools to Pay Hefty 6.41 Percent Rate on Second Note Tranche.](#)

CHICAGO — The Chicago Public Schools finalized the second and last part of a short-term loan, placing \$112 million of notes with J.P. Morgan at a huge initial interest rate of 6.41 percent, the cash-strapped district reported on Monday.

The rate on the grant anticipation notes is even higher than the 6.39 percent initial rate on \$275 million of similar variable-rate notes CPS placed with the bank earlier this month. All of the notes mature on March 30, 2018.

By contrast, top-rated debt due next March was yielding just 0.92 percent on Municipal Market Data’s short-term debt scale on Monday, indicating the junk-rated district is paying a big penalty due to its financial woes.

The Chicago Board of Education approved the note sale last month as a way to avoid ending the current school year early and to help make a \$721 million pension payment due to its teachers’ retirement system on Friday, the end of the district’s fiscal year.

Escalating pension payments have led to drained reserves, debt dependency and junk bond ratings for the nation’s third-largest public school system.

The notes are backed by delayed grant funding owed the district by the state of Illinois, which is struggling through a second-straight fiscal year without a complete budget. As a result, the state has been forced to delay payments to vendors and others, ballooning its unpaid bill pile to about \$15

billion.

“Governor (Bruce) Rauner’s total failure to fully fund education in a timely way means that hundreds of districts around the state including Chicago are scrambling to make up for the state’s funding shortfall,” CPS spokeswoman Emily Bittner said in a statement.

The Republican governor’s veto of a bill giving CPS \$215 million in one-time state money to help make its pension payment punched a hole in the district’s \$5.41 billion fiscal 2017 budget. The hole grew bigger with delayed state grants, totaling about \$467 million to cover items such as transportation and special education. The initial rates on the notes will expire next week and will be reset monthly at 70 percent of the LIBOR rate plus 550 basis points.

By REUTERS

JUNE 26, 2017, 6:21 P.M. E.D.T.

(Reporting by Karen Pierog; Editing by Matthew Lewis)

[Chicago Mayor Proposes City Ordinance to Boost Pension Funding.](#)

CHICAGO — Chicago Mayor Rahm Emanuel on Wednesday proposed an ordinance that would lock in higher city payments to two pension funds after state legislation to do so became mired in Illinois’ political stalemate.

The ordinance would put payments for the city’s municipal and laborers’ pensions on a five-year ramp to reach actuarial levels that would make the retirement systems 90 percent funded by the end of 2058. The city has already put into place a tax on water and sewer usage and a telephone surcharge to fund the higher payments.

Without the additional money, the two pension funds would become insolvent within 10 years.

The mayor told reporters he decided to seek city action on pension payments to send a positive signal to credit ratings agencies and to ease city workers’ possible concerns about their retirement security.

Emanuel said using this “home-rule” option offers a way to address the city’s pension problem given opposition from Governor Bruce Rauner.

“We are taking steps to wall ourselves economically and financially and fiscally off from Springfield – and specifically Governor Rauner’s chaos,” he said, referring to the state capital.

The Republican governor vetoed a bill in March that would have mandated the payment plan in state law, saying it would lead to a city tax hike and that a fix for Chicago needed to be part of broader, statewide pension funding changes. Those cost-saving changes are a factor in Illinois’ ongoing political impasse that has left the state without a complete budget for two years.

A second identical bill for Chicago was subsequently passed by the Democratic-controlled legislature but has not been sent to Rauner.

Molly Poppe, a city spokeswoman, said the mayor still wants to codify the payment plan in Illinois law, and needs the state to enact a bill requiring higher pension contributions from some employees.

Credit ratings for the nation's third-largest city have tumbled into the low investment grade to junk levels due largely to an unfunded pension liability that stood at \$33.8 billion at the end of fiscal 2015 for its four retirement systems.

S&P Global Ratings, which rates Chicago BBB-plus, earlier this year called pension funding "critical" to the city's budget stability and said a delay in boosting pension contributions could lead to a downgrade.

By REUTERS

JUNE 28, 2017, 4:42 P.M. E.D.T.

(Editing by Matthew Lewis)

[New Jersey Government Shuts Down Over Budget Standoff.](#)

Kim Fetsko sat on the border of Island Beach State Park in New Jersey as a park ranger patrolled the coastline on Saturday. State lawmakers and Gov. Chris Christie were unable to agree on a budget, forcing the closure of state-run parks and beaches. Credit Tom Brenner for The New York Times

The New Jersey state government was forced to shut down at midnight on Friday, as the State Legislature remained locked in a standoff with Gov. Chris Christie that left them unable to agree on a budget plan.

The most immediate effect of the shutdown will be on those headed to state-run parks and beaches for the holiday weekend. Mr. Christie's office indicated that those parks and beaches would be closed, although their municipal counterparts will remain open.

Mr. Christie declared a state of emergency and called for a special session of the Legislature for 11 a.m. Saturday. Essential government services were to continue operating.

Mr. Christie is demanding that the \$34.7 billion budget negotiated by the Legislature, which is controlled by the Democrats, include a provision requiring that Horizon Blue Cross Blue Shield spend some of its reserve fund on public health initiatives — particularly his drug treatment initiative. Without that provision, Mr. Christie, a Republican, has threatened to veto any budget that lawmakers send him.

The Democrat-controlled State Senate had passed a form of the legislation Mr. Christie is demanding, but Vincent Prieto, a Democrat and the speaker of the State Assembly, said on Friday that he would "absolutely not" pass the Horizon bill.

In a news conference late Friday afternoon, Mr. Christie, who has six months left in office, tried to shift the blame to the Legislature.

"I'm upset because this will inconvenience the people of New Jersey," Governor Christie said on Friday. Credit Michael Catalini/Associated Press

"I'm upset because this will inconvenience the people of New Jersey," he said. "That's the only reason I'm upset. Otherwise, legacy, all that other stuff, please. There will be a long list of things pro and con on my legacy."

The government shutdown is the first in New Jersey in more than a decade, and it came as many in the state were heading to the Jersey Shore and its many state parks to celebrate Independence Day. The state's casinos and racetracks will remain open, however, because of a law passed after a shutdown in 2006.

While the state will continue to provide emergency services and other functions that are deemed essential, it was less clear throughout Friday how other agencies would operate during the shutdown. The governor's office sent a letter at midnight on Friday detailing which agencies would be closed and to what extent government operations would continue.

In addition to the closing of state parks and beaches, all public events within parks and historic sites would be canceled. Some rest stops and travel and tourism centers would be closed, as well as many administrative offices in major state agencies, from the Motor Vehicle Commission to the Department of the Treasury.

During the day on Friday, the state offered no guidance to anyone traveling to the parks and beaches, and calls by reporters to the relevant agencies went unreturned. Many settling in for the holiday weekend were left anxious, angry and in limbo.

Just before midnight, the Ocean County Sheriff's Office announced that Island Beach State Park would be closed on Saturday because of the shutdown.

Earlier Friday, Sue Deck said that she, her husband and two children had come to the park in their R.V. and had planned to fish through the holiday weekend.

They were not pleased about the possibility of having to cut their trip short, she said.

"We will not be very happy, to put it nicely," said Ms. Deck, 50, of Jackson, N.J., who added that the outing is a weekend ritual for her family. "This is our spot."

Her sentiment was echoed by other beachgoers who flocked to the park to swim, sunbathe, fish and, in the case of Wayne Morley, photograph birds. Mr. Morley, a 74-year-old retired schoolteacher from West Creek, N.J., hiked three miles for a glimpse of a rare piping plover on Friday morning.

"It would be a huge hit to the state park system," he said of a shutdown. "A real problem."

Robert Hanley, 69, a retired dock builder, vented his anger at state politicians as he let air out of his pickup truck's tires to better drive to his favorite fishing spot across the soft sand.

"I've been coming here for 18 years. I love it; it's the best place in New Jersey," he said. "If I can't come here maybe I should go down to the governor's mansion. I want to go down and find Christie and find where he's spending his weekend."

THE NEW YORK TIMES

By NICK CORASANITI

JUNE 30, 2017

[New MSRB Compliance Advisory Helps Municipal Advisors with Identifying Potential Compliance Risks.](#)

[Read the Advisory.](#)

[Cadwalader Lawyers Say That Financial CHOICE Act Might Alter SEC Enforcement Strategies And Procedures.](#)

In a recent [memorandum](#), Cadwalader attorneys Jason Halper, Jodi Avergun, Joe Moreno, Lex Urban, Kendra Wharton and Aaron Buchman posited that the [“Financial CHOICE Act of 2017”](#) (the “CHOICE Act”) could alter SEC enforcement strategies and procedures significantly. The CHOICE Act would make several changes to the current SEC practice of using in-house administrative proceedings rather than federal district courts for enforcement actions. The CHOICE Act would, among other things, (i) reform investigations by (a) establishing an “Enforcement Ombudsman,” (b) revising Wells notice procedures and (c) imposing further requirements for pre-enforcement analyses and evaluations, (ii) give respondents the choice between terminating SEC administrative proceedings and forcing the SEC to pursue action in federal court, or continuing administrative proceedings with the benefit of a higher “clear and convincing” burden of proof, (iii) strip Administrative Law Judges of the authority to issue barring orders, and (iv) require the SEC to announce and adopt any legal theory it would pursue through full notice-and-comment rulemaking before imposing that theory through an enforcement action.

Last Updated: June 22 2017

Cadwalader, Wickersham & Taft LLP

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

[Commentary: Remodeling the Rule Book.](#)

In our fast-moving society, yesterday’s exciting innovations are today’s antiquated has-beens. Every industry faces pressures to evolve in response to a rapidly changing political, economic and technological environment. Our brand-new smartphones become relics days out of the box, our state-of-the-art kitchens look dated within the decade, and yes, our long-standing regulations can risk hindering rather than advancing the fairness and efficiency of the municipal securities market.

But when it’s time to remodel the kitchen, step back before swinging a sledgehammer. While some features are destined for the scrap heap, others stand the test of time and deserve preservation. The Municipal Securities Rulemaking Board (MSRB) takes a methodical, participatory approach to keeping its regulations for municipal securities dealers and municipal advisors up-to-date.

One of the major advantages of the MSRB’s structure as a self-regulatory organization is having experienced cooks in the regulatory kitchen. The MSRB’s regulatory activities are informed by the insight of participants in the municipal securities marketplace who serve on the Board of Directors. An incoming class of new members joins the Board each year, ensuring that the MSRB receives

fresh input on the practical realities of its rules from professionals who embody the diverse perspectives and activities of broker-dealers, banks, municipal advisors, municipal bond issuers, investors and others. Board member input is one of the most important ways the MSRB considers, on an ongoing basis, the need for review of certain industry practices or changes to existing rules.

When the MSRB identifies the need to further draw on the expertise and perspectives of market participants, it rallies a “kitchen cabinet” in the form of ad hoc advisory boards or committees to advise on topics of market interest. For example, the MSRB has convened an Investor Advisory Group to ensure our investor protection proposals, such as potential changes to MSRB rules on primary offering practices, are informed at the earliest point of consideration by input from investors in municipal bonds.

For kitchen remodelers, construction plans must be vetted by everyone who will use the revamped space. So too with the MSRB’s plans to update or modernize its existing rules. The MSRB may issue a concept release to solicit insight from market participants and other interested parties on the underlying issue, including possible alternatives to rulemaking. If rulemaking is pursued, the MSRB generally publishes a request for comment so that the public and regulated entities can provide input on the proposed rulemaking. The MSRB’s policy on the use of economic analysis in rulemaking ensures that available data and information on any anticipated burdens of implementation are considered at the earliest stage of the rulemaking process.

It is the policy of the MSRB to regularly consider and evaluate its rules retrospectively and propose amendments as appropriate and consistent with the public interest. As anyone who has tackled a kitchen remodel can attest, these projects can impact the rest of the house. Taking a hard look at a specific regulation in the MSRB’s rule book of roughly 45 standard-setting rules inevitably prompts consideration of other related rules. MSRB rules are helpfully categorized by their intent to foster fair practice, uniform practice, market transparency, professional qualification or operational standards. When one rule within a category is identified as in need of updating, other rules within that category also receive scrutiny. To further support retrospective rule review, the MSRB solicits public input on the entirety of its rule book and body of interpretive guidance, as it did in December 2012.

The MSRB does not close the door to input and conversation once updates to its regulations are adopted. Rather, we conduct extensive outreach to municipal securities dealers, municipal advisors, municipal entities, investors and fellow regulators on a regular basis to solicit feedback that informs the MSRB’s policy initiatives. MSRB Board members and staff frequently participate in industry events around the country and engage regularly with industry trade associations, issuer associations, investor representatives and other stakeholders. The MSRB’s outreach initiatives often lead to the development of interpretive guidance or compliance resources that help facilitate understanding of MSRB rules as they evolve.

Market feedback received throughout the year is synthesized and incorporated into the MSRB’s formal strategic and operating planning processes. Periodically, the Board meets in a dedicated strategy session to review the MSRB’s strategic direction and goals, which it did most recently in January 2017. These planning sessions are also informed by market conditions and relevant priorities of policymakers. The MSRB’s strategic goals guide the development of the annual operating plans that prioritize activities the MSRB will undertake in any given year to best serve its mission. This process includes identifying MSRB rules that are candidates for amendment, consolidation, streamlining or deletion in the interest of achieving greater efficiency, effectiveness or alignment with current behaviors and conditions in the municipal market. For example, the MSRB last year made two sets of amendments to its uniform practice rules, to modernize close-out procedures for municipal securities and to pave the way for the industry-wide transition to a two-day

settlement cycle.

The MSRB recognizes that to be effective and best fulfill its mission, its rules must be responsive to changes in the municipal securities market and broader landscape. Our self-regulatory structure, participatory processes and commitment to stakeholder engagement support the MSRB's ongoing efforts to create and maintain efficient and effective municipal market regulations. The MSRB welcomes industry and public feedback and pledges our continued focus on rule maintenance and modernization.

by Lynnette Kelly

June 26 2017, 10:16am EDT

The Bond Buyer

[Moody's Places 6 Local Government Obligors On Review, Direction Uncertain.](#)

New York, June 26, 2017 — Moody's Investors Service has placed the ratings of six local government obligors on review with direction uncertain, affecting approximately \$644.6 million of outstanding debt.

RATING RATIONALE

The review is prompted by the lack of sufficient, current financial information. If the information is not received over the next 30 days, we will take appropriate rating action which could include the withdrawal or lowering of the ratings.

Indianapolis Public Schools, IN

Yellow Springs Exempted Village S.D. OH

Waynesfield-Goshen Local School District, OH

Van Buren Local School District, OH

Arcanum-Butler Local School District, OH

Williston Public School District 1, ND

The following debt is being placed on review: Indianapolis Public Schools, IN's enhanced ratings on Series 2009A, 2009C, 2010C, 2010D and the lease underlying ratings on Series 2010C and 2010D. The general obligation ratings of Arcanum-Butler Local School District, OH's 2008 bonds, Van Buren Local School District, OH's Series 2001 and 2010 bonds, Waynesfield-Goshen Local School District, OH's Series 2013 bonds, Williston Public School District 1, ND's Series 2011, 2014, 2015A, 2015C and 2016A bonds and Yellow Springs Exempted Village School District, OH's Series 2011 bonds.

METHODOLOGY

The principal methodology used in the general obligation rating was US Local Government General Obligation Debt published in December 2016. The principal methodology used in the lease rating was Lease, Appropriation, Moral Obligation and Comparable Debt of US State and Local

Governments published in July 2016. The principal methodology used in the enhanced rating was State Aid Intercept Programs and Financings: Pre and Post Default published in July 2013. Please see the Rating Methodologies page on www.moodys.com for a copy of these methodologies.

REGULATORY DISCLOSURES

For ratings issued on a program, series or category/class of debt, this announcement provides certain regulatory disclosures in relation to each rating of a subsequently issued bond or note of the same series or category/class of debt or pursuant to a program for which the ratings are derived exclusively from existing ratings in accordance with Moody's rating practices. For ratings issued on a support provider, this announcement provides certain regulatory disclosures in relation to the credit rating action on the support provider and in relation to each particular credit rating action for securities that derive their credit ratings from the support provider's credit rating. For provisional ratings, this announcement provides certain regulatory disclosures in relation to the provisional rating assigned, and in relation to a definitive rating that may be assigned subsequent to the final issuance of the debt, in each case where the transaction structure and terms have not changed prior to the assignment of the definitive rating in a manner that would have affected the rating. For further information please see the ratings tab on the issuer/entity page for the respective issuer on www.moodys.com.

Regulatory disclosures contained in this press release apply to the credit rating and, if applicable, the related rating outlook or rating review.

Please see www.moodys.com for any updates on changes to the lead rating analyst and to the Moody's legal entity that has issued the rating.

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Michigan's Robust Municipal Finance Model.

Taxpayer protections don't stop revenue growth

(Editor's Note: The following is a modified version of a presentation given by James Hohman, assistant director of fiscal policy, as part of a debate hosted by the Midland Chamber of Commerce on June 19, 2017.)

So there are some things that I think the [Michigan Municipal League] and I are going to agree on. For instance, that unfunded liabilities for pension benefits and retiree health care are a huge cost driver for local governments. But we are not here to talk about the things we agree on but instead the things that we disagree on. So I am going to talk about our remarkably robust municipal finance system, while I assume that Anthony [Minghine] is going to talk about the broken municipal finance system.

In building the case for my opinion, I'll emphasize one point most of all: From 2000 to 2007, Michigan went through a one-state recession. Michigan was down one out of every 11 jobs.

Then the rest of the nation joined us for the prolonged Great Recession. At the worst of it, Michigan had just one-third of the auto jobs that existed in 2000. Of course, not everything else in Michigan was as bad as that. Michigan didn't lose two-thirds of its GDP. Nominal GDP was flat from 2000 to 2009, real GDP was down 13 percent, by far the worst in the country.

This meant major changes to government as well. State revenue was down 2 percent from 2000 to 2009. Now, that has to be taken with a grain of salt since lawmakers did a lot of spending outside of the budget. They ramped up refundable tax credit programs over that period, for instance, which lowers the total revenue available to spend in the budget.

Yet even with that, property tax revenue — the largest source of revenue for local governments — increased. While everything else was going down in Michigan, the state was still participating in the housing boom. That was in a much more muted way, but still an increase. Property tax revenues increased from \$9.5 billion in 2001 to \$14.1 billion in 2009, a 49 percent increase at a time when few other things were growing as much. Local governments only get a share of that, of course, but it's a share of a growing pie.

So it's not surprising that the discretionary payments that the state makes to local governments is down. The state's total revenue sharing payments to local governments declined from \$1.6 billion to \$1 billion over the period. Note that the decline is far less than the \$1.9 billion increase in city, village, township and county property tax growth over that period.

It was the same for the money that the state gives to state universities. The state was struggling and schools were not. The schools would be fine with fewer dollars — they'd just have to have to raise tuition more than otherwise. Hence, real cuts to state universities.

(And it was not as if the state even had the money to keep tuition from increasing if it wanted to, given the ever-inflating costs of higher education. But that's a lecture for another day.)

Now things are different. Michigan is rebounding. It's attracting people back to the labor force.

Wages, personal income and production are all up.

That's meant more money in the state budget and more money going to local governments. Revenue sharing increased from \$1 billion to \$1.2 billion.

State payments to local governments went beyond that. As part of the personal property tax package approved by voters in 2013, local governments are being reimbursed for the money they lose out on new exemptions. But the amounts approved in the bills over-reimburse governments, this year to the tune of \$135 million.

Plus, there's been more money for local roads and road commissions. The 2015 road package ramps that up another \$700 million over time.

There is one lagging piece in the recovery: construction. Housing construction fell from roughly 4,500 units per month in 2004 to around 1,000 units per month from 2009 to 2012. And it's been a slow recovery. We're around 2,000 now and there is upward trend.

This is very important for local governments. New construction is exempt from Headlee calculations, which automatically lowers property tax mill rates when property values grow without approval of an overriding vote. The exemption of new construction is one of the reasons why local property taxes increased faster than inflation.

And it's the reason that total property taxes are not back to their peaks. They are up from their troughs, though even with newer property tax exemptions. And perhaps this growth will continue.

So with these two general purpose spending sources — the larger property tax sources and the smaller revenue sharing — here's what's happened over the past 16 years. It's kept up with inflation at a time when few things did before the recession, even as the state cut revenue sharing.

During the Great Recession, there was a reduction in local government revenue of 6 percent. Since then, it's increased above the inflation rate.

Here's my takeaway about our revenue system. It's been remarkably robust through a historic change in the state economy. And it's rebounding.

It's unreasonable to expect that the taxpayer financing of our local governments should continue to increase regardless of the state of the taxpayers that support them. And during a time when there have been profound economic changes, our local governments have been remarkably protected.

I wanted to comment on a couple of the proposed policy changes. In the past, and I presume today, our friends at the Michigan Municipal League have recommended two things: give more state taxpayer money to local government and loosen constitutional restrictions.

As to revenue sharing, we are giving more of it in addition to other assistance.

But let's talk about this further. If our friends at the MML are interested in making the case for more, they ought to say how much, what residents will get out of it, and where it will come from. There aren't too many options for where it will come from — either from ongoing growth, from somewhere in the budget specifically, or from a specific increase in taxes.

I would also question some of the necessity. There are some important declines in government service cost drivers. Violent and property crime is down 30 percent from 2007 to 2015, according to data from the state police. In 2006, local agencies reported 35,000 fires. That was down to 22,000

fires in 2016. Those are impressive improvements in public safety, and ought to provide some very positive fiscal effects on local governments.

The next recommendation that has been made is a request to loosen constitutional taxpayer protections from the 1978 Headlee Amendment and the 1994 Proposal A.

There are two limitations on local government provided by the Headlee Amendment: when a community's tax base is broadened through property value growth above inflation, tax millage rates get automatically rolled back. This prevented what was considered unfair and unpopular increases in the burden of government. But even this limitation still allows for above-inflation growth since new construction is exempt. Officials can also call for voters to approve overriding the automatic rollbacks. The other limitation is to require new millages to be voted upon. But both ensure that local tax policy carries direct popular support. And you should want your residents to directly support your tax policies. If you don't, then we have to have a much different discussion about democracy in municipal government.

Proposal A prevents individual property assessments from increasing faster than inflation. This protects people on fixed incomes from being taxed out of their homes if their neighborhood takes off. But it also provides some general tax protections to individual homeowners that I imagine are both popular and preferred. While we hope that our homes increase in value over time, it's rarely something that is in our direct control and people probably don't want to be penalized much for it.

I think there are some ways that we can ensure that local governments have the resources to provide important services to residents. But I think the revenue side of the equation has been remarkably robust, while there are glaring improvements that need to be made on the spending side.

Mackinac Center for Public Policy

James M. Hohman on June 27, 2017 at 12:00pm

[Garcia Proposes Restricting Campaign Donations to County Assessor.](#)

Cook County Commissioner Jesus "Chuy" Garcia filed an ordinance Thursday that would bar attorneys, law firms and other businesses that file property tax assessment appeals from contributing to the political campaigns of the county assessor.

He will introduce the measure when the board meets on July 19. The same day, Berrios is scheduled to appear before the full board during a meeting of the finance committee, where he'll testify about assessments produced by his office.

Garcia, a former Chicago mayoral candidate, was among the first commissioners to push a resolution last week calling on Berrios to testify in the wake of the Tribune series "The Tax Divide." The investigation documented deep flaws in assessments under Berrios that punished the poor while giving wealthy homeowners financial breaks.

The new measure, Garcia said, stems from findings in the series that revealed a steep increase in property tax appeals at a time when the bulk of campaign contributions Berrios collected came from property tax attorneys or other businesses involved in the appeals industry. As part of a collaboration with the University of Chicago's Municipal Finance Center, the Tribune found that

residential appeals make an already unequal system more unfair.

“The series the Tribune published in collaboration with other experts, including the University of Chicago, has raised many questions about the system,” Garcia told the Tribune. “I’ve been getting calls and questions from my constituents who appear to have been impacted. Just reading about how much money has been raised, it’s begging for answers. That’s why we’re looking forward to the assessor’s appearance.”

Garcia represents and lives in Little Village, a neighborhood where homes were routinely overvalued by the assessor, according to a Tribune analysis of more than 100 million property tax records. More affluent neighborhoods, meanwhile, were undervalued.

Known as regressivity, these types of disparities in the assessments led to inequities in property tax bills. That finding was documented by the Tribune’s analysis as well as the U. of C. study on appeals done in conjunction with the newspaper.

The county assessor has long been a relatively low-profile elected position. But among insiders, it is considered one of the most powerful political offices in the state, affecting the interests of real estate developers, law firms and wealthy individuals.

The ordinance limiting contributions to the assessor is among a growing list of headaches for Berrios, who is also the Cook County Democratic Party chairman.

State Sen. Daniel Biss, D-Evanston, a candidate for governor, also wants limits on contributions to local assessors from tax attorneys who appeal assessments as well as other changes to the state’s property tax system.

And, last week, the Tribune learned that the inspector general for Cook County has begun investigating issues raised in the Tribune’s series.

Berrios and Cook County Board President Toni Preckwinkle, also a Democrat, have agreed to bring in a third party to examine the county’s property tax system. The effort appears to include all aspects of the county’s complex system rather than focusing solely on the assessor’s office.

Contacted for comment on Garcia’s proposed ordinance, Berrios’ campaign spokesperson, Jacob Kaplan, said the assessor had not been contacted about the legislation and hadn’t seen a copy of it.

“We would be happy to review it, and we always follow the law,” Kaplan said in a written statement. “However, any ordinance, or, indeed, any legislation should apply equally to all officials — including the Cook County commissioners.”

Garcia, who said he shared the new ordinance with Commissioners Larry Suffredin and John Fritchey, said he was open to including other officials in the legislation but pointed out that “no one has a role as unique as the assessor’s office.”

by Jason Grotto

June 29, 2017

Chicago Tribune

U.S. Municipal Bond Sales to Total Lowest This Year Next Week.

Sales of U.S. municipal bonds and notes will sink to \$357 million in the upcoming holiday week, significantly lower than this week's approximately \$9 billion of debt issuance, according to Thomson Reuters data.

Bond issuance has been generally lower this year compared to last because of fewer refunding issues, said Alan Schankel, a managing director at Janney Montgomery Scott.

Schankel said that the U.S. Fourth of July holiday falling on a Tuesday this year shortens the week even further because most issuers and trading desks will only operate in full for three days.

The amount of municipal debt issuance has dropped off this year as investors are past the 2016 U.S. presidential election and interest rates have risen from record lows, said Mikhail Foux, head of municipal research at Barclays Capital.

Texas's Denton County plans to issue about \$77 million worth of refunding bonds next week, the largest deal set to market, according to Thomson Reuters data.

Next week's issuance sales consist of about \$233 million from the competitive calendar and about \$123 million from the negotiated calendar.

U.S. municipal bond funds recorded \$496.4 million of inflows for the week ended June 28, according to Lipper data.

REUTERS

By Stephanie Kelly | NEW YORK, JUNE 29

(Reporting by Stephanie Kelly; Editing by Daniel Bases and Meredith Mazzilli)

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- **Ed. Note:** Please be sure to take a look at our coverage of [Matter of Trusteeship Under That Certain Indenture of Trust....](#)
 - [NFMA Recommended Best Practices in Disclosure for Local Government General Obligation Debt.](#)
 - [MSRB Publishes Guide for Customer and Municipal Advisory Client Complaint Problem and Product Codes \(and Webinar\).](#)
 - [MSRB Files Proposed Amendments to Municipal Fund Security Advertising Requirements.](#)
 - [Issue Price: Notes from the Field.](#)
 - [U.S. DOT Offers Guidance on Public-Private Partnerships.](#)
 - [CDFA Fundamentals of Economic Development Finance Course.](#)
 - [Tunica County v. Town of Tunica](#) - Supreme Court of Mississippi upholds constitutionality of local and private law requiring county to distribute portions of revenue-based gaming fee to town and school district.
 - And finally, So Many Questions is brought to us this week by [Garrard County v. Middleton](#), in which the county jailer sued (and won) to prevent the county from reducing his salary. Reasonable minds will surely agree that he deserves to be richly compensated for running the jail *that does not exist*. So what's he do all day? Does he strut around in uniform/gun or slink around anonymously hoping not to attract attention to the absurdity of his employment? Has he constructed a little

hamster penal colony? But wait, there's more! This is an honest-to-god ELECTED position! We now invite you to close your eyes and visualize the candidate debates.

PUBLIC EMPLOYMENT - FLORIDA

[D'Agastino v. City of Miami](#)

Supreme Court of Florida - June 22, 2017 - So.3d - 2017 WL 2687694

Police officer filed petition to quash a subpoena issued by city civilian investigative panel (CIP), which was independent body designed to investigate instances of alleged police misconduct, and for a protective order against having to testify in CIP proceeding, and city intervened. Separately, police union brought declaratory action against city challenging the constitutionality of city ordinances empowering CIP to investigate law enforcement officers.

The actions were consolidated. The Circuit Court granted summary judgment in favor of city and CIP. Officer and union appealed. The District Court of Appeal affirmed. Officer and union filed application for review, which was granted.

The Supreme Court of Florida held that:

- Police Officers' Bill of Rights did not expressly preempt ordinances granting CIP authority to investigate and review police misconduct;
- Ordinance granting CIP authority to issue subpoenas was impliedly preempted by Police Officers' Bill of Rights as to police officers; but
- CIP retained authority to issue subpoenas to non-police officers under ordinance.

Police Officers' Bill of Rights did not expressly preempt ordinances granting city civilian investigative panel authority to investigate and review alleged police misconduct, though the Bill of Rights required every law enforcement agency to establish a system for investigating a complaint, required a municipality to forward complaints to an officer's employing law enforcement agency, and carved out exception for Criminal Justice Standards and Training Commission to exercise its authority. Statutory language did not convey preemption with sufficiently explicit language, and to find statutory provisions to be understood as preclusive would require inferences.

Local ordinance granting city civilian investigative panel (CIP), which was independent body designed to investigate and review instances of alleged police misconduct, authority to issue subpoenas to compel testimony from law enforcement officers in connection with investigations and complaints against them was impliedly preempted as to police officers by Police Officers' Bill of Rights, which provided elaborate framework of rights and obligations for interrogating an officer. Objective of Bill of Rights was to protect officers to a degree from certain means of interrogation, and to uphold CIP's authority to issue subpoenas in connections with investigations of an officer's conduct would impermissibly countermand rights conferred by the statute upon the officer.

City civilian investigative panel (CIP), which was independent body designed to investigate and review instances of alleged police misconduct, retained authority to issue subpoenas to non-police officers under local ordinance granting subpoena power, though authority to subpoena law enforcement officers was preempted by Police Officers' Bill of Rights.

Subsequent review of an Internal Affairs investigation of a complaint against a law enforcement officer by the city civilian investigative panel (CIP), which is independent body designed to investigate and review instances of alleged police misconduct, without the CIP having subpoena

power over law enforcement officers, is not inconsistent with the structure of the Police Officers' Bill of Rights.

ATTORNEYS' FEES - IDAHO

[Hauser Lake Rod and Gun Club, Inc. v. City of Hauser](#)

Supreme Court of Idaho, Wallace, April 2017 Term - June 9, 2017 - P.3d - 2017 WL 2491636

Non-resident, which prevailed in city code violation dispute, appealed ruling by joint board comprised of county board of commissioners and city council members that denied non-resident's request for attorney fees.

The District Court affirmed. Non-resident appealed.

The Supreme Court of Idaho held that:

- Joint board comprised of county board of commissioners and city council members was "political subdivision" within meaning of statute requiring political subdivision hearing proceeding involving political subdivision and person as adverse parties to award attorney's fees if losing party acted without reasonable basis in fact or law;
- City acted "without reasonable basis in fact or law" by attempting to enforce its code provision outside city limits on non-resident of the city, and thus, non-resident, as prevailing party in code violation dispute, was entitled to statutory award of attorney's fees for fees incurred at administrative and district court levels; and
- Non-resident was entitled to attorney's fees on appeal.

LABOR & EMPLOYMENT - IOWA

[Whitwer v. Civil Service Commission of City of Sioux City](#)

Supreme Court of Iowa - June 9, 2017 - N.W.2d - 2017 WL 2491646

Firefighter appealed civil service commission's dismissal of his appeal of city's termination of his employment pursuant to last-chance agreement.

The District Court reinstated firefighter, and commission appealed.

The Supreme Court of Iowa held that last-chance agreement was valid and enforceable.

Last-chance agreement signed by city firefighter after he pled guilty to domestic abuse assault, pursuant to which he was suspended, rather than immediately terminated, but which allowed city to terminate him immediately and without appeal if he violated law again or violated related no-contact order, was valid and enforceable, even though city civil service commission did not give its prior imprimatur, and firefighter's attorney was not present when he signed it, where attorney was informed of last-chance agreement's terms before hearing, no objection was raised to his absence, firefighter's interests were represented by two union officials at hearing, and firefighter was given ample time, outside presence of any city personnel, to review agreement with union officials.

LABOR & EMPLOYMENT - KENTUCKY

[Garrard County v. Middleton](#)

Supreme Court of Kentucky - June 15, 2017 - S.W.3d - 2017 WL 2591805

Newly-elected county jailer brought action against county fiscal court, alleging that it was statutorily powerless to reduce his pay. Both parties moved for summary judgment.

The Circuit Court concluded that the fiscal court was authorized to reduce the jailer's salary. Jailer appealed, and the Court of Appeals reversed. County filed a motion for discretionary review, which was granted.

The Supreme Court of Kentucky held that the county fiscal court could not decrease salary of county jailer, in county that did not operate a county jail, in between elected terms of service.

ZONING & PLANNING - MAINE

[Balano v. Town of Kittery](#)

Supreme Judicial Court of Maine - June 6, 2017 - A.3d - 2017 WL 2438496 - 2017 ME 110

Resident challenged decision by town planning board to approve a site plan application for development of a hotel.

The Superior Court affirmed the decision. Resident appealed.

The Supreme Judicial Court of Maine held that:

- Planning board's approval of a site plan application for development of a hotel with a flat roof was supported by substantial evidence and was not a variance, and
- Roof parapets were not included in calculating building height under town ordinance.

Town planning board's approval of a site plan application for development of a hotel with a flat roof was supported by substantial evidence and was not a variance under town ordinance. Ordinance authorized board to approve commercial building with alternative roof design if a pitched roof was not practicable, and board was presented with evidence that pitched roof on hotel would present safety issues and complicate accessibility of mechanical equipment.

Roof parapets were not included in calculating building height under town ordinance, and therefore, town planning board was authorized to approve site plan application for development of a hotel where building height complied with ordinance, and such approval was not a variance.

INDENTURES - MINNESOTA

[Matter of Trusteeship Under That Certain Indenture of Trust.....](#)

Court of Appeals of Minnesota - April 3, 2017 - Not Reported in N.W.2d - 2017 WL 1210137

City financed construction project by issuing \$26.8 million in municipal bonds. U.S. Bank was appointed trustee of an indenture trust, whose beneficiaries are the holders of the bonds issued by the city.

The city later defaulted on its obligations to bondholders. U.S. Bank commenced this action by filing a petition for instruction, which asked the district court to approve the sale of the property. After the district court approved the sale, U.S. Bank distributed approximately \$9.5 million to bondholders.

Philip Lucas held bonds issued by the city *in the principal amount of \$5,000*. Lucas requested an accounting of U.S. Bank's fees *and its expenses for outside counsel, which collectively totaled approximately \$1 million*.

The district court issued an order in which it ordered U.S. Bank to prepare a properly detailed final accounting regarding Trustee and Trustee's Counsel's fees and expenses with enough information for Mr. Lucas to reasonably determine whether the fees and expenses were legitimate and proper expenditures.

The district court also ruled that any remedy resulting from Lucas's objection to U.S. Bank's forthcoming accounting would be "available only to Mr. Lucas" and would be "limited to the percentage of recovery attributable to his personal share of the total distributions."

The district court approved U.S. Bank's final accounting, found that U.S. Bank's trustee fees and its expenses for outside counsel are reasonable, and discharged U.S. Bank as trustee upon the final distribution of funds to bondholders. Lucas appealed.

The Court of Appeals held that:

- Lucas did not receive proper notice of the January 30, 2015 deadline for objections. Thus, Lucas was not precluded from objecting to fees and expenses incurred before December 31, 2014;
- That documentation provided by U.S. Bank in its final accounting contained enough information for the district court to make a determination concerning the reasonableness of U.S. Bank's trustee fees;
- As the invoices of outside counsel submitted by U.S. Bank submitted did not contain any descriptions of the services provided by outside counsel, it was impossible for a district court to determine whether the services of outside counsel were "reasonably made or incurred by the Trustee," as required by the indenture trust document; and
- The district court erred by ruling that Lucas's potential remedy was limited to his proportional share of the value of the trust.

"Lucas last argues that the district court erred by ruling that any relief granted on Lucas's objection to U.S. Bank's petition for approval of its final accounting would be limited to Lucas's share of the value of the trust. Lucas contends that, if the trustee's expenses are found to be unreasonable, it would be appropriate for the district court to order a remedy that makes the trust whole."

"The indenture trust document is silent on this issue." [Emphasis added.]

This raises the possibility that current indentures should include a provision addressing this type of scenario.

In this case, as the indenture was silent as to the issue of proportional recovery, the court turned to the applicable Restatement and a newly enacted state statute and concluded that any potential recovery could not be proportionately limited.

Ed. Note: We can not and will not opine as to the enforceability of any such provision, but it might be advisable to take a closer look, as the consequences in this particular case were indeed quite consequential. I'm looking at you, NABL.

There's also the issue of ensuring that the trustee submits invoices for legal services sufficient to allow the court to ascertain if the fees incurred are reasonable. Outside counsel in this case is out \$1 million while the courts sort this out.

REVENUE DISTRIBUTION - MISSISSIPPI

[Tunica County v. Town of Tunica](#)

Supreme Court of Mississippi - May 11, 2017 - So.3d - 2017 WL 2001158

County brought action against town and school district challenging constitutionality of local and private law requiring county to distribute portions of revenue-based gaming fee to town and school district.

The Circuit Court granted summary judgment for town. County appealed.

The Supreme Court of Mississippi held that:

- County did not have standing to challenge constitutionality of law;
- Law did not violate county's due process rights;
- Constitutional prohibition against special or local laws for benefit of individuals or corporations did not apply;
- Law did not violate constitutional prohibition against special or local laws for benefit of individuals or corporations;
- Law's requirement that certain percentages of fee be used for certain educational purposes did not violate constitutional provision requiring that support of school could be accomplished only through general laws;
- Law did not illegally bind county board of supervisors' successors in office by contract;
- Trial court was not required to hold hearing prior to granting summary judgment to town; but
- Town and school district were not entitled to attorney fees.

PUBLIC RECORDS - NEW JERSEY

[Paff v. Galloway Township](#)

Supreme Court of New Jersey - June 20, 2017 - A.3d - 2017 WL 2644470

Records requester filed complaint seeking to compel township to produce requested list of e-mails between township clerk and chief of police under Open Public Records Act (OPRA).

The Superior Court ordered production of requested e-mail log. Township appealed. The Superior Court, Appellate Division, reversed. Records requestor appealed.

The Supreme Court of New Jersey held that:

- The Supreme Court would not give deference to guidance given township clerk by the Government Records Council (GRC) with regard to records request, and
- Electronic fields of information covering "sender," "recipient," "date," and "subject" in e-mails sent by township chief of police and township clerk over a two-week period constituted government records under the OPRA.

Electronically stored information extracted from an e-mail is not the creation of a new record or new information, but rather, is a government record under the Open Public Records Act (OPRA); a document is nothing more than a compilation of information, discrete facts and data, and by OPRA's language, information in electronic form, even if part of a larger document, is itself a government record.

Supreme Court would not give deference to guidance given township clerk by the Government Records Council (GRC) with regard to records request; that guidance merely stated in boilerplate language that township was not required to create new records in response to a records request, cautioned that its guidance did not constitute legal advice or a final agency decision, and the Open Public Records Act (OPRA) specifically provided that a decision of the GRC shall not have value as precedent for any case initiated in the Superior Court.

HIGHWAYS - NORTH CAROLINA

[Widen I77 v. North Carolina Department of Transportation](#)

Court of Appeals of North Carolina - May 2, 2017 - S.E.2d - 2017 WL 1632611

Citizens group brought action against state Department of Transportation and private toll-lane operator for a declaratory judgment and injunctive relief as to the constitutionality of transportation statute and agreement between Department and toll-lane operator.

The Superior Court granted summary judgment for Department and toll-lane operator and dismissed citizens group's claims with prejudice. Citizens group appealed.

The Court of Appeals held that:

- Transportation statute that allowed agreement was not an unconstitutional delegation of power by the General Assembly to the Department and toll-lane operator;
- Expenditures related to agreement served a public purpose so as not to violate taxation clause of the state constitution; and
- Transportation statute that allowed agreement was not an unconstitutional delegation of General Assembly's authority to tax.

Transportation statute that allowed state Department of Transportation to make an agreement with private toll-lane operator stated sufficient legislative goals, policies, and procedural safeguards so as not to be an unconstitutional delegation of power by the General Assembly to the Department and toll-lane operator. The achievement of the stated legislative policy of using tolls to help maintain the state road system required expertise, Department had to develop standards for entering into comprehensive agreements with private entities, agreements were limited to 50 years, and toll-lane operator had to provide performance and payment security.

Expenditures related to state Department of Transportation's agreement with a private toll-lane operator served a public purpose, as required under the taxation clause of the state constitution. The General Assembly recognized that the state's road system was becoming increasingly congested, which it sought to alleviate through agreements with private entities to finance transportation infrastructure, toll-lane operator's involvement as a private actor did not negate the public purpose of the expenditures, and all of the infrastructure constructed by toll-lane operator would be owned by the state.

Agreement between state Department of Transportation and private toll-lane operator did not violate

statute that required that the Board of Transportation, Joint Legislative Transportation Oversight Committee, and Joint Legislative Commission on Governmental Operations review any toll or fee 30 days prior to its effective date, where statute authorizing the agreement made such oversight inapplicable to the project covered by the agreement.

Transportation statute permitting agreement between state Department of Transportation and private toll-lane operator was not an unconstitutional delegation of General Assembly's authority to tax, such that it would violate state constitution and U.S. Constitution's Due Process Clause; a toll was not a tax.

IMMUNITY - PENNSYLVANIA

[Metropolitan Edison Company v. City of Reading](#)

Supreme Court of Pennsylvania - June 20, 2017 - A.3d - 2017 WL 2655101

Electricity service provider brought action against city, alleging that negligence of city's employees during excavation led to collapse of provider's conduit bank.

Following bench trial, the Court of Common Pleas entered judgment in favor of provider. City appealed. The Commonwealth Court reversed. City filed petition for allowance of appeal.

The Supreme Court of Pennsylvania held that utility service facilities exception to governmental immunity under Political Subdivision Tort Claims Act applied to provider's claim, abrogating *Miller v. Pa. Dep't of Transp.*, 690 A.2d 818, and *DeTurk v. South Lebanon Township*, 116 Pa.Cmwlt. 557, 542 A.2d 213.

Utility service facilities exception to governmental immunity under Political Subdivision Tort Claims Act applied to electricity service provider's negligence claim against city arising from collapse of provider's conduit bank in area in which city was performing excavation work. unstable dirt and soil existed in excavation hold resulting in lack of ground support for conduit bank, city had notice of dangerous condition and understood risk of collapse of bank, and city failed to take necessary remedial measures to protect against dangerous condition of facilities in advance of subsequent collapse of bank.

Under the utility service facilities exception to immunity under the Political Subdivision Tort Claims Act, the focus must be on whether the injuries alleged were caused by a dangerous condition which derived from, originated from, or had its source in the local agency's utility service facility and located within its right-of-way, not on the genesis of the dangerous condition. It must also be established that the local agency had sufficient advance notice, or could reasonably be charged with notice under the circumstances, of the dangerous condition, and the foreseeable risks presented by those dangerous conditions to permit it to take timely remedial measures; abrogating *Miller v. Pa. Dep't of Transp.*, 690 A.2d 818, and *DeTurk v. South Lebanon Township*, 116 Pa.Cmwlt. 557, 542 A.2d 213.

CONVEYANCE - PENNSYLVANIA

[In re Borough of Downingtown](#)

Supreme Court of Pennsylvania - June 20, 2017 - A.3d - 2017 WL 2645399

Borough residents and business brought separate actions against borough for declaratory and injunctive relief, seeking to prohibit the sale of park property to developers, and borough petitioned to approve the sale.

After the matters were consolidated and developers were granted leave to intervene, the Court of Common Pleas determined that borough lacked authority to sell and the Commonwealth Court reversed in part and vacated in part. On remand, after consolidation with another petition filed by borough that was appealed and remanded, the Court of Common Pleas concluded that the Court's approval was required to sell the southern parcels, a change in statute authorized borough to dispose of the northern parcels, and easements granted to developers were permissible. All parties filed cross-appeals. The Commonwealth Court affirmed. All parties' petitions for allowance of appeal were granted.

The Supreme Court of Pennsylvania held that:

- Provision of Eminent Domain Code did not apply to question of borough's right to dispose of southern parcels;
- Borough was required to obtain court approval before selling northern parcels;
- The Donated or Dedicated Property Act (DDPA) covers property which is purchased with funds from the Project 70 Land Acquisition and Borrowing Act; and
- Borough was required to obtain court approval before granting easements to developers.

Provision of most recent Eminent Domain Code relating to abandonment of project did not apply to question of borough's right to dispose of southern parcels of park property, even though borough acquired title to those parcels via condemnation, where condemnations were effected when borough filed declarations of taking, which was before Code took effect.

Northern parcels of public park were dedicated to public use as public facility, and therefore borough was required to obtain orphans' court approval under Donated or Dedicated Property Act (DDPA) before selling parcels, despite legislature's release of parcels from some restrictions under Project 70 Land Acquisition and Borrowing Act. Parcels were integral part of park, borough committed parcels to public use via ceremony and via maintenance and improvements over two decades, and public accepted land for use as park.

A municipality that purchases property with monies under the Project 70 Land Acquisition and Borrowing Act, which is thereafter dedicated to a public use as a public facility, must, in order to convey that property, seek the General Assembly's release of the Project 70 Act restrictions imposed in the deed of acquisition, and must also seek orphans' court approval under the Donated or Dedicated Property Act (DDPA) for the conveyance.

Borough was required to obtain orphans' court approval under Donated or Dedicated Property Act (DDPA) in order to grant developers stormwater, utility, and maintenance easements on public park property; even though easements did not occupy entire area of parcels, conveyance of easements would allow developers to use portions of dedicated parcels for private purpose of constructing and maintaining private housing development, and easements would have subordinated public rights to private rights of developers.

AGCS Marine Insurance Company v. Arlington County

Supreme Court of Virginia - June 15, 2017 - S.E.2d - 2017 WL 2599187

Property insurers brought subrogation action against county to recover for inverse condemnation as result of sewer backup into insured's grocery store.

The Circuit Court sustained demurrer and denied motion for leave to file an amended complaint. Insurers appealed.

The Supreme Court of Virginia held that:

- Allegation that county failed to properly maintain and operate sewage treatment plant causing backup was insufficient to state a claim for inverse condemnation;
- Amended complaint stated inverse condemnation claim; and
- "Private property" under state constitutional provision requiring just compensation for damaging or taking private property for public use applies to personal property.

Allegation that county failed to properly maintain and operate sewage treatment plant causing backup in grocery store was insufficient to state a claim for inverse condemnation. No allegation suggested that county planned or designed its system to allow the backflow in an effort to keep the entire county sewer system operating for public use.

Amended complaint stated inverse condemnation claim for sewage backup into grocery store by alleging that county purposefully diverted sewage and/or storm water from closed treatment facility or pump station, never increased treatment plant capacity or followed engineers' recommendations, knew that sewage back-flow onto the property of others would occur, and adopted policies, procedures, and practices that made it most probable that a sewage backup would occur.

A Restructuring Deal That Helps Investors, Not Puerto Rico.

While it's not clear if there are sharks in the waters surrounding Puerto Rico, the island does have sharks of a different kind — ones that hail from mainland hedge funds, municipal bond funds and insurance companies that insure against bond defaults.

The human sharks have been circling Puerto Rico's bonds, given that the island has more than \$70 billion of debt that has defaulted or is in danger of doing so.

Some investors have been holding the island's debt for years, but others have more recently snatched up Puerto Rico-related bonds for significantly less than 100 cents on the dollar. They want a debt restructuring that gives them a big fat profit.

The fighting is particularly fierce at the moment over what will happen to \$9 billion worth of bonds that were issued by the Puerto Rico Electric Power Authority.

After several years of difficult negotiations, the authority, known as Prepa, reached an agreement in April with its creditors, which include the hedge fund Blue Mountain Capital, bond funds managed by Oppenheimer and Franklin Templeton and insurance companies like MBIA and Assured Guaranty, which are obligated to make up the difference between the negotiated recovery of the bonds and 100 cents on the dollar.

Like everything having to do with Puerto Rico and its finances, the deal cut between the power authority, which is owned by the municipal government, and its creditors is complex.

But the gist of it is that the creditors are hoping to get a present value recovery of around 75 cents on the dollar: new bonds with a face amount of 85 cents on the dollar, issued at a below market interest rate.

It's great deal for the creditors, given what rough shape Prepa is in operationally. Puerto Ricans pay some of the highest electricity rates around — in the vicinity of 27 cents per kilowatt-hour. By contrast, New Yorkers pay around 13 cents per kilowatt-hour, one of the highest rates in the United States.

There are also problems with patronage and the high costs of labor, pensions and the fuel that powers the electricity generators. The authority's physical plant is woefully in need of repairs and an upgrade, which are likely to cost billions of dollars.

The deal with the creditors does not address those serious problems at the authority. Nevertheless, it does somehow come to the conclusion that electricity rates on the island will decrease to 21 cents per kilowatt-hour. But there will also be a monthly surcharge on the bills of consumers and businesses in Puerto Rico that will be dedicated to pay the interest and principal payments on the newly issued debt.

In other words, if the restructuring deal as proposed is approved, Prepa's customers — both consumers and businesses — effectively will be taxed in order for the hedge funds and other creditors that bought the bonds at a discount to make a profit. That's a profit that cannot be renegotiated if Prepa again finds itself in financial distress down the road because the new revenue generated from the surcharge will be placed in a new, bankruptcy-remote entity for the creditors' benefit.

Worse, as electricity use falls with the continuing exodus of the island's residents and businesses, those that remain will pay higher and higher surcharges to meet the Prepa debt payments.

It is unfair to tax the people and businesses of Puerto Rico so that investors can make hundreds of millions of dollars in profit. It makes no sense to restructure the debt of the company without fixing its operational problems, or at least to have a restructuring that addresses both operational and financial problems.

Puerto Ricans deserve a restructuring plan that provides them with affordable electricity on a realistic future timetable. What is being proposed virtually guarantees that they will still pay unusually high rates for electricity so that a few hedge funds and bond funds can make a profit and so that the insurance companies can avoid paying up for their poor underwriting decisions.

The restructuring with the bondholders started before the June 2016 passage of the Puerto Rico Oversight, Management and Economic Stability Act, known as Promesa. That law allowed Puerto Rico's other debts to be restructured in a way similar to how bankruptcy works in the United States, with a judge approving a deal that issues new debt based upon what a debtor can reasonably be expected to pay while also making necessary operational fixes, too.

The power authority's creditors claim the company received a waiver exempting it from Promesa. That's not fair, since the new act gives debtors like Prepa far more leverage to negotiate — leverage the power authority didn't have years ago when it started the negotiation with its creditors.

The deal the authority cut with its creditors before Promesa should be junked. It's a windfall for

hedge funds and the insurance companies and it brutalizes the people and businesses of Puerto Rico. Prepa should restart the negotiation with creditors, under the auspices of the Promesa law, and make sure that any debt restructuring is paired with the operational fixes that the power authority desperately needs.

The creditors know they have a great deal for themselves. That explains why they are lobbying Republicans in Congress and are working overtime to persuade the independent Prepa board to approve the restructuring as is.

The creditors' lobbying is having an effect. On June 15, Representative Rob Bishop, Republican of Utah and chairman of the House Committee on Natural Resources, wrote a letter to José B. Carrión III, the chairman of the financial oversight and management board of Puerto Rico, urging the board to approve the Prepa restructuring as is.

A day later, two other members of Congress, Representatives Nydia M. Velázquez, Democrat of New York, and Raúl M. Grijalva, Democrat of Arizona, urged Mr. Carrión to reject the restructuring. "Higher electricity costs are detrimental to the local economy, causing businesses both large and small to operate with reduced margins, leaving them less able to expand and hire new employees," they wrote. The restructuring "will only accelerate the out-migration of residents and businesses. This downward spiral will deplete what is left of the island's economic foundation," they said.

It's hand-to-hand combat. And the latest deadline to decide what to do is Friday. It could still be pushed back again.

Regardless, it's clear that the deal as currently drafted is not fair to the people and businesses of Puerto Rico. It will keep electricity rates on the island at absurdly high levels and negatively affect the island's ability to recover economically. It's a recipe for future disaster, and all so that a few rich people can get even richer.

THE NEW YORK TIMES

By WILLIAM D. COHAN

JUNE 23, 2017

[Counties and Cash: How to Improve the Management of Cash Transactions.](#)

Workshop Summary

Often, counties use traditional banking structures to conduct financial transactions, such as collecting property taxes or other fees. Yet, a share of county residents and businesses do not have access to such institutions and conduct business in cash. For counties, cash transactions mean higher costs due to the need for face-to-face transactions, the potential for non-secure and unsafe payments, issues with recording and reporting to external authorities and a higher likelihood of mistakes.

At NACo's 2017 Western Interstate Regional Conference, the Counties Futures Lab hosted a training session on strategies counties are using to increase access to financial institutions for their taxpayers to ensure timely and secure payments while simultaneously lowering operating costs. Moderator Doug Lasher, Treasurer, Clark County, Wash., and presenter Cathy Traywick, Treasurer,

Cochise County, Ariz., shared their insights on how to best handle cash transactions for their constituents in a world that is increasingly moving toward digital payments.

[Continue reading.](#)

[Workshop Information.](#)

[Printable PDF.](#)

National Association of Counties

Christina Iskandar
Program Director for Knowledge Management
Counties Futures Lab

[Senate Health Bill Would Lower the Medicaid Per Capita Cap Rate, Causing Greater State Budget Shortfalls.](#)

This post was updated on June 22, 2017 to reflect the release of [the Senate's health care bill](#).

The Senate's health care bill reduces the growth rate for Medicaid per capita caps from the rate used in the American Health Care Act (AHCA) passed by the House last month.

The Senate bill lowers the growth rate to the Consumer Price Index for All Urban Consumers (CPI-U) beginning in 2025, rather than the medical Consumer Price Index (m-CPI). This change would ensure a shortfall between federal Medicaid payments and projected Medicaid costs that will grow over time.

Why? The m-CPI is projected to grow at about 3.7 percent over the next decade, but the CPI-U would only grow at about 2.4 percent.

States will have to fill this shortfall by raising taxes, cutting enrollment, reducing benefits, or reducing provider reimbursement—all of which are difficult choices.

[Continue reading.](#)

The Urban Institute

by Matthew Buettgens

[Fitch: Falling US Public Power Capex Should Maintain Credit.](#)

The capex-to-depreciation trend was more pronounced for 'A' rated wholesale systems than for retail systems where the ratio has stabilized, but at lower levels than we have observed in most of the past decade.

[Continue reading.](#)

[Fitch: Senate AHCA Includes Medicaid Repeal and Replace Provisions for States.](#)

States that expanded Medicaid access to the newly eligible population under the Affordable Care Act are particularly at risk. But, even non-expansion states will face budgetary challenges, which will likely accelerate for all states over time.

[Continue reading.](#)

[Supreme Court Rules Against Property Owners in Takings Case.](#)

The U.S. Supreme Court on Friday ruled against four siblings who [contended](#) zoning regulations constituted a taking of their Wisconsin vacation property.

The court ruled that there was no regulatory taking that required compensation to the landowners. Justice Anthony M. Kennedy wrote the majority [opinion](#) (PDF).

The siblings owned two adjacent lots; their cabin was on one of the lots. They had argued a taking occurred because of a regulation that barred them from selling the undeveloped lot separately.

The regulation prevented the sale because the adjacent lot didn't meet size requirements. A grandfather clause exempted adjacent, substandard-sized parcels that were separately owned, but the siblings didn't qualify for the exclusion.

Appraisals had valued the merged lots at \$698,300, and at \$771,000 if they were two separate properties.

The Supreme Court has previously held that there is a regulatory taking if the government prevents all economically viable use of a piece of property, University of California at Irvine law dean Erwin Chemerinsky explained in a [preview](#) of the case. If the two land parcels are considered separately, the zoning regulation is a taking. If they are considered as a whole, the government is not preventing all development.

The Supreme Court said the property should be considered as one parcel.

The siblings had argued that the lot lines always define the relevant parcel. Their argument, however, "ignores the fact that lot lines are themselves creatures of state law, which can be overridden by the state in the reasonable exercise of its power," Kennedy said.

The state had effectively merged the properties into one parcel when it enacted the zoning restriction, and it was "a legitimate exercise of the government's police power," Kennedy said.

"Merger provisions often form part of a regulatory scheme that establishes a minimum lot size in order to preserve open space while still allowing orderly development," Kennedy wrote.

Chief Justice John G. Roberts Jr. dissented in an opinion joined by Justices Clarence Thomas and Samuel Anthony Alito Jr.

Roberts said he was not troubled by the majority's "bottom-line conclusion" that the property

owners were not entitled to compensation. But he disagreed with the majority's multipart test for arriving at that conclusion and asserted that it will undermine takings clause protections.

The case is *Murr v. Wisconsin*.

ABA JOURNAL

BY DEBRA CASSENS WEISS

POSTED JUN 23, 2017 09:28 AM CDT

[Bloomberg Brief Weekly Video - 06/22](#)

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

[Watch video.](#)

Bloomberg

June 22, 2017

[Illinois Bond Trading Hits Five-Month High.](#)

- **Volume shows market remains liquid despite downgrade risk**
- **'Bonds are already trading as if below investment grade'**

Illinois bond trading volume has increased amid a two-year long budget impasse that's left the government at imminent risk of becoming the first U.S. state to have its bond rating cut to junk.

The average daily trade volume of Illinois debt has jumped to \$616 million this month from \$346 million in May, with \$1.14 billion changing hands on Wednesday, the most since January 20, according to data compiled by Bloomberg. Daily trading three times this month has exceeded \$1 billion, a level previously not breached since January.

The figures show that the bonds remain liquid despite widespread anticipation they'll lose their investment-grade rating, which would prevent some mutual funds from purchasing them and could scare off the individual investors who are the biggest buyers of municipal bonds.

The yields on Illinois securities have risen since S&P Global Ratings and Moody's Investors Service downgraded the state to one step above junk on June 1, with S&P warning that another cut could come around July 1 if a budget isn't enacted. The state's 10-year debt yields about 4.6 percent, or 2.8 percentage points more than top-rated bonds, according to Bloomberg's indexes. That spread jumped to as much as 3.4 percentage points earlier this month.

"If you look at your benchmark maturities in block size, bonds are already trading as if below investment grade," said Jeffrey Lipton, head of municipal research at Oppenheimer & Co. "The downgrade had already been baked in."

Municipal analysts have said they don't anticipate a massive sell-off of Illinois debt if the rating is cut because the move has been telegraphed well in advance, giving investors who want to reduce their holdings ample time to do so. Some of the biggest mutual funds that hold the state's bonds have said the loss of an investment-grade rank won't force them to dump the securities.

Lipton said he'll be keeping an eye out for "any pick up in hedge fund interest when coming into a downgrade," with the funds seeking to profit by snapping up steeply discounted bonds.

Bloomberg Markets

By Kristy Westgard

June 23, 2017, 12:37 PM PDT

[Muni Hospital Bonds Resume Winning Run as Obamacare Repeal Lags.](#)

- **Niche of tax-exempt market returns 4.3 percent this year**
- **Industry in status-quo mode as Congress yet to agree on plan**

Tax-exempt hospital debt has resumed its more than three-year run of outperformance as the Republican-led Congress struggles to come up with a replacement for the Affordable Care Act, which helped health-care providers by reducing the ranks of the uninsured. The securities have returned 4.3 percent this year, 0.7 percentage point more than the broader municipal market, according to S&P Global Ratings indexes.

"It's aggressive to get it through in such a short period of time — probably unrealistic on their time frame for something as far-reaching and complicated," said George Huang, director of municipal securities research for Wells Fargo Securities. "The fact that the hospital industry - the people in the health-care space - are not a part of the conversation, that makes it difficult."

Trump's victory in November initially weighed on the performance of hospital bonds because he pledged to quickly roll back and replace President Barack Obama's signature law, casting uncertainty over the industry. By expanding the Medicaid program for the poor and requiring others to purchase insurance, the Affordable Care Act reduced the financial strain on hospitals from treating the uninsured.

The Obamacare replacement passed by the House of Representatives included cuts to Medicaid and other health expenditures, with the Congressional Budget Office estimating it would eventually leave 23 million more Americans without insurance by 2026. The Senate is currently working behind closed doors to draft its own replacement.

"We're in status quo for ACA," said Huang, noting that there's skepticism among investors that the Republicans will be able to agree on a replacement. "There hasn't been a lot of proposed rules and regulations, so that's all good for the hospital sector."

Politics aside, hospital bonds have also benefited from a decline in interest rates that has left investors willing to take on more risk to get higher returns. The health-care industry is attractive to such municipal buyers, given the scarcity of high-yield bonds, Barclays Plc analysts said in a report last week.

“It’s probably not the best time to buy it, but it is the best compared to everything else,” said David Ashley, a portfolio manager with Thornburg Investment Management, which holds \$11.5 billion of municipal bonds.

Bloomberg clients: We’ll be doing a TOPLive Q&A on Thursday, June 22 at noon ET, moderated by Martin Z. Braun, in which you can ask Joe Mysak questions about the latest with Connecticut, its debt downgrades, budget deficit and more. You can watch it here. If you want to ask a question, please send to TOPLive@bloomberg.net

Bloomberg Markets

By Kristy Westgard

June 21, 2017, 2:00 AM PDT

[The \\$4 Trillion Pension Problem.](#)

Retirement funds raise more contributions that have to go somewhere.

A California retirement system just provided a sobering reality check for the U.S. public pension industry. But there’s a potential opportunity for credit traders, at least in the short term.

Earlier this month, the \$20.2 billion Los Angeles Fire and Police Pension System lowered its assumed rate of return by a quarter of a percentage point to 7.25 percent. This seems like a fairly minor and obvious move. It’s no secret that future returns will be harder to come by given the current historically low bond yields and high stock valuations.

But the fund’s relatively minor adjustment will probably cost taxpayers \$27 million in additional contributions to help make up the shortfall in fiscal year 2018 alone, according to estimates that New Albion Partners Chief Market Strategist Brian Reynolds put in a note on Tuesday.

Reynolds expects that a considerable chunk of that money will go toward buying credit, adding new fuel to a seemingly interminable debt rally and keeping yields at their uncomfortably low levels for longer.

Taking a step back, it’s important to recognize just how troubled U.S. public pensions are. Even if pensions’ investments deliver a 25 percent return from 2017 through 2019, which is a best-case scenario, that won’t be enough to fortify these pensions’ budgets. The gap between how much state and local governments are projected to pay retirees and the amount they’ve set aside has risen to more than \$4 trillion, Bloomberg’s Kristy Westgard reported in an article on Tuesday, citing a Moody’s Investors Service report.

Taxpayers have been contributing more money into these plans in recent years, giving pension funds new cash to pile into long-term Treasuries, corporate and private debt, among other investments. This has helped suppress bond yields, which are near all-time lows as central banks globally have sought to stimulate their economies by dropping short-term rates to zero (or below) and buying trillions of dollars of assets.

Of course, most of these investments won’t go all that far toward meeting the investment returns most pensions have. U.S. public pensions are broadly assuming a 7.58 percent average rate of

return as of 2015, according to Public Plans Data. That compares with a mere 2.7 percent yield on 30-year Treasuries and 5.48 percent for U.S. junk bonds. A decade ago, the yields on both types of debt were substantially higher and could be counted on to deliver a safe stream of money to hit annual returns. The low yields are also pushing pension funds into riskier investments like hedge funds and private equity, which have the potential to juice returns but can go the other direction in a hurry as well.

All this adds up to bigger estimated budget gaps for pensions, requiring even more taxpayer contributions. This is incredibly unpopular politically and will have negative social ramifications. It will probably crimp salaries of public employees and constrain the size of municipal staffs as a greater proportion of public money goes toward supporting the pensions.

Pension funds will need to chase returns somehow, and bonds will play a big role even with their stunted yields. Credit traders will be waiting.

Bloomberg Businessweek

By Lisa Abramowicz

June 21, 2017, 11:00 AM PDT From

This column does not necessarily reflect the opinion of Bloomberg LP and its owners.

[Pension Crisis Won't Be Reversed by High Returns, Moody's Says.](#)

- **Base case sees net pension liabilities 15% higher by 2020**
- **Deeper funding gaps threaten state and local credit ratings**

Even a stock market soaring to record highs won't rescue America's struggling state and local pension plans.

A "best case" scenario of a cumulative 25% investment return during the 2017-2019 period will not offer a respite for chronically underfunded U.S. public pension plans, according to a Moody's Investors Service report.

The growing gap between how much state and local governments are projected to pay employees and how much funds they actually have set aside has risen to over \$4 trillion nationwide. New Jersey sports the widest funding gap, followed closely by Kentucky and Illinois.

The optimistic "best case" of cumulative 25% investment return would reduce net pension liabilities by just 1% through 2019 year-end because of past bad investment returns and weak contributions. Meanwhile, the "base case" scenario of 19% returns would see net pension liabilities rise by 15%.

"For many states and municipalities, exposure to unfunded pension liabilities is already at or near all-time highs. Since cost burdens are already expected to further increase, pension fund investment performance is critical for the credit quality of many governments," the report noted.

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please send to TOPLive@bloomberg.net

Bloomberg

By Kristy Westgard

June 20, 2017, 11:18 AM PDT

[Here's One Record Illinois Doesn't Want to Attain: QuickTake Q&A](#)

Illinois may soon become the first state on record to have its bond rating cut to junk. Behind that financial trouble is an intractable political impasse and drama that's been building for more than two years as Republican Governor Bruce Rauner and the Democrat-led legislature battle over how to close the state's chronic budget deficits. Illinois is on track this fiscal year to spend over \$6 billion more than it brings in, and public universities are reeling from the loss of state aid. On June 1, S&P Global Ratings warned that the loss of its investment-grade rating is likely unless action comes soon.

1. Can Illinois go bankrupt?

No. States aren't eligible to petition U.S. courts to escape from their debts, the way cities such as Detroit have. While Congress amended the law to allow for Puerto Rico to do so, any effort to extend that to states is extremely unlikely, would face intense opposition and may not pass constitutional muster. When the idea was raised in Congress after the last big recession, it was roundly opposed by governors and U.S. lawmakers from both parties who said it would rattle the bond market and punish even financially prudent governments. Some saw it as a tool to gut the pensions of public employees.

2. Is Illinois the next Puerto Rico?

Its fiscal squeeze isn't nearly as bad as the one gripping Puerto Rico, which in May agreed to use bankruptcy-like proceedings to slash its debt. A U.S. territory, Puerto Rico is contending with a shrinking economy, years of deficit borrowing and a declining population. It owes more than twice as much to investors as Illinois, a state with a larger, wealthier pool of residents and an expanding economy that's vastly bigger. While Illinois's financial challenges are significant, the crisis is largely politically self-inflicted.

3. What are the politicians fighting about?

Rauner and Democrats who control the legislature can't agree on how to eliminate budget shortfalls that persisted after a temporary tax hike expired in January 2015, just as the governor took office. Rauner has pushed for any fiscal fix to include key elements of his agenda, such as property-tax curbs, an overhaul of the workers' compensation insurance system to cut costs and legislative term limits. Democrats say they've passed compromise measures that incorporate some of his goals, but Rauner says they don't go far enough to enact real change.

4. What will happen once Illinois is cut to junk?

The downgrade will likely force Illinois to pay higher interest rates whenever it needs to raise money in the financial markets. Mutual funds that are only allowed to own investment-grade securities would be unable to purchase its bonds, leaving it potentially more dependent on non-traditional

buyers such as high-yield and hedge funds. That's what happened after Puerto Rico was cut to junk in 2014. The stigma could also scare off some individual investors, who hold more than 40 percent of all municipal securities directly in their portfolios. Individual investors are sometimes prone to react to negative news reports, a phenomena municipal analysts refer to as "headline risk."

5. Will there be a big selloff of Illinois bonds?

Probably not. Some of the biggest money-management firms that own Illinois bonds have said they could continue to hold them if the rating is cut. Matt Fabian, a partner at Municipal Market Analytics, said that funds that would have to sell their bonds have likely already done so, given that the downgrade is widely expected and was telegraphed in advance. Prices have already declined considerably since the last downgrades on June 1. The yields on Illinois 10-year bonds have jumped nearly half a percentage point to around 4.8 percent, some 3 full percentage points more than those on top-rated securities, according to data compiled by Bloomberg.

6. Is Illinois going to default?

Putting the state's bonds just one step below investment grade indicates that's a fairly distant possibility. S&P says that a BB rated borrower is "less vulnerable to nonpayment than other speculative issues," though it faces major ongoing uncertainties that could undermine its capacity to make good on its debts. Despite the lack of a budget, debt service has continued to be paid and Illinois can draw on any unrestricted funds to ensure that it is. No state has defaulted since Arkansas did in the Great Depression.

7. Will this pressure Illinois into passing a budget?

Possibly. Rauner on June 15 called lawmakers back to Springfield to act on a Republican compromise plan before the new fiscal year begins on July 1. But a string of previous ratings downgrades didn't break the logjam. Democrats and Republicans have each blamed the other side for the paralysis, leading to speculation that their impasse will continue through the 2018 elections, when Rauner can seek a second term.

Bloomberg Markets

By William Selway, Elizabeth Campbell, and Martin Z Braun

June 19, 2017, 9:01 PM PDT

[In Property Rights Case, U.S. Supreme Court Sides With Government.](#)

A St. Croix River private property dispute was settled Friday when the U.S. Supreme Court ruled against a Wisconsin family that wanted to sell shorefront land to finance improvements on an adjacent cabin.

The 5-3 ruling rejected the Murr family's argument that conservation rules unfairly stripped the land of its value and restricted their use of the property, in Troy Township south of Hudson, Wis.

The case was closely watched by property rights and business groups that say it should be easier for landowners to get compensation when government regulations restrict land use.

In oral arguments before the court in March, the family asked the government for compensation, while the government argued that it's fair to view the property as a whole and said the family is owed nothing.

At issue was the constitutional requirement that private property can't be taken for public use "without just compensation."

Justice Anthony Kennedy, joining the court's liberal members in Friday's opinion, called the government's action "a reasonable land-use regulation" meant to preserve the St. Croix River and surrounding land. He said the property as a whole remains valuable and the family could not claim they expected to sell or develop lots that were regulated before they acquired them.

In dissent, Chief Justice John Roberts said the majority had undermined the Constitution's protections for private property owners. Roberts said the court should have relied on state property lines to define the relevant parcel of land rather than consider outside factors.

More than 100 cities and counties across the United States have similar "merger" restrictions that treat two adjacent properties as one if they have the same owner.

The Murrs were represented by an attorney from the Pacific Legal Foundation, a private property advocacy group.

The dispute began in 2004 when four Murr family siblings tried to sell the vacant lot to pay for improvements on a rustic cabin that sits on the plot next door. Their father had purchased the two 1.25-acre lots separately in the 1960s and both parcels had been taxed separately. The lots were later transferred to his children in the 1990s.

St. Croix County, Wis., officials blocked the sale, citing 1976 regulations that bar new construction on lots in the area to prevent overcrowding and pollution on the St. Croix, one of the original eight U.S. Wild and Scenic rivers.

A grandfather clause exempted existing owners, but the county said it didn't apply to the Murrs' empty lot alone since it was connected to the family's other land.

The Murrs wanted the government to pay what the vacant property was worth — it was assessed at \$400,000 — because regulations prevented them from building on it. A Wisconsin appeals court sided with the county, saying zoning rules did not take away the property's value because the Murrs could still use both lots as a vacation property or sell them as a whole.

BY TRIBUNE NEWS SERVICE | JUNE 23, 2017

[Uncertain of the Future, States Save and Save Some More.](#)

In the face of a politically and financially uncertain fiscal 2018, states are hunkering down, pulling back on spending increases and beefing up rainy day funds.

General fund revenues for fiscal 2017 are coming in below forecasts in 33 states, according to a [new survey](#) by the National Association of State Budget Officers (NASBO). That's the highest number since the recession, and it also marks the second straight year that more states have failed to meet projected revenues than exceeded them. As a result, it's increasingly likely that more states will be

forced to make spending cuts (23 have already reported doing so).

The survey also finds that thanks to states' "thin margins," spending for fiscal 2018 will tick up by a mere 1 percent — the lowest growth rate since 2010, when states were in the midst of dealing with the recession. Most of those spending increases will be targeted toward education, where many states are still trying to make up for cuts following the recession, and Medicaid.

Despite slow revenue growth — or perhaps because of it — governors and legislatures in many places are prioritizing saving money for the next economic downturn. After a slight dip in 2017, rainy day fund balances are expected to hit the highest total ever at more than \$53 billion across 48 states. (Georgia and Oklahoma were not able to provide data.)

"We're seeing legislatures also tout being ready in some cases for whatever might be the next recession," says NASBO's Executive Director John Hicks. "They're talking with more emphasis about structural balance in budgets, having more reserves in place and being mindful of using one-time funds."

On a state-by-state level, the budgeting data is varied. Governors in 15 states propose outright general fund spending decreases in 2018. In most states, the declines amount to a less than 3 percent budget cut. North Dakota, however, is cutting its 2018 budget by roughly 23 percent. The state, which is suffering from lower oil revenues, is cutting nearly \$367 million from its budget — roughly one-third of that from education.

Meanwhile, governors in seven states (Colorado, Idaho, Nevada, North Carolina, Oregon, Tennessee and Washington) are proposing spending increases of at least 5 percent. North Carolina is increasing its general fund spending by nearly 6 percent, directing most of that increase into K-12. And Washington is putting more than half of its \$1 billion increase into Medicaid to help comply with a court-mandated expansion in coverage for hepatitis C patients.

Uncertainty at the federal level has also forced states to be more fiscally conservative. When asked about their top concerns, NASBO survey respondents said they were worried about "potential federal legislation that would repeal and replace the [Affordable Care Act] affecting both the Medicaid expansion and capping federal funds to the Medicaid program." Medicaid now represents \$1 out of every \$5 states spend.

Another major concern is the threat of federal tax reform, which some argue has already impacted state revenues. A number of states saw sharp year-over-year declines in their income tax revenue collections this April, which is typically the biggest month for the tax. According to Fitch Ratings, Connecticut posted the steepest decline of nearly 14 percent while Massachusetts reported a more than 6 percent drop off. It's not clear whether the declines are real or whether taxpayers in these high-tax states are shuffling income into fiscal 2018 in anticipation of more favorable rates under federal tax reform.

GOVERNING.COM

BY LIZ FARMER | JUNE 21, 2017

[The Week in Public Finance: Bleak Pension Forecasts, Down on Stadium Debt and More.](#)

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

GOVERNING.COM

BY LIZ FARMER | JUNE 23, 2017

How States Can Make the Most of Their Rainy Day Funds.

They can effectively smooth economic bumps. But it's important to have clear rules for how and when to use the money.

Texas policymakers are grappling with an unusual question: how — and even if — to spend some of the state's ample savings. As of the end of the last fiscal year, the state's rainy day fund had amassed \$9.7 billion, the largest fund in the country as measured in dollars.

That may seem like a welcome quandary. After all, some states lack a robust savings account like the Lone Star State's Economic Stabilization Fund. But Texas lawmakers disagree on how to use their fund, and similar arguments are playing out in many other states where rainy day reserves have grown, leaving policymakers to debate whether they should tap them and for what reasons.

State government budgets are greatly affected by fluctuations in the economy. During boom periods, tax revenue can exceed a state's spending needs and produce a surplus. But when the economy slows, tax payments decrease while mandatory costs stay constant or increase. Between 2003 and 2007, state tax revenue grew by a robust 7 percent on average annually. But between 2008 and 2010, when the recession hit, states experienced the worst revenue downturn in decades, forcing many legislatures and budget officials to make painful cuts, raise taxes or both. They had little choice. State policymakers have only limited influence over the business cycle and changes in tax revenue — and no control over factors such as natural disasters that drive revenue volatility and wreak havoc on state budgets.

To minimize the need for uncomfortable choices between raising taxes or cutting spending, 48 states have created budget stabilization funds — rainy day funds — that take advantage of boom times by directing surplus revenue into savings that can offset future shortfalls. However, many of these funds lack rules to effectively smooth the ups and downs in revenue. Designing a robust fund, and knowing how and when to use it, gives state and local officials a critical tool for managing an economic slowdown or natural disaster. A well-managed rainy day fund can also help raise a state's bond rating, which in turn lowers the cost of borrowing and frees budget resources for other uses. But creating clearly defined funds with specific operating instructions is crucial to ensuring that these set-aside reserves are used to effectively safeguard a state's fiscal health.

First, state policymakers need to differentiate between one-time, non-recurring revenue — such as a federal grant for school construction or money from a legal settlement — and ongoing sources of revenue. Without doing so, they risk using a finite financial resource to fund ongoing costs, leading to structural budget problems. In Utah, policymakers recently enacted rule changes that require legislators to treat above-trend revenue — revenue that exceeds a 15-year average growth rate — as one-time revenue. So when lawmakers identified \$116 million in above-trend revenue for fiscal 2016, they designated it as a one-time source of money, ensuring that it would not be used to pay for ongoing expenditures.

Moving the funds into a “one-time bucket” had an important effect, says state Rep. Brad Wilson, who

proposed the rule change. “It helped all the lawmakers who were paying attention to the budgeting process understand we are, in fact, above trend. We are at a point in the business cycle where we should be preparing for lean times again.”

Second, defining a fund’s savings rules helps states smooth over bumps in the economic cycle. In Connecticut, state officials track and project radical shifts in the stock market, a wise practice given that nearly 40 percent of the state’s tax receipts come from capital gains, dividends and other investment earnings paid to the many Connecticut residents whose income is tied to Wall Street. Beginning in 2020, whenever the state takes in above-average revenue from capital gains or the corporate income tax, those funds will be automatically deposited in the emergency reserve. Connecticut law also outlines conditions for using the fund — essentially clarifying just what “rain” means for a rainy day fund.

Understanding the nature of revenue, clearly designing a rainy day fund’s rules for saving, and stipulating just how and when the money can be spent will not only help lawmakers and budget managers offset periods of economic volatility but also make them better and more responsible stewards of the taxpayers’ money.

GOVERNING.COM

BY SUSAN K. URAHN | JUNE 21, 2017

Executive vice president and chief program officer for the Pew Charitable Trusts

TAX - NEW HAMPSHIRE

[Appeal of Public Service Company of New Hampshire](#)

Supreme Court of New Hampshire - June 2, 2017 - A.3d - 2017 WL 2392541

Taxpayer appealed order of Board of Tax and Land Appeals denying 77 of its 86 individual tax abatement appeals on its property.

The Supreme Court of New Hampshire held that:

- Taxpayer failed to meet burden of providing evidence that utility regulatory environment in which it operated impacted market value of property to such degree to make assessments disproportional;
- Findings by Board that appraisals of property presented by taxpayer did not result in credible opinions of market value were supported by record;
- Judicial estoppel did not apply to bar municipalities from assessing property at value greater than
- Department of Revenue Administration’s assessed value; and
Board’s decision did not violate state constitutional requirement that taxation be uniform and proportional.

Taxpayer failed to meet its burden of providing sufficient probative evidence that utility regulatory environment in which it operated impacted market value of its utility property to such degree as to make municipal assessments disproportional in Board of Tax and Land Appeals’ denial of 77 of its 86 individual tax abatement appeals. While taxpayer relied upon impact that regulation had upon its ability to set rates and impact that regulation would have upon sale of utility, as, in such sale, Public Utilities Commission approval was required, fact that Commission disfavored passing on acquisition costs to customers did not mean practice was forbidden, as it could approve sale and pass costs to

customers provided that it found such sale to be for public good, and identifying regulation that might impact market value of property was insufficient.

Findings by Board of Tax and Land Appeals that appraisals of utility property presented by taxpayer did not result in credible opinions of market value were supported by record in its denial of 77 of taxpayer's 86 individual tax abatement appeals on property. First appraiser did not consider possibility of sale of any of key components of property, but Public Utilities Commission concluded that taxpayer's hydroelectric plants could be sold separately and for higher value, first appraiser used flawed income approach, as he did not have specific revenue or expense information, second appraiser shifted how much weight he placed upon his approach for differing years but provided no support for deduction for what he called non-taxable, pollution control items, and second appraiser did not provide independent opinion of market value of property in individual towns.

Judicial estoppel did not apply to bar municipalities from assessing taxpayer's utility property at value greater than Department of Revenue Administration's assessed value, even though municipalities did not challenge Department's assessment before Board of Tax and Land Appeals denied 77 of taxpayer's 86 individual tax abatement appeals. Department's equalization process was not legal proceeding in which municipalities were litigants, and taxpayer did not show that municipalities took inconsistent positions, as municipalities submitted their local assessed values to Department, which unilaterally substituted allocated values from its appraisal for local assessed values supplied by municipalities and, thus, position municipalities were asserting was that their local assessed values represented correct market value of property, which was consistent with assessing taxes based upon those values.

Board of Tax and Land Appeals' decision to deny 77 of taxpayer's 86 individual tax abatement appeals on its utility property did not violate state constitutional requirement that taxation be uniform and proportional, despite claim that it allowed local municipal assessments to be significantly greater than Department of Revenue Administration's assessments used to determine municipality's share of county taxes. Taxpayer paid same proportion of local taxes, regardless of value of county taxes owed by municipality, and, thus, it was not being taxed disproportionately compared to other municipal residents, and taxpayer could not show that it was harmed, as Department's valuations of property did not yield accurate opinion of market value and, thus, property was effectively being value disproportionately lower at county level.

TAX - NEW HAMPSHIRE

[SegTEL, Inc. v. City of Nashua](#)

Supreme Court of New Hampshire - June 9, 2017 - A.3d - 2017 WL 2511319

Telecommunications provider, which used poles and conduits on city's right of way pursuant to pole attachment agreements with utility providers, brought action against city seeking declaratory judgment that city was not entitled to impose property taxes and seeking to strike city's tax assessment.

The Superior Court granted summary judgment to provider. City appealed.

The Supreme Court of New Hampshire held that city lacked authority to tax telecommunications company for use of poles and conduits over rights of way owned by city, where company did not own any poles or conduits within city, did not have its own license from city authorizing its occupation of city's rights of way, and used poles and conduits pursuant to pole attachment agreements with

utility providers that did not require company to pay property taxes assessed by city.

Indiana to Cancel Public-Private Interstate Contract.

INDIANAPOLIS (AP) — The state of Indiana has reached agreements to take control of a long-delayed section of the Interstate 69 extension three years after hiring a private developer to complete the work, the Indiana Department of Transportation said Friday.

The Indiana Finance Authority, the privately run I-69 Development Partners and the company's bond holders reached settlement agreements in principle for the state of Indiana to assume control of the halfway-completed Section 5 between Bloomington and Martinsville by July 31, state officials said. The deal is subject to approval by the Finance Authority's board.

Dan Huges, Indiana Public Finance director, said the deals will not increase the overall project cost to taxpayers and may provide some savings. The original cost of the project in current dollars was about \$590 million over 35 years, and the new agreements and financing structure total about \$560 million, he said.

Section 5, which is about 21 miles long, has been plagued by delays since work started on it in 2014. It was originally scheduled to be completed in October 2016, but the Finance Authority said in a notice to bond holders earlier this month that it estimates work on Section 5 to be substantially complete by Aug. 31, 2018.

"I am delighted for Indiana taxpayers that we have reached an agreement for the State to assume control and finish this project," Governor Eric J. Holcomb said in a statement.

The Finance authority will issue lower-interest highway-revenue bonds that are expected to be rated AA+. Those will fully replace the developer's private-activity bonds, which were originally rated at BBB-, Indiana officials said. I-69 Development Partners will provide an additional \$12 million to bondholders and \$50 million to the Finance Authority as part of the settlement, INDOT said.

A message seeking comment was left for I-69 Development Partners on Friday.

The agreements will release the state from future liabilities or claims with bondholders, I-69 Development Partners, the design-builder Isolux Corsan and insurance and surety companies, state officials said. However, the state will assume all future financial risk to operate, maintain and preserve the roadway over 35 years. The developer previously had assumed that risk.

Currently, more than 30 subcontractors are working on the roadway and that will continue, state officials said.

Subcontractors have repeatedly halted work because of payment disputes with Isolux Corsan. Sections 1 through 4 of the I-69 extension between Evansville and Bloomington are complete. INDOT has started surveying work on Section 6 from Martinsville to Indianapolis.

By: Associated Press June 19, 2017 9:41 am

KEN KUSMER

Associated Press

U.S. DOT Offers Guidance on Public-Private Partnerships.

As debate of the pros and cons of public-private partnerships heightens in light of President Donald Trump's fondness for infrastructure privatization, the U.S. Department of Transportation has offered a look at the ups and downs of bringing private sector players into the conversation early.

A new (fairly technical) [DOT paper](#) outlines 17 ways to engage the private sector, across three major phases of project development: planning, pre-procurement and post-procurement. During each, the paper suggests, some approaches seem to work well, shortening timelines, fostering information sharing, improving technical and financial innovation, and reducing risk (for companies and taxpayers). Others have mixed results.

Take "unsolicited proposals," for example — one of four top strategies the paper recommends during the planning phase.

State or local agencies can open their doors to unsolicited proposals for projects or facets of projects. LA Metro, since announcing it would accept them in February 2016, has received 75 on a variety of ideas, not only opportunities for public-private partnerships. Of these, 56 made it through an initial review that indicated the agency could consider the proposal; 16 went on to phase two for a more detailed analysis. Five projects are currently underway, and two more are being recommended for implementation.

In a webinar this week about DOT's paper, LA Metro's Chief Innovation Officer Joshua Schank said the decision to open up to unsolicited proposals was made in anticipation of voters passing an indefinite sales tax increase for transportation last November. The agency wanted to involve the private sector in new projects, but hadn't been successful so far.

"In fact, we've struggled to develop P3s that work," he said. LA Metro has put out requests for proposals or information before and received little enthusiasm. "[Accepting unsolicited proposals] avoids that to some extent. Because it involves the private sector earlier, we know when we go out that there is some interest."

And though some doubted that the private sector would respond, Schank said, "we have gotten recommendations for things that we might never have considered under other circumstances because people feel free to submit things that don't take a tremendous amount of effort."

The downside? It takes a lot of time and effort for the agency to evaluate them all fairly in its promised 60-day time frame.

The DOT paper gives unsolicited proposals a medium-positive score for maintaining or reducing costs, and adding value and fostering innovation. The strategy garners low marks for increasing competition, however: Though a company submitting a proposal still must go through a public bid process, the agency might show bias toward the initial proposer.

What limited evidence exists suggests that unsolicited proposals work best when they can speed up an already planned and environmentally assessed project.

Several are being considered in Los Angeles around the West Santa Ana Branch and Sepulveda transit corridors. In the first instance, the line has been planned and is going through environmental review, but the community is clamoring for faster delivery.

Schank said private companies have also expressed interest in working with the agency on pre-development agreements (PDAs), another early involvement strategy covered in DOT's paper. Using this approach, contractors would attempt to design a financially feasible plan for a relatively undefined project, and get right of first refusal to be a private partner on it should the agency decide to proceed.

Again, as with unsolicited proposals, the paper notes this approach can reduce competition and fail to decrease risk for the public sector (yet recommends it as a top strategy). PDAs also rank well for adding value and maintaining or reducing cost or schedule, and for decreasing risk for private sector partners.

Donald Cohen, executive director of In the Public Interest policy and research center, says it can be helpful to involve private players early to source ideas, but when they're asked to make financial projections too soon, "you're predisposing the answer."

He points to the Value for Money (VFM) analyses often conducted in advance of large infrastructure projects, and the decision whether to use more expensive private financing (which can be quicker) or tax-exempt public financing. In 2015, he wrote in a Miami Herald op-ed, Indianapolis reviewed the VFM process for a proposed new courthouse and justice center. The city's analysis found that using public financing would cost \$516 million less than a public-private partnership. The private firm that conducted the first VFM found the private option would be cheaper.

"But we've found that in political [situations] when a VFM comes up with a dollar number, that becomes a fact in the discussion," says Cohen. He says it's good to ask the private sector what they can offer in terms of innovation and efficiency, but that doesn't mean projects can't still be publicly financed and owned.

He also cautions that even the idea-gathering phase can tip the scale, as it can promote a feedback loop of potentially misplaced trust. "Once you make the decision you want to do [a project as a public-private partnership] you stop evaluating whether you should do it," says Cohen.

NEXT CITY

BY JEN KINNEY | JUNE 21, 2017

Jen Kinney is a freelance writer and documentary photographer. Her work has also appeared in Satellite Magazine, High Country News online, and the Anchorage Press. See her work at jakinney.com.

[Will It Soon Be Game over for Tax-Exempt Financing of Professional Sports Stadiums?](#)

Public financing, including tax-exempt bond financing, of facilities used by professional sport teams has long been a controversial topic, with advocates and opponents disagreeing over whether the public benefits sufficiently to justify public subsidies. [Since 2000, over \\$3.2 billion of tax exempt bonds have been issued to finance the construction and renovation of 36 sports stadiums.](#)

[A bill](#) has been introduced that would eliminate the availability of federally tax-exempt bonds for stadium financings. Under existing tax law, use of a stadium by the applicable professional sports team constitutes "private use," but taxable "private activity bond" status, which is triggered by

“private use” of the financed facility combined with the presence of “private security or payment” for the applicable bonds, can be avoided by structuring the bonds to be payable from tax or other revenues unrelated to the financed stadium.

The bill would amend the Internal Revenue Code to treat bonds used to finance a “professional sports stadium” as automatically meeting the “private security or payment” test, thus rendering any such bonds taxable irrespective of the source of payment.

This bill is identical to a [version](#) introduced in the House of Representatives in February and a slight departure from prior versions in the House that extended the exclusion from tax-exempt financing to a broader category of “entertainment” facilities.

What’s new this time? There are versions of legislation intended to terminate tax-exempt financing of professional sports stadiums in both the House and Senate, arguably evidencing an increased likelihood of advancement.

The National Law Review

Wednesday, June 21, 2017

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[CDFA Fundamentals of Economic Development Finance Course.](#)

August 7, 2017

Minneapolis, MN

The Fundamentals of Economic Development Finance Course is the foundation for all of CDFA’s educational offerings. This course will help you understand the variety of development finance tools available, from bonds, tax credits and TIF, to federal financing programs, RLFs, and access to capital lending resources.

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To learn more, and to register, [click here](#).

[Commentary: With the Trump Administration, ‘Strategic Patience’ on](#)

[Infrastructure May Be the Key.](#)

The phrase “strategic patience” has been used to describe the Obama administration’s approach to North Korea and its various disturbing initiatives. The idea was that the U.S. would study up on the situation and be patient, avoiding a headlong rush into any approaches that couldn’t be counted on to bear results. The patience part was the biggest challenge, as critics asked: where does it begin and end?

Although strategic patience may not be best alternative towards North Korea, it may be the best approach to infrastructure and the municipal market. We keep hearing about various proposals from federal officials that may be expected to gather momentum at some point in the not too distant future. No clear funding source for the proposed \$200 billion of federal support has been locked in at this point. The current consideration appears to be how does one trade using that information? The message has been inconclusive. Even though uncertainty is the trader’s friend, discerning the direction and speed is also key.

[Continue reading.](#)

The Bond Buyer

By John Hallacy

Published June 20 2017, 11:21am EDT

[S&P: Texas Budget Scorecard: The 2018-19 Biennium.](#)

On June 12, 2017, Texas Governor Greg Abbott signed the \$217 billion biennium budget, but not before vetoing \$120 million. The two-year budget is about \$360 million higher than in the prior biennium (an increase of 0.2%).

[Continue Reading](#)

Jun. 19, 2017

[S&P: Alaska 'AA+' GO Debt Rating Placed On Watch Negative Due To Fiscal Plan, Budget Impasse.](#)

S&P Global Ratings has placed its ‘AA+’ general obligation (GO) rating, ‘AA’ appropriation rating, and ‘A+’ moral obligation rating on the state of Alaska’s debt on CreditWatch with negative implications.

[Continue Reading](#)

Jun. 20, 2017

S&P: For Some U.S. State Budgets, Eleventh-Hour Negotiations Prevail.

As the end of June approaches, several states are nearing the conclusion of their 2017 fiscal year without having finalized budgets for fiscal 2018. While some states, such as Pennsylvania and Illinois, have become notorious for their late budgets, or no budget adoption at all, they tend to be the exception and not the rule.

[Continue Reading](#)

Jun. 22, 2017

S&P Credit FAQ: Proposed Criteria For U.S. And Canadian Not-For-Profit Acute Care Health Care Organizations.

On June 8, 2017, S&P Global Ratings published a request for comment (RFC) on revised criteria for U.S. not-for-profit health care organizations (“U.S. And Canadian Not-For-Profit Acute Care Health Care Organizations”).

[Continue Reading](#)

Jun. 8, 2017

U.S. Municipal Sales to Sink to \$7.56 bln Next Week.

Sales of bonds and notes by U.S. states, cities, schools and other issuers will fall to \$7.56 billion next week, down from more than \$11.2 billion this week, according to Thomson Reuters estimates on Friday.

Debt issuance so far this year in the U.S. municipal market totals \$179.3 billion, a drop of 12.8 percent from the same period in 2016.

Late last week, Bank of America Merrill Lynch lowered its full-year issuance forecast to \$440 billion from \$470 billion, citing lower advance refundings of debt coming to market.

Meanwhile, the muni market is reaching an annual peak in terms of reinvestment cash flowing into investors’ pockets from muni bond principal and coupon payments. Those payments are expected to total \$46.6 billion in July and \$43 billion in August, according to BofA.

Two New York deals top next week’s negotiated offerings. New York state’s Dormitory Authority will sell \$1.72 billion of state personal income tax revenue bonds through Morgan Stanley & Co. Underwriters will hold a retail presale period for the highly rated bonds on Tuesday ahead of formal pricing on Wednesday.

Reuters

Fri Jun 23, 2017 | 4:25pm EDT

[Issue Price: Notes from the Field.](#)

We are [two weeks into](#) the [new issue price regulations](#). Here are a [few more observations](#) from the field. As expected, most of the action flows from the [hold the offering price rule](#).

[Continue Reading](#)

The Public Finance Tax Blog

By Johnny Hutchinson on June 22, 2017

Squire Patton Boggs

[USDA Rural Community Development Initiative + Grant Application Tips.](#)

July 14, 2017

1:00 PM Eastern

The U.S. Department of Agriculture is now accepting applications for the Rural Community Development Initiative (RCDI). This program provides millions of dollars of grants to government agencies, non profits, and federally recognized tribes to support housing, community facilities, and community or economic development programs in rural areas. This round of the RCDI program will provide \$4 million of funding, and applications are due by July 25th. During this special webinar from CDFA, learn from expert speakers and previous awardees as we discuss the RCDI program, how to apply, and recommendations for successful applications.

To learn more, and to register, [click here](#).

[MSRB Files Proposed Amendments to Municipal Fund Security Advertising Requirements.](#)

The Municipal Securities Rulemaking Board (MSRB) filed with the Securities Exchange Commission (SEC) proposed amendments to [MSRB Rule G-21\(e\)](#) related to municipal fund security product advertisements. The MSRB is proposing amendments to Rule G-21(e) to address important regulatory developments and to enhance protections for investors in municipal fund securities. The proposed amendments reflect changes to SEC rules governing money market fund advertisements and improve regulatory consistency of disclosure requirements for those municipal fund securities that invest in money market funds. [View the filing](#).

The MSRB originally proposed these amendments as part of a broader [request for comment on updating and harmonizing certain provisions of its municipal securities dealer advertising rule and establishing similar advertising regulations for municipal advisors](#). The MSRB continues to consider comments received from market participants on the other aspects of its proposal.

Australian Super Funds Open-Minded on US Infrastructure as Trump Plots \$1 trl Spend.

Australian superannuation funds are prepared to invest in new infrastructure projects in the US if they are “structured right” as President Trump plans a \$US1 trillion spending spree.

Hostplus directors Mark Vaile and Peter Collins were on their way back to Australia last night following meetings with US officials in Washington as part of a superannuation delegation discussing infrastructure investment opportunities.

The Australians have been keen to promote superannuation funds as “reliable trustworthy owners” of infrastructure, stressing to US officials they are prepared to own assets for the long term and have “a community licence to exist,” Hostplus chief investment officer Sam Sicilia told The Australian Financial Review.

The super funds have stressed that while they expect to earn “reasonable” returns of between 8 and 12 per cent on their infrastructure investments, they do not plan to squeeze excessive returns out of them, saying that if investors do not “behave,” they lose their licence to operate.

US President Donald Trump is planning a \$US1 trillion infrastructure investment program over the next decade, with about 80 per cent of the cost to be funded by the private sector and states.

IFM Investors, which has an office in New York, has been encouraging US funds to “buy into” the infrastructure story, Mr Sicilia said. IFM Investors chief executive Brett Himbury met with US Vice President Mike Pence last week to discuss America’s infrastructure plan.

Australian superannuation funds have traditionally been reluctant to invest in new infrastructure projects like tollroads before knowing how many cars will use them for fear of losing money.

But Mr Sicilia said funds had “long time horizons” and they could invest in new projects if they were structured appropriately.

The Australian have been marketing their experience in owning and managing infrastructure assets to the US government, as well as explaining how asset recycling schemes work. Many US infrastructure assets are owned by municipalities who have not had any incentives to sell them.

Martin Fahy, CEO of the Association of Superannuation Funds of Australia, said the US meetings showed Australian funds were “world leaders” in the international infrastructure market.

Australian fund needed to invest money overseas to avoid investments being too concentrated in Australia, he said.

Finding overseas infrastructure investments has typically been difficult for Australian funds because of intense competition for assets like London City Airport, which was sold last year to Canadian pension funds for £2 billion.

But if President Trump’s infrastructure spending plan goes ahead, a broad range of infrastructure projects, both new projects and upgrades to existing assets, should open up for investment.

Australian investors can currently invest in US infrastructure through municipal bonds, which are used to fund many projects. But investors prefer direct investments in assets so they can have a role

in how the assets are operated rather than being passive investors, Mr Fahy said.

Australian superannuation assets are currently worth a record \$2.3 trillion. Infrastructure typically accounts for about 5 per cent of superannuation portfolios.

Other countries are also eyeing US infrastructure investments. US private equity firm Blackstone and Saudi Arabia's Public Investment Fund said in May they planned to create a US\$40 billion fund to invest in infrastructure projects, mainly in the US.

AFR Weekend

by Jenny Wiggins

Jun 22 2017 at 5:15 PM

[Big Illinois Bondholders Unlikely to Sell if Rating Cut to Junk.](#)

(Bloomberg) — If Illinois' debt gets downgraded to junk status next month, it's unlikely there will be a stampede to the exits by the largest bondholders.

The seven largest holders of the debt, who collectively hold about \$5.9 billion of the \$23 billion in outstanding state general-obligation bonds, according to data compiled by Bloomberg, all said they will not be forced to sell should the bonds fall below investment grade.

The firms, each of which run mutual funds, said they can own varying amounts of junk-rated debt and can exercise their discretion to avoid unloading bonds under fire-sale conditions.

Illinois' debt was cut to one step above junk by Moody's Investors Service and S&P Global Ratings on June 1, giving it the lowest ranking on record for a U.S. state, because of a clash between the Democrat-controlled legislature and Republican Gov. Bruce Rauner that has left the government without a full-year budget for nearly two years.

If the state doesn't enact a plan that reins in its chronic deficit, S&P warned, Illinois will likely lose its investment-grade status around July 1.

Here are the seven largest holders of Illinois state debt, from largest to smallest. All derivatives, fully refunded and insured bonds are excluded from these calculations. Any zero coupon bonds are shown at accreted value.

Fidelity Investments: \$1.77 billion

Fidelity, without addressing Illinois specifically, said in an email from spokeswoman Sophie Launay that its taxable and tax-exempt bond funds may invest in securities of less than investment-grade quality.

Vanguard Group: \$1.44 billion

Vanguard spokesman Freddy Martino said in an email that the firm's actively managed investment grade national municipal bond funds are allowed to have as much as 5 percent of assets invested in junk-rated securities and that currently the funds were not close to that threshold.

Nuveen Investments: \$854 million

John Miller, co-head of fixed-income at Nuveen, said the company's Illinois debt is held in funds that can own debt rated below investment grade. Some of the funds can have as much as 50 percent of their money in that category, he added.

Dodge & Cox: \$561 million

The \$50 billion Dodge & Cox Income Fund can own up to 20 percent in non-investment grade debt, spokesman Steven Gorski wrote in an email.

AllianceBernstein: \$545 million

Guy Davidson, director of municipal bonds at AllianceBernstein, said in an email his firm could continue to hold its Illinois bonds if they were cut to junk.

Wells Fargo Asset Management: \$441 million

"Our fund prospectuses allow for flexibility to retain securities that fall below investment grade, specifically to reduce the need to pressure sales following a downgrade," Lyle Fitterer, head of tax-exempt fixed income at Wells Fargo Asset Management, wrote in an email.

BlackRock: \$334 million

Peter Hayes, head of municipal bonds at BlackRock, said his company could continue to hold its Illinois bonds if they were cut to junk.

Crain's Chicago Business

June 21, 2017

[The Technical Case For Continuing To Love Municipal Bonds.](#)

Summary

- Despite the low interest rate environment, State and Local governments are reluctant to borrow for new money purposes.
- Demand continues to grow for tax-exempt municipal securities as supply shrinks creating enhanced value for investors.
- Europeans and a host of Japanese, Chinese and others have discovered a sovereign market (The United States Municipal Bond Market) almost as highly regarded as US Treasuries.
- There's also a perfect storm of technicals to support the municipal investor.

[Continue Reading](#)

Seeking Alpha

by Andres Capital Management

*Registered investment advisor, debt, bonds, medium-term horizon
andresreview.com*

Chicago Schools Now Paying 9% on Adjustable Rate Bonds.

- **Distict pays penalty yields after choosing not to remarket**
- **Rising variable-rate debt costs recall 2008 credit crisis**

Chicago's school system is paying bond-market penalties similar to those seen during last decade's credit crisis.

The junk-rated district, reeling from escalating pension costs and fallout from the Illinois budget gridlock, has been stuck paying punitive interest rates on \$167.5 million of adjustable-rate bonds after choosing not to attempt to remarket the bonds. The rate on the bonds, which are supposed to stay extremely low because investors can resell them to banks periodically, jumped to a maximum 9 percent on March 1 from 4.64 percent the week before and has stayed there ever since, according to data compiled by Bloomberg.

The spiraling interest bills are reminiscent of the chaos that erupted in the wake of the Lehman Brothers Holdings Inc.'s bankruptcy in 2008, when state and local governments were stung by soaring costs after investors sold the variable-rate securities en masse just as banks were scrambling to raise cash. In Chicago's case, though, it reflects how skittish investors have become about holding the debt of the cash-strapped school system.

"Chicago Public Schools has been unable to create a fiscally responsible budget and it relies on outside sources that, as we see, sometimes comes through and sometimes don't," said Matt Dalton, chief executive officer of Rye Brook, New York-based Belle Haven Investments, which manages \$6 billion of municipal bonds, including about \$3 million of insured Chicago school debt. "That's unsettling investors."

The school district agreed this week to pay a rate of 6.39 percent — subject to adjustment — for a short-term \$275 million loan from JPMorgan Chase & Co. to help make a pension payment and cover the cost of staying open through the end of the school year. The schools didn't receive \$215 million more in state aid to make the retirement-fund contribution after a measure was vetoed by Governor Bruce Rauner. Illinois has failed to pass a budget for more than two years as the Republican governor and Democrat-led legislature battle over how to close the state's chronic budget deficits.

Michael Passman, a spokesman for Chicago's schools, wrote in an email that the district is waiting for "a more opportune time" to remarket the bonds.

Bloomberg Markets

By Martin Z Braun

June 20, 2017, 11:21 AM PDT June 21, 2017, 11:58 AM PDT

Bloomberg clients: We'll be doing a TOPLive Q&A on Thursday, June 22 at noon ET, moderated by Martin Z. Braun, in which you can ask Joe Mysak questions about the latest with Connecticut, its debt downgrades, budget deficit and more. You can watch it here. If you want to ask a question, please send to TOPLive@bloomberg.net

[KPM Weekly Rate Update.](#)

[Read the Update.](#)

KPM Financial | Jun. 20

[Municipal Market Snapshot.](#)

[Read the Snapshot.](#)

Hutchinson, Shockey, Erley & Co. | Jun. 20

[Many MA Firms Have Yet to Get Their Advisors Qualified.](#)

WASHINGTON - As the deadline for municipal advisors to pass their qualification exam approaches, roughly 26% of registered firms have no advisors who have qualified, potentially leaving issuers with fewer firms on which to rely, according to regulators.

Those firms have until Sept. 12 to either have an advisor pass the Series 50 exam or get out of the business.

[Continue reading.](#)

The Bond Buyer

By Jack Casey

Published June 19 2017, 12:48pm EDT

[Social Finance Launches First Pay For Success Project Focused Exclusively on Workforce Development!](#)

Social Finance is excited to announce the launch of the [Massachusetts Pathways to Economic Advancement Pay for Success Project](#)! The project will support 2,000 immigrants and refugees in Greater Boston to make successful transitions to employment, higher wage jobs, and higher education.

[Read more.](#)

[MSRB Publishes Guide for Customer and Municipal Advisory Client](#)

[Complaint Problem and Product Codes \(and Webinar\).](#)

The Municipal Securities Rulemaking Board (MSRB) reminds regulated entities, which include brokers, dealers, municipal securities dealers and municipal advisors, of the October 13, 2017 effective date for amendments to rules related to customer and municipal advisory client complaints. [Read the January 18, 2017 approval notice for amendments to MSRB Rules G-10, G-8 and G-9.](#)

The amendments require, in part, that regulated entities keep an electronic complaint log of all written complaints of customers or municipal advisory clients using a standard set of product and problem codes. [The MSRB Rule G-8 Customer and Municipal Advisory Client Complaint Problem and Product Codes Guide is now available.](#)

The MSRB, in coordination with FINRA in the interest of consistency for those regulated entities that are also FINRA members, developed codes for the electronic complaint log required by Rule G-8 based on product and problem codes required by FINRA Rule 4530, but tailored to address municipal securities and municipal advisory activities. FINRA, in coordination with the MSRB, incorporates in its Rule 4530 product and problem codes explanations relating to municipal securities and municipal advisory activities, and includes Problem Code 15, Municipal Advisor Conflict of Interest, to address allegations relating to municipal advisor conflicts of interest.

The MSRB will host an educational webinar about the amendments to Rules G-10, G-8 and G-9 on Thursday, July 13, 2017 at 3:00 p.m. ET. [Register here.](#)

[Reminder: Comments on Draft Amendments to MSRB Rule G-34 on CUSIP Numbers Due Next Friday, June 30.](#)

[Read the RFC.](#)

[A Risky Fix to Repair a City's Gutted Streetlight Grid.](#)

TULSA, Okla. — For years, residents in this cash-strapped city watched helplessly as thieves gutted 33 miles (53 kilometers) of streetlight wiring, plunging long stretches of roadway into darkness. The thousands of dollars criminals pocketed at off-the-books salvage yards wreaked millions of dollars in damage.

Now Tulsa is scrambling to make patchwork repairs to its decimated grid, opting for a quick fix to appease frustrated motorists, including 48-year-old resident Bill White, who says broken streetlights could become a liability for the city and a hazard for drivers, not to mention an eyesore.

“If I’m visiting the city from the airport, what’s going to be my first impression?” White said. “Am I still in the country?”

Copper thieves have pillaged lighting grids in cities large and small across the nation, causing municipal budgets to skyrocket. Law enforcement agencies estimated that the copper theft racket was costing cities \$1 billion a year. At peak demand, copper went for around \$4 per pound; it fetches about half that now. Scrap aluminum hovers around 40 cents.

The lighting dilemma in Tulsa also tells the larger story of the country's deteriorating infrastructure due to decades of neglect, deferred maintenance and unwillingness by officials to make tough funding decisions. Many bridges and overpasses are obsolete; roads are pocked with potholes; sewer systems are time bombs. Some federal officials estimated it would take about \$1 trillion to fix the mess.

"Tulsa has the problem that almost every city in the country has: Their maintenance costs are outside what they can afford, so they're making piecemeal repairs just because of the cash flow," said Sean Crotty, an assistant professor of geography at Texas Christian University.

Cities that can afford more expensive solutions have overhauled their lighting grids with solar or LED technology. Last year, Detroit completed a \$185 million conversion of its archaic streetlight system to LED — light-emitting diode — after emerging from bankruptcy. The cost of an LED overhaul, though, could get "staggeringly expensive," explained Crotty, referencing San Diego as one example.

"Just the pole itself on a highway is a shocking, expensive thing: \$60,000 per post," said Crotty, who's also a faculty member in the university's Center for Urban Studies.

In an effort to switch most of the lights back on by December, the city is using cheaper, less-durable aluminum wiring instead of more reliable copper and gambling that theft-deterrent doors and stickers affixed to light poles exclaiming in English and Spanish, "We Use Aluminum Wire" will be enough to thwart would-be criminals.

But what the state's second-largest city is looking to save for the sake of convenience and immediacy could end up throwing its streetlight grid into chaos again, city officials and urban designers say.

"Even with aluminum, really, as long as these materials remain valuable, there's no magic bullet," said Terry Ball, the director of Tulsa's streets and storm water department, which began tracking the thefts in 2014. "There's no one approach you can take."

There's also no guarantee how long aluminum wiring will hold up, especially given Oklahoma's wild weather swings. Many of the light poles themselves date to the 1960s and 1970s. One industry group says copper is still the better option, even if it costs more.

"Copper is the standard conductor metal against which all other conductor materials are measured," said Thomas Passek, the president of the Copper Development Association Inc. "Although first-time cost may favor other materials, municipalities should consider the total cost of ownership."

But in these dire budget times, Tulsa's mayor, G.T. Bynum, said his city of about 400,000 people has little choice but to go with "the least expensive, still expensive option" to the tune of around \$3 million.

Ilyas Bhatti, an associate professor of design and construction management at the Wentworth Institute of Technology in Boston, said cities such as Tulsa run the risk of having "the same problems, trading one precious metal for another metal."

"To some, (criminals) may think (aluminum) is silver" when they cut the line," Bhatti said.

In Tulsa, which allocates only \$68,000 a year for streetlight repairs, the cost to outfit its 6,000 or so lights with LED would be somewhere between \$12 million and \$15 million, said Tracy Nyholm, the traffic operations planning manager.

Ball, the streets and storm water department director, said the only way the city will be able to afford better technology is through a sales tax, bond package or grant. And even then, those options could be at least five or more years off, he said.

Until then, Tulsa is gambling on a quick fix and hoping cheaper options come along sooner than later.

“The thing when you get into electronics, you buy it one day and the next day, it’s obsolete,” Ball said. “Two years from now, there may be a whole new light bulb we don’t even know about.”

By THE ASSOCIATED PRESS

JUNE 25, 2017, 11:57 A.M. E.D.T.

[After Puerto Rico’s Debt Crisis, Worries Shift to Virgin Islands.](#)

CHARLOTTE AMALIE, V.I. — The United States Virgin Islands is best known for its powdery beaches and turquoise bays, a constant draw for the tourists who frequent this tiny American territory.

Yet away from the beaches the mood is ominous, as government officials scramble to stave off the same kind of fiscal collapse that has already engulfed its neighbor Puerto Rico.

The public debts of the Virgin Islands are much smaller than those of Puerto Rico, which effectively declared bankruptcy in May. But so is its population, and therefore its ability to pay. This tropical territory of roughly 100,000 people owes some \$6.5 billion to pensioners and creditors.

Now, a combination of factors — insufficient tax revenue, a weak pension system, the loss of a major employer and a new reluctance in the markets to lend the Virgin Islands any more money — has made it almost impossible for the government to meet its obligations. In January, the Virgin Islands found itself unable to borrow and nearly out of funds for basic government operations.

The sudden cash crunch was a warning sign that the financial troubles that brought Puerto Rico to its knees could soon spread. All of America’s far-flung territories, among them American Samoa, Guam and the Northern Mariana Islands, appear vulnerable.

“I don’t think you can say it’s a crisis, but they have challenges — high debt, weak economies and unfunded pensions,” said Jim Millstein, whose firm, Millstein & Company, advised Puerto Rico on its economic affairs and debt restructuring until this year and has reviewed the situation in Guam and the Virgin Islands. He called the combination of challenges in the territories “a recipe for trouble in the future.”

For decades, these distant clusters of islands in the Caribbean and the Pacific have played critical roles as American listening posts, wartime staging grounds, practice bombing ranges and even re-entry points for astronauts splashing down in the Pacific.

The military presence buoyed their small economies, and a federal tax subsidy made it relatively easy for them to issue bonds. Over the years, they have collectively borrowed billions of dollars to build roads, run schools, treat drinking water and fund hospitals.

Congress has generally relied on the Government Accountability Office to monitor the financial health of the territories, but it did not intervene over the years when the auditors brought back reports of “formidable fiscal challenges” or “serious internal control weaknesses” on the islands. Not, at least, until Puerto Rico went over the edge.

Now the G.A.O. auditors are back, re-examining the debt and repayment ability of each territory, amid concerns that other crushing debt burdens may have escaped notice. An agency spokesman, Fuller O. Griffith, said it would report by the end of the year on “federal options to avert the future indebtedness of territories.” It is not clear what those options will be.

“Washington can’t appropriately manage its relationship with the states, much less the territories,” said Matt Fabian, a partner at Municipal Market Analytics.

Even the states are not immune, despite their legal status as sovereigns. Illinois, stuck in political gridlock, is just days from entering its new fiscal year without a balanced budget, in violation of its own constitution. The ratings agencies warn that Illinois’s bond rating is in peril of being downgraded to junk. Once that happens, as the territories show, hedge funds move in and economic management becomes a series of unpleasant choices.

American Samoa, one of the smallest territories, lost one of the biggest engines of its economy in December when a big tuna cannery closed after being required to pay the federal minimum wage. Moody’s Investors Service then put the territory’s debt under negative outlook, citing its fragile economy.

In the Northern Mariana Islands, the depleted public pension fund was wreaking such fiscal havoc in 2012 that the territory declared it bankrupt, but the case was thrown out. The government then tried cutting all retirees’ pensions 25 percent, but the retirees have been fighting the cuts, and the fund is nearly exhausted anyway.

Even Guam, which enjoys the economic benefit of several large American military installations, has been having qualms about its debt after Puerto Rico’s default.

“Puerto Rico’s troubles provide a teachable moment for Guam,” said Benjamin Cruz, the speaker of the legislature, who recently helped defeat a proposal to borrow \$75 million to pay tax refunds. “Spending borrowed money is too easy.”

But the debt dilemma is now most acute in the Virgin Islands — the three main islands are St. Thomas, St. Croix and St. John — where the government has been struggling ever since a giant refinery closed in 2012, wiping out the territory’s biggest nongovernment employer and a mainstay of its tax base.

Its troubles began to snowball last July, when Puerto Rico defaulted on most of its debts.

Last August, Fitch downgraded the Virgin Islands’ debt to junk, citing the territory’s chronic budget deficits and habit of borrowing to plug the holes, like Puerto Rico.

More downgrades followed, and in December, Standard & Poor’s dealt the territory a rare “superdowngrade” — seven notches in one fell swoop — leaving it squarely in the junk-bond realm. That scared away investors and forced it to cancel a planned bond offering in January.

The failed bond deal meant there was not enough cash to pay for basic government operations in February or March. As a stopgap, the territory diverted its workers’ pension contributions.

The Virgin Islands' governor, Kenneth E. Mapp, said he had no intention of defaulting on any bonds.

"I didn't ask anybody for debt relief, so don't put me in the debt-relief boat," Mr. Mapp said in an interview at Government House, the ornate seat of the territorial government, perched on a hillside overlooking the lush palms and bougainvillea of the capital, Charlotte Amalie, located on St. Thomas.

Still, Mr. Mapp is contending with many of the same problems that proved too much for Puerto Rico, driving it in May to seek bankruptcylike protection under a new law for insolvent territories, known as Promesa. Puerto Rico is now embroiled in heated negotiations over how to reduce its roughly \$123 billion in debts and unfunded pensions.

When Congress drafted the Promesa law last year, it made it possible for the other American territories to seek the same kind of help.

Now, even though the Virgin Islands maintains it has no intention of defaulting on its debts — and has even given creditors new protections — the mere prospect of bankruptcy has spooked the markets, putting borrowed money beyond the territory's reach and greatly limiting its options.

In something of a self-fulfilling prophecy, by giving territories the option to declare bankruptcy, Congress seems to have made such an outcome more likely.

"That innocuous provision, when sent to the bond market, said, 'Here's an escape valve for your debt obligations,'" said Mr. Mapp. "That changed the whole paradigm."

The problem is that in Puerto Rico, Promesa is turning out to shred the many legal mechanisms that governmental borrowers use to make their debts secure. These include liens and allowing creditors access to the courts.

"Under Promesa, all the security structures are dissolving," Mr. Fabian said.

Investors who thought they were secured creditors before now find themselves holding moral obligation pledges, which are not enforceable.

After the Virgin Islands' bond offer fell through in January, the fuel supplier to its electric authority stopped shipments, saying it had not been paid; the authority was already in court with its previous fuel supplier, which had not been paid either.

Then came the House of Representatives' plan to repeal and replace the Affordable Care Act. Mr. Mapp saw the federal money that the Virgin Islands relies on for its public hospitals going up in smoke.

Mr. Mapp scrambled. He reactivated a five-year economic plan that had been languishing and pushed higher taxes on alcohol, cigarettes and soft drinks through the legislature. He fought for a permanent electric rate increase. He got \$18 million in new federal funds for health care. He struck a deal to tax Airbnb rentals.

He hired collection agents to go after delinquent property and income taxes. He scheduled auctions for delinquent properties. He hired a team to work on the pension system, which is in severe distress, with only about six years' worth of assets left.

Until recently, the pension system was chasing high returns by investing in high-risk assets, like a \$50 million placement in life viaticals — an insurance play that is, in effect, a bet that a selected group of elderly people will die soon. It also made loans to an insolvent inter-island airline, a resort

that went bankrupt, and a major franchisee of KFC restaurants. The territory's inspector general has declared the loans illegal.

Mr. Mapp said he hoped to start restructuring the pension system in the fall. Already, he said, the government had stopped diverting the workers' pension contributions, as residents began filing their tax returns and payments in April. The tax payments eased the immediate liquidity crisis.

Recently, he met with the Treasury Secretary, Steven Mnuchin, to discuss possible incentives to attract tech business to the Virgin Islands. And he hopes to return to the capital markets.

"The fact that we didn't complete the sale in January gives the impression that our market access is constrained," said Valdamier O. Collens, the territorial finance commissioner.

Investors have nothing to worry about, said the governor. For decades, the Virgin Islands has used a lockbox arrangement that makes default all but impossible.

Merchants collect sales taxes and send the money to a trustee for the bondholders. Not a cent goes to the territorial government, including the pension fund, until the bond trustee gets enough to make all scheduled bond payments for the coming year.

"We have no access to the moneys before the bondholders are paid," Mr. Mapp said. "These moneys are taken out of the pie before the pie is even in the oven. Our debt has never been in jeopardy."

But in Puerto Rico, such lockbox arrangements have turned out to be one of the thorniest disputes of the bankruptcy proceedings. And Mr. Collens, the finance commissioner, is all too aware that the same dynamic could upend the Virgin Islands, too.

"We know that there has been a contagion effect with Puerto Rico," Mr. Collens said. "The market saw that by the stroke of a pen, Congress could create a Promesa for the rest of the territories."

THE NEW YORK TIMES

By MARY WILLIAMS WALSH

JUNE 25, 2017

[NFMA Recommended Best Practices in Disclosure for Local Government General Obligation Debt.](#)

The NFMA Disclosure Committee released the Recommended Best Practices in Disclosure for Local Government General Obligation Debt, draft dated June 22, 2017.

Comments will be taken through September 30, 2017, after which a final version will be prepared.

To view the paper, [click here](#).

[MSRB: See How Government Finance Professionals Use the MSRB's EMMA](#)

Website when Issuing Bonds.

[Watch video.](#)

MSRB: Hear From Government Finance Professionals About How EMMA Helps With Fulfilling Disclosure Obligations.

[Watch video.](#)

- [MSRB Publishes Guide for Customer and Municipal Advisory Client Complaint Problem and Product Codes.](#)
 - [Former GSA Head Reiterates Urgency for Scoring Reform.](#)
 - [BE AWARE: Governments Being Hit by Sophisticated Electronic Fraud Scams.](#)
 - [GFOA Alert: Public-Private Partnerships \(P3\).](#)
 - [Early Tax Abatement Disclosures Under GASB 77: Incomplete, Mislabeled – and Occasionally Spectacular.](#)
 - [California Taxpayers Action Network v. Taber Construction, Inc.](#) – Court of Appeal holds that tax objector alleged sufficient facts to state cause of action against contractor, as corporate consultant, for violation of conflict of interest provision in statute barring public officials or employees from being personally financially interested in contracts they formed in their official capacities, stemming from contractor’s lease-leaseback construction contracts with school district. *On remand, this case appears poised to invalidate the entire lease-leaseback construction contract system as currently configured.*
 - And finally, You’ve Been a Very Naughty Boy, Prepare for Strict Scrutiny is brought to us this week by [For the People Theatres of N.Y. Inc. v. City of New York](#), which dealt with zoning regs for adult businesses. You’ll doubtless be pleased to learn that your “specified anatomical areas” are subject to intermediate scrutiny. But you should probably run this by HR prior to office-wide implementation of any such scrutiny.
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SCHOOL FINANCE - CALIFORNIA

California Taxpayers Action Network v. Taber Construction, Inc.

Court of Appeal, First District, Division 2, California - May 2, 2017 - Cal.Rptr.3d - 12 Cal.App.5th 115 - 2017 WL 2365295

Objector brought a reverse validation action to challenge a lease-leaseback agreement for construction of school facilities.

The Superior Court sustained demurrer without leave to amend. Objector appealed.

The Court of Appeal held that:

- School construction lease-leaseback arrangement was authorized by statute;

- Leaseback did not require competitive bidding;
- Taxpayer failed to allege facts sufficient to state claim for breach of fiduciary duty;
- Lease-leaseback agreement was not void as a breach of the public trust;
- Objector had standing to bring a conflict of interest claim; and
- Objector stated a conflict of interest claim.

School district's lease-leaseback of its real property to contractor for construction of school facilities was authorized by the 2014 version of the school construction lease-leaseback statute, notwithstanding objector's argument that the agreement should be deemed a sham and subterfuge to avoid competitive bidding requirements, even though the agreement failed to provide financing, since the lease was for the purposes of construction, and the agreement provided for the title to vest in the school district at the end of the lease term.

The 2014 version of the statute authorizing a school district to lease real property to a contractor for a construction project without advertising for bids also allows the contractor to lease the property with improvements back to the school district, even if the district has not advertised for bids.

Objector failed to allege facts sufficient to state claim for breach of fiduciary duty against school district and contractor related to school board's approval of expenditures for school construction project pursuant to lease-leaseback agreement. Objector's complaint requested that contractor return money paid to it under lease-leaseback agreement, but did not allege that contractor was subject to fiduciary duty, complaint did not allege that school board profited from transactions and did not request restitution or disgorgement of profits, and relief sought for alleged breach of fiduciary duty was against contractor, a party that did not have a fiduciary duty.

School district's lease-leaseback agreement for a school construction project without competitive bidding was not void as a breach of the public trust, absent evidence that any member of the school board had a personal interest in the lease-leaseback agreement.

Court of Appeal would address school district's and contractor's argument that objector lacked standing to bring a claim of conflict of interest challenging lease-leaseback construction agreement, even though district and contractor raised the argument for the first time in opposition to objector's appeal from the judgment sustaining demurrer without leave to amend.

Objector alleged sufficient facts to state cause of action against contractor, as corporate consultant, for violation of conflict of interest provision in statute barring public officials or employees from being personally financially interested in contracts they formed in their official capacities, stemming from contractor's lease-leaseback construction contracts with school district. Taxpayer alleged that contractor served as a professional consultant to district and had a hand in designing and developing the construction plan, which was sufficient to state that contractor was an employee for purposes of statute and participated in making contracts, and taxpayer's allegations sufficiently stated that contractor was financially interested in contracts for purposes of statute.

REDEVELOPMENT AGENCIES - CALIFORNIA

[City of Galt v. Cohen](#)

Court of Appeal, Third District, California - June 2, 2017 - Cal.Rptr.3d - 2017 WL 2391690 - 17 Cal. Daily Op. Serv. 5266

City filed petition for writ of mandate challenging Department of Finance determination that

cooperative agreement between city and former redevelopment agency, which obligated agency to issue tax allocation bonds to finance city redevelopment projects, was unenforceable under freeze component of law dissolving redevelopment agencies.

The Superior Court affirmed, and city appealed.

The Court of Appeal held that:

- Projects were not enforceable obligations under law dissolving redevelopment agencies;
- Statute providing that tax allocation bonds issued before last day of year “shall be used for the purposes for which the bonds were sold” retroactively applied ;
- Department did not unconstitutionally impair bond agreements when it determined that proceeds could not be used to fund projects listed in cooperative agreement;
- Cooperative agreement did not give rise to enforceable obligations, despite validation judgment; and
- Equitable estoppel did not apply.

Projects named in cooperative agreement between city and former redevelopment agency and meant to be financed with proceeds of bonds issued by redevelopment agency were not enforceable obligations under law dissolving redevelopment agencies, although payment of the bond debt was enforceable.

Statute providing that tax allocation bonds issued on or before last day of year “shall be used for the purposes for which the bonds were sold” retroactively applied to bonds which redevelopment authority issued after that date, even though bonds were issued prior to effective date of statute. Specific reference to the date of bond issuance in the statute evinced the Legislature’s intent concerning the application of the provision, whether retroactive or prospective.

City lacked standing to argue that not allowing it to use tax allocation bond proceeds to fund projects in cooperative agreement with since-dissolved redevelopment agency unconstitutionally impaired contracts. City lacked any standing to complain that state was impairing its own rights, and city had no standing to assert the rights of the bondholders.

Department of Finance did not unconstitutionally impair bond agreements when it determined that tax allocation bond proceeds could not be used to fund projects listed in cooperative agreement between city and since-dissolved redevelopment agency, which had issued the bonds. Redevelopment agency did not have any obligation to the bondholders to use the bond proceeds to fund the projects, but rather was obliged to make the payments required, and there was nothing to indicate that bondholders would not be paid.

Cooperative agreement between city and since-dissolved redevelopment agency, by itself, did not give rise to enforceable obligations, and thus city could not use proceeds of tax allocation bonds issued by redevelopment agency to complete the cooperative agreement projects despite judgment validating the cooperative agreement. Validation judgment was conclusive and binding as to the cooperative agreement but not to any other contracts, cooperative agreement essentially contained a wish list of projects and the amount redevelopment agency was willing to put toward those projects but did not commit funds obtained by issuing the tax allocation bonds, and projects were not “enforceable obligations” under law dissolving redevelopment agencies.

Department of Finance was not equitably estopped from challenging city’s use of proceeds from tax allocation bonds issued by redevelopment agency to fund projects listed in cooperative agreement between city and former redevelopment agency. Any reliance on Department’s failure to object

sooner was not reasonable, as city did not avail itself of the statutory means of obtaining a “final and conclusive” determination of approval for subsequent payments for the proposed enforceable obligations and city entered into the agreement in an effort to avoid planned end of tax increment financing for redevelopment, and estoppel would nullify public policy that tax increment revenue should be used by local governments to fund core governmental services such as fire protection, police, and schools.

ELECTIONS - DELAWARE

[Young v. Red Clay Consolidated School District](#)

Court of Chancery of Delaware - May 24, 2017 - A.3d - 2017 WL 2448385

Residents who did not vote in school board special election filed action against school district, alleging that school district’s conduct in holding certain events at polling places on election day violated state constitution’s Elections Clause.

The Court of Chancery held that:

- Family-focused events at polling places on election day operated as a targeted reward that induced parents of students to vote in violation of Elections Clause;
- Family-focused events at polling places on election day operated as impediments to voting by the elderly and disabled in violation of Elections Clause;
- District’s campaign speech amounted to excessive partisan advocacy in violation of Elections Clause;
- Court would not issue injunction to enjoin conduct already prohibited by the Declaration of Rights; and
- Invalidation of special election was not warranted as a remedy.

ANNEXATION - GEORGIA

[City of Atlanta v. Mays](#)

Supreme Court of Georgia - June 5, 2017 - S.E.2d - 2017 WL 2414629

Residents of proposed annexation areas petitioned for declaratory judgment challenging annexations by city.

The Superior Court found the annexations to be invalid. City appealed.

The Supreme Court of Georgia held that:

- City’s purported annexation of five unincorporated areas of contiguous county would not have become effective until the first day of the month following the month during which the requirements for municipal annexations had been met, rather than the date the mayor signed each annexation ordinance, and
- House bill that provided for the creation of a newly incorporated city did not violate the Uniformity Clause.

Pursuant to statute governing the effective date of annexations, court declared that city’s purported annexation of five unincorporated areas of contiguous county would not have become effective until

the first day of the month following the month during which the requirements for municipal annexations had been met, rather than the date the mayor signed each annexation ordinance, and thus, was beyond the deadline for annexation set by house bill that created a newly incorporated city out of those unincorporated areas.

House bill that provided for the creation of a newly incorporated city did not violate the Uniformity Clause. Once five unincorporated areas of county were made part of newly incorporated city, the general law governing the effective dates of annexation operated to prevent another city from annexing those areas, and any annexation power of the city would have been subordinate to the General Assembly's power to annex and incorporate.

ZONING & LAND USE - MAINE

[Wolfram v. Town of North Haven](#)

Supreme Judicial Court of Maine - June 6, 2017 - A.3d - 2017 WL 2438530 - 2017 ME 114

Objector appealed from Board of Appeals decision to uphold a conditional use permit issued by planning board to property owner.

The Superior Court affirmed the Board of Appeals decision, and objector appealed.

The Supreme Judicial Court of Maine held that:

- Because property owner had two non-conforming structures on one lot, each could be enlarged by up to 33% of the ground area of the structure that it replaced and still remain in compliance with municipal ordinance;
- Ordinance provision that concerned the repair or replacement of a nonconforming structure damaged or destroyed by fire or cause other than the owner's willful act did not operate to prohibit the enlargement of an existing non-conforming structure;
- A 20% lot coverage restriction in municipal ordinance applicable to guest houses did not apply to a proposal to tear down a bungalow and rebuild it as an annex;
- Evidence was sufficient to support Board of Appeals finding that use of proposed annex to lodge would not have an adverse impact on the quiet possession of surrounding properties, as required for the issuance of a conditional use permit; and
- Evidence was insufficient to support objector's claim that a decision affirming the grant of a conditional use permit to applicant was the product of bias or procedural unfairness.

PUBLIC UTILITIES - MISSISSIPPI

[Mississippi Rural Water Association, Inc. v. Mississippi Public Service Commission](#)

Supreme Court of Mississippi - June 8, 2017 - So.3d - 2017 WL 2505083

Water utility association, on behalf of its nonprofit members, sought review of decision of the Mississippi Public Service Commission (MPSC) to adopt regulation requiring utilities to waive utility deposits for certified domestic violence victims for a period of 60 days.

The Chancery Court affirmed. Association appealed.

The Supreme Court of Mississippi held that customer deposits were included in the definition of the term “rate” as used in Public Utilities Act, which prohibited the MPSC from making rules that regulated the rates of nonprofit public utility association members, and thus MPSC lacked statutory authority to adopt regulation at issue.

ANNEXATION - MONTANA

[St. John v. City of Lewistown](#)

Supreme Court of Montana - May 30, 2017 - P.3d - 2017 WL 2334477 - 2017 MT 126

Land owners applied for a preliminary injunction and temporary restraining order to prevent city’s annexation of property.

The District Court granted summary judgment to city. Owners appealed.

The Supreme Court of Montana held that:

- City complied with statutory requirement for filing copy of plat or survey;
- City’s proposed annexed land was contiguous, as required by statutory procedures;
- City’s determination that annexation was in its best interest was unreviewable;
- City was allowed to require waivers to protest annexation in exchange for city’s water services;
- Owners were not denied equal protection by city’s decision of what property to annex; and
- Owners, as incidental beneficiaries, lacked standing to enforce contract between city and subdivision developer.

City seeking to annex contiguous land complied with statutory requirement for filing with county clerk and recorder copy of plat or survey. Even though corrected map identified partial lots to be annexed as “not a parcel,” and noted that no field survey was performed, map identified all land proposed to be annexed, map was recorded as certificate of survey, and annexation statute allowed for annexation of only portions of tracts of land that were being immediately serviced by city’s water.

City’s proposed annexed land was contiguous to existing annexed land and connected by road, also part of the annexation, as required by procedures for annexing contiguous land, despite contention that city used “hopscotch” method to skip certain parcels; tracts of land were deemed contiguous even though separated from city by road, road was indisputably an area of land, and roads could be considered contiguous to other land for purposes of annexation.

City’s determination that annexation of contiguous property was in its best interest was unreviewable, where city did not proceed contrary to statute, as city filed plat or survey and annexed area was contiguous, and city complied with statutory procedures regarding validity of protests to annexation.

City was allowed to require waivers to protest annexation in exchange for city’s water services, and therefore protests to annexation were validly discounted based on waivers, despite objecting land owners’ contention that waivers were signed under duress or fraud. Even if waivers were requested after utilities and annexation proceedings were initiated, owners were connected to city’s water supply for period of time and continued to receive service without request from city to sign a waiver, and owners were receiving utilities from city which, in exchange for those services, sought to annex property receiving benefit of those services.

City's decision of what property to annex was left to its discretion, absent failure to follow statutory directives, and therefore land owners were not denied equal protection by city's annexation; even though annexation distinguished between property owners whose property would and would not be annexed, annexation, by its very nature, was exercise of choosing one parcel over another to annex.

Land owners were not signatories to nor intended beneficiaries of contract between city and subdivision developer, and therefore owners were incidental beneficiaries who lacked standing to enforce contract in their action seeking to prevent city's annexation of properties; even if owners used roads located in subdivision, no owners lived in subdivision, their names were not in any part of contract, and they were not identified as third-party beneficiaries.

ZONING & LAND USE - NEW YORK

[Avella v. City of New York](#)

Court of Appeals of New York - June 6, 2017 - N.E.3d - 2017 WL 2427307 - 2017 N.Y. Slip Op. 04383

Hybrid Article 78 proceeding was brought against city and others, seeking injunctive and declaratory relief from proposed private development project that included construction of a large-scale retail complex and other facilities on parkland.

The Supreme Court, New York County, dismissed, and plaintiffs appealed. The Supreme Court, Appellate Division reversed. Appeal was taken.

The Court of Appeals held that proposed new developments on previously-authorized stadium site violated the public trust doctrine.

Legislative history of statute authorizing previous stadium project on site of parkland unambiguously demonstrated that the legislation did not authorize further non-public commercial developments on the tract of parkland but, rather, ensured that city was authorized to accommodate other public uses of the stadium and appurtenant facilities, and thus proposed new developments on the site violated the public trust doctrine. Legislative history demonstrated that the statute was intended to authorize the lease, rental or licensing of the stadium, not the construction of unrelated facilities, and that city requested the legislation to grant it the right to rent the stadium to private entities, not to construct new and unrelated facilities for private business purposes.

ZONING & LAND USE - NEW YORK

[For the People Theatres of N.Y. Inc. v. City of New York](#)

Court of Appeals of New York - June 6, 2017 - N.E.3d - 2017 WL 242729 - 2017 N.Y. Slip Op. 04385

Owners of putative adult businesses brought separate actions against city, seeking declaratory and injunctive relief based on First Amendment free speech challenges to zoning ordinance barring adult establishments from all residential zones and most commercial and manufacturing districts.

The Supreme Court, New York County, granted summary judgment to owners. City appealed, and actions were consolidated for purposes of appeal. The Supreme Court, Appellate Division, reversed. Owners appealed. The Court of Appeals affirmed as modified and remanded. After nonjury trial, the

Supreme Court, entered judgment for city with respect to bookstores and video stores. Owners appealed. The Supreme Court, Appellate Division, reversed in part, vacated in part, and remanded. On remand, the Supreme Court, entered judgment for owners. City appealed. The Supreme Court, Appellate Division, affirmed. City appealed.

The Court of Appeals held that:

- City had only a modest burden, at third stage of three-part burden-shifting framework for First Amendment challenge to zoning of adult businesses;
- Evidence established that owners' bookstores focused on sexually explicit activities and materials; and
- Evidence established that owners' eating or drinking establishments focused on sexually explicit activities and materials.

City had only a modest burden, at third stage of three-part burden-shifting framework for First Amendment free speech challenge in adult-use zoning context, of demonstrating that businesses affected by amendment to city's zoning ordinance for adult establishments, which amendment greatly reduced the significance of 60/40 percentage test for exempting eating or drinking establishments or bookstores from being considered adult businesses, retained a predominant focus on sexually explicit materials or activities, thereby fairly supporting city's rationale for amending the ordinance, i.e., to avoid sham compliance with 60/40 test, and also fairly supporting secondary effects of adult establishments as rationale for city zoning ordinance barring adult establishments from all residential zones and most commercial and manufacturing districts.

Evidence established, at third stage of three-part burden-shifting framework for First Amendment free speech challenge in adult-use zoning context, that the bookstores in question focused on sexually explicit activities and materials, thereby fairly supporting secondary effects of adult businesses as rationale for city zoning ordinance barring adult establishments from all residential zones and most commercial and manufacturing districts. All but one bookstore had peep booths for viewing adult films, with an average of about 17 booths per store, peep booths, by design, obviously promoted sexual activities, all bookstores used signage, displays, and layouts to promote sexually focused adult materials and activities, and many bookstores sold sex toys, adult novelties, and the like in nonadult sections of stores.

Evidence established, at third stage of three-part burden-shifting framework for First Amendment free speech challenge in adult-use zoning context, that the eating or drinking establishments in question focused on sexually explicit activities and materials, thereby fairly supporting secondary effects of adult businesses as rationale for city zoning ordinance barring adult establishments from all residential zones and most commercial and manufacturing districts. Topless dancing took place at all times daily for approximately 16 to 18 hours a day, and lap dances, a quintessentially sexual activity, were offered by dancers in both public and private areas.