

PROPOSED LEGISLATION TO AID LOCAL GOVERNMENTS AND SCHOOLS IN THE WAKE OF COVID-19

Hodgson Russ Bond Counsel Alert
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It is without question that the impacts of the COVID-19 pandemic are being felt worldwide. Although not on the frontlines of battling the COVID-19 pandemic, Hodgson Russ lawyers are seeing firsthand the fiscal impact it is having on our clients, and we are quickly mobilizing to anticipate and minimize the effects and plan for the post-pandemic future.

Local governments, school districts, fire districts and boards of cooperative educational services (“BOCES”) throughout New York State are financially impacted by the pandemic. Such entities are expected to suffer substantial revenue declines, with state aid, sales tax revenue and tourism substantially decreased. At the same time, there may well be extraordinary and unexpected expenses that these entities will need to bear. In order to continue to fund critical public services and maintain infrastructure while the economy recovers, swift legislative action is required.

We at Hodgson Russ, in conjunction with bond counsel attorneys from the leading firms statewide that practice in the governmental obligations arena, have collaborated closely over the past few weeks to strategize and advocate on behalf of our clients. Together, we have worked diligently to draft legislation that would amend the Local Finance Law in order to give some much-needed flexibility to municipalities and school districts as they deal with the effects of the pandemic.

Why the Proposed Legislation?

Economic activity has been drastically reduced as a result of the efforts being taken to slow the spread of the virus, keep citizens safe, and conserve public health resources. Local governments throughout the state have suffered, and stand to suffer, dramatic declines in sales tax, state aid and other revenues. In order to position themselves to successfully rebound from the pandemic, and to continue to provide services to the public and to support critical infrastructure in the meantime, there is an immediate need to amend the Local Finance Law to provide these entities greater flexibility to finance anticipated budget deficits.

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Under current law, a municipality, school district or district corporation is authorized to issue a deficiency note in an amount not to exceed five percent (5%) of the annual budget of such entity. A BOCES is not authorized to issue deficiency notes for any reason. Once a deficiency note is issued, it must be redeemed in full with a budgetary appropriation in the following year.

These limitations preclude these public entities from adequately dealing with the projected revenue shortfalls, additional expenses and resulting budget deficits that are being created by the unprecedented COVID-19 crisis. We believe the proposed legislation will enable these entities to best face and manage the uncertain times ahead.

Details of the Proposed Legislation

The aim of the legislation is to amend and enhance existing law to authorize the issuance of certain obligations by municipalities, school districts, fire districts and BOCES to provide both short-term financing for the substantial revenue shortfalls faced by these entities, as well as address a long-term solution that will permit such entities to amortize their deficits over a period of years.

The bill seeks to enhance and amend specific provisions of Sections 29.20 and 41.10 of the Local Finance Law. In doing so, it incorporates some approaches from previous legislative measures that were responsive to financial emergencies. If adopted by the New York State Legislature and signed by the Governor, the legislation would authorize the issuance of a greater amount of deficiency notes to cover deficits resulting from any unforeseeable public emergency, such as an epidemic. It would also allow for the eventual issuance of long-term bonds for the purpose of liquidating such deficits.

Prior to the issuance of any notes, the amount of any deficiency notes to be issued will be determined by the finance board and certified by the chief fiscal officer of the municipality, school district, district corporation or BOCES. In addition, the proposed legislation will authorize such entities to renew deficiency notes for a period of five (5) years, redeem such notes as soon as adequate resources are available, or liquidate budget deficits through the issuance of long-term bonds. The ability to issue renewal notes and/or bonds is expected to enhance the marketability of deficiency notes and will allow additional time for these public entities to receive potential state and federal aid to help address the COVID-19 crisis.

It will be important for local issuers, and their industry groups, to lobby for the passage of this legislation. We are initiating these efforts and will keep you posted.

For the full text of the proposed bill, along with a memorandum in support, please click [here](#).

If you have any questions, please call John A. Alessi (716.848.1567), Christopher C. Canada (518.736.2921), A. Joseph Scott, III (518.433.2419) or Jeffrey W. Stone (716.848.1327).

Please check our Coronavirus Resource Center and our CARES Act page to access information related to both of these rapidly evolving topics.

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