In The Matter Of:

Hearing

Public Finance Management Board Public Hearing

September 12, 2016

STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
PUBLIC FINANCE MANAGEMENT BOARD

PROCEEDING AT HEARING :
:
IN RE: :
:
Public Finance Management Board's :
(PFMB) proposed technical updates :
to its rules and regulations :

DATE: September 12, 2016
TIME: 1:30 p.m.
PLACE: ERSRI
50 Service Avenue
Warwick, RI 02886

BEFORE:

Amy L. Crane, Esq.

Francis J. Quinn

Karl D. Landgraf

Kelly J. Rogers

E-X-H-I-B-I-T-S

NO.	DESCRIPTION	PAGE
EXHIBIT 1	September 12, 2016, letter from Robert Donovan, to Treasurer Magaziner (3pgs) .	18
EXHIBIT 2	Testimony on proposed rule making by Peder A. Schaefer (1pg)	18

(HEARING COMMENCED AT 1:30 P.M.)

MS. CRANE: So, welcome, everyone. We're here for the public hearing related to the comments, the proposed regs on the Public Finance Management Board. To the extent that you have written comments only, you can come on up and identify yourself. We did receive comments prior, so I think to the extent you're not sure that we received them you can double-check with one of us after. But I think everyone that was here we have received some correspondence.

So, for purposes of just organizing, we're just going to call in the order in which you've signed in. So, as long as you've signed in, the first person we have is Bob Donovan.

MR. DONOVAN: And I do have some additional written comments.

MS. CRANE: Great. When you come up -- yeah, you can feel free to sit up here. Identify who you are, what entity you're here on behalf of. Everything is going be recorded. Everything is going to be taken down by the stenographer. And then, everything that is discussed here will be submitted to the PFMB board for consideration and during their comments.

We are representatives of the PFMB staff. We do have one member from the PFMB board present. This is an opportunity for you guys to say what you like about our rules, what you don't like about the rules. If there are question, we won't be able to answer them, but to the extent that you think the rules or regs can be clarified in some way, please feel free to point that out, as well.

So, if that makes sense to everyone, Mr. Donovan, you're welcome to provide your comments.

MR. DONOVAN: Okay. Thank you. My name's Bob Donovan. I'm the executive director of Rhode Island Health and Educational Building Corporation. And we are a conduit issuer of debt for nonprofit health and educational institutions, as well as for cities and towns, public school projects.

In looking at the proposed changes to the regs, you know, there are a couple of areas that we're somewhat concerned about, in terms that they don't really reflect the nature of a conduit issuer. And while the original creation of the PFMB board was initially in '86 to allocate specific types of tax bonds, tax-free bonds to various purposes, nonprofit health care, nonprofit institutions, types of bonds were never under the federal allocation guidelines.

So, the PFMB never had any dealings with the agency in terms of allocation of any of the types of bonds it does for nonprofits.

Going forward, I mean, just looking at some of the regulations, I think it's mostly the reporting, and also the fee changes. Obviously, we applaud the PFMB for its efforts to provide more transparency and access to information to taxpayers for the debt that they support. And with that, let me just go into our concerns about the reporting.

As I said, we're a conduit issuer for nonprofit debt. This nonprofit debt has no impact, whatsoever, no taxpayer liability, state liability, whatsoever. And so, in terms of the reporting requirements, it's more of a consideration for the PFMB, is that, basically, as most other states do, the exclusion of reporting on our debt for any types of debt management purposes, limits, debt capacity for the state, we're really encouraging you to consider. Because Massachusetts, Connecticut, our type of debt for the nonprofits is excluded from their debt reports. And we're, you know, hopeful the board considers that type of consideration in this regard.

Now, in terms of the non -- the bond issues that we issue for the cities and towns for their school projects, our concern is that we don't want to see some double counting. Because what we do, and what most cities and towns do, we'll have some type of direct placement bond with us, which technically shows up on theirs. And then, when we issue the bond, which mirrors the bonds that they issue us, our debt would also be. So, what we're asking for is much like they did, the legislature did when they did the Public Corporation Debt Management Act, is basically they exclude our debt for 501(c)(3) purposes.

And what I'm also asking is the same kind of consideration be given for the city and town bonds, either be excluded from us as an entity or be excluded from them as an entity. Because, just as a point of clarification, because conduit debt is a little unusual. It's not something that you typically see in these types of reports. And it does get confusing to some extent.

So, that's basically what we're looking at in terms of the reporting considerations. And we also thought it would be helpful if you could give some clarifying definitions. You have a term in there for "financing lease," and it's not clear, either in the statute or in the rules and regulations, what exactly you mean by that. Some of our financing is leased debt, but some of it, you know, that apply to us as an entity when we lease something, or things along those types of lines. So, it would be helpful to get some clarification along those lines of some of the definitions that are included.

In terms of the fees, I mean, in looking at some of the past reports over the last five years, I mean, obviously RIHEBC is one of the largest contributors to PFMB fees, and it's mostly for our 501(c)(3) bond issuer, even though the services, and such, there's no allocation, and such is limited.

However, the inclusion of refunding bonds, that is a question we're really not saying the justification for, considering that these nonprofits are already paid a fee once. And let's clarify, even though the statute says that the underwriter is paying these fees, these fees are actually coming out of bond proceeds from the issuer. So, the issuer is really paying these fees, to make it perfectly clear.

So, what we're saying is that even with some of these smaller nonprofits that we do, I mean, some of the fees associated with the bond issuer are paid out of pocket by them. So, while we're trying to save them money, like a small nonprofit mental health center, or something, community health center, they're already paying fees out of pocket which they could use for other services. What we're saying is to do it, because we're doing a refunding for them where they've already paid for that service once then they're going to have to take it out of their own pocket again, seems a little unfair in terms of the nonprofits.

And I think in terms of the cities and towns, as I said, we do the public school bonds for the cities and towns. Now, where there was a mistake in your analysis in terms of the impact to these fees, the statement that there would be no impact on the general revenues of the state is incorrect. I say that because, first of all, as I said, these fees are paid from bond proceeds. And so, every fee that gets paid to the PFMB by the underwriter is charged to the issuer and is paid out of bond proceeds.

So, not only is this fee being paid out of bond proceeds of the issuer, that fee also has an interest rate because its bond proceeds associates with it. So, basically, what's happening on the school issues for the cities and towns is that they are paying this fee plus interest. I mean, that's the true cost to them. And it's just not that, you know, idealized fee from the underwriter, because that doesn't really exist.

Now, in our case, when we're doing housing aid, all of the school projects receive housing aid from the state. For example, and in my letter I used the City of Providence. The City of Providence on their debt service receives 80 percent aid from the state. So, in other words, the state is actually paying 80 percent of the PFMB fee as it stands now if they were to be included in this having to pay a fee on these bonds. And with that, when you add in the interest, which also the state pays 80 percent of, it's actually a net loss to the state to pay this PFMB fee. And since there's no longer a restrictive receipt account and this is all general revenues, I mean, basically the state is paying itself with a credit card, which doesn't make fiscal sense from our standpoint.

So, what we're asking for is not only what we do for the refunding for these cities and towns, but also even the fees that we pay, which I noticed we do, because it's not clear in the regulations, still pay a fee even when we issue bonds for the cities and towns. Which is an arguable, I guess, thing. We're asking for clarification on to that to really exempt these fees. Because in effect, the state is picking up, and most cities and towns get over 60 percent reimbursement in this housing aid, so the state is actually losing money on this PFMB fee, which would be much more fiscally prudent for the state to simply allocate, probate the funds as it does now for these specific purposes, as opposed to this fee going back to the general revenues and then the General Assembly reallocating these fees back to the treasurer's office for these particular purposes.

So, I think we just -- we're asking for some consideration to be given to clarifying these points. I mean, I think it's also the type of thing that, much like the reporting requirement, as I said, when we pay, we do a bond issue for the city or town, we receive a bond from them. The way the statute, the regulations are proposed, we would pay a fee on the bonds we bought from the city or town, and then we would also pay a fee on the bond issuer that we paid. So, we're actually paying twice for the same financing.

So, not only are we asking that elimination, but even just us paying any fee, whatsoever, when it relates to these city and town school bonds is we're asking to be exempted.

And definitely the refundings, again, when we do a refunding, the state is saving money because they share -- in Providence's case, they will share 80 percent of the savings that we generate from refunding a Providence bond issue. So, it doesn't make any sense to diminish that by having a fee that is just going to go to themselves, anyway. So, those are any comments in terms of the proposed fees.

MS. CRANE: Thank you.

MR. DONOVAN: Thank you.

MS. CRANE: I believe I have a Mr. Vernon Wyman from URI.

MR. WYMAN: Vernon Wyman. I'm assistant to the vice president for business services. I have been working in various capacities at the university for approximately 39 years now, and I was part of the first team that looked at and executed a revenue bond financing transaction through, at that time, our board of governors for higher education on behalf of the university and its projects.

And that broke some ground, because up until that time, principally, the revenue bond financing that benefitted the construction projects, of which there have been an extensive number at the university and in the higher ed system, had been primarily through state general obligation bonds or bonds issued by the governing authority at that time. Those were done in a very traditional fashion appearing before the voters, even though the pledge of revenues was for auxiliary operations.

And I think that's an important distinction, University of Rhode Island, while we do benefit from general fund proceeds from the State of Rhode Island, and we do receive the benefit of state general obligation bond financing on behalf of the capital assets that we either renovate or construct, that when we turn to the revenue bond market our source of funds is exclusive to non-appropriated dollars, which fall, really, into two categories, primarily through tuition and fee revenue generated by our broad spectrum of students attending the institution. And then when you look at what are called the auxiliary operation, things like housing, dining, Memorial Union, those entities are required by statute to be self-supporting, and, therefore -- unless amended by legislation. And therefore, they are pledging the revenues derived from fees paid by students living in those housing facilities electing to take the dining program at the university, and being on campus in the case of the student union, which all students support.

So, these revenues are, in fact, kept separate and apart, and directly bear upon the cost of attendance at the institutions. And I can say that since -- for the past 27 years we have approached and benefitted from work by the Rhode Island Health and Educational

Building Corporation to support, essentially, almost all of our auxiliary projects, and many projects for things like paving, for construction of modest academic buildings, pledging those tuition and fee revenues.

In addition to being responsible for the transactions, I also have a role in the financial administration and finance portion of the university to oversee the status of our outstanding bond transactions, to communicate with the controller's office, to participate annually on the status of our debt. And through that process, we are already providing an annual reporting and accounting of all of our activity.

We're also monitoring and looking for opportunities to refinance. And I have -- in my role, I have been here since the so-called Kushner or public finance Debt Management Act was passed, and I know since its inception that there has been an encouragement of the agencies to look at every opportunity to refinance, where, again, it can affect, directly, the cost of attendance at the institution and the budget pressures that we experience from time to time with economic changes and everything else.

And we happen to be poised at this time with a fairly substantial refinancing opportunity with favorable market conditions. So, in fact, if the fees that have not been -- that have been exempted from such transactions in the past are reintroduced now, we may well be the first transaction that is -- will have to pay this fee, again, principal plus interest over time on close to a hundred million dollars worth of outstanding indebtedment, so a substantial portion of all of our collective debt outstanding with Rhode Island Health and Educational Building Corporation.

One other aspect that I would appreciate some clarification, as well, is I know that this -- these regulation changes include an annual reporting requirement. And I presume that will apply to the -- to our governing council with input from each of the institutions. But I'm curious how that information will be utilized, in that the council is the approval point along with the executive and legislative branches when we seek to pursue new financing.

And we do gain the approvals of all of those entities before proceeding, and we have the burden of developing the business plans necessary to confirm the performance of the project we're going to develop, say, an apartment facility, to really understand how it's going to work in the context of our business plans, et cetera, already. And I'm just not clear on exactly what role the reporting here and/or the further indication of debt-carrying capacity analyses that might be conducted, and exactly how that will affect our approval processes, which generally are an annual -- something we would gear up for in a budget submission year, and not really know the outcome of until June of that year before we are -- have the clearance to approach RIHEBC and begin the process of bond issuance.

So I thought -- I'm here primarily to speak on behalf of those who are really on the receiving end and on the management end of the bond financing process, particularly that which is, again, in the case of -- kind of the unique case of the Council on Postsecondary Education right now is one in which the revenues derived by our students are the principal, and in some cases the exclusive source of funds for purposes of paying for debt service on these bonds.

MR. QUINN: Thank you.

MS. CRANE: I have a Mr. Peder Schaefer on behalf of the League.

MR. SCHAEFER: Good afternoon. Peter Schaefer, associate director of Rhode Island League of Cities and Towns. And you're in receipt of a letter from Mayor Grebien dated August 29th. He's the mayor that would increase our burden of reporting or add additional cost to our borrowings. We are also opposed to penalties. As has been pointed out, the issuance of debt involves many different people and organizations, and the timing is crucial for rates. The lead up to the issuance can be time consuming and time sensitive. We are not aware of any issues that have caused a need for changes in the process."

Lastly, in 2006 the League was a participant in the passage of what was commonly known as 3050 which instituted significant changes in the tax cap. Dan Beardsley, who is here, and the board were instrumental in having included in the final act language that expanded the definition and application of state mandates.

I refer you to 45-13-7 and 45-13-9.1 of the General Laws. 45-13-9.1 reads in part, any rule, regulation or policy adapted by state departments, agencies, or quasi departments or agencies which require any new expenditure of money or increased expenditure of money by a city, town, or school district shall take effect on July 1 of the calendar year following the year of adoption.

We will be discussing with our board at our September meeting whether we want to contest execution of my new rules by the PFMB based upon reliance of this language contained in the General Laws of the state. Thank you.

MS. CRANE: Did you have any additional written comments that you --

MR. SCHAEFER: Yes. I can distribute these to the secretary.

MS. CRANE: Sure. That's fine. Was there anyone else wishing to speak who didn't get a chance to maybe sign up to speak? Was there any written comments that anyone would like to submit that hasn't already?

Okay. Well, it appears that this will conclude the public comment period for the proposed regulations for the PFMB meeting. Everything that was stated here today and submitted here today will be brought to the full board for consideration prior to adopting any final rule or regulations. And we thank you, all, for coming. And if there's any questions after about the process, we'd be happy to try to fill you in. Thank you.

EXHIBITS 1 AND 2 MARKED

(HEARING CONCLUDED AT 1:53 P.M.)

C-E-R-T-I-F-I-C-A-T-E

I, Tammi Burnham, RPR, CRR, Notary Public, do hereby certify that I reported in shorthand the foregoing proceedings, and that the foregoing transcript contains a true, accurate, and complete record of the proceedings at the above-entitled hearing.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 19th day of September, 2016.

Tammi Burnham
Notary Public

Tammi Burnham, RPR, CRR, Notary Public

MY COMMISSION EXPIRES: November 26, 2016

IN RE: Public Finance Management Board's (PFMB) proposed technical updates to its rules and regulations

DATE: September 12, 2016

WORD INDEX

Rhode Island
Health and Educational
Building Corporation

September 12, 2016

The Honorable Seth Magaziner
General Treasurer and Chair of the Public Finance Management Board
Office of the Rhode Island General Treasurer
50 Service Avenue, 2nd Floor
Warwick, RI 02886

Re: Proposed Changes to PFMB Regulations

Dear Treasurer Magaziner,

Thank you for the opportunity to provide comments on the proposed revisions to the Rules and Regulations of the Public Finance Management Board (PFMB) and also for the opportunity to compliment the PFMB on its efforts to bring greater transparency and understanding about state and local debt to the taxpayer.

As you may be aware, the Rhode Island Health and Educational Building Corporation (RIHEBC) is the issuer of conduit debt for nonprofit health and educational institutions as well as cities and towns for their public school projects. Over its 50 year history it has provided over $7 billion in financing to these institutions and communities and currently oversees over $3.6 billion in financing and is ranked the largest issuer in the state.

In reviewing the proposed changes to the Rules and Regulations as well as Article 2 of the State Budget on which the changes were based, it is clear that the intent is to have a better database of taxpayer supported debt in order to make informed decisions. It is also clear that another intent was to have a resource for issuers who infrequently access the public finance market to receive advice.

Therefore, based on its review, RIHEBC would like to offer the following comments on the reporting and fee changes contained in the proposed Rules and Regulations.

Reporting: Regulations 9 and 13

In terms of the reports compiled by the PFMB Regulation 9 and Regulation 13, since debt issued by RIHEBC on behalf of the nonprofits has no financial obligation for the state or impact on taxpayer debt burden, it should be excluded. This will prevent the possible distortion or misinterpretation of the State's debt burden and will be consistent with what other states like Massachusetts and Connecticut include in their reports.

Also, the conduit debt issued by RIHEBC on behalf of the cities and towns should either be excluded for RIHEBC or for the cities and towns since it could result in double counting the debt. This is because the bonds issued by RIHEBC are supported by bonds issued from the cities and towns and purchased by RIHEBC. By eliminating one of the bonds from the reporting requirement, the problem will be resolved.

RIHEBC would also like to request the PFMB to include a clarification on its intent concerning leases, since without it leases could include either operating or capital leases.

Fees: Regulation 10

Regarding the proposed changes to the fees and the analysis associated with them, RIHEBC believes that the changes should be reconsidered.

In a review of the PFMB's Summary of Debt Issuance Report for the past several years, RIHEBC is the major contributor of fees to the PFMB due to its debt issued on behalf of the nonprofit institutions. As we previously stated, the debt does not have any fiscal impact or liability for the state, nor does it require any allocation of debt under Section 42-10.1-3 or receive any services related to the debt as mentioned in section 42-10.1-5 of the General Laws.

The PFMB fees for all intents and purposes are paid by the issuer from bond proceeds and the true cost is not only the fee amount but also the interest expense for the term of the financing. Some of RIHEBC's financings are for small nonprofit institutions which already pay expenses out of pocket. It therefore places a greater burden on these borrowers to have to pay another fee related to refunding a prior bond issue when the purpose is to save money. Any additional fee for a small nonprofit is not negligible as stated in the PFMB analysis.

In terms of the inclusion of debt from cities and towns, RIHEBC has several comments on their inclusion. As the issuers of debt on behalf of cities and towns for school projects, RIHEBC purchases bonds from the community. As proposed, RIHEBC would need to pay a fee on this purchased bond and again when the RIHEBC bonds are issued thereby having fees paid twice for the same financing.

It is recommended similar to the Reporting recommendations that either the city or town bond be exempted or RIHEBC's bond be exempted from paying a fee.

Similar to its concern about subjecting refunding bonds of nonprofits to a PFMB fee, the inclusion of refunding bonds of cities and towns not only decreases the savings to them, but to the state as well

RIHEBC also believes that the conclusion in the analysis that these fees don't place a burden on general revenue, especially as it relates to RIHEBC bonds for communities, is incorrect. Cities and towns receive aid from the State ranging from 30% to 80% to defray the cost of financing school projects. Since the PFMB fee comes from bond proceeds the State, for example, would pay 80% of the fee on a Providence bond issue, plus 80% of the interest associated with that amount. In this case the General Fund would be negatively impacted because the payment it receives is less than it will pay over time on the aid of the community.

In order to eliminate the negative impact on the State's general revenue, not only should cities and town bonds which receive such aid be exempted but also bonds of conduit issuers, like RIHEBC, should be exempt.

Thank you for your consideration of these comments on the proposed changes and should you and your staff require additional information, please let me know.

Sincerely,

Robert Donovan
Executive Director

Rhode Island Health And Educational Building Corporation
55 Dorrance Street, Suite 300, Providence, RI 02903 401-831-3770 Fax 401-421-3910

Testimony –Proposed Rule Making – Public Finance Management Board

September 12, 2016

RI League of Cities and Towns

You are in receipt of Mayor Grebien's letter dated August 29.

The essential points made in that letter are that:

- The term "leases" needs to be more clearly defined.
- The sale date reporting requirement may tie the hands of cities and towns from taking advantage of market timing.
- Fines are unnecessary.
- The application of the fee to refunding issues is two bites at the apple and could prevent execution of a refunding by reducing savings below standard thresholds.
- The fees collected go to the General Fund, not the PFMB.
- There is no evidence that city and town debt has been a "problem".

We received the following communication from the Newport Finance Director, Laura Sitrin

The City of Newport probably issues as much debt as anyone in the State except for NBC. Our debt is primarily water and sewer through RIIB. We are opposed to any changes that would increase our burden of reporting, or add additional cost to our borrowings. We are also opposed to penalties. As has been pointed out, the issuance of debt involves many different people and organizations, and the timing is crucial for rates. The lead up to the issuance can be time consuming and time sensitive. We are not aware of any issues that have caused the need for changes in the process.

Lastly, in 2006, the League was a participant in the passage of what is commonly known as 3050 which instituted significant changes in the tax cap. Dan and the Board were instrumental in having included in the final act, language that expanded the definition and application of state mandates. I refer you to 45-13-7 and 45-13-9.1 of the General Laws. 45-13-9.1 reads in part:

"Any rule, regulation or policy adopted by state departments, agencies or quasi-state departments or agencies which require any new expenditure of money or increased expenditure of money by a city, town, or school district shall take effect on July 1 of the calendar year following the year of adoption."

We will be discussing with our Board at our September meeting whether we want to contest execution of any new rules by the PFMB based upon reliance of this language contained in the General Laws of the state.

Peder A. Schaefer, Associate Director

PENGAD 800-631-6989

EXHIBIT

2

9-12-16