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Bonds

Tax Bill Could Crush Private Bond Work, Deter Stadium Financing

The House could vote as early as Nov. 16 on tax reform provisions that developers say could decimate the number of future public-private infrastructure projects and could deter municipalities from investing taxpayer dollars in stadium construction or renovation.

The House GOP tax reform bill (H.R. 1) would repeal the tax-exempt status for qualified private-activity bonds, which could lead up to a 50 percent reduction in such projects and could lead to the loss of tens of thousands of low-income housing units, developers say. Another provision would eliminate a tax exemption for income earned on interest from stadium bonds that might make those projects slightly more expensive—but it might not stop cities from luring teams with promises of taxpayer-backed stadium funding.

The Council of Development Finance Agencies said a poll of its project development members found that more than half of recent infrastructure projects using private activity bonds—a market of about $84 billion—wouldn't have gone forward without the tax exemption for interest earned on the bonds. The group estimates that eliminating that exemption would increase interest rates for borrowers by 1.5 percent to 2.5 percent and increase borrowing costs for state and local governments by as much as 25 percent to 35 percent, Tim Fisher, legislative and federal affairs coordinator with the group, told Bloomberg Tax Nov. 15.

Conversely, the elimination of the tax exemption for stadium bonds would be a hit, but probably wouldn't tank current projects.

''It's a meaningful amount of money, but frankly not enough to jeopardize the project going forward,'' Las Vegas Stadium Authority Chairman Steve Hill said at a Nov. 9 authority meeting. The group is going to borrow about $700 million to lure the Raiders away from San Diego to a new stadium in Sin City, and is backing up the project with an increase in the hotel tax.

Neither of the House exemption-elimination provisions are in the latest Senate proposal.

Bond Change Potentially 'Devastating' Private activity bonds are issued by state or local governments and loaned to private companies to finance qualified projects. The bonds are most commonly used for the construction of affordable multifamily housing, but also for hospitals and infrastructure projects such as roads and bridges

Eliminating the exemption on the private-activity bonds used for construction, transportation, and water infrastructure projects in which a private entity either owns, manages, or leases the project would earn the federal government about $38.9 billion over the next decade, according to a Joint Committee on Taxation report. But developers and politicians argued that the negative effects to public-private development—such as low-income housing and nonprofit education and medical projects—would be ''devastating'' for local government.

Analysis by J.P. Morgan showed that municipal markets have rallied on expectations that several provisions in the House or Senate bills could reduce issuing of municipal bonds between 15 to 30 percent next year.

Fisher told Bloomberg Tax he anticipates that if the House bill becomes law, there will be a rush to issue bonds before the exemption is eliminated and then a large decrease as municipalities and private investors pare back or become more selective with projects that made up 19 percent of the municipal bond market in 2016.

Low-Income Housing Projects Rep. David Price (D-N.C.) decried the provision in testimony last week, saying eliminating the exemption would cost his state more than 6,200 units of affordable housing.

''If Republicans get their way, these projects would die on the vine,'' he said in testimony Nov. 9. ''At a time when funding for infrastructure is repeatedly squeezed, the last thing we should do is push through a plan that would hamstring our local governments and destroy our ability to leverage private investment.''

''By eliminating Private Activity Bonds, the ability of communities around the country to finance critical healthcare, infrastructure and affordable housing projects will be eliminated, as governments and project sponsors will be forced to borrow at higher interest rates,'' Jon Penkower, managing director of the California Statewide Communities Development Authority, told Bloomberg Tax in an email Nov. 14. ''According to Novogradac & Co. (using National Association of Home Builders formulas), the elimination of private activity bonds and therefore 4 percent Housing Credits would cost California $2.2 billion in federally catalyzed investments annually and lead to the loss of 20,000 affordable homes annually.''

But eliminating the exemption might bring more fairness to the economy and lessen taxpayer burdens. Most of the owners of projects funded through private-activity bonds have the way to capture through fees or other charges—such as tolls, rent, or hospital bills—the increased cost of the debt, a Congressional Budget Of-

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fice analysis found. The change might also force non-profits to be more selective and operate more efficiently.

Fisher disagreed, saying that the economic hit to construction jobs and government services would be ''orders of magnitude bigger'' than the revenue the federal government will gain.

''Private activity bonds are really the core of what state and local governments do. They're the bedrock tools of development,'' he said. ''It's just going to be a huge impact.''

California Reaction California, the most populous state, is eligible to use the greatest amount of public-activity bonds. Last week, a group of state lawmakers sent a letter to House Majority Leader Kevin McCarthy (R-Calif.) and Minority Leader Nancy Pelosi (D-Calif.) in part to urge them to fight for the exemption.

''Eliminating the tax-exempt private activity bond program and the 4% low-income housing tax credits that go with them undercuts the bipartisan affordable housing package the Legislature passed this year,'' the letter said.

California's Infrastructure and Economic Development Bank has issued private activity-bonds in support of museums, schools, performing arts centers, charitable organizations, and research institutes throughout the state, according to a Nov. 9 letter to the state's congressional delegation from Michael Cohen, director of the state's Department of Finance. The bonds are used to help around 1,000 veterans buy homes every year in the state, Cohen said.

Stadium Bond Tweak Meanwhile, although the House bill could make it more expensive for municipalities to lure professional sports teams, it might not be a large enough stick to dissuade the current practice of luring a franchise with tax-backed assistance.

Hill said the House bill's tweak would increase costs of developing the new Raiders stadium about $3 million annually because the interest rate difference between the current tax-exempt bonds and taxed bonds was about .5 percent. An increased hotel tax is projected to bring in about $50 million annually to pay down the stadium's $700 million in bond debt and help with ancillary development.

According to Bloomberg Terminal data, there are currently 627 outstanding municipal bonds for stadium construction or renovation totaling about $8.56 billion of debt. Government entities in New York, Florida, and Texas have issued about $5.83 billion of that. America's largest major-league sports organizations either declined to comment or didn't respond to requests for comment. However, the Wall Street Journal reported that the National Football League is going to lobby against the House bill's provision.

Analysis by the Joint Committee on Taxation says eliminating the exemption would increase revenue by about $200 million over the next decade. However, an analysis by the Brookings Institution says the exemption has cost the federal government $3.7 billion since 2000.

The practice of luring teams with financial assistance is still going strong. This year Nashville pledged to issue between $200 million and $225 million in bonds to erect a soccer stadium in hopes of netting a Major League Soccer expansion team. FC Cincinnati is also currently in talks with Hamilton County, Ohio officials and seeking about $100 million to create a new facility.

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