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ResearchReport

Bonding Processes in Other States

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Issue

Provide a brief overview of the general obligation (GO) bond authorization and allocation process in the New England states and New York (i.e., selected states). Are there any significant differences in the types of projects for which these states issue GO bonds as compared with Connecticut?

Which states have a board or commission comparable to Connecticut's that gives final approval to bond-funded projects and bond issuances?

Summary

The GO bond authorization and allocation process differs across the selected states. Each state requires the legislature to authorize bonds for specific projects or purposes, but two require a supermajority of the legislature to do so (Maine and Massachusetts), and three require voters to subsequently approve the bonds (Maine, New York, and Rhode Island).

Following legislative (and voter) approval of the bonds, the states take slightly different approaches to approving the timing of bond spending and issuances. In three of the states (Maine, Massachusetts, and Rhode Island), the governor controls this part of the process. In New York, the legislature and governor determine GO bond allocations through the state budget process. In New Hampshire, bonds must be approved by the governor and the executive council before the state treasurer may issue them. In Vermont, the state treasurer may issue and sell the bonds with the governor's approval. Connecticut is the only state among the selected states that requires a state bond commission to issue the final approvals.

With a few exceptions, the selected states generally issue GO bonds for the same categories of projects as Connecticut. These includes environment, education, higher education, economic development, and state office building projects. New York, however, finances nearly all of its bond-funded capital projects with revenue bonds issued on behalf of the state through public authorities (e.g., personal income tax and sales tax revenue bonds). Massachusetts also differs in that it funds school construction projects with revenue bonds secured by a 1% state sales tax. Vermont, on the other hand, has not issued state GO bonds for school construction since 2007, when the state enacted a moratorium on state school construction aid.

We identified at least six states with a board or commission that gives final approval to bond-funded projects and bond issuances: Georgia, Louisiana, Mississippi, Nevada, Oklahoma, and Texas. The boards' composition varies considerably, from a three-member board in Mississippi (composed of the governor, attorney general, and state treasurer) to a 14-member executive-legislative commission in Louisiana. Their members and duties are summarized below.

State Bond Approval Process in General

According to a treatise on state and local debt financing, states generally take one of two approaches to the bond approval process (*State and Local Government Debt Financing* § 12:13 (2d ed.)). The first approach is to require approval by a state commission or board typically composed of senior elected and appointed officials, including the governor and state treasurer. This approach is "designed to centralize the borrowing process for the state and to separate decision-making authority with respect to bond terms from the line responsibility for implementing projects authorized by the legislature."

Under this approach, the bond approval process generally begins with a state agency seeking approval from the state legislature for a bond issue to finance a specific project. Once approved by the legislature (and voters, if voter approval is required), the agency responsible for the project requests the state bond board or commission to issue the financing for the project. The board then establishes the specific terms of the issuance and conducts the bond sale.

The second approach, often used for revenue bonds, delegates the bond approval and issuance process to the agency administering the bond-financed project or program. In many states, the agency is a board or commission, thus requiring more than one person's approval. In some, the governor or state legislature must give advance approval before the agency can issue revenue bonds; in others, the agencies do not have to obtain prior approval as long as they follow the procedures established in the enabling statute.

Bond Authorization and Allocation Process in Selected States

Below we provide brief summaries of the bonding processes in the selected states and an overview of the types of projects for which these states issue bonds. We compiled these summaries based on public documents (e.g., bond offering statements, capital budgets and plans, and state statutes) as well as discussions with officials in the various states.

Connecticut

Process. At the beginning of each odd-numbered year, the governor presents a proposed capital budget to the General Assembly, together with legislation needed to implement the proposal. The bond bills typically include new authorizations and adjustments to authorizations enacted in prior years. These bills originate in the Finance, Revenue and Bonding Committee and are subject to the regular legislative process.

After the General Assembly authorizes bonding for a particular purpose, the State Bond Commission must allocate bond funds for that express purpose before an agency can spend the money. The commission is a 10-member executive-legislative committee consisting of the governor, treasurer, comptroller, attorney general, Office of Policy and Management secretary, administrative services commissioner, and the chairpersons and ranking members of the Finance, Revenue and Bonding Committee, or their designees (CGS § 3-20(c)). (OLR reports 2015-R-0068 and 2018-R-0279 provide additional detail on Connecticut's bonding process.)

Bond-Funded Projects. Connecticut issues GO bonds for a variety of capital projects, including state agency infrastructure and equipment, education and higher education, environment, housing and economic development, and municipal aid. This Office of Fiscal Analysis spreadsheet shows the bond authorizations that are available for allocation as of September 30, 2020, organized by state agency.

In addition to GO bonds, Connecticut issues (1) special tax obligation (STO) bonds for transportation projects that are backed by dedicated transportation revenues and (2) revenue bonds to fund eligible water pollution control and drinking water projects. Various state quasi-public agencies also issue revenue bonds to fund a range of capital projects (e.g., the Connecticut Housing Finance Authority, Connecticut Higher Education Supplemental Loan Authority, and Connecticut Health and Education Facilities Authority).

Maine

Process. Maine's constitution generally requires voter approval before issuing GO debt. The legislature must approve a bond authorization question by a two-thirds vote in each chamber in order to place it on the ballot, and a majority of voters must approve the authorization before it can be issued (Me. Const. art. IX, § 14). Once approved by voters, the governor, in collaboration with the state's executive agencies, determines the timing of borrowing based on project implementation schedules. The state treasurer issues bonds typically once per year, near the end of the fiscal year (State Bond Process, Office of the State Treasurer, State of Maine).

Bond-Funded Projects. Maine has authorized GO bonds for capital projects in various categories, including transportation, energy infrastructure, environment, higher education, economic development, and health care (Bonds on the Ballot, Office of the State Treasurer, State of Maine). Maine also funds capital projects with revenue bonds issued through quasi-public authorities. These include transportation, clean water, and school construction bonds issued through the Municipal Bond Bank and bonds for higher education, housing, economic development, and government facilities issued through other public authorities (Maine GO Bond Official Statement, July 31, 2018; Maine Municipal Bond Bank).

Massachusetts

Process. The legislature is responsible for authorizing state bonds. The Massachusetts Constitution requires a two-thirds vote of each chamber to pass a bond act and requires the governor to recommend the terms of the authorized debt (art. LXII & LXXXIV of the Amendments to the Massachusetts Constitution). Once the bonds are legislatively authorized, the governor controls the amount of capital expenditures through the allotment process. He determines the total amount of capital spending for each fiscal year and the amount of new debt that he considers advisable to finance such spending. The state treasurer issues authorized debt at the governor's request (Massachusetts Capital Debt Affordability Committee, *Advisory Recommendation for Fiscal 2021*, December 13, 2019, p. 7; Massachusetts GO Bond Official Statement, February 19, 2020, p. A-7).

Bond-Funded Projects. Massachusetts issues GO bonds for many of the same categories of projects as Connecticut, including state agency infrastructure, economic development, and environmental projects. It funds transportation projects by both GO bonds and special obligation bonds backed by dedicated transportation revenues. One of the major differences between the two states, however, is that Massachusetts funds school construction projects with revenue bonds issued by the quasi-public Massachusetts School Building Authority and secured by a 1% state sales tax (Massachusetts FY 21-25 Five-Year Capital Investment Plan and Office of State Treasurer).

New Hampshire

Process. New Hampshire's legislature is responsible for authorizing bonds. Bonds must be approved by the governor and the executive council before the state treasurer may issue them. (New Hampshire's executive council consists of five members, elected by New Hampshire voters; the governor and the council are responsible for administering the executive branch.)

The governor and council may determine the form and amounts of bonds, and if bonds will be used for revenue-producing facilities, the governor and council may authorize the treasurer to issue revenue bonds. Bonds are primarily authorized through the capital budgeting process (N.H. Rev. Stat. § 6-A:1 et seq.; Bonds/Debt Management Frequently Asked Questions, New Hampshire State Treasury; New Hampshire GO Bond Official Statement, February 20, 2020).

Bond-Funded Projects. New Hampshire uses GO bonds for various purposes, including government facilities, higher education facilities, transportation, clean water, historic preservation, and environment. It also issues revenue bonds for transportation, water projects and economic development initiatives, among others. New Hampshire also authorizes certain state agencies and public authorities to issue revenue bonds for health, educational, and utility facilities, among other purposes (Bonds/Debt Management Frequently Asked Questions, New Hampshire State Treasury; New Hampshire GO Bond Official Statement, February 20, 2020).

New York

Process. New York funds nearly all of its bond-funded capital projects with revenue bonds issued on behalf of the state through public authorities (e.g., personal income tax and sales tax revenue bonds). All authority debt issued on the state's behalf must first be approved by the state legislature. It is then subject to approval by the Public Authorities Control Board (PACB) and the issuing authority's board of directors (New York *FY 21 Enacted Capital Program and Financing Plan*, p. 62). (The PACB is a five-member board that approves all project-related financings for statewide public authorities. The governor appoints one member as his representative and board chairperson; he appoints the remaining four members based on the recommendations of the legislature's four caucus leaders (N.Y. Pub. Auth. Law §§ 50 & 51).)

Unlike public authority bonds, GO bonds must be authorized by the state legislature and approved directly by voters at a general election (N.Y. Const. Art. VII, § 11). Only one GO offering, limited to a single work or purpose, may be voted on in a general election. Once approved by voters, the legislature and the governor enact annual allocations for individual projects each year as part of the state budget act (N.Y. State Fin. Law § 57).

Bond-Funded Projects. According to New York's FY 21 Enacted Capital Program and Financing Plan, the state will issue revenue bonds for various purposes in FY 21, including education, environment, transportation, economic development and housing, health care, and state facilities and equipment. The state expects to finance a much smaller portion of capital projects (roughly 4%) with GO bonds authorized under 10 previously authorized bond acts (five for transportation, four for environmental and recreational programs, and one for education) (pp. 62-63 & 65).

Rhode Island

Process. Under Rhode Island's state constitution, voters generally must approve state debt exceeding $50,000, including GO bonds (R.I. Const. art. VI, § 16). The governor proposes capital spending as part of her annual budget proposal, and the legislature ultimately determines what will be put before voters. Once approved by voters, the governor determines the amount and timing of the capital spending and bond issuances.

Bond-Funded Projects. Like Connecticut, Rhode Island issues GO bonds for a variety of capital projects including environmental, education and higher education, and housing and economic development projects. (Rhode Island's FY 21 proposed capital budget is available here.) In addition to GO bonds, the state issues other types of tax-supported debt, including revenue bonds and certificates of participation.

Vermont

Process. In Vermont, the governor submits a consolidated capital budget request to the legislature each year (Vt. Stat. Ann. tit. 32, § 309). The legislature then authorizes the GO bonds as part of its appropriation acts. Generally, each appropriation act specifies the projects or purposes and the amount of bonds to be issued. Once authorized by the legislature, Vermont law authorizes the state treasurer to issue and sell the bonds with the governor's approval (Vermont GO Bond Official Statement, August 15, 2019, p. 79; Vt. Stat. Ann. tit. 32, § 960).

Bond-Funded Projects. Vermont uses GO bonds to fund various capital projects, including state office building construction and renovation, clean water initiatives, higher education improvements, and public safety and human services capital projects. (This spreadsheet shows the state's enacted capital budget for FYs 20-21, including adjustments the legislature made to the act in 2020.) But unlike Connecticut, Vermont has not issued state GO bonds for school construction projects since

2007, when the state enacted a moratorium on state school construction aid. Only approved emergency projects are currently eligible for school construction aid assistance (Vt. Stat. Ann. tit. 16, § 3448(d)).

States with Bond Commissions

We identified at least six states with a board or commission that gives final approval to bond-funded projects and bond issuances. Below we briefly summarize the commissions' composition, powers, and duties.

Georgia

The Georgia State Financing and Investment Commission (GSFIC) is responsible for issuing and managing the state's GO bonds, which are typically authorized by the General Assembly in its annual appropriations bill. All agencies and authorities must receive GSFIC's approval before incurring debt or hiring financial or investment advisory counsel. GSFIC is a seven-member commission composed of the governor (chairperson), lieutenant governor, state auditor, House speaker, attorney general, agriculture commissioner, and state treasurer. The governor chairs the commission (Ga. Const. art. VII, § IV; O.C.G.A. § 50-17-20 et seq).

At the beginning of each fiscal year, GSFIC solicits input from agencies that that have been authorized to receive GO bond proceeds regarding their preferred timing (based on project readiness) for receiving their GO bond funding. Based on this input, GSFIC combines projects with similar timeframes into a GO bond package, according to the GO bond issuances it has planned for the fiscal year. (Georgia Department of Audits and Accounts, *Special Examination: Georgia State Financing and Investment Commission*, January 2012).

Louisiana

The Louisiana constitution prohibits the state or any of its agencies or political subdivisions from issuing bonds or other obligations until they are approved by the state's Bond Commission (La. Const. Art. VII, pt. 1, § 8). State bonds are authorized by the legislature by a two-thirds vote in each chamber. If bonds are authorized for capital improvement purposes, the capital budget adopted by the legislature must include the amount of bond funds allocated to each project and the order of priority for funding (La. Const. Art. VII, pt. 1, § 6).

The 14-member Bond Commission is composed of six executive branch members (i.e., the governor, lieutenant governor, secretary of state, state treasurer, attorney general, and administration commissioner) and eight legislative members (La. Stat. Ann. § 39:1401). The state treasurer serves as the commission's chairperson.

Mississippi

Mississippi's State Bond Commission has three members: the governor, who serves as chair; the attorney general; and the state treasurer (Miss. Code Ann. § 31-17-101). The commission approves bond-funded projects authorized by the legislature and also acts as the issuer for GO bonds. The commission's debt management policies prohibit it from issuing debt unless certain conditions are met, such as (1) the life of the project must be longer than the term of the debt and (2) the funds cannot be used for salaries or recurring expenses. The policies also authorize the commission to consider the financial impact on taxpayers over the lifetime of the bond repayment and whether other financing mechanisms may be better suited to a project.

Nevada

In Nevada, GO bonds are first authorized by the legislature for a specific purpose and then must be reviewed and approved by the five-member State Board of Finance before they can be issued (Nev. Rev. Stat. Ann. § 349.225; Nevada Board of Finance and State Treasurer, *Debt Management Policy*, Revised June 2018). The governor chairs the commission; the other members are the state treasurer, state controller, and two gubernatorially appointed members. The state treasurer serves as the board's secretary and prepares its agendas in consultation with the governor (*Nevada Board of Finance Policies and Procedures*, April 23, 2008; Nev. Rev. State. Ann. § 355.010 et seq.).

Oklahoma

Oklahoma's five-member Council of Bond Oversight reviews and approves all bond-funded projects and sets the conditions for bond issuances. The council's members include two appointed by the governor; one appointed by the Senate president pro tempore; one appointed by the House speaker; and the state treasurer, or his or her designee. The council's members elect the chairperson (Okla. Stat. Ann. tit. 62, § 695.6a).

Any state entity that wishes to issue debt must apply to the council for final approval to do so. The deputy treasurer for policy and debt management, designated as the state bond advisor, prepares the council's agenda (Okla. Admin. Code 90:1-3-5). Unlike Connecticut's Bond Commission, the council's review focuses only on the financing plan for the proposed debt (e.g., debt coverage and terms), rather than the policy rationale for the project (Okla. Stat. Ann. Tit. 62 § 695.8(A)(3)).

Oklahoma primarily uses the Oklahoma Capitol Improvement Authority (OCIA) to issue lease-revenue bonds to finance capital projects. (Oklahoma's last issued GO bonds in 1992.) OCIA, which is chaired by the governor, steers the debt issuance and determines the timing of specific projects but must ultimately apply to the Council of Bond Oversight for final approval.

Texas

Texas's Bond Review Board is responsible for approving all state debt issuance and lease purchase obligations with an initial amount exceeding $250,000 or a term longer than five years. It has three voting members and one nonvoting member: the (1) governor, who serves as chairperson; (2) lieutenant governor; (3) comptroller; and (4) House speaker, who is a nonvoting member (Tex. Gov. Code § 1231.021).

With certain exceptions, a state entity seeking approval to issue bonds must apply to the board and submit the bonds' purpose, financing plan, supporting documents (e.g., preliminary official statements), and other specified information. It appears that the board must consider all timely, complete applications at its bimonthly meetings. At the meeting, the board may approve an application, approve it with conditions, or fail to act on it (34 Tex. Admin. Code § 181.1 et seq.). Texas law requires the board to approve the issuance of state debt if, after examining the application and required documentation, the board determines that the issuance is advisable (Tex. Gov. Code § 1231.043).

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