Publications

Democratizing Tax Increment Financing through Participatory Budgeting – A Tool Kit

In 2014 Chicago was the site of the country's first participatory budgeting (PB) process to allocate tax increment financing (TIF) funds. The community organization Blocks Together worked with residents and businesses in the neighborhood of West Humboldt Park to engage residents in a pilot PB process to directly decide how to spend $2 million in TIF funds for projects that might never have received funding through the usual channels. This process resulted in deep engagement of residents, and five community-developed projects will be implemented over the next few years.

As part of this historic process, Blocks Together, UIC's Great Cities Institute and the Participatory Budgeting Project developed a tool kit that will provide information, resources, and lessons learned from using PB with TIF funds.

The final report, *Democratizing Tax Increment Financing through Participatory Budgeting – A Tool Kit*, is available here.

The State Pension Funding Gap: 2014

New accounting rules help provide a clearer picture

Overview

The nation's state-run retirement systems had a $934 billion gap in fiscal year 2014 between the pension benefits that governments have promised their workers and the funding available to meet those obligations. That represents a $35 billion decrease from the shortfall reported for fiscal 2013. The reduction in pension debt was driven primarily by strong investment results, with public plans in fiscal 2014 averaging a 17 percent rateof return.1

This brief focuses on the most recent comprehensive data from all 50 states and does not reflect the impact of weaker investment performance in fiscal 2015, which averaged 3 percent.2 Performance has been even weaker in the first three quarters of fiscal 2016, with negative average returns. Preliminary data from fiscal 2015 point to increases in unfunded liabilities for the majority of states. Total pension debt is expected to be over $1 trillion for state plans, an increase of more than 10 percent from fiscal 2014.

Continue reading.

The Pew Charitable Trusts

August 24, 2016

Cities and Drones: What Cities Need to Know About Unmanned Aerial Vehicles (UAVs).

National League of Cities' municipal guide, Cities and Drones, is designed to serve as a primer on drones for local officials, providing insight into the recently released federal rules relating to drone operation, as well as offering suggestions for how local governments can craft their own drone ordinances to encourage innovation while also protecting their cities.

Drones have the potential to revolutionize many industries and city services, particularly as their technology advances. There are many applications for drones within the public sector at the local and state level. Drones can be used for law enforcement and firefighting, as rural ambulances, and for inspections, environmental monitoring, and disaster management. Any commercial arena that involves outdoor photography or visual inspection will likely be experimenting with drones in the near future, as will retailers who want to speed up package delivery.

However, drones also present challenges. There are some safety issues, for instance, when operators fly their drones over people or near planes. City residents often have privacy concerns when any small device hovering nearby could potentially be taking photos or video. The FAA's final rule on drones left some opportunity for city governments to legislate on this issue. Rather than ban them outright, city officials should consider how this new technology might serve residents or enhance city services.

Read the Report.

Deloitte: Competing for Talent in the Public Sector.

Talent shortages are looming large on the horizon and the public sector is bracing particularly hard for impact. State agency HR departments have always had a hard time competing with private employers, but there are concrete steps you can—and should—be taking to improve your ability to attract and retain talented employees.

Whether you're looking for "quick hit" ideas or considering moving to a centralized model, Competing for talent in the public sector elaborates on the following guideposts for moving forward with a talented and thriving workforce:

1. Prepare for change with your existing workforce
2. Consider the full range of options for filling talent gaps
3. Get creative about talent attraction and recruitment
4. Modernize everything about talent engagement and retention
5. Take a close, hard look at existing roles

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The Benefits of Helping Struggling Cities.

For financially distressed municipalities, it's good to be in a state that intervenes, according to a new study.

Earlier this month, New Jersey stopped Atlantic City from defaulting on its debt with a $74 million bridge loan. While there was plenty of bluster and several hollow threats from legislators that they would not step in to help the financially beleaguered gambling town, it didn't surprise anyone when they finally did.

That's because New Jersey has a reputation in the credit market for going to any lengths to prevent one of its municipalities from entering Chapter 9 bankruptcy. In fact, no New Jersey municipality has defaulted on debt since the Great Depression. This extra layer of protection is not only comforting to local officials in struggling cities like Camden or Trenton, it's viewed as a big plus by those who invest in New Jersey municipal debt.

Now, preliminary research affirms the benefits of being a municipality in a more proactive state. Scholars at the University of Notre Dame and University of Illinois at Chicago have found that creditors tend to give municipalities in these states a slightly lower borrowing rate than they do municipalities in states without any kind of bankruptcy intervention program.

All other things being equal, the research found that municipalities in proactive states tend to get an initial interest rate on their bonds that is 1.4 basis points or 0.014 percentage points lower than those in states that don't have restrictions on entering bankruptcy. It may not seem like much but the difference in borrowing rates amounts to real cash. According to the researchers, it means that total local borrowing costs in an unrestrictive state were at least $105 million higher over the 12 years studied than in a proactive state.

The findings provide new information in an ongoing debate about the appropriate role of a state in its distressed localities. "I think what this answers is that getting a second set of eyes and additional input can help when you compare that against the municipalities who are authorized to file for Chapter 9 without conditions," said James Spiotto, an attorney and municipal restructuring expert.

Only about half of U.S. states even allow their municipalities to file for bankruptcy. Of those, the authors identified Maine, Michigan, Nevada, New Jersey, New York, North Carolina, Ohio and Pennsylvania as states with proactive policies designed to intervene before bankruptcy. These interventions are characterized by programs that allow the state to restructure a distressed locality's finances and often feature emergency loans and revenue transfers.

It's worth noting of course that proactive states do not always succeed in keeping a municipality from default or bankruptcy. One of the primary factors in whether an intervention is successful is the economy. After all, economic conditions are generally out of a state's control. A 2013 Pew Charitable Trusts study found this to be the case in Michigan, where Detroit filed for bankruptcy and five other cities were under emergency managers, and Pennsylvania, where Harrisburg was at the time was run by a receiver. The effects of the Great Recession in these cities continue to make it harder to rebound.

The Pew study recommended that states consider establishing an early warning system for localities and designing a program that includes all stakeholders when possible.

The research from Notre Dame and the University of Illinois offers an additional insight: an active

intervention program comes at a cost. Proactive states tend to have a slightly higher interest rate on their general obligation bonds than states with unrestrictive policies.

Still, noted Spiotto, all states pay a price when a municipality — particularly a major one — defaults on debt. “It’s the perception of risk,” he said. “If a major municipality is having a problem, investors assume the state has a problem. Rightfully or wrongfully, it reflects poorly on the state.”

States that allow bankruptcy but generally don’t step in to try and avoid municipal Chapter 9 filings include Alabama, Arkansas, Arizona, California, Idaho, Minnesota, Missouri, Montana, Nebraska, Oklahoma, South Carolina, Texas, and Washington.

GOVERNING.COM

BY LIZ FARMER | AUGUST 11, 2016

The Houston Pension Question: How the City's Pension Liability Grew and the Options for Reform.

Houston today faces an increasing unfunded liability for its employee pensions that totals at least $3.9 billion, as of 2015, up from $212 million in 1992. If no action is taken, that unfunded liability is expected to continue growing. However, the city has some options, however painful, that can reduce the unfunded liability and restrain its future growth. This report is designed to contribute to the ongoing discussion of the future of Houston’s pensions by:

- Clarifying the specific nature of the challenges affecting each of Houston’s three pension systems.
- Putting Houston’s pensions in greater budgetary context.
- Comparing and contrasting the position of Houston’s pensions to those of other large U.S. cities.
- Identifying potential options for reform and explaining the advantages and disadvantages of each of those approaches.
- Highlighting the experience of several large U.S. cities that have pursued strategies to address their pension systems’ liabilities.

Read the Report.

Rice | Kinder
Institute for Urban Research

Black & Veatch: Electric Industry Report.

Black & Veatch is pleased to offer you the ***2016 Strategic Directions: Electric Industry Report***. The full report is available for you to download here.

This report captures Black & Veatch’s global engineering and thought leadership to examine how distributed generation, the low price of natural gas and modern customer information systems represent growth opportunities for the electric industry — even as security concerns are on the rise and legacy power generation sources cede their prominence to new technology.

Social Finance Publishes New Report: Social Impact Bonds: The Early Years.

On July 5th, 2016, the Social Finance global network launched its first white paper on the state of the Social Impact Bond/Pay for Success market. The paper looks back to the launch of the first Social Impact Bond in Peterborough in 2010 to chart the growth of this emerging global movement. Results from the early projects confirm the value of using this innovative financing mechanism to deliver better outcomes for vulnerable individuals.

Read the report.

Technology Is Monitoring the Urban Landscape.

SAN FRANCISCO — Big City is watching you.

It will do it with camera-equipped drones that inspect municipal power lines and robotic cars that know where people go. Sensor-laden streetlights will change brightness based on danger levels. Technologists and urban planners are working on a major transformation of urban landscapes over the next few decades.

Much of it involves the close monitoring of things and people, thanks to digital technology. To the extent that this makes people's lives easier, the planners say, they will probably like it. But troubling and knotty questions of privacy and control remain.

A White House report published in February identified advances in transportation, energy and manufacturing, among other developments, that will bring on what it termed "a new era of change."

Much of the change will also come from the private sector, which is moving faster to reach city dwellers, and is more skilled in collecting and responding to data. That is leading cities everywhere to work more closely than ever with private companies, which may have different priorities than the government.

One of the biggest changes that will hit a digitally aware city, it is widely agreed, is the seemingly prosaic issue of parking. Space given to parking is expected to shrink by half or more, as self-driving cars and drone deliveries lead an overall shift in connected urban transport. That will change or eliminate acres of urban space occupied by raised and underground parking structures.

Shared vehicles are not parked as much, and with more automation, they will know where parking spaces are available, eliminating the need to drive in search of a space.

"Office complexes won't need parking lots with twice the footprint of their buildings," said Sebastian Thrun, who led Google's self-driving car project in its early days and now runs Udacity, an online learning company. "When we started on self-driving cars, we talked all the time about cutting the number of cars in a city by a factor of three," or a two-thirds reduction.

In addition, police, fire, and even library services will seek greater responsiveness by tracking their own assets, and partly by looking at things like social media. Later, technologies like three-dimensional printing, new materials and robotic construction and demolition will be able to reshape skylines in a matter of weeks.

At least that is the plan. So much change afoot creates confusion.

“We know for sure that there will be a lot of physical changes to our cities,” said Timothy Papandreou, the chief innovation officer for the San Francisco Municipal Transportation Agency. “Streets will be redesigned. There will be lots more real-time data. Automation will be everywhere. But it’s also crazy: Things are changing so quickly that we can’t pretend to have all the answers.”

One reason for confidence in a radically changed future is that much of it is already here. The city’s Uber and Lyft, the Boston-based auto-sharing company Zipcar and things like corporate shuttle buses have shown new ways for urban dwellers to use vehicles. Skylines in cities like London and Shanghai are full of unusually shaped buildings, thanks in part to computer-assisted design.

Rare robots can build with bricks, or monitor and rebuild the underground water, sewage and electrical pipes that make a city functional. It is hard to find a new municipal vehicle that does not come with a tracking system.

To the planners, innovations like automatic cars that learn people’s habits are simply an extension of trends. Mr. Papandreou said 13 companies are testing automated vehicles in the city. “We’re inviting start-ups to come in and work on the problems we have,” he said.

The city is developing a policy for drone-based deliveries. Emergency medical goods, transported from an airport to a hospital, are likely to be first, he said. But consumer goods may eventually be delivered by air.

Besides drones, the abundance of vehicles now on urban sidewalks, including motorized wheelchairs, scooters and hoverboards, is another intimation of the variety of ways people and things are expected to move, as digital technologies make these modes of transportation cheaper. Likewise, temporary offices and pop-up stores may foreshadow an urban landscape that changes faster than ever.

One danger of the new city may be the age-old faith that technology makes things better, and more tech is best.

“The danger of big dramatic projects is that they become the equivalent of urban renewal or the kind of sweeping things Robert Moses did for cars in New York that created dysfunction,” said Paul Saffo, a technology forecaster. “The best thing tech could do now is rescue us from the car-centric cities we built after 1930.”

The new techno-optimism is focused on big data and artificial intelligence. “Futurists used to think everyone would have their own plane,” said Erick Guerra, a professor of city and regional planning at the University of Pennsylvania. “We never have a good understanding of how things will actually turn out.”

He recently surveyed the 25 largest metropolitan planning organizations in the country and found that almost none have solid plans for modernizing their infrastructure. That may be the right way to approach the challenges of cities full of robots, but so far most clues are coming from companies that also sell the technology.

“There’s a great deal of uncertainty, and a competition to show they’re low on regulation,” Mr. Guerra said. “There is too much potential money for new technology to be regulated out.”

The big tech companies say they are not interested in imposing the sweeping “smart city” projects they used to push, in part because things are changing too quickly. But they still want to build big,

and they view digital surveillance as an essential component.

“Digital infrastructure is like plumbing or electricity. You can’t just have point-by-point solutions,” said Rick Huijbregts, managing director of the Americas division of the computer networking company Cisco Systems. “Cars have to talk to other transit, to traffic lights, to law enforcement.”

Is that creepy? “Our next generation, born after 1995, doesn’t know a life without computers,” he said. “They don’t know a way of living without this.”

THE NEW YORK TIMES

By QUENTIN HARDY

JULY 20, 2016

A Look at Rural Hospital Closures and Implications for Access to Care: Three Case Studies.

Abstract

The number of rural hospital closures has increased significantly in recent years. This trend is expected to continue, raising questions about the impact the closures will have on access to health care services in rural communities. To investigate the factors that contribute to rural hospital closures and the impact of those closures on access to health care in rural communities, the Kaiser Commission on Medicaid and the Uninsured and the Urban Institute conducted case studies of three hospital closures that took place in 2015: Mercy Hospital in Independence, Kansas; Parkway Regional Hospital in Fulton, Kentucky; and Marlboro Park Hospital in Bennettsville, South Carolina.

Download the Full Report.

The Urban Institute

by Jane B. Wishner, Patricia Solleveld, Julia Paradise, Larisa Antonisse

July 7, 2016

Black & Veatch 2016 Strategic Directions: U.S. Water Report.

Many, if not all, of the issues considered most important to the water industry in 2016 seem to pull hard on a single thread: cost. The cost of addressing outdated systems at a time when traditional revenue streams are drying up and/or the political cost of pitching rate cases or alternative financing strategies to skeptical stakeholders. The cost of water as it’s widely perceived by the public, whose understanding of the resources needed to treat and deliver a safe supply may compete with the industry’s ever-growing – and deferred – maintenance bill.

In this report, learn more about…

Communicating with the Customer

Public trust in government and municipal services is a critical, though fragile, construct. Tax and usage fee-paying customers expect that their funds are being used to create and operate reliable, safe and secure water systems.
Read More

The Art of Financing the Future
Our report explores the nascent but growing popularity of alternative financing schemes, particularly the rise of public-private partnerships as a way to join eager private investors with increasing public needs. The strategies employed in international markets – particularly Asia, Australia and Canada – may offer lessons for U.S. providers as they strive to balance revenues and infrastructure requirements.
Read More

Tools to Close the Gap
A sustainable future for the water industry includes applying the lessons learned by its electric and natural gas counterparts to address cost and aging infrastructure challenges. It means that the utility proactively collaborates with municipalities and its customers to build longer-term roadmaps. It means exploring alternative finance structures. It also requires embracing innovation.
Read More

Concluding Thoughts
While customer engagement on this crucial issue of cost carries risk on many levels, it is a conversation that must happen if the nation is to finally address its outdated systems. The scale and nature of the challenges in the water industry – from climate change to legacies of underinvestment – call for alignment, leadership, shared responsibilities and collaboration that goes beyond business-as-usual. [Tweet This]
Read More

Download the full report to learn more about the cost of water.

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NFMA Releases Draft White Paper on Disclosure of Statutory Liens.

The National Federation of Municipal Analysts (NFMA) announced today that it has released the draft White Paper on General Obligation Bond Payment Protections: Statutory Liens and Related Disclosure (White Paper).

The NFMA determined to address this topic "to call attention to the lack of uniform, transparent and clear disclosure of the payment sources and security protections afforded" to the holders of general obligation debt, according to the executive summary in the paper.

Jennifer Johnston, Chair of the NFMA's Industry Practices and Procedures Committee, further clarified the rationale for the paper, stating, "Having clear and complete disclosure benefits all market participants. The NFMA wanted to get involved in the dialogue related to statutory liens and general obligation bonds to call attention to why better disclosure is necessary."

July 13, 2016

Contact: Lisa Good, NFMA Executive Director

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New GFOA Research Report on Civic Engagement.

INTRODUCTION

Governments that want to engage their citizens via technology have many choices; the challenge for most communities is determining which tools are right for them. This choice is often based on a number of factors including the availability of resources, the community's appetite for engagement, and the impetus of government leadership. While the factors influencing which tools a community should select often vary, the benefits that can be realized from new methods of civic engagement are clear. The following sections highlight key features to consider when selecting civic engagement tools.

Continue Reading.

Author: Mark Mack

Year: 2016

New Report Examines Landscape of Georgia's Community Improvement Districts.

ATLANTA – Community improvement districts (CIDs) are an increasingly popular method of promoting economic growth in Georgia, with 25 active CIDs currently. In these special districts, property owners voluntarily tax themselves to fund a range of public improvements and services to support business.

In a new report, "Georgia's Community Improvement Districts," the Center for State and Local Finance examines the landscape of Georgia's CIDs, focusing on their evolution and key characteristics, as well as providing an in-depth analysis of five select districts.

The extensive analysis serves as a much-needed guide to Georgia's CIDs. Among numerous findings, the report:

- Provides the most public and up-to-date list of Georgia's CIDs, including recently formed Atlanta Aerotropolis CIDs (the Airport South and Airport West CIDs) and Little Five Points CID
- Highlights Georgia's business improvement districts (BIDs), a lesser-known model of improvement districts in the state that tends to be farther from metro Atlanta and unlike CIDs, may tax residential properties
- Examines the organizational structure of Georgia CIDs as compared to Georgia BIDs and four neighboring southeastern states BIDs (Alabama, Florida, South Carolina and Tennessee)
- Discusses evolutionary trends in CIDs since their inception in the 1980s, including the increasing diversity in services provided by CIDs
- Identifies funding sources used by Georgia's CIDs, such as the Georgia Transportation Infrastructure Bank, where more than 60 percent of loans and grants have gone to CIDs

- Takes an in-depth look at five select CIDs (Cumberland CID in Cobb County, the Atlanta Downtown Improvement District, South Fulton CID, Evermore CID in Gwinnett County, and Georgia Gateway CID in Camden County near the Florida border)

As a whole, the report shows that Georgia CIDs have considerable autonomy and authority, which has allowed them to spearhead ambitious, complex economic development projects. This has significantly influenced development in metro Atlanta, though CIDs are gaining momentum in other parts of the state.

With nine new CIDs created in the past five years, this report is a timely look at an increasingly prevalent economic development tool that has proved useful in revitalizing cities and counties throughout the state.

Download the study.

Read the presentation.

Center for State and Local Finance

Posted On June 28, 2016

A Primer on Financing Infrastructure: Obtaining the Tools to Get the Job Done.

File this under: Wonky summer read for infrastructure geeks.

Candidly, I was prepared to be unimpressed and perhaps even bored by the task set before me. Reading through yet another lengthy dissertation on the problems and prospective solutions to the world's infrastructure crisis was a daunting obligation – but one that seemed necessary as we begin to wrestle with the infrastructure finance issue in Cohort 3 of the City Accelerator. I am happy to report that things went better than expected, and I can even heartily recommend the recent online publication by New Cities Foundation, "Handbook on Urban Infrastructure Finance."

While it won't qualify for your light summer reading, the 135-page publication falls somewhere between a brief primer and a more challenging textbook on a difficult and demanding subject that has become a hot topic in urban development circles. Though necessarily technical and detailed, it was totally readable and even engaging and enjoyable at times. It also comes at the perfect time. People with any level of public interest and particularly those in public office (or seeking public office) are finding themselves searching for answers to the critical question: How do we pay for needed infrastructure?

Dr. Julie Kim, senior fellow with New Cities Foundation is the author. She came to this assignment with a Ph.D. in Civil and Environmental Engineering from Stanford University. In 2004, she was co-founder of Stanford's Global Projects Center – an international research center for investments in major infrastructure projects, including private sector participation. Kim has over 25 years of experience with large-scale, world-class infrastructure and, as a result, has a unique perspective and grasp of the technical, financial and legal issues involved. In February 2015, just as she was joining New Cities, Kim sat down for a conversation on the subject of infrastructure finance.

In addition to New Cities Foundation, the handbook was supported by three significant private

sector sponsors: Cisco from the world of digital technology, Citi from the world of finance and ARUP, the international planning and design firm. These entities' investment in this project is admirable and underscores the general importance of the topic.

The handbook is well-documented and footnoted with additional information presented in appendices, tables, exhibits and specific references for further study. Throughout, the author defines obscure terms and explains acronyms that tend to pepper complex material. I was pleased that the handbook did not fall into the usual pattern of leaving the confused reader scratching his or her head while searching for a definition.

Nevertheless, reading and understanding the handbook does require an investment of time and focused attention. Even though it is user friendly, attempting to absorb it in its entirety might not be for everybody. Accordingly, I've outlined some of the highlights and have provided some recommendations:

1. Note the pertinent comments on page 1 of the preface: The handbook is aimed at mid-sized cities – with populations ranging from 200,000 to 10 million – and particularly those with limited financial savvy and knowledge. The author also makes a reassuring, but very telling statement, "They are not alone in this – even those of us who have devoted most of our lives on the subject are often at a loss in the maze of an ever-changing financial landscape."

2. On page 4 (still in the preface), a statement further defining and limiting the scope clearly outlines the situation, "Although many infrastructure assets (e.g., energy utilities are in private hands, the most critical infrastructure financing challenges facing cities today are those assets in the public domain (e.g., public transit, roads, water/wastewater treatment) where the public sector is responsible for owning and operating the assets and where financing largely relies on grants, subsidies, taxes and other sources that are unsustainable in the long run." That pretty much covers the status of infrastructure in most cities in the United States.

3. Another dramatic conclusion is made on page 17: "Finally and most importantly, taxpayers and users need to recognize that, like everything else, they are the ones who will have to pay for infrastructure in the end. They have to recognize the current reality that the choices ultimately come down to these: either they pay taxes or user charges or they will get no service at all."

4. If you lack the time to read the entire 135-page document, I suggest you read chapter 3: Funding Considerations and Sustainable Revenue Sources. In my opinion, these pages constitute the informational heart of the handbook and include much of the real meat addressing the issue.

5. If you can only spare sufficient time and attention for a single page, make it page 66: "Exhibit 11: Taxes and Other Related Infrastructure Funding Revenue Sources." This comprehensive table includes more usable information on this timely subject than many entire studies or scholarly texts I have encountered.

It might be tempting to believe that like most crises, "This too shall pass." But roads, bridges, sewers and other elements of our nation's (and world's) crumbling infrastructure will not repair themselves. Investment of time, attention and capital (both conventional funds and political capital) will be required. And no, it's not someone else's job. Infrastructure is the very foundation of our civilization and an investment to make things right will pay in both long- and short-term benefits.

We understand the situation and we have the tools to do the job. It's time to get to work.

RON LITTLEFIELD | JUNE 30, 2016

GFOA: Interpreting Local Government Financial Statements - How to Avoid 25 Common Mistakes eBook.

Description:

We are all familiar with the notion of optical illusions, such as a mirage in the desert or the wheels on a speeding car that appear to be turning backward. So too in local government financial statements, certain items are not always necessarily what they at first appear to be. Such "financial statement illusions" can easily lead to serious misinterpretation and bad decisions. GFOA's new publication An Elected Official's Guide: Interpreting Local Government Financial Statements – How to Avoid 25 Common Mistakes aims to help minimize that risk by examining 25 specific and commonly encountered mistakes of this kind. The goal is not just to serve those who seek to improve their own knowledge of local government financial reporting, but also to assist financial reporting professionals who desire a practical approach for sharing their knowledge with others.

Author: Stephen Gauthier

Year Published: 2016

Series: Elected Officials Guides

Member Price: $8.00

Non-Member Price: $16.00

Order Form: Download

Government Finance Officers of America

The Funding of State and Local Pensions: 2015-2020.

The brief's key findings are:

- In 2015, the funded ratio of state and local pensions using traditional accounting rules, with smoothed asset values, rose from 73 percent to 74 percent.
- The funded ratio using new accounting rules, with market value, declined slightly.
- Required contributions continued to climb in 2015, but plans also stepped up their payments from 86 percent to 91 percent of the required amount.
- The funding outlook suggests steady improvement if plans realize expected returns, but a downward drift if returns fall short, as many financial experts predict. Download the full brief.

The Center for Retirement Research at Boston College

by Alicia H. Munnell and Jean-Pierre Aubry

June 2016

Things You Didn't Know About Detroit's Historic Bankruptcy.

Nathan Bomey, author of a new book on the largest Chapter 9 filing in U.S. history, reveals the unsung heroes and true timeline of the event.

Nearly three years ago, Detroit's $18 billion bankruptcy — the largest municipal Chapter 9 filing in American history — captured the nation's attention. Detroit, like so many other Rust Belt cities, had suffered from decades of economic decline, as well as shrinking economic support from the state; mismanagement from city leaders that hurt the public trust and shattered finances; and the exodus of more affluent and generally white residents to the suburbs.

These effects and more are captured in the new book *Detroit Resurrected*. It's the first book to extensively chronicle the city's story into and out of bankruptcy, and it's written by journalist Nathan Bomey, who was the Detroit Free Press' lead reporter on the city's bankruptcy and is currently a writer at USA Today. Bomey, who spoke with Governing about the book, based it not only on his extensive reporting at the time but also on revealing and frank post-bankruptcy interviews with key players.

The following interview is edited for length and clarity.

I didn't know until reading your book that bankruptcy was being talked about in Detroit several years before 2013.

It was. In Detroit, the promises to retirees were actually broken many years before the bankruptcy process. I think the problem was [that by the time bankruptcy was considered], political leaders didn't really have the political will to make the tough decisions to avoid this type of process. So they put it off. And one factor in Detroit's bankruptcy that has been widely misunderstood is that the emergency manager law was uniquely tailored to make a bankruptcy go fast. Kevyn Orr got the job about four months before the city ultimately filed for bankruptcy. I think looking back on it, most people would agree that by the time he was installed, bankruptcy was probably inevitable.

You say that Detroit's approach to securing money to restore services is an unusual approach in bankruptcy. Please explain.

Creditors are used to getting their best interests put before the interests of the debtor. But Judge Steven Rhodes put the people of Detroit before the creditors of Detroit because he realized that Chapter 9 bankruptcy does not have to be about who gets paid the highest percentage of their claims. It can also be about, how do we restore a city to serve its people and make public safety come first? So Rhodes allowed Detroit to structure its debt-cutting plan in a way that preserved money for services before it actually carved out the money for creditors.

Explain the so-called Rhodes Test that emerged from this case.

If you look at fairness purely on legal terms and assessing debt, then [restructuring] might be a matter of just following the rule book on who gets paid back what. But if you introduce the idea that certain creditors are more vulnerable than other creditors, all of a sudden it's up to the judge's discretion whether equal treatment is fair treatment. In the end, Rhodes ruled that his own conscience could dictate whether it was fair for the pensioners to get a higher percentage on their

claim back than the Wall Street creditors — and he decided it was fair. If future judges are allowed to apply their conscience to decisions about what's fair and not fair, we could see some very divisive rulings.

Were there any unsung heroes who emerged in your reporting?

Very few people know about two retirees who were extremely important to the resolution of the case: Shirley Lightsey and Don Taylor. They helped negotiate the decision to accept the [roughly 10 percent] cuts in pensions and [90 percent cut] in health care. They had to convince their constituents to vote in favor of it. And I think what they did was remarkable because it was a triumph of pragmatism and it was an example of a sacrifice that we just don't see in politics.

Did any villains emerge?

One of the messages I really wanted to send with this book is that I think the heroes and villains are not always who you think they are. The villains most people cite were the bond insurers Syncora and Financial Guaranty Insurance Company, [whom Detroit proposed paying back 10 cents on the dollar]. But when I look at the case, they were simply fighting to protect their rights. And I'm not sure we should expect anyone to do anything differently. You can quibble with the aggressiveness of their position and the fact that they attacked the Detroit Institute of Arts and tried to liquidate that. But that's more a matter of opinion whether the museum was something that should have been liquidated to pay off creditors.

Detroit taught us a lot about how pensioners and bondholders can be treated in bankruptcy. Are there any other lessons for cities here?

I think that one of the key lessons is someday the bill will come due. The promises you make will eventually be paid for by somebody. In Detroit, it was the retirees and Wall Street who sacrificed. So think about that when you set the budget.

GOVERNING.COM

BY LIZ FARMER | JUNE 16, 2016

SIFMA Believes States Best Positioned to Improve Muni Disclosure.

New York, NY, June 15, 2016 – States have a unique opportunity to be proactive in helping to ensure that local governments that issue bonds in the public market make complete and timely disclosure of financial information and comply with all federal and contractual requirements. To that end, SIFMA is encouraging states to build on existing financial disclosure regimes with the goal of ensuring that investors have access to the financial information they need and that local governments are in compliance with their obligations.

SIFMA's recommendations follow from a 50-state review of state policies governing local government bond issuance, information disclosure and financial audits.

"SIFMA supports a robust disclosure regime in the municipal market to ensure that investors have timely access to information they need to evaluate their investments," said Michael Decker, managing director and co-head of SIFMA's Municipal Securities Division. "In light of our review of state policies, we believe states are the best positioned to lead the way going forward to ensure the

highest level of compliance and investor information."

In the review, SIFMA conducted a thorough examination of policies that govern local government disclosure, issuance and audit practices in all 50 states, Washington, D.C. and three territories, in an effort to determine the extent to which states oversee the continuing disclosure activity of local governments. Continuing disclosure involves the public dissemination of annual financial statements and certain event notices that are material to investors who own or may consider buying bonds issued by governments, authorities, agencies, districts and other public sector issuers.

In its review SIFMA looked at questions like whether states require the submission of and make public official statements (OSs), audited annual financial statements and other information relevant to investors.

The survey found that only one state, Louisiana, has a law in place designed to help ensure that local governments meet their legal disclosure obligations. In 2014 Louisiana enacted Act 463, a state law which both requires local governments to maintain records of Continuing Disclosure Agreement (CDA) requirements and compliance actions and requires financial auditors to examine governments' CDA records and check that local governments have made required financial filings.

Some states have policies which require the filing of OSs with state repositories and impose other disclosure requirements on local governments related to bond issuance. These states include: Arizona, California, Colorado, Florida, Illinois, Indiana, Kentucky, Louisiana, Michigan, Missouri, New York, North Carolina, Oklahoma, Oregon, Tennessee, Washington and West Virginia. These policies are a positive step towards improving market transparency. Four states and one territory have laws in place requiring the filing of financial audit information and make those filings publicly available: California, Missouri, New Jersey, Texas and the U.S. Virgin Islands.

SIFMA believes states are in a unique position to help ensure that local government issuers make complete and timely disclosure of financial information and comply with all federal and contractual requirements. We encourage states to adopt laws that:

- Require auditors to check for compliance with continuing disclosure requirements in the context of annual or periodic financial audits; and
- Require local governments to adopt internal policies and procedures related to compliance with all disclosure requirements.

In addition, some states have processes in place that could be leveraged to help ensure disclosure compliance. In North Carolina, for example, all local government bond issues are generally required to be approved by the Local Government Commission. A state with such a process already in place could include compliance with outstanding CDAs as a condition of approving future bond issuance.

Release Date: June 15, 2016

Contact: Katrina Cavalli, 212.313.1181, kcavalli@sifma.org

Scaling Impact for Community Development Financial Institutions.

Abstract

The link between economic equity and financial and economic inclusion has long been the focus of

community development financial institutions (CDFIs). CDFIs provide financial products and services to low-income, low-wealth, and underserved communities. In this brief, we examine what scale means for CDFIs, distinguishing size from impact. We look at how CDFIs deepen their impact through development and technical assistance services. Finally, we highlight the important role funding and balance-sheet management play in determining the type of future growth the industry can achieve. These questions are especially relevant given today's ongoing public debate about economic growth and equity.

Read the Brief.

The Urban Institute

by Brett Theodos, Sameera Fazili, Ellen Seidman

June 16, 2016

Investors: Know Your Broker's Best-Execution Requirements.

Overview

Bond dealers, typically referred to as brokers, that execute municipal bond transactions on behalf of investors have specific obligations to their customers that include providing relevant information, making suitable recommendations,
offering a fair price and providing their customers with best execution on their transactions. A broker's best-execution obligations are paramount to ensure investor protection. This document provides an overview of what investors can
expect of their brokers as part of a broker's compliance with its best-execution obligation to customers.

Continue reading.

Deloitte: Shutting Down Fraud, Waste, and Abuse.

Moving from rhetoric to real solutions in government benefit programs

Fraud, waste, and abuse in government benefits programs drain billions of taxpayer dollars, but there is a path ahead. Now, new tools and techniques such as predictive analytics, behavioral economics, and collective intelligence offer agencies innovative ways to address the problem for improved program integrity.

Shutting down fraud, waste, and abuse: Moving from rhetoric to real solutions in government benefit programs, examines how to create a holistic approach using five strategies:

- Make data collection central to anti-fraud and waste strategies
- Create a learning system to respond to changing threats
- Emphasize prevention to get the best return on effort
- Use "choice architecture" to encourage compliance
- Share intelligence to reduce intentional fraud

These approaches to benefits fraud prevention can help government agencies make their anti-fraud dollars work harder and smarter.

Download the Report.

Deloitte Public Sector Practice

May 31, 2016

How States are Working to Address the Retirement Savings Challenge.

An analysis of state-sponsored initiatives to help private sector workers save.

Read the Report.

The Pew Charitable Trusts

June 01, 2016

Rockefeller Institute Reports Highlight Public Pension Risk.

Public pension funds provide benefits to nearly 10 million people, invest over $3.6 trillion in assets, and are deeply underfunded. A new Rockefeller Institute report and policy brief put a spotlight on how the methods that public retirement systems and governments use to fund pensions are affected by investment return volatility. The analysis concludes that a typical 75-percent funded public pension plan has a one in six chance of falling below 40-percent funded within the next 30 years, a crisis level currently faced by only a few major plans. The research brief and associated report are the beginning of a series from the Rockefeller Institute of Government's Pension Simulation Project.

Policy Brief.

Full Report.

Bridging the Gap Together: A New Model to Modernize U.S. Infrastructure.

We have an extraordinary opportunity in America—to confront the pressure being placed on our nation's roads, water systems, ports, airports, and energy grid with available private capital. This report establishes the framework to unite projects that need funding with private capital ready to invest in a transparent system that allocates risks and resources to the public's benefits.

America is a nation of innovators—we are inspiring new industries through interconnected devices, commercializing suborbital space flight, and advancing cures to life-threatening diseases. Yet if we hope to foster the next generation of entrepreneurs that can push our economy forward and

maintain our quality of life, we must invest in our infrastructure. Wise infrastructure investments would create millions of jobs, maintain the health, safety, and security of our communities, and set our nation on track for decades of greater prosperity.

This is a choice between action and paralysis. Not making decisions today has serious consequences for tomorrow. We are already confronting prior mistakes as our infrastructure today is failing us. We are living at risk: driving every day on eroding roadways, questioning whether our water is really safe to drink, and sending our children off to schools built for our parents' generation. The problem is growing worse. It shouldn't be this way in a country that for so long has led and inspired the world.

Download Full Report.

The Bipartison Policy Center

Default and Loss Experience for Two- to Four-Unit Properties.

Abstract

Two- to four-unit buildings disproportionately provide housing and income to low-income communities and minority owners and renters. This report explains why these loans are important, discusses how difficult it has become to obtain one, and establishes that an overcorrection by policymakers caused that difficulty. We need to encourage lenders to increase their loss tolerance and lend more readily for these properties. We recommend two policy actions: (1) ensure borrowers have counseling on how to minimize and manage income variability and how to be a landlord in a small building and (2) relax the current government-sponsored enterprise loan-to-value requirements.

Download the brief.

The Urban Institute

by Laurie Goodman and Jun Zhu

May 16, 2016

Treasury Paper Outlines Steps to Ensure Success In Identifying, Pursuing P3-Suitable Projects.

The U.S. Treasury Department has published a discussion paper to help decision-makers who may be unfamiliar with and confused by the complex structure of public-private partnerships determine when a P3 is more likely than a conventional procurement to produce a beneficial and cost-effective project.

"An Economic Framework for Comparing Public-Private Partnerships and Conventional Procurement" focuses on the factors economists take into account when making this type of assessment, including a project's characteristics, the conditions under which it is being conducted,

and the extent of the public agency's ability to take certain actions before bids are solicited to ensure the project is successful and beneficial.

Much of the paper covers familiar ground for seasoned P3 developers by, for example, describing how this procurement method can save time and money by authorizing a single developer to carry out multiple stages of a project rather than assigning each one to a different contractor and permitting the quick introduction of efficiency-enhancing innovations throughout the project life cycle.

The authors also stress four best practices that public agencies should follow when planning a potential P3 project to ensure its success, many of which mirror NCPPP's own "7 Keys to Successful P3s." The Treasury-identified best practices are:

- Creating a predictable legal and regulatory climate that is conducive to private investment in P3s, training public agency personnel to conduct these transactions and providing information and assistance to agencies at all levels that will help them to pursue this type of procurement.
- Developing a project preparation process that includes defining strategic objectives, taking steps to monitor projects' progress and identifying and mitigating emerging risks.
- Conducting project feasibility studies to reduce risks that the private developer might be forced to bear; these can range from financial risks that could lead the developer to default to stakeholder opposition or failure to acquire necessary permits or land.
- Structuring the P3 to ensure the risks assigned to the developer that will cause the private partner to take steps that increase project value — those that result in a higher quality of service or lower per-unit costs, for example.

"Public-private partnerships represent a promising approach that can leverage the strengths of the private and public sectors to expand and improve our public infrastructure," the report says. "Yet PPPs are not a good fit for all projects. In each case, the public authority must establish that a PPP would provide net benefits to society that go beyond what is attainable through conventional procurements alone, including a careful screening of projects for their suitability factors. Thereafter, successful PPP implementation requires executing a set of additional best practices before the project gets underway. Not taking these steps may lead to higher costs, failure to meet performance targets later in the life cycle and a misallocation of scarce public resources."

May 26, 2016

SIFMA Develops Model Documents for Compliance with New MSRB Rule G-42.

New York NY, May 21, 2016 – SIFMA has developed a suite of model documents designed to aid municipal advisors in compliance with new MSRB Rule G-42, on duties of non-solicitor municipal advisors. The Rule will be implemented on June 23. SIFMA is issuing the documents as exposure drafts, and is open to industry feedback through the end of this month, at which time they will be finalized.

"SIFMA is pleased to provide municipal advisors with these compliance tools as the G-42 implementation date draws near," said Leslie Norwood, managing director, associate general counsel and co-head of SIFMA's Municipal Securities Division. "We have worked with our members and counsel to develop these drafts, and we welcome additional industry input as we finalize them,

with the ultimate goal of aiding firms in their compliance with the new Rule. We feel that the development and use of standardized model documentation plays a critical role in increasing legal certainty and decreasing legal costs and regulatory risk for firms in this business."

The documents in the suite include:

- Municipal Advisor Engagement Letter Form
- Disclosure Statement of Municipal Advisor Form
- Disclosure Letter for Existing Municipal Advisor Agreement Form
- Municipal Advisory Client Worksheet

The exposure drafts are available here.

Release Date: May 21, 2016

Contact: Katrina Cavalli, 212.313.1181, kcavalli@sifma.org

MSRB publishes Investor's Guide to 529 College Savings Plans.

Read the Investor's Guide.

Think Tank Calls for Governments to Remove Obstacles to Private Investment In Public Infrastructure.

Although business leaders and a growing number of government agencies favor private participation in building and maintaining public infrastructure projects, daunting obstacles are hindering developers' efforts to pursue them. They include the absence of a pipeline of projects that are suitable for private investment, a lengthy and time-consuming permitting process, and the constant risk that unexpected political decisions could change or kill a project without warning, the nonprofit Bipartisan Policy Center points out.

However, there are steps governments can take to address these challenges, the think tank says in a new report, "Bridging the Gap Together."

State and local officials should identify and be prepared to educate constituents on the public benefits of proposed projects — including reductions of front-end expenses and life-cycle costs — and the economic consequences of forgoing construction. "Their conclusion mirrors recent data published by the American Society of Civil Engineers, which suggests that failing to address the nation's vital infrastructure needs could cause a drop of almost $4 trillion in gross domestic product (GDP), leading to the loss of 2.5 million jobs in 2025. Agencies also should maintain inventories of the physical and economic condition of all public assets and set up expert coordinating offices dedicated to recruiting private investment.

The federal government, meanwhile, should commit to speeding up and simplifying permitting and environmental review processes, which the report calls "one of the most significant deterrents to private capital investing in U.S. infrastructure projects."

The report urges the public and private sectors to collaborate in developing model forms and standardized documents and contract language that help investors to assess the viability of potential projects and to increase the number and types of investment vehicles that could stimulate a project pipeline. The center also calls for efforts to ensure, when possible, that those who benefit from a project help to pay for it through user fees or project-specific taxation.

The report singles out for praise several successful projects that were developed through public-private partnerships that illustrate how effective opportunities for these types of collaboration can be, including the Pennsylvania Rapid Bridge Replacement Project.

NCPPP

May 20, 2016

Paying for Local Infrastructure In a New Era of Federalism: A State-By-State Report.

National League of Cities Local Infrastructure Funding Report

Declining funding, increasing mandates and misaligned priorities at the federal and state levels have placed responsibility squarely on local governments to maintain roads, upgrade water and wastewater systems and accommodate growing transit ridership.

But do cities have the authority to raise the revenue needed to maintain aging infrastructure and to make new investments that support growing populations?

The ability of cities to meaningfully address our nation's vast infrastructure challenges is bound by levers authorized to them by states. This report offers a state-by-state analysis of local option taxes and fees, including motor vehicle fees, sales and fuel taxes, as well as emerging mechanisms like state infrastructure banks and public-private partnerships.

Read the full report.

FAF Issues 2015 Annual Report: "Serving the Financial Statement User."

Norwalk, CT — May 19, 2016 — The Financial Accounting Foundation (FAF) today posted its 2015 Annual Report to the FAF website.

With the theme of "Serving the Financial Statement User," the annual report focuses on how the FAF, the Financial Accounting Standards Board (FASB), and the Governmental Accounting Standards Board (GASB) serve the capital markets through their specific roles in the standard-setting process. That process is aimed at developing standards that provide investors, lenders, and other financial statement users with information to make sound decisions about how to allocate capital and other resources.

The annual report features profiles of 16 financial statement users who share, in their own words, why high-quality accounting standards are important to the work that they do. Those profiled

include institutional and retail investors, municipal analysts, and data aggregators who use the U.S. GAAP Financial Reporting Taxonomy.

The importance of user input to the standard-setting process is examined in letters to stakeholders from FAF Board of Trustees Chairman Charles H. Noski, FAF President and Chief Executive Officer Teresa S. Polley, FASB Chair Russell G. Golden, and GASB Chair David A. Vaudt.

The annual report also provides a high-level summary of the year's highlights.

In addition to management's discussion and analysis and audited financial statements, the annual report includes listings of all FAF, FASB, and GASB advisory groups, including the Private Company Council and the Emerging Issues Task Force, as well as key FASB and GASB publications issued in 2015.

Those interested in receiving a hard-copy version of the report may request one by emailing clklimek@f-a-f.org. Hard copies are available in limited quantities and will be distributed on a first-come, first-served basis.

In addition to PDF and hard copies of the 2015 Annual Report, in early June the FAF will roll out a mobile-friendly digital version that features unique video content and links to relevant FAF, FASB, and GASB documents.

FAF Releases Updated Print Editions of FASB and GASB Accounting Standards Codifications.

Norwalk, CT — May 9, 2016 — The Financial Accounting Foundation (FAF) has released updated print editions of the Financial Accounting Standards Board's *FASB Accounting Standards Codification*® and the Governmental Accounting Standards Board's (GASB) *Codification of Governmental Accounting and Financial Reporting Standards.*

The FASB Codification is the single, authoritative source of Generally Accepted Accounting Principles (GAAP) for public and private companies and not-for-profit organizations. The GASB Codification is the single, authoritative source of GAAP for state and local governments.

FASB Codification

The new four-volume bound edition of the FASB Codification contains all of the content in the online Codification as of October 31, 2015. The annual bound edition of the FASB Codification is intended to be used as a reference tool in conjunction with the always current online Codification available at https://asc.fasb.org.

This edition includes an alphabetical listing of all the Topics referenced in the FASB Codification—with their related starting page numbers—at the beginning of each volume, for more effective use. The annual bound edition of the FASB Codification can be ordered online at the FASB Store at the cost of $240.

GASB Codification

The new two-volume bound edition of the GASB Codification contains all of the content in the online Codification as of June 30, 2015, as well as integrates Implementation Guide No. 2015-1 according

to the simplified GAAP hierarchy described in GASB Statement No. 76, *The Hierarchy of Generally Accepted Accounting Principles for State and Local Governments.*

The annual bound edition of the GASB Codification is intended to be used as a reference tool in conjunction with GASB Statements and Implementation Guides issued after June 30, 2015. GARS online can be accessed at https://gars.gasb.org. The annual bound edition of the GASB Codification can be ordered online at the GASB Store at the cost of $110.

About the Financial Accounting Foundation

Established in 1972, the Financial Accounting Foundation (FAF) is the independent, private-sector, not-for-profit organization based in Norwalk, Connecticut responsible for the oversight, administration, financing, and appointment of the Financial Accounting Standards Board (FASB) and the Governmental Accounting Standards Board (GASB). The FASB and GASB establish and improve financial accounting and reporting standards—known as Generally Accepted Accounting Principles, or GAAP—for public and private companies, not-for-profit organizations, and state and local governments in the United States. For more information, visit www.accountingfoundation.org.

Are Counties Major Players in Public Pension Plans?

The brief's key findings are:

- County governments play only a limited role in most states, but in a handful of states they are major public service providers.
- In these states, led by California, Maryland, and Virginia, counties employ lots of workers and provide pensions.
- County pension costs, which include contributions to plans they administer and to state-run plans they participate in, equal 4.8 percent of their revenues.
- The plans sponsored by counties are about 75 percent funded, slightly on the high end compared to other governmental entities.
- Overall, counties hold 12 percent of unfunded public pension liabilities, indicating that – with a few exceptions – they play a modest role in the pension world.

Download the full brief.

The Center for Retirement Research at Boston College.

by Alicia H. Munnell and Jean-Pierre Aubry

The Pension Grand Bargain: A New Reform Model for Cities.

Academics and attorneys specializing in municipal finance are expressing doubts about a public pension overhaul proposal being touted by the Manhattan Institute, which suggests the "grand bargain" model pioneered during Detroit's bankruptcy could be used to remedy the significant retirement liabilities crippling the rust belt cities of Chicago, St. Louis, Cleveland and Buffalo.

In addition, scholars studying public philanthropy dismissed the Manhattan Institute's assertions that regional and national foundations would be willing to serve as a "piggy bank" for cities' public-sector pension debts.

The Manhattan Institute report, released May 3, observed that Detroit's solution was particularly innovative. It used substantial contributions from private foundations to leverage much broader contributions from state government, corporations, public employees and retirees to sweep away a significant portion of the city's liabilities. The report pointed to sufficient philanthropic assets in Chicago, St. Louis, Cleveland and Buffalo to achieve the same result.

But Christopher Berry, director of the Center for Municipal Finance at the University of Chicago's Harris School of Public Policy, told Bloomberg BNA that the Manhattan Institute's analysis represents a fundamental misunderstanding of Detroit's experience.

Berry said the pension component of Detroit's grand bargain included some new funds from outside sources and cuts in benefits for participants, but it also made some long-term bets on the city's capacity to recover. In this regard, the plan gave Detroit permission to lighten its pension contributions for 10 years while it focused on economic recovery. In theory, he said, the city will have sufficient economic strength to ramp up its pension contributions in 2023.

Despite these good intentions, Berry said it's unclear what Detroit's pension hole will look like when the bills come due, or whether the city will be in any position to make good on its obligations. The notion that this uncertain model should be extended to neighboring rust belt cities is problematic. Moreover, it is unclear how Detroit's grand bargain could be layered on cities operating outside the crucible of bankruptcy.

"The grand bargain was a way out of bankruptcy. It wasn't a grand solution to the pension problem," Berry said. "We will only know if this was a solution to the pension problem when those pension payments are due and the city starts paying them."

Hole Is Getting Bigger

James Spiotto, managing director of the municipal finance consulting firm Chapman Strategic Advisors LLC, told Bloomberg BNA that the initial reviews of Detroit's pension systems since the approval of the bankruptcy plan in 2014 aren't encouraging.

"The problem is the hole is getting bigger," said Spiotto, a frequent speaker on municipal bankruptcy. "The projections say they are not earning what they thought they'd earn. They have losses and the benefit costs are different. So they could end up with a significantly larger unfunded problem in 2023. Sometimes, this grand bargain is better referred to as a grand bet."

The Manhattan Institute's premise that philanthropic organizations should play a role in resolving Chicago's $20 billion pension crisis was quickly dismissed by the John D. and Catherine T. MacArthur Foundation.

"Unlike what came together for Detroit in its bankruptcy case, a long-term solution to the fiscal challenges in Chicago will require significant political compromise and legislative action that demonstrably are not possible in the context of the current intransigent stalemate in our state capital," Valerie Chang, the MacArthur Foundation's managing director of programs, told Bloomberg BNA.

"We do not believe it is the role of local philanthropies to address budgetary shortfalls created by representative government at the local and state levels making choices about how to spend scarce

resources," Chang said.

Made in Detroit

The Manhattan Institute's report, "The Pension Grand Bargain: A New Reform Model for Cities," notes that Detroit's efforts to emerge from bankruptcy were stymied by a "crippling overhang" of retirement obligations. Fearing that the crisis would eventually force the court to sell off the city's beloved art collection at fire-sale prices, a consortium of philanthropic organizations came together to break the impasse.

The consortium pledged $366 million to address Detroit's pension liability and leveraged similar commitments from private corporations and the state of Michigan. In addition, public-sector unions representing Detroit employees and retirees agreed to forgo a portion of their retirement benefits as a contribution toward long-term solvency (25 PBD, 2/6/15). This "grand bargain gambit" eventually won the support of the bankruptcy court and, the report contends, placed Detroit on a sustainable path.

While other rust belt cities struggling with crushing pension obligations, declining municipal services and escalating property taxes don't find themselves in the clutches of bankruptcy, the Manhattan Institute said "Detroit has pioneered a model worthy of imitation."

"This paper finds that philanthropic assets in the aforementioned cities are more than sufficient to support a Detroit-style grand bargain—if paired with contributions proportionally equivalent to those made by other Detroit stakeholders (corporations, government, and labor)—to reduce such cities' pension debt, as well as to improve municipal services and/or reduce taxes," the report concluded.

The report includes a rough financial analysis suggesting how a proportionally equivalent version of the Detroit model could be applied in each of the four rust belt cities.

For instance, the Manhattan Institute points to a $19.4 billion unfunded pension liability in Chicago. That shortfall could be slashed to approximately $7.5 billion with a $1.8 billion contribution from the MacArthur Foundation, the Robert R. McCormick Foundation and others; a $1.3 billion contribution from state and local government; and an $8.8 billion contribution from labor in the form of benefit adjustments.

'Incredibly Unrealistic.'

Vasyl Markus, director of special projects at the Chicago-based Center for Tax and Budget Accountability, told Bloomberg BNA that the Manhattan Institute's analysis might make sense for Detroit but not the four other cities.

Markus, who specializes in municipal pension issues, said the major players managing the Detroit crisis understood that the city was dealing with a depleted property tax base that offered little hope of generating the revenue needed to make good on its broader obligations. The same can't be said of Chicago, which continues to have a viable commercial, industrial and residential tax base but does not have the political will to fully leverage it.

Markus said Cleveland, St. Louis and Buffalo are also in much better positions than Detroit to generate tax revenue to solve their problems. Even in the context of bankruptcy, he said, it would be hard to imagine a court concluding one of the four cities simply didn't have the tools to pay down its debts.

"This report is incredibly unrealistic," he said. "This struck me very much as a comparison between

an orange and a rotten apple, particularly when you think about a comparison of Chicago and Detroit."

'Bad Public Policy.'

The University of Chicago's Berry warned that the grand bargain model is simply "bad public policy," sending elected officials, public employees and unions the signal that private foundations will always bail them out.

"What message are you sending?" he said. "This does nothing to address the underlying incentives. The incentives involve politicians and employees kicking the can down the road and passing benefits that are invisible to voters now. Until we change those incentives, nothing is going to change."

James Ferris, director of the University of Southern California's Center on Philanthropy and Public Policy, told Bloomberg BNA that the grand bargain was particular to the difficult circumstances Detroit faced and might not work in other communities. He added that the unusual role played by private foundations overlapped with their commitments to Detroit and their missions to preserve a prized art collection. The notion that foundations might respond in a similar fashion in other cities is "misguided."

"There are a lot of forces at play behind the grand bargain," Ferris said. "To view it as simply a model for foundations/philanthropy bailing out a city and their pension obligations is naive and misguided. Philanthropy is not a piggy bank."

Pension & Benefits Daily

By Michael J. Bologna

May 6, 2016

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To contact the editor responsible for this story: Jo-el J. Meyer at jmeyer@bna.com

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How Three U.S. Cities Are Building on Public/Private Partnerships.

American cities seeking to reinvent themselves can do so by using creative financing, among other tools, according to a panel of experts at the 2016 ULI Spring Meeting in Philadelphia. The panel also served as the launch event for the new ULI publication *Reaching for the Future: Creative Finance for Smaller Communities*.

Municipalities must first take inventory of their competitive advantages, sincerely want to transform, be willing to take on some risk, and use innovative public/private partnerships, said Thomas Murphy, ULI senior resident fellow and a former mayor of Pittsburgh. "There is always money somewhere; it's the vision of where you want to go that's important," said Murphy. "The conversation must begin with the community making a choice of what it wants to be."

Metropolitan areas across the United States—including Greenville, South Carolina; Bethlehem, Pennsylvania; and Cincinnati, Ohio—have taken control of their destiny and successfully transformed themselves. "Today, many cities are trying to figure out their place in the world," said Murphy.

“Virtually every city has seen a decline in manufacturing. A city making a new choice about its future needs a clear understanding of what its competitive advantages are. In addition, cities should have strong leadership, a strategic vision, and knowledge of public financing tools.”

Municipalities must also become entrepreneurial. “There is always money available. You just have to know where to look,” Murphy said. “The ideas are more important and the vision of where you want to go.”

An example is Greenville, a textile market that decided to reinvent itself decades ago. “One of its advantages was that Greenville was the site of the largest textile convention in world, and European companies visited Greenville,” said Stephen P. Navarro, executive vice president in the Greenville office of CBRE. “European firms knew about its ‘Southern’ advantages: it is a right-to-work state, has a low cost of living, cheap taxes, and low-cost labor.”

Before long, overseas companies started expanding into the area. International tire maker Michelin established its U.S. headquarters in Greenville, and later BMW opened a plant there that now manufactures more cars than any other site outside Germany.

Developers began to revitalize Greenville’s central business district, focusing on the Reedy River Falls, which had been hidden by a massive, ugly bridge.

“Many people didn’t know about the waterfalls. Greenville didn’t have any tourism to speak of, job generators, nor significant history,” Navarro said. “What it did have was strong leadership. Greenville had three amazing mayors over 30 years, all with a similar attitude to think big. All were great communicators to the public sector, to their staff, and to the business community.

“In addition, Greenville had a strong city administration with an ability to create partnerships and to plan and invest in infrastructure that laid the groundwork for development. This is probably the most important element of Greenville’s success,” he said.

Strong civic leadership was important in the transformation of downtown Cincinnati, said Anastasia Mileham, vice president, marketing and communications, at Cincinnati Center City Development Corporation (3CDC), a private nonprofit real estate group.

“We had a visionary mayor that kick-started it, and companies such as Proctor & Gamble, Macy’s, Western & Southern, Kroger, GE, and others contributed funds. They looked at the city two decades ago and said, ‘We have to do something about economic development to recruit the best and the brightest to live and work in the city.’ They put money where their mouth was and pooled $50 million to create 3CDC.”

Targeted for revitalization by 3CDC was Cincinnati’s Over-the-Rhine neighborhood, which then was known for having one of the highest crime rates in the city. Today, the area—believed to be the largest, most intact urban historic district in the United States—has undergone a transformation to become one of Cincinnati’s most vibrant neighborhoods.

Also refurbished by 3CDC was the city’s Fountain Square, and the organization continues to revitalize Cincinnati’s central business district. “Fountain Square is a two-acre [0.8 ha] public space, but ten years ago [it] was blocked off from any pedestrian activity,” Mileham said. “It was a desolate space. Nothing happened except for people begging.”

Transformed by 3CDC, Fountain Square now is a mecca for visitors and offers about 500 free events a year that bring millions of visitors downtown.

Not that many years ago, Bethlehem, Pennsylvania, was also a municipality on a downward spiral, recalled John Callahan, former mayor of the city and now director of business development at Florio Perrucci Steinhardt & Fader. “At the end of the day, we really didn’t have a choice. We had to act,” he said. “Bethlehem Steel was closing and 20 percent of the population worked there. We couldn’t continue to see the city’s decline.”

Rather than try to be something it was not, the city decided to build on its past. “What makes Bethlehem special is Bethlehem Steel,” he said. “So we decided to build on that uniqueness of 125 years of steelmaking history.”

Jump-starting the city’s economic recovery was the Sands Casino Resort Bethlehem, which opened in 2009 on the old Bethlehem Steel grounds. Today, tens of thousands visit the tables every day. “Redevelopment was funded almost exclusively with tax increment financing revenues from the casino complex,” Callahan said.

Greenville, Bethlehem, and Cincinnati are three remarkable communities that made a clear choice, said Murphy. “They wanted to be something that they weren’t, and they all did it their way,” he continued. “In Greenville and Bethlehem, change resulted from public officials. In Cincinnati, the transformation was driven by the private sector. 3CDC is a model that has importance to every city. Every city has some major companies and wealth.”

The Urban Land Institute

By Mike Sheridan

April 28, 2016

Deloitte Playbook for Implementing T+2 Settlement Cycle in the U.S.

A shorter settlement cycle will enhance US market structure by improving safety and efficiency for investors. The T+2 Industry Steering Committee’s (ISC) Implementation Playbook, developed with Deloitte Advisory, provides a detailed timeline, milestones and dependencies to achieve the move to a two-day settlement cycle (T+2) in the US by the third quarter of 2017. Shortening the US settlement cycle will provide a number of benefits, including reducing operational, systemic and counterparty risk and lowering liquidity needs, while aligning the US with other T+2 settlement markets across the globe.

Download the Playbook.

‘Detroit Resurrected,’ by Nathan Bomey

Nathan Bomey’s “Detroit Resurrected” is the most thoroughly reported account of the largest municipal bankruptcy in American history. It also stands as a valuable work of urban policy. The overarching theme of the book is how Detroit turned to bankruptcy to restore the social contract.

Detroit was not only broke, but also in “service delivery insolvency,” in the phrase of Judge Steven Rhodes. About half of all property owners had stopped paying their tax bills, and similarly, nearly

half of the city's water accounts were delinquent. These figures reflected the sense of abandonment many residents felt when Detroit ceased to be able to deliver a quality of life that is taken for granted in other cities.

Detroit shed $7 billion in debt during bankruptcy, freeing up hundreds of millions to reinvest in blight removal, public safety, infrastructure and other core services. How the city brought its creditors to heel takes up the bulk of Bomey's narrative, though he also makes a number of useful points about why it went broke.

Bomey, who was the lead reporter on Detroit's bankruptcy for The Detroit Free Press, sees the city's struggles with race and the collapse of the auto industry as having rendered it impoverished, but it was fiscal mismanagement that drove it into insolvency. As he writes: "A cascading series of ineffective politicians — who lacked the will, foresight or ability to make drastic changes — turned to Wall Street to foot the bill for their fiscal recklessness, choosing debt over the hard choices necessary to protect the people of Detroit and ensure the financial security of the city's retirees."

The debt negotiations were far more complicated than a straightforward Main Street versus Wall Street affair. For one thing, there were two "Main Street" cohorts: Detroit's service-deprived citizens and its retired city workers, who were owed over $9 billion in pensions and health care benefits. Retirees and some Wall Street creditors seriously considered developing a joint plan to call for liquidating certain assets, most notably "the most valuable works" at the city-owned Detroit Institute of Arts. Instead, the exit plan that emerged centered on a so-called grand bargain. The Republican-controlled state government, the Detroit Institute of Arts and several foundations, including Ford, agreed to contribute $816 million over 20 years to fill the depleted pension funds. In exchange, retirees agreed to pension reductions, and the city relinquished its claims to the art.

Detroit's Wall Street creditors didn't see this as a bargain, arguing that it wasn't fair to devote the funds exclusively to pensions, and that selling art made more sense. But Detroit stuck with the grand bargain because of the uncertain legal and financial prospects of an art sale. In addition, the offer of nearly a billion in "free money" was simply impossible to turn down. In the end, all major creditors settled, allowing the city to leave bankruptcy much earlier than many initially expected.

Has Detroit been resurrected? The question is profoundly important in light of the continuing fiscal challenges faced by localities like Atlantic City and municipal institutions like the Chicago public schools. Bomey limits himself to arguing that bankruptcy at least gave Detroit hope, noting that one late 2014 poll found 85 percent of city voters believed "that the city would be better off after the bankruptcy." The exceptional features of the Detroit bankruptcy included ownership of a world-class art museum and the almost unbelievable harmony that prevailed among all public officials involved in the process: local Democrats, the Republican governor and State Legislature, members of the judiciary and the state-appointed emergency manager. After six decades of uninterrupted decline, Detroit, for once, seemed to catch all the breaks. Other cities confronting bankruptcy may not be so lucky.

THE NEW YORK TIMES BOOK REVIEW

By STEPHEN EIDE

APRIL 29, 2016

DETROIT RESURRECTED
To Bankruptcy and Back
By Nathan Bomey

297 pp. W.W. Norton & Company. $27.95.

NABL Releases Paper on Reinvestment Agreements.

The National Association of Bond Lawyers has released An Introduction to Reinvestment Agreements (GICs, Forward Delivery Agreements and Repos). This publication is intended to be a resource for NABL members who are evaluating these agreements. With interest rates expected to rise at the time of preparation of this publication and with bond issuers and borrowers looking for ways to maximize investment returns, an increase in the use of these instruments can be anticipated over the next several years. This publication is introductory in nature and intended to offer a basic orientation for NABL members who do not regularly work with investment agreements. It provides an overview and background of investment agreements, analyzes common legal and documentation issues, and highlights many of the key legal provisions included in these instruments.

This Tool Maps Transit, Block by Block, for 300 Cities.

Buying a home? Locating a new business? AllTransit's data are voluminous and granular.

Surprise, Arizona, northwest of Phoenix, scores lowest among U.S. cities larger than 100,000 people in a ranking of transit systems, according to a new online tool launching Tuesday. The city of 124,000 pulled a 0.09 out of 10. If you don't have a car, you're walking.

More than 800 municipal transit agencies in 287 cities across the U.S. contributed data to the project, called AllTransit. It shows, in neighborhood-level detail, where people live and work and how well public transit shuttles them back and forth. The agency data are combined with data from the Census Bureau, the Low-Income Housing Tax Credit Program, and the Department of Agriculture.

Cities have emerged in recent years as laboratories where technology can enhance health, efficiency, and livability. Mayors, city councils, and infrastructure companies have all benefited from systemic data collection. AllTransit puts an enormous amount of information in the hands of anybody with a browser window open and offers sample profiles to show how you might use the data: A small business looking for an underserved transit hub to set up shop. Home hunters seeking a well-connected suburb or part of town.

Or affordable-housing advocates researching where better transit might lead to more job opportunities for residents of poor communities. In December, the NAACP sued the governor of Maryland for canceling a rail line that would have served African-American residents of Baltimore who rely on public transit. (The office of Governor Larry Hogan called the suit baseless.)

The AllTransit project is the work of the nonprofit Center for Neighborhood Technology, which built a tool a few years ago that lets anyone see what housing and transportation costs add up to all over the U.S. AllTransit was funded by TransitCenter, a group that funds and helps manage projects that improve public transportation.

Users can analyze a city across more than two dozen metrics, including how many jobs there are near transit stations, transportation costs as a percentage of income, the location of stations near

low-income housing, and the number of farmer's markets in the area. The tool serves up data by census block group (a continuous area where roughly 600 to 3,000 people live), city, county, U.S. House district, and state legislative district. The database includes 544,000 transit stops along 15,000 routes across the country. Where city agencies weren't able to provide their data in the common format used by mapping services like Google and Bing, the research team collected route information and processed it themselves.

AllTransit was built to answer three main questions: How often is transportation available? Where can it get you within half an hour? And how many people use it? In practice, it answers many thousands of questions.
Its biggest shortcoming is that you can't search by category—by percentage of income spent on transportation, for example—only city by city. Peter Haas, chief research scientist at the Center for Neighborhood Technology, said he and his team will be taking feedback and thinking through what features they might add next.

Bloomberg Business

by Eric Roston

April 19, 2016 — 6:30 AM PDT

SIFMA Releases White Paper Recommending Improvements to Disclosure in the Municipal Securities Market.

New York, NY, April 12, 2016 – SIFMA today released a white paper on SEC Rule 15c2-12 which offers the industry's current perspective on the existing framework for disclosure in the municipal securities market and suggests ways in which the framework and related guidance for compliance could be improved to result in better disclosure for investors.

"SIFMA has long advocated for improved disclosure in the municipal securities market, and we are leading efforts for the industry to work with regulators on ways to improve the disclosure regime," said Kenneth E. Bentsen, Jr., SIFMA president and CEO. "Markets and market practice have evolved greatly since SEC Rule 15c2-12 was established. The SEC has said they want to revise and update the rule. When they take up this issue, we urge them to adopt our suggestions and revise the rule and interpretive guidance for the benefit of investors and market participants."

The Rule requires dealers, when underwriting certain types of municipal securities, to ensure that the state or local government issuing the bonds has agreed to provide certain information to the Municipal Securities Rulemaking Board about the securities on an ongoing basis, among other requirements. The Rule was first adopted 26 years ago, with subsequent changes related to continuing disclosure added 21 years ago. While amendments have been put into place since that time, market participants have raised several issues with the rule that may be outdated or could be more efficient.

Among SIFMA's recommendations is a proposal to assign to municipal advisors (MAs) responsibility for checking that statements in offering documents on competitive transactions are accurate when MAs are engaged by issuers to help prepare official statements. Underwriters of municipal securities have a responsibility to perform due diligence with regard to municipal official statements. However, underwriters' due diligence responsibilities on competitive transactions are reduced, since

underwriters are not involved in producing official statements in these cases and generally have less time to perform due diligence. In order to ensure official statements are accurate and investors are appropriately protected, a MA should have primary responsibility for performing due diligence on official statements when they help prepare the document.

SIFMA's other suggested changes to the rule include:

- Update the collection of disclosure information to reflect the availability of information on the MSRB's EMMA system, including notification of ratings changes and provision of the final official statement to potential customers;
- Interpreting the "end of the underwriting" period to harmonize with the definition of "primary offering disclosure period" in MSRB Rule G-32; and
- Specifying a date on which annual financial information will be provided and harmonization with continuing disclosure agreements.

Release Date: April 12, 2016

Contact: Katrina Cavalli, 212.313.1181, kcavalli@sifma.org

A Missing Opportunity to Fix Government Finances.

Most places focus on pensions for cost-cutting. But a new study argues it would be easier for governments to reduce the collective $1 trillion they owe in retiree health care.

Pension liabilities have been a high-profile issue in recent years, and they remain a major budget burden for state and local governments. States and cities have tried to rein in expenses by issuing less bond debt, and they've tried to mitigate further increases in their pension liabilities.

But a new study released Thursday says governments are missing a key opportunity to reclaim billions in annual revenue by not making severe cuts to retiree health care, commonly referred to as other post-employment benefits, or OPEB.

"There continues to be a lot of emphasis on pensions, and rightly so," said Stephen Eide, a co-author of the report produced by the Manhattan Institute. "But we wrote this report to say it might make more sense to focus more on OPEB reform than pensions — the simple reason being, legally speaking, you're more likely to get further in bringing down OPEB costs than pension costs."

In other words, states have more flexibility in restructuring retiree health-care benefits, and doing so could save hundreds of billions of dollars.

Eide and co-author Daniel DiSalvo argue that retiree health-care costs are just as big a culprit for crowding out other government priorities as pension costs have been, although the latter has received much more of the blame.

For instance, New York City's unfunded OPEB liability is more than $85 billion, more than four times the amount of the city's entire housing authority maintenance backlog. A 2013 study of California school districts found that rising health-care costs were in part offset by transferring money from other government funds that had been earmarked for kids with special needs and for remedial education.

A big reason retiree health care has flown somewhat under the radar is that most governments just appropriate money every year for their annual OPEB bill. While they report their annual liability — which is a collective $1 trillion — there are no long-term projections about how much their annual bill will increase over time, as there are with pensions. By not pre-funding OPEB in a way similar to pensions, it keeps the view on costs in the short term.

In general, retiree health-care costs aren't as ironclad as pension benefits. That's led some people to adopt a somewhat dismissive attitude about total liability numbers: Governments can always reduce their OPEB costs, the thinking goes, so that bottom-line number doesn't count for much.

Moody's Investors Service, which has taken a more critical view of pension debt, issued a report last year saying it doesn't view retiree health-care liabilities in the same light. Instead it focuses on OPEB more as a current budgetary expense — which averages about 1.5 percent of operating costs — when evaluating government fiscal health.

But those costs are expected to rise, thanks to health-care cost inflation and a growing retiree population. The Manhattan Institute report points to New York City, which paid $3.1 billion for retiree health care in 2015 alone — a 244 percent increase from what the city paid 10 years ago. Meanwhile the city's actual budget increased just 48 percent in comparison.

Given the trajectory, Eide and DiSalvo argue that governments should act now on health care before costs get out of control. Pointing to the trouble many governments have had in fully funding their pensions, the authors say governments should scrap the idea of prefunding OPEB and simply phase out the benefits.

How exactly that phase-out would work depends on the government, as OPEB benefits vary widely, as do the state-by-state legal requirements. But for states looking to cut costs, one area of focus may be on government retirees who are younger than 65 and therefore don't yet qualify for federal medical coverage under Medicare. People in this group keep their health-care coverage even after they retire and their former government employer continues to pay part — or in some cases, all — of their premiums.

The study notes that the Affordable Care Act, which set up health-care exchanges so that the nation's uninsured could access group health-care coverage, provides an opportunity for governments to phase out their own long-term health-care benefits. The authors point to Chicago as a test case, where Mayor Rahm Emanuel began phasing out the city's health-care program for retirees in 2014. At the time, Chicago had more than $800 million in unfunded OPEB liabilities. The Illinois Supreme Court, however, recently struck down that attempt by Chicago. The ruling was issued after the Manhattan Institute paper was completed.

The costs don't end once retirees qualify for Medicare, however. Many state and local government plans supplement federal medical coverage by paying for part of those retirees' out-of-pocket payments like copays and deductibles.

"The whole rationale [today] for having retiree health care seems to be much weaker versus when these programs were originally enacted," said DiSalvo. "California's OPEB started before there was even Medicare. Now there's Medicare, the Obama exchanges, you can get insurance under your [working] spouse if you retire early. That takes away a significant amount of need for this."

Still, some say that retiree health-care costs can be controlled without dismantling the whole system.

Josh Franzel, vice president of research for the Center for State and Local Government Excellence,

notes that governments have been shifting more and more health-care costs onto their employees and retirees in recent years.

“Of course every dollar is scarce and there’s competition for them,” said Franzel, who had not yet seen the report. “But if you’re going to try and retain individuals and have certain job types [like firefighters] that have higher physical requirements, enabling these folks to retire before being Medicare eligible is important.”

But DiSalvo said some governments, such as New York City, have health-care liabilities so big that passing on more costs to employees and retirees wouldn’t make a big enough dent. Additionally, he said, current employees tend to bear more of the brunt of those costs.

“In places where you’re really backloading benefits, it’s not only bad for … transparency, it’s bad for workers themselves because you have to be a long term employee to really reap the benefits,” he said. “Instead, you could put some of the [health-care] savings back into government salaries.”

**This story has been updated to reflect a ruling by the Illinois Supreme Court.*

GOVERNING.COM

BY LIZ FARMER | MARCH 31, 2016

How Big a Burden Are State and Local OPEB Benefits?

The brief’s key findings are:

- State and local OPEB liabilities, largely retiree health, have received growing attention due to rising health costs and a change from cash to accrual accounting.
- This analysis provides a comprehensive look at OPEBs in 2012-2013 at the state, county, city and school district levels.
- The three key insights are:

1. aggregate unfunded OPEB liabilities are an estimated $862 billion – nearly two thirds of which is held at the local level;
2. these unfunded liabilities are equivalent to 28 percent of the unfunded liabilities of pensions (using the OPEB interest rate for pensions);
3. and while OPEB liabilities are large, several factors – such as sponsors’ flexibility to scale back benefits – limit their potential drain on resources.

Download the full brief.

Center for Retirement Research at Boston College

by Alicia H. Munnell, Jean-Pierre Aubry and Caroline V. Crawford

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SIFMA U.S. Research Quarterly, Fourth Quarter 2015.

A quarterly report containing brief commentary and statistics on the U.S. capital markets, including

but not limited to: municipal debt, U.S. Treasury and agency debt, short-term funding and money market debt, mortgage-related, asset-backed and CDO debt; corporate bonds, equity and other, derivatives, and the primary loan market.

Summary

Total Issuance Increases Declines in 4Q'15

Long-term securities issuance totaled $1.48 trillion in 4Q'15, an 8.5 percent decline from $1.62 trillion in 3Q'15 and a 4.9 percent decrease year-over-year (y-o-y) from $1.56 trillion in 4Q'14. Issuance fell quarter-over-quarter (q-o-q) across all asset classes with mortgage-backed, asset-backed and equity recording the largest percentage declines. For full year 2015, long-term issuance totaled $6.7 trillion, an increase of 7.1 percent from $6.3 trillion in 2014. The annual increase was driven primarily by increase in mortgage-related and corporate bond issuance.

Long-term public municipal issuance volume, including private placements, totaled $84.7 billion in the fourth quarter of 2015, a decline of 8.1 percent from the prior quarter ($92.2 billion) and a decline of 19.7 percent y-o-y ($105.5 billion). Despite the fourth quarter decline, full year issuance was $403.1 billion, an increase of 19.4 percent from 2014.

In the fourth quarter, $527.3 billion in Treasury coupons, Floating Rate Notes (FRNs) and Treasury Inflation Protected Securities (TIPS) were issued, down 1.7 percent from $536.3 billion issued in the prior quarter and 2.2 percent below the issuance of $539.1 billion in 4Q'14. In full year 2015, Treasury issued $2.12 trillion in Treasury coupons, FRNs and TIPS, down 4.2 percent from $2.22 trillion in 2014.

Federal agency long-term debt issuance was $121.5 billion in the fourth quarter, a 4.9 percent decrease from $127.8 billion in 3Q'15 and 21.3 percent above $100.1 billion issued in 4Q'14. For the full year, long-term agency issuance was $513.5 billion, an increase of 36.1 percent from 2014.

Issuance of mortgage-related securities, including agency and non-agency passthroughs and collateralized mortgage obligations (CMOs), totaled $380.5 billion in the fourth quarter, a 18.9 percent decrease from 3Q'15 ($469.5 billion) but a 1.9 percent increase y-o-y ($373.4 billion). For full year 2015, $1.72 trillion of mortgage-related securities were issued, a very slight increase (0.4 percent) from the prior year.

Asset-backed securities issuance totaled $33.2 billion in the fourth quarter, a decline of 16.3 percent q-o-q and 27.0 percent y-o-y. For the full year, issuance totaled $193.2 billion, a decline of 14.3 percent from the prior year. Corporate bond issuance totaled $297.0 billion in 4Q'15, down 4.4 percent from the $310.6 billion issued in 3Q'15 and 10.0 percent below 4Q'14's issuance of $330.3 billion. For full year 2015, corporate bond issuance totaled $1.49 trillion, up 3.9 percent from $1.44 trillion in 2014.

Equity underwriting decreased by 14.6 percent to $38.8 billion in the fourth quarter from $45.4 billion in 3Q'15 and was 39.9 percent below the $64.5 billion issued in 4Q'14. For full year 2015, equity underwriting totaled $256.0 billion on 1,004 deals, down 17.8 percent and 17.9 percent, respectively, in volume and number of deals from 2014. "True" initial public offerings (IPOs) increased to $7.7 billion in 4Q'15, a 44.3 percent increase from $5.3 billion in 3Q'15 but a 57.3 percent fall from $18.0 billion in 4Q'14. In full year 2015, $24.6 billion was raised through 166 IPOs, down 65.8 percent from the record-breaking $94.3 billion on 301 deals in 2014.

Read the full report.

GASB Publishes New Implementation Guidance to Assist Stakeholders With Recent Pronouncements.

Norwalk, CT, March 24, 2016—The Governmental Accounting Standards Board (GASB) today issued implementation guidance containing questions and answers intended to clarify, explain, or elaborate on recent GASB Statements.

Implementation Guide No. 2016-1, Implementation Guidance Update–2016, primarily addresses questions that have been raised relative to the Board's recently issued standards on fair value and tax abatement disclosures. The Guide also addresses a wide array of practice issues on other topics that have been brought to the GASB's attention and reinstates certain previously superseded questions and answers that have been updated for the effects of newly issued standards on pensions and other postemployment benefits.

The requirements of Implementation Guide 2016-1 are effective for reporting periods beginning after June 15, 2016.

The Bond Lawyer - Winter 2016

The Winter 2016 issue of The Bond Lawyer® is now available.

Click here to download the document.

The Bond Lawyer®: The Journal of the National Association of Bond Lawyers is published quarterly, for distribution to members and associate members of the Association. Article submissions and comments should be submitted to Linda Wyman, (202) 503-3300.

Deloitte: Unlocking the Value of Community Solar.

US electric utilities of all types are defining their own paths forward to bring solar to their customers. Community, or "shared," solar programs are an increasingly popular option. These programs allow customers who do not own their homes, possess strong credit scores, or have adequate roof space to buy solar power, or in some cases, to invest in solar assets.

A new report from the Deloitte Center for Energy Solutions analyzes the community solar market from a fresh angle, examining the unique opportunities and challenges posed to each utility type: cooperatives, municipal, and investor-owned utilities.

Discover how growth trends vary by utility type and why state policies are a key factor in enabling and driving community solar market growth.

P3s Can Spur Economic Development by Providing Good Jobs, Training

Opportunities, Study Says.

Publicly funded infrastructure projects have proved to be a reliable source of local job creation and economic advancement, providing many socially and economically disadvantaged residents with a pathway to join the middle class. Projects procured through public-private partnerships can provide these opportunities as well, according to a new report published by In the Public Interest and the Partnership for Working Families.

The report, Building American While Building Our Middle Class: Best Practices for P3 Infrastructure Projects, outlines best practices that can be incorporated into P3 agreements, such as the adoption of policies that set job quality and income thresholds, inclusive hiring, apprenticeship and other types of training opportunities and oversight of efforts to ensure fair employment practices. The report also recommends that P3 partners enter into community workforce agreements (CWA), potentially with labor unions, "that establish targeted hiring goals, training opportunities and jobs for communities of need."

Providing P3-based job opportunities for those who are struggling to climb the economic ladder can benefit not only those who step into these roles but the projects themselves. Job accessibility and training ensure the future supply of a cadre of skilled workers who can replace those who retire or move on to different types of jobs. Such projects also are likely to attract public and community support, the lack of which can delay or ultimately derail a P3, the report points out.

Specific examples of the types of employment policies P3s could incorporate include meeting prevailing wage standards, classifying workers as employees rather than contractors to ensure that they receive benefits, and recruiting and providing training opportunities for workers from socially or economically disadvantaged and minority communities.

The report describes several municipal infrastructure projects that helped low-income and socially disadvantaged residents to significantly enhance their economic status.

According to a 2014 study conducted by the University of California, Los Angeles, only 6 percent of Seattle's workforce lived in the city and only 25 percent resided in surrounding, largely impoverished King County. After the city entered into a CWA — designed to recruit low-income workers into construction jobs — to conduct the Elliott Bay Seawall Replacement project, local workers in low-income areas had earned more than $4.6 billion by June 2015. This was achieved in part by a commitment to put new graduates of a union apprenticeship program to work on the project. The city also passed an ordinance that year to improve access to construction careers for women, people of color and others with social and economic disadvantages on city construction projects of $5 million or more.

Los Angeles Metro entered into a project labor agreement to employ low-income residents for the second phase of a $1.6 billion light-rail project. Several years later, the project has exceeded its targeted hiring goals by 49 percent and its disadvantaged worker requirement by 27 percent, providing employment for 1,120 workers.

The Chicago Transit Authority's "Second Chance Program," which provides apprenticeships for low-income residents with non-violent criminal records had, by April 2015, seen 113 of its more than 500 graduates obtain full-time agency jobs, seven of whom have been promoted into management positions.

Measures cities and states can take to ensure that infrastructure P3s incorporate these types of objectives include passing P3-enabling legislation that emphasizes local job creation and targeted

hiring practices, and emphasizing these priorities in the requests for proposals and contracts they issue, the report suggest.

CWAs and other types of labor recruitment agreements that emphasize local hiring, recruitment of low-income and other disadvantaged groups, training opportunities and the availability of skilled and semi-skilled jobs can be negotiated among public and private partners, labor organizations and community stakeholders as well.

P3s already are being conducted, or will soon begin, that are designed to achieve these goals.

One example is a community-based public-private partnership project that is being conducted in Prince George's County, Md., to prevent polluted stormwater from entering the Chesapeake Bay and its tributaries. Corvias Solutions is conducting this $100 million green infrastructure retrofit with the county's Department of the Environment. In the first phase, Corvias is retrofitting 2,000 acres of public and private land with stormwater management infrastructure over three years to help the county comply with EPA regulations.

Corvias is receiving availability payments for reaching certain milestones, which range from meeting construction deadlines to ensuring that local residents will comprise 15 percent of the workforce in year one and reach 50 percent by the end of year three. The firm already had already exceeded this goal by mid-January, having contracted $5.7 million in work to small contractors, 85 percent of whom are minorities, women and small businesses, reported Corvias.

The firm also mentors subcontractors, teaching them how to write proposals and get certified as small disadvantaged businesses, and is training local businesses, the workforce and students who may go into the stormwater arena as engineers or in other roles.

Maryland has committed to providing local and employment training opportunities through its 16-mile Purple Line light-rail project.

The state has included targeted hiring provisions in its RFP documents, which include requirements that at least 33 percent of all construction work hours be performed by socially and/or economically disadvantaged workers and that up to half of all construction work hours be performed by helpers or other unskilled laborers.

"[T]houghtful design of infrastructure projects with the inclusion of job quality and equity policies, not only builds much needed public work projects that we all critically rely on, but can also build middle class pathways for those living the shadows of poverty. Regardless of how a public infrastructure project is funded, policymakers and stakeholder must advocate for wise use of that funding, ensuring maximum economic and social benefit. Building America must also mean building our middle class," the report says.

NCPPP

March 21, 2016

Study Finds Public Pension Promises Exceed Ability to Pay.

When Detroit went bankrupt in 2013, investors were shocked to learn that the city had promised pensions worth billions more than anyone knew — creating a financial pileup that ultimately meant

big, unexpected losses for Detroit's bondholders.

Now, researchers at Citigroup say the groundwork has been laid for similar conflicts across the developed world: Governments have promised much more than they can most likely pay to current and future retirees, without revealing the disparity to investors who bought government bonds and whose investments could be at risk.

Twenty countries of the Organization for Economic Cooperation and Development have promised their retirees a total $78 trillion, much of it unfunded, according to the Citigroup report.

That is close to twice the $44 trillion total national debt of those 20 countries, and the pension obligations are "not on government balance sheets," Citigroup said.

"Total global government debt may be three times as large as people currently think it is," the researchers warned, after gathering as much information as they could about various government pension plans and adjusting the amounts where necessary, to permit fair comparisons with bond debt.

Getting each country's unstated pension obligations down on paper, along with the sovereign debt, showed that some countries have almost certainly promised more than they can deliver.

"If you owed student loans of $44,000, and the bank called you up and said, 'actually you owe $134,000,' you'd fall off your chair," said Charles E. F. Millard, head of pension relations at Citigroup. "That's what this is."

He said he did not expect all the overextended governments to experience sudden head-on collisions between bondholders and pensioners the way Detroit did. Instead, he said many of those countries — as well as many American states, cities, school districts and other jurisdictions — would keep struggling along, cutting more and more services, raising taxes and wondering where all the money was going.

"It's not going to be, for most cities and states, some enormous collision or explosion," he said. "It's going to be 10 fewer cops, or three fewer teachers and 'Let's fix the bridge three years from now.' "

One of the report's recommendations was that governments start disclosing the amounts promised to retirees, "so that everyone can see them."

Government officials are in many cases loath to do that because they believe it will harm their credit ratings, driving up borrowing costs. And the unions that represent public workers believe calls for full disclosure mask a broad anti-labor campaign to cut benefits.

The disclosure issue has grown increasingly contentious in Washington. Republican members of Congress are planning to introduce a bill in the next few days that would require states and local governments to measure their pension obligations using the method now universally used to price municipal bonds. States and cities currently report their pension obligations as calculated by actuaries, and actuarial numbers can greatly distort economic reality.

It was actuarial numbers in Detroit, for instance, that obscured the value of that city's pension promises before the bankruptcy.

States have long argued that as constitutional sovereigns, they cannot be forced to meet any federal pension disclosure requirements. Republican lawmakers are generally sympathetic to states' rights issues, but they are also worried about being asked to bail out troubled pension systems in places

like Illinois and Puerto Rico.

Since the tax-exempt treatment of municipal bonds is, in fact, a federal subsidy, they have written the bill to require full, market-based pension disclosure only in connection with tax-exempt borrowing. If states and cities remain unwilling to reveal their pension obligations, they could still borrow — but they could not market their bonds as tax-exempt.

Senate Republicans introduced a similar disclosure measure late last year as part of a package to help Puerto Rico through a huge debt crisis. The island appears not to have nearly enough money to pay both its bond debt and its retirees' pensions, but up-to-date information about its pension system does not exist in the public domain.

For years there have been frequent reports of pension systems rife with pay-to-play deals, improper payouts, overly risky investment strategies and other problems. But the Citigroup researchers looked beyond such scandals and depicted the worldwide accumulation of giant, invisible pension obligations as a matter of simple demographics.

Most developed countries had baby booms after World War II, and their populations are now aging and enjoying significant gains in health and longevity. When the boomers first joined the work force, they provided a big supply of labor to support what was then a much smaller population of retirees drawing pensions. Those favorable demographics made it seem that government pension systems could operate forever with minimal funding — or in many cases, no funding at all.

Now that is changing as populations age in many places, and the Citigroup report said the numbers no longer work. More and more retirees are receiving benefit payments every month, straining retirement systems even when the individual amounts paid are modest. And now there are relatively fewer younger workers generating the revenue that is supposed to support those systems.

The report said these demographic strains would worsen in the next few decades, noting that China now has seven workers to support every retiree, but will have only two by 2050; Japan is on track to have just one per retiree by then.

Citigroup said governments were aware of these trends, but had generally been slow to adapt their retirement systems. It expressed particular concern about pay-as-you-go systems, which are common in Europe.

In a few deeply troubled American jurisdictions, pension systems that were supposed to be funded have exhausted all their assets and effectively become pay-as-you-go plans, in which payments come from current tax revenues rather than dedicated, invested funds. Puerto Rico now looms as the biggest case — but while Puerto Rico's financial troubles are widely seen as an aberration, the Citigroup research suggested they were not.

"Future population and life expectancy trends will exert considerable pressure on public and private sector pension systems," the report said. "Unless addressed quickly, we believe this could overwhelm public and private sector balance sheets, and act as a major drag on economic growth."

The report discussed possible solutions, such as "collective defined contribution plans," in which workers' nest eggs are pooled and professionally invested, but retirees are not promised a predetermined benefit, and taxpayers are not required to replace money lost on Wall Street.

THE NEW YORK TIMES

By MARY WILLIAMS WALSH

MARCH 17, 2016

White Paper Examines Municipal Bond Dealer Markups.

SAN DIEGO, March 10, 2016 /PRNewswire/ — A white paper released by Gurtin Fixed Income Management LLC, an SEC-registered investment advisor managing $10.3 billion in assets as of February 2016, outlines proposed regulations that would require municipal bond dealers to disclose markups to customers, a requirement that aims to increase transparency in the municipal market.

Key insights in Gurtin's white paper include:

- Current and proposed regulations from the Municipal Securities Rulemaking Board (MSRB) and the Financial Industry Regulatory Authority (FINRA) are a good start, but unfortunately fall short of the level of full transparency available in other liquid markets such as equities
- Magnitude of markups and commissions vary across asset classes, with marked differences between markets with established disclosure requirements and the municipal market
- Retail investors are typically most disadvantaged, historically paying larger markups on municipal bonds than do institutional investors

"Current regulation does little to protect retail investors from excess markups on municipal bonds," said Bill Gurtin, CEO and CIO at Gurtin Fixed Income. "Investors can facilitate transparency through understanding markups and using tools – which are free and publicly available – to at least approximate the actual commission they're being charged. Alternatively, retail investors can benefit from exploring institutional managers who not only offer professional investment expertise, but also reduce transaction costs by working with multiple dealers and purchasing the bonds at the bid price with no markup at all."

Gurtin's white paper, "Municipal Bond Dealer Markups Q&A," is available here.

About Gurtin Fixed Income Management:

Based in San Diego and Chicago, Gurtin Fixed Income Management LLC specializes in separately managed high grade municipal bond portfolios. Working with high and ultra-high net worth individuals and families, as well as many independent investment consulting firms and multi-family offices, Gurtin strives to build fixed income-related financial solutions that meet clients' unique needs.

For more information, visit www.gurtin.com or contact us at research@gurtin.com.

IRS Model Closing Agreements for VCAP and Examinations.

The IRS office of Tax Exempt Bonds (TEB) developed model closing agreements to resolve compliance issues on an examination and in the Voluntary Closing Agreement Program (VCAP). These model agreements contain language that will generally be used by TEB in closing agreements relating to tax-exempt bonds. Closing agreements for build America bonds and other types of tax credit bonds will use similar agreements modified for tax credits rather than tax exempt interest.

The model agreements are designed to improve consistency in closing agreements for similar violations, whether the case is in VCAP or under examination. In most instances, deviations from the operative terms of the model agreement language will require additional review.

MODEL CLOSING AGREEMENTS

These examples show use of the model closing agreement for an examination and a VCAP case.

All VCAP submission requests must include a draft of the VCAP model closing agreement filled in as appropriate for the TEB VCAP request.

- TEB VCAP Model Closing Agreement – showing use of the model agreement when the violation was discovered by the issuer and brought to TEB under VCAP
- TEB Examinations Model Closing Agreement – showing use of the model agreement when the violation was discovered during an examination

The examples cover the compliance issue of the sale of bond-financed property to an entity that is not a 501(c)(3) organization or governmental unit. Under VCAP, this violation is described in the resolutions standards found in IRM 7.2.3.4.2.2. For simplicity, we kept the settlement amount the same in both examples; however, a violation identified during an examination will generally be resolved less favorably than the same violation identified through VCAP.

PARTS OF THE MODEL CLOSING AGREEMENTS

Generally, the model closing agreement contains the following elements (references are to the paragraph identifiers in the attached closing agreements):

Authorizing paragraph – The closing agreement is executed under the authority of section 7121 of the Code and is between the parties identified in this paragraph: generally the issuer, the conduit borrower for the bond issue (if applicable), and the IRS.

Preamble ("Whereas" Clauses):

Paragraph A – Describes the bond issue to which the closing agreement relates. Only the bonds described in this paragraph will be covered by the closing agreement.

Paragraph B – For VCAP: Issuer's representations reflecting the basis for the IRS having reason to conclude that the bonds do not meet the requirements of tax-advantaged bonds. For examination cases: a statement providing a basis for the IRS to conclude that taxpayers are taking a position that interest on the bonds is tax-exempt or the bonds are otherwise tax-advantaged.

Paragraph C – Provides a description of the matter that is being resolved with the closing agreement. Any matter not described in this paragraph is not resolved with the closing agreement.

Paragraphs D-F – Additional description of the scope of the agreement.

Paragraph G – Provides issuer representations that describe the sources of the monies to be used to fund the settlement payment and a description of any other remedial action to be taken. VCAP Internal Revenue Manual provisions generally require redemption of any nonqualified bonds prior to the execution of the closing agreement by the IRS. For examination closing agreements, in certain situations an irrevocable notice of redemption of bonds to be redeemed may be allowed in lieu of a defeasance escrow, but will generally include a requirement to provide the IRS with evidence the required redemption was made.

OPERATIVE PARAGRAPHS

Paragraph 1 – Provides the settlement amount required to be paid under the closing agreement and the required method of payment.

Paragraphs 2-4 – Procedural and tax treatment of Settlement Amount paid.

Paragraph 5 – Describes the federal tax treatment provided by the closing agreement for the matter described in paragraph C.

Closing agreements resolving the taxability of interest on a bond issue may also address whether the facilities acquired with bond proceeds by a taxable conduit borrower shall be treated as tax-exempt bond financed property under section 168(g) of the Code (relating to accelerated depreciation).

Paragraph 6 – Provides that only matters described in paragraph C are covered by the agreement.

Paragraph 7 – Provides that proceeds of any bond redeemed as a condition of the closing agreement are treated as unspent proceeds for any future refunding of those bonds. The effect of this paragraph is to sever the connection between bond proceeds and the expenditures to which they were originally allocated. Accordingly, should a taxable refunding of the nonqualified portion of the bonds subsequently be refunded with tax advantaged bonds the proceeds would not be considered as "spent," which could result in violations of tax rules regarding the expectation to use proceeds and certain arbitrage restrictions.

Paragraphs 8-10 – Describe limitations on the scope of the agreement, and finality of agreement.

Signatures – The signatures required include the issuer, the conduit borrower (when a conduit borrower is a party to the agreement), and the IRS. If an issuer and the conduit borrower are not able to sign on the same page due to logistical limits, the IRS may modify the signature page of the agreement to allow for separate execution by issuers and borrowers. The issuer (and borrower, if applicable) sign the agreement before it is signed by the IRS.

Exhibit A –When terms of the closing agreement include a redemption or defeasance of bonds prior to execution of the agreement, this exhibit describes the bonds redeemed or defeased. In cases where redemption of bonds is to be completed after execution of the closing agreement, the agreement will contain instructions for submitting a notification to the IRS of the actual redemption.

Exhibit B – Instructs issuers how to make the settlement payment required under the closing agreement using the Electronic Federal Tax Payment System.

Disclosure Consent – The consent will authorize the IRS to disclose the existence and subject matter of a closing agreement to correct any material misstatement with respect to any public statement by the issuer or borrower (or their agents).

This article is intended to give you an overview of what to expect with the new closing agreement templates. Any questions about how the agreement will be applied to the facts of any specific case should be directed to the TEB employee assigned to that case.

Additional resources

- Tax Exempt Bonds Voluntary Compliance
- TEB VCAP Resolution Standards

Tax Revenues Are Starting to Slow in Most States: Rockefeller Report.

A new report details revenue projections for each state, showing that many will have sizable budget shortfalls to close.

The outlook for tax revenues in many states isn't particularly rosy. Tax collections are starting to slow, meaning lawmakers in many states will have sizable budget shortfalls to close.

A Rockefeller Institute report released this week depicts weaker tax revenue growth or slight declines for most states. State personal income tax receipts are expected to grow a median of 4.6 percent in fiscal year 2016 and 4.4 percent in fiscal 2017, compared with 7.8 percent last year. Sales taxes are similarly expected to rise by a median of just 3.5 percent this year and 3.9 percent in fiscal 2017, down from 4.5 percent growth last year.

"The bleak forecasts certainly mean tough decisions for the state officials, whether it's in the form of tax increases, spending cuts, or tapping the rainy day funds," said Lucy Dadayan, a Rockefeller Institute senior policy analyst who co-authored the report.

Continue reading.

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BY MIKE MACIAG | MARCH 10, 2016

John Oliver on Special Tax Districts. [Strong Language! NSFW! You've Been Warned!]

On the heels of his long-awaited Trump takedown, "Last Week Tonight" host John Oliver brought down the tempo to talk special tax districts on Sunday night's episode.

"Hello, people watching for the first time because of our Trump piece," Oliver prefaced. "And also, I presume, goodbye. Thanks for checking in."

"Special districts are small units of government with the power to take tax dollars to do one specific thing," Oliver explained. There are about 40,000 (often overlapping) special tax districts in the country, accounting for about $100 billion in spending.

"Think of a special district like a cult. It can take your money and you may not even be aware you're in one," he continued. "Although, it is worth remembering, in a special district, allowing the leader to impregnate you is not mandatory, no matter what the guy in charge of the library district says."

Watch the video.

SALON.COM

BRENDAN GAUTHIER

MONDAY, MAR 7, 2016 08:33 AM PST

CDFA & USDA Launch Community Facilities Infrastructure Toolkit.

—Toolkit Released to Guide Rural Infrastructure Development—

Columbus, OH — The Council of Development Finance Agencies (CDFA) and the United States Department of Agriculture (USDA) are excited to announce the release of the Community Facilities Infrastructure Toolkit (CFIT), a guide which was developed in collaboration over the past year. The CFIT contains best practices for planning, designing, developing and financing rural essential community facilities that can be used by nonprofits and public entities.

“The Community Facilities Infrastructure Toolkit is an excellent resource for rural organizations and community leaders,” said CDFA President & CEO Toby Rittner. “We’re happy to have collaborated on a product that will provide such a wide breadth of knowledge to a large audience. The creation of this Toolkit, will allow rural communities to connect their potential projects with development finance professionals in order to facilitate sustainable rural development.”

“The Community Facilities Infrastructure Toolkit is a resource designed for stakeholders championing sustainable economies through infrastructure development in Rural America,” said USDA Rural Housing Service Administrator, Tony Hernandez.

“This Toolkit incorporates best practices and lessons learned in an effort to accelerate construction projects such as schools, hospitals and public safety buildings all of which improves the quality of life in Rural America. The Community Facilities Infrastructure Toolkit identifies important synergies needed for success and encourages collaboration through the use of Public Private Partnerships.”

The process of building a new community facility can be challenging for any size organization. However organizations that are well informed of the due diligence needed for success are better prepared to meet the challenges of building a new facility. The Community Facilities Infrastructure Toolkit is intended to provide guidance through the Concept Development, Planning, Design, Environmental Compliance, Finance, and Construction phase of project completion. The information contained in this guide can be applied broadly across varied size organizations participating in different industries.

By following the Community Facilities Infrastructure Toolkit, community leaders will be better informed and prepared for project success. Rural communities seeking further assistance should contact their local USDA Rural Development Office. USDA staff is always available to assist rural communities and connect communities to development professionals.

The Community Facilities Infrastructure Tool Kit is available electronically on the USDA Community Facilities Programs Home Page.

The USDA Rural Development has a mission to improve the quality of life in rural areas by providing loans and grants for rural housing, utilities, broadband, local food systems, community facilities, bio-energy facilities, and small businesses. For more information about USDA Rural Development, visit www.rd.usda.gov.

The Council of Development Finance Agencies is a national association dedicated to the advancement of development finance concerns and interests. CDFA is comprised of the nation’s leading and most knowledgeable members of the development finance community representing public, private and non-profit entities alike. For more information about CDFA, visit www.cdfa.net.

MSRB Releases New Annual Fact Book of Municipal Securities Data.

Download the Fact Book.

The Complicated Business of Evaluating Tax Incentives.

States give out billions to businesses and corporations each year in tax breaks to keep them within their borders. But tracking how these tax incentives are spent — and whether they even work — has been an incredibly tricky business.

Back in 2000, Good Jobs First, which follows corporate tax subsidies, released a report that looked at 122 audits of state economic development programs in 44 states. What it found was that auditors were having trouble doing their jobs because "they are hampered by lack of data and objectives."

The climate has improved somewhat since then, says the group's president, Greg LeRoy. But it's been a long, state-by-state slog.

Massachusetts illustrates just how difficult it's been. For a state that is among the more active when it comes to tax incentives, it has been particularly slow at revealing any information about the hundreds of millions of dollars it forgoes each year via giveaways. The state has typically ranked among the bottom of Good Jobs First reports that track tax expenditures and accountability measures. That stands in contrast with the state's strong reputation — and ranking — with other financial accountability groups, such as the nonprofit U.S. Public Interest Research Group, which applaud the state's transparency on how it spends its actual revenues.

For the past half-decade, businesses and legislators in the Bay State have thwarted numerous attempts to track the effectiveness of tax incentives. State Auditor Suzanne Bump has been trying since she took office in 2011 to gain access to business tax returns at the Department of Revenue (DOR) for the purposes of auditing the tax credit programs. Bump is stymied by a state law that bans the auditor from accessing business tax information filed with the department. "Although we are told to audit the tax department, we cannot actually look at tax returns," she says. "If you can't look at the source documents, you can't know how well DOR is executing its functions."

Bump's solution has been to propose legislation granting her access, but the idea has met staunch resistance from the business community during the past two legislative sessions. Businesses cite privacy concerns and worries the auditor is overreaching her authority as the reasons for their opposition. To address those fears, Bump's latest bill includes stipulations regarding the auditor's access and calls for criminal penalties for any business disclosure violations. Still, the bill has sat in committee following a September hearing.

Similarly, state Rep. James Eldridge has sponsored a bill that calls for more stringent reporting requirements on the state's economic development tax credits. He wants to know whether jobs were created and wants clawback provisions should the state need to cancel the incentive if the goals aren't being met. In the past, the bill never made it out of committee and its hearing for the current legislative session was last June. Most bills in Massachusetts have until March to make it out of committee to stay alive in the current legislative session.

Bump says a total of 37 other state auditors have the power she is seeking. But the experience of

other states indicates there's no guarantee she'll get to the bottom of whether the state's tax incentives are working.

In Louisiana — where auditors can access tax returns — a 2012 legislative audit concluded it was "impossible" to determine whether $3 billion in business tax credits were actually a good investment for the state. Meanwhile, Illinois doesn't grant auditors access to tax returns, but Good Jobs First rates it among the best at tax credit disclosures because of a law requires companies to report subsidies, where the company located, how much it received, and what the results were in terms of job creation and wages.

Eileen McAnneny, president of the Massachusetts Taxpayers Foundation, says that most of the tax credits the state gives out don't specify expectations for the employer. She argues that giving Bump access to tax returns would yield "very subjective" results. "For example, was the brownfields tax credit enacted to create jobs, clean-up contaminated sites or to facilitate economic development?" she says. "Its effectiveness could vary widely depending on the criteria you are using to evaluate it."

But Bump counters that her bill allows for flexibility in the criteria. Job creation, she says, is only one aspect she would look at to see if tax credits were working. "Other tax expenditures exist, for instance, to reward green technology use or to nurture new industry," she says. "I believe it is critical that an independent entity provide oversight and verification of the impact of all tax expenditures in the commonwealth."

To date, Massachusetts' last movement on disclosures was a relatively minor one. That was in 2010, when lawmakers passed a law requiring agencies to report the amount and recipient of tax credits that are transferable to other companies or where companies can receive cash back from their credits. The new requirement, effective in 2012, came only after controversial stories emerged about companies profiting off these types of state credits.

Still, points out LeRoy, the reported dollar amounts reveal nothing about whether the recipients profited off their award or how it was even spent. "You can't just give a company money," he says, "and hope good things happen."

GOVERNING.COM

BY LIZ FARMER | FEBRUARY 25, 2016

NFMA February 2016 Municipal Analysts Bulletin.

Download the Bulletin.

MSRB 2016 Compliance Advisory.

The Municipal Securities Rulemaking Board (MSRB) is publishing the 2016 Compliance Advisory (Advisory) to highlight some of the key compliance risks for brokers, dealers and municipal securities dealers (collectively, dealers) that, if not properly addressed, could adversely affect municipal entities, obligated persons, investors and public confidence in the municipal securities market.

This Advisory also provides dealers with certain factors to consider when evaluating compliance controls and implementing measures to mitigate exposure to these compliance risks (identified below as Considerations). The MSRB intends for dealers to use this Advisory as a tool that can be used to supplement the assessment of the adequacy of their compliance programs.

Download the Advisory.

MSRB Educates Retail Investors on Ways to Buy Municipal Bonds.

Washington, DC – To help retail investors weigh their options when buying or selling municipal securities, the Municipal Securities Rulemaking Board (MSRB) has published a new educational guide outlining the several alternative *Ways to Buy Municipal Bonds.*

Consistent with a recommendation from the Securities and Exchange Commission's (SEC) Report on the Municipal Securities Market, the MSRB's guide aims to improve investors' understanding of the relative advantages and disadvantages of the different methods of buying municipal securities, from working with a full-service broker to trading independently through a self-managed account.

"This new guide is one of many free, objective educational resources available from the MSRB for investors seeking to be more informed about their decision to buy or sell municipal securities," said MSRB Executive Director Lynnette Kelly.

The MSRB Education Center includes multimedia resources about the risks, opportunities and regulatory protections in place for investors in municipal bonds. Retail investors can also access general information about the municipal bond market, preparing to invest, working with financial professionals and understanding disclosures provided by bond issuers available on the MSRB's Electronic Municipal Market Access (EMMA®) website.

Date: February 19, 2016

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Pew: More Public Pension Fund Transparency Needed on Fees.

Public retirement systems need to do a better job making their investment costs more transparent, said a report issued Thursday by the Pew Charitable Trusts.

Pew's public-sector retirement systems project looked at reporting practices of the 73 largest state pension funds, which together have $2.9 trillion in assets, representing more than 95% of all state investment assets, according to the U.S. Census Bureau.

Looking at financial data collected from 2012 to 2014, Pew found a "wide variation" in asset allocation, performance disclosure and reporting of fees. "In many cases, current disclosure policies make it difficult for policymakers, stakeholders and the public to gauge the actual performance of these funds," the report said.

Pew suggested several steps that public pension funds should take to improve transparency, including:

- Adopt fee-reporting standards, such as ones proposed by the Institutional Limited Partners Association;
- Make investment policy statements transparent and accessible;
- Disclose bottom-line performance, both net and gross of fees;
- Include longer-term performance results; and
- Report results by asset class, before and after fees.

More transparency is important now, Pew said, because alternative investments have more than doubled in recent years, representing 25% of allocations in 2013, up from 11% in 2006. Pew defined alternatives to include private equity, hedge funds, real estate and some commodities. In private equity, the treatment of carried interest is "a significant contributor" to the wide variation in fees reported by the 73 pension funds, Pew said. For all investments, the 73 funds paid more than $10 billion in fees and expenses in 2014, which represents a 30% increase in the past decade, Pew found.

Some public pension funds are better than others in reporting more detailed fees, Pew found, noting that the $28.2 billion South Carolina Retirement Systems, Columbia, and the $9 billion Missouri State Employees' Retirement System, Jefferson City, reported more than just invoiced management fees, and included performance fees.

Among the 73 plans studied, 59 provide online access to investment policies, 27 report 10-year results gross of fees, 13 regularly provide 20-year returns and six provide it by asset class.

With investment returns accounting for an estimated 60% of public pension benefits, "boosting transparency is essential," said the report. "The first steps are to provide bottom line, net-of-fee results because ultimately that's the amount of money that's available for benefits," said Greg Mennis, director of the public sector project, in an interview.

Download the Report.

PENSIONS AND INVESTMENTS

BY HAZEL BRADFORD | FEBRUARY 18, 2016 3:31 PM | UPDATED 3:35 PM

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U.S. Municipal Credit Report, Fourth Quarter and Full Year 2015.

The municipal bond credit report is a quarterly report on the trends and statistics of U.S. municipal bond market, both taxable and tax-exempt. Issuance volumes, outstanding, credit spreads, highlights and commentary are included.

Summary

According to Thomson Reuters, long-term public municipal issuance volume totaled $76.4 billion in the fourth quarter of 2015, a decline of 11.3 percent from the prior quarter ($86.1 billion) and a decline of 23.0 percent year-over-year (y-o-y) ($86.1 billion). Including private placements ($8.4

billion), long-term municipal issuance for 4Q'15 was $84.7 billion. Despite the fourth quarter decline, full year issuance was $377.6 billion, an increase of 19.9 percent from 2014 and just slightly above 10-year volume averages. According to the SIFMA Municipal Issuance Survey ("Survey"), respondents expect long-term municipal issuance in 2016 to decline slightly to $388.5 billion.

Tax-exempt issuance totaled $67.4 billion in 4Q'15, a decline of 11.2 percent q-o-q and 24.9 percent y-o-y. For the full year, tax-exempt issuance was $338.4 billion, an increase of 19.7 percent from the prior year. Taxable issuance totaled $5.2 billion in 4Q'15, a decline of 34.1 percent q-o-q and 22.8 percent y o y. For the full year, taxable issuance was $27.8 billion, an increase of 21.2 percent from 2014. AMT issuance was $3.8 billion, an increase of 60.8 percent q-o-q and 42.3 percent y-o-y. For the full year, issuance was $11.3 billion, 24.0 percent above 2014 volumes.

By use of proceeds, general purpose led issuance totals in 4Q'15 ($15.7 billion), followed by primary & secondary education ($14.7 billion), and water & sewer ($8.4 billion). For the full year, general purpose led issuance totals ($91.2 billion), followed by primary & secondary education ($82.5 billion), and higher education ($36.6 billion).

Refunding volumes as a percentage of issuance declined slightly from the prior quarter, with 43.4 percent of issuance attributable to refundings compared to 48.9 percent in 3Q'15 and 53.1 percent in 4Q'14.

Read the Report.

February 18, 2016

IRS Revises Publications for Tax-Exempt Bonds.

View these Tax Exempt Bonds publications, revised January 2016:

- Publication 4077, *Tax-Exempt Bonds for 501(c)(3) Charitable Organizations*
- Publication 4078, *Tax-Exempt Private Activity Bonds Compliance Guide*
- Publication 4079, *Tax-Exempt Governmental Bonds Compliance Guide*

See all Tax Exempt Bonds Forms and Publications.

Additional information:

Tax Exempt Bonds Voluntary Compliance

Having a Rainy Day Fund, But Not Knowing How to Spend It.

Some states have millions in savings that they don't know when or how to use. A new report suggests ways to better manage their money.

As state lawmakers head into the budget-writing season, some will face the unpleasant task of figuring out how to fill projected shortfalls. In most cases, that conversation will include a debate on whether to withdraw cash from the state's rainy day fund.

Some states count on their rainy day savings during recessions to limit budget cuts, while others strive to put away enough savings to avoid cuts altogether. But many states lack clear guidance about when to take money out of rainy day accounts, for what purposes and how much.

Rainy day funds have been around for decades. Among the 46 states that have them, only half have laws that clearly express what they're seeking to achieve with them, according to a recent Pew Charitable Trusts report. Two states — Wyoming and Kentucky — lack any statutory or constitutional direction about their purpose or proper use.

In Wyoming, for example, the state is facing a projected $300 million shortfall due to declining energy revenues. Tapping the $1.8 billion rainy day fund is a potential solution, but some lawmakers are wary about relying on a one-time infusion to plug a revenue hole that could remain a problem for years to come. With no set policies in place, the discussion about whether to take money out or tap other funds first will take up a considerable amount of time.

"There is no consensus on financing the deficit cash flow of the state for the next three years," said state Rep. Michael Madden, who co-chairs the Revenue Committee.

In Texas, lawmakers have been arguing about how best to use the $7.5 billion rainy day fund, an amount equivalent to 15 percent of the state's general fund expenditures. With lawmakers also looking to take on issues such as improving water and transportation infrastructure and reducing the state's total amount of outstanding debt, they've been divided over whether the current level of reserves is sufficient or excessive.

"It's become a surprisingly emotional issue in the political debate," Dale Craymer, a former legislative aide who was involved in establishing the Texas fund in 1987, told Pew. "The last two sessions, the rainy day fund has taken on this sacred nature that was never really intended. It was intended as a management tool."

Many states' statutes say rainy day funds should help stabilize revenue during economic recessions; a few are more explicit. Virginia's Constitution, for example, says state leaders can use the fund to cover no more than 50 percent of a shortfall in a fiscal year. Thus, the policy also requires lawmakers to make spending cuts or tax changes to balance the budget during periods of revenue decline.

The rules that do guide the use of rainy day funds are sometimes seemingly arbitrary. In particular, savings targets for the funds have typically been a percentage of the state's spending that's politically palatable. During the growth years of the mid-2000s, 21 states hit their savings targets and then stopped putting money away. That resulted "in most of those states relying more heavily on spending cuts and tax increases to balance their budgets during and after the Great Recession," according to Pew.

Pew recommends that states define the purposes of their rainy day funds more clearly and suggests that policymakers study their state's patterns of financial volatility to anticipate how much revenues could drop in a downturn. Such information would help them determine how much they'll want to rely on rainy day accounts to offset shortfalls.

Minnesota's rainy day fund policy, according to the report, is a model worth replicating. It's one of just four states that requires periodic evaluations to make sure its savings targets actually reflect the state's revenue volatility. It's also the only state to determine its risk tolerance — that is, the tolerance policymakers have for not fully covering a potential shortfall, which affects how much the state should save. Minnesota's current savings target is the amount deemed necessary to cover 90

percent of all possible downturn scenarios.

Establishing this type of policy is difficult and will still require compromise.

Connecticut, for example, established new rules for its rainy day fund last year to require automatic deposits whenever the most volatile tax streams — personal and corporate income — produce revenue above historic norms. It will also raise the fund's target to 15 percent of net general fund appropriations. But in order for the bill to get through the legislature, implementation was put off until 2020.

Still, helping a state institutionalize its own buffer against downturns is time well-spent, says Brenna Erford, co-author of the Pew study.

"Of course it's not easy to agree on a purpose for the fund," she said. "But once you have an agreed-upon purpose, the question isn't, 'Should we or shouldn't we?' The debate then becomes, 'Are we now in a scenario where the fund is in play?'"

GOVERNING.COM

BY LIZ FARMER | JANUARY 28, 2016

SEC's Report of Nationally Recognized Statistical Rating Organization 2015.

Read the report.

All That Glitters Is Not Gold: An Analysis of U.S. Public Pension Investments in Hedge Funds.

Hedge funds have aggressively pursued U.S. public pension dollars, maintaining that they offer pension funds absolute return and volatility reduction in exchange for the high management and performance fees that they charge. And many public pension systems, with encouragement from their investment consultants, have made significant allocations to hedge funds, chasing the promise of superior returns and downside protection. These pension funds now have sufficient experience to evaluate whether hedge funds have delivered on their promise, and whether the purported benefits are worth the high fees.

This report by Elizabeth Parisian of the American Federation of Teachers and Roosevelt Institute Fellow Saqib Bhatti examines whether hedge funds have, in fact, provided U.S. pension funds better and less correlated returns, and whether hedge fund fees are adequately disclosed and as disproportionately high as critics suggest. In other words, they seek to answer the question: "Would public pension funds have fared better if they had never invested in hedge funds at all?"

To answer this question, the authors analyzed 11 U.S. public pension funds' experience with investing pensioners' savings in hedge funds. Using publicly available data and information provided directly by the pension funds, they conducted a simple year-by-year comparison of hedge fund net returns and total fund net returns for each pension fund. They also compared these rates of return to fixed income net returns for each pension fund to determine whether hedge funds delivered on the

promise of uncorrelated returns and whether less expensive fixed income strategies do better. Because hedge fund fees are almost never reported or fully accounted for, Parisian and Bhatti used industry standard fee structures like management and incentive fees then projected actual fees captured by hedge fund mangers based on readily available statements of net return to investors. These calculations, while not precise due to lack of transparency with respect to fees, allow them to draw general conclusions about the performance of pension funds' hedge fund investments.

Read the Report.

Roosevelt Institute | 11.06.15

Deloitte Power & Utilities Accounting, Financial Reporting, and Tax Update.

We are pleased to announce the release of the Power & Utilities Accounting, Financial Reporting, and Tax Update. The publication includes the latest information on accounting, tax, and regulatory matters, including SEC, FASB, and tax updates, and focuses on specialized industry accounting matters frequently seen by P&U companies, including rate-regulated entities. The annual update also includes a section on accounting and reporting matters specific to renewable energy.

New sections in this edition include:

- The new leases standard, expected to be issued in early 2016
- Alternative revenue programs
- Asset retirement obligations

Additionally, to address potential challenges in accounting and reporting related to topics on which the FASB has recently issued proposed guidance or final standards that are not yet effective or available for adoption, we have included a section about Board proposals and have highlighted nuances that could affect the industry.

January 2016

MSRB Publishes 2015 Annual Report and Audited Financial Statements.

Washington, DC – The Municipal Securities Rulemaking Board (MSRB) today published its 2015 Annual Report, which highlights the organization's progress on investor protection initiatives to enhance market structure, its ongoing efforts to improve issuer disclosure practices and the implementation of new regulatory standards for municipal advisors.

The report also includes financial highlights for the organization for the fiscal year that ended September 30, 2015 with a link to access full audited financial statements on the MSRB's website.

Among the MSRB 2015 initiatives included in the report:

- Enhancements to the availability of more robust pricing information for municipal securities investors
- Advocating for better disclosure of bank loans and alternative financings by municipal securities issuers

- Creation of the first professional qualifying examination for municipal advisors
- Addition to the online MSRB Education Center of objective, non-commercial resources about municipal market topics

Read the report.

Date: January 11, 2016

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(Re)Building Downtown: A Guidebook for Revitalization.

When Alex Morrison, executive director of the Urban Development Authority for Macon-Bibb County, Georgia, started on a comprehensive plan for downtown revitalization, "we knew we wanted walkability and housing," he said. "But the how and where [were] driven by the public process." His emphasis on community engagement drove home a point in a new guidebook, *(Re)Building Downtown: A Guidebook for Revitalization*, from Smart Growth America (SGA).

A recent event hosted by the nonprofit group showed that downtown revitalization is not just for the largest cities. The guide is designed to be used by communities of all sizes no matter what their stage of development or redevelopment. Macon is a medium-sized city of 155,000, but the strategies can be used in suburban shopping centers, former industrial parks, or other underused places with the potential for redevelopment. The goal is to create a vibrant, walkable neighborhood that will attract businesses and residents alike.

"This is really about place making," says Chris Zimmerman, SGA's vice president for economic development.

Macon has some neighborhoods more than 100 years old and with many long-term residents. Planners created focus groups where they interviewed over 2,000 stakeholders—major employers, small business owners, and residents—about what they wanted to see under the new plan.

Not only did the community involvement increase support for the plan, it also changed the plan's contours. Residents said they wanted a more walkable community. So instead of a road project, the city created a neighborhood park. New Town Macon, a public/private partnership created to encourage downtown revitalization, has a buggy and trail network and a heritage trail along the river that winds through the city's neighborhoods. A park that had not been used because residents felt it was dangerous now has a fountain with a public plaza and the support of the community.

Macon also included an equity component in its plans from the beginning. When a study found that a certain number of new housing units could be added downtown, city planners used a downtown assistance program to ensure that a portion would be affordable housing.

Before its downtown revitalization, Macon had a four-lane highway running through the city. People sped through the city instead of lingering. Now, the streets are laid out on a more pedestrian scale.

"Our streets evoke a sense of leisure," said Morrison.

Macon's revitalization has had its struggles. The business community wanted Anderson's office to tear down the city's historic opera house so it could build new developments on the site. "I told them they had the wrong guy," he says.

"You can't save every one of [the historic buildings]," Anderson says. "Pick the ones that are singular to your community, [the ones] that if you lost [them] you would lose the character of your community."

In Missoula, Montana, retailers fled downtown when a regional shopping mall was built in the 1970s. In the mid-1980s, the downtown merchants organized, recruited, and served as advocates and marketers for the city's downtown as the revitalization process began. Mayor John Engen, elected in 2005, has continued the process.

Engen's office created a master plan, working with the local business improvement district and parking commission to sell them on the process. After the downtown master plan was discussed for two years with the many stakeholders, it was ratified by the city council.

The next step was revising the zoning code. "In some cases, it was 70 years old," says Engen. "It did not reflect what Missoula, Montana, was in the early 2000s." The rezoning plan brought controversy and even a lawsuit. But the new zoning regulations were approved by the city council in 2009. The new zoning code and subdivision regulations will work together to promote high-quality development in Missoula, Engen said.

East metropolitan St. Paul, Minnesota, is an example of how transit-oriented development can help revitalize an urban area. A new light-rail line has brought $2 million in new development to the Twin Cities. But the eastern part has a ten-mile (16 km) arterial strip that was created for the automobile era and that encourages people to pass through instead of stopping and spending time and money. East Metro Strong, a public/private partnership working to attract business and economic development to the area, has been working with SGA on ideas to revitalize the corridor.

SGA's free online resource breaks the redevelopment process down into seven steps:

- Understand your community. It is important to reach out to and meet with as many stakeholders as possible.
- Create an attractive, walkable place. This step includes providing multiple transportation options.
- Diversify the downtown economy. Diversity means jobs, new homes, and a diverse array of retail and business.
- Build in equity. Opportunities for affordable housing should be built in from the start, along with a way for current residents to stay in the neighborhood.
- Improve government regulations and processes. Make sure that zoning regulations permit the type of development you seek.
- Finance projects. Creative thinking about financing may yield surprising benefits.
- Establish ongoing place management. A revitalized downtown will need continuing maintenance.

The Urban Land Institute

By Joan Mooney

December 21, 2015

(Re)Building Downtown: A Guidebook for Revitalization
Smart Growth America
1707 L St NW #1050, Washington, DC 20036; www.smartgrowthamerica.org.

2015. 35 pages. Ebook, free.

GFOA Financial Policies Examples.

Welcome to the companion website for the GFOA publication Financial Policies. Here you will find complete sample policies and supplemental materials to help you develop financial policies for your own government. The categories linked below correspond to the chapters in the Financial Policies book and contain real-world examples from governments that participated in GFOA's research on the topic.

- General Fund Reserves
- Reserves in Other Funds
- Revenues
- Expenditures
- Operating Budget
- Capital Asset Management
- Long-Term Financial Planning
- Debt Management
- Investment
- Accounting, Auditing, and Financial Reporting
- Internal Control and Risk Management
- Economic Development
- Procurement

A variety of sample policy portfolios and formats are also available in order to illustrate what a complete policy portfolio looks like.

Investment Returns: Defined Benefit vs. Defined Contribution Plans.

The brief's key findings are:

- The analysis compares returns by plan type from 1990-2012 using data from the U.S. Department of Labor's Form 5500.
- During this period, defined benefit plans outperformed 401(k)s by an average of 0.7 percent per year, even after controlling for plan size and asset allocation.
- In addition, much of the money accumulated in 401(k)s is eventually rolled over into IRAs, which earn even lower returns.
- One reason for the lower returns in 401(k)s and IRAs is higher fees, which should be a major concern as they can sharply reduce a saver's nest egg over time.

Download Full Brief.

Center for Retirement Research at Boston College

by Alicia H. Munnell, Jean-Pierre Aubry and Caroline V. Crawford

December 2015

Doubly Bound: The Cost of Issuing Municipal Bonds.

A new study looks at the one-time fees that governments pay the finance firms that help them sell their bonds in the municipal market. These fees are in adddition to the published interest rate the government pays the investors who actually buy the bonds. The study, commissioned by the University of California at Berkeley and the ReFund America Project, found that the average government issuer pays finance firms a 1.02 percent cut from their bond sale. But this percentage varies widely and tends to be larger for smaller issuers.

For example, a $2.1 million bond issued by the Dehesa School District in Southern California incurred $200,138 in fees — more than 9 percent of the principal amount. That means the school district is paying interest on more than $2 million in debt but in actuality received only $1.9 million after the bond sale. “Had this issuance followed the 1.02 percent average, its issuance fees would have been nearer $21,000,” wrote the report’s author, Marc Joffe, who is also a Governing contributor. “In our findings, six California school districts incurred costs in excess of 8.5 percent.”

The report, however, offers solutions for lowering or equalizing costs. For one, better transparency could provide a template for standardized reporting. This report was done using public records requests, but the increasing popularity of government websites that detail their finances is also a potential venue for reporting such fees. Another idea relates to the millions of dollars government issuers pay annually to get so-called CUSIP numbers, which are like social security numbers given to each bond issuance. The CUSIPs protect each issuance and its data as unique, but Joffe noted that the benefits “do not appear to merit the costs,” suggesting that the charge from the privately operated CUSIP Service Bureau could reasonably be much lower.

Read the Study.

GOVERNING.COM

BY LIZ FARMER | DECEMBER 18, 2015

The Bond Lawyer - Fall 2015

The Bond Lawyer®
The Journal of the National Association of Bond Lawyers
Volume 39, Number 4 Fall 2015

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Book Review: Capital Murder, An Investigative Reporter's Hunt for Answers in a Collapsing City
Wayne D. Gerhold
Law Offices of Wayne D. Gerhold, Pittsburgh, Pennsylvania

Download the publication.

GAO State and Local Governments' Fiscal Outlook.

A new federal report on state and local fiscal health contains an astonishing prediction: that total tax revenues for the sector — as a percentage of gross domestic product (GDP) — won't return to their 2007 historical high until 2047. A big reason, according to the Government Accountability Office (GAO), is that property and income tax revenues spiked as a percentage of GDP leading up to the recession. But because of less growth in those two areas now — and because sales tax revenues continue to have less impact as the economy shifts from one based on goods to one based on services — it will take decades for total revenues to hit that 2007 peak again.

The GAO report also predicts that state and local governments will continue to face a gap between revenue and spending during the next 50 years — in other words, they'll keep spending more than they make. The gap is largely being driven by pension and health-care costs. "State and local governments would need to make substantial policy changes to avoid these fiscal imbalances in the future," according to the report.

GOVERNING.COM

BY LIZ FARMER | DECEMBER 18, 2015

Financing Infrastructure Through Resilience Bonds.

Cities across the United States and around the world are facing increasingly frequent severe weather events. Many local governments and public utilities are overexposed and underinsured for these risks. They are also coping with aging and failing infrastructure systems that increase the potential for catastrophic losses.

One way for cash-strapped local governments to increase both protection and insurance against disasters is through a new financial tool called resilience bonds. In a new report, my co-author James Rhodes and I lay out how these would work.

The idea is to link insurance coverage that public sector entities can already purchase (such as catastrophe bonds) with capital investments in resilient infrastructure systems (such as flood barriers and green infrastructure) that reduce expected losses from disasters. This connection between insurance and infrastructure is important because just as life insurance doesn't actually make you physically healthier, catastrophe bonds do not reduce physical risks and only payout when disasters strike.

The linkage is designed to reduce risks, akin to how quitting smoking or exercising regularly lowers life insurance costs. In the case of resilient infrastructure, investing in coastal protection or seawalls helps avoid physical and financial disaster. Resilience bonds combine these two different types of investments by modifying traditional catastrophe bonds to provide insurance savings that can be captured as rebates to invest in resilient infrastructure projects.

Why does this matter for cities? Five reasons:

Federal and state disaster relief funds are already stretched thin. In 2014 alone, eight U.S. weather-related disasters exceeded $1 billion in losses each. More expensive disasters mean local governments can no longer afford to rely exclusively on traditional sources of disaster relief.

Rapid response funding is a top priority. Many communities wait years for funding commitments to materialize after major disasters. Unlike most traditional property insurance policies, resilience bonds can be structured to provide rapid response funds in the wake of a disaster.

Availability and affordability of insurance is a growing problem. Following Superstorm Sandy, traditional property insurance premiums skyrocketed. Entities like the New York Metropolitan Transportation Authority went to the catastrophe bond market for more cost-effective and affordable coverage. In 2013, the MTA secured $200 million in coverage for future Sandy-like storm surge events.

Meeting insurance compliance requirements is getting more complex. Like mortgage lenders that demand proof of flood insurance, cities and public utilities are often required to hold different types and amounts of insurance to meet regulatory requirements. Resilience bonds can help meet these compliance obligations while creating a pathway for long-term savings and risk-reduction.

Resilient infrastructure is especially difficult to finance with traditional revenue and payback models, because the benefits are often diffuse and realized far into the future. Capturing more value from these projects is essential for their success. Resilience bonds can serve as a tool to incentivize performance-based design for risk reduction and facilitate timely completion to enable direct value capture.

The recent climate change agreement in Paris highlighted how cities around the world have committed to investing to increase resilience. But a successful resilient infrastructure project means a community was not devastated. These kinds of “invisible successes” pose a challenge for public investments. Linking insurance and infrastructure investment offers a new path forward for governments to monetize these successes, make better use of taxpayer dollars, limit the growing pressure on public disaster assistance, and leverage the capital markets to both expand insurance coverage and increase protection for vulnerable communities.

December 16, 2015 1:30pm

by Shalini Vajjhala
Nonresident Senior Fellow, Metropolitan Policy Program

Shalini Vajjhala is a nonresident senior fellow with the Metropolitan Policy Program. She is founder & CEO of re:focus partners, a design firm dedicated to developing integrated resilient infrastructure solutions and innovative public-private partnerships for vulnerable communities around the world.

SIFMA Issues 2016 Municipal Issuance Survey.

New York, NY, December 21, 2016 – SIFMA today released its 2016 Municipal Issuance Survey. Compiled from responses provided by 10 large and regional municipal bond underwriters and dealers, the report forecasts what type of activity is expected in the municipal securities market in 2016.

Respondents to the 2016 SIFMA Municipal Issuance Survey expect total municipal issuance, both short- and long-term, to reach $432 billion in 2016, in line with the $429 billion estimated issuance in 2015.

While short-term issuance is expected to increase in 2016, with $43 billion in short-term notes expected to be financed, compared to the estimated $35 billion in 2015, long-term issuance is expected to decrease, with $389 billion in long-term bonds expected, compared with the estimated $393 billion in 2015.

“Interest rate and credit quality are clearly driving factors in our members’ forecasts,” said Michael Decker, Managing Director and Co-Head of Municipal Securities at SIFMA. “While we expect issuance to remain largely flat in 2016, investor demand for new bonds will continue to be robust, and borrowing conditions for state and local issuers will remain attractive.”

Other highlights from the survey include:

- Long-term tax-exempt municipal issuance is projected to reach $347.5 billion in 2016, 1.4 percent below the estimated $352.5 billion issued in 2015;
- Taxable municipal issuance is projected to increase in 2016 to $30.5 billion, a 4.5 percent increase from the estimated $29.2 billion issued in 2015;
- Alternative minimum tax (AMT) issuance is expected to drop by 10.8 percent to $10.5 billion in 2016, from an estimated $11.8 billion in 2015; and
- Variable-rate demand obligation (VRDO) issuance is expected to rise slightly to $8.0 billion in 2016, recovering from the estimated record low of $6.2 billion in 2015.

Interest Rate Forecast

Following the FOMC raising the federal funds target rate to 0.25-0.50 percent in mid-December, the federal funds rate is expected to rise from 0.38 percent in end-December 2015 to 0.50 percent by end-March 2016 and gradually increase to 1.00 percent by the end of 2016. Forecasts include:

- The two-year Treasury note yield is expected to rise from 1.00 percent end-December 2015 to 1.65 percent by end-December 2016.
- The 10-year Treasury note yield is also expected to climb from 2.33 percent end-December 2015 to 2.75 percent end-December 2016.

The full SIFMA 2016 Municipal Issuance Survey Report is available here.

Release Date: December 21, 2016
Contact: Liz Pierce, 212-313-1173, lpierce@sifma.org

Green Bond Best Practice Guide Released for Public Sector.

New guide from the Climate Bonds Initiative and UNEP to help governments boost private sector climate finance

A best-practice guide on green bond policy has been launched in a bid to inform the public sector about how best to scale up funding for green markets.

The report, launched by the Climate Bonds Initiative and the United Nations Environment Programme (UNEP) Inquiry into the Design of a Sustainable Financial System, includes action plans and best-practice examples from around the world.

An annex from the World Bank Group is also provided to help policy makers in emerging economies develop foundational bond markets.

"This guide can help the public sector in translating aspects of their national INDC [climate action] objectives into climate finance outcomes," said Sean Kidney, chief executive of the Climate Bonds Initiative, in a statement. "Adding green bonds into the climate finance mix can help the shift of capital to low-carbon projects, infrastructure and climate-resilient development."

The scale of finance needed to meet various national climate pledges made at the Paris Summit – which are already set to raise the global temperature well above the 2°C UN benchmark to 2.7°C by the end of the century – is enormous, with India's INDC alone needing $2.5tr in investment before 2030. Green bonds are seen by some as one of the best ways to finance low-carbon and climate-resilient infrastructure projects while also allowing countries to develop their capital markets.

Nick Robins, co-director of the UNEP Inquiry, said the green bond market has caught the attention of policy makers at the climate summit in Paris.

"At COP21 many discussions have centred around climate finance and the level of investment needed to bring about low-carbon outcomes," he said in a statement. "Green bond market development is seen as a real option."

The report sets out a three-point action plan where governments are advised to establish a green infrastructure planning agency, develop a three to five-year green investment pipeline to excite investors, and kick-start domestic markets using demonstration green bonds and investment.

"There are increasingly examples of governments moving from interest to action," said Robins, pointing to the range of policy proposals for green bonds published by China's central bank and the recent issuing of green bond guidelines by India's capital markets regulator SEBI.

Around $40bn of green bonds have been issued so far in 2015, making it the largest ever year of issuance.

By Jocelyn Timperley | 10 Dec 2015

A Guide to Evaluating Pay for Success Programs and Social Impact Bonds.

Pay for success programs (PFS) are attractive to governments because they get private investors to finance preventative public programs. The government only has to pay back investors if the desired

results are achieved. But, notes a new report, “the theory of PFS looks better on paper than in reality.” The report, released Dec. 4 by a nonprofit called In the Public Interest (ITPI), outlines several concerns governments should address before entering into a PFS contract. It also lists questions officials should ask at every major stage of development from designing a program to measuring outcomes.

The report warned that the need to measure outcomes limits how PFS projects can be useful. For example, a now-closed PFS program at Rikers Island Prison in New York City funded a therapy program designed to reduce recidivism. While other actions like enacting policies to decrease the number of questionable misdemeanor arrests or make it easier for people to access bail have potentially larger impacts on recidivism, they are too hard to measure so are not good candidates for PFS programs, the report said.

Another problem is the measuring process itself. “Establishing cause and effect for a PFS can be subject to dispute,” the report noted. Recently, a Salt Lake County, Utah, PFS program drew criticism when it produced overwhelmingly successful results using preschool to reduce the number of children placed in special education by kindergarten. Some said that the program overestimated the number of kids who were at risk in the first place. The report quotes Ellen S. Peisner-Feinsberg, a senior scientist at the Frank Porter Graham Child Development Institute saying, “You have to be sure you have very rigorous ways to measuring the impact to make sure that it’s legitimate in terms of the outcome you get. That didn’t happen here.”

GOVERNING.COM

BY LIZ FARMER | DECEMBER 11, 2015

MSRB: New Compliance Advisory Available.

The MSRB recently published its 2016 Compliance Advisory for Municipal Advisors as part of an ongoing effort to assist municipal advisors with understanding and implementing new regulations. The advisory highlights compliance risks and provides an overview of currently effective rules, examples of conduct violations and factors municipal advisors should consider when evaluating their compliance programs.

Read the 2016 Compliance Advisory for Municipal Advisors.

Now Available! CDFA Tax Increment Finance Best Practices Reference Guide 2nd Edition.

Visit the CDFA bookstore here.

Report: Municipal Bonds Save Governments More than $700 Billion in Interest.

WASHINGTON, Aug. 18, 2015 /PRNewswire-USNewswire/ — State and local governments would have paid $714 billion in additional interest expenses between 2000 and 2014 without tax-exempt municipal bonds, according to a new white paper issued by the International City/County Management Association (ICMA) and the Government Finance Officers Association (GFOA).

Other key findings from the new public policy white paper, "Municipal Bonds and Infrastructure Development—Past Present and Future," prepared by Justin Marlowe of the University of Washington on behalf of ICMA's Government Affairs and Policy Committee, include:

- Virtually all state and local government capital investment is financed through municipal bonds.
- In 2014, state and local governments invested nearly $400 billion in capital projects, a significant slowdown in spending. Total state and local capital spending has not yet returned to pre-Great Recession totals.
- Approximately 90 percent of state and local capital spending is financed by debt.
- Alternative financing methods, such as pay-as-you-go and public-private partnerships, are effective for some types of capital projects, but are not a robust alternative to traditional, tax-exempt municipal bonds.
- There are more than one million municipal bonds in the market today, issued by more than 50,000 units of government, and their total par value is just over $3.6 trillion.
- If the federal tax exemption for municipal bonds were repealed, state and local governments would have paid $714 billion in additional interest expenses between 2000 and 2014. For a typical bond issue, this would mean $80-$210 in additional interest expenses per $1,000 of borrowed money.

Infrastructure funding is one of the most critical functions of state and local governments in the United States. Together, these levels of government are the main funders of the public sidewalks, roads, highways, bridges, and mass transit systems that Americans use to travel to work each day, as well as the public schools, colleges, and universities in which our future workforce is educated.

Tax-exempt municipal bonds, a fundamental feature of the United States tax code since 1913, provide a low-risk, cost-effective financing tool for the construction of infrastructure projects that are the lynchpin of the U.S. economy, improving quality of life, creating jobs, and sustaining economic development.

About ICMA
ICMA, the International City/County Management Association, advances professional local government worldwide. The organization's mission is to create excellence in local governance by developing and fostering professional management to build sustainable communities that improve people's lives. The management decisions made by ICMA's members—including 9,500 appointed city, town, and county leaders and other individuals—affect millions of individuals living in thousands of communities throughout the world, from small villages and towns to large metropolitan areas.

About GFOA
The Government Finance Officers Association is a membership and training organization founded in 1906 to educate members and be a resource on government financial and leadership issues. GFOA's 18,000+ members are the finance officers of state and local governments nationwide.

Dickinson Wright: Municipal Legal News: Volume 1, Number 2.

Employment Requirements for Building Officials

The Michigan Attorney General has interpreted a recent law requiring municipal building officials to be "employed" by a municipality to mean that building officials cannot be private independent contractors. The question of whether a worker is an employee is based on the "economic realities" of the arrangement, with consideration of the following factors: (1) control of the worker's duties; (2) payment of wages; (3) right to hire, fire, and discipline; and (4) performance of the duties as an integral part of the employer's business toward achieving a common goal. The Attorney General opined that state law does not permit arrangements where a private entity trains and oversees the building official, provides all of the official's compensation and benefits, and retains authority to fire and replace the individual performing the building-official function.

In light of the Attorney General's opinion, municipalities that use a private contractor as the building official face a number of legal risks. For one, the Department of Licensing and Regulatory Affairs could initiate enforcement actions against it. Also, property owners could challenge a building official's decision if the official is unlawfully employed.

Municipalities have several options to comply with this new employment requirement. One cost-efficient option is to partner with neighboring communities to share a single building official. So long as the head building official is a municipal employee, the law permits private contractors to perform building-related services like inspections and plan reviews.

Speech Regulation After *Gilbert*: From Yard Signs to Panhandling and Beyond

The U.S. Supreme Court's recent *Reed v. Town of Gilbert* decision involved a dispute over yard signs, but its consequences reach far beyond for local governments. Prior to *Gilbert*, many believed that the 1st Amendment permitted separate regulatory schemes for different types of messages, so long as each category was regulated reasonably without hostility to particular types of speech. The court in *Gilbert* rejected that understanding, holding that any regulatory scheme that categorizes speech based on content is subject to "strict scrutiny," and is therefore presumptively unconstitutional. In other words, if a sign ordinance requires reading the sign to determine which regulations apply, it violates the 1st Amendment unless the regulations are narrowly tailored to a compelling government interest. The court struck down the ordinance at issue in *Gilbert* because it established three categories of noncommercial signs (political, ideological, and directional) and treated each category differently without sufficient justification.

Lower courts are beginning to apply *Gilbert's* understanding of the 1st Amendment in other contexts, overturning existing case law on speech regulation. At least two federal courts in other jurisdictions have recently held that any ordinance that establishes special regulations for people soliciting donations is subject to strict scrutiny. If extended to Michigan, this reasoning could be used to challenge "aggressive panhandling" ordinances that regulate specific methods of panhandling (such as standing near ATMs) that are most likely to cause offense or create safety hazards. A federal district court in Colorado recently ruled that ordinances that prohibit panhandling near ATMs do not withstand strict scrutiny, because not all requests for money near ATMs are threatening in nature. Any community with an aggressive panhandling ordinance, or any ordinance that takes the message of speech into account, may wish to consider the impact of the *Gilbert* decision.

Freedom of Information Act: The Personal Privacy of Criminal Suspects

In *ESPN, Inc. v. Michigan State University*, the Michigan Court of Appeals issued an important decision regarding incident reports of uncharged crimes. The case involved a Freedom Of

Information Act request for all incident reports mentioning one or more student athletes on a 301-person list. The university released the responsive reports, but used the "personal privacy" exemption to redact the names and identifying information of suspects who were never charged with crimes. The Court of Appeals deemed the redactions were improper in this context because the public interest in disclosure clearly outweighed the interest in nondisclosure. The court found that the public had a strong interest in knowing whether student-athletes were treated more favorably than the general student population, and in knowing whether the university accurately reported certain incidents to the news media.

Prior to the *ESPN* case, many police departments routinely redacted the names of uncharged suspects under the guidance of a Michigan Attorney General opinion. The Court of Appeals decision in *ESPN* indicates that, in at least some cases, the importance of a news story outweighs a suspect's right to privacy and requires disclosure. Michigan State University has requested leave to appeal to the Michigan Supreme Court.

New HUD Regulations Impose Additional Requirements on Program Participants

The U.S. Department of Housing and Urban Development (HUD) has recently issued new regulations applicable to recipients of certain types of HUD funds. The new regulations mandate that recipients of certain funding – Community Development Block Grant funds, Emergency Solutions Grant funds, Home Investment Partnership funds, Housing Opportunities for Persons with AIDS funds, and Public Housing Agencies – engage in a four-step process to set fair housing priorities and goals every five years. The process, known as an Assessment of Fair Housing (AFH), is designed to replace the current "analysis of impediments" process (AI).

The AFH process includes questions designed to assist participants in better identifying fair housing issues, as well as the contributing factors for those issues. Once completed, HUD reviews the AFH for a determination as to whether the fund-recipient's programs are consistent with fair housing and civil rights requirements. Unlike the AI process, AFH's must receive HUD approval. The goals identified in the AFH must then be incorporated into various action plans, which also have extensive regulatory requirements.

Although it is unclear how the new regulations will be implemented, HUD could use the AFH process to investigate whether municipal housing and land-use regulations have a "disparate impact" on protected classes like race, religion, sex, familial status, national origin, and disability. This type of implementation could affect housing and zoning policies like minimum lot-size requirements, home density requirements, and caps on the number of homes that may be rented in a certain area. HUD's implementation of the new regulations should be closely tracked. In the meantime, careful consideration should be given to accepting HUD funds.

Sixth Circuit Upholds Municipal Grass-Mowing Fees

In *Shoemaker v. City of Howell*, a federal appeals court issued an important decision regarding the legality of municipal fees. The ordinance in Shoemaker required property owners to maintain the grassy area in the public right-of-way between the sidewalk and the street. When the property owner refused to mow that area, the city performed the work at the owner's expense and then placed a lien on the property for the unpaid fees.

The 6th Circuit Court of Appeals rejected two constitutional challenges to the ordinance. First, the court said municipalities can lawfully require property owners to maintain the grassy area in adjacent public right-of-ways, since the property owner has a partial ownership interest in that area. The court also rejected the property owner's procedural due-process challenge, holding that

municipalities are not required to initiate ordinance prosecutions or offer formal appeal proceedings before imposing grass-mowing fees. In reaching that conclusion, the court emphasized the relatively low monetary amount of the fees, as well as the relative urgency of abating the ordinance violation.

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: November 17 2015

Article by Dickinson Wright

Dickinson Wright PLLC

SIFMA U.S. Municipal Credit Report, Third Quarter 2015.

The municipal bond credit report is a quarterly report on the trends and statistics of U.S. municipal bond market, both taxable and tax-exempt. Issuance volumes, outstanding, credit spreads, highlights and commentary are included.

Summary

According to Thomson Reuters, long-term public municipal issuance volume totaled $86.0 billion in the third quarter of 2015, a decline of 22.4 percent from the prior quarter ($110.9 billion) but an 18.9 percent increase year-over-year ($72.4 billion). Including private placements ($2.4 billion), long-term municipal issuance for 3Q’15 was $88.4 billion.

Tax-exempt issuance totaled $75.5 billion in 3Q’15, a decline of 24.7 percent q-o-q but an increase of 15.3 percent y-o-y. Taxable issuance totaled $7.9 billion in 3Q’15, nearly unchanged q-o-q and a 68.5 percent increase y o y. AMT issuance was $2.7 billion, a decline of 2.3 percent q-o-q but an increase of 21.0 percent y-o-y. Year-to-date, municipal issuance totaled $301.0 billion, up 39.7 percent from last year and well above the 10-year average of $271.2 billion.

By use of proceeds, general purpose led issuance totals in 3Q’15 ($23.0 billion), followed by primary & secondary education ($16.8 billion), and higher education ($8.0 billion). Other notable sectors that saw an increase in issuance were mass transportation ($4.1 billion, an increase of 124.5 percent and 56.7 percent q-o-q and y-o-y, respectively), civic and convention centers ($1.1 billion, an increase of 370.9 percent and 583.9 percent q-o-q and y-o-y respectively), and single-family housing ($2.4 billion, an increase of 70.7 percent and 113.7 percent q-o-q and y-o-y, respectively).

Refunding volumes as a percentage of issuance increased slightly from the prior quarter, with 48.9 percent of issuance refunded compared to 49.7 percent in 2Q’15 and 50.4 percent in 3Q’14.

Read the Full Report.

NFMA Municipal Analysts Bulletin.

The Municipal Analysts Bulletin is now available online.

Click Here to Read the Bulletin.

MSRB Publishes Compliance Advisory for Municipal Advisors.

Alexandria, VA – The Municipal Securities Rulemaking Board (MSRB) today published its first *Compliance Advisory for Municipal Advisors*, developed to assist municipal advisors with understanding and implementing the regulatory framework created by the MSRB as a result of the Dodd-Frank Wall Street Reform and Consumer Protection Act. The Dodd-Frank Act in 2010 expanded mission of the MSRB to include the protection of municipal entities, in addition to investors, and charged it with developing regulations for municipal advisors, in addition to municipal securities dealers.

The new compliance advisory highlights fundamental regulatory requirements for municipal advisors as developed by the MSRB and identifies potential risks associated with a failure to implement adequate compliance controls. The advisory does not include all municipal market risks and is not intended to address all the requirements of each MSRB rule or other federal securities laws applicable to municipal advisors.

The MSRB encourages municipal advisors to review the Compliance Advisory for Municipal Advisors in light of their business practices and in assessing the adequacy of their compliance programs. The advisory is intended to help ensure that municipal advisors are fulfilling their duties with respect to their interactions with municipal entities, obligated persons and investors in support of a fair and efficient municipal market.

Additional news and resources for municipal advisors are available on the MSRB's website, including companion publications on *Preparing for Regulation* and *Participating in the Rulemaking Process*.

Date: November 12, 2015

Contact: Jennifer A. Galloway, Chief Communications Officer
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New Report from the National League of Cities Explores the Future of Mobility and Technology in Cities.

NASHVILLE, TENN.—A new report released today from the National League of Cities (NLC) explores trends in mobility and technology in cities and identifies what cities can do to move seamlessly and efficiently into the future of mobility. City of the Future: Technology & Mobility explores how transportation will change with coming technological disruptions, draws on knowledge from leading experts in the field and delves into city and regional transportation planning documents from the 50 most populous U.S. cities—as well as the largest cities in every state—providing an unprecedented look into what is happening next.

"Transportation is critical for our cities. This report is part of a multi-year research project that focuses on five different factors affecting cities: technology, economics, climate resilience, culture and demographics," said National League of Cities CEO and Executive Director Clarence E.

Anthony. “By exploring mobility and the impact technology is having on how we all get around, NLC is highlighting specific issues that will help cities anticipate changes in the urban landscape and prepare accordingly.”

The report finds widening gaps between innovation in the private sector, the expressed preferences of citizens and the visions of city planners regarding transportation investment. The mobility environment in cities is rapidly shifting-primarily due to technology-and this will impact cities’ future land-use decision-making, as well as infrastructure planning. Specifically, a majority of cities do not have concentrated efforts to prepare for new transportation innovations. Though half of the cities surveyed have explicit plans for new highway and infrastructure construction and maintenance, the majority of cities are not taking into account the effect of driverless technology or private transportation network companies.

“Our collective thoughts on the future of transportation have moved from Deloreans to driverless cars in what seems like the blink of an eye,” said Brooks Rainwater, director, NLC Center for City Solutions and Applied Research. “With the mobility environment rapidly changing, cities are central and leading the effort toward better, more seamless and equitable transportation systems.”

The report also outlines a forecast for 2020, 2030 and beyond:

Forecast for 2020

- There will be extensive demographic and workforce changes that will impact transportation networks, such as changing commuting choices, office location and workspace changes, decreased vehicle miles traveled and an increase in contract jobs.
- More states will establish infrastructure banks, paid road models will be on the rise in cities and there will be an increase in public-private partnerships for mobility projects.
- There will be more modal and transit options available to cities, with optimized bus lines and integration of apps and fare payment systems.
- Transportation network companies will be the main modes of personal and freight transportation in cities of all sizes, and there will be an increase of driverless cars and electric cars on the roads.

Forecast for 2030 and Beyond

- Urban areas will continue to grow, commuting patterns will change and rush hour will be dispersed over longer periods of time.
- A national infrastructure bank and other public/private financing options will change the way transportation projects are evaluated.
- Public transportation will begin to go driverless and cities will see a reduction in single occupancy vehicles.
- Bike communizing will become more attractive, though electric assist technology, and high-speed rail systems will be constructed in the east and west coast travel corridors.
- Additional modes of transportation, such as inner-city rail and air travel, will expand and there may also be first-class amenities on some public transportation services as well.

Click here read the full report.

The National League of Cities (NLC) is dedicated to helping city leaders build better communities. NLC is a resource and advocate for 19,000 cities, towns and villages, representing more than 218 million Americans.

NOVEMBER 6, 2015

Nonprofit-Government Contracts and Grants: A Case Study of Prince George's County, Maryland.

Public agencies, at all levels, increasingly rely on nonprofit organizations to address social issues and deliver publicly funded human and cultural programs and services. Therefore, strengthening relationships between nonprofits and government is essential to enhancing the quality of service delivery. This brief provides information and insights on the nonprofit-government contracting and grants relationships in Prince George's County, Maryland. The findings convey challenges administering government grants and strengthen the need for state government policymakers to strategize with their nonprofit and government partners about how to better align their efforts to address specific problems and improve nonprofit-government relations.

Download PDF.

The Urban Institute

Maura R. Farrell, Saunji D. Fyffe, Jesus Valero

October 29, 2015

SIFMA U.S. State Briefing Book 2015.

An annual snapshot containing municipal, corporate, equity, and financial industry statistics on the state level for the United States.

View the Briefing Book.

October 19, 2015

Kentucky Report Addresses Risks, Benefits of Transportation P3s.

Public-private partnerships could become a viable way for Kentucky to develop transportation projects in the near future if enabling legislation is enacted, a University of Kentucky research team predicts. The number of transportation P3s being conducted in the United States has increased significantly in recent years but the risks and benefits of such agreements must be weighed carefully before they are negotiated, the university's Kentucky Transportation Center said in a new report.

P3 legislation was considered by the state General Assembly this year and in 2014 that would have facilitated construction of a bridge linking northern Kentucky with Cincinnati. In 2014, Gov. Steven Beshear vetoed the bill. Earlier this year, the bill was passed in the House but failed to gain approval in the Senate.

The study describes a variety of P3 agreements and the challenges and rewards of pursuing this type of procurement in the face of growing infrastructure needs and declining budgets. The report also warns of pitfalls agencies face if they fail to oversee projects closely, gain public support for them or if agencies do not negotiate solid agreements involving projects that are most suitable for a P3.

The study's authors noted that the acceptance of unsolicited proposals, which would have been authorized by the Kentucky legislation and is permitted in other states, could encourage private developers to pursue only highly profitable projects, leaving states to take on "more undesirable" ones. Agencies could avoid this by inviting firms to bid on a package containing both more and less financially appealing projects, offering subsidies to encourage private participation in a project that might otherwise be overlooked, and allowing other firms to compete for a proposed project.

The Kentucky Transportation Center's study is entitled Synthesis of Public-Private Partnerships: Potential Issues and Best Practices for Program and Project Implementation and Administration.

FHWA Drafts Model Contract Guide on Availability Payment P3s.

The Federal Highway Administration has drafted a guide designed to assist in the development of contracts for availability payment-based highway public-private partnerships. The agency is inviting the public to comment on the draft before it is finalized.

The Availability Payment Concessions Public-Private Partnerships Model Contract Guide "is designed to provide industry-standard concepts, relevant common tools and mechanisms and situational examples applicable to availability payment-based P3 transactions," FHWA explains in its introduction to the guide.

The document is similar to the two-part model draft contract guide for toll concession P3s that FHWA released for public review in 2014 and early 2015. The final version of the two drafts will be published as a single document.

These guides are part of a series of documents that describe terms and conditions that P3 concession agreements typically contain and are meant to be educational, not prescriptive.

FHWA has decided to add suggested labor standard best practices recommended by the Department of Labor to both the toll concessions and availability payment guides. As a result, the toll roads concession guide will be finalized after public comments have been received on the availability payments guide draft, the agency said in a Federal Register notice.

Comments on the availability payments guide draft are due Oct. 29.

NCPPP

October 9, 2015

Rainfall to Results: The Future of Rainwater.

Evolving techniques for managing stormwater aren't only cost-effective. They hold the promise of multiple urban benefits.

It's been said that if you live on a street, you live on a stream: Water that runs off our streets when it rains ultimately makes its way into creeks, rivers and other waterways.

Impervious surfaces such as roadways and rooftops prevent rain and snowmelt from filtering into

the ground as they do in natural landscapes. In most areas, storm sewer systems exist to collect this runoff. But that's not all they collect. Oil, dirt, industrial chemicals, lawn fertilizers and other pollutants that harm the quality of our waterways all find their way into the storm drain. Stormwater runoff and the pollution it carries with it can discourage recreation, degrade aquatic habitats and contaminate water supplies.

Now more than ever, increased urbanization and more intense rainfall caused by climate change are creating burdensome challenges for cities and towns. But within these challenges lie new opportunities to build systems that improve the vibrancy and climate resiliency of our urban areas.

Certainly the challenges loom large. Superstorm Sandy and other major weather events may come to mind when we think of flooded streets. But due to impervious surfaces, even small storms can generate vast amounts of runoff. The city of Baltimore, for example, could generate 1,060 Olympic-sized swimming pools' worth of runoff from a storm that produced only one inch of rain.

Stormwater is the only growing source of water pollution in many watersheds throughout North America. This is why stormwater regulations are growing increasingly strict. While no one argues the importance of protecting water quality for public health and the environment, city planners, government managers and elected officials must balance this responsibility with competing priorities and limited funding.

Just how can that be accomplished? A new report from the Water Environment Federation's Stormwater Institute, "Rainfall to Results: the Future of Stormwater," details how communities can address their growing stormwater challenges in ways that not only are cost-effective but also create multiple community benefits. Developed with input from the nation's leading stormwater experts, the report describes the challenges, opportunities and pathways to achieving sustainable stormwater management.

As the report makes clear, strong and vibrant communities rely on stormwater management techniques that continually evolve based on new science, experience, technical innovation and responsive regulations.

The report envisions a future in which stormwater is considered a reusable resource and managed through an optimized mix of affordable and sustainable green, gray and natural infrastructure. Green infrastructure, such as ground and rooftop rain gardens, combined with natural systems, such as wetlands and open spaces, can reduce the cost of and burden on the gray infrastructure of catch basins, pipes and other engineered systems. Green spaces can provide value beyond stormwater management, improving human health and wellness, reducing crime and increasing property values.

As a complement to these green and gray stormwater controls, the sector also must cultivate new partnerships to focus on pollution prevention. Keeping pollutants out of stormwater is much more effective than trying to remove them after the fact.

However, paying for stormwater infrastructure is one of the top challenges facing communities. Sustainable stormwater management requires a dedicated funding source and governance structure best supported by stormwater utilities.

Essential to fully funding innovative stormwater initiatives is cultivating community understanding and appreciation for the value of this vital infrastructure. Achieving this vision requires attention and action from stormwater professionals as well as all others within the community — from the general public to city planners to elected officials. With the support of the full community, we can feel more confident facing the next storm.

GOVERNING.COM

BY EILEEN O'NEILL | OCTOBER 8, 2015

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GASB Proposes Implementation Guidance Designed to Clarify Recent Pronouncements.

Norwalk, CT, September 30, 2015 — The Governmental Accounting Standards Board (GASB) today issued a proposed Implementation Guide containing questions and answers intended to clarify, explain, or elaborate on recent GASB Statements.

The proposed implementation guide focuses on questions that have been raised related to GASB's new standards on pensions, retiree healthcare benefits, and fair value reporting. The proposed guide also addresses a wide array of practice issues on other topics that have been brought to the GASB's attention. The Exposure Draft of Implementation Guide No. 20XX-X, Implementation Guidance Update—20XX, is available on the GASB website, www.gasb.org. Stakeholders are encouraged to review and provide comments by November 30, 2015.

Truth in Accounting: The Real Taxpayer Burden.

A new report by the financial transparency advocate Truth in Accounting shows what states' financial statements could look like soon with new pension accounting rules in place. The group tallies up state debt, and includes pension unfunded liabilities and retiree healthcare obligations. Starting this year, Government Accounting Standards Board (GASB) rules require states to include their unfunded pension liabilities in their government-wide financial statements to better reflect their debt burden. In a few years, accounting rules will require states to report unfunded retiree healthcare liabilities in the statement as well.

All states except Vermont have a balanced budget requirement, but annual budgets don't reflect long term debt. The total debt across all 50 states in 2014 was about $1.4 trillion, according to the report. Some (11) states had a positive balance sheet and enough in available assets to counteract their debt load and. But most (39) were in the red. The group then divided that balance sheet tally among all the state's taxpayers to come up with each state's taxpayer burden.New Jersey showed the biggest ever year-over-year leap in taxpayer burden for any state in the six years of the report's history. The jump was largely thanks to a big increase in its unfunded pension liability after new GASB accounting rules for all governments kicked in last year. The state's taxpayer burden went from $36,000 in 2013 to $52,300 last year, the highest in the country.

The group's report includes in-depth analyses of all 50 states.

GOVERNING.COM

BY LIZ FARMER | OCTOBER 2, 2015

USC Marshall School of Business Study Makes Case for Greater Transparency, New Model for U.S. Bond Markets.

Greater transparency and the adoption of trading procedures similar to those of the nation's equity markets could save U.S. corporate and municipal bond customers billions a year in transaction fees, according to a new study of bond market practices and transaction costs.

Lawrence Harris, who is Fred V. Keenan Chair of Finance and Business Economics at the USC Marshall School of Business, tabulated millions of bond transactions completed between Dec. 15, 2014 and March 31, 2015 for a study titled Transaction Costs, Trade Throughs, and Riskless Principal Trading in Corporate Bond Markets. What he discovered was that the benefits of electronic bond trading largely accrue to bond dealers who often take little or no risk in exchange for the mark-ups and commissions they charge their customers. Public investors, meanwhile, generally do not have the information they need to trade at the best-available prices. And unlike commissions, they do not even know the mark-ups they pay to dealers to trade.

According to the data, customers incur an average transaction cost of 85 basis points for retail-size trades (under $100,000 in par value) and 52 basis points for larger trades. "These costs are many times larger than costs for similar-sized trades in equity markets," writes Harris. "Electronic trading has substantially lowered investor transaction costs in equities, but it has provided little benefit to most bond investors."

U.S. bond investors, Harris says, "would benefit if the 850 most actively traded bonds for which dealers provide near continuous electronic quotes were traded in market structures more similar to those in the equity markets. If the public could see national best bids and offers before trading, as they can for equities, dealers would have a strong incentive to offer better pricing. A rule that simply requires brokers to disclose their mark-up rates before a trade also would improve the markets."

The study shows that public investors in U.S. bonds presently pay $26B per year to trade. Greater pre-trade price transparency could save them 20% or more, or about $5B per year according to Harris.

The results of the study and Harris' recommendations are a wake-up call for regulators and may influence how bond markets are structured in the future, says James G. Ellis, dean, USC Marshall School of Business.

"This study's findings and recommendations will inform the growing debate on the future of bond markets in the United States," Ellis said. "Clearly, greater transparency must also be the standard in our bond markets, just as it is now in our equity markets."

The full study is available for download here.

About the USC Marshall School of Business

Consistently ranked among the nation's premier schools, USC Marshall is internationally recognized for its emphasis on entrepreneurship and innovation, social responsibility and path-breaking research. Located in the heart of Los Angeles, one of the world's leading business centers and the U.S. gateway to the Pacific Rim, Marshall offers its 5,700-plus undergraduate and graduate students a unique world view and impressive global experiential opportunities. With an alumni community spanning 123 countries, USC Marshall students join a worldwide community of thought leaders who are redefining the way business works.

September 25, 2015 3:13pm

NASACT and Deloitte Release 2015 Digital Government Transformation Survey.

View the Report.

NFMA Releases Final Best Practices for State GO Bond Disclosure After Public Comment.

The National Federation of Municipal Analysts (NFMA) announced today that it has released the final version of its Recommended Best Practices in Disclosure for State Government General Obligation and Appropriation Debt (State GO RBP).

This paper is the first of a two-part update of the NFMA's December 2001 Recommended Best Practices in General Obligation and Tax-Supported Debt (2001 RBP), which addressed all general obligation debt. This RBP
incorporates and builds upon the Voluntary Interim Financial Reporting: Best Practices for State Governments approved by the National Association of State Auditors, Comptrollers and Treasurers from 2014.

According to Jennifer Johnston, NFMA Chair, "Given the changes in the market over the past decade, it was time to revisit disclosure at both the state and local level for general obligation and tax-backed bonds. We wanted to acknowledge the improvements in disclosure that have occurred over this period and incorporate the areas where we need to put more focus."

In light of the scope of the project and length of this RBP, the NFMA provided a 120-day comment period, during which market participants and the public were given the opportunity to review and submit comments on the paper.

The NFMA plans to follow the State GO RBP with RBPs addressing Local GO Bonds and Dedicated Tax Bonds. The NFMA has written RBPs and white papers on over 20 different sectors and topics in the municipal bond market.

To view all of the NFMA's RBPs and white papers, go to www.nfma.org and select "Disclosure Guidelines" under "Publications."

Established in 1983, the NFMA is an organization of nearly 1,400 members, primarily research analysts, who evaluate credit and other associated risks in the municipal market. These individuals represent, among others, mutual funds, insurance companies, broker/dealers, bond insurers, rating agencies, and financial advisory firms.

September 10, 2015

Contact: Lisa Good, NFMA Executive Director
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Fitch Updates U.S. Water and Sewer Revenue Bond Rating Criteria.

Fitch Ratings-Austin-03 September 2015: Fitch Ratings has updated its sector-specific rating criteria report titled 'U.S. Water and Sewer Revenue Bond Rating Criteria.' The report replaces Fitch's existing rating criteria published July 31, 2013. No changes to existing ratings are expected as a result of the update.

Fitch has identified four key rating drivers that affect the credit quality of water and sewer revenue bond issuers:

- **Governance and Management:** A utility's operating and fiscal health is highly dependent on the actions of the utility's employees and governing body;
- **Financial Profile:** Fitch evaluates both historical and forecast financial results to determine the ability of a utility to fund operating and capital needs and meet its debt obligations;
- **Debt Profile:** Fitch analyzes the level and structure of a borrower's debt in determining overall creditworthiness;
- **Operating Profile:** The ability of a utility to provide service to its customers and generate resources sufficient to meet its financial obligations is affected by a range of factors from the deployment of assets to the health of the service area.

The updated criteria report is available here.

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U.S. Research Quarterly, Second Quarter 2015.

About the Report

A quarterly report containing brief commentary and statistics on the U.S. capital markets, including but not limited to: municipal debt, U.S. Treasury and agency debt, short-term funding and money market debt, mortgage-related, asset-backed and CDO debt; corporate bonds, equity and other, derivatives, and the primary loan market.

Summary

Total Issuance Increases in 2Q'15

Long-term securities issuance totaled $1.76 trillion in 2Q'15, a 3.1 percent increase from $1.71 trillion in 1Q'15 and a 10.1 percent increase year-over-year (y-o-y) from $1.60 trillion in 2Q'14. Issuance fell quarter-over-quarter (q-o-q) across three asset classes: federal agency, asset-backed and equity while the remainder recorded increases.

Long-term public municipal issuance volume came in at $110.4 billion for 2Q'15, an 6.2 percent increase q-o-q ($104.0 billion) and 32.7 percent increase y-o-y ($83.2 billion). With private placements included ($2.5 billion), long-term municipal issuance for 2Q'15 was $113.0 billion, a 5.3 percent and 25.2 percent increase, respectively, q-o-q and y-o-y.

Total gross issuance of Treasury bills and coupons, with cash management bills, Floating Rate Notes and Treasury Inflation-Protected Securities included, was $1.69 trillion in 2Q'15, which was unchanged from 1Q'15 and a 1.1 percent decrease from 2Q'14's issuance of $1.71 trillion. U.S. Treasury net issuance, including CMBs, fell sharply to $56.6 billion in the second quarter, a 51.5 percent decrease from $116.6 billion issued in the previous quarter but a much higher outcome than 2Q'14's net redemption of $64.50 billion. Net issuance for the second quarter was 4.1 percent below the Treasury's May net borrowing estimate of $59.0 billion.

Federal agency long-term debt issuance was $88.9 billion in the second quarter, compared to $130.19 billion in 1Q'15 and $69.4 billion in 2Q'14.

Mortgage-related securities issuance, which includes agency and non-agency passthroughs as well as collateralized mortgage obligations (CMOs), reached $441.2 billion in 2Q'15, a 27.0 percent increase q-o-q ($347.5 billion) and a 44.7 percent gain y-o-y ($304.9 billion). Increases were driven entirely by improvements in agency issuance, as non-agency volumes declined both q-o-q and y-o-y.

Asset-backed securities (ABS) issuance reached $60.1 billion in 2Q'15, falling 2.7 percent and 14.8 percent, respectively, q-o-q and y-o-y. The auto industry continued to lead issuance totals with $27.7 billion (46.1 percent of total 2Q'15 issuance), followed by credit cards ($8.8 billion, or 14.7 percent).

Corporate bond issuance stood at $442.6 billion in the second quarter, a 1.7 percent increase from the $435.0 billion issued in 1Q'15 and 3.5 percent above 2Q'14's issuance of $427.8 billion. Both the investment grade and high yield issuance showed quarterly increases with HY bonds' issuance increasing at a slightly faster pace.

Equity underwriting fell 9.5 percent to $81.0 billion in 2Q'15 from $89.5 billion in the previous quarter and down 14.2 percent y-o-y, but was 13.3 percent above the five-year average of $71.5 billion. The number of equity underwriting deals dropped to 301, down 6.2 percent q-o-q and 17.5 percent from 2Q'14. The average deal size dropped to $269.2 million in 2Q'15, a decline of 3.5 percent q-o-q but a 4.0 percent gain y-o-y.

View the Report.

August 19, 2015

NABL Issues Updated Municipal Bankruptcy Primer.

The National Association of Bond Lawyers has released the 3rd edition of *Municipal Bankruptcy: A Guide for Public Finance Attorneys*. This edition updates the 2012 edition with the experience of recent municipal bankruptcies, particularly that of the City of Detroit. The Guide includes a discussion of alternatives to bankruptcy, a history of Chapter 9, the specifics of municipal bankruptcy, and the treatment of a bond issue in municipal bankruptcy. The Guide also discusses procedures for commencing a municipal bankruptcy case, many of the important case management aspects, the plan of adjustment, and dismissal of a Chapter 9 case. Suggested additional readings are also included.

While the Guide is not intended to be neither a comprehensive treatise on the United States Bankruptcy Code, a complete compendium of the statutes that exist in all fifty states and comprise the authorization for or the alternatives to federal bankruptcy for municipalities, nor an exhaustive scholarly work on municipal insolvency, it is intended to provide the bond practitioner with the information and resources he or she may need to assist clients.

What Happens When You Start Taxing Muni Bonds?

A new study offers the best data to date on how much the tax exemption on municipal bonds, which are often used to finance sports stadiums, saves state and local governments.

The $3.6 trillion municipal bond market is about as uniform as a crazy quilt. That's why it's hard to measure what one policy change — mainly, removing muni bonds' tax-exempt status — could mean for the market. But a new analysis offers the best glimpse yet of the impact that revisions might have on state and local governments.

The new study, commissioned by the International City/County Management Association and the Government Finance Officers Association, confirms one argument made in favor of the exemption: Since investors don't have to pay an income tax on their interest earnings from the bonds, governments can pay off their bonds at a lower interest rate than they would otherwise. The tax-free status of municipal bonds saved governments an estimated $714 billion in extra interest payments from 2000 to 2014, according to the report. That's the equivalent of building a state-of-the-art stadium, ballpark and arena for every professional sports city in the U.S. and Canada six times over.

Of course, this isn't the first study to back up the tax exemption's positive affect. What's different about this study is the level of data it provides policymakers. Previous reports merely offered a blanket comparison between the interest rates on a range of municipal bonds to the interest rate on U.S. treasuries, leading to the conclusion that interest rates for all muni bonds would have been between 2 and 3 points higher over the last decade without the tax exemption. But there's an old saying about the municipal market: If you've seen one muni bond, then you've seen one muni bond.

To get at a more accurate picture of how the exemption saves governments money, Justin Marlowe, author of the new report and a Governing columnist, looked at how the type of issuer affects interest rates. He found that depending on the issuer, savings can range from $80 to $210 in additional interest expenses per $1,000 of borrowed money.

"The effect of the exemption is much more stable or predictable for bigger issuers than other kinds," said Marlowe, a public finance professor at the University of Washington. "It's valuable, but the value doesn't vary as much as it does for smaller issuers." And, he adds, the value of the exemption is lower post-financial crisis.

Very small bond offerings — less than $3 million — see the lowest savings, little more $50 per $1,000 borrowed. Cities, counties and schools on average see slightly better savings of roughly $75 per $1,000 borrowed. Before the financial crisis, those groups saw average savings ranging between $120 and $150 per $1,000 borrowed.

Among the different types of issuers, hospitals see some of the biggest savings on interest payments. The average hospital today saves more than $100 per $1,000 borrowed — 1 percent less in interest

— than it would if the bonds were taxable. Before the 2008 financial crisis, hospitals saved more than $150 per $1,000 borrowed. The big savings is because hospitals, which include nursing homes, tend to be among the riskiest investments in the municipal market. For hospitals, the default rate is still very low — less than a half percent, according to Municipal Market Analytics. But for retirement homes, a very small player in the market, the default rate is 5 percent.

Although talk about removing the muni bond tax exemption seems to have cooled on Capitol Hill until at least after next year's presidential election, tax reform is on the lips of just about every presidential candidate. While it would likely cost governments more to borrow if the exemption is eventually removed, the action would also trigger other changes to the market, said Marlowe. Many high-net-worth investors attracted to the tax-free feature of muni bonds would likely bow out. At the same time, foreign and corporate investors who don't currently benefit from the tax-free status could swoop in. It could create an increase in demand for muni bonds and thus keep interest rates low.

"There are lots of market dynamics that might change who buys munis," Marlowe said. "The question is, how many of those folks are out there?"

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BY LIZ FARMER | AUGUST 27, 2015

GASB Publishes New Authoritative Implementation Guide.

Norwalk, CT, August 27, 2015—The Governmental Accounting Standards Board (GASB) today published a document that details comprehensive authoritative implementation guidance cleared by the Board for state and local governments.

Implementation Guide No. 2015-1 incorporates changes resulting from feedback received during the year-long public exposure of previously issued implementation guidance, which was done in conjunction with the due process leading up to the issuance of GASB Statement No. 76, *The Hierarchy of Generally Accepted Accounting Principles for State and Local Governments.*

Statement 76 reduces the GAAP hierarchy to two categories of authoritative GAAP. The first category of authoritative GAAP consists of GASB Statements of Governmental Accounting Standards. The second category includes GASB Implementation Guides, GASB Technical Bulletins, and guidance from the American Institute of Certified Public Accountants that is cleared by the GASB.

Going forward, all new GASB implementation guidance, due to its elevated authoritative status, will be exposed for a period of broad public comment prior to issuance, as is done for other GASB pronouncements.

The requirements of *Implementation Guide 2015-1* are effective for reporting periods beginning after June 15, 2015. The guide is available for download free of charge on the GASB website.

NABL Releases Paper on Disclosure Policies and Procedures.

The National Association of Bond Lawyers released a paper – *Crafting Disclosure Policies* – which

explores the functions and benefits of written disclosure policies, the subjects that drafters should consider addressing, and practical considerations for drafting such policies.

NABL has released a paper entitled Crafting Disclosure Policies, to provide NABL members with tools to advise issuers in developing written disclosure policies and procedures.

The paper contains the following:

- An exploration of the functions and benefits (as well as risks) of written disclosure policies, the subjects that drafters should consider addressing, and practical considerations for drafting such policies.
- A summary and discussion of relevant enforcement actions by the SEC.
- An annotated statement of policies and procedures. The annotated statement is not intended to be a recommended policy for any issuer. Rather, it is intended merely to illustrate the subjects and additional considerations that might be considered in formulating disclosure policies.
- Sample disclosure policies, found on the Securities Law and Disclosure Committee's page on NABL's website.

NABL: Crafting Disclosure Policies.

The National Association of Bond Lawyers (NABL) has released Crafting Disclosure Policies, a paper to provide NABL members with tools to advise issuers in developing written disclosure policies and procedures. According to the release, the paper explores the functions and benefits (as well as risks) of written disclosure policies, the subjects that drafters should consider addressing, and practical considerations for drafting such policies. The paper also includes a summary and discussion of relevant enforcement actions by the Securities and Exchange Commission (SEC).

View the paper.

How to Not Be the Next Detroit.

"The next Detroit" makes an eye-catching headline, but a new report by Pew Charitable Trusts aims to help cities avoid that publicity by outlining some lessons learned from the last seven years of municipal bankruptcies. "Until now," the report said, "lawyers and financial analysts have conducted most post-bankruptcy analyses, focusing on the effect on investors who buy and insure municipal bonds. But state and municipal leaders need to weigh broader impacts on residents and workers."

Among the lessons were:

- Early state intervention in local governments' financial emergencies can help avert a crisis.
- Governments in bankruptcy should develop broad outreach plans that include all stakeholders to help resolve conflicts.
- It's critical for governments to have long-term recovery plans upon exiting bankruptcy that outline immediate financial fixes and long-term strategies (like investing to promote economic growth).
- Local officials can promote fiscal health and increase their city's capacity to deal with the ups and downs of the business cycle by budgeting over the long term.
- Regular monitoring of local government finances can help state officials detect early signs of

distress.
- A temporary manager or financial monitor can be a successful alternative to filing for Chapter 9.

GOVERNING.COM

BY LIZ FARMER | AUGUST 14, 2015

Moody's Updated 2013 U.S. Local Government Medians Support Sector's Stable Outlook.

The updated 2013 medians for US local governments continue to reflect slow growth in tax bases, marginal increases to fund balances and liquidity, and a steady rise in debt and pension liabilities, which continues to support Moody's view of a stable outlook for the sector. The baseline for the stability is provided by slow growth in full value of property values across all subsectors.

The full report is available for purchase here.

13 Aug 2015

Stroock: Protecting Pensions And Contract Rights For Public Sector Employees.

A look at how, in the current economic climate, some cities and states have attempted to impair contracts and pensions and how the public sector labor force has and can protect against those efforts.

INTRODUCTION

Recently, in an important decision for public employees, the Illinois Supreme Court rejected an attempt by Illinois lawmakers to impair the State's public pension system. The proposed legislative changes would have, among other items, curtailed future cost-of-living adjustments for workers, raised the age of retirement for some, and imposed a cap on pensions for those with the highest salaries. Though no one could reasonably dispute the gravity of Illinois' budgetary difficulties, the court recognized that "economic conditions are cyclical and expected," and "fiscal difficulties have confronted the State before."1 The Legislature could not attempt to cure budgetary shortfalls on the backs of public employees, even in dire circumstances, because the Illinois constitution provides that benefits promised as part of a pension system for public workers "shall not be diminished or impaired." To the court, "crisis [was] not an excuse to abandon the Rule of law….it [was] a summons to defend it." Thus, the Legislature could not unilaterally diminish the fundamentally and constitutionally preserved retirement benefits of public workers.2

The Illinois Supreme Court's decision is one of several recent decisions nation-wide dealing with the constitutionality of a state's seeking to impair contractually bargained-for pension rights of public employees. Yet, the decisions have not all been decided the same way and have had mixed results for public employees.

Even more recently, in a lawsuit filed by a number of New Jersey public employee unions, New

Jersey Superior Court Judge Mary Jacobson initially ruled that Governor Chris Christie's attempt unilaterally to withhold $1.6 billion of contributions from the public pension system to cure New Jersey's budgetary shortfall was unlawful.

The court held that reneging on the State's financial obligations to public sector workers violated the contract rights of the employees under the New Jersey and Federal Constitutions.

The court concluded that because the State "failed to present any real evidence of an emergency situation or of its having considered any alternatives to cutting out the [pension payments] entirely to balance the budget," the action was unconstitutional.3 Governor Christie was ordered to make the $1.6 billion payment to the public pension system because the State had "substantially impaired plaintiff's contractual rights without justification."4

However, the New Jersey Supreme Court reversed the lower court ruling. In a lengthy opinion, the court held that the New Jersey legislation that created the annual obligation to fund the severely underfunded pension system ran afoul of the State Constitution's Debt Limitation Clause, a unique New Jersey constitutional mandate prohibiting the Legislature from incurring debts, either by contract or by statute (i.e., without voter approval), exceeding one percent of the annual budget. The court, in its first full paragraph, made absolutely clear that whether New Jersey's "men and women must be paid their pension benefits when due [was] not in question." Instead, the issue was whether the funding legislation in question, Chapter 78, could create a valid and legally enforceable contractual right to an annual contribution from the State into the pension funds in the absence of voter approval. Because of the New Jersey-specific constitutional debt limitation provision, under state law it could not. There was no enforceable contract.

Importantly, on this strictly legal question pertaining to a statutory financing scheme, the court had no occasion to consider whether the State's commitment to pay retirement benefits when due is a valid and binding contract and whether its failure to pay would constitute a violation of the federal or State Contracts Clause. The language of the decision, and the court's repeated emphasis on the narrow question before it, suggests that it remains, at the very least, an open question. Indeed, the court recognized the importance of New Jersey fulfilling its obligations and noted that the State "must get its financial house in order" to "honor its compensation commitment to retired employees." It further emphasized that "the State repeatedly asserted at oral argument that it is not walking away from its obligations to the pensions and to pay benefits due to retirees." Thus, while the decision ostensibly appears to be a victory for the Christie administration, no overly broad conclusions about its substance or applicability of the decision to other jurisdictions should be drawn.

For over a decade, New Jersey has, on average, made less than half of its required annual contributions to its state pension fund and, as in many states like Illinois, with politicians loathe to propose tax increases or to make the budgetary cuts needed to fund shortfalls, attention has now turned to the once believed to be inviolable public sector pensions.

The recent Illinois decision and the New Jersey lawsuit, captioned Burgos v. New Jersey,5 despite their ultimate differing outcomes, provide a path for how public sector unions can utilize state and federal constitutional provisions to protect the safety net that their members have for so long counted on for their retirements. New Jersey's and Illinois' budgetary imbalance and consequent fiscal difficulties are not uncommon. Although the U.S. economy is improving, as evidenced by lower unemployment rates, drastically reduced gas prices, and surging stock markets,6 fiscal concerns remain for some of the nation's largest cities and states. Recovering from the recession has been harder for certain U.S. municipalities, in part because despite the improved housing and labor markets, tax revenues – the largest source of government funds – have not universally rebounded as

quickly. Many American cities are still struggling to adjust to the shrunken revenue streams that resulted from the recession,7 the decline in federal and state aid, and the decline in property tax revenue.8 In some recent, well-known severe cases – Detroit, Michigan, San Bernadino, California, and Stockton, California – the impact of the recession, combined with the unwillingness of governments to make hard choices, has pressed municipalities into bankruptcy.9 Aside from cities and smaller localities, some state governments, are also facing difficult choices in today's challenging economic climate.10

Under the guise of these budgetary constraints, policymakers have taken aim at public sector pensions and contracts in an attempt to stabilize finances. Such unilateral attempts to reduce or eliminate altogether contractually bargained-for rights, have been met with challenges across the country, based on both state and federal constitutional grounds. Under numerous state constitutions, including Illinois', New Jersey's, and New York's, public sector employee pensions are accorded the status of contracts, "the benefits of which shall not be diminished or impaired," under a provision colloquially referred to as the "Non-Impairment Clause."11 Similarly, under Article I, Section X of the Federal Constitution, states are prohibited from impairing contractual obligations, under a provision known as the "Contracts Clause."12 The federal Contracts Clause and state non-impairment clauses safeguard the legitimate expectations of employees who devote their lives to public service and ensure that the promises made to municipal workers when they began their careers are ultimately fulfilled. As they have historically, many public sector workers take lower paying jobs precisely for the security and predictability of seniority and a pension. Yet, these protections are not absolute. In truly dire economic circumstances, governments exercising their constitutionally recognized police power may trump these protections and modify or breach labor contracts. Importantly, however, they may only legally so act as a last and necessary resort.

The first part of this article outlines the contours of state non-impairment clauses and the federal Contracts Clause (and state analogs), focusing on how courts analyze challenges made on those constitutional bases. The second part of this article discusses recent legislative and judicial impairments of public sector pensions in both Detroit and Illinois. Last, we examine the state of the law in New York, using recent national developments to inform the analysis.

METHODS FOR PROTECTING PENSIONS AND CONTRACT RIGHTS13

The Non-Impairment Clause – Protecting Pensions

Public sector employees in certain states can use the non-impairment clause to protect their pension rights from unilateral reductions imposed by a state or local government. Under many state constitutions, including New York's, pensions are granted contractual status. Article V § 7 of the New York State Constitution declares that, "membership in any pension or retirement system of the state or of a civil division thereof shall be a contractual relationship, the benefits of which shall not be diminished or impaired."14 Notably, there is no qualification. Thus, any judicial or legislative action that seeks to impair pension rights is arguably a violation of New York's Non-Impairment Clause.15

Case law and the legislative history confirms that the purpose of New York's Non-Impairment Clause was "to fix the rights of the employees at the time of commencement of membership in the [pension] system, rather than as previously at retirement."16 The clause prohibits unilateral action by either the Legislature or the employer that would diminish or impair the rights employees have gained through their membership in the system.17

The Contracts Clause – Protecting Contract Rights

In addition to non-impairment clauses, the federal Contracts Clause and its more well-developed caselaw protects all citizens nationwide from having their contract rights modified or impaired by government officials. It applies commonly to labor contracts between government employers and public employee unions. Wage freezes or furloughs, for example, which typically abrogate the collectively bargained-for wage increases of municipal workers, fit neatly within the constitutionally contemplated paradigm of a state impairing a citizens' contractual rights. To challenge the imposition of a wage freeze or furlough, employees have argued that by imposing the freeze, the state is violating its obligations under the federal Contracts Clause, which provides that "[n]o state shall . . . pass any . . . law impairing the obligation of contracts." (Most states have a contracts clause analog that mirrors the federal provision.) In addition to challenging wage freezes or other diminution of contract rights, the Contracts Clause may also be used to challenge a unilateral impairment of public sector pensions in states that recognize pensions as contractual obligations. In New York and other states, through the Non-Impairment Clause, the constitution not only prohibits the impairment of pensions but expressly recognizes pensions as contracts. Other states have afforded pensions contractual constitutional protection via court rulings.18

To establish a viable Contracts Clause claim, employees must show there has been a "substantial impairment of a contractual relationship."19 Courts will assess, whether a contractual impairment is constitutional: "(1) whether the contractual impairment is in fact substantial; if so, (2) whether the law serves a significant public purpose, such as remedying a general social or economic problem; and, if such a public purpose is demonstrated, (3) whether the means chosen to accomplish this purpose are reasonable and appropriate."20 When a state is impairing its own contracts, as is often the case with municipal and state workers, the impairment is scrutinized more closely than if a state is impairing private contracts.21 "Courts are less deferential to a state's judgment of reasonableness and necessity when a state's legislation is self-serving and impairs the obligations of its own contracts."22 Further, the level of review is heightened if the impairment is severe. The United States Supreme Court has recognized "[t]he severity of the impairment is said to increase the level of scrutiny to which the legislation will be subjected."23

The most significant hurdle in prevailing on a Contracts Clause claim from a labor perspective is demonstrating that the impairment did not "serve a significant public purpose" or that the impairment was not "reasonable and appropriate" to accomplish that purpose. In Buffalo Teachers Fed'n v. Tobe ("Buffalo Teachers"), the Second Circuit analyzed whether legislation establishing a wage freeze to deal with Buffalo's fiscal crisis was a violation of the Contracts Clause.24 There, the court found that the wage freeze did not violate the contracts clause because the freeze was "reasonable and necessary"25 during an extreme economic crisis in the city of Buffalo during 2003.26 Buffalo's population was declining, its poverty rate was above 20% and its credit rating was near junk status. Importantly, the court emphasized that the wage freeze was utilized as a "last resort measure," imposed "only after other alternatives had been considered and tried," including, among other things, a tax increase and a city-wide hiring freeze.27 Other factors the court considered in determining the reasonableness of the wage freeze was that the freeze was temporary, and applied prospectively to future wages, not to past wages already earned.28 The Buffalo Teachers precedent clarifies that though a government's interest in addressing a dire fiscal emergency may constitute a legitimate public interest, the existence of revenue shortfalls or other budgetary problems alone does not satisfy the significant public purpose inquiry.29 Relief from the obligation to pay its workers is useful from a budgetary perspective to any government. But a wage freeze or other unilateral contract impairment is not just another tool for balancing municipal budgets; it is a tool that must only be used as a last resort. 30

In the case of the New Jersey appellate court, Judge Jacobson began her analysis by stating that New Jersey's Non-Impairment Clause created a contractual right for pensions between public

employees and their employers.31 While recognizing that the constitutional prohibition is not absolute, the court held that the State's decision to eliminate $1.57 billion of its $2.25 billion obligation to the pension system reflected a substantial impairment "by any measure."32 Moreover, because "a State is not completely free to consider impairing the obligations on par with other policy alternatives," New Jersey's Governor could not unilaterally cut pensions, more than a year before the end of the fiscal year, before even considering other budgetary alternatives.33 The court afforded less deference to the State in its analysis of whether the Governor's actions were reasonable and necessary because the State's own economic self-interest was at stake. Quoting the Supreme Court's seminal decision in U.S. Trust, the court stated that "[i]f a State could reduce its financial obligations whenever it wanted to spend the money for what it regarded as an important public purpose, the Contracts Clause would provide no protection at all."34

Though the New Jersey Supreme Court reversed the decision on other grounds, the lower court's decision (and Justice Albin's dissent in the Supreme Court decision) is critical as it used the Contracts Clause analytical framework of U.S. Trust and Buffalo Teachers and applied it to the impairment of state employee pensions. A future challenge in New Jersey to the actual reduction of pension payments should pick up on Judge Jacobson's reasoning in this regard. As the Supreme Court found, New Jersey must get its "financial house in order," but to withstand scrutiny, impairing pensions must be a last, not a first resort.

Comparing the Non-Impairments Clause and the Contracts Clause

Since its adoption, the Non-Impairment Clause in New York has most often been used to prohibit the Legislature from altering the formula by which the amount of retirement benefits is determined.35 In both Kleinfeldt v. New York City Employees' Retirement System and Birnbaum v. New York State Teachers Retirement System, the New York Court of Appeals explained that even if their decisions invalidating the Legislature's attempt to alter the retirement benefits formula would "plunge[]" the retirement system "into bankruptcy," the court was "not at liberty to hold otherwise" as the constitutional amendment prohibits – without qualification – official action which "adversely affects the amount of retirement benefits payable to the members under [the] laws and conditions existing at the time of his entrance into retirement system membership." 36 In Kleinfeldt, the court further emphasized that "[a]lthough fiscal relief is a current imperative, an unconstitutional method may not be blinked." 37

This reasoning suggests that the Non-Impairment Clause may actually be stronger than the Contracts Clause and a first and threshold line of defense, as the Non-Impairment Clause – unlike the Contracts Clause – may protect pensions even in the event of a fiscal crisis. These New York cases, along with the Illinois decision discussed below, support the position that the Non-Impairment Clause may provide an absolute protection against pension reductions. However, the inviolability of New York's and other state's non-impairment clauses may come into question. Some judges in states with similar non-impairment clauses have found that the pension protection provision is not ironclad. These judges hew more closely to the Contracts Clause "last resort" analysis in determining whether pensions may be impaired.

LEGISLATIVE AND JUDICIAL IMPAIRMENTS IN TODAY'S ECONOMIC CLIMATE

The contours of non-impairment clause jurisprudence can be seen in the recent examples of both Detroit and Illinois. Both illustrate what circumstances may allow for a successful constitutional challenge.

Detroit's Bankruptcy and Public Sector Pensions

Detroit's bankruptcy filing in 2013 underscores the vulnerability of pensions amidst tough financial times. Detroit's bankruptcy filing was not surprising, as the city had reached rock bottom following "decades of decline" and the "flight of residents and businesses to the suburbs."38 It stands as the biggest municipal bankruptcy filing in the country's history, a true low for the "hollowed-out relic that once was hub for the U.S. automotive industry."39 Detroit, like Buffalo in 2003, was in dire economic straits, experiencing significant decreases in population, employment, and revenue. These decreases caused the city's infrastructure to decay, its crime rates to rise, and its borrowing to become excessive.40 Detroit's debt, upon filing, was estimated to be $18 billion.41

In the face of Detroit's challenging financial circumstances, its public sector employees sought to protect the pensions they were promised. Michigan, like New York, has a constitutional non-impairment clause protecting them. Article IX, § 24 of the Michigan Constitution reads, "[t]he accrued financial benefits of each pension plan and retirement system of the state and its political subdivisions shall be a contractual obligation thereof which shall not be diminished or impaired." Several public sector employee unions challenged Detroit's eligibility to file for bankruptcy and its attempt to diminish their pensions. The unions argued that "the city filed for bankruptcy with the sole intention of diminishing pension benefits, and that the filing violates state and federal constitutions."42 However, the court explained that although the "the State of Michigan cannot legally provide for the adjustment of the pension debts of the City of Detroit" due to the "prohibition against the State of Michigan impairing contracts in both the United States Constitution and Michigan Constitution . . . [t]he federal bankruptcy court, however, is not so constrained."43 The court reasoned that because the Bankruptcy Clause of the U.S. Constitution, and the corresponding Bankruptcy Code, empower the Bankruptcy Court to impair contract rights, pensions – though armed with constitutional contractual status, could be impaired in bankruptcy.44 The court stated, "[i]t has long been understood that bankruptcy law entails impairment of contracts."45 Thus, despite the seemingly absolute language of the Michigan Non-Impairment Clause, Bankruptcy Judge Steven Rhodes found that Detroit pensions could be impaired in order to settle the bankruptcy.46

Importantly, the linchpin of Judge Rhode's ruling was that (1) the situation in Detroit was so dire that municipal bankruptcy was necessary and (2) within that municipal bankruptcy context, impairment of bargained-for rights was permissible.

As a result of the court's decision, a settlement with the unions, which reduced the pensions of retirees by 4.5% and eliminated their cost-of-living adjustments,47 was reached by the parties and confirmed by the court on November 7, 2014.48 Clearly, Detroit's bankruptcy significantly impacted the lives of the hard working people of Detroit, altering their expectations of retirement.

Illinois Workers Fight Back

Like Detroit and New Jersey, the State of Illinois is enduring persistent economic and budgetary difficulties. Despite the national economic recovery and a recent increase in state income taxes, Illinois is "in a deeper financial hole than ever," according to a recent state financial report.49 Illinois has "both atypically large debts and structural budgetary imbalances" that threaten to rapidly expand the State's already growing debts and deficits. 50 It has the lowest credit rating of any state, and it now faces future credit downgrades, which will further increase the state's high cost of borrowing.51 To combat its rising deficits, Illinois, like other governments, turned to legislation to overhaul its pension system. Unlike Judge Rhodes' decision in Detroit however, the Illinois courts have been unwilling to allow the government to dishonor its pension commitments.

In December 2013, Illinois passed legislation in an effort to close the gap of $100 billion of unfunded liabilities in the State's retirement system.52 This legislation attempted to restore fiscal balance "by raising the retirement age for government employees and cutting cost-of-living adjustments."53

Plaintiff public sector unions brought suit to enjoin enforcement of the law on the grounds that it unconstitutionally impaired public employee pension rights under the Illinois Non-Impairment Clause.54 The State argued that the act was justified as an exercise of its police powers.55 By order dated November 21, 2014, Illinois Judge John Belz struck down the legislation ruling that "[b]ecause the Act diminishes and impairs pension benefits and there is no legally cognizable affirmative defense, the Court must conclude that the Act violates the Pension Protection Clause of the Illinois Constitution."56 Judge Belz "rejected Illinois' argument that pensions could be cut to protect the public welfare in an emergency, including the state's precarious financial situation."57 He explained that the Illinois "Pension Protection Clause contains no exception, restriction, or limitation for an exercise of the State's police powers or reserved sovereign powers."58

The Attorney General of Illinois filed a motion to appeal Judge Belz's ruling.59 The Illinois Supreme Court heard oral arguments on March 11, 2015 and on May 8, 2015 the Court unanimously affirmed, finding that state politicians had attempted to correct Illinois' fiscal problems on the backs of public sector retirees without a meaningful effort to distribute the burden among all Illinoisans. Other means, such as increasing state income taxes, had not been considered and even a budgetary crisis was not an excuse to override the clearly stated absolute protection of pensions.60

Following Judge Belz's ruling in the lower court, public sector employees of Illinois took the offensive, seeking to challenge additional pension-impairing legislation passed by the State directed towards municipal employees in Chicago. Public Act 98-0641, which came into law in June 2014, "demands increased pension contributions from [Chicago] employees and limits their cost-of-living adjustments" in an effort to "cover a funding shortfall of as much as $9.4 billion in two city pension funds supporting more than 60,000 workers and retirees."61 In December 2014, a coalition of unions and city employees filed suit to strike down the legislation. In their complaint, the coalition stated "[u]nless this court strikes down and enjoins implementation of the act, plaintiffs and thousands of other current and retired city of Chicago and Chicago Board of Education employees will be harmed, and the trust that all Illinois citizens place in the inviolability of their constitution will be breached."62 The outcome of this new litigation should shed further light on the viability of challenges to unilateral pension-impairing legislation in states with non-impairment clauses.

Lessons To Be Drawn From Detroit, Illinois and New Jersey

New York public sector employees can learn from the cases in Detroit, Illinois, and New Jersey despite the still unsettled state of the law. These experiences provide a sense of the circumstances under which a court may permit the abridgement of public worker pensions and when it might resist unilateral legislative or executive action. They also provide useful information on the effectiveness of the two primary legal challenges available to public sector unions to thwart pension and benefit reductions: one based on state non-impairment clauses, as was the case in Illinois, and one, as in New Jersey and Buffalo, based on state and federal contracts clause claims.

In Detroit, the court permitted the impairment of pensions because of the city's bankruptcy and the federal court's perceived ability to invalidate public contracts without violating the Contracts Clause. Detroit's decision rested on the city's dire financial crisis and the federal court's analysis that federal bankruptcy law trumps both the State Non-Impairment Clause as well as the federal Contracts Clause.

In Illinois, despite the State's precarious financial situation, the court did not permit pensions to be impaired. There, the public sector unions pointed to the Non-Impairment Clause, and the court interpreted the clause as an absolute protection against any reduction the state legislature wished to impose upon the public employee pension system. By contrast, in New Jersey, the Supreme Court,assured by counsel that the State "is not walking away from its obligations to the pensions

systems and to pay benefits due to retirees" found that a unique New Jersey constitutional provision, prevented the formation of a contract requiring certain pension funding levels. No such constitutional provision exists in New York.

The takeaway is that at the very least in New York – because of the Buffalo decision and the fact that pensions are constitutionally protected contracts – pensions may only be impaired when a municipality is suffering a severe fiscal crisis as in Detroit or Buffalo, and, even then, absent bankruptcy only once all other reasonable alternatives have been tried. However, an unprecedented situation akin to Detroit's bankruptcy is unlikely to occur in the foreseeable future in New York. So long as New York State and its municipalities are not on the verge of dire fiscal crisis, public employees here should find comfort in the state and federal constitutional arguments, which succeeded in Illinois and, at least initially, New Jersey, to bar any attempted pension reduction. A challenge to pension or contract infringing governmental acts should focus first on the unambiguous constitutional language of the Non-Impairment Clause ("benefits… shall not be diminished or impaired") and second on whether the government action to abrogate contractual rights or pensions is truly a measure of last resort.

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Footnotes

1 In re Pension Reform Litigation, No. 118585, 2015 IL 118585, 2015 Ill. LEXIS 499 (Ill. May 8, 2015)

2 Id. at *68.

3 James L. Bromley and Hugh K. Murtagh, Some Pension Promises May be Too Strong To Break, LAW360, (Mar. 10, 2015), http://www.law360.com/articles/629964/some-pension-promises-may-be-too-strong-to-break.

4 Id.

5 Burgos v. New Jersey, No. MER-L-1267-14 (N.J. Super. Ct. Law Div. Feb. 23, 2015).

6 Alejandro Chafuen, The U.S. Economy In 2015: Challenges And Opportunities, FORBES (Jan. 1, 2015, 7:00 AM), http://www.forbes.com/sites/alejandrochafuen/2015/01/01/the-u-s-economy-in-2015-challenges-and-opportunities/. See also Nick Timiraos, U.S. Economy's Promises, and Perils, of 2015, THE WALL STREET JOURNAL (Jan. 4, 2015, 6:09PM), http://www.wsj.com/articles/can-u-s-economy-keep-powering-ahead-1420399994/ ("Economists often disagree, but they share a broad consensus on one point: The U.S. economy is among the world's best off as 2015 begins.").

7 Katherine Peralta, U.S. Cities Aren't Out of the Woods Yet, U.S. NEWS (Nov. 11, 2014, 4:03PM), http://www.usnews.com/news/articles/2014/11/11/fiscal-hangover-the-crisis-fiscal-impact-on-us-cities ("The combination of declines in state aid and a slump in returns from property taxes – which is the largest source of revenue for a city – is to blame for the fiscal drain, the report found. Those two revenue sources declined an average of 4 percent across all cities.").

8 Id.

9 Bankrupt Cities, Municipalities List and Map, GOVERNING (Nov. 7, 2014), http://www.governing.com/gov-data/municipal-cities-counties-bankruptcies-and-defaults.html.

10 See Illinois Public Employee Benefits Act, Public Act 098-0599 § 1(June 1, 2014).

11 N.Y. CONST. art. V, § 7; see also Ill. CONST. art. XIII, § 5; Mich. CONST. art IX, § 24.

12 U.S. CONST. art. I § 10, cl. 1.

13 These arguments do not apply to bilateral negotiations between government officials and public sector employees in efforts to curb contract or pension rights; rather, these arguments apply when government officials unilaterally attempt to alter pension rights. Further, these arguments do not apply to employees who enter the pension system after pension rights have been impaired. There is no claim of pension impairment if it occurred prior to an employee's entrance into the pension system.

14 N.Y. CONST. art. V, § 7. (emphasis added).

15 Barnes et al. v. Arizona State Retirement System et. al., No. CV. 2011-011638 (Sup. Ct. AZ, Maricopa Cnty., 2012) (invalidating act that sought to increase employee contributions to Arizona's retirement system under the Arizona and federal Contracts Clause and under Arizona's Non-Impairment Clause).

16 Guzman v. New York City Emp. Ret. Sys., 45 N.Y.2d 186, 190-91 (1978).

17 Ballentine v. Koch, 89 N.Y.2d at 56.

18 Madden v. Contributory Ret. Appeal Bd., 431 Mass. 697, 701 (2000) ("The State retirement system creates a contractual relationship between its members and the State.") (citing Opinion of the Justices, 364 Mass. 847, 860 (1973).

19 General Motors Corp v. Romein, 503 U.S. 181, 186 (1992).

20 Sanitation & Recycling Indus., Inc. v. City of New York, 107 F.3d 985, 993 (2d Cir. 1997).

21 Condell v. Bress, 983 F.2d 415, 418 (2d Cir. 1993).

22 Id; U.S. Trust Co. of New York v. New Jersey, 431 U.S. 1, 26 (1977) ("[C]omplete deference to a legislative assessment of reasonableness and necessity is not appropriate because the State's self-interest is at stake. A governmental entity can always find a use for extra money, especially when taxes do not have to be raised. If a State could reduce its financial obligations whenever it wanted to spend the money for what it regarded as an important public purpose, the Contract Clause would provide no protection at all.")

23 Energy Reserves Grp., Inc. v. Kansas Power & Light Co., 459 U.S. 400, 411 (1983).

24 464 F.3d 362 (2d Cir. 2006).

25 Id. at 371. ("Ultimately, for impairment to be reasonable and necessary under less deference scrutiny, it must be shown that the state did not (1) 'consider impairing the … contracts on par with other policy alternatives' or (2) 'impose a drastic impairment when an evident and more moderate course would serve its purpose equally well,' nor (3) act unreasonably 'in light of the surrounding circumstances'") (quoting U.S. Trust Co., 431 U.S. at 30-31).

26 Id.

27 Id.

28 Id. at 371-72.

29 Donahue v. Paterson, 715 F. Supp. 2d 306, 319-21 (N.D.N.Y. 2010).

30 As discussed in further detail supra at 6-7, a Contracts Clause argument faces additional challenges if the impairment has been imposed in the context of municipal bankruptcy. Certain courts have found that the Contracts Clause does not constrain the federal government and that bankruptcy law "explicitly empower[s] bankruptcy court[s] to impair contracts." See In re City of Detroit, Mich., 504 B.R. 191, 244 (Bankr. E.D. Mich. 2013). Moreover, if a municipality is in a fiscal situation as dire as bankruptcy, the necessity of impairment may be more pronounced.

31 Burgos v. New Jersey, supra note 3.

32 Id.

33 Id. (quoting U.S. Trust Co. of New York v. New Jersey, 431 U.S. 1, 31 (1977).

34 U.S. Trust Co., 431 U.S. at 26.

35 Kleinfeldt v. New York City Employees' Retirement System, 36 N.Y. 2d 95, 99-100 (1976).

36 Id. at 102; Birnbaum, 5 N.Y.2d 1, 11 (1958).

37 Kleinfeldt, 36 N.Y. 2d at 101.

38 Matthew Dolan, Record Bankruptcy for Detroit, WSJ, (Jul. 19, 2013), http://www.wsj.com/articles/SB10001424127887323993804578614144173709204.

39 Karen Pierog and Lisa Shumaker, Factbox: Detroit Bankruptcy was Years in the Making, REUTERS, (Jul. 18, 2013), http://www.reuters.com/article/2013/07/19/us-usa-detroit-bankruptcy-factbox-idUSBRE96H1J820130719.

40 Id. at 193.

41 Id. at 194.

42 Emily Atkin, Unions Say Detroit Can't Show It's Insolvent, LAW360, (Oct. 18, 2013), http://www.law360.com/articles/481300/unions-say-detroit-can-t-show-it-s-insolvent.

43 Id. at 244.

44 Id.

45 Id. (internal citations omitted). In examining the legislative intent behind the Non-Impairment Clause in the Michigan Constitution, the court explained that the Non-Impairment Clause in Michigan is no stronger than the Contracts Clause, and thus pensions could be impaired in bankruptcy just like contracts are impaired in bankruptcy. The court stated, the "constitution could have given pensions protection from impairment in bankruptcy in several ways." Id. at 247. The court then explained that the drafters of the Michigan Constitution could have protected pensions further by prohibiting Michigan municipalities from filing bankruptcy, or by creating a property interest in pensions that bankruptcy courts would be required to respect under state law, or by establishing a secured interest in a municipality's property, or finally, the drafters could have "explicitly required the State to guaranty pension benefits." Id. (emphasis added). The court concluded that since the drafters took none of these precautions, pensions, because they enjoy merely a contractual status, are vulnerable to impairment in bankruptcy. Id.

46 Id. at 243-248.

47 Detroit's bankruptcy plan: A phoenix emerges, THE ECONOMIST, (Nov. 7, 2014), http://www.economist.com/blogs/democracyinamerica/2014/11/detroits-bankruptcy-plan.

48 In re City of Detroit, (Bankr. E.D. Mich. Nov. 7, 2014).

49 Greg Hinz, State in deepest financial hole ever, CRAIN'S CHICAGO BUSINESS, (Mar. 13, 2014), http://www.chicagobusiness.com/article/20140313/BLOGS02/140319866/state-in-deepest-financial-hole-ever.

50 Illinois Public Employee Benefits Act, Public Act 098-0599 § 1(June 1, 2014).

51 Id.

52 Illinois Public Employee Benefits Act, supra note 41.

53 Brandon Lowrey, Judge Strikes Down $100B Ill. Public Worker Pension Reform, LAW360, (Nov. 21, 2014), http://www.law360.com/articles/598731/print?section=employment.

54 In re Pension Litigation, No. 2014 MR 1, (Ill. Cir. Ct. Sangamon Cnty., Nov. 21, 2014).

55 Id.

56 Id. (emphasis added).

57 Karen Pierog and Lisa Shumaker, Illinois asks high court for pension law hearing as soon as January, (Dec. 4, 2014), http://www.reuters.com/article/2014/12/05/us-usa-illinois-pensions-idUSKCN0JJ04I20141205/. See also In re Pension Litigation, supra note 46. ("Pension Protection Clause contains no exception, restriction, or limitation for an exercise of the State's police powers or reserved sovereign powers. Illinois courts, therefore, have rejected the argument that the State retains an implied or reserved power to diminish or impair pension benefits.").

58 In re Pension Litigation, supra note 46. Judge Belz's ruling tends to support the argument that the Non-Impairment Clause is stronger than the Contracts Clause. Belz explained that the Illinois Non-Impairment Clause is absolute, and will still be violated even if the state is in severe financial distress. In contrast, the Contracts Clause, will not be violated if there is a significant public purpose

for the impairment.

59 Citation to that article re: AG's swift appeal

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61 Lance Duroni, Chicago Pension Reform Bill Unconstitutional, Unions Say, LAW360, (Dec. 17, 2014, 2:29PM), http://www.law360.com/articles/605332/chicago-pension-reform-bill-unconstitutional-unions-say.

62 Id.

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.

The Bond Lawyer - Summer 2015

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The Bond Lawyer®: The Journal of the National Association of Bond Lawyers is published quarterly, for distribution to members and associate members of the Association.

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Bond Talk
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Tax Lines
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Federal Securities Law
Paul S. Maco,
Bracewell & Giuliani, Washington, DC

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The Counties Where Wealthier People Are Moving.

Long-awaited migration data show where people are relocating to and the wealth that they're

bringing. View data for your county.

An influx of new residents can provide local governments with a substantial boost, whether they're adding to tax rolls or spending their dollars supporting local businesses.

Last week, the Internal Revenue Service (IRS) released long-awaited migration data shedding light on migration patterns for counties and states. New data for 2011 and 2012 includes total incomes for those who moved, helping to approximate wealth gained or lost and its potential impact on local budgets.

A range of factors influence a person's decision to move. Most often, employment considerations largely dictate where people opt to relocate. Others, depending on their circumstances, decide more based on family-related reasons. An area's amenities, taxes and educational opportunities also all typically play some role in decisions to move.

Wealthier residents are often tied to specific job locations, such as a corporate headquarters or employment center for a particular industry. So, their occupations may drive decisions somewhat more than other workers. Technology, however, is enabling more employees to work remotely, so job-related considerations may not carry as much weight in moving decisions as they had in the past, said Steve Murdock, a former U.S. Census Bureau director who now teaches at Rice University.

The independently wealthy or retired, on the other hand, typically give greater consideration to regional amenities or quality of health services. But as retirees age and their health deteriorates, they may require more services or move back to where they came from. As a result, Murdock said, these areas that are attracting large numbers of older, wealthier residents need to be replenished with new retirees each year.

"High incomes are both produced by migration and allow for migration," Murdock said.

The IRS reports numbers of actual tax returns, which can be used to approximate households moving to and from each county. Adjusted gross income (AGI) figures serve as a proxy for total household incomes. One way to assess total wealth gained or lost is to compute a net migration AGI, or total AGI for in-migrants minus AGI for outmigrants. The following table lists this measure for counties with 1,000 or more new residents:

Continue reading.

GOVERNING.COM

BY MIKE MACIAG | AUGUST 5, 2015

NFMA White Paper on the Disclosure of Potential Conflicts of Interest in Municipal Finance Transactions.

The National Federation of Municipal Analysts has released the final version of its White Paper on the Disclosure of Potential Conflicts of Interest in Municipal Finance Transactions.

To view the paper click here.

US Municipal Credit Report, Second Quarter 2015.

The municipal bond credit report is a quarterly report on the trends and statistics of U.S. municipal bond market, both taxable and tax-exempt. Issuance volumes, outstanding, credit spreads, highlights and commentary are included.

Summary

According to Thomson Reuters, long-term public municipal issuance volume totaled $110.4 billion in the second quarter of 2015, an increase of 6.2 percent from the prior quarter ($104.0 billion) and 32.7 percent year-over-year (y-o-y) ($83.2 billion). Including private placements ($2.5 billion), long-term municipal issuance for 2Q'15 was $113.0 billion.

Tax-exempt issuance totaled $99.8 billion in 2Q'15, an increase of 5.2 percent and 34.6 percent q-o-q and y-o-y, respectively. Taxable issuance totaled $7.9 billion in 2Q'15, an increase of 15.3 percent and 27.7 percent respectively, q-o-q and y o y. AMT issuance was $2.8 billion, an increase of 16.8 percent q-o-q but a decline of 4.2 percent y-o-y. Year-to-date, municipal issuance totaled $214.5 billion, up 50.0 percent from last year and well above the 10-year average of $186.4 billion, largely due to the surge in issuance from the first quarter.

By use of proceeds, general purpose led issuance totals in 2Q'15 ($28.1 billion), followed by primary & secondary education ($25.7 billion), and higher education ($11.2 billion). Other notable sectors that saw an increase in issuance were public power ($6.3 billion, an increase of 94.4 percent and 122.4 percent q-o-q and y-o-y, respectively), student loans ($917.1 million, an increase of 109.8 percent and 64.2 percent q-o-q and y-o-y respectively), and seaports/marine terminals ($525.9 million, an increase of 226.2 percent and 24.8 percent q-o-q and y-o-y, respectively).

Refunding volumes as a percentage of issuance declined from the prior quarter, with 48.6 percent of issuance refunded compared to 62.2 percent in 1Q'15 and 44.9 percent in 2Q'14.

View the full report.

PILT (Payments in Lieu of Taxes): Somewhat Simplified.

The Congressional Research Service has published an updated overview of the Payments in Lieu of Taxes program.

The document is available here.

July 27, 2015

Coalition Creates Guide For Green Muni Bonds.

As municipal bonds have become an integral part of the environmentally conscious "green bonds"

movement, a group of investment and advocacy organizations has created a guide for municipalities interested in funding projects with such eco-friendly debt issues.

The Green City Bonds Coalition, founded eight months ago, has created a guide called the "Green Muni Bonds Playbook," the organization announced during a webinar Tuesday.

The overall green bonds market more than tripled from 2013 to 2014 to $37 billion in revenues, the coalition says. It could top $100 billion this year, says "As You Sow," a coalition member organization founded to promote corporate environmental responsibility.

The municipal bond share of green bonds is growing as well. There was a single $100 million green muni bond issued in 2013, but last year there were $2.5 billion in such issues. This year through early May, $1.3 billion had been sold, the coalition says. (The Tuesday webinar gathered representatives from municipalities that had issued green bonds.)

The United States needs to invest $3.6 trillion in its basic infrastructure by 2020 and plow money into transportation systems, waterways and the power sector, the coalition estimates.

Municipal green bonds can fund a number of these projects, including recycling efforts, water quality or availability projects and projects that reduce greenhouse gases. They are like any other bonds, except for the types of projects they fund, says the coalition.

Barbara Whitehorn, chief financial officer for the city of Asheville, N.C., says issuing the bonds was as easy as issuing any other bonds. In Asheville, a $50 million green bond issue was used to refinance earlier water bonds used for water loss reduction and for transmission and delivery improvements.

"The most challenging aspect of the green bonds [the first ever issued by a municipality in North Carolina] were the reporting aspects that we committed to make on our website" to keep residents informed about the work, she says.

Asheville officials are proud of their progressive reputation and the green bonds fit that profile, she adds.

One of the benefits of issuing green bonds is that they draw interest from those who want to promote sustainability and environmental protection, according to Jonas Biery, debt manager for Portland, Ore.

"We do not have a green bonds capital project ready yet, but we are talking about it," Biery says. "We have people and institutions that are not usually attracted to muni bonds who are interested because they will be green bonds."

In addition to As You Sow, coalition members include the Climate Bonds Initiative, an investor-focused, not-for-profit founded to mobilize debt capital markets for climate change; C40 Cities, a network of the world's megacities dedicated to climate change solutions; the International Finance Corporation, an organization of the World Bank Group; the Natural Resources Defense Council, an international environmental advocacy organization; and the CDP, an organization created to encourage sustainable economies.

The playbook is available here.

FINANCIAL ADVISOR

JULY 30, 2015 • KAREN DEMASTERS

CDFA Releases Annual Volume Cap Report.

Columbus, OH – The Council of Development Finance Agencies (CDFA) is pleased to announce the release of the Annual Volume Cap Report: An Analysis of 2014 Private Activity Bond & Volume Cap Trends. The report provides complete data of the use of volume cap and the issuance of cap-subject private activity bonds nationwide.

CDFA found that national private activity bond issuance in 2014 increased for the first time since 2010. The private activity bond issuance figures are in-line with the overall municipal bond market, which bounced back in the last half of 2014.

The Annual Volume Cap Report is available online along with CDFA's interactive and searchable National Volume Cap Map.

CDFA collected the information for the report from surveys and interviews with the allocating authority in each state. As a leader in the development finance industry, CDFA serves as the leading source of private-activity bond volume cap data, reporting, and trends.

CDFA advocates for the preservation of this critical, catalytic financing tool and encourages interested parties to learn more about the Council's efforts at www.cdfa.net.

The Council of Development Finance Agencies is a national association dedicated to the advancement of development finance concerns and interests. CDFA is comprised of the nation's leading and most knowledgeable members of the development finance community representing public, private and non-profit entities alike. For more information about CDFA, visit www.cdfa.net.

Moody's: Wide Variation in Pension Metrics for 50 Largest Local Governments Continues.

New York, July 27, 2015 — Moody's Adjusted Net Pension Liabilities (ANPLs) increased for 31 of the 50 largest local governments in fiscal 2013, Moody's Investors Service says in a new report. The 50 largest governments are ranked by outstanding debt in fiscal 2013.

The fiscal 2013 median ANPL increased to 204% of operating revenues from 175% the prior fiscal year, but pension costs and liability burdens still vary widely among the 50 largest local governments. For 14 of the local governments, pension and actuarial costs amount to less than five percent of revenues.

"Relative to revenues and to full value, fiscal 2013 ANPLs exhibited a moderate shift toward heavier burdens, with a small number of outliers continuing to exhibit exceptionally large burdens," Moody's AVP — Analyst Tom Aaron says in "Pension Liabilities Rise for Most of 50 Largest Local Governments."

As a percentage of operating revenues, Chicago (Ba1 negative) remained at the top with adjusted net pension liabilities at 703%, followed by Dallas (Aa1 stable) at 506%, Houston (Aa2 negative) at

458%, Los Angeles (Aa2 stable) at 410%, and Jacksonville, FL (Aa2 stable) at 403%.

ANPL changes in 2013 government reporting exhibited mixed results owing to differences in plan valuation dates spread across 2012 and 2013 calendar years, since Moody's adjustments tie actuarial valuation dates to market-based discount rates in valuing liabilities.

As a result, the 29 issuers with disclosure tied to 2012 actuarial reports saw ANPLs increase an average of 37%. The other 21 issuers that disclosed 2013 actuarial results saw ANPLs decrease by an average of 13%.

Pension plans for the largest local governments also benefitted from strong investment performance in 2013, following almost flat returns in 2012. Moreover, plans with fiscal years ending June 30 achieved solid investment performance in 2014.

Beginning in fiscal 2014, many plan funding disclosures will become more timely as new public pension accounting standards are adopted, since assets and liabilities must be reported at the end of the plan's fiscal year. Moody's expects some local government ANPLs to moderately decline based on these disclosures.

The top 50 local governments with the lowest ANPLs for FY 2013 are Washington, D.C. (Aa1 stable) at 24%, , Cypress-Fairbanks Independent School District, TX (Aa1 stable) at 25%, and Mecklenburg County, NC (Aaa stable) at 29%.

The report is available to Moody's subscribers here.

Fitch: Rating Public-Sector Counterparty Obligations in PPP Transactions.

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

The criteria establish a globally consistent framework to:

- Determine if the PPP framework agreement qualifies for assignment of a counterparty rating.
- Establish a methodology for notching from the general credit quality of the public-sector counterparty to reflect any perceived higher risk of default under a framework agreement.
- Guide how to consider the PPP obligation in the public-sector counterparty's general credit rating (as expressed in the IDR), as well as how a late payment or rejection of an obligation under the framework agreement would be reflected in the counterparty's IDR.

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

Read the report.

A First Look: EIG's Distressed Communities Index.

The Economic Innovation Group has been taking a look at the economic wellbeing of America's communities and this week released its findings. The research organization broke down the data by zip code and looked at seven metrics:

1. **Educational Attainment:** Percent of population 25 years and over with a high school degree.

2. **Housing Vacancy Rate:** Percent of habitable housing that is unoccupied.

3. **Unemployment Rate:** Share of the labor force that is unemployed.

4. **Poverty Level:** Percent of population living under the poverty line.

5. **Median Income Ratio:** Ratio of the zip code's median income to the state's median income.

6. **Change In Employment:** Percent change in the number of individuals employed.

7. **Change in Business Establishments:** Percent change in the number of businesses.

The group listed the most distressed zip codes in each state and also ranked the states in terms of what percent of its population lives in a distressed zip code. Nevada easily tops the list with 33 percent of its population living in economic distress. The remaining top ten have between one-fifth and one-quarter of their residents living in economic distress and are located in the South or Southwest. States that have 4 percent or fewer residents living in distress zip codes are generally located in New England, the upper Midwest and Mountain West.

The results somewhat mirror findings last year by the National Association of Counties that most localities have not fully recovered from the recession. EIG also recently found in a survey of likely voters in presidential swing states that a significant portion of Americans still feel like the recovery has left them behind. "The [Distressed Communities Index] demonstrates that they don't just feel it, they live it – over 30 million Americans to be exact – in communities defined by slow job growth, vanishing businesses, and fewer opportunities to move up the economic ladder," EIG said.

States aren't necessarily faring much better, even with their greater taxing power. An analysis by PNC's Tom Kozlik this week concluded that U.S. state tax revenues are close to experiencing a "lost decade" – where overall tax revenue growth has been nonexistent. "This contrasts significantly with the last three recessions and partly helps to explain why: many state budgets are strained, some state credits have deteriorated…and why the public's trust in government remains near an all-time low," Kozlik wrote.

GOVERNING.COM

BY LIZ FARMER | JULY 17, 2015

Compensation Benchmarking Practices in Large U.S. Local Governments:

Results of a National Survey.

Read the Survey.

Recommended Best Practices in Disclosure for Direct Purchase Bonds, Bank Loans, and Other Bank-Borrower Agreements.

The National Federation of Municipal Analysts has released a paper entitled, Recommended Best Practices in Disclosure for Direct Purchase Bonds, Bank Loans, and Other Bank-Borrower Agreements.

Read the Paper.

SIFMA U.S. Municipal VRDO Update, June 2015.

A brief historical stat sheet to the municipal ARS, FRN, and VRDO market ending June 2015. In excel format only.

View the Update.

July 1, 2015

Getting Better About Funding Pensions.

U.S. pension plans got healthier over the past year as governments got better about putting in the payments to keep the plans financially healthy. The average percentage of required contribution paid by governments in 2014 was 88 percent, according to a new report released this week by the Boston College Center for Retirement Research. It's not perfect, of course, but it's a big jump from the roughly 82 percent average of the past few years. The required contribution amounts are determined by pension fund actuaries and reflect what governments should be paying in each year to keep the plan 100 percent funded. While some governments are very good about putting in the full amount or close to it every year, many pay in varying amounts each year and some recently put in little-to-none of what's recommended.

About three-quarters of the governments surveyed paid between 60 percent and 99 percent of the required contribution last year. A few — 6 percent — paid their full contribution while the remaining fifth paid about half their payment or less. "Hopefully, this trend will continue as the economy improves," the CRR analysis said, "mirroring the pattern of decline and recovery evident in the wake of the bursting of the dot.com bubble at the turn of the century."

These funding habits play a major role in the overall health of a pension plan, even more than swings in the stock market and investment returns, as Governing reported in an analysis late last year. Pension plans' overall funded status is also improving and inched up from 72 percent to 74 percent of the money needed to pay out promised pensions to retirees and current employees.

GOVERNING.COM

BY LIZ FARMER | JUNE 26, 2015

The Current State of State Budgets.

State budgets continue to record modest growth but often not enough to keep pace with the cost of K-12 education, health care and other escalating items. That's according to a report released Tuesday by the National Association of State Budget Officers (NASBO) detailing estimated fiscal 2015 financial figures and governors' budget proposals for each state.

Overall, state spending is set to continue to climb in the new fiscal year, but at a slower rate than before. The NASBO survey finds general fund expenditures are projected to grow 3.1 percent in fiscal 2016 without accounting for inflation, down from a 4.6-percent gain the prior year.

Total state spending has grown each year since 2011 following cuts that states incurred in the aftermath of the Great Recession. Still, though, aggregate state spending remains slightly below its 2008 peak after adjusting for inflation.

This map shows states' proposed fiscal year 2016 expenditures compared to estimated totals for 2015, in nominal terms.

Continue reading.

GOVERNING.COM

BY MIKE MACIAG | JUNE 16, 2014

Investing in Detroit: Automobiles, Bankruptcy, and the Future of Municipal Bonds.

On July 18, 2013, Detroit, Michigan became the largest municipality in United States history to file for bankruptcy. Since the days of Henry Ford, Americans have been investing in Detroit by buying its most famous product—automobiles. They have also been investing directly in Detroit itself, buying a financial product called municipal bonds. Detroit, along with many other cities, sells municipal bonds to raise money for city projects. Holders of those municipal bonds were major creditors in the city's bankruptcy case.

Many municipal bonds are held by retail investors because bonds have long been considered a relatively safe investment on the theory that cities are not likely to default or go bankrupt. The bankruptcy of a city as large as Detroit, coming on the heels of other Chapter 9 municipal bankruptcies, has made investors question the bonds' stability. Although Detroit's bankruptcy has not undermined bonds' overall safety, the treatment of municipal bond debt in Detroit could affect the future of the $3.7 trillion municipal bond market and the savings of many people outside the Motor City. The ability of cities to finance their projects could also be affected—the riskier municipal bonds are seen to be, the more difficult it will be for cities to sell them at high prices, leaving them stuck in a cycle of municipal poverty. . .

View PDF.

Georgetown Law Journal

Volume 103 – Issue 5

by Anna M. Rice

Is a Cash Balance Plan the Right Choice for Louisiana State Employees?

This brief, drawn from a longer report, shows how state and local government employees in Louisiana would likely fare in a cash balance retirement plan that was enacted by the state legislature but invalidated by the courts. Results show that a slight majority of state employees would do worse in the cash balance plan than the existing traditional defined benefit plan. However, about three-fourths would fare better under an alternative reform that extends Social Security to state employees and provides a smaller cash balance plan.

Download the Brief.

The Urban Institute

Owen Haaga, Richard W. Johnson, and Benjamin G. Southgate

June 4, 2015

GFOA Survey Reveals Cost of SEC's Municipalities Continuing Disclosure Cooperation Initiative (MCDC).

On June 2 the GFOA released the results of our survey to gauge the experience of municipal bond issuers with the SEC's MCDC Initiative. The 2014 initiative provided issuers and underwriters the opportunity to self-report instances of material misstatements in bond offering documents regarding the issuer's prior compliance with its continuing disclosure obligations. The initiative incentivized underwriters to self-report, which in turn caused many issuers to be questioned about and investigate their prior continuing disclosure compliance. The survey's results show that issuers of all sizes experienced costs in weighing whether or not to participate in the initiative, with 79% indicating that they had to hire outside consultants to help them at costs ranging from $2,500 to over $12,000. Overall issuer costs related to the initiative ranged from $2,000 to $18,000. Survey results also provide estimates of the amount of time issuers dedicated to MCDC, reporting between 25 and 250 hours spent in responding the initiative The full survey results are available below.

Download survey results.

Tuesday, June 2, 2015

S&P History of U.S. State Ratings.

View the History.

21-May-2015

S&P U.S. State Ratings and Outlooks: Current List.

View the List.

May 29, 2015

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Federal Taxation of Municipal Bonds Deskbook (updated November 2014) gathers a selection of the most commonly used IRC sections and applicable regulations dealing with municipal finance, as well as the most relevant statutory and legislative history cites for each section, SLGS regulations, and important revenue procedures. Organized by code section for easy reference, it is available in your choice of print, or eBook for added portability.

Federal Securities Laws of Municipal Bonds Deskbook, Sixth Edition delivers all key materials you will need to help inform the work you do every day. Your purchase includes both a print deskbook and companion eBook with expanded content. Included are key sections of the Securities Act of 1933, Securities Exchange Act of 1934, and the Investment Company Act of 1940, as well as select SEC cease-and-desist orders, interpretive and no-action letters, and summaries of important SEC enforcement actions and reports.

To take advantage of the deskbook promotion, or learn more about related treatises available from NABL, email kamal.gregory@lexisnexis.com, or phone 937.247.8849 and mention promo “007Deal.”

*This 15% Discount with Free Shipping Offer for Federal Taxation of Municipal Bonds Deskbook and Federal Securities Laws of Municipal Bonds Deskbook begins May 20, 2015, and ends June 30, 2015 at 11:59 P.M. PT (the “Term”). Offer applies to new orders, with a U.S. shipping address. This offer is subject to your employer’s own policies. Some restrictions may apply. Void where prohibited.

Financial Accounting Foundation Issues 2014 Annual Report.

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

Annual Report.

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

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

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

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

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

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

NASACT Releases Plain-English Educational Resources for GASB’s New Pension Standards.

View Document.

US Municipal Credit Report, First Quarter 2015.

The municipal bond credit report is a quarterly report on the trends and statistics of U.S. municipal bond market, both taxable and tax-exempt. Issuance volumes, outstanding, credit spreads, highlights and commentary are included.

Summary

According to Thomson Reuters, long-term public municipal issuance volume totaled $103.8 billion in the first quarter of 2015, an increase of 4.7 percent from the prior quarter ($99.2 billion) and an increase of 72.7 percent year-over-year (y-o-y) ($60.1 billion). In-cluding private placements ($1.6 billion), long-term municipal issuance for 1Q’15 was $105.4 billion.

Tax-exempt issuance totaled $94.7 billion in 1Q’15, an increase of 5.5 percent and 77.6 percent q-o-q and y-o-y, respectively. Taxable issuance totaled $6.8 billion in 1Q’15, an increase of 0.7 percent and

23.9 percent respectively, q-o-q and y o y. AMT issuance was $2.4 billion, a decline of 11.9 percent q-o-q but an increase of 77.6 percent y-o-y.

By use of proceeds, general purpose led issuance totals in 1Q'15 ($26.6 billion), followed by primary & secondary education ($25.0 billion), and higher education ($13.0 billion).

Refunding volumes as a percentage of issuance rose sharply from the prior quarter, with 61.0 percent of issuance refunded compared to 53.1 percent in 4Q'14 and 38.5 percent in 1Q'14.

Download the Report.

May 12, 2015

S&P 2014 Annual U.S. Public Finance Default Study and Rating Transitions.

U.S. public finance (USPF) exhibited growing credit strength in 2014, following a similar performance in 2013. Upgrades outpaced downgrades by a ratio of 3.38 to 1 for nonhousing bonds and 2.6 to 1 for housing bonds, for an overall ratio of 3.33 to 1. Positive rating trends were more evident across the various sectors as both housing and nonhousing bonds had more upgrades than downgrades in 2014 whereas the ratio of housing upgrades to downgrades was 1 to 3 in 2013. The positive trend was also more consistent in 2014 as upgrades outnumbered downgrades in every quarter for the first time since 2007. Defaults slowed as well, with eight occurring in 2014 compared with 15 the previous year.

A significant factor in the positive rating change trend was the implementation of new criteria for local governments and for unenhanced multifamily properties. More than 4,000 local government ratings fall under the local government criteria. Following a review from mid-September 2013 through Sept. 30, 2014, Standard & Poor's Ratings Services upgraded 41% of these credits based on the new criteria and downgraded 4%. The difference between the actual and anticipated (30% upgrades and 10% downgrades) rating changes is attributable to qualitative analysis and updated information. The impact of the housing criteria was much less in terms of the number of ratings, but the trend was in the same direction as the criteria contributed to 50 upgrades and 19 downgrades. Strengthening economic fundamentals also provided a lift to rating trends, particularly for local government ratings. Furthermore, local government and unenhanced multifamily housing ratings combined for two defaults in 2014, indicating that the criteria accurately capture their credit risk. (Watch the related CreditMatters TV segment titled, "Standard & Poor's Spotlights Its U.S. Public Finance Default And Rating Transition Study," dated May 6, 2015.)

Overview

- Standard & Poor's upgraded 2,224 bond ratings while downgrading 658 in nonhousing USPF in 2014.
- There were 117 housing upgrades and 45 downgrades in 2014.
- All but two sectors in USPF — higher education and health care — had more upgrades than downgrades in 2014.
- Eight defaults occurred in USPF in 2014 compared with 15 the previous year.
- Since 1986, the average annual number of defaults in all of USPF combined is five, out of a universe that now surpasses 21,000 ratings.

Continue reading.

05-May-2015

Fixing Public Sector Finances: The Accounting and Reporting Lever.

Abstract:

The finances of many states, cities, and other localities are in dire straits. In this Article, we argue that partial responsibility for this situation lies with the outdated and ineffective financial reporting regime for public entities. Ineffective reporting has obscured and continues to obscure the extent of municipal financial problems, thus delaying or even preventing corrective actions. Worse, ineffective reporting has created incentives for accounting gimmicks that have directly contributed to the dramatic decline of public sector finances. Fixing the reporting regime is thus a necessary first step toward fiscal recovery. We provide concrete examples of advisable changes in accounting rules and advocate for institutional changes, particularly Securities and Exchange Commission involvement, that we hope will lead to better public accounting rules generally.

Download the Paper.

James P. Naughton
Northwestern University – Kellogg School of Management

Holger Spamann
Harvard Law School

March 1, 2015

UCLA Law Review, Vol. 62, No. 3, 2015

Harvard University John M. Olin Center for Law, Economics, and Business Discussion Paper No. 814

The Bond Lawyer - Spring 2015

The Spring 2015 issue of The Bond Lawyer® is now available.

The Bond Lawyer®: The Journal of the National Association of Bond Lawyers is published quarterly, for distribution to members and associate members of the Association. Members may access current and past issues here. Article submissions and comments should be submitted to Linda Wyman, (202) 503-3300.

Click here to read.

Federal Securities Laws of Municipal Bonds Deskbook, Sixth Edition.

Federal Securities Laws of Municipal Bonds Deskbook, Sixth Edition

Another essential resource from LexisNexis® and the National Association of Bond Lawyers®—the gold standard for municipal bond research.

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Public-Private Infrastructure Investment Can Spur Economy, Says Treasury Department.

Private capital has a critical can play role in supplementing public spending on the nation's infrastructure, according to a new white paper released Thursday by the Treasury Department.

"Years of underinvestment in our public infrastructure have imposed massive costs on our economy," said Elaine Buckberg, the department's deputy assistant secretary for policy coordination, said in a blog post. "We can more easily meet our nation's infrastructure needs by expanding sources of investment and using those dollars as effectively as possible to advance the public's interest."

Advanced economies from around the world have come to rely on private sector financing for infrastructure investment, according to Buckberg.

"Executed well, PPPs harness private sector capital and management expertise to address the challenges of modernizing and more efficiently operating infrastructure assets," Buckberg said.

The white paper, "Expanding the Market for Infrastructure Public-Private Partnerships: Alternative Risk and Profit Sharing Approaches to Align Sponsor and Investor Interests," explains new ways to share risk and profit between state and local governments and potential investors in P3s.

"For example, the private partner may transfer a portion of its earnings directly to the government, creating opportunities for more infrastructure investment, or the private partner's cost savings may lower the price of using the infrastructure, thus sharing those savings with consumers," Buckberg said. "Profit-sharing on a toll bridge operated as a PPP could translate into lower tolls for drivers. Or, in a PPP-operated water system, it could mean more investment to replace aging pipes."

The white paper is part of the Build America Investment Initiative launched by the Obama administration in July 2014. The initiative is aimed at increasing public-private collaboration in infrastructure investment and spuring economic growth.

Disclosure of Potential Conflicts of Interest in Municipal Finance Transactions.

The National Federation of Municipal Advisors has released the draft "White Paper on the Disclosure of Potential Conflicts of Interest in Municipal Finance Transactions".

The White Paper is a product of a subcommittee of the Disclosure Committee. Comments on the paper will be accepted through July 20, 2015.

NLC: Cities and State Fiscal Structure.

The fiscal systems of cities are defined by the states in which they are located. These systems can create an environment that either allows municipalities to fund their share of resident needs and to thrive economically or constrains the ability of cities to balance budgets and deliver basic services.

Cities and State Fiscal Structures examines how the key components of these systems (fiscal authority, revenue reliance/capacity, state aid and tax and expenditure limitations) are structured across states.

View the Report.

Are California Teacher Pensions Distributed Fairly?

California teacher pensions vary widely depending on when teachers begin their careers and how long they teach. Teachers who spend their entire careers in the plan receive large pensions. However, teachers who join the plan at relatively young ages and spend less than full careers in the classroom accumulate few retirement benefits, and those benefits are often worth less than the value of the teachers' required plan contributions. As policymakers address the California teacher pension plan's funding problems, they should consider altering the plan's benefit formula to more equitably distribute pension benefits across the workforce.

Read the report.

The Urban Institute

Richard W. Johnson, Benjamin G. Southgate

April 06, 2015

Reforming Government Pensions to Better Distribute Benefits.

Efforts to reform the retirement plans provided to state and local government employees are gaining momentum across the country. Yet, the debate has focused almost exclusively on the financial

problems of public pension plans, drowning out a broader discussion of how well these plans serve government employees, employers, and taxpayers. This report identifies promising reform options that could more fairly distribute retirement benefits across the public-sector workforce and help governments recruit and retain productive employees. Options include revising the plan benefit formula, offering alternative plan designs, and extending Social Security coverage to all state and local government employees.

Read the report.

The Urban Institute

Richard W. Johnson

April 06, 2015

Could a Cash Balance Plan Benefit Illinois Public School Teachers?

Financial problems have led to significant pension cuts for Illinois public school teachers. An alternative approach would be to replace the existing traditional defined benefit plan with a cash balance plan, which combines features of 401(k)-type plans and traditional pensions. Our simulations show that 72 percent of Illinois public school teachers hired before 2011—and 56 percent of those with five or more years of completed service—would fare better in the simulated cash balance plan than the existing plan, even though the cash balance plan would be no more costly to taxpayers.

Read the report.

The Urban Insitute

Richard W. Johnson, Benjamin G. Southgate

April 06, 2015

Five Ways to Improve the Distribution of Government Pension Benefits.

Recent public pension reforms have focused on cutting benefits and raising required employee contributions to close plan funding gaps. This approach usually makes government employment less attractive to younger employees who expect to spend less than a full career in public service. Alternative approaches could distribute benefits more equally across the workforce and appeal to both younger, shorter-term employees and older, longer-term employees. This brief identifies five such options, including revising the plan benefit formula, offering alternative plan designs, and extending Social Security coverage to all state and local government employees.

Read the Brief.

The Urban Institute

Richard W. Johnson

April 06, 2015

S&P U.S. State and Local Government Credit Conditions Forecast: The Economy Looks to Pick Up Steam in 2015 After a Slow Start.

After letting up on the accelerator late in 2014 and early 2015, the U.S. economy looks poised to resume faster growth for the remainder of the year, according to Standard & Poor's economists. A harsh winter in the Midwest and Northeast contributed to some softening in the housing market, which acted as a drag on broader economic performance. Despite the winter's chilling effects, however, Standard & Poor's Ratings Services earlier forecast of 1.2 million housing starts remains intact, and we continue to see housing as a key to economic growth this year. This is similar to the pattern we saw in 2014: a slow first quarter followed by faster growth in the second and third quarters. This time, the economy…

Purchase the Report.

Report Published 2015/04/02

View New Population Estimates for Each County.

New Census Bureau data shows which counties are gaining and losing residents.

Much of the nation's fastest-growing counties are concentrated in the Sun Belt, with parts of Florida and Texas experiencing notable population gains since 2013. Rural counties in western North Dakota also continued to add residents at a rapid pace as a result of growth in the energy sector.

Of larger counties with at least a half million residents, the top three fastest-growing jurisdictions between 2013 and 2014 are all found in Texas: Fort Bend County (+4.7%), Montgomery County (+3.8%) and Denton County (+3.3%). Wayne County, Mich., and Cuyahoga County, Ohio, recorded the steepest estimated population decreases, but the losses represented declines of less than 1 percent.

The following map shows population growth over a 12-month period ending last July, with counties registering the highest percentage changes shown in green.

Open an interactive map to view data for each county.

GOVERNING.COM

BY MIKE MACIAG | MARCH 26, 2015

Report: Transparent and Accountable Budgets.

Every year, state governments spend hundreds of billions of dollars through contracts for goods and services, subsidies to encourage economic development, and other expenditures. Accountability and

public scrutiny are necessary to ensure that the public can trust that state funds are spent as well as possible.

In recent years, state governments across the country have created transparency websites that provide checkbook-level information on government spending – meaning that users can view the payments made to individual companies as well as details about the goods or services purchased or other public benefits obtained. These websites allow residents and watchdog groups to ensure that taxpayers can see how public dollars are spent.

In 2015, all 50 states operated websites to make information on state expenditures accessible to the public and these web portals continue to improve. For instance, in 2015, all but two states allow users to search the online checkbook by agency, keyword and/or vendor, and 44 states provide checkbook-level data for one or more economic development subsidy programs. Many states are also disclosing new information and are making it easier for outside researchers to download and analyze large datasets about government spending.

This report, our sixth annual evaluation of state transparency websites, finds that states continue to make progress toward comprehensive, one-stop, one-click transparency and accountability for state government spending. Over the past year, many states have launched new and improved websites to better open the books on public spending, or have adopted new practices to further expand citizens' access to critical spending information. Some states, however, still have a long way to go.

Continue Reading.

Managing Volatile Tax Collections in State Revenue Forecasts.

This report, a joint initiative of The Pew Charitable Trusts and the Nelson A. Rockefeller Institute of Government, will help policymakers better understand how volatile state taxes affect the accuracy of revenue projections. It examines data from 1987 through 2013 and reveals that predicting how much money state governments will raise has become more difficult than ever. The increase in revenue forecast errors is due largely to the growing volatility of tax collections across the states. From 2000 to 2013, the size of fluctuations in tax revenue rose in 42 states. And although no state can entirely eliminate forecasting errors, this study identifies three ways to help them manage volatility.

Download the full report.

March 10, 2015

CBO: Public Spending on Transportation and Water Infrastructure, 1956 to 2014.

Public spending—spending by federal, state, and local governments—on transportation and water infrastructure totaled $416 billion in 2014. Most of that spending came from state and local governments: They provided $320 billion, and the federal government accounted for $96 billion.

This report provides information on spending for six types of transportation and water

infrastructure:

- Highways,
- Mass transit and rail,
- Aviation,
- Water transportation,
- Water resources, and
- Water utilities.

Such spending can also be divided into two broad categories—spending to purchase physical capital related to infrastructure (as well as the labor and other inputs necessary for improving and rehabilitating structures and equipment already in place) and spending to operate and maintain infrastructure. In 2014, spending for capital accounted for 43 percent of total public spending on transportation and water infrastructure, and spending for operation and maintenance for 57 percent.

Read the Report.

GASB Issues Final Statement on Fair Value Measurement and Application.

Norwalk, CT, March 2, 2015—The Governmental Accounting Standards Board (GASB) has issued final guidance on accounting and financial reporting issues related to fair value measurements, which primarily applies to investments made by state and local governments.

GASB Statement No. 72, Fair Value Measurement and Application, defines fair value and describes how fair value should be measured, what assets and liabilities should be measured at fair value, and what information about fair value should be disclosed in the notes to the financial statements.

Under the new Statement, fair value is defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. Investments, which generally are measured at fair value, are defined as a security or other asset that governments hold primarily for the purpose of income or profit and the present service capacity of which are based solely on their ability to generate cash or to be sold to generate cash.

“The Board’s new guidance responds to stakeholder requests for greater clarity regarding the fair value standards and for improved consistency and comparability in governments’ fair value measurements and disclosures,” said GASB Chairman David A. Vaudt. “The Board believes that requiring governments to provide additional information about how they measure the fair value of their assets and liabilities will increase financial statement users’ understanding of the nature of the fair value information they receive and enhance users’ ability to make decisions with that information.”

Prior to the issuance of Statement 72, state and local governments have been required to disclose how they arrived at their measures of fair value if not based on quoted market prices. Under the new guidance, those disclosures have been expanded to categorize fair values according to their relative reliability and to describe positions held in many alternative investments.

A GASB In Focus on fair value is available here.

Recommended Best Practices in Disclosure for Direct Purchase Bonds, Bank Loans, and Other Bank-Borrower Agreements.

The National Federation of Municipal Analysts has released the draft "Recommended Best Practices in Disclosure for Direct Purchase Bonds, Bank Loans, and Other Bank-Borrower Agreements" (Bank Loan RBP). The Bank Loan RBP is the product of a subcommittee of the NFMA Industry Practices & Procedures Committee.

To view the press release for this paper, click here.

Comments on the paper will be accepted through May 3, 2015.

Get the Facts on the Fiscal Condition of State and Local Governments.

How widespread are municipal bankruptcies? Are municipal defaults increasing? What about state and local pension funding?

State and local government revenues have been slowly improving, making it possible for many officials to take steps to address their fiscal challenges. ICMA and the national organizations representing the nation's governors, state legislatures, and state and local officials have released, "State and Local Fiscal Facts 2015"

This quick reference provides up-to-date facts, including:

- Forty-one states and the District of Columbia expect to meet or exceed their FY 2015 revenue projections.
- Since 2010, only 8 out of 37 bankruptcy filings have been by general purpose governments. And only 12 states authorize Chapter IX bankruptcy filings for their general-purpose local governments.
- From 1970 through 2014, there were 92 rated municipal bond defaults, of which only 6 were rated city or county governments. The majority of rated defaulted bonds were issued by not-for-profit hospitals or housing project financings.
- Between 2009 and 2014, every state made changes to pension benefit levels, contribution rate structures, or both. State and local retirement trusts hold $3.7 trillion in assets and had, on average, a funded level of 72 percent in 2013.

SLGE Report: Success Strategies for Well-Funded Pension Plans.

The Center for State and Local Government Excellence (SLGE) released a report this week entitled Success Strategies for Well-Funded Pension Plans that detailed common strategies employed by well-funded pension plans. Not shockingly, the plans all shared a commitment to fund the actuarially determined contribution in both good and bad financial times; conservative, realistic assumptions that are adjusted based on experience; and changes to benefit levels and contribution rates as needed. SLGE looked at four plans: the Delaware Public Employees' Retirement System, the Illinois Municipal Retirement Fund (this one is under different management than the state's troubled systems), the Iowa Public Employees' Retirement System and the North Carolina Retirement Systems.

MSRB Publishes New Fact Book of Municipal Market Data and Invites User Feedback.

Alexandria, VA – The Municipal Securities Rulemaking Board (MSRB) today published its annual Fact Book, the only online sourcebook that analyzes trading data, continuing disclosure documents and other statistics for the $3.6 trillion municipal bond market. The new edition provides monthly, quarterly and yearly aggregate market information from 2010 to 2014, and covers different types of municipal issues, trades and interest rate resets.

The 2014 data collected by the MSRB show a decrease of 16 percent in the number of municipal securities trades compared to the previous year, while submissions of continuing disclosures increased nearly 19 percent in 2014.

Other highlights from the 2014 Fact Book:

- Par volume traded for municipal securities reached $2.77 trillion in 2014, the lowest volume in over a decade. That is a decrease of 11 percent over 2013 and nearly 60 percent lower than the peak of $6.69 trillion traded in 2007.
- The 8.91 million total number of trades in 2014 is 16 percent lower than 2013 and is the lowest level since 2006, when 8.47 million trades were executed.
- Nearly 11,000 annual and audited disclosures were submitted in December 2014, the most in a single month since the MSRB became the official repository for continuing disclosures.
- The number of interest rate resets for variable rate demand obligations and auction rate securities decreased 12 and 23 percent, respectively.

The MSRB periodically considers ways to improve its market research and statistical reports based on market participants' input. For example, the 2014 Fact Book includes a new section on yield and coupon distributions by par amount and number of trades for tax-exempt, fixed-rate municipal securities. Additionally, the most actively traded securities section will now include the coupon for each security for better identification.

The MSRB invites Fact Book users to share their feedback on how they use this reference tool and how it might be further improved. Click here to take a short user survey.

The MSRB promotes market transparency and access to real-time, municipal market bond information by collecting and disseminating information through its Electronic Municipal Market Access (EMMA®) website and other transparency systems. Daily and historical summaries of trade data based on security type, size, sector, maturity, source of repayment and coupon type are housed in EMMA's Market Statistics section.

Past editions of the MSRB's Fact Book can be found on the MSRB's website.

Date: February 25, 2015

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Stanford Examines How Best to Fund Water Projects in Times of Financial Uncertainty.

A new analysis produced by Stanford's Water in the West Program provides a blueprint for overhauling the way California funds water infrastructure and innovation projects.

The paper offers straightforward prescriptions, including a relatively small per-usage fee on customer utility bills. The fee, known as a public goods charge (PGC), could be a powerful tool for funding water needs despite obstacles such as the state's restrictive fiscal regulations and a lack of dedicated funding for "orphan" water projects such as household efficiency initiatives and new technology investments.

"There is considerable confusion, uncertainty and misinformation about what a water PGC would mean for ratepayers," said blueprint co-author Newsha Ajami, director of urban water policy at Water in the West. "Our research is intended to clarify some of these ambiguities."

Currently, water projects in California are partly funded with municipal bonds, some of which must be approved by voters. A recent, dramatic example is Proposition 1, which authorizes $7.12 billion in general obligation bonds to be used for water-related purposes, in addition to reallocating $425 million of unused bond money from prior water bonds. Voters approved Proposition 1 in 2014.

While a good start, Proposition 1 is not nearly enough to provide sustainable funding for projects such as monitoring and evaluation of water resources. In fact, bonds can be problematic in general because they are often expensive, unreliable and unfairly distributed, according to the report.

In contrast, a public goods charge could be implemented at local, regional or state levels. The revenue it produced could be shared among local and broader-scale projects, not only for public projects such as customer rebates for water-efficient appliances, but also for increasing water innovation state-wide through investment in new technology research, for example.

Public goods charges have a record of success. From 1998 to 2012, California's electricity sector used the mechanism to raise billions of dollars for innovation projects. In some regions, the fee amounted to only 1 percent to 2 percent of an average customer's energy bill. Lessons learned from the electricity sector could be used to structure more effective public goods charge programs for the water sector, the report suggests.

Funding for this report was provided by the California Water Foundation, the National Science Foundation, the National Science Foundation Engineering Research Center for Reinventing the Nation's Urban Water Infrastructure, and Stanford University.

BY ROB JORDAN

Stanford Report, February 18, 2015

- Media Contact

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Municipal Legal News - February 2015 - Volume 1, Number 1: Dickinson Wright

DICKINSON WRIGHT WELCOMES EMILY RYSBERG AND ERIC MCGLOTHLIN

Emily Rysberg joins Dickinson Wright's Municipal Law & Finance group with experience in the areas of municipal law and litigation. Emily has experience with municipal litigation, including extensive experience with ordinance enforcement, and has successfully argued a wide range of motion practice. Emily has successfully conducted evidentiary hearings, motions to dismiss and suppress, and has a demonstrated track record of success in her trial practice, obtaining guilty verdicts in numerous jury and bench trials for local municipalities. Emily also has extensive experience assisting municipalities with ordinance drafting and amendment, contract negotiations, employment matters, Freedom of Information Act requests, and has worked to successfully uphold the ordinances of local municipalities against constitutional challenges both at the trial court and appellate level. Emily also enjoys fishing, traveling, and participating on the planning committee for the annual Women vs. Lawyers Charity Softball game benefitting the YWCA of West Michigan.

Eric McGlothlin also joins Dickinson Wright's Municipal Law & Finance group focusing his practice in the areas of public finance, municipal law and education law. Eric has particular expertise in advising governmental entities, underwriters and 501(c)(3) borrowers on complex financial transactions involving the issuance of tax-exempt and taxable debt and on related tax and securities law matters. In addition, Eric advises governmental entities on all matters affecting daily operations including open meetings and public records, procurement law, elections and utility matters. Eric is a member of the National Association of Bond Lawyers and is recognized as a "Rising Star" by Southwest Super Lawyers®.

MAJOR FREEDOM OF INFORMATION ACT ("FOIA") AMENDMENTS

Public Act 563 of 2014 ("Act 563") amends the FOIA to impose a number of new regulations on public bodies. All municipalities will need to review their FOIA practices and procedures to ensure compliance with Act 563 before it takes effect on July 1, 2015. This article summarizes some of the more significant changes to current law.

Act 563 requires public bodies to itemize FOIA fees on a written invoice, detailing why each fee is reasonable and within one of following authorized categories: (1) labor costs for finding records; (2) labor costs for redacting exempt material; (3) costs for transferring material to electronic media; (4) costs of paper copying; (5) labor costs

for copying; and 6) mailing costs. Act 563 also limits the amount of fees charged for contract labor involving the separation and exclusion of exempt material (including attorney review of exemptions) to six times the state minimum hourly rate. It further requires that fees be charged in increments of 15 minutes or more with partial increments rounded down.

There are also new regulations regarding government websites. Any public body that maintains a website must post a summary of its FOIA procedures and guidelines online. Further, if a FOIA requester asks for a record that is accessible on the website, the public body is required to inform the requester of that fact and is prohibited from charging a fee pertaining to the record.

Other notable features include:

A maximum fee of 10 cents per page for copying costs.

A requirement that any communication that conveys a request for information and includes a legal citation to the FOIA or the words “information,” “FOIA,” or “copy” must be construed as a FOIA request.

An expansion of the $20 fee waiver (which currently applies only to indigent individuals) to organizations designated by the state to assist persons with disabilities and mental illnesses.

A requirement that a municipality reduce the amount of fees charged if it does not timely respond to a request.

An increase in the fine for arbitrary denials from $500 to $1,000, and a new fine of $500 for excessive fees.

RETHINKING TEXT MESSAGING BETWEEN GOVERNMENT EMPLOYEES

Local governments need to be aware that all forms of social media and digital communication (for example, text messaging, Twitter, and Facebook) used in the performance of official duties may be viewed as correspondence subject to public records retention and FOIA requirements under state law. Before using, or authorizing the use of text messaging or other similar communications, local government agencies should first consider the retention period and disclosure requirements for their particular agency, whether or not compliance with the required retention period is practical, and ensure that these types of communications are properly retained and stored if the municipality elects to use social media and other forms of digital communication.

The applicable retention period varies according to numerous factors, including the type of communication, the substantive content, and the persons communicating. For example, general correspondence between government employees typically has a minimum retention period of 2 years or more. Similarly, government employees should be wary of using their personal phones to send work-related text messages. Doing so likely makes all of the contents of the phone subject to subpoena or examination by a department’s FOIA coordinator.

Unfortunately, despite widespread use of social media and digital communication, the proper interpretation of the state’s retention policies remains somewhat unclear. Until more guidance is provided, government agencies may want to avoid the use of social media and text messaging, or implement other policies to ensure compliance.

ENCROACHMENTS ONTO PUBLIC STREETS: IS THE “RACE TO THE COURTHOUSE” OVER?

Haynes v Village of Beulah,1 a recent decision from the Michigan Court of Appeals, protects municipalities from losing certain public rights-of-ways to claims of adverse possession and acquiescence. There are a number of statutes that protect municipalities from these claims, and it was once thought that all municipal property was immune from them. That changed in 2009, when Mason v City of Menominee2 held that the protection in MCL 600.5821 only applies if the municipality files a lawsuit to reclaim its interest in property before the party-in-use files a lawsuit of its own. The Mason decision — which was based on odd wording in the statute — meant that a municipality could jeopardize its property rights by attempting to negotiate with the party-in-use rather than “racing to the courthouse.”

The Haynes decision makes clear that a separate statute (MCL 247.190) protects public highways

from adverse possession and acquiescence claims regardless of which party files suit first. It also specifically holds that the term "highway" is broad enough to include platted village streets, rather than being limited to state trunk-line highways. This ruling restores significant protections that were undermined by Mason, but it is too early to tell exactly how far the scope of the "highway" protection extends.

WINDFARMS, ZONING, AND THE POLICE POWER

The Court of Appeals' recent decision in Forest Hill Energy-Fowler Farms, LLC v Township of Bengal3 makes clear that municipalities cannot evade the procedural requirements in the Zoning Enabling Act by exercising the zoning power under the guise of the general police power. The case involved a situation where a county had issued zoning permits for wind farm development in townships that lacked their own zoning ordinances. While the applications for those permits were pending, the townships enacted ordinances under their general police power that imposed stricter height, setback, noise, and shadow-flicker requirements than the county zoning ordinance. The Court of Appeals held that the townships' ordinances were preempted by the county's, because they constituted procedurally improper uses of the zoning power. The Court specifically explained that a zoning ordinance is "one that regulates the use of land and buildings according to districts, locations, or areas." Because the construction of energy facilities is a permanent use of land, and is explicitly listed in the Zoning Enabling Act as being a subject of zoning, it can only be regulated through validly enacted zoning ordinances.

CHANGES IMPACTING RIGHTS OF AN ADDITIONAL NAMED INSURED

Municipalities will no longer be able to rely on their "Additional Named Insured Status" as a means to ensure they receive notification of cancellation of an insurance policy and will instead need to obtain an endorsement setting forth their rights (including notice of cancellation) in the underlying insurance policy. This change comes as a result of Public Act 271 of 2014 amending the Michigan Insurance Code to prohibit insurance carriers from issuing certificates of insurance that purport to modify or expand the policy coverage. Specifically, the amendment provides that an "additional named insured" can no longer require a notice of cancellation provision in a certificate of insurance because the provision would modify or expand the terms of the policy without the insurer's authorization.

OTHER NOTEWORTHY LEGISLATIVE AND REGULATORY DEVELOPMENTS

Attachment of Liens for Township Special Assessments, 2014 PA 561. Provides that when a township levies a special assessment under Public Act 188 of 1954 ("PA 188") to be paid in installments, the lien for each individual installment does not attach until it comes due.

Delinquent Property Tax Installment Plans, 2014 PA 499. Allows a foreclosing governmental unit to create a delinquent property tax installment payment plan for financially distressed persons in danger of losing their homes to tax foreclosure.

Extended Sunset for OPEB bonding, 2014 PA 297. Extends until December 31, 2015, the time period for communities assigned credit ratings within the category of AA or higher to issue bonds to pay the costs of unfunded pension liability or unfunded accrued health care liability.

Firefighter Employment at Multiple Departments, 2014 PA 323. Allows firefighters to volunteer or work for multiple fire departments if doing so does not conflict with the firefighters' original employment. The ability to work for multiple fire departments cannot be limited by local regulation and is a prohibited subject of collective bargaining.

Limitations on Tax Foreclosure Bidders, 2014 PA 501. Prohibits an individual from bidding on property at a foreclosure sale if the individual previously owned the property within a certain time period or has unpaid fines for blight or nuisance violations.

Next Michigan Development Act, 2014 PA 446-447. Authorizes the Michigan Strategic Fund to create new Next Michigan Development Corporations, and requires it to give preference to certain areas in the Upper Peninsula and Detroit-metro area when doing so.

Tax Collecting Agreements with County Treasurers, 2014 PA 568. Authorizes a city, village, or township to contract with the county to have tax collection services performed by the county treasurer.

Uncapping of Taxable Value, 2014 PA 310. Provides that the taxable value of a parcel is not uncapped during certain family-to-family transfers involving trusts.

Zoning Regulation of Amateur Radio Equipment, 2014 PA 556. Prohibits local governments from precluding amateur radio antenna structures erected at certain minimal heights and dimensions.

Footnotes

1.Haynes v Vill of Beulah, No. 317391, 2014 WL 5364190 (Mich Ct App Oct. 21, 2014) (approved for publication).

2.Mason v City of Menominee, 282 Mich App 525 (2009).

3.Forest Hill Energy-Fowler Farms, LLC v Twp of Bengal, No. 319134, 2014 WL 6861254, at *1 (Mich. Ct. App. Dec. 4, 2014).

Last Updated: February 18 2015

Article by Dickinson Wright

Dickinson Wright PLLC

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.

Survey Forecasts 2015 Public-Sector Employment.

Most local governments expect to hire some workers, but more will not only continue to leave vacancies unfilled but also anticipate an uptick in layoffs.

Most governments expect to hire some workers for newly created positions this year. But they're also still leaving vacant positions unfilled as a result of tight budgets, according to a survey released today.

The International Public Management Association for Human Resources (IPMA-HR) surveyed more than 1,000 of its members to gauge the employment outlook for 2015. For the most part, the survey found employers don't expect much change from last year.

It's unlikely the sector will see a significant acceleration in hiring. Two thirds of respondents, most

of whom represent local governments, plan to hire for new positions this year, the same tally as in 2014. Of those hiring, the majority (58 percent) plan to expand their workforce by less than 1 percent.

While there may be a limited amount of hiring, many governments still aren't in a position to fill slots that have remained vacant, often for years, as a result of recession-era cutbacks. According to the survey, 89 percent of responding governments plan to leave some vacancies unfilled for budgetary reasons. Another 16 percent expect layoffs to occur this year, up slightly from 10 percent in 2014.

While the survey doesn't suggest major changes from 2014, the results still represent notable improvements from prior years. In 2010, just 45 percent of surveyed employers reported hiring for newly-created jobs.

Growth in state and local government employment has been among the slowest of any sector in recent months.

The fact that other sectors of the economy are expanding, though, is certainly good news. If strong private sector growth continues, the resulting revenues should eventually help fund some of the jobs that were cut in the immediate aftermath of the recession.

The IPMA-HR survey also found that 77 percent of responding governments plan to issue pay increases, the same percentage as last year.

GOVERNING.COM

BY MIKE MACIAG | FEBRUARY 18, 2015

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The Elusive Pension Cure-All.

A new study by the National Institute on Retirement Security provided a good reminder that the 401(k)-style retirement plans that some governments have established for new employees are not a cure-all for the unfunded pension liabilities those governments have. Governments that close off their pension plans to new employees will still have huge liabilities for the employees under the old plan, a situation made worse when there's a market downturn and they have to pay out more money from the fund in benefits than their dwindling employee members are putting in.

Even if plans are fully funded when they're closed, things can turn sour. Michigan closed its defined benefit plan to new hires back in 1997. The plan was actually overfunded at the time – it had slightly more money in it than it needed to pay all the benefits it had promised to those employees. But by 2012, the plan's funded status had dropped to about 60 percent while retirement security for defined contribution plan participants had decreased, the NIRS report said.

The report found similar losses in West Virginia and Alaska. Two very important factors are at play. For one, the 2008 stock market crash wiped out nearly a third of most plans' assets. Michigan's assets still have not recovered from the recession. That's partly due to another other factor: Michigan had not been putting in its full contribution to during those years. The state is now trying to fix the problem and in 2013 put in 99 percent of the recommended contribution.

Still, the report correctly noted that there is less retirement security for those in a 401(k)-style plan. Of course, that's the financial benefit for governments – they pay a set benefit now and thus eliminate the risk that they will have to pay more later. The risk is transferred over to the employee.

In Washington, hybrid plans potentially offer a balance. A paper by the University of Washington's Center for Education Data & Research on the state's teacher pension system indicated that the state's financial exposure is significantly lower under a hybrid plan becuase its per-teacher pension liability is approximately half as large as under its traditional plan. And, when given a choice, at least six in 10 teachers (statistics vary by year) choose the hybrid plan.

GOVERNING.COM

BY LIZ FARMER | FEBRUARY 13, 2015

GFOA: An Elected Official's Guide - Internal Control

There are many different types of governments, but all of them share certain basic objectives: **effectiveness, efficiency, safeguarding of assets, reliable reporting, and compliance.** Internal control provides reasonable assurance that a government is, in fact, meeting all of those objectives. An Elected Official's Guide: Internal Control is specifically designed to offer nonspecialists – be they members of the governing board, staff members without accounting or auditing expertise, or ordinary citizens – the information they need to understand what internal control is, how it operates, and who is responsible. The text of this publication reflects the most recent authoritative guidance on internal control set forth in the Committee of Sponsoring Organizations' (COSO) revised and expanded version of its classic Internal Control – Integrated Framework (COSO Report), released in 2013.

Management and the governing body have complementary roles to play in regard to internal control. This new publication should help both to do so by helping them understand each of the five essential elements of a comprehensive framework of internal control, as well as each of the basic principles needed to ensure that all five components are fully operational and effective:

- Control Environment
- Risk Assessment
- Control Activities
- Information and Communication
- Monitoring

Paperbound version, $15 members | $20 nonmembers
E-book version, $5 members | $10 nonmembers

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Elected Official's Series

These popular booklets provide practical and easy-to-understand explanations – in plain language – on a variety of public finance topics. Using a simple question-and-answer format, each one provides a thorough introduction to a single topic. An affordable price structure and quantity discounts make these booklets ideal for distribution to newly elected officials, government employees, citizen and taxpayer groups, the media, and others interested in local government finance.

To learn more about the books in the Elected Official's Series, please click here.

The Bond Lawyer - Winter 2015

The Winter 2015 issue of The Bond Lawyer is now available.

Featured articles:

"Federal Securities Law" by Paul S. Maco
Bracewell & Giuliani, Washington, DC

"Tax Lines" by Linda B. Schakel
Ballard Spahr LLP, Washington, DC

Download.

US Municipal Credit Report, Fourth Quarter and Full Year 2014.

The municipal bond credit report is a quarterly report on the trends and statistics of U.S. municipal bond market, both taxable and tax-exempt. Issuance volumes, outstanding, credit spreads, highlights and commentary are included.

Summary

According to Thomson Reuters, long-term public municipal issuance volume totaled $99.3 billion in the fourth quarter of 2014, an increase of 37.2 percent from the prior quarter ($72.4 billion) and an increase of 35.3 percent year-over-year (y-o-y) ($73.4 billion). For the full year 2014, issuance figures reached $314.9 billion, well below the 10-year average of $370.6 billion. Including private placements ($5.3 billion), long-term municipal issuance for 4Q'14 was $104.6 billion. According to the SIFMA Municipal Issuance Survey ("SIFMA Survey"), issuance for 2015 was expected to rise slightly to $315.0 billion.

Tax-exempt issuance totaled $89.9 billion in 4Q'14, an increase of 37.3 percent and 40.8 percent q--q and y-o-y, respectively. For the full year, tax-exempt issuance was $282.8 billion. Taxable issuance totaled $6.7 billion in 4Q'14, an increase of 43.2 percent and 2.3 percent respectively, q-o-q and y o y. For the full year, taxable issuance was $23.0 billion. AMT issuance was $2.7 billion, an increase of 20.4 percent q-o-q but a decline of 9.7 percent y-o-y; for the full year, AMT issuance was $9.1 billion. According to the SIFMA Survey, issuance for 2015 was expected to reach $275 billion in tax-exempt issuance, $30 billion in taxable issuance, and $10 billion in AMT issuance.

By use of proceeds, general purpose led issuance totals in 4Q'14 ($21.4 billion), followed by primary & secondary education ($16.9 billion), and water & sewer facilities ($10.6 billion), identical rankings as the prior quarter and for the whole year. Respondents to the SIFMA Survey expect general proceeds to remain the largest category of municipal issuance in 2015.

Refunding volumes as a percentage of issuance rose slightly from the prior quarter, with 52.8 percent of issuance refunded compared to 49.8 percent in 3Q'14 and 33.4 percent in 4Q'13. For the full year, 47.3 percent of municipal issuance were refundings. Respondents of the SIFMA Survey

expect refundings to remain largely unchanged year over year as a percentage of overall issuance (46 percent in 2015).

View the Report.

Bloomberg Brief: The Muni Meltdown that Wasn't.

The Muni Meltdown That Wasn't, a Bloomberg Brief, discusses the "inexpert testimony" that flew fast and furious during the panic of 2010 and questions why the opinion of non-experts was taken so seriously – especially in light of the fact that none of their dire predictions about an imminent municipal bond market collapse came to pass.

The brief analyzes the predictions, hyperbole, and fact, and provides five major lessons learned:

1. The municipal market is particular and specific to a remarkable degree. Hysteria proponents either ignored or didn't know about the incredible variety of securities and credits sold generically as "municipal bonds.'' They generalized.
2. Beware inexpert testimony; not all points of view are legitimate and credible.
3. Many of the dire predictions about the market were politically informed.
4. Municipalities that are legally allowed to file for Chapter 9 will do all they can to avoid it.
5. Twitter is a good source of breaking news and analysis; dismiss it at your risk. (The paper dates the "muni market meltdown hysteria" as starting in 2009, at which point those who understood the municipal market weren't talking about it on social media. That had started to change a few years later, and if the inexpert testimony had started then, "any such 'meltdown' call would have been mitigated, even refuted, by the very same Internet that had given birth to it.")

GFOA GAAFR Supplement.

There have been several developments affecting accounting, auditing, and financial reporting for state and local governments since the Governmental Accounting, Auditing, and Financial Reporting (GAAFR or Blue Book) was published in 2012. First, the Governmental Accounting Standards Board (GASB) has released four new standards. Second, the Committee of Sponsoring Organizations (COSO) of the Treadway Commission has issued a significantly expanded version of its classic Internal Control Integrated Framework. The GAAFR Supplement contains the following new material to address those developments:

- A supplement to Chapter 22, Detailed Note Disclosures, which accounts for changes in note disclosure requirements resulting from the issuance of the three new GASB standards;
- A new version of Chapter 23, Pension Benefits, Other Postemployment Benefits (OPEB), and Termination Benefits, rewritten to reflect the new guidance on employer accounting for pensions in GASB Statement No. 68, Accounting and Financial Reporting for Pensions;
- A supplement to Chapter 30, Other Specialized Applications, which incorporates the provisions of GASB Statement No. 69, Government Combinations and Disposals of Government Operations, and GASB Statement No. 70, Accounting and Financial Reporting for Nonexchange Financial Guarantees;
- A supplement to Chapter 32, Other Required Supplementary Information (RSI), which addresses employer RSI for pensions consistent with the requirements of GASB StatementNo. 68;

- A new version of Chapter 36, Postemployment Benefit Plans, rewritten to reflect the new guidancefor pension plans in GASB Statement No. 67, Financial Reporting for Pension Plans; and
- A new version of Chapter 42, The Comprehensive Framework of Internal Control, rewritten consistent with the new and expanded COSO framework.

To purchase a copy using the GFOA e-store, log into your e-store account and add the GAAFR SUPPLEMENT to your cart. When you have completed your order, click on the "Download Books" tab and follow the instructions to access the e-bookfile. If you submit your order via mail, fax, or e-mail,you will receive an e-mail the GFOA eStore with steps on how to download your e-book.

The Carbon Effect: Assessing the Challenges for Public Power - Fitch.

Fitch Ratings has issued a Special Report concluding that preserving financial margins and credit quality, while complying with the EPA's proposed Clean Power Plan (CPP), will be most challenging for public power and cooperative utilities operating in states subject to sizable mandated carbon-reduction goals, high carbon-reduction costs and a relatively high cost of electricity.

Read the report.

CBPP Policy Basics: State and Local Borrowing.

State and local investments in schools, roads, hospitals, and other infrastructure provide the foundation for a vibrant economy and high quality of life. Borrowing — by issuing bonds — is a tried-and-true way to finance the cost of building and maintaining this infrastructure. Projects financed with bonds can give a state's economy both a short- and long-term boost.

There are sound reasons that states and localities borrow to pay for infrastructure, rather than use annual tax collections and other revenues. Public buildings, roads, and bridges are used for decades but entail large upfront costs; borrowing enables the state to spread out those costs. As a result, taxpayers who will use the infrastructure in the future help pay for it, which promotes intergenerational equity. Borrowing also makes infrastructure projects more affordable by reducing the pressure on a state's budget in any given year.

Read the full report.

SEC Issues Annual Staff Report on Examination Results of Credit Ratings Agencies.

On December 23, 2014, the US Securities and Exchange Commission ("SEC") issued an annual staff report on the results of examinations of credit rating agencies registered as nationally recognized statistical rating organizations ("NRSROs") as required by the Dodd-Frank Act. The examinations covered the eight areas as laid out in the Dodd-Frank Act as well as information technology, cyber security, and certain ratings activities. In the examinations, recommendations were made for: (i) the use of affiliates or third-party contractors in the credit rating process; (ii) the management of

conflicts of interest related to the rating business operations; and (iii) the adherence to policies and procedures for determining or reviewing credit ratings. The SEC also submitted a separate report on NRSROs to Congress. The report reviews the state of competition, transparency, and conflicts of interest at NRSROs. It further contains a discussion regarding the new requirements for NRSROs adopted by the SEC in August 2014 to increase transparency and accountability.

The annual SEC staff report is available here.

The report to Congress is available here.

Last Updated: January 14 2015

Article by Shearman & Sterling LLP

Government Accountability Office Study on Long-Term Liabilities.

Sure, day-to-day finances are improving for state and local governments. But this week's Municipal Market Analytics outlook points out that a recent Government Accountability Office study on long-term liabilities bolsters the firm's view that Medicaid and retiree health care represent major challenges for state and local governments. MMA (which changed its name this year from Municipal Market Advisors), said in its write-up that investors should note the secondary treatment unsecured bondholders received in last year's bankruptcy cases in Stockton, Calif., and Detroit. In MMA's opinion, investors should "retreat from issuers with both a large retiree health care liability AND a material risk of being dragged into chapter 9 [bankruptcy]." (In related news, a Luxembourgian bondholder company sued bankrupt San Bernardino, Calif., this week for favoring pensioners over bondholders as the city navigates its bankruptcy.)

Despite recent strides in the economy, state and local government revenues are not keeping pace with expenditure growth and the GAO expects the gap to widen without major policy changes. As a percentage of GDP, MMA notes, revenues are not expected to reach 2007 levels until 2058. Meanwhile, health care costs are expected to nearly double, to 7.4 percent of GDP by 2060. According to the GAO, state and local governments will need to reduce expenses or increase revenues by 18 percent for the next half-century to close the fiscal gap. "We think the fiscal challenges will reasonably constrain infrastructure spending by these governments — and therefore, municipal debt issuance," MMA said, adding that the greatest pressure would trickle down to the local level.

GOVERNING.COM

BY LIZ FARMER | JANUARY 9, 2015

2014 Fact Sheet on State and Municipal Bankruptcy, Bonds and Pensions.

The 2014 Fact Sheet on State and Municipal Bankruptcy, Bonds and Pensions is now available!

This fact sheet was developed by a group of government organizations, including NASACT.

MSRB Publishes 2014 Annual Report and Audited Financial Statements.

Alexandria, VA – The Municipal Securities Rulemaking Board (MSRB) today published its 2014 Annual Report, which highlights important advances in municipal advisor regulation, enhancements to market structure and ongoing efforts to maximize regulatory efficiency. The MSRB, created by Congress in 1975, is the principal regulator of the municipal securities market.

In recognition of the MSRB's 40th anniversary in 2015, this year's annual report provides a history of key milestones in the regulation of the municipal securities market. The report also includes financial highlights for the organization for the fiscal year that ended September 30, 2014 and a link to access full audited financial statements on the MSRB's website.

A review of the MSRB's 2014 initiatives included in the report:

- Implementation of a comprehensive regulatory framework for municipal advisors, including the advancement of core rules of conduct and a professional qualification program
- A focus on enhancing market structure, particularly in the area of price transparency and fairness
- Recent and planned enhancements to the display of trade data on the MSRB's Electronic Municipal Market Access (EMMA®) website, the official repository for information on virtually all municipal bonds
- Ongoing efforts to enhance regulatory efficiency and changes to consolidate and streamline key rules
- Development of the online MSRB Education Center to house multimedia resources for investors, state and local governments, and others interested in learning about the municipal market
- Financial highlights on the MSRB's sources of funding and allocation of resources

Read the report.

Brookings: A Guide to Public Private Partnerships - Recommendations for Public Leaders Considering PPPs.

A new report from the Brooking Institution's Metropolitan Policy Program presents nine recommendations for public leaders considering infrastructure public private partnerships (PPPs). The report, "Private Capital, Public Good: Drivers of Successful Infrastructure Public Private Partnerships", by Senior Policy and Research Assistant Patrick Sabol and Senior Fellow and Director of Metropolitan Infrastructure Initiative Robert Puentes, is intended to serve as a guide to executing PPPs in the public interest.

"PPPs are neither a solution to all America's infrastructure challenges nor are they a corporate takeover of public assets," says Sabol. "Instead, a well-executed PPP is simply a tool for procuring or managing infrastructure."

This paper addresses gaps in public knowledge of the PP funding model by explaining

- Basic PPP structure
- How to properly weight risks and rewards
- The purpose and rational behind these arrangements

Through extensive background research and direct interviews with leaders in the public and private sector, the paper presents nine recommendations for public leaders considering PPPs:

1. Create a strong legal framework at the state level. PPPs require a sound legal basis to ensure that
the public sector has the authority to pursue a deal and allows the private sector to mitigate unnecessary political risk.

2. Prioritize projects based on quantifiable. Not every infrastructure project is suitable for a PPP, so
it is essential for policymakers to base their procurement decisions on robust economic and financial analysis.

3. Pick politically smart projects. A successful PPP requires a pragmatic understanding of what is
feasible in a constantly evolving political environment.

4. Understand what the private sector needs. Strong partnerships are based on finding the right
alignment of interests, which is why it is essential to understand what makes a project appealing to private investors.

5. Find the right revenue stream. PPPs are not free money; they require localities to find durable and
resilient revenue sources that will pay for the investment over the long-term.

6. Create a clear and transparent process. Routinization and standardization will create a market for
PPPs that provides the public sector with a clear roadmap for success.

7. Build an empowered team. Assembling a professional and empowered public sector team is essential to executing a successful deal.

8. Actively engage with stakeholders. PPPs are inherently complex deals that require significant public engagement to ensure that the deal is in the interest of the community and executed at the highest standards possible.

9. Monitor and learn from the partnership. PPPs involve decades od dedicated attention that requires thoughtful monitoring, flexibility in the face of a changing world, and a willingness to learn from mistakes.

The full paper is available here.

Spotlight on Retiree Healthcare Benefits for State and Local Employees in 2014.

The National Association of State Retirement Administrators (NASRA) and the Center for State and Local Government Excellence (SLGE) have released a report entitled Spotlight on Retiree Healthcare Benefits for State and Local Employees in 2014.

Moody's: U.S. Public Finance Sectors Mostly Stable for 2015, Three Sectors are Outliers.

As government revenues grow, US state and local government sectors have stable outlooks, as do the state housing finance agencies, independent schools, ports, public power agencies and toll roads. According to our report on outlooks for municipal market sectors, only three principal sectors have non-stable outlooks. Not-for-profit healthcare has a negative outlook as cash flows settle into low growth, higher education remains negative as it confronts slow tuition growth, while the airport sector is positive as air passenger numbers increase…

Purchase the Report.

18 Dec 2014

Pension Plans Can Provide Retirement Income at Half the Cost of Individual Accounts.

Defined benefit plans are inherently more cost-efficient than defined contribution plans, according to A Better Bang for the Buck, an updated study by the National Institute on Retirement Security. A typical DB plan provides equivalent retirement benefits at about half the cost of a DC plan, and 29% lower cost than an "ideal" DC plan modeled with generous assumptions, according to the study. DB plans have three structural cost advantages, compared to DC plans: longevity risk pooling, the ability to maintain a well-diversified portfolio over a long investment horizon, and low fees and professional management. Given the cost efficiencies inherent to DB plans, the study concludes that employers and policymakers should carefully evaluate claims that money can be saved by switching to a DC plan.

S&P: U.S. Local Government Rating Review Shows Varied Economic Conditions Being Met With Sound Financial Underpinnings.

On Sept. 12, 2014, Standard & Poor's Ratings Services concluded its rating reviews for over 4,000 U.S. local government credits, an undertaking occasioned by the adoption a year earlier of updated rating criteria. Our credit-by-credit approach to criteria implementation resulted in a wealth of data and comparative metrics. These data help illustrate how our ratings are determined, and the general credit characteristics of each rating category. The transparent nature of the criteria allows us to report on not only the quantitative aspects of our credits, but also with more precision the qualitative credit characteristics.

We found that although the economy score varied widely across ratings, the majority of issuers managed to maintain adequate to very strong financial performance, liquidity, and flexibility, often allowing them to weather fluctuating macro conditions. We also noted that our score for management tended to be high across the spectrum, with weaker ratings being impacted by management's inability to address some financial challenges such as structural imbalance or liquidity pressures.

Below we detail some of these findings as well as highlight some commonly applied adjustments to scoring, and infrequent, but necessary, overrides.

Overview

- The average economy scores show the greatest difference across rating levels.
- The majority of ratings are in the 'AA' category, and the average is solidly 'AA-'.
- 80% of our 'AAA' ratings have very strong economy scores and 97% have very strong or strong management scores.
- Ratings below the 'A' category show greater differences from the national averages in financial metrics and management scores.
- The two most frequently used adjustments were "broad and diverse," which can strengthen an economy score, and "strong access to external liquidity," which impacts the liquidity score.
- The use of overrides has been infrequent, and was most likely to occur in the upper and lower rating categories.

Continue reading.

10-Dec-2014

S&P: U.S. State and Local Government Credit Conditions Forecast: For 2015, the Future is Now.

A review of several macroeconomic indicators might suggest that state and local government credit conditions are stronger than at any point in the past decade. Real GDP growth in the second and third quarters, at 4.6% and 3.9%, respectively, marked the fastest back-to-back quarters of growth since the second half of 2003. Similarly, on the jobs front, monthly payroll reports, especially following November's particularly strong report, are on pace to culminate in the largest annual percentage increase since the late 1990s.

Focusing solely on these topline aggregates, however, risks overlooking important regional variations. In addition, in Standard & Poor's Ratings Services' view, a deeper dive into the economic data reveals several reasons to maintain some caution regarding the outlook. This is particularly true for state and local government finance, where the pace of tax-revenue growth remains measured in the face of mounting long-term liabilities and glaring infrastructure needs.

Overview

- State and local governments are stable, but relatively slow growth has many operating on thin margins.
- State ratings are more disparate than five years ago, with the lowest achievers struggling to deal with pension obligations, in particular.
- We expect several states to announce projected budget gaps in 2015 from factors ranging from tax-reduction measures to legally mandated education funding.

Continue reading.

10-Dec-2014

Deloitte: 2015 Outlook on Power and Utilities.

2015 Outlook on Power and Utilities

Charting the course to growth in a transforming industry

My Take: By John McCue

Throughout the past year, power and utilities industry dialogue has evolved from debates about "pending" industry transformation to forward looking discussions about how utilities will continue to capitalize on the tremendous shift that is already underway. The future of the industry is now coming into focus, and it is one in which less conventional technologies and business models such as renewable energy, deregulated customer services, and energy efficiency are all entering the maturity phase and providing solid financial results for companies.

2015 will be the year for power and utility companies to chart the course to growth in this transforming industry. Read my 2015 Outlook on Power and Utilities for insights on the state of the industry and where it is heading in the coming year.

Read the Outlook.

Sincerely,

John McCue
Vice Chairman
U.S. Energy & Resources Leader
Deloitte LLP
@JMcCue624

SIFMA Issues 2015 Municipal Bond Issuance Survey.

New York, NY, December 4, 2014—SIFMA today released its 2015 Municipal Bond Issuance Survey. Compiled from responses provided by large and regional municipal bond underwriters and dealers, the report forecasts what type of activity is expected in the municipal securities market in 2015.

Respondents to the 2015 SIFMA Municipal Issuance Survey expect total municipal issuance, both short- and long-term, to reach $357.5 billion in 2015, up slightly from the $348.1 billion estimated issuance in 2014.

While short-term issuance is expected to remain largely unchanged in 2015, with $42.5 billion in short-term notes expected, compared to $42.8 billion in 2014, long-term issuance is expected to rise in 2015, with $315.0 billion in long-term bonds expected, compared with $305.3 billion in 2014.

"We expect municipal issuance to remain mostly flat to up slightly in 2015, with bank lending continuing to provide borrowers with an alternative to public bond issuance," said Michael Decker, managing director and co-head of the Municipal Securities Group at SIFMA. "On a systemic basis, we expect state and local credit quality to remain strong, although we may see isolated credit events in 2015. Short- and long-term yields will likely creep up, in part as a response to changing monetary policy."

Other highlights from the survey include:

- Projected long-term tax-exempt municipal issuance to reach $275 billion in 2015, nearly unchanged from the $273.5 billion issued in 2014;
- Projected long-term taxable municipal issuance is expected to be $30 billion, a 29.3 percent increase from issuance in 2014;
- Long-term alternative minimum tax (AMT) issuance is projected to rise to $10 billion in 2015, a 16.7 percent increase from 2014;
- Variable-rate demand obligation (VRDO) issuance to rise slightly to $9 billion in 2015, recovering from the record low of $6.6 billion issued in 2014.

Interest Rate Forecast

Survey respondents offered diverging views on interest rates in the coming year. The federal funds rate is expected to rise from 0.13 percent in end-December 2014 to 0.75 percent by end-December 2015. Forecasts include:

- The two-year Treasury note yield is expected to rise from 0.50 percent end-December 2014 to 1.15 percent by end-December 2015;
- The 10-year Treasury note yield is also expected to climb from 2.4 percent end-December 2014 to 3.25 percent end-December 2015.

The full SIFMA 2015 Municipal Bond Issuance Survey is available here.

Release Date: December 4, 2014

Contact: Katrina Cavalli, 212-313-1181, kcavalli@sifma.org

NFMA's Municipal Analysts Bulletin.

The National Federation of Municipal Analyst's Municipal Analysts Bulletin, Vol. 24, No. 3 is now available here.

Dirty Deals: How Wall Street's Predatory Deals Hurt Taxpayers and What We Can Do About It.

EXECUTIVE SUMMARY

The financialization of the United States economy has distorted our social, economic, and political priorities. Cities and states across the country are forced to cut essential community services because they are trapped in predatory municipal finance deals that cost them millions of dollars every year. Wall Street and other big corporations engaged in a systematic effort to suppress taxes, making it difficult for cities and states to advance progressive revenue solutions to properly fund public services. Banks take advantage of this crisis that they helped create by targeting state and local governments with predatory municipal finance deals, just like they targeted cash-strapped homeowners with predatory mortgages during the housing boom. Predatory financing deals prey upon the weaknesses of borrowers, are characterized by high costs and high risks, are typically

overly complex, and are often designed to fail.

Predatory municipal finance has a real human cost. Every dollar that cities and states send to Wall Street does not go towards essential community services. Across the country, cuts to public services and other austerity measures have a disparate impact on the working class communities of color that were also targeted for predatory mortgages and payday loans, further exacerbating their suffering.

The primary goal of government is to provide residents with the services they need, not to provide bankers with the profits they seek. We need to renegotiate our communities' relationship with Wall Street. We can do this by implementing common sense reforms to safeguard our public dollars, make our public finance system more efficient, and ensure that our money is used to provide fully-funded services to our communities. Taxpayers do trillions of dollars of business with Wall Street every year. It is time we start making our money work for us.

Download the full Report.

The Roosevelt Institute

Report by Saqib Bhatti

The Refund America Project

November 18, 2014

Newest Version of Two Deskbooks Now Available.

Both the Federal Taxation of Municipal Bonds Deskbook and the Federal Securities Laws of Municipal Bonds Deskbook have been updated.

The Federal Taxation of Municipal Bonds Deskbook gathers a selection of the most commonly used IRC sections and applicable regulations dealing with municipal finance, and the Federal Securities of Municipal Bonds Deskbook is an essential guide for all bond lawyers, regulatory staff, in-house counsel for investment banking firms and banks, state and local government attorneys, and other securities professionals.

For more information and to order, click here.

NFMA Draft Recommended Best Practices in Disclosure for State Government General Obligation and Appropriation Debt.

The National Federation of Municipal Analysts has released the draft Recommended Best Practices in Disclosure for State Government General Obligation and Appropriation Debt (State GO RBP).

This paper is the first of a two-part update of the NFMA's December 2001 Recommended Best Practices in General Obligation and Tax-Supported Debt (2001 RBP), which addressed all general obligation and tax-exempt debt.

Comments on the draft paper will be accepted through March 5, 2015.

To view the paper, click here.

To view the press release, click here.

Municipal Debt: What Does It Buy and Who Benefits?

This paper examines the incidence of the federal income tax exemption of interest on state and local bonds, applying a fixed-savings, simplified general equilibrium approach to estimate incidence effects on both the sources and uses of income. In contrast to traditional empirical work that allocates the benefit of tax exemption only to current holders of tax-exempt bonds based on current interest rates, we incorporate the fact that the existence of tax exemption causes the taxable interest rate to rise and the tax-exempt rate to fall. As a consequence, on the sources side, tax exemption can increase after-tax income for holders of both taxable and tax exempt bonds. On the uses side, consumers of both private and public goods are affected by the higher cost of funds to private and federal government borrowers, the lower cost of funds to state and local borrowers, and the lower cost of funds to private-sector entities with access to the proceeds of tax-exempt borrowing. Overall, higher income individuals remain the primary beneficiaries of tax exemption on the sources side with this new approach, but less so than under the traditional approach. On the uses side, households who consume a relatively large share of state and local public services, such as those with several school-age children, receive significant net benefits.

Read the full paper.

Harvey Galper, Kim Rueben, Richard C. Auxier, Amanda Eng

Document date: October 29, 2014

Sixth Edition of Federal Securities Laws of Municipal Bonds Now Available.

The Federal Securities Laws of Municipal Bonds Deskbook is an essential guide for all bond lawyers, regulatory staff, in-house counsel for investment banking firms and banks, state and local government attorneys, and other securities professionals. Prepared by experts from the National Association of Bond Lawyers, this comprehensive publication delivers all key materials relating to the federal securities laws of municipal bonds in a portable deskbook and companion eBook with expanded content.

To learn more about other NABL products available through Lexis Nexis, please visit www.lexisnexis.com/nabl.

Report: U.S. City Finances Facing Slow Growth and Increasing Costs.

American cities' finances remained stable this year after notable revenue improvements in 2013, but cities still can't claim a full recovery from the recession, a new report said Tuesday.

Cities did make some key gains in fiscal year 2014, the City Fiscal Conditions Survey by the National League of Cities found. Mainly, they have started to make up for areas where there were spending cutbacks during the downturn and they are increasing their reserve funds. And the overall positive figures are widespread – 80 percent of city finance officers reported improved fiscal conditions this year, the highest such number in the 29-year history of the survey.

Still, the economic future for local governments should by no means be called a boon. After reporting much-improved revenue totals in 2013, this year's numbers are expected to mark slower growth as cities close out the books on their 2014 fiscal year that ended on June 30. Last year, general fund revenues increased by an average of 2.8 percent – the first positive growth since 2006. But this year's revenues are expected to dip slightly in comparison.

The slowdown is a characteristic of the incredibly slow pace of the economy following this recession, when compared to past ones, said Christiana McFarland, a research director at the NLC. "So much of this [improvement]," she said, "is tempered by the relative context of the economic recovery."

The stagnated growth is due to slower sales and income tax revenues this year. But there are still reasons to be optimistic. For one, 2014 will mark the first time in four years that local governments will see an increase in property tax collections. Stabilized budgets have allowed cities to start investing in infrastructure again. This year also marked the first time in six years that more cities are increasing rather than decreasing their workforces.

In another positive step, cities have been adding to their financial cushion to help them weather the next downturn. The ending balances of general funds (cash cities typically use for emergencies) are projected to average 22.4 percent of general fund expenses in 2014. It would be the highest such savings total since cities had more than one-quarter of expenses in reserve in 2007.

It's essential that cities not only continue to add to their reserves but look at how they should institutionalize the practice, said Moody's Senior Economist Dan White at the NLC press conference in Washington, D.C. "It's something that's got to be done now while we're cautiously optimistic, because if we wait a few years down the line, we're going to be caught flatfooted," he said. "One of the reasons we're so sluggish coming out now is the states and local governments didn't have enough in reserve."

To that end, the financial pressure on city budgets will increase. Local governments expect higher demands on spending in future years, primarily driven by the increasing cost of services, retiree pensions and healthcare for employees and retirees. Cities can raise fees (nearly half did this year) or property taxes to combat rising costs. But many expect much of their revenue growth will be eaten up by these looming liabilities.

External factors also play a role and leaders Tuesday promoted NLC's national agenda. Officials called on Congress to pass the Marketplace Fairness Act, which would allow states to tax Internet sales by companies that do not have a physical retail location in that state and to raise the federal minimum wage because the fast growth of low-wage jobs affects local economies and tax receipts.

Still, said Houston Controller Ronald Green, the post-recession economy is teaching city leaders how to walk the line between providing services in the best way possible while trying to prepare for the next crisis.

"That's the biggest balancing act," he said. "How do you remain cautious and how do you remain optimistic?"

GOVERNING.COM

BY LIZ FARMER | OCTOBER 14, 2014

S&P Guide to Credit Ratings Essentials.

Find out what credit ratings are, and are not, who uses them, and how they may be useful to the capital markets.

Download the Guide.

Two New Coastal Tools: Coastal Flood Exposure Mapper and the Lake Level Viewer.

Digital Coast's two newest tools, the Coastal Flood Exposure Mapper and the Lake Level Viewer, are designed for communities located near the coast. Both are similar to the Sea Level Rise Viewer in that users can explore maps showing variable water levels, socioeconomic data and more.

Click here to explore these tools.

Pillsbury: Do Capital Markets Need Financial Guaranty Insurers?

Read the Article.

S&P 2014 U.S. State Debt Review: New Issuance Remains A Lower Priority.

While infrastructure needs in the U.S. — and worldwide -- are very high, in our view, debt issuance in the majority of U.S. states remains below average. And although we consider lower debt levels to be a credit strength, we also recognize that deteriorating infrastructure may limit a government's economic competitiveness. This view of the connection between infrastructure and economic strength was reflected in a recent report by U.S. Treasury Department, which stated that high-quality and reliable infrastructure is essential to the U.S. economy and that failure to provide and maintain adequate infrastructure would have severe economic consequences, with fewer jobs created, hundreds of billions of dollars of time and fuel lost to traffic jams, and elevated costs of goods due to increased freight costs. (See "Expanding Our Nation's Infrastructure Through Innovative Financing," U.S. Department of the Treasury Office of Economic Policy, September 2014.)

Standard & Poor's Ratings Services believes that the significant demands on governments to reinstate services, reduce taxes, and fund rising pension and health care costs make significant debt issuance an unpopular budget choice. For example, while approximately 10 states proposed tax cuts in their fiscal 2015 budgets, far fewer had significant infrastructure financing expansions. In our

fiscal 2015 state budget survey "U.S. State Fiscal Recoveries Vary As Crucial Budget Choices Loom," published April 23, 2014, on RatingsDirect, we discussed our view of repressed fiscal deficits in which states balance their budgets by neglecting their infrastructure needs, deferring maintenance on existing capital assets, or underfunding their pension contributions. In our view, although current underinvestment in these areas might produce near-term savings, it could increase costs over the longer run and lead to structural deficits.

We also believe that formalized state policies limiting debt are another factor in restraining debt issuance. According to a 2014 survey from the National Association of State Budget Officers, 38 states have limits on the amount of general obligation bonds, either by constitution, statute, or policy. The debt guidelines that states use cover many areas. The two measures they use most frequently, according to a research report from the New England Public Policy Center of the Federal Reserve Bank of Boston, are debt principal to personal income levels and annual debt service to a state's revenues, which are similar to the ratios in Standard & Poor's U.S. states rating criteria. Other state debt guidelines include debt per capita, debt to taxable property value, and debt to revenues.

Continue Reading.

13-Oct-2014

Pew: The State Role in Local Government Financial Distress.

Detroit's bankruptcy has added urgency to the discussion of how state and local governments should respond when a municipality faces financial distress. The Motor City's revenue shortfall is unusually large, mirroring its sharp population decline, but Detroit isn't alone in its struggle to balance its books after years of poor fiscal management and excessive reliance on debt. Tenuous finances have pushed other municipalities to the brink of receivership or bankruptcy, often requiring state policymakers to decide whether to intervene and, if so, when and how.

A small number — about 10 — of the nation's 55,000 local governments and special tax districts file for Chapter 9 bankruptcy protection each year. In addition to Detroit, recent high-profile examples include Jefferson County, Ala.; Stockton and San Bernardino, Calif.; and Central Falls, R.I. While fiscal distress usually builds up over several years, a variety of events or factors can push local governments into financial crisis. In Jefferson County, it was a failed sewer project. In the California and Rhode Island cities, it was escalating public-pension costs. Detroit's situation was more complex, the result of decades of decline in its tax base and the restructuring of the automobile industry.

In a recent Pew Charitable Trusts report, "The State Role in Local Government Financial Distress," we found that 19 states have passed laws allowing them to intervene in local-government fiscal crises. In dire cases, states have set up advisory commissions, receivers, emergency managers and financial control boards to oversee the local governments. These mechanisms are intended to prevent bankruptcy, which officials consider to be so harmful that only 12 states specifically authorize local governments to file for bankruptcy protection. In a state such as Alabama, which has no law to authorize intervention in local-government financial emergencies, the city or county is on its own to resolve a crisis. Jefferson County and the city of Prichard sought bankruptcy protection as a last resort.

Regardless of the approach that states choose, it's prudent for officials to monitor local governments' budgets and borrowing practices. North Carolina, a state hit hard by the Great Recession, has proved that this practice works. Local governments must send financial data at regular intervals to the state, which compiles profiles of each city and county and posts them in a public database. If the budget numbers show a potential shortfall, the state steps in to make sure that local officials resolve the problems. If necessary, the state can assume control of day-to-day operations — an action it has taken five times since the 1930s. North Carolina also approves and sells local-government bonds through a state commission.

In New York state, where upstate communities have struggled economically for years, Comptroller Thomas DiNapoli has begun issuing scores for local governments' level of fiscal stress based on about two dozen financial indicators submitted by local officials. Outgoing California Controller Bill Lockyer has called for a similar early-warning system in that state to prevent future Stocktons and San Bernardinos.

Monitoring also underscores the need for local governments, as well as states, to adopt long-term financial plans that align revenue and expenses over several years. These plans should include projections of public-pension and retiree-health-care costs, which are increasing pressure on governments at all levels with the retirement of the Baby Boom generation.

Failure to oversee finances and embrace multiyear budget plans can produce harsh consequences, as seen in the bankruptcies in Detroit and elsewhere: service cuts, government-employee layoffs, high property taxes, lower public-pension checks, losses for bondholders and higher borrowing costs. Instead of putting themselves in the position of having to react to local-government fiscal crises, states should work harder to stop them from happening in the first place.

THE PEW CHARITABLE TRUSTS

BY SUSAN K. URAHN | OCTOBER 8, 2014

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Federal Accounting Board Releases P3 Disclosure Requirements for Comment.

The Federal Accounting Standards Advisory Board (FASAB) is seeking input on draft disclosure requirements for P3s, board chairman Tom Allen announced Wednesday.

"Federal entities are increasingly turning to the private sector to help finance and deliver infrastructure, facilities, goods, and services," Allen said. "The resulting arrangements involve risk sharing, are financially complex, and may impose long-term commitments. The information provided as a result of this proposed standard will help users answer questions concerning budgetary resources obtained and used, the costs of providing specific programs and activities, and the associated long-term risks."

The standards outline the reporting requirements for P3s including the risk of fiscal exposure of projects and offers guidelines for identifying risk-based characteristics needed for federal government financial statements.

"This exposure draft represents an important step in meeting the federal reporting objectives

because the federal government is directly accountable to citizens for the proper administration of its resources to include the disclosure of long-term risks related to its programs and activities," said Allen.

The deadline for providing comment to FASAB, which is responsible for developing accounting standards for the United States Government, is Jan. 2, 2015.

Deloitte: A fresh Look at M&A's Role in Power and Utilities.

Deloitte Center for Energy Solutions
Evaluating M&A through a changing utility lens
A fresh look at M&A's role in power and utilities

Marketplace dynamics are transforming the power and utilities industry, reshaping business models and prompting companies to re-evaluate their strategies. As the lens through which power and utility companies view their strategic options shifts, merger and acquisition (M&A) stands out as one of the more compelling and expedient strategies for delivering value and managing strategic risks to the business. The new lens reveals expanded opportunities for win-win scenarios that benefit both customers and shareholders.

Read Evaluating M&A through a changing utility lens: A fresh look at M&A's role in power and utilities to learn:

- How macroeconomic drivers have affected M&A for power and utility companies.
- How power and utility companies can leverage M&A to mitigate enterprise risks, take advantage of new opportunities, and deliver more value to customers.
- What important benefits, in addition to cost savings, can arise from successful M&A transactions.
- How utility companies can work with regulators to develop new constructs in the face of the industry's inevitable transformation.

Download the report to learn more about how M&A can help companies execute critical elements of corporate strategy, while simultaneously benefitting customers and shareholders.

A New Breed of Muni Bond Is Financing Climate Change Adaptation.

If Scott Stringer has his way, New York will soon be the nation's largest municipal player in the burgeoning green bond market. On Wednesday, Stringer, the city comptroller, proposed a new program for issuing municipal bonds specifically dedicated to financing climate-friendly projects. Announced during UN Climate Week, Stringer's proposal came a few days after Mayor Bill de Blasio unveiled a plan to cut the city's greenhouse gas emissions by 80 percent by 2050.

Internationally, interest has grown in green bonds as cities like New York embark on record numbers of big-ticket infrastructure projects aimed at boosting resilience to climate change.

In New York alone, the tab on the planned projects will exceed $27 billion over the coming years. In 2014, worldwide green bonds issuance is expected to nearly quadruple last year's total, and in another Climate Week announcement, several major investment banks such as Zurich, Barclays and

Aviva made promises to invest in the bonds and help strengthen the market.

New York isn't the first city to see opportunity in green bonds. In July, the District of Columbia Water and Sewer Authority issued a $350 million, 100-year certified green bond. The $2.6 billion project will all but rid the city of combined sewer overflows, or treat wastewater from multiple pipes and tunnels that would have otherwise flowed altogether into the city's rivers. Investors placed orders for about $1.1 billion worth of bonds, with about $100 million coming from those specifically focused on green bonds, the Wall Street Journal reported. George Hawkins, general manager of the water authority, told the Journal that the robust reception from Wall Street was unusual; the green bond "brought more investors to the table" than a regular bond might have.

D.C. Water and Sewer CFO Mark Kim believes that green bonds could be great for other utilities. D.C. Water and Sewer will certainly be issuing more. "Our intent is to finance all remaining capital expenditures for the Clean Rivers Project with a green bond," Kim says.

Green bonds have been slow to catch on. The World Bank sold the first green bonds in 2008 as part of its efforts to encourage climate change adaptation and mitigation, but the bonds didn't pick up steam in America until 2013. Experts say total bond issuance is on track to reach $40 billion by year's end, a pool of money that will in large part go to strengthening infrastructure, including water systems, electrical grids and transportation networks.

What green bonds bring to the table is a not a new order, but rather a new label for reaching investors interested in climate-friendly projects. Matt Fabian, a managing director of Municipal Market Advisors, points out the processes for a muni green bond and any other muni bond are identical.

"A lot of [municipal bonds] are already green," adds Fabian. "The fact that they're financing green projects doesn't mean that the bond itself is any stronger or, from a default or price change perspective, will perform differently. … You don't want to cheapen it and call it a gimmick, but it is a way of increasing the marketing of that bond."

As green bonds — sometimes called climate bonds — become more popular, some observers worry that they will fall prey to Wall Street greenwashing. There are no standardized regulations limiting the projects that can be marketed for financing under the green bond label. Instead, it's entirely up to the issuers and investors to seek a third-party reviewer, like the Oslo-based Center for International Climate and Environmental Research (CICERO), Paris-based Vigeo or other firms that assess environmental impact, for certifications. In January of this year, a coalition of banks including J.P. Morgan, HSBC, Bank of America, Goldman Sachs and Morgan Stanley backed "Green Bond Principles," a set of voluntary guidelines for selecting investments. A Climate Bonds Initiative report reveals that 39 percent of green bonds are issued with no third-party reviewer at all.

While issuers and consultants mull over establishing proper criteria, cities have the freedom to use the broad definition for a wide range of investment opportunities. Fabian says once interest rates rise again, green bonds could prove themselves most useful. "It could be that they're used more in the future as good political cover for financing that otherwise needs to happen."

Bank of America claims its $500 million, three-year green bond, issued in November 2013, was the first U.S. corporate green bond ever. It helped fund LED streetlights in Oakland and Los Angeles. American municipal green bonds are a tad older. In June 2013, Massachusetts sold $100 million in bonds to help clean its rivers, improve wastewater management, boost clean energy and more. (Massachusetts sold another $350 million in bonds last week.) There's little doubt that a more robust market for green bonds would make it easier for local governments and city agencies to finance

infrastructure projects like these that until now have relied on conventional bonds or politically risky tax hikes.

Massachusetts received more bids than it could accept during its $350 million green sale. The state estimates a $1 billion demand.

BY CASSIE OWENS | NEXT CITY | SEPTEMBER 26, 2014

Post-Implementation Review Completed on GASB Standard Addressing Capital Asset Impairment, Insurance Recoveries.

Norwalk, CT, August 19, 2014—An accounting standard for state and local governments that addresses the impairment of capital assets and insurance recoveries provides important information to users of financial statements and resolves some but not all of the issues underlying its purpose. That is a central conclusion of the Post-Implementation Review (PIR) of Governmental Accounting Standards Board (GASB) Statement No. 42, *Accounting and Financial Reporting for Impairment of Capital Assets and for Insurance Recoveries.*

Issued in 2003, GASB Statement 42 establishes measurement guidance for capital asset impairments and requires governments to report the effects of those impairments when they occur, rather than as a part of the ongoing depreciation expense for the capital asset or upon disposal of the capital asset. It also provides uniform reporting guidance for insurance recoveries of state and local governments.

“The recent PIR Report has provided some important stakeholder feedback on the benefits of and the cost associated with the requirements of Statement 42 in light of actual experience,” said GASB Chair David A. Vaudt. “On behalf of the GASB, I would like to thank the Foundation for undertaking this important process and all of the individuals and organizations who gave their time to share their insights and experiences with the PIR staff.”

The PIR team received broad-based input from GASB stakeholders including auditors and preparers, and more limited input from financial statement users and academics. Based on its research, the review team concluded:

- Statement 42 resolved some of the issues underlying its stated need but may not have completely resolved all of them.
- In particular, users have mixed views as to whether Statement 42 achieved the two objectives for capital asset impairments: establishing recognition criteria for impairments, and requirements that appropriately measure the effects of impairments.
- For insurance recoveries, Statement 42 achieves the objective of establishing and clarifying guidance for accounting for insurance recoveries for all funds and activities.
- The capital asset impairment and insurance recovery information governments provide in their financial statements is important to users of financial statements. However, that information may be difficult for some users to understand and may not be as detailed or as comparable across governments as some users may wish.
- Most of Statement 42’s requirements are operational but some stakeholders find certain aspects challenging. The primary operational concern, which was voiced by practitioners in particular, relates to the service utility approach and related techniques for measuring impairment of capital assets.

- Statement 42 did not result in significant changes to financial reporting and operating practices, nor did it result in significant unanticipated consequences.
- The cost to implement Statement 42 and the continuing application costs generally are consistent with the costs that stakeholders expected.
- Statement 42's expected benefits of improved user understanding for when capital asset impairments have occurred and enhanced comparability for insurance recovery information have been achieved. However, the expected benefit of improved user understanding of capital asset impairments' financial impact on governments may not have been achieved to the extent expected.

With regard to standard-setting process recommendations as a result of the review, the PIR team recommended that the GASB conduct, at a minimum, a limited field test when proposing to issue a standard with new recognition or measurement approaches, and share the results with users to assess the usefulness of the resulting information.

The review of Statement 42 was undertaken by an independent team of the Financial Accounting Foundation (FAF), the parent organization of the GASB and the Financial Accounting Standards Board (FASB). The team's formal report is available here. The GASB's response letter to the report is available here.

With the completion of the review of GASB Statement 42, the PIR team will initiate its review of GASB Statements No. 33, Accounting and Financial Reporting for Nonexchange Transactions, and No. 36, Recipient Reporting for Certain Shared Nonexchange Revenues, later this year.

Stakeholders who would like the opportunity to participate in upcoming PIRs should register online.

For more information on the PIR process, visit the FAF website.

New York City Tackles Rising Lawsuit Costs with Data and Maps.

New York is a city of 8 million. With that many people, bad things can happen, from falling tree limbs and unfilled potholes to medical malpractice and civil rights violations, all of which lead to lawsuits against the city. This fiscal year, the city has set aside $674 million to pay for settlements and judgments from lawsuits brought against New York. The city's Comptroller's Office projects that to grow to $782 million in fiscal 2018, an amount that exceeds the combined budgets for the Parks Department, Department of Aging and the New York Public Library.

Until recently, little has been done to keep those costs from rising — or to find a way to reduce them. But now, the city's comptroller is applying some data analytics and mapping tools to look for patterns in the claims and find out where they were occurring, why and, hopefully, figure out how to reduce the number and cost of the claims.

Comptroller Scott Stringer calls the system he and his staff developed ClaimStat. "We decided to take a fresh look at the [lawsuit] problem," he said. "With ClaimStat, we can help agencies change policy or create an initiative that would decrease the likelihood that the city would get sued."

The Comptroller's Office, which is the city's watchdog agency and has a staff of 750, oversees settlements and claims for and against the city. Last year, the office devised new metrics to analyze the claims and found that most are filed against a handful of agencies: the Police Department, Health and Hospitals Corp. (HHC), and Department of Transportation. While claims against HHC have been dropping, thanks to some reforms, the number of claims against the police has

skyrocketed, according to a report produced by the Comptroller's Office.

Stringer readily admits that ClaimStat borrows heavily from the program known as CompStat, which was developed by the city's police department years ago to closely track crime by precinct and to then hold commanders accountable for getting crime numbers down. For example, with ClaimStat the comptroller developed a metric for comparing precincts by the number of claims per 100 crime complaints. They quickly discovered that one precinct in the south Bronx had a much higher rate than precincts of similar size. Why there's such a difference can't be readily explained, but the local media is already calling on Mayor William De Blasio and the police commissioner to investigate the problem.

Another ClaimStat analysis found that when the Parks Department slashed funding for tree maintenance in 2010, personal injury and property lawsuits shot up. When the department restored additional funding for pruning, the number of tree-related claims fell swiftly. ClaimStat also uncovered a troubling and significant increase in the number of injury claims against the city's Corrections Department. In a five-year period, Stringer's office found a 34 percent rise in the amount of money the city had to pay out in settlements and judgments. "When we looked at the details of the claims, we found they were coming from prisoners who were mentally ill or in solitary confinement," said Stringer.

The Comptroller's Office uses ArcGIS and other software tools to analyze and display the geo-located data so that the city's agency commissioners, as well as the public, can view the mapped results for patterns and trends. The information comes from notice of claims filed by the injured. While claims against the city can be filed digitally, most are still filed on paper, according to the Comptroller's Office.

Several other cities around the country have taken a data-driven approach to claims management. In Portland, Ore., the Police Department auditor discovered a pattern of claims suggesting that officers did not understand the basis of their authority to enter a home without a warrant. In response, the city attorney's office made a training video on the issue and the problem disappeared.

While New York City may be late when it comes to using technology as a risk management tool, Comptroller Stringer is determined to stay at the forefront. "We should always look at ways to make government bureaucracy work better," he said. "We want to put forward new, innovative ideas using technology and thinking when it comes to making government more efficient."

AUGUST 29, 2014

GOVTECH.COM

Tod Newcombe | Senior Editor
With more than 20 years of experience covering state and local government, Tod previously was the editor of Public CIO, e.Republic's award-winning publication for information technology executives in the public sector. He is now a senior editor for Government Technology and a columnist at Governing magazine.

Mayer Brown: Presentation of Paper on Internal Investigations and Special Considerations for Government Contractors at ABA Section of Public Contract

Law Meeting.

Marcia Madsen recently presented an excellent paper, which was co-authored by Michelle Litteken, at the ABA Section of Public Contract Law's annual meeting in Boston. During the ABA meeting, Marcia also moderated a panel on important issues that frequently occur during investigations of Government contractors. For executives or counsel dealing with issues in a Government investigation that is either beginning or ongoing, this paper is well worth reviewing carefully.

Last Updated: August 21 2014
Article by Luke Levasseur
Mayer Brown

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This Mayer Brown article provides information and comments on legal issues and developments of interest. The foregoing is not a comprehensive treatment of the subject matter covered and is not intended to provide legal advice. Readers should seek specific legal advice before taking any action with respect to the matters discussed herein.

NABL Releases Paper on 501(c)(3) Bonds.

The National Association of Bond Lawyers ("NABL") released today The 501(c)(3) Opinion in Qualified 501(c)(3) Bond Transactions.

This paper fills a gap in the published commentary on legal opinions typically rendered by borrower's counsel and relied upon by bond counsel in qualified 501(c)(3) bond transactions as to the status of the borrower as an organization described in Section 501(c)(3) of the Internal Revenue Code. Although not attempting to set forth a standard model form of 501(c)(3) opinion, the paper is an educational resource regarding the opinion, presenting the background of qualified 501(c)(3) bond transactions and requirements for Section 501(c)(3) organizations in general, discussing the purpose and common formulations of the 501(c)(3) opinion, and providing commentary regarding the opinion language and due diligence that may be undertaken by counsel rendering and relying upon the 501(c)(3) opinion.

It was prepared by a special NABL committee chaired by E. Tyler Smith of Haynsworth Sinkler Boyd, P.A.

NASACT Releases White Paper on Continuing Disclosure.

View NASACT's White Paper on Continuing Disclosure – "Voluntary Interim Financial Reporting: Best Practices for State Governments"

MSRB Publishes Second Quarter 2014 Municipal Market Statistics.

Alexandria, VA – The Municipal Securities Rulemaking Board (MSRB) today released municipal market statistics for the second quarter of 2014, including data on trading patterns, interest rate resets and continuing disclosure submissions made to the MSRB for the $3.7 trillion municipal bond market. The MSRB, which regulates the municipal market, is an independent source of market data and operates the Electronic Municipal Market Access (EMMA®) website.

Among the second quarter 2014 highlights:

- Trading activity in the municipal market decreased significantly in the second quarter of 2014 both in terms of par amount and number of trades.
- Par amount traded of fixed rate securities decreased to $398.9 billion in the second quarter of 2014 from $463.1 billion traded in the second quarter of 2013.
- Trading activity totaled 2.24 million trades in the second quarter of 2014, compared to 2.72 million trades in same period one year ago.
- Trading of revenue securities accounted for approximately 66 percent of the total par amount traded and 62 percent of the number of trades in the second quarter of 2014.
- The number of variable rate demand obligation rate resets continued to decline, totaling 157,219 in the second quarter of 2014 compared to 179,572 rate resets in the same period one year ago.
- General obligation bonds accounted for 24 percent and 34 percent of trading activity by par and number of trades in the second quarter.

The MSRB's quarterly statistical summaries include aggregate market information for different types of municipal issues and trades, and the number of interest rate resets for variable rate demand obligations and auction rate securities. The data also include statistics pertaining to continuing disclosure documents received through the MSRB's EMMA website. Daily and historical summaries of trade data based on security type, size, sector, maturity, source of repayment and coupon type are displayed in EMMA's Market Statistics section.

The EMMA website is a centralized online database operated by the MSRB that provides free public access to official disclosure documents and trade data associated with municipal bonds. In addition to current credit rating information, the EMMA website also makes available real-time trade data and primary market and continuing disclosure documents for over one million outstanding municipal bonds, as well as current interest rate information, liquidity documents and other information for most variable rate municipal securities.

Date: August 14, 2014

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NABL Releases Paper on General Obligation Bonds.

On August 12, 2014, NABL released the General Obligation Bonds: State Law, Bankruptcy and Disclosure Considerations. NABL prepared the paper to assist its members and other public finance market participants in identifying and evaluating various issues involving general obligation bonds. The paper examines the characteristics of general obligation bonds, state law remedies, municipal bankruptcy, and disclosure considerations.

Recent events, including the bankruptcy filings by Jefferson County, Alabama, and the City of Detroit, Michigan, have raised questions about the security of general obligation bonds and challenged the commonly held general assumptions about general obligation bonds. It has become apparent that not all general obligations bonds enjoy the same security or the same remedies for enforcement of the promise to pay. Further, the treatment of general obligation bonds in a municipal bankruptcy case is uncertain. Although the disclosure for general obligation bonds provided in Official Statements must be tailored to each general obligation bond, the paper does discuss topics that should be considered in preparing an Official Statement for an offering of general obligation bonds.

General Obligation Bonds: State Law, Bankruptcy and Disclosure Considerations was approved by NABL's Board of Directors and prepared by an ad hoc committee chaired by Dee P. Wisor of Butler Snow LLP. The paper is provided to further legal education and research and is not intended to provide legal advice or counsel as to any particular situation.

2014 Deloitte Energy Conference Retrospective Report.

Energy is sourced globally. This reality places the energy industry squarely at the intersection of geopolitics, national security, and economic growth. Balancing these often opposing forces will require innovation throughout the entire energy value chain, a challenge that was explored recently at the 2014 Deloitte Energy Conference. The conference, held on May 13-14, 2014, in Washington, DC, provided a forum for industry participants to share ideas for meeting and managing future energy demand.

Our newly released Retrospective provides a snapshot of the memorable themes and insights from the event. Download the report to gain insights on broad trends, such as the global energy outlook, the rise of North America as an energy producer, and evolving business models in the electricity sector. The report also features summaries of sessions on policy, public affairs, the investment environment, climate change, water strategies, research, technology, and cyber risk.

Conference materials and related thought leadership can be accessed through the links in the document. For hard copies please contact EnergyConference@deloitte.com.

NABL Releases Paper on GO Bonds.

The National Association of Bond Lawyers ("NABL") today released General Obligation Bonds: State Law, Bankruptcy and Disclosure Considerations. NABL prepared the paper to assist its members and

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How to Build a Rainy Day Fund.

A new report shows how states could have weathered the recession better.

Just before the Great Recession, Florida set aside $1.4 billion in its rainy day fund. It was an amount that all but disappeared two years later when lawmakers in 2009 had to find a whopping $4 billion in cuts due to declining tax revenue.

But it didn't have to be that way, according to an analysis by the Pew Charitable Trusts. In fact, if Florida's rainy day fund deposit rules had been similar to Virginia's, Florida could have had more than four times the amount in its rainy day fund going into the recession. Certainly, a savings stash of $6 billion wouldn't have entirely saved the state from cuts. Florida's budget gaps continued until 2013 and totaled $20 billion over the years, according to Pew. But it's hard to argue it wouldn't have lessened the pain.

Pew's simulation is featured in a new report called Building State Rainy Day Funds, the second in a series of studies aimed at helping policymakers better prepare their state's finances in times of increasing revenue volatility. An article in the August issue of Governing also explores revenue volatility; in fact, it's the newest feature in our Finance 101 series. The story notes that policies like those in Virginia, which ties deposits in its rainy day fund to revenue volatility, and Utah, which actually studies and reports on its revenue volatility, are rare.

The goal of both the Pew and Governing series is to get more policymakers to think about best practices before it's too late. "A lot of states had been budgeting in perpetual crisis mode during the recession and some of that has continued into the recovery and beyond," says Brenna Erford, who manages Pew's work on state budget policy. The report notes that while states' collective budget reserves totaled $60 billion in 2008, budget gaps in 2009 totaled nearly twice as much. "Our interest," says Erford, "is to get states to think longer-term about their overall fiscal health."

Florida isn't the only state highlighted in Pew's report. Pennsylvania would have had nearly three times the savings — as much as $2.1 billion — and South Carolina would have saved five time more

or $835 million had deposit rules been tied to volatility. Pew focused on Florida, Pennsylvania and South Carolina because they are large states; have different economies and tax systems; and grew during the mid-2000s while not drawing on their emergency funds.

The first report in Pew's series evaluates revenue volatility across the 50 states. Using data from 1994 to 2012, the report examines the factors that drive revenue swings, including state-specific patterns of economic growth and contraction, and recommends ways to respond to these conditions. The new report seeks to guide policymakers' thinking on how to best fuel rainy day funds. The overall recommendation is that the funding be tied to revenue volatility, something that just one-quarter of the states currently do. Linking savings to volatility also doesn't require that a state make a contribution during lean years, as some states' deposit rules ask. There's no one-size-fits-all approach for connecting savings to volatility, but one of three methods are common: tying funding to overall revenue volatility, tying funding to particularly volatile revenue streams or tying funding to economic conditions.

Going forward, Erford says the research project will study the growing difficulties in revenue forecasting and look at the optimal size of and withdrawal rules for rainy day funds. "Budget officials are very aware of the challenges they face," says Erford. "In terms of the longer-term questions of how that volatility and the general economic conditions are impacting budgeting, or how management responses have varied with other states, our research is intended to inform that in more a systematic way."

GOVERNING.COM
BY LIZ FARMER | JULY 31, 2014

MMA Municipal Issuer Brief - Bond Insurance Update.

Read the Full Brief.

CDFA Releases Annual Volume Cap Report -- An Analysis of 2013 Private Activity Bond & Volume Cap Trends

Columbus, OH – The Council of Development Finance Agencies (CDFA) is pleased to announce the release of the CDFA Annual Volume Cap Report: An Analysis of 2013 Private Activity Bond & Volume Cap Trends. This report provides the most complete data for the use of volume cap and issuance of cap-subject private activity bonds nationwide.

The full report, along with the updated 2012 data, is available online with CDFA's interactive and searchable National Volume Cap Map. To download the full report, CLICK HERE.

CDFA gathered the information for the report from end-of-year reports and surveys with the allocating authority in each state. As a leader in the development finance industry, CDFA serves as the principal source for private-activity bond volume cap data, reporting and trends.

The Council of Development Finance Agencies is a national association dedicated to the advancement of development finance concerns and interests. CDFA is comprised of the nation's leading and most knowledgeable members of the development finance community representing

public, private and non-profit entities alike.

For more information about CDFA, visit www.cdfa.net.

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