

THE BOND BUYER

House infrastructure bill set to pass, partisan challenge ahead in Senate

By

Sarah Wynn

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The House is poised to pass along party lines a major infrastructure package which includes a new series of taxable direct-pay bonds and a restoration of tax-exempt advance refunding, though the partisanship of that process may make it difficult to forge an infrastructure bill in the Senate.

The expected passage late Wednesday comes as Sens. Debbie Stabenow, D-Mich., and Roger Wicker, R-Miss., introduced a bipartisan bill to bring back tax-exempt advance refunding, called the Lifting Our Communities through Advance Liquidity for Infrastructure Act.

Municipal bond groups supported passage of the \$1.5 trillion dollar infrastructure package, known as the Moving Forward Act, or H.R. 2.



*Rep. Peter DeFazio, D-Ore., and chair of the House Transportation and Infrastructure Committee introduced a surface transportation bill, which was folded into a larger House Democrat bill called the Moving Forward Act. That larger bill is expected to pass this afternoon. **Bloomberg News***

In a letter sent Tuesday to House Speaker Nancy Pelosi and House Minority Leader Kevin McCarthy, the Public Finance Network said it strongly supported the bill with its inclusion of tax-exempt muni bond provisions. Those provisions include the reinstatement of tax-exempt advance refundings, an increase in the bank-qualified bond cap to \$30 million from \$10 million and a new kind of direct-pay bond that carries a federal 42% subsidy.

“State and local governments rely on tax-exempt municipal bonds to finance long-term capital investments because they are well-tested and trusted financing vehicles which allow the private sector to provide upfront capital for projects the cost of which is repaid overtime by state and local residents,” the Public Finance Network wrote.

“In the last decade alone, tax-exempt municipal bonds financed roughly \$2.3 trillion in new capital investments,” the letter added.

The Bond Dealers of America sent a separate letter to House leadership Wednesday morning, supporting the Modernizing Agricultural and Manufacturing Bonds Act, which was included in H.R. 2. That bill expands the use of tax-exempt private activity bonds to finance the small to mid-sized manufacturing and agricultural sectors. BDA specifically targeted industrial development bonds and aggie bonds.

IDBs are an important economic development tool for states and localities, BDA said.

Separately, the LOCAL Infrastructure Act introduced by Stabenow and Wicker to bring back tax-exempt advance refunding is a recognition that state and local governments depend now more than ever on affordable financing during the pandemic, said Emily Brock, director of the Government Finance Officers Association’s federal liaison center.

“The senators themselves are arming state and local governments with the tools that they can use to meet the needs of the demanding times we have ahead,” Brock said.

In a letter sent to the rest of the Senate, Wicker and Stabenow said the repeal of advance refunding, which was done as part of the Tax Cuts and Jobs Act of 2017, has limited state and local governments to using finance tools that pose higher risks or are more expensive.

“These alternative methods are not suitable given the greater uncertainty municipalities now face on account of COVID-19,” the senators wrote. “Local

governments should be able to use advance refunding to save and reinvest much-needed capital for essential infrastructure projects.”

BDA said the advance refunding bill will provide cost savings, which are more important than ever due to COVID-19.

“Now with issuers facing extreme fiscal pressures due to the virus crisis, it's more important than ever to provide opportunities for cost savings,” said Mike Nicholas, BDA CEO. “With the House likely to approve an advance refunding measure this week as part of the highway bill, we are hopeful that momentum for this issue will continue to grow.”

The Securities Industry and Financial Markets Association said the LOCAL Infrastructure Act was particularly welcome now as states and local governments face unprecedented expenses due to COVID-19.

“This bipartisan, timely legislation reinstates advance refunding, which is a critical tool to help state and local governments lower their interest costs to more easily finance their infrastructure needs, such as schools, roads, and hospitals,” wrote Kenneth Bentsen, SIFMA president and CEO.

July will be a busy month for Congress and Brock said she expects the Senate to address an infrastructure bill and another possible stimulus bill. Senate Majority Leader Mitch McConnell has said that it would be Congress' last stimulus bill, according to multiple news reports.

“The Senate has been kind of sitting and ensuring that they saw the CARES Act had been implemented, but they have been watching market activity the whole time,” Brock said. These guys have been at work since CARES dropped.”

In an ominous sign for the hopes of a bipartisan way forward on infrastructure, Senate Republicans criticized the House's infrastructure bill as a road to nowhere, saying House Democrats cut their Republican counterparts out of the process to write a partisan bill.

Sen. John Barrasso, R-Wyo., chair of the Senate Environment Public Works Committee introduced a surface transportation reauthorization bill last year, which was approved unanimously by his committee.

Barrasso called H.R. 2 a sharp contrast to his bill during an EPW hearing Wednesday.

“Democrats in the House – on the other hand – put up a partisan stop sign,” Barrasso said.

State Departments of Transportation officials who depend on federal funding are still hopeful that a compromise infrastructure bill could pass soon.

“We’re hopeful that the Senate and the House will come together and still try to get a bipartisan transportation bill done this summer,” said Jim Tymon, executive director of the American Association of State Highway and Transportation Officials. “The federal surface transportation systems expire at the end of the fiscal year in September and we think it’s imperative that they find a way to work together in a bipartisan manner to get those programs reauthorized before the end of the fiscal year.”

Transportation advocates have been disappointed in the partisan approach to an infrastructure bill. The House’s approach doesn’t incentivize the Senate to get their own infrastructure bill done, Tymon said

“We fully understand the priorities that the House is bringing to the table, but by not working in a bipartisan manner, the way that the Senate did,” Tymon said. “They’ve got this massive \$1.5 trillion dollar bill that just isn’t really going to match up really well with what the Senate has. I’m just not sure they see it as an apples to apples way of negotiating out a compromise bill.”

The Senate Committee on Commerce, Science and Transportation and the Senate Committee on Finance are working on the frameworks for bills that would include safety, public transportation and rail, Tymon said.

“They can pull this together pretty quickly if they really want to bring something to the Senate floor this summer,” Tymon said. “I have confidence that they will be able to do that in a bipartisan manner, very similar to the way that the Senate Environment and Public Works Committee did last summer.”

Some sources say it is more likely that the existing funding law will just get extended in September. That act expires on Sept. 30.

“I don’t see an easy path to resolve these really profound differences between where the Senate wants to go and where the House wants to go before Sept. 30,” said Marc Scribner, a senior transportation policy analyst at the Reason Foundation. “There are far too many differences for that to be a likely outcome.”

Republicans have criticized the House bill's focus on environmental protections that GOP lawmakers have characterized as "red tape," and for emphasizing mass transit funding at a time when transit systems have become less popular due to the pandemic.

There has not been agreement on what infrastructure investment should look like, Scribner said.

As election season approaches, Scribner said there will not be a lot of interest to push prospects of an infrastructure bill up to the fall when members will be campaigning.

Adie Tomer, fellow at the Brookings Institution said the House is ready with its bill, while the Senate is lagging behind.

If the Senate comes out with its own infrastructure package and the House and Senate go into conference to come out with one comprehensive bill, there will be stark differences, Tomer said.

[Sarah Wynn](#) Reporter [twitter](#)