SQUIRE PATTON BOGGS

OHIO PUBLIC LAW UPDATE

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Moody's Releases Revised Rating Methodology for Local Government General Obligation Debt

Earlier this year, Moody's Investors Service (Moody's) released an updated rating methodology explaining how Moody's evaluates the credit quality of local government general obligation debt. In general, the revised methodology doubles (from 10% to 20%) the emphasis Moody's places on debt and imputed pension liability and reduces (from 40% to 30%) the emphasis on economic factors. In conjunction with the updated methodology, Moody's introduced a "scorecard" quantifying factors and subfactors it believes to be most important in evaluating the credit of local governments. The following is a summary of those factors and subfactors and their relative weights:

Economy/Tax Base (30%)

- Tax Base Size (10%)
- Full Value Per Capita (10%)
- Wealth (Median Family Income) (10%)

Finances (30%)

- Fund Balance (% of Revenues) (10%)
- Fund Balance Trend (Five-Year Change) (5%)
- Cash Balance (% of Revenues) (10%)
- Cash Balance (Five-Year Change) (5%)

Management (20%)

- Institutional Framework (10%)
- Operating History (10%)

Economy/Tax Base (30%)

- Debt to Full Value (5%)
- Debt to Revenue (5%)
- Moody's-Adjusted Net Pension Liability (Three-Year Average) to Full Value (5%)
- Moody's-Adjusted Net Pension Liability (Three-Year Average) to Revenue (5%)

The new scorecard, plus a number of "below-the-line" adjustments (more subjective and idiosyncratic factors likely not applicable to all local governments), are and will be used as part of the Moody's rating process. Moody's increased weight of the debt/pension-related factor and subfactors has resulted in a vigorous debate between and among Moody's and market participants in Ohio. According to Moody's, statutory contributions to the various Ohio public employee pension plans have been established below actuarially sound requirements over an extended period of time. The increase in weight attached to debt and pensions "recognizes the potential for large pension liabilities to constrict a local government's financial flexibility" through the risk of increased required contributions in future years. In applying this factor and subfactors, Moody's generally allocates its calculation of the unfunded liability of an applicable pension plan to a local government in proportion to that local government's contributions to the plan.

Moody's has indicated that the reduction in weight attached to economic factors acknowledges that "some local governments are either unwilling or unable to convert the strength of their local economies into revenues. Tax caps, anti-tax sentiment, the natural lag between economic activity and its conversion into government revenues, often place obstacles between municipal governments and the income generated by their local economies, as do a variety of other factors."

Contemporaneously with the release of the updated rating methodology, Moody's issued a press release announcing that it had placed 256 local governments under review (132 for potential upgrade and 124 for potential downgrade; all 19 Ohio local governments identified were under review for potential downgrade) in conjunction with its implementation of the updated rating methodology. Beyond the 19 Ohio local governments identified as described above, Moody's continues to evaluate all Ohio local government credits it has rated through its ongoing surveillance efforts. It is recommended that you contact your public finance professionals (bond counsel, investment bankers and/or municipal/financial advisors) should you have questions concerning the effect, if any, these actions by Moody's may have on an existing Moody's rating or current or future financing efforts.

The publication "US Local Government General Obligation Debt", which describes in detail the updated rating methodology, is available from Moody's.

Recent Decisions of Interest

Quo Warranto. A petition for writ of *quo warranto* to oust an assistant mayor from the positions of acting police chief and de facto deputy chief is denied because *quo warranto* does not apply to temporary assignments and, thus, it does not apply to the position of acting chief. *Calvaruso v. Brown*, 2014-Ohio-1018 (Ohio Supreme Court).

Foreclosure Proceedings. A prosecutor may not charge a fee to recover legal costs incurred in conducting delinquent real estate tax foreclosure proceedings under Section 5721.14 or 5721.18 of the Ohio Revised Code. *2014 Op. Att'y General No. 2014-020*.

Public Records. For purposes of Section 149.43 of the Ohio Revised Code, a county auditor makes a public record available for inspection when access is provided to the public record online through the county's website. A county auditor may not charge and collect a fee for making public records available for inspection on a county website. *2014 Op. Att'y General No. 2014-009*.

Tax Levies for Ambulance Services. A county may use taxes levied for providing ambulance and/or emergency medical service (such taxes being levied under Section 5705.19(U) of the Ohio Revised Code) to pay for costs of a countywide 9-1-1 system's answering point, but the costs paid with that tax revenue must be attributable to expenses incurred by the 9-1-1 system's answering point in making ambulance and/or emergency medical service available throughout the county. *2014 Op. Att'y General No. 2014-013*.

Legislation of Interest

Substitute House Bill No. 289 (Governor signed June 5, 2014; effective immediately.) This Act terminates as of January 1, 2015 the authority of municipal corporations or of municipal corporations and townships to create or substantially amend joint economic development zones created under Revised Code Section 715.691 ("Alternative JEDZs"). For Alternative JEDZs created or substantially amended between the effective date of the Act and December 31, 2014, the Act requires the development of an economic development plan and a schedule for implementation of the plan and the establishment of a review council to review and approve the plan. The Act requires that at least 50% of any income tax generated from an Alternative JEDZ created after the Act's effective date be used for the new or expanded services or facilities that are part of the plan.

This Act also renames all joint economic development zones previously established under Revised Code Section 715.69 "municipal utility districts" (MUDs). The provisions governing MUDs are contained in new Revised Code Section 715.84.

Amended Substitute House Bill No. 492 (House passed on April 9, 2014; Senate passed May 28, 2014; House concurred June 3, 2014; awaiting Governor's action.) This Bill, among many other things, expressly authorizes municipal corporations to award job creation and job retention municipal income tax credits even if a corresponding state tax credit has not been awarded, and modifies certain State tax credit programs.

Substitute Senate Bill No. 172 (Governor signed June 5, 2014.) This Acts amends land reutilization programs and property tax foreclosure procedures to improve the efficiency and effectiveness of land banks and the tax foreclosure process used to acquire and sell vacant and abandoned properties.

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